

MINUTES OF SMITHFIELD TOWN COUNCIL MEETING

Date: Tuesday, May 1, 2018

Place: Smithfield Town Hall

Time: 7:00 P.M.

Present: Town Council President Paul M. Santucci
Town Council Vice-President Alberto J. LaGreca, Jr.
Town Council Member Maxine A. Cavanagh
Town Council Member Suzanna L. Alba
Town Council Member T. Michael Lawton
Town Solicitor Patricia A. Buckley, Esq.
Town Manager Randy R. Rossi
Town Clerk Carol A. Aquilante

Council President Santucci calls the Tuesday, May 1, 2018 Smithfield Town Council meeting to order at 7:00 p.m.

- II. Town Council President Santucci offers a prayer.**
- III. Town Council President Santucci conducts a salute to the flag.**
- IV. The Emergency Evacuation and Health Announcement is made by Town Manager Randy Rossi.**
- V. Presentations: None**
- VI. Minutes:**
 - A. Move that the minutes of the April 17, 2018 Town Council meeting be approved, as recorded.**

Motion is made by Council Vice-President LaGreca, seconded by Council member Alba, that the minutes of the April 17, 2018 Town Council meeting be approved, as recorded. **Motion is approved by a 3/0 vote. Council member Alba and Council member Cavanagh abstain.**

- VII. Consider, discuss and act upon the following possible appointments and reappointments:**
 - A. Affordable Housing Advisory Board reappointment with a term expiring March 2021.**

Motion is made by, Council member Alba seconded by Council Vice-President LaGreca, that the Smithfield Town Council reappoint Clare Fortin to the Affordable Housing Advisory Board for a term expiring March 2021. **Motion is approved by a unanimous 5/0 vote.**

- B. Economic Development Commission appointment with a term expiring March 2020.**

Motion is made by Council Vice-President LaGreca, seconded by Council member

Cavanagh, that the Smithfield Town Council appoint Louis Fabrizio to the Economic Development Commission for a term expiring March 2020. **Motion is approved by a unanimous 5/0 vote.**

VIII. Public Hearings:

- A. Conduct a public hearing and consider, discuss, and act upon a proposed Town Ordinance 5.11 “Solar Energy Systems” to add to the Zoning Ordinance a section to address the location and installation of solar energy systems.**

Council President Santucci opens the Public Hearing.

Town Planner Phillips explains that the red-lined version of the proposed solar ordinance was reviewed by the Planning Board and a number of valuable changes were made and incorporated into the ordinance. Assistant Solicitor Levesque submitted a summary, giving an overview of the changes. Town Planner Phillips recommends the adoption of the Ordinance, because it is time sensitive, based on the approval of one solar project not subject to this ordinance change. Town Planner Phillips states that there will be more Solar Projects projected in the near future.

Town Planner Phillips reviews the fifteen changes made by the Planning Board to the Draft Solar Ordinance. Town Planner Phillips explains that any new Solar Projects would be subjected to a dual process going before the Planning Board and Zoning Board.

Council President Santucci asks about Section 5 – H regarding the malfunctioning or inoperable equipment.

Town Planner Phillips replies that the Smithfield Fire Department will need a plan in place for emergency situations, due to the availability of an emergency shut-off. Roof mounted systems are encouraged in the Comprehensive Plan.

Council President Santucci also asks about Section 3-F & H.

Town Planner Phillips explains that Section 3-F refers to Solar Energy Systems and any associated equipment shall not be allowed on land held under conservation easement or land for which the development rights have been sold, transferred, or otherwise removed from the parcel, unless the conditions of the existing easement, existing deed, or other existing applicable legal documents in place at the time of the passage of this Ordinance specifically allows the installation of a solar system, or shall receive approval of the disturbance or use of such lands by the holder(s) of the easement or restriction.

Section 3-H refers to any Technical Review or Major Land Development Project approval of a solar energy system shall be conditioned on, at a minimum:

1. The establishment and posting of a financial guarantee as required by Section 9, Financial Guaranty, Abandonment and Decommissioning.

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2. Provision for on-site public safety response training with the Fire Chief and/or their designee(s) within one (1) month of completion of installation of the system.

Council President Santucci states that Section 9 refers to Financial Security, Abandonment and Decommissioning and asks Town Planner Phillips for an explanation.

Town Planner Phillips explains that approval of an accessory or principal solar energy system shall contain a condition of approval establishing a financial guarantee for the decommissioning and removal of the system.

Council member Lawton asks why Section 10. Enforcement, was redlined.

Town Planner Phillips, explains that enforcement has a section under the Zoning Ordinance, so they took it out of the Draft Solar Ordinance, because it is a duplication.

Council member Lawton asks who are considered the Technical Review Committee.

Town Planner Phillips replies that it is representatives from the Town Planner, Town Engineer Cleary, Fire, Land Trust, Historical Preservation, Conservation and Planning Board.

Council member Lawton asks about Section 3-E Mixed-use was cancelled.

Town Planner Phillips explains that it was a small district with many small lots on Route 44, so they did not feel it was appropriate.

Council member Lawton asks about Section 1-D regarding the Town of Smithfield property being exempt from this Ordinance.

Town Planner Phillips states that Town of Smithfield property should not be subject to the process, which included in a many of the Town ordinances.

Council Vice-President LaGreca asks about Section 7-E – A residential use as identified by the Smithfield Zoning Ordinance, Article 4.3 (B) Residential Uses, shall not be permitted on any parcel in a Residential Zoning District that has an existing Medium-Scale or Large-scale solar energy system. Council Vice-President LaGreca feels that property owners should be able to make a decision on what and how to use their remaining lots of land.

Council member Cavanagh asks if by changing to stand alone uses from residential land is common in other Cities and Towns.

Town Planner Phillips replies that it is becoming very common in neighboring Towns. Assistant Solicitor Levesque states that the land can be sub-divided. Assistant Solicitor Levesque also states that currently under the Zoning Ordinance two (2) principle uses are not allowed on the same lot of land.

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Council member Cavanagh refers to Section 7 – C – Large-scale solar energy systems in the R-80, and R-200 Zoning districts, and that otherwise meet the requirements of this Ordinance, shall only be allowed on parcels of fifteen (15) acres or more and by Special Use Permit. Council member Cavanagh asks if a house can be built on that parcel.

Town Planner Phillips replies that a house cannot be built on it once a Solar Farm is built on the vacant land, referring to Sections 7 –D & E.

Council member Lawton asks if there are parcels in Smithfield that would allow for a Solar Farm being submitted to the Planning Board in the near future.

Council President Santucci asks about Section 9 – Financial Security, Abandonment and Decommissioning, asking how this section relates to other ordinances in the State.

Town Planner Phillips explains this section is important to the Ordinance, should it have to be decommissioned.

Council member Lawton refers to Section 1-C – Intent; this ordinance intends to provide standards for the placement, design and construction, monitoring, modification and removal of solar energy systems to further public safety and minimize impact on scenic, natural and historic resources of the Town.

Town Planner Phillips states that developers are looking for large lots, Town roofs and landfills.

Council President Santucci asks about car ports.

Town Planner Phillips states that car ports would fall under the definition of a roof mounted, and we could add that into the Ordinance to include car ports. Town Planner Phillips explains that a solar port is a car port roof structure anchored to the ground that has a shed roof facing south, used at schools for buses, etc.

Francis O’Connell, Town resident, asks if solar heating systems were omitted from this proposed ordinance.

Town Planner Phillips explains that Section 2–I; Definitions- Solar energy system; The equipment and requisite hardware that provide and are used for collecting, transferring, converting, storing, or using incidental solar energy for water heating, space heating, cooling, generating electricity, and off-loading said electricity to the grid, or other applications that would otherwise require the use of a conventional source of energy such as petroleum products, natural gas, manufactured gas, or electricity produced from a nonrenewable resource.

Paul Aiello, Town resident, states that solar does not require a lot of land for residential use and he recommends roof mounted panels that are pole mounted and move with the sun.

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Alfred Costantino, Town resident, refers to page 2 – E – Medium –scale solar energy system: A principal solar energy system that occupies more than 1,750 square feet but less than 40,000 square feet of surface area, inclusive of inter-row and panel/collector spacing. Mr. Costantino asks if small scale is 2-10 acres, medium-scale 10-15 acres and large-scale 15 or more acres and if it this refers to all zones

Town Planner Phillips states that the acreage Mr. Costantino refers to is correct and it refers to all zones, not just residential.

Mr. Costantino asks about the insurance required and as to the notifying of the Town each year that the insurance is current and up to date.

Town Planner Phillips replies the owner is responsible to the provision in the ordinance to keep current up to date insurance to cover the cost of removal, in the event the Town or its contractor must remove the solar energy system. Town Planner Phillips explains that written into the insurance would be an amount determined to be reasonable by the Technical Review Committee or Planning Board.

David Loffredo explains that he is a business owner in Smithfield and is planning a solar development on his land. Mr. Loffredo further explains that after reading this ordinance he feels it is intrusive to the property owner, and there needs to be more balance with the Planning Board and Zoning Board. Mr. Loffredo refers to Section 1-C; Intent; this ordinance intends to provide standards for the placement, design and construction, monitoring, modification and removal of solar energy systems to further public safety and minimize impact on scenic, natural and historic resources of the Town. Mr. Loffredo feels that in the first section it is encouraged and other sections it is discouraged. Mr. Loffredo states that the Town should deal with each property individually.

Glen Gresko, Town resident, explains that he has opposed a lot of hostility from the Town regarding his solar project and his case in appeal with Mega-Watt Solutions. Mr. Gresko states for the record that the Zoning Board has denied his application and feels that the Town is not in favor of solar projects in the Town.

Thomas Hodgkins, Town resident, thanks the Town Council for this proposed Solar Ordinance, because, it is needed in the Town of Smithfield. Mr. Hodgkins feels the main issue is allowing large scale commercial utility systems in residential districts. Mr. Hodgkins states that the proposals of clearing land creates a parking lot on a football field. Mr. Hodgkins further states that during the development of this proposed ordinance he was prevented from speaking at the Planning Board meeting and it is very disheartening. Mr. Hodgkins does not understand why people were not allowed to speak on the proposed ordinance. Mr. Hodgkins states that the Zoning Ordinance requires staff reports and he has not seen any reports from department staff regarding this proposed ordinance. Mr. Hodgkins further states that the Planning Board reviews the Comprehensive Land Use Plan, however, he does not see any recommendations from the Planning Board. Mr. Hodgkins refers to Section 1. Purpose and Applicability – C. Intent: does not refer to the correct information in the Comprehensive Land Use Plan. Mr. Hodgkins reviews

the Comprehensive Land Use Plan, such as pages 148 and 172. Mr. Hodgkins states that the proposal to have solar panels on a roof is not unreasonable, however, it is quite different having to live next door to a solar plant. Mr. Hodgkins also states that there is a noise issue associated with a solar plant that has not be addressed. Mr. Hodgkins further states that he agrees to have a Solar Ordinance, but encourages more restrictions put in place, such prohibiting the clearing of land.

Peter Pare, Town resident, states that the Town Council should discourage solar projects, because, forest land should not be cleared. Mr. Pare further states that solar projects should be placed in landfills, where there are no trees to be cleared.

Council Vice-President LaGreca is not comfortable voting on this proposed ordinance this evening and suggests the Public Hearing be continued. Council member Lawton agrees with Council Vice-President LaGreca, because some information is missing.

Hearing no further comment Council President Santucci closes the Public Hearing.

Assistant Solicitor Levesque states that this matter was considered by the Planning Board at length and it was not before the Planning Board for a Public Hearing. Assistant Solicitor Levesque states that the Public Hearing is being held this evening. Assistant Solicitor Levesque further states that the reason for the urgency this evening is because projects will be submitted to the Planning Board and the Town needs some infrastructure in place to do the projects effectively. Assistant Solicitor Levesque recommends that the Town Council votes to pass the ordinance this evening.

Council Vice-President LaGreca appreciates the work the Planning Board has done, however, he is not comfortable voting on the proposed ordinance this evening.

Assistant Solicitor Levesque replies that he would answer any questions Council Vice-President LaGreca may have.

Council member Cavanagh explains that she watched the video recording of the Planning Board and was not positive on the voting.

Assistant Solicitor Levesque did not reveal the member of the Planning Board who voted nay.

Council Vice-President LaGreca states someone spoke of the noise level of the solar projects this evening.

Town Planner Phillips states that they do generate noise and one provision of the ordinance is to mitigate the noise.

Council member Lawton believes that a work session should be scheduled to discuss this proposed ordinance further.

Council President Santucci is prepared to move forward with this proposed ordinance, because the Town Council can always make amendments to the ordinance at a later date.

Mr. Loffredo finds that Smithfield is very difficult to do business with and the proposed ordinance is too restrictive.

Assistant Solicitor Levesque states that this proposed ordinance is not fixed or rigged, because someone could get a variance or sub-divide.

Donald Brown, Town resident feels that all the information for the Public Hearing is pre-determined for the Town Council, but it is a lot of material for the public to review at one time. Mr. Brown recommends that this agenda item be continued for further information.

Mr. Costantino states that a motion was made and seconded, and no one should be allowed to speak.

Council member Alba feels that postponement of this vote will not help the Town and the Town Council can hold a work session in the future and discuss amendments to this ordinance.

Council President Santucci states that it is very important to pass this ordinance.

Motion is made by Council member Cavanagh seconded by Council Vice-President LaGreca, that the Smithfield Town Council hereby approved proposed Town Ordinance Article 5.11, "Solar Energy Systems", to add to the Zoning Ordinance a section to address the location and installation of solar energy systems with the Planning Board's recommended changes. **Motion is approved by a vote of 4/1 vote. Council member Lawton votes nay.**

IX. Licenses and Permits:

A. Consider approving the annual renewal of one (1) Peddler's License, as applied, subject to compliance with all State regulations and local ordinances:

- 1. Rhode Island Kona, LLC D/B/A "Rhode Island Kona Ice", to sell only frozen ice from a truck with RI registration number 21700, 4 Cider Lane.**

Motion is made by Council member Lawton, seconded by Council Vice-President LaGreca, that the Smithfield Town Council approve the annual renewal of one (1) Peddler's License, as applied, subject to compliance with all State regulations and local ordinances:

1. Rhode Island Kona, LLC D/B/A "Rhode Island Kona Ice", to sell only frozen ice from a truck with RI registration number 21700, 4 Cider Lane.

Motion is approved by a unanimous 5/0 vote.

X. Old Business: None

XI. New Business:

- A. Consider, discuss, and act upon authorizing Watlao Buddhovath of RI, Inc. to hold a Lao New Year 2018 celebration on Saturday, May 19, 2018 and Sunday, May 20, 2018 from 9:00 a.m. to 6:00 p.m. on the Temple Grounds at 88 Limerock Road.**

Town Manager Rossi explains that Chief St. Sauveur could not stay for the evening, but wanted to inform the Town Council that the members of the Watlao Buddhovath of R.I. are working with the Police Department regarding the noise, safety and security of the event.

Motion is made by Council Vice-President LaGreca, seconded by Council member Cavanagh, that the Smithfield Town Council authorize Watlao Buddhovath of RI, Inc. to hold a Lao New Year 2018 celebration on Saturday, May 19, 2018 and Sunday, May 20, 2018 from 9:00 a.m. to 6:00 p.m. on the Temple Grounds at 88 Limerock Road. **Motion is approved by a unanimous 5/0 vote.**

- B. Consider, discuss, and act upon the reimbursement of \$186,868.05 in capital expenditures for the School Department.**

Council President Santucci asks about the prevailing wages in the amount of \$15,700 dollars, and asks why the custodial staff could not do the work.

Council member Lawton states that the Town Council can table this item.

Council President Santucci states that it is the School Department's funds, however, if a member of the School Committee were in attendance this evening he would ask that question of them.

Motion is made by Council Vice-President LaGreca, seconded by Council member Alba, that the Smithfield Town Council hereby authorizes reimbursement to the School Department in the amount of \$186,868.05 for capital expenditures. **Motion is approved by a unanimous 5/0 vote.**

- C. Consider, discuss, and act upon authorizing a bid award to Smithfield Peat not to exceed \$26,650.00 for the installation of a temporary river crossing for the Sewer Authority.**

Town Engineer Cleary states that he is recommending a bid award for construction purposes to Smithfield Peat, as submitted in the bid proposals received on March 30, 2018. Town Engineer Cleary also states that the Sewer Authority has endorsed and recommended approval to Smithfield Peat. Town Engineer Cleary explains that funding for the installation may be furnished from the Sewer Authority Capital Improvements Fund, as funds are sufficient for this task.

Motion is made by Council Vice-President LaGreca, seconded by Council member Cavanagh, that the Smithfield Town Council hereby authorizes a contract award with Smithfield Peat not to exceed \$26,650.00 for the installation of a temporary river crossing for the Sewer Authority. **Motion is approved by a unanimous 5/0 vote.**

D. Consider, discuss, and act upon authorizing the establishment of fire lanes located on both sides of the access road leading from Route 7/Douglas Pike to the Hampton Inn at the request of the Fire Department.

Town Manager Rossi, explains that as per the Town of Smithfield Code of Ordinances Part 3, Fire Lane, Article XVIII, Section 198-142, whereby the Town Council is authorized to establish fire lanes on private property devoted to public use. Town Manager is requesting that the access road leading from Route 7 to the Hampton Inn be approved for fire lanes, which shall be required on both sides of the access road for the full distance of the access road.

Fire Marshall Dexter states that there were many complaints regarding the parking and access by a fire truck, requiring a fire lane between Laura's Bar and Grille and the Hampton Inn & Suites which is a requirement and is cited in the Rhode Island State Fire Code.

Motion is made by Council member Lawton, seconded by Council member Cavanagh, that the Smithfield Town Council authorizes the establishment of fire lanes located on both sides of the access road leading from Route 7 to the Hampton Inn. **Motion is approved by a 4/0 vote. Council President Santucci recuses himself.**

E. Consider, discuss, and act upon authorizing a request from the Anna McCabe Basketball Courts Subcommittee for a loan in the amount of \$30,000.00 pending RIDE reimbursement.

David Russas, Smithfield Asset Management Commission Chair, explains that the original project budget for the courts included using asphalt. Chair Russas further explains that the sub-committee evaluated different systems and a decision was made, although more costly, post-concrete tension is the best long term solution for the Town. Chair Russas states that that the final product requires additional funding in the amount of \$30,000, which is equal to 50% of the RIDE reimbursement, and is required to be loaned and repaid to the Town when the reimbursement is received. Chair Russas further states that even though the use of concrete has increased the project over the original estimated amount, the committee has saved thousands of dollars in other areas of the budget.

Council member Lawton states that the sub-committee have reduced the costs from many other areas, however, concrete was the best material to use.

Council Vice-President LaGreca asks Mr. Russas if there are any other expenses from Phase I, and any reimbursements from RIDE should always be returned back to the Town and not be included in the projected costs of the project.

Chair Russas does not anticipate any further costs from Phase I.

Council member Cavanagh explains that RIDE reimbursement should not be included in the cost estimate.

Council member Cavanagh states that she sees a problem now and in the future regarding budget proposals for projects in Town that go over budget and need to stick close to the original proposal.

Motion is made by Council Vice-President LaGreca, seconded by Council member Lawton, that the Smithfield Town Council hereby authorize a request from the Anna McCabe Basketball Courts Sub-committee for a loan in the amount of \$30,000 pending RIDE reimbursement. **Motion is approved by a unanimous 5/0 vote.**

F. Consider, discuss, and act upon the appointment of a Council liaison to the Affordable Housing Advisory Board.

Council President Santucci states that Council member Alba would be a passionate and effective leader in the area of Council Liaison to the Affordable Housing Advisory Board.

Motion is made by Council Vice-President LaGreca, seconded by Council member Cavanagh, that the Smithfield Town Council hereby appoints Council member Suzy Alba to be liaison to the Smithfield Affordable Housing Advisory Board. **Motion is approved by a unanimous 5/0 vote.**

G. Schedule a workshop on the Comprehensive Community Plan for Tuesday, June 19, 2018 at 5:30 p.m.

Motion is made by Council member Lawton, seconded by Council Vice-President LaGreca, that the Smithfield Town Council hereby schedules a workshop on the Comprehensive Community Plan for Tuesday, June 19, 2018 at 5:30 p.m. **Motion is approved by a unanimous 5/0 vote.**

XII. Public Comment

Joseph O'Connor, Town resident, apologizes in advance to the Town Council because they bring out the worse in people. Mr. O'Connor does not agree with the five (5) minutes rule when speaking during Public Comment. Mr. O'Connor also disagrees with the elimination of the Senior Tax Freeze and the increase in taxes to the seniors. Mr. O'Connor further states that an increase in the taxes to the seniors would be devastating.

Paul Aiello, Town resident, states that if residents of the Town of Smithfield vote for the two (2) bond issues there would be a 50 million dollar increase, which will be the largest increase in taxes to the tax payers. Mr. Aiello suggests that the Town Council discuss the proposed legislation with our State Representatives, to see if they are in support of these bonds.

Thomas Robitaille, Town resident, disagrees with Mr. O'Connor regarding the Senior Tax Freeze being a burden to the seniors. Mr. Robitaille states that the tax payers have the right to vote on bond issues.

Alfred Costantino, Town resident, asks about a breakdown on the tax bills regarding the amount tax payers are paying toward previous and current bonds. Mr. Costantino feels that the tax payers needs to know where there taxes are distributed throughout the Town. Mr. Costantino would like this to be a future agenda item to purchase the software for the tax bills. Mr. Costantino would also like to be on a future agenda regarding the Smithfield Land Trust and the Mary Mowry house.

Council President Santucci suggests there be a meeting with Mr. Costantino and Town Manager Rossi regarding Mr. Costantino's suggestions and comments.

XIII. Announce any closed session votes required to be disclosed pursuant to RI General Laws, Sec. 42-46-4.

Council President Santucci announces that there were no votes taken in the Closed Session meeting held this evening.

XIV. Adjournment.

Motion is made by Council Vice-President LaGreca, seconded by Council member Alba, to adjourn the meeting. **Motion is approved by a unanimous 5/0 vote.**

Meeting adjourns at 9:12 P.M.

Carol A. Aquilante, OMC

Town Clerk