

**TOWN OF SMITHSBURG, MD
MAYOR AND COUNCIL
REGULAR MEETING MINUTES
September 7, 2021**

The Regular Meeting of the Smithsburg Mayor and Council was held on Tuesday, September 7, 2021, at 6:00 PM with Mayor Donald Souders, Councilmembers James Fritsch, Tracey Knight-Simane, and David Dan present. Councilmember Cassandra Weaver arrived late. Also in attendance was Town Manager Chad Rooney and Clerk/Treasurer Jenni House. The meeting was opened with the Pledge of Allegiance led by Councilmember Knight-Simane.

Approval of Agenda: On a motion by Councilmember Dan, second by Councilmember Knight-Simane to approve the agenda. **Motion carried**, with Councilmember Weaver not present.

On a motion by Councilmember Knight Simane, second by Councilmember Fritsch to close regular session at 6:07 PM and move into executive session under

Article 3-305(b) of the Annotated Code of MD, Section 3 to consider the acquisition of real property for a public purpose and matters directly related thereto. **Motion carried.** The following individuals were present: Mayor Souders, Councilmembers David Dan, Tracey Knight-Simane, and, James Fritsch, and Cassandra Weaver. The purpose of the closed session was to discuss the purchase of property.

RECONVENE IN OPEN SESSION

On a motion by Councilmember Knight Simane, second by Councilmember Dan to reconvene in open session at 6:31 PM, **motion carried.**

Approval of Minutes:

Mayor & Council Meeting – Aug 10, 2021

Work Session – Aug 24, 2021

On a motion by Councilmember Fritsch, second by Councilmember Dan to approve the minutes as presented. **Motion carried**, with Councilmember Weaver abstaining.

Mayor Souders requested that the Special Closed Session Minutes listed on the agenda be held until the October Mayor and Council meeting and presented all at once, since they have not been completed. Council agreed.

Approval of Treasurers Reports: On a motion by Councilmember Fritsch, second by Councilmember Dan to approve the Treasurer's Report as presented. **Motion carried.** Councilmember Dan added that an amended copy of the restricted fund balances was received on Mayor and Council desk before the meeting.

COMMUNITY ORGANIZATION REPORTS:

SEMS Report: Dale Fishack submitted the following report: Total calls for service during the month of August was 133 calls with 15 calls in Frederick County and 12 calls in Franklin County.

Smithsburg Fire Co- The following report was submitted by Dave Yankey and Phil Rhorer: 42 calls for service in August, 361 volunteer responses, and was the average number of responders per call. Mutual aid was given to Frederick County 6 times.

MAYOR'S REPORT: Mayor Souders reported the following:

- Met with Town's Attorney with Town Manager to discuss various legal matters including the town's inquiry with the Attorney General
- Conducted Chief of Police Interviews with Council

- Met with town staff and town consultant Dave Haller to discuss evaluations of the Town Manager as well as discussed Mr. Haller's consulting agreement and its extension (on tonight's agenda)
- Worked with Town Manager Rooney on several matters including the Mt. Shadow's sidewalk options, Budget Review, contractual agreements and staff matters
- Met with Town Manager Rooney, Dave Haller and Jeff Long to discuss the water storage tanks and other potential issues with the town's water and sewer infrastructure.
- Talked with Mr. Grove about the Maple Grove Estates commercial trash issue. Mr. Grove has presented a possible site plan for a dumpster at Maple Grove Estates. Randy Dick, Town Manager Chad Rooney, and the Planning Commission will continue to work with Mr. Grove to hopefully find a resolution.
- I have submitted the inquiry letter and related materials to the Attorney General Office referring to the charter amendments adopted in 2019. The town will upload all the information submitted to the AG on the town website along with sending out alerts through the town's notification system of when the information submitted has become public on the AG's website. The public will be able to submit comment to the AG when it's posted to the AG's website.

TOWN MANAGER'S REPORT: Town Manager, Chad Rooney reported the following:

- Phone Conference with the Appalachian Trail Community to discuss the requirements for AT Community designation. Will be working with the Economic Development Committee and Parks Commission in the future to begin implementing the requirements of the program.
- Met with Andrew Eshelman, Washington County Director of Public Works, regarding our upcoming work and the 2.5 acres in Veterans Park.
- Met with Dave Yankee, Smithsburg Volunteer Fire Department, for a tour of the station and discussion about reimbursements.
- Along with Councilman Dan, toured the City of Hagerstown's R.C. Wilson Water Filtration Plant.
- Along with the Public Works Supervisor; Mike Hicks, Town Engineer; Greg White, Planning Commission Chairperson, and Randy Dick, Town Planner; met Cloverly Developers and McCrone Engineering to finalize the 2021 Sewer Flow Study being presented tonight.
- Along with the Clerk/Treasurer, completed eight interviews for the position of Assistant Clerk/Treasurer and hired Charlotte Zies for the position. Charlotte will begin on Monday, August 16, 2021.
- Attended the July Smithsburg Town Farmer's Market.
- Along with Councilman Dan, attended the Regional Maryland Municipal League Dinner in Williamsport.
- Met with the Washington County Department of Health to finalize details for National Night Out
- Attended the 12th Annual National Night Out and with one swift throw was able to send our Town Council Vice President into the dunk tank.
- Along with Sergeant Munson met with T-Mobile.
- Attended a virtual ARPA Planning & Implementation Webinar.
- Met with Mike Cermak of Cermak technologies to finalize arrangements to have a camera system set-up in Town Council Chambers. The system will be installed Friday into next Monday.
- Along with Town Council Vice President Souders, met with the Boonsboro Town Manager to gather information regarding town-wide, commercial refuse collection.
- Met with Kathryn Gratton and Dawn Beitzel, Maryland Rural Development Corporation, regarding Grant Writing Circuit Rider services.
- Met with John Neyman, Republic Services, to discuss collection issues, town-wide commercial refuse collection, and options to temporarily address concerns shared by Brenda Wolf.
- Areas of note, the Town's Financial Audit and Workers Compensation Audit will be completed August 30, 2021

CONSENT AGENDA (Departmental and Commission Reports)

Police Department

Public Works Department

Planning & Zoning Department

Smithsburg Community Activities Commission

Parks Commission

Planning Commission

Library Advisory Board

Economic Development Commission

Councilmember Fritsch stated SCAC was wondering if Mayor and Council was going to put a trunk in for the trunk or treat in Veterans Park. Mayor Souders stated that they should have a trunk in the Trunk or Treat and everyone agreed.

Councilmember Knight Simane stated there was a resident on Sara Circle would like an update on a pipe that needs to be fixed. The resident stated he has called the town and was told the part was on order. Town Manager, Chad Rooney, stated that he visited the site, along with Public Works Supervisor, John Renard and it appears a large truck drove over the lid and pushed it into the pit. Councilmember Dan ask the Town Manager if this was a meter pit and if so, aren't they meant to drive over. The Town Manager stated that he couldn't answer that for sure and relies on Mr. Renard to take care of those things, Councilmember Dan stated that if it isn't meant to be driven over it needs to be replaced. Councilmember Knight-Simane ask that someone reach out to the resident and provide an explanation for the delay.

Councilmember Dan stated the library is no longer doing curbside pickup, there are now using a locker system. He also stated the library will be participating in trunk or treat and the tree lighting ceremony.

On a motion by Councilmember Dan, second by Councilmember Fritsch to approve the reports as presented.
Motion carried.

CITIZENS COMMENTS/CONCERNS:

Jessica Warner – 101 United Court – Ms. Warner stated that none of the residents in her cul-de-sac knew about the meetings to discuss the sidewalk options or they would have attended. Ms. Warner stated there are 19 children living in the cul-de-sac ages 1½ to 11, they walk on the sidewalk and then they have to walk in the street because there is no sidewalk. Ms. Warner stated that she was told speed camera funds if for public safety, and would like to know why the money can't be used for sidewalks. Councilmember Dan, stated that he and Councilmember Knight-Simane met with the residents of United Ct. and they made some excellent points, for him, once it starts snowing it's going to be a safety issue because kids are going to have to walk on the side of the road and it's going to be slippery, so it's something that is going to have to be addressed. Councilmember Knight Simane ask if a school bus comes into Mountain Shadows to pick up the children and the response was no they have to walk to E. Water St. Ms. Warner also stated that it would be nice to have a walkway from United Court down to Harshman Automotive so residents could walk into town without having to walk on the road.

OLD BUSINESS:

Mountain Shadows Sidewalk Proposal: Option 2 (Modified): Mayor Souders stated that council received a letter from Rachel Malagari – 108 United Court, which will be included with the minutes. Town Manager, Chad Rooney stated that during the August work session I requested to move on with Option 2 with some modifications, adding sidewalks in the cul-de-sac at United, in front of 67 E. Water and 104, 106 108 Boswell, and crosswalks connecting United Court and Veteran Court. Councilmember Fritsch ask if the town manager was saying sidewalks would be completed in front of Boswell, the cul-de-sac at United and nothing done on the sides of the 104, 106 and 108 Boswell. Mayor Souders stated that this project would be done in two phases.

Hearing the concerns from the residents on United, the sidewalks would need to be done on the sides of United and Veteran Court. Councilmember Dan stated that mayor and council need to work with the homeowners on Boswell to make a decision about how to put the sidewalks in, it would be great if this could be done without damaging the trees. Councilmember Fritsch ask how soon phase one can be completed, Town Manager, Chad Rooney stated as soon as possible. Councilmember Dan stated that Washington County Public School Board should be contacted to see if a bus can pick up the children on United Court, at least for the winter. Mayor Souders stated that the residents of United Court should also contact the School Board requesting a bus stop on United Court. Mayor Souders stated that Phase two of the project is not going to be simple engineering. Town Engineer, Mike Hicks, Town Manager, Chad Rooney and Public Works Supervisor, John Renard will need to come up with different options to bring back to council for a decision on Phase two.

On a motion by Councilmember Fritsch, second by Councilmember Dan to move forward with obtaining bids on Option 2, Phase one of the Mountain Shadows Sidewalk Proposal. **Motion carried.**

On a motion by Councilmember Weaver, second by Councilmember Dan to move forward with obtaining options to complete Phase 2 of Option 2 of the Mountain Shadows Sidewalk Proposal. **Motion carried.**

NEW BUSINESS:

Discussion/ Consideration of Town Council Vacancy – Town Manager, Chad Rooney stated that the vacancy has been advertised in the Herald Mail. The vacancy is also advertised on the town website, with a link to the councilmember application. All councilmember applications need to be submitted by 4:00 PM on Monday September 13th. Councilmember Fritsch stated the most feasible time to interview the applicants would be Saturday, September 18th. Everyone agreed to do interviews on Saturday, September 18th and Monday September 20th, if needed. Councilmember Fritsch will obtain the applications from town staff and reach out to the mayor and other councilmembers with times for the interviews.

Consider Smithsburg Emergency Medical Services Request – Mayor Souders stated the request is to close Maple Ave. and obtain \$3,500.00 for fireworks. Dale Fishack stated this is the annual Fall Festival, this year they would like to expand out to the downtown area to bring more foot traffic to the town. Close Maple Ave. to the railroad tracks, and then down to W. Water St. Closing C&P Lane just past the police department, leaving the front of the lane open to bring business to the Trackside Market. Hotel/ Motel funds are requested for fireworks. The fireworks would be done in Veteran's Park, the same location they are done for Smithsburg Days. **On a motion** by Councilmember Dan, second by Councilmember Fritsch to approve the road closure requested by SEMS. **Motion carried.**

On a motion by Councilmember Fritsch, second by Councilmember Dan to give the \$3,500.00 as requested for fireworks. Councilmember Knight-Simane wanted to make sure that if we are going for one organization, we do for all. Councilmember Weaver stated that this should hold true to the Steam and Craft Show as well, there is a lot of talk that the town doesn't support the Steam and Craft Show. Councilmember Dan stated that he fully supports spending hotel/motel funds on town events. **Motion carried.**

Accept Termination of Services of Salvatore & Morton as Legal Counsel – Mayor Souders stated all council received a copy of the letter from Salvatore & Morton stating effective September 20, 2021, their firm is terminating their representation of the town. Mayor Souders stated that Jason Morton stated they would extend until the end of October or until we found other legal counsel. Town Manager, Chad Rooney is working with consultant Dave Haller to create an attorney bid packet. **On a motion** by Councilmember Weaver, second by Councilmember Dan to accept their offer to extend the termination date to the end of October. Councilmember Dan stated this is an opportunity to get some new blood and a fresh set of eyes. **Motion carried.**

Discussion Consider of Bid Information to Obtain Legal Counsel – Town Manager, Chad Rooney will work with Dave Haller to create an attorney bid packet. The packet will then be emailed to Mayor and Council for review.

Consider Resolution 2021-05: Maryland Circuit Rider/ Town Manager Program: Town Manager, Chad Rooney read the resolution for the record. The Resolution stated the circuit rider would start working on the

town on September 8, 2021 and the contract would end June 30, 2023. **On a motion** by Councilmember Dan, second by Councilmember Knight Simane to approve Resolution 2021-05. **Motion carried** with Councilmember Weaver abstaining.

Memorandum of Understanding with the Maryland Rural Development Corporation – Town Manager, Chad Rooney read the MOU for the record. On a motion by Councilmember Fritsch, second by Councilmember Knight Simane to accept the MOU as presented. Councilmember Dan pointed out that the MOU doesn't state who is responsible for payment. Mayor Souders stated we would need to get clarification on that, and Councilmember Dan stated that would be fine. **Motion carried** with Councilmember Weaver abstaining.

Consider of Employment Agreement for Chief of Police – Mayor Souders stated the agreement would be the same agreement that was used for the 2 previous chiefs. Councilmember Weaver ask if it was common for municipalities to require agreements, since only the Chief of Police is the only employee that is required to have one. Mr. Haller responded to Councilmember Weaver stating that it is not uncommon for the Police Chief to have a contract, stating they can only be removed for cause. The contract protects the employee as well as the town. The new Police Chief will be signing the agreement.

Hiring of Chief of Police – Mayor Souders stated Mayor and Council conducted interviews for the police chief and had many qualified candidates. Mayor Souders stated council worked well conducting the interviews and were very thorough, and he appreciates everyone efforts. The mayor requested a formal motion by council to hire Rob Marker as the new Chief of Police. **On a motion** by Councilmember Fritsch, second by Councilmember Dan to hire Rob Marker as the new Chief of Police. Councilmember Knight-Simane stated she would hope any employee being let go would be given a reason why. **Motion Carried.**

Consider Recommendation by Parks Commission for Gazebo Rental Fee – Town Manager, Chad Rooney, stated in the Parks Commission minutes they were going to bring to council charging a rental fee for the gazebo rental. The Parks Commission approved the fee of \$40.00. **On a motion** by Councilmember Fritsch, second by Councilmember Dan to approve the fee of \$40.00 for the gazebo rental. Councilmember Weaver suggested amending the motion to say on the recommendation of the Parks Commission. Councilmember Fritsch amended his motion. **Motion carried.**

Yarn Bomb Proposal by The Smithsburg Studio – Mayor Souders stated Jamie Fogle and other would like to do something around the square for the winter. They are not asking for any money, just asking for Mayor and Councils blessing. Councilmember Knight Simane stated she is hoping this turns into more. Councilmember Dan wanted to make sure they wouldn't interfere with any signage or anything and Mayor Souders stated that they would work with town staff to make sure this didn't happen. Councilmember Dan also wanted to make sure this wouldn't interfere with any Christmas Decorations and Town Manager Chad Rooney stated he would work with them regarding that matter. **On a motion** by Councilmember Fritsch, second by Councilmember Knight Simane to approve the yarn bomb proposal, with the restrictions, if needed for Christmas Lights. **Motion carried.**

Consider Continuation of Contractual Services by David Haller – Mayor Souders stated the discussion was to extend Mr. Haller's contract through October. The agreement is \$1,500.00 a month for 40 hours a month. **On a motion** by Councilmember Dan, second by Councilmember Weaver to extend Mr. Haller's contract to the end of October. Councilmember Knight Simane requested an amendment to the contract as to who can provide direction to Mr. Haller, Mayor Souders stated that Mr. Haller could amend the contract. **Motion Carried.**

Consider Date for Trick or Treat Night in the Town – Mayor Souders stated as of now the Mummers Parade is Saturday, so assuming there are no activities on that Friday night we could do it then. Councilmember Weaver stated she thought it was always done on a Thursday, and Mayor Souders stated parents recommended

we do Friday night. Council agreed Friday, October 29, 2021 Trick or Treat will be from 6PM to 8PM. Mayor Souders reminded everyone this is not a town sponsored event and if you wish to participate, please have your porch light on.

For Information Only

A letter from the family of Paul Hose was received showing their appreciation for the flowers that the Mayor and Council sent.

Application for Economic Development Committee – Nikki Falzon submitted an application in February and it got lost in the shuffle so she submitted a new application. Councilmember Weaver ask if they could go ahead and vote on it, it is listed as information only, but it is still on the agenda. There were no objections to voting on this tonight. **On a motion** by Councilmember Weaver, second by Councilmember Dan to approve the application for Nikki Falzon to be a member on the Economic Development Committee. **Motion carried.**

Email from Rachel Malagari – 108 United Court – Councilmember Dan forwarded the email to Town Manager, Chad Rooney. A copy of the email was provided to all of mayor and council.

Councilmember Remarks:

Councilmember Weaver- Welcomed Nikki Falzon to the EDC. Would like to publicly thank her mother for her love and support and encouraging her to do things like this. Her mother has always wanted her to be on the school board so she wanted to also publicly tell her that she loves her, but no. Wants to give a shout out to a dear family, Andy and Barb, Andy has coached many kids in this town. He is currently hospitalized, so just want to give a shout out for a speedy recovery.

Councilmember Fritsch – Welcomed the new Chief of Police. Wishes all the sports teams a lot of success. Hopefully things keep moving forward with COVID and we are able to have a successful school year.

Councilmember Knight Simane – Thanked Nikki Falzon for stepping up. Welcome the new Chief. I did meet with Mountain Shadows residents on United Court. Cassie mentioned Andy, however there is another out of town resident hospitalized. Just want to wish them a speedy recovery.

Councilmember Dan – Congratulated Nikki and soon to be new chief. Looking forward to working with him. A couple of weeks ago I was appointed to the Maryland Municipal League Judiciary Legislative committee. We are going to be reviewing 14 different LARS. I have to prioritize the top 2, so if anyone is interested in looking at them, I would be happy to share.

Mayor Souders – Good Meeting. Terry Baker, County Commissioner is in the hospital so hopefully speedy recovery for him as well.

The next work session meeting was scheduled for September 28, 2021, however there was an email that came from Town Manager, Chad Rooney and Councilmember Fritsch about moving the next work session to September 21, 2021. Council agreed to move the work session to September 21, 2021.

The next Work Session is September 21, 2021

The next Mayor & Council Meeting is October 5, 2021

MOTION TO ADJOURN

On a motion by Councilmember Weaver, second by Councilmember Fritsch to adjourn the meeting at 8:55 PM, **motion carried.**

Respectfully submitted,

Jenni House
Clerk/Treasurer