

**TOWN OF SMITHSBURG, MD  
MAYOR AND COUNCIL  
REGULAR MEETING MINUTES  
August 10, 2021**

The regular meeting of the Smithsburg Mayor and Council was held on Tuesday, August 10, 2021, at 7:03 PM with Councilmembers Donald Souders, James Fritsch, Tracey Knight-Simane, and David Dan present. Councilmember Cassandra Weaver participated via ZOOM. Also in attendance was Town Manager Chad Rooney, Clerk/Treasurer Jenni House, Public Works Supervisor John Renard and Sergeant Brian Munson. 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 Fritsch to approve the agenda with the removal of the Mountain Shadows Sidewalks Proposal. **Motion carried.**

**On a motion** by Councilmember Dan, second by Councilmember Fritsch to close regular session at 7:07 PM and move into executive session under *Article 3-305(b) of the Annotated Code of MD, Section 7 to consult with Counsel to obtain legal advice on a legal matter.* Motion carried. Mayor and Council met with the Town Attorneys to discuss the process on selecting a new mayor.

**RECONVENE IN OPEN SESSION**

**On a motion** by Councilmember Fritsch, second by Councilmember Weaver to reconvene in open session at 7:56 PM, **motion carried.**

**Promotion Ceremony:** Councilmember Souders congratulated Sergeant Brian Munson on his promotion with the Smithsburg Police Department. Sergeant Munson has been with the Smithsburg Police Department for 11 years, however has been an officer for 17 years. Sergeant Munson has been with the 200 Military Police Command, Fort Mead, MD for 12 years and is current a Staff Sergeant.

**Approval of Minutes:**

Mayor & Council Meeting – July 6, 2021

Work Session – July 27, 2021

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

**Approval of Treasurers Reports: On a motion** by Councilmember Fritsch, second by Councilmember Dan to approve the Treasurer's Report as presented the night of the meeting. **Motion carried.** Councilmember Dan ask which Fiscal Year the Real Estate Tax income was for and the Clerk/Treasurer responded that the amount is from the FY22 Real Estate Taxes.

**COMMUNITY ORGANIZATION REPORTS:**

**SEMS Report:** Dale Fishack submitted the following report: Total calls for service during the month of July was 101 calls with 16 calls in Frederick County and 16 calls in Franklin County.

Chandler Fishack – 22544 Cavetown Church Road Cavetown, MD discussed the Fall Festival. Mr. Fishack presented a map requesting road closures for the event, which will be held on October 23, 2021. Mr. Fishack also requested \$3,500.00 from the Mayor and Council for fireworks which will be held the night of the event. The request for funds has been moved to the August 24, 2021 Work Session.

**Smithsburg Fire Co-** Report was provided to Mayor and Council.

**MAYOR'S REPORT:** No Report

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

- Phone Conference with the Application 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 Eschelman, 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 12<sup>th</sup> 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

Councilmember Dan ask Town Manager, Chad Rooney about hiring a new Public Works employee and Mr. Rooney stated he has not advertised for the position yet. Councilmember Dan also ask Mr. Rooney if he has been looking into other health care options for the town employees and Mr. Rooney stated he has been working on that.

## **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 Knight-Simane ask Sergeant Brian Munson to explain a specific incident that occurred on Johnson Terrace so the public was made aware of what happened. Councilmember Knight-Simane also stressed when an incident occurs call 911, do not call the non-emergency number.

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

### **CITIZENS COMMENTS/CONCERNS:**

Lee Zahm – 113 Sherri's Way – Discussed the placement of the 2<sup>nd</sup> speed camera. Mr. Zahm stated he has lived in Smithsburg since 2006 and doesn't understand why the camera was placed where it was because he doesn't see it as public safety. Mr. Zahm stated that the placement of the 2<sup>nd</sup> camera is more like a speed trap. Mr. Zahm stated that for transparency purposes the town may want to share how many tickets they get from each camera. Councilmember Souders stated that Sergeant Munson can run a breakdown of that and submit it at a later meeting. Councilmember Dan stated that he had a conversation with Optotraffic and the old camera that is currently not operating can be turned back on. Councilmember Souders stated that once the new Chief was hired this matter would be placed on a future work session.

### **OLD BUSINESS:**

**Consider Ordinance 2021-03: Illicit Discharge Detection & Elimination Ordinance (IDDE)** - The ordinance was read at the Public Hearing that was heard this evening at 7:00PM.

**On a motion** by Councilmember Fritsch, second by Councilmember Weaver to adopt the ordinance as presented. **Motion carried.**

### **NEW BUSINESS:**

**Accept Resignation of Mayor Hetherington** - Councilmember Sounders read the letter from Mayor Hetherington explaining the reasons he was resigning. **On a motion** by Councilmember Dan, second by Councilmember Fritsch to accept the mayors resignation. **Motion carried.**

**Swearing in of Mayor** – Councilmember Dan objected to Councilmember Souders being sworn in as Mayor, stating that the Charter Amendments from 2019 should be null and void as they do not follow the compliant requirements. Councilmember Dan hired his own attorney who submitted an opinion stating the same. The opinion is attached to the minutes for the record. Councilmember Dan made a motion to submit the town attorneys' opinion along with his private attorneys opinion to the Attorney General for review before moving forward. Councilmember Fritsch stated that the Town Attorneys made it clear that it was alright to move forward with the Vice President becoming Mayor. Councilmember Weaver stated that council needed to move forward this evening and can forward the opinions of the attorneys to the Attorney General for review for any future situations. Councilmember Dan then amended the motion stating they could move forward as long as the opinions are submitted to the Attorney General's Office in a timely manner. The Clerk of the Court swore in Councilmember Souders as mayor. Councilmember Dan made a motion to have Mayor Souders resign his

council seat, however Mayor Souders stated that wasn't necessary. If it is found that Mayor Souders needs to step down as Mayor after the Attorney General findings he has no problem doing so.

**Selection & Appointment of Town Council Vice President** – Councilmember Weaver nominated Councilmember Fritsch for the Vice President position. Councilmember Knight-Simane nominated Councilmember Dan for the Vice President position. With the 2-2 vote, Mayor Souders broke the tie by voting for Councilmember Fritsch.

**Consider Application for Zoning Appeals Board – On a motion** by Councilmember Dan, second by Councilmember Fritsch this item will be moved to the next work session. **Motion carried.**

**Accept Resignation of Thomas Nussear and Leslie Kocevar from Economic Development Committee** – On a motion by Councilmember Fritsch, second by Councilmember Dan the resignations were accepted. **Motion Carried.**

**Consider Resolution 2021-04; Water/ Sewer Studies; Acceptance and MOU Satisfaction** – Julie Pipple, representative from Cross & Company stated that at the last work session it was requested that the Water & Sewer studies were brought before Council for formal acceptance. Town Manager, Chad Rooney read the resolution for the public. Ms. Pipple requested the approval date be added to the coversheet of the water study to prevent any issues going forward. Mayor Souders stated that the Town Manager would take care of that and the date would be added. **On a motion** by Councilmember Dan, second by Councilmember Fritsch to approve the water & sewer studies. **Motion carried.**

#### **Councilmember Remarks:**

**Councilmember Dan** – It's been a busy month. Went to the Hagerstown Water Plant for a tour and met the director of utilities. After waiting more than a year, had a ride along with Sergeant Munson. Attended the Farmers Market and National Night Out. Stated Sergeant Munson and Officer Rowe did a fantastic job with National Night Out. Attended the local MML dinner with Town Manager Chad Rooney. Stated Councilmember Weaver accused him of high jacking the rest of council and this is a false accusation. He presented information as he seen fit. Councilmember Dan stated that it is offensive that he & Councilmember Knight-Simane can't bring up serious issues that affect the town.

**Councilmember Weaver-** Congratulated Councilmember Fritsch on the Vice President appointment. Stated that she is not going to acknowledge the remarks from Councilmember Dan. Councilmember Weaver stated that she had officially resigned and was ask to stay due to all of the changes that were occurring. Thanked those serving on commissions for faithfully supporting the town. Councilmember Weaver thanked the town employees for all that they do. Requested that if any town person would like her resignation, please email her.

**Councilmember Knight-Simane-** Congratulated Mayor Souders and Councilmember Fritsch. Stated that she may not like the process that happened prior to the amendments in the charter but she has a right as a council person to question it. Councilmember Knight-Simane stated she has a right to not trust the town attorneys. Councilmember Knight-Simane stated that council spoke negatively to that and her opinion. Councilmember Knight-Simane attended the Farmers Market and the Grand Opening of Dunkin Donuts.

**Councilmember Fritsch** – Thanked Sergeant Munson and Officer Rowe for all they did in preparation for National Night Out. Also thanked the SCAC committee for their help with National Night Out. Councilmember Fritsch thanked Mayor Sounders for getting in the dunking booth so he didn't have to. Looks forward to moving in the right direction.

The next Work Session is August 24, 2021

The next Mayor & Council Meeting is September 7, 2021

CONVENE IN CLOSED SESSION

**On a motion** by Councilmember Fritsch, second by Councilmember Dan to close regular session at 9:30 PM and move into executive session under *Article 3-305(b) of the Annotated Code of MD, Section (1) to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this elected body has jurisdiction; or any other personnel matter that affects one or more specific individuals, and 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, Council members David Dan, Tracey Knight-Simane, and, James Fritsch. Councilmember Cassandra Weaver joined via ZOOM. The purpose of the session is to discuss the end of the probation period for the Clerk/ Treasurer and the Town Manager and to discuss the purchase of a piece of property.

RECONVENE IN OPEN SESSION

**On a motion** by Councilmember Fritsch, second by Councilmember Dan to reconvene in open session at 11:42 PM, **motion carried.**

MOTION TO ADJOURN

**On a motion** by Councilmember Fritsch, second by Councilmember Knight-Simane to adjourn the meeting at 11:43 PM, **motion carried.**

Respectfully submitted,

Jenni House  
Clerk/Treasurer