

The Smithfield Town Council met in regular session on Tuesday, January 5, 2021 at 7:00 p.m. in the Council Chambers of the Smithfield Town Hall, Mayor Pro-Tem Dunn presided.

Councilmen Present:

David Stevens, District 2  
Travis Scott, District 3  
Dr. David Barbour, District 4  
Roger Wood, At-Large

Councilmen Absent

M. Andy Moore, Mayor  
Marlon Lee, District 1  
Stephen Rabil, At-Large

Administrative Staff Present

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

*(Note: All Town Department Heads were present, but due to Social Distancing and Mass gathering restrictions related to Covid19, they were not present in the meeting room unless an item from their Department was discussed)*

Also Present

Bob Spence, Town Attorney  
Bill Dreitzler, Town Engineer

Administrative Staff Absent

Lenny Branch, Public Works Director

**CALL TO ORDER**

Mayor Pro-Tem Dunn called the meeting to order at 7:00 pm.

**INVOCATION**

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

**APPROVAL OF AGENDA:**

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

Consent Agenda

Move Item: 5. *Consideration and request for approval to enter an agreement with Collection Agency, Penn Credit Corporation, for the collection of past due receivables from the Consent Agenda to the Business Items (item #7)*

Business Item:

Add: Discussion concerning hazard compensation for employees (item #8)

Unanimously approved.

**PRESENTATION:**

**1. Public Library of Johnston County and Smithfield Update**

Interim Library Director Jeff Jennings informed the Council that former Library Director Renita Barksdale accepted a position in South Carolina. As a result of this vacancy, Mr. Jennings resigned from the Board of Trustees and was now serving as the Interim Director. The Library Board was actively recruiting for a permanent Library Director. Due to the Covid-19 pandemic, the Library was closed to the public.

**PUBLIC HEARINGS:**

- 1. Rezoning Request – Samet Corporation (RZ-20-09):** The applicant was requesting to rezone six tracks of land totaling approximately 258.52 acres from the B-3 (Highway Entrance Business) and R-20A (Residential-Agricultural) zoning districts to the LI (Light Industrial) zoning district. The properties considered for rezoning are located on the north side of US Hwy 70 Business West, approximately 320 feet northwest of its intersection with North Rogers Drive. The properties are further identified as Johnston County Tax ID 15078011, 15078012, 15078012C, 15077033C, 15077034 and 15077033.

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

Planning Director Stephen Wensman explained that Samet Corporation The applicant would like to rezone the 6 parcels to Light Industrial to develop an industrial park. Access to the proposed industrial park would be from West Market Street and Ferrall Drive. The rezoning to Light Industrial was consistent with the comprehensive plan designation for the parcels involved. The properties involved were certified for industrial in cooperation with the Town and County Economic development through the Dept. of Commerce Certified Sites program. The industrial zoning has

the potential to create some conflicts with the adjacent R-10 residential zoning. Intended to mitigate conflicts, the UDO requires a Type C buffer for industrial areas adjacent to residential areas. A Type C buffer is a 6' or greater opaque fence with 3 overstory trees and 12 shrubs per 100'. Mr. Wensman further explained the permitted uses of the site should it be rezoned to Light Industrial. He further explained if the Zoning Text Amendment ZA-20-03 was adopted later in the meeting, the table of permitted uses would slightly change.

Mr. Wensman stated he received an email from Zane Williams of 2167 US Highway 70 Business. Mr. Williams had planned on attending the meeting, but due to Covid-19 concerns he and his wife chose to send an email instead of attending. Mr. Williams was in favor of the rezoning, but did have questions which staff answered.

Planning Staff and the Planning Board recommend approval of RZ-20-09 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 January 5, 2021 agenda packet.

Mayor Pro-Tem Dunn asked if there were any questions from Council.

Mayor Pro-Tem Dunn asked to Mr. Wensman to outline the changes to the potential uses should the Zoning Text Amendment be adopted later in the meeting. Mr. Wensman responded that the proposed changes would better define heavy industrial uses and light industrial uses. Those changes would have no bearing on this rezoning.

Mayor Pro-Tem Dunn asked the applicant if he had additional information he would like to provide.

Brian Hall representing Samet Corporation stated the Town and Johnston County Economic Development Director Chris Johnson invested in this property by creating a certified site. He stated his mission was to take the work already completed by the Town and the County and advance it to where it will become an industrial park. He will then work to attract light industrial permitted businesses that want to invest in Smithfield which will grow the tax base and create employment opportunities. They will install the infrastructure and then attract end users that want to manufacture and distribute in the area.

Johnston County Economic Development Director Chris Johnson expressed his appreciation to the Town Council and the Johnston County Board of Commissioners for investing in this certified site. He asked the Council to support this rezoning effort.

Helen Best of Roderick Drive questioned if the water issue in her neighborhood would be addressed with this development. She stated the water runoff from the current farmland often floods her and her neighbors' properties. Mr. Wensman responded that prior to development, the applicant would have to submit grading and drainage plans. With the information provide by Ms. Best, staff will work with the developer to ensure her concerns were addressed.

Mayor Pro-Tem Dunn asked if there was anyone else in attendance who wished to speak on this matter. There was no one in attendance that wished to speak on the matter.

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

Councilman Stevens made a motion, seconded by Councilman Wood, to approve zoning map amendment, RZ-20-09, with finding it consistent with the Town of Smithfield Comprehensive Growth Management Plan and other adopted plans, and that the request is reasonable and in the public interest. Unanimously approved.

2. **Closure of a Portion of North Ninth Street:** In accordance with NCGS 160A-299, the purpose of the public hearing is to gain input from any person on the closure of the portion of North Ninth Street. Adoption of Resolution No. 673 (01-2021) issuing the closure of a portion of Ninth Street must be adopted by Council to satisfy the General Statute.

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

Planning Director Stephen Wensman explained that Market Street Investments petitioned the Town to close a portion of North Ninth Street between Hancock and N. Brightleaf Blvd. On December 1, 2020, the Town Council adopted Resolution No. 670 (19-2020) Intent to permanently close North Ninth Street and scheduled the public hearing for January 5, 2021 to permanently close North Ninth Street. Mr. Wensman further explained the road currently divides the property and the applicant wishes to develop that property. The Town has existing utilities in the right-of-way and if closed, a 30-foot-wide utility easement would need to be dedicated by Market Street Investments over the utilities to provide Town access to them. Improvements within the easement would be restricted and any paving, landscaping or other allowed improvement would be subject to being disturbed without compensation should utility repairs be necessary.

Mayor Pro-Tem Dunn asked if there were any questions from Council.

Councilman Scott questioned if any houses would be affected by this closure. Town Manager Michael Scott responded that no house would be affected. The house that was once on the property

has been removed by the developer.

Mr. Wensman explained the Town has requested a 30-foot-wide easement where the road is currently (in place of the road) to protect the underground utilities.

Mayor Pro-Tem Dunn asked if there was anyone in attendance who wished to speak on this matter. There was no one in attendance that wished to speak on the matter.

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

Councilman Barbour made a motion, seconded by Councilman Wood, to adopt Resolution No. 673 (01-2021) ordering the closure of a portion of North Ninth Street from Hancock Street to its termination 102.48 feet South of Brightleaf Boulevard. Unanimously approved.

**TOWN OF SMITHFIELD  
RESOLUTION No. 673 (01-2021)  
ORDERING THE CLOSING OF THAT PORTION OF  
NORTH NINTH STREET FROM HANCOCK STREET TO ITS TERMINATION  
102.48 FEET SOUTH OF BRIGHTLEAF BOULEVARD**

WHEREAS, on the 1st day of December 2020 the Town Council adopted a resolution entitled "Resolution Declaring the Intent of the Town Council of the Town of Smithfield to Consider the Closing of a portion of North Ninth Street extending from Hancock Street to its termination 102.48 feet South of BrightLeaf Boulevard in Smithfield, North Carolina at its next regular monthly meeting, hereinafter "the Meeting", on Tuesday January 5, 2021 at 7 pm at the town hall in Smithfield, NC; and

WHEREAS, pursuant to the Resolution the Town Clerk was directed to publish the Resolution in the Johnstonian News once each week for four successive weeks; and

WHEREAS, the Town Clerk has advised the Town Council that the Resolution was published in the Johnstonian News as directed; and

WHEREAS, pursuant to the Resolution the Town Clerk was directed to notify all persons owning property abutting on that portion of North Second Street between Hancock Street and Brightleaf Boulevard, as shown on the county tax records by certified or registered mail of the Meeting and the purpose thereof; and

WHEREAS, pursuant to the Resolution the Town Clerk was directed to cause adequate notices of the proposed closing and of the public hearing to be posted at two locations on the public way as required by G.S. 160A-299; and

WHEREAS, the Town Clerk has advised the Town Council that adequate notices were posted on the applicable street(s) as required by G.S. 160A-299; and

WHEREAS, pursuant to the Resolution, a public hearing was held on the 5th day of January 2021, at which time all persons were granted full and complete opportunity to appear and be heard on the question of whether or not the closing would be detrimental to the public or the property rights of any individual; and,

WHEREAS, the Town utilities are located within the public right-of way and the Town wishes to retain a utility easement therefore; and,

WHEREAS, after said public hearing and after full and complete consideration of the matter, it now appears to the satisfaction of the Town Council that the closing of said street is not contrary to the public interest, and that no individual owning property, either abutting the street or in the vicinity of the street or in the subdivision in which the street is located, will as a result of the closing be thereby deprived of a reasonable means of ingress and egress to his or her property; and

NOW, THEREFORE, subject to the reservation of easements to the Town of Smithfield for utility purposes as shown on a map recorded in Book of Maps \_\_, page \_\_ in the office of the Johnston County Register of Deeds, the portion of Ninth Street from Hancock Street extending north to the termination of Ninth Street 102.48 feet South of Bright Leaf Boulevard is hereby closed and abandoned, and all right, title, and interest that may have been vested in the public in said area for street purposes is hereby released and abandoned to the abutting property owners in accordance with the provisions of G.S. 160A-299. The portion of the Street abandoned, subject to the reservation of easements through the abandoned street for utility purposes by the Town of Smithfield, is more particularly described as follows:

Legal Description for Right of Way Closure for a portion of North Ninth Street

Lying and being in the Town of Smithfield, Smithfield Township, Johnston County, North Carolina and being more particularly described as follows:  
Being at a Existing Iron Pipe (EIP) a point in the southern property line of Now

or Formerly Evanston Smithfield JI, LLC (Walgreens) (see Plat Book 67, Page 179 and Plat Book 67, Page 178) said point having NC Grid Coordinates of N=641,910.3871, E=2, 197,673.9224 (NCGS VRS, NAO 1983 (2011) GEOID 12A) thence along the southern line of Walgreens, N62°19'38"W 67.33' to an EIP in the eastern Right of Way of N Ninth Street (30' RJW see Plat Book 4, Page393) a comer with now or formerly Lot 102 (PB 4, PG 393; DB 5502, PG 834) the TRUE point of beginning, thence with the eastern right of way of N Ninth Street S27°23'26"W 166. 76' to an EIP on the northern right of way of Hancock Street (50' RIW, see PB 4, PG 393 and PB 58, PG 322) a comer with Lot 101 (PB 4, PG 393; DB 5502, PG 842) thence N62°03'00"W 30. 00' to an EIP on the western RJW of N Ninth Street, a comer with now or formerly Market Street Investors (DB 5498, PG 675) thence with the western right of way of N Ninth Street N27°23'26"E 166. 61' to an existing iron rebar (ERB), thence S62°19'38"E 15. 00' to a magnetic nail set (MNS), said point being the southwest comer of Walgreens, thence S62°19'38"E 15.00' to the point and place of beginning and containing 5,000 SF± as shown on a plat prepared by Jimmy Barbour Surveying, PA, entitled Recombination Map for: Market Street Investors dated 10-7-2020 and being recorded in Plat Book Page Johnston County Registry.

Upon closing, the right-of-way vests in the adjoining property owners, each taking property from the centerline to their respective boundary. If the owners want to divide the right-of-way differently, they must themselves make that division by boundary agreement or conveyance. Any person aggrieved by the street closing, who has standing, has 30 days to appeal.

The Town Clerk is hereby ordered and directed to file in the Office of the Register of Deeds of Johnston County a certified copy of this resolution and order.

**CITIZEN'S COMMENTS: None**

**CONSENT AGENDA:**

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

1. The following minutes were approved:
  - December 1, 2020 – Regular Meeting
  - December 1, 2020 – Closed Session
2. Bid was awarded to Classic Ford in the amount of \$22,087 for the purchase of a work van for the Water Plant. Bids received are as follows:
 

• Classic Ford	\$21,987.00
• Deacon Jones	\$23,546.00
• NCSA	\$22,926.67
3. Approval was granted to adopt Resolution No. 674 (02-2021) accepting the Town's annual update to its Smithfield South District's Local Water Supply Plan (LWSP)

**TOWN OF SMITHFIELD  
RESOLUTION NO. 674 (02-2021)  
APPROVING SMITHFIELD SOUTH DISTRICT LOCAL WATER SUPPLY PLAN**

WHEREAS, North Carolina General Statute 143-355 (l) requires that each unit of local government that provides public water service or that plans to provide public water service and each large Community water system shall, either individually or together with other units of local government and large community water systems, prepare and submit a Local Water Supply Plan; and

WHEREAS, as required by the statute and in the interests of sound local planning, a Local Water Supply Plan for the Town of Smithfield, has been developed and submitted to the NCDEQ for approval; and

WHEREAS, the NCDEQ finds that the Local Water Supply Plan is in accordance with the provisions of North Carolina General Statute 143-355 (l) and that it will provide appropriate guidance for the future management of water supplies for the Town of Smithfield, as well as useful information to the Department of Environmental Quality for the development of a state water supply plan as required by statute;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Smithfield that the Local Water Supply Plan entitled, Town of Smithfield dated 2019 is hereby approved and shall be submitted to the Department of Environmental Quality, Division of Water Resources; and

BE IT FURTHER RESOLVED that the Town Council intends that this plan shall be revised to reflect changes in relevant data and projections at least once every five

years or as otherwise requested by the Department, in accordance with the statute and sound planning practice.

4. The following budget amendments were approved:

<u>GENERAL FUND</u>	<u>BEFORE</u>	<u>ADJ.</u>	<u>AFTER</u>
<b>1. Expenditures</b>			
10-76-5800-5970-9110 Sanitation-Transfer to GF Cap. Proj. Fund	160,000	(160,000)	-
10-40-5800-5700-7400 Sanitation - Capital Outlay	<u>-</u>	<u>160,000</u>	<u>160,000</u>
	<u>\$ 160,000</u>	<u>=</u>	<u>\$ 160,000</u>

To move knuckle boom truck purchase to capital outlay expense line

<b>2. Revenue</b>			
10-00-39900-3900-0000 Fund Balance Appropriation	<u>\$ 1,697,508</u>	<u>\$ 100,500</u>	<u>\$ 1,798,008</u>
<b>Expenditures</b>			
10-76-5500-5970-9100 Transfer to General Capital Project Fund	<u>\$ =</u>	<u>\$ 100,500</u>	<u>\$ 100,500</u>

To establish and fund the Spring Branch Community Restoration Project as approved at the Nov., 10, 2020, Council Meeting

<b>3. Revenue</b>			
10-60-3300-3315-0110 Grant - J. Co.(Riverbank Refurbishment)	<u>\$ =</u>	<u>\$ 20,000</u>	<u>\$ 20,000</u>
<b>Expenditures</b>			
10-00-9990-5300-0000 General Fund Contingency	\$ 368,133	\$ (76,920)	\$ 291,213
10-60-6200-5700-7400 Recreation - Capital Outlay	<u>\$ 99,650</u>	<u>\$ 96,920</u>	<u>\$ 196,570</u>
	<u>\$ 467,783</u>	<u>\$ 20,000</u>	<u>\$ 487,783</u>

To fund riverbank refurbishment along Greenway as approved at the Nov., 10, 2020, Council Meeting

General Fund Capital Projects Fund

<b>4. Revenue</b>			
46-20-3560-3560-0002 Loan Proceeds - Fire Engine #1	<u>\$ 565,000</u>	<u>\$ (565,000)</u>	<u>\$ =</u>
<b>Expenditures</b>			
46-20-5300-5700-7404 Fire Engine #1	<u>\$ 1,125,500</u>	<u>\$ (565,000)</u>	<u>\$ 560,500</u>

To reverse loan proceeds and fire truck #1 purchase budget from FY20. The decision was made in FY21 to purchase same with fund balance

<b>5. Revenues</b>			
46-75-3870-3870-0308 Transfer GF - Spring Branch Restoration	\$ -	\$ 100,500	\$ 100,500
46-60-3300-3307-0010 EEG (Grant) - Spring Branch Grant	<u>\$ =</u>	<u>\$ 100,000</u>	<u>\$ 100,000</u>
	<u>=</u>	<u>200,500</u>	<u>200,500</u>
<b>Expenditure</b>			
46-60-5500-5700-7400 Spring Branch Restoration	<u>\$ =</u>	<u>\$ 200,500</u>	<u>\$ 200,500</u>

To establish and fund the Spring Branch Community Restoration Project as approved at the Nov., 10, 2020, Council Meeting

Water Plant Expansion Capital Projects Fund

<b>6. Revenue</b>			
43-71-3800-7200-0001 J. C. Government Contribution	\$ 3,250,000	\$ -	\$ 3,250,000
43-71-3800-7200-0002 NC Clean Water Loan	12,050,000	-	12,050,000

	<u>\$</u>	<u>\$</u>	<u>\$ 2,298,500</u>
43-75-3870-3870-0301 Transfer from Water Fund	150,000	2,148,500	
	<u>\$</u>	<u>\$</u>	<u>\$ 17,598,500</u>
	<u>15,450,000</u>	<u>2,148,500</u>	
<b>Expenditures</b>			
	\$	\$	\$
43-71-7200-5700-4501 Engineer/Design	1,070,000	300,000	\$ 1,370,000
43-71-7200-5700-4502 Inspection of Construction	300,000	(300,000)	-
43-71-7200-5700-4503 Geo Testing	100,000	(90,000)	10,000
43-71-7200-5700-4504 Closing Fee	-	241,000	241,000
43-71-7200-5700-4505 Contingency (5%) less 10 k for Geo Testing	-	572,500	572,500
43-71-7200-5700-7310 Construction (Includes Generator (\$300k); SCADA (\$225K); Backwash Pump (\$190K)	<u>\$</u> 13,980,000	<u>\$</u> 1,425,000	<u>\$ 15,405,000</u>
	<u>\$</u>	<u>\$</u>	<u>\$ 17,598,500</u>
	<u>15,450,000</u>	<u>2,148,500</u>	

To adjust water plant expansion project budget to agree with Dec. 1, 2020 presentation to council

Note: Only \$200K of the budgeted \$350k in FY21 was repurposed as \$150K was transferred at initial setup

5. Approval was granted to adopt Resolution No. 675 (03-2021) adopting the Cape Fear Regional Hazardous Mitigation Plan

RESOLUTION NO. 675 (03-2021)  
ADOPTING CAPE FEAR REGIONAL  
HAZARD MITIGATION PLAN

WHEREAS, the citizens and property within the Town of Smithfield are subject to the effects of natural hazards that pose threats to lives and cause damage to property, and with the knowledge and experience that certain areas of the county are particularly vulnerable to drought, extreme heat, hailstorm, hurricane and tropical storm, lightning, thunderstorm wind/high wind, tornado, winter storm and freeze, flood, hazardous material incident, and wildfire; and

WHEREAS, the Town of Smithfield desires to seek ways to mitigate the impact of identified hazard risks; and

WHEREAS, the Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Legislature of the State of North Carolina has enacted General Statute Section 166A-19.41 (*State emergency assistance funds*) which provides that for a state of emergency declared pursuant to G.S. 166A-19.20(a) after the deadline established by the Federal Emergency Management Agency pursuant to the Disaster Mitigation Act of 2002, P.L. 106-390, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act; and

WHEREAS, Section 322 of the Federal Disaster Mitigation Act of 2000 states that local governments must develop an All-Hazards Mitigation Plan in order to be eligible to receive future Hazard Mitigation Grant Program Funds and other disaster-related assistance funding and that said Plan must be updated and adopted within a five-year cycle; and

WHEREAS, the Town of Smithfield has performed a comprehensive review and evaluation of each section of the previously approved Hazard Mitigation Plan and has updated the said plan as required under regulations at 44 CFR Part 201 and according to guidance issued by the Federal Emergency Management Agency and the North Carolina Division of Emergency Management.

WHEREAS, it is the intent of the Town Council of Smithfield to fulfill this obligation in order that the Town and the County will be eligible for federal and state assistance in the event that a state of disaster is declared for a hazard event affecting the Town or the County;

NOW, THEREFORE, be it resolved that the Town Council of Smithfield hereby:

1. Adopts the Cape Fear Regional Hazard Mitigation Plan.

2. Vests Johnston County and the Town of Smithfield Emergency Management with the responsibility, authority, and the means to:

(a) Inform all concerned parties of this action.

(b) Cooperate with Federal, State and local agencies and private firms which

undertake to study, survey, map and identify floodplain areas, and cooperate with neighboring communities with respect to management of adjoining floodplain areas in order to prevent exacerbation of existing hazard impacts.

3. Appoints Johnston County and the Town of Smithfield Emergency Management to assure that the Hazard Mitigation Plan is reviewed annually and every five years as specified in the Plan to assure that the Plan is in compliance with all State and Federal regulations and that any needed revisions or amendments to the Plan are developed and presented to the Town of Smithfield Town Council for consideration.

4. Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the Hazard Mitigation Plan.

6. Approval was granted to reappoint Benton Sawrey and to appoint Troy Brindle to the Downtown Smithfield Development Corporation Board Appointments:

7. New Hire Report

<u>Position</u>	<u>Department</u>	<u>Budget Line</u>	<u>Rate of Pay</u>
Firefighter	Fire	10-20-5300-5100-0200	\$16.76/hr. (\$36,603.84/yr.)
P/T Firefighter (13 positions)	Fire	10-20-5300-5100-0210	\$17.60/hr.

Current Vacancies

<u>Position</u>	<u>Department</u>	<u>Budget Line</u>
Assistant Finance Director	Finance	10-10-4200-5100-0200
Equipment Mechanic	PW – Garage	10-30-5650-5100-0200
Fire Inspector (Part-time)	Fire	10-20-5300-5100-0210
Police Officer I (5 positions)	Police	10-20-5100-5100-0200

**Business Items:**

**1. Discussion regarding flooding in the 1600 block of South Brightleaf Boulevard**

Town Manager Michael Scott informed the Council this was an update in regard to flooding in the 1600 block of South Brightleaf Boulevard. A meeting was held in December with the public and business owners to provide information on the Town’s efforts to work with CSX Railroad to upsize the culverts in the area that was contributing to the flooding. At that meeting, it was believed if the Town paid \$12,600, CSX would evaluate the pipe and then move forward with the replacement or the addition of more pipes. Also, it was believed if the Town incurred the cost of the evaluation, it would also cover an evaluation downstream from Highway 301 over to I-95. After the meeting, the Town Manager contacted CSX for clarification on what was discussed at the meeting. The \$12,600 was needed for CSX Railroad to evaluate the plans submitted by the Town to either increase the size of the culverts or install additional culverts to mitigate flooding in the area. This cost did not include and evaluation of anything downstream or the permit for the installation of the culvert(s). To obtain an evaluation of the plans, CSX railroad required plans that are 90% complete. For the Town to complete the plans, an engineer would have to be hired at an approximate cost of \$40,000. The potential cost for the Town to submit plans to CSX would be approximately \$56,000. These funds would only cover the cost of the plans and the submittal to CSX for approval. If they approve the plans, then the Council must decide if they wished to move forward with the installation of the culvert(s). The Town Manager stated Town Engineer and staff had worked together to submit a BRIC grant to assist with the funding of this project.

Town Engineer Bill Dreitzler explained the BRIC (Building Resilient Infrastructure in Communities) was a relatively new grant opportunity. It was a modification of FEMA mitigation grants. In October, staff submitted a letter of interest and other documentation to apply for the grant. The grant application was approved by the State hazardous Mitigation to move forward in the process. All applications would be approved by the state before moving on to FEMA for evaluation. Staff feels like this was a worthy project, but since this is a national grant, there were no guarantees the Town would receive the funding. Staff estimated that the overall cost of the project would be \$708,400.

Councilman Scott questioned the type of grant funding. Mr. Dreitzler responded it was a 75/25 match. The Town would be responsible for 25% of the cost.

Councilman Scott stated the property in question was owned by CSX Railroad which was private property. If the Town chose to move forward with the project, it was essentially using public money for private property. He further stated that CSX was responsible for the problem and they should fix it. He questioned if the Council should pursue come type of legal action against CSX because the flooding issues are the result of their improperly sized culverts.

Town Attorney Bob Spence explained the culvert was not the property of the Town and the Town was not responsible for maintaining it. If the Town were to install additional culverts or replace the existing culvert, the Town would then be responsible for it and any liability associated with it. Also, railroad have federal protection against legal action. Mr. Spence stated the more the Town was involved with this, the more it would be responsible.

Town Manager Michael Scott stated CSX offered to allow the Town to take over control of the ditches and culverts along the railroad track, but the Town would be 100% responsible indefinitely.

Mayor Pro-Tem Dunn stated that if the Town were to clean the ditches and culverts, staff would be

trespassing on private property. Mr. Spence responded the more involved the Town became, the more of an issue it would be for the Town.

Councilman Barbour stated he empathized with the property owners that have been affected by the flooding. He stated he agreed with Councilman Scott's idea of litigation. He suggested involving other Towns that are facing the same issues with CSX Railroad. The communities affected could file a class action lawsuit. Councilman Barbour further stated that as a citizen of Smithfield, he would not feel good about spending the Town's funds to fix the railroad's problem on its property. He was also concerned about the Town being liable for CSX's problem.

Mr. Spence stated the Town needed to clearly and thoroughly investigate the liability the Town would assume if it took over the ditched and culverts. The Town would need a noticeably clear agreement with CSX as to the maintenance obligation the Town would be assuming. Typically, once you assume maintenance obligation, you assume responsibility and due care negligence.

Councilman Scott asked if there were funds in the budget to pay the \$56,000 for the engineering study and the review by CSX. The Town Manager responded that since this was not a budget item, funds could be used from the contingency line or from the general fund fund balance. Councilman Scott requested the Town Manager to provide funding options for the engineering study and plan review. Ultimately, the problem must be fixed, but he again suggested legal action. Mr. Spence responded there were some federal statute that protected the railroad, and he would investigate those more closely. Mr. Spence further stated it was more difficult to sue the railroad to correct its problems than it was to sue for damages because of their neglect.

Councilman Scott asked if Town staff has invested stormwater runoff and how it flows to the river. Town Manager Michael Scott responded anything involving stormwater drainage was a General Fund issue. A stormwater study was conducted, and a committee was created. The committee is prepared to provide recommendations to the Council for consideration. To have a positive impact on stormwater runoff, the Town will need funding. A stormwater utility will need to be created. Currently, the Town does not have the manpower, or the resources evaluate all our ditches and pipes.

David Johnson of 39 Sassafras Lane, Clayton North Carolina stated that the water flooding the properties along the area was Smithfield's water. He questioned if the Council was going to be a moratorium on development on that side of Town because future development would exacerbate the problem. He stated his property was essentially worthless because it floods every three to five years. He further stated that the problem did not lie with CSX but lied with the Town. He stated he wanted an answer from the Town if it was going to try to mitigate the flooding of his property.

Mayor Pro-Tem Dunn stated he understood Mr. Johnson's frustrations and thanked him for expressing his concerns to the Council.

## **2. Update on the Drone Program**

Communications Specialist Brian Eaves provided the Council with an update on the Drone Program. Mr. Eaves explained there have been a lot of new developments with drones. Drones are now being used for recreational, agricultural, public safety and many uses. Currently, Town staff is utilizing drones for video and photography, but they can be more widely used throughout the Town Departments. Things such as search and rescue, crowd monitoring, inventory/infrastructure mapping, and equipment assessments can be done safely with the use of a drone.

Mr. Eaves explained staff drafted a public policy that would allow people to safely fly drones in Smithfield. The pilot site for public use would be the Johnson Park in West Smithfield. Drones could only be flown from dawn to dusk.

Councilman Barbour expressed his appreciation to staff for the research they have done on this project. He explained the numerous ways in which the Town could utilize drones. During the budget process, it may be important to address the need for more drone infrastructure. Dr. Barbour stated the purpose of the policy was to provide guidelines and a safe place for the public to legally fly their drones.

Councilman Scott stated that Johnson Park is in the direct flight landing pad for Johnston Regional Airport. He questioned if staff had spoken to airport authorities about the use of drones at the park. Mr. Eaves responded they would speak with the airport authority once they received approval from the Council to adopt the draft policy and approve the pilot site at Johnson Park.

Councilman Barbour recommend staff meet with airport staff to determine if this site would be feasible for drone traffic and if they had any recommendations.

## **3. Consideration and request for approval of the East River Preliminary Plat Revisions (S-18-01)**

Planning Director Stephen Wensman explained that in our process we have a PUD rezoning with a plan which is essentially a preliminary plat. The application submitted to the Council for approval is a different application that is required by law for the platting process. Essentially, the master plan is being resubmitted a preliminary plat. The administrative approval of the preliminary plat states that the plat meets all UDO requirements, and the construction plans are 95% complete and correct to the UDO.

Councilman Scott questioned the structures that would be in the central park area. Mr. Wensman responded the applicant has proposed a playground, pavilion, mail kiosks, a dog park, open space, trails, and landscaping.



Councilman Barbour stated that along Buffalo Road, in lieu of sidewalks there would now be a trail. He questioned if they would be public or private trails. Mr. Wensman responded the trails would be public trails.

Councilman Scott made a motion, seconded by Councilman Barbour, to approve the revised preliminary plat for East River PUD, S-18-01. Unanimously approved.

- 4. Consideration and request for approval to adopt Zoning Text Amendments ZA-20-03**  
 Planning Director Stephen Wensman explained this zoning text amendment was the conditional zoning, quasi-judicial preliminary plat review and 160D additions. Mr. Wensman stated this had been submitted to the Council twice for review and consideration.

Councilman Barbour made a motion, seconded by Councilman Wood, move to approve the UDO Text Amendment ZA-20-03 finding it consistent with the Town of Smithfield Comprehensive Growth Management Plan and other adopted plans, and that the amendment is reasonable and in the public interest. Unanimously approved.

**ORDINANCE # ZA-20-03  
 AN ORDINANCE TO AMEND THE TOWN OF SMITHFIELD  
 UNIFIED DEVELOPMENT ORDINANCE  
 ARTICLES 3, 4, 5, 6 AND 7**

**WHEREAS**, the Smithfield Town Council wishes to amend certain provisions in the Unified Development Ordinance by making changes to the Town of Smithfield Unified Development Ordinance to provide for quasi-judicial approvals of subdivision preliminary plats, to adopt Historic Preservation Commission and regulations, to incorporate the 160D enabling legislation changes, and to fix errors, ambiguities.

**WHEREAS**, it is the objective of the Smithfield Town Council to have the UDO promote regulatory efficiency and consistency and the health, safety, and general welfare of the community;

**NOW, THEREFORE**, be it ordained that:

1. The Articles attached in Exhibit A are amended as set forth by the deletions (strikethroughs) and additions (double underlining)
2. That if this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to that end the provisions of this ordinance are declared to be severable.
3. That if it be determined that any other Town Ordinance or any part of any other Town Ordinance is in conflict with this Ordinance, said conflicting Ordinance shall be deemed repealed and of no effect and the provisions of this Ordinance shall prevail.

These amendments of the Unified Development Ordinance shall become effective upon adoption.

*{Attached hereto by refence and made a part of these official minutes is a copy of Exhibit A which is on file in the Office of the Town Clerk}*

- 5. Consideration and request for approval to purchase an underground puller for the Electric Department**

Public Utilities Director Ted Credle addressed the Council on a request to purchase an underground puller for the Electric Department. He explained as residential subdivision are built, main power lines are installed underground. Staff has utilized water/sewer equipment or a contractor in the past to perform the underground installation. Staff would be requesting to purchase an underground puller in three to five years. While investigating other equipment, staff found a used underground puller at a cost of \$50,00. A comparable machine would cost \$170,000. By purchasing the equipment now, it would be a savings to the Town. Since funds were not budgeted for this equipment, funds would be used from the voltage conversion project which has adequate funds.

Mayor Pro-Tem Dunn questioned how often this equipment would be used. Mr. Credle explained it would be used every month or every couple of months. With continued growth, the equipment would be used more frequently.

Councilman Scott made a motion, seconded by Councilman Barbour, to approve the purchase of the underground puller for the Electric Department. Unanimously approved.

Councilman Stevens questioned if this piece of equipment could be rented to other Towns to help offset the cost of the equipment. Mr. Credle responded he would discuss that option with Clayton, Benson and Selma.

- 6. Consideration and request for approval to update the Public Utility Capital Improvement Plan**

Public Utilities Director Ted Credle addressed the Council on a request to approve the proposed update for the capital improvement plan for public utilities. Although this plan is not required by law, it enables the Town to be in a more advantageous position for grants and loans. The most recent update was approved by Council in June of 2018. Normally, staff updates the plan annually, but until

the water plant project was settled, we could not update the plan. The plan combines all three budgeted departments: electric, water plant and water /sewer. Mr. Credle highlighted completed and ongoing projects in all three departments.

Councilman Scott asked that funds and planning be included for the load management program.

Councilman Scott made a motion, seconded by Councilman Barbour, to approve the update to the Public Utility Capital Improvement Plan. Unanimously approved.

*{Attached hereto by refence and made a part of these official minutes is a copy of the Approve Public Utility Capital Improvement Plan which is on file in the office of the Town Clerk}*

## **7. Consideration and request for approval to enter an agreement with Collection Agency, Penn Credit Corporation, for the collection of past due receivables**

Finance Director Greg Siler addressed the Council on a request to enter into an agreement with Penn Incorporated. This collection agency was recommended and vetted by the North Carolina League of Municipalities. Previously, the Town had an agreement with another collection company that did not perform as expected. That contract was never renewed. Auditors brought it to Mr. Siler's attention that they would like the Town to write off any debts that were deemed uncollectible. Staff is requested to employ an outside agency for assistance with its uncollected debt.

Councilman Scott questioned if this agency would be used for only closed accounts and not for existing customers. He further questioned if the Town was using the Debt Setoff Program. Mr. Siler responded the agency would only be used for closed accounts. He further responded that staff was using the Debt Setoff Program, but when the tax laws changed in 2014, collecting debt via income tax refunds lessened by 50%.

Councilman Scott made a motion, seconded by Councilman Barbour, to enter into an agreement with Penn Credit Corporation for the collection of past due receivables. Unanimously approved.

## **8. Discussion concerning employee hazard compensation**

Town Manager Michael Scott stated staff was asked by Council to investigate the possibility of providing hazard pay or hazard bonuses for employees as it related to the COVID-19 pandemic. Human Resources Director Tim Kerigan contacted other jurisdictions to ascertain what they were providing for their employees. Options included: additions to hourly wages for some, bonuses for all staff and bonuses for only public safety (Police and Fire) employees. The Town Manager recommended if the Council want to acknowledge the risk, and the assistance and the hard work that the staff has done, and our employees have done, that every employee receive a bonus of some type of the same amount. The recommended amount per employee would be \$500 and could be absorbed in the current budget.

Councilman Scott stated he asked that this be brought before the Council for consideration because the employees have continued to provide the level of service the citizens expect during the pandemic.

Councilman Barbour made a motion, seconded by Councilman Scott, to award a \$500 one-time hazard pay bonus to all full time and all permanent part time employees to be implemented at the beginning of the next pay period. Unanimously approved.

### **Councilmembers Comments:**

- Councilman Scott encouraged the public to stay diligent during the pandemic. He also expressed his appreciation to Councilman Lee for all his efforts during the holidays.
- Councilman Wood stated his mother-in-law recently passed away. She was employed at the SRAC in the playroom and the children loved her. The family appreciated all the calls, texts, and messages they have received.
- Councilman Stevens expressed his appreciation to Lawrence Davis who he witnessed cleaning storm drains in South Smithfield on Christmas Eve. He also expressed his appreciation to the Fire Department for assisting him.
- Mayor Pro-Tem Dunn stated that during this time of the year, it was important to spend time with our family and friends. He stated that while the vaccine was being distributed it was still important to wash your hands, maintain your distance and sanitize as much as possible.

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

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

- Police K-9: The police department's newest K-9, Titus and his handler, Officer Jernigan, have returned from training and certification and are both working on patrol.
- AMI: The installation of automatic water meters budgeted for the current fiscal year will begin about

January 19th on the West part of Town. Contractors will be clearly identifiable as Nex-Gen employees

- The Town Manager expressed his appreciation to Pete Connet for serving the Town as the Interim Public Works Director for the past seven weeks.

**Closed Session Pursuant to NCGS 143-318.11 (a) (3)**

Councilman Barbour made a motion, seconded by Councilman Wood, to enter into Closed Session pursuant to the aforementioned statute. Unanimously approved at approximately 9:10 pm

**Reconvene in Open Session**

Councilman Wood made a motion, seconded by Councilman Barbour, to reconvene in Open Session. Unanimously approved at approximately 9:36 pm

Councilman Scott made a motion, seconded Councilman Wood, retain and authorize the law firms of Fields PLLC, Bowers Law Office, Miller Law Group, PLLC, The Ford Firm PLLC, Gene Davis, PLLC and Seneca Jacobs as Client's attorneys in connection with the investigation and prosecution of damage claims associated with opioids and related products improperly manufactured, distributed and marketed by defendants in the National Prescription Opiate Litigation, MDL 2804 pending in the Northern District of Ohio and other parties and such other matters as the client and the attorney group may agree in writing and to authorize the Town Manager to act on behalf of the Town. Unanimously approved.

**Adjourn**

Being no further business, Councilman Scott made a motion, seconded by Councilman Wood to adjourn the meeting. Unanimously approved. The meeting adjourned at approximately 9:38pm

ATTEST:

*Shannan L. Parrish*  
Shannan L. Parrish, Town Clerk



*M. Andy Moore*  
M. Andy Moore, Mayor