

**TOWN OF SMITHSBURG, MD  
MAYOR AND COUNCIL  
REGULAR MEETING MINUTES  
February 1, 2022**

The regular meeting of the Smithsburg Mayor and Council was held on Tuesday, February 1, 2022, at 7:01 PM with Councilmembers James Fritsch, Tracey Knight-Simane, Cassandra Weaver and David Dan present. Mayor Donald Souders was absent. Also in attendance was Town Manager Chad Rooney, Clerk/Treasurer Jenni House, and Police Chief Robert Marker. The meeting was opened with the Pledge of Allegiance led by Councilmember Fritsch.

**Approval of Agenda:** On a motion by Councilmember Weaver, second by Councilmember Dan to approve the agenda as presented. **Motion carried.**

**Approval of Meeting Minutes:**

Regular Meeting Minutes – January 4, 2022 - **On a motion** by Councilmember Dan, second by Councilmember Knight Simane to approve the meeting minutes with 2 changes. **Motion carried.** Councilmember Weaver arrived late to the January 4, 2022 meeting and only approved what she was in attendance for.

Work Session Minutes – January 25, 2022 - **On a motion** by Councilmember Dan, second by Councilmember Knight Simane to approve the meeting minutes as presented. **Motion carried** with Councilmember Weaver abstaining.

**Approval of Treasurers Reports:** Councilmember Dan ask about the net income for the general fund and the sewer fund being more than 100%, the clerk treasurer stated that she would need to look into that and get back to council. **On a motion**, by Councilmember Dan, second by Councilmember Knight-Simane to approve the Treasurers Report as presented. **Motion carried.**

**MAYOR’S REPORT:** Town Manager, Chad Rooney read the report submitted by Mayor Souders.

Met with Town Manager, Public Works Supervisor and Chief of Police to discuss the Town’s Winter Weather Response and Preparedness Plan.

Along with Town Manager Rooney, County Commissioner Jeff Cline and Kathryn Gratton met with Governor Hogan’s Special Secretary for Planning Smart Growth.

Met with Wendi Peters and Western MD Reginal Coordinator Dave Cotton to discuss a variety of long-term growth initiatives for the Town of Smithsburg, including the completion of the Smithsburg Wastewater Development and potential uses for the Federal ARPA money.

Met with Phil Rohrer for the Smithsburg Volunteer Fire Company to discuss their request for ARPA funds to help pay nearly \$45,000.00 for electrical work on the new concession stand.

Secured the purchase and donated several COVID-19 rapid tests for the employees and staff of the town.

Met with Town Manager Rooney and Town Attorney Ed Kuczynski to discuss a variety of legal matters including Mr. Kuczynski’s opinion on a special election for the current vacant position on the town council.

Talked with several residents about several issues and concerns. These include concerns over open trash or numerous trash bags being placed on curbs for extended periods of time (outside of containers, concerns over trash not being picked up on some side streets following weather events, residents needing reminding about clearing sidewalks in a timely manner following snow/ ice fall and the erosion of the storm water swales in at several residential locations in Whispering Hills (myself, Town Manager Rooney and Dave Haller visited these sites to access the concerns).

Attended the ribbon cutting ceremony along with staff, other elected officials and member of the EDC for 1813 Barbershop and Salon located at 2 E. Water Street. I want to wish Amy Pitts much future success on her new business venture.

Along with Town Manager Rooney conducted a ZOOM call with Greenwill Consulting Firm. They will attend an upcoming meeting to discuss their services and how it could benefit the town with its long-term infrastructure needs.

I want to thank staff for their work on the compilation of information for the town's updated budget that the Town Council recently passed. With our renewed investment in our town's long and short term needs, this will be the key to our town's future success. As stated in my State of the Town address at the January 2022 Mayor and Council meeting, the state of the town is "Good" and the town is continuing to move in a positive direction for all our citizens.

Town Manager, Chad Rooney, stated the second part of the mayor report was for, If I were Mayor Contest. The contest is for 4<sup>th</sup> grade students at Smithsburg Elementary and Old Forge Elementary. Students will submit to MML and the town, basically saying some of the things that would do if they were mayor.

Councilmember Knight Simane ask what the discussion was about the special election, Town Attorney, Ed Kuczynski stated Mayor Souders ask him to take a comprehensive review of the charter amendments that are being evaluated by the Attorney General as well as how they interplay with various discussions that have been occurring regarding quorum and other matters and also rather or not there is any special election procedure. How to deal with the fact that you are gridlocked and not being able to fill your vacancy. Councilmember Knight Simane then ask if we wouldn't have a conclusion until the Attorney General gives his consensus. The town attorney stated that the Attorney General's opinion is no different than his, the opinion is not binding in anyway. The town attorney stated it wasn't a question that a public hearing wasn't held and was required, I think it comes down to what was the impact of the validity or invalidity of the charter amendments. Your general state with the assumption that legislation, even if something is procedurally incorrect in the process is considered valid, until it is deemed invalid through a court proceeding or where legislation actually passed by legislature says it doesn't matter what you tried to do it was invalid from the start. The attorney stated he is going to try to address the matters individually and comprehensively and try to provide a road map to move forward. The attorney's opinion is that the town doesn't need the Attorney General's opinion to figure how where to go or how to proceed, however if council decides that's what they want to do that's fine too.

Councilmember Dan stated that there are 2 separate issues here, one is the Attorney General's opinion and the other is how to fill the vacancy. The attorney agreed that was true, however he's going to have to step into some of that territory to address the whole situation. Councilmember Knight Simane ask the attorney what was the point to send anything to the Attorney General. The point is if you have conflicting views, Councilmember Knight Simane replied that you said his view isn't going to be grounds and the attorney replied that it's not. Councilmember Knight Simane ask who would take it to court, the attorney stated it would depend on the scenario.

## **COMMUNITY ORGANIZATION REPORTS:**

**Smithsburg Fire Co-** Phil Rohrer submitted the following report: Total number of calls 38, total number of volunteer hours 342. Mutual aid given, Frederick County 5, Franklin County 4. Councilmember Weaver stated that averages over 1 call a day.

**SEMS Report:** Dale Fishack submitted the following report: Total calls for service during the month of January was 143 calls with 27 calls out of county, with 13 calls in Franklin County and 15 in Frederick County. Mr. Fischack stated that he meant to bring the yearend report for last year, however he looked it up and stated they provided 1420 for service last year, 120 calls in Franklin County, 136 in Frederick County and 1 call in Adams County. The report is more detailed and will be emailed to Town Manager, Chad Rooney to forward to council. Mr. Fishack ask to please keep the families and Baltimore City Fire Department in your thoughts and prayer as

they lay 3 Baltimore Fire Fighters to rest. Washington County is sending 6 pieces of apparatus, which includes 2 engine crews, 1 ladder crew, 2 ambulance crews and 1 command officer so Baltimore City Fire Department can be out. Remember those people that will be stepping out of their comfort zone to help in a time of need in Baltimore. Councilmember Weaver stated that 143 calls a month is averaging about 4.6 calls a day.

**TOWN MANAGER'S REPORT:** Town Manager, Chad Rooney stated that council has been provided with a list of the projects that are ongoing, some of these will be moving forward tonight or even crossed off. The one we are ready to put out this coming Friday is the bid package for Mountain Shadows Sidewalks. Mandatory pre bid meeting February 16, 2022, with bids coming back Friday March 4, 2022. Councilmember Dan ask if that was for all of the sidewalks, Town Manager Chad Rooney, stated that was for all of the sidewalks in Mountain Shadows, Councilmember Dan ask about the section on W. Water St. was included, Town Manager, Rooney stated that not as of now, but if that was approved, he will make sure it is added.

Met with Mayor Souders, Chief Marker and Public Works Supervisor John Renard to discuss the towns' response to winter weather and snow emergency.

Met with Secretary Peters and her staff, Washington County Commission Jeff Kline and Mayor Souders to discuss projects, areas of concerns and potential funding streams for projections we have up and coming.

Met with Harry Dodson, from Core & Main, and Public Works Supervisor John Renard to discuss the meter replacement program. Mr. Dodson is scheduled to meet with council at the February work session to address any questions and concerns and assist with moving that project forward.

Met with a representative from Republic Services to address trash and recycling concern on Clopper Ave. The concerns have been temporarily addressed pending removal of blockage on E. Bishop Lane.

Attended Washington County Chapter of Maryland Municipal League along with Mayor Souders, Vice President Fritsch, Councilperson Knight Simane and Councilperson Dan and his wife.

Attended Ribbon Cutting for the 1813 Barber Shop and Salon.

Met with Barbara Weaver, from the Lions Club, regarding the mission of her organization and the potential for the town to utilize American Rescue Plan Act money to assist with losses sustained during the ongoing COVID pandemic.

Had a phone conference with Park Commission, Chairperson, Marge Gyurisin to discuss conversations from the work session in regards to Veterans Park and the proposed exit road.

Met with EDC member Nikki Falzone and her husband Mike Falzone to discuss a joint project with Platoon 22 and the town the project will demonstrate the support of our towns' sons and daughter who are serving our town or have served our town in the Military or as First Responders. This project will be presented to the Mayor and Council once some of the details have been worked out.

Continue meetings with Dave Haller, who continues to prove his value to the town.

Councilmember Dan ask about COVID and the closure of town hall, if there was a certain metric that the town manager was looking for before opening the town office, are you looking for the positivity rate below 10%?

Town Manager, Chad Rooney stated that was going to be his guidance for the mayor, once the number drops to the single digits and sustains a while, he will look to reopen the town hall. Councilmember Dan stated that in the Sustainability Study application the question about staffing has come up. He wants to make sure the town has adequate staffing. Town manager, Rooney, replied that the town could always use more staff, his plan is to have Chief Mark and Public Works Supervisor John Renard to do a presentation, and he know the police department will show for the need of an additional officer. Councilmember Knight Simane ask if the Administrative Assistant for the Police Department was back and the chief responded that yes.

## **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 today was the first day the camera was switched. Chief Rob Marker stated they were switched this morning. Councilmember Dan ask if it was both cameras or just one was switched, the chief replied that it was both cameras. Councilmember Knight Simane ask if both cameras will issue tickets and the chief replied that both cameras will issue tickets. The chief stated he went out to watch them move the cameras around this morning and they just unwired it and turned it in the appropriate direction. Chief Marker stated that they put overdoses on the report. This past month they had 2 overdoses, one in town limits and one out of town limits. The out of time was someone that took over the counter medicine with their regular medicine and had a concern for their own safety. In 2021 there were 3 controlled dangerous substance complaints, 2 were handled by the Smithsburg Police Department and 1 by the Smithsburg School Resource Officer. The 2 complaints outside of the school were drugs that were found on the sidewalk. In 2021 there were 17 overdoses, 15 outside of the town limits and 2 in town limits, 2 were illegal drugs and the other 15 were overdoses on prescription medication. Councilmember Dan as the chief in his opinion there is not a drug epidemic, the chief responded there is a drug epidemic, its Country wide, its state wide, its county wide, especially when it comes to addiction. Chief Marker stated based on his experience he would say we don't have an epidemic in the town limits.

Yvonne Ford, EDC Chairperson stated the EDC has been working toward their plans and intentions for this calendar year. One of the things they have been working on is the continual success for the Smithsburg Farmers Market. She had a conversation with the town manager about getting a Market Manager Job description posted. This past year the farmers market was held on volunteer time, with the success of having the largest farmers market in Washington County the EDC is looking to get some paid for help. Ms. Ford stated she emailed the language that was drafted for the position. The EDC is looking to run the Farmers Market 2 Mondays a month, starting in May. The salary of the Market Manager should be paid for by the vendor fees. The salary for the Market Manager position would be \$4680.00. Councilmember Weaver ask if there were other people paid in other markets, Mrs. Ford stated that she believed so. Councilmember Weaver stated that there was discussion about the amount of time public works helped, I think this should help alleviate that. **On a motion** by Councilmember Dan, second by Councilmember Weaver approve posting the job posting and ultimately hiring one for \$18.00 an hour on a contract basis. **Motion carried.**

Councilmember Dan stated that the other thing in the meeting notes for a while is a kiosk sign, Ms. Ford responded that are multiple signage that the EDC is working for, the signs they are trying to get approved is business signage. There are 3 different types of signs based on the Feasibility Study, business signage, post with points of interest at the intersection of 77 and 64, replacing with approval the Welcome to Smithsburg sign. Working with Zoning and Planning to update the signage for down town, current business can have a hanging sign. The EDC has been working on this since August. Councilmember Dan ask what was need for point of interest sign, does the EDC need to come back to council to talk about it. Councilmember Dan ask if they could get a consensus to talk about it on the work session. The signage would be discussed at the February Work Session on February 22, 2022.

Councilmember Knight Simane ask if there was something council could do for the EDC to make sure information gets to them so it doesn't get lost, reach out to Councilmember Weaver so it doesn't get lost. Councilmember Knight Simane wanted to let everyone know that the Parks Commission was granted their grant for the Butterfly Garden and received \$1,000.00. Councilmember Knight Simane thanked Jeanette Dan for completing the application for the grant and stated she did a great job.

**On a motion** by Councilmember Weaver, second by Councilmember Dan to approve the consent agendas as presented. **Motion carried**

Councilmember Weaver ask if there was an application for an EDC member and wanted to know how the EDC commission was doing with members that there was some turnover and Ms. Ford said she expected more turnover. Councilmember Weaver ask for the frustration is it something that council could help with. Ms. Ford stated that sometimes it feels like things get put out there and then there is no follow through. Councilmember Weaver stated that she would resume responsibility for that and accept ownership for that and for her remaining

time will work toward better communication with the EDC. Councilmember Dan stated that one of the things discussed was having a standing item on the agenda, thinks the county does it where the different department heads, committees speak and he thinks council should do the same.

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

No Citizens Comments

#### **OLD BUSINESS:**

No Old Business

#### **NEW BUSINESS:**

Consider Sustainability Community Application – Kathryn Gratton got a few comments back for edit and made the live document. Now I am asking for you to pass a resolution that will allow her to submit to the state and get the approval process started. **On a motion** by Councilmember Weaver second by Councilmember Dan with discussion, to approve the Sustainability Community Designation 2022 Application with the modifications that were made, removing strategy B under housing and removing the word adopt from strategy A and just having it say enforce, and approval of Resolution 2022-01. Councilmember Dan stated that before he seconds, he had discussion, what is being approved is an application, they are committing to some level that they are going to take these actions they will take to make certain goals. Ms. Gratton stated that is correct, that's why she mentioned to review outcomes to make sure they were approvable things. Councilmember Dan stated that from council perspective when they put their stamp of approval on something they are held accountable for that. The one thing he is not comfortable with is the under strategy and action items, housing is Strategy B establish license and inspection requirements for all rental residential properties. He would be okay with approving if that was removed. Councilmember Weaver ask what would be the reason for not liking that language, Councilmember Dan responded that he thinks it would put an additional burden on the employees because it would fall on the employees to do. Apartment inspections is between the renter and the land lord. From the towns perspective if we make it more difficult to rent in town, we will have more vacant building which is what we are trying to avoid. Ms. Gratton stated she will be removing strategy B all together and removing the word adopt from strategy A and having it say enforce. With council blessing would you be okay with me emailing this application tomorrow with the note that they don't have the resolution in hand but could start the review process a week early. Councilmember Dan stated the application talks about creating a work group, Ms. Gratton stated that in absence of creating a work group because we are in COVID times, she attended the commission meeting. Councilmember Dan ask if they have an obligation beyond the application, and Ms. Gratton replied no. **Motion carried.**

**Consider the request from the Lion's Club (Easter Egg Hunt) – On a motion** by Councilmember Weaver, second by Councilmember Dan to accept the request for a waiver for the Lion's Club Easter Egg Hung. **Motion Carried.**

**Consider Application of Jeffrey Voigt for Planning Commission** – Councilmember Fritsch turned this item over to town attorney Ed Kuczynski to provide some information. Mr. Kuczynski said that Councilmember Dan sent an email to council on Sunday evening and copied him with concerns regarding the Planning Commission membership so knowing this was on the agenda I thought I should address it for tonight's meeting. This is emanating from the workshop where there was a discussion regarding what was perceived as a vacancy on the Planning Commission. At the work shop the consensus was to move the item to tonight's agenda, with the idea Mr. Voigt would be appointed to fill the vacancy. Councilmember Dan's question revolved around rather or not there was a vacancy. Mr. Kuczynski stated the state law requires every municipality to have a Planning Commission. The Planning Commission can be created organized and operated by an ordinance that the town authorized to pass, however the Planning Commission has been organized and operated in accordance with what

the state says you can and cannot do. The statute is very clear that the state law controls so if there is a conflict as it is in your ordinance verses the statute the statute controls. In this situation, when Smithsburg adopted the ordinance created the planning commission should consist of 5 members including the Development Coordinator and the ex officio member, which is a council member. Councilmember Dan said we have 7 people that are operating as the Planning Commission and the town ordinance only authorizes 5 people, and ask if that was a problem. The state code says that you can have 3, 5 or 7 members, 2, 4 or 6 which would be appointed by the council and one that would serve as an ex officio member during the council member term. The statute does not authorize designating a staff person as a member of the Planning Commission. The town ordinance says 5 members include the ex officio member and the development coordinator. Mr. Kuczynski came to the conclusion that the Development Coordinator cannot serve as a member of the Planning Commission that means the provision in the ordinance is in direct conflict with the state law. Mr. Kuczynski stated that at this time the town has a full Planning Commission. Councilmember Dan stated there was a vacancy on the Zoning Appeals Board and ask if council could appoint Mr. Voigt to that vacancy. Councilmember Fritsch stated that they would have to ask Mr. Voigt if he wanted to be on the Zoning Appeals Board. Councilmember Weaver ask the attorney if his opinion was that the council cannot vote on the application, the attorney responded that the take away is that there is no vacancy at this point. Councilmember Weaver stated that she would like to express appreciation for Mr. Voigt for being willing to take time to volunteer and be a part of the commission and we will keep the application for the future. Councilmember Dan ask that before council does that, should someone reach out to Mr. Voigt and see if he is interested in serving on the Zoning Appeals Board. Councilmember Fritsch stated that he thinks someone has already reached out to Mr. Voigt but they can certainly follow up.

**Consider Application of Jessica Warner for Economic Development Commission – On a motion** by Councilmember Dan second by Councilmember Knight Simane to accept the application of Jessica Warner for the Economic Development Commission. **Motion carried**

**Consider Public Works Road Improvement Plan for FY 2022 –** Town Manager, Chad Rooney stated that he looked into the ownership of the potholes on Railroad Lane and determined the potholes on the right belonged to the town and the potholes on the left belonged to the property owner. Town Manager Rooney stated that he will reach out to the property owners to see if they would like to have the potholes fixed while the town is having there's fixed. **On a motion** by Councilmember Weaver, second by Councilmember Dan to move forward with the Public Works Improvement Plan for FY2022. **Motion carried.**

**Consider Smithsburg Volunteer Fire Department ARPA Request for Funds – On a motion** by Councilmember Knight Simane, second by Councilmember Weaver to accept the request for \$45,500.00 in ARPA funds for the Smithsburg Volunteer Fire Department. Councilmember Dan stated that he fully supports this but going forward need to come up with some guidelines. **Motion carried.**

**Consider Veteran's Park Grading Project Request for Proposals –** Town Manager Chad Rooney stated this is to approve the project going back out to bid, with 2 conditions that were not previously in the RFP and bid, it will specifically state that Clean Earth cannot be used for this project and clean fill will need to be used for this project. Councilmember Fritsch ask what the time limit would be as far as completion. Town Manager, Rooney replied that he doesn't know if a time limit would be added. **On a motion** by Councilmember Dan second by Councilmember Knight Simane to move forward with the RFP for the Veteran's Park Grading Project with the changes that were made. **Motion carried.**

**Consider Winter Weather Events Contract RFP and the Mowing and Landscape Maintenance Services Contract RFP-** Town Manager Chad Rooney stated that council reviewed this last week and now up for council consideration. Councilmember Dan ask if the town manager had a document to review, the town manager stated that it was given last week. Councilmember Dan stated that they talked about making changes to the document,

the length of time and renewal. The town manager stated it would be a 3-4 year. Councilmember Dan stated that the town manager was going to check and see what the current renewals were and then he asked if they were all up. The town manager stated that yes, they were all up. Councilmember Dan stated that he would do whatever was done before. The town manager stated whatever the current contract is he will make sure that's what the new contract is for. **On a motion** by Councilmember Dan, second by Councilmember Knight Simane to approve posting the RFP's for the Winter Weather Events Contract and the Mowing and Landscaping contract. **Motion carried.**

#### **FOR INFORMATION ONLY**

**Request for Funds Policy/ Application** – Town Manager Chad Rooney stated that he did update the request for funds policy and the language changes that were recommend are in the application. The Town Manager stated that he didn't know if this needed to go for full vote but if it did it could go on the Special Session or do it in March. Councilmember Dan stated there are still changes that need to be made, the documents still mention hotel. Town Manager, Rooney stated he would make the changes and ask if council wanted it to come back for a vote with the changes. Councilmember Dan said to review the document at the next meeting.

**Tri-County Council Invitation** – They have provided dates for this year for dinners they have scheduled and Town Manager Rooney will make sure it gets emails to council.

#### **Councilmember Remarks:**

**Councilmember Knight Simane** – Attended the MML meeting on January 24, 2022. Would like to tell the Clopper family how sorry she is for their loss. Ronnie Clopper had an accident last week and passed away.

**Councilmember Weaver** –No Comment

**Councilmember Dan** – Attended the 1813 Barbershop ribbon cutting, exciting to see thriving businesses in our town. Attended the local MML meeting. Busy with the MML Legislative Committee have reviewed 40 plus bills at this point that directly or indirectly impact municipal towns, they are going to talk about the Highway User Revenue they are going to talk about tomorrow, February 2, 2022. MML and MACO are working together to draft their own Highway User Bill. It's an election year, it looks like there will be some positive movement on this but we don't know quit yet.

Next Special Session Meeting is February 17, 2022

Next Work Session is February 22, 2022

Next Mayor & Council Meeting is March 1. 2022

#### **Next Commission Meetings:**

- Economic Development Commission – TBD
- Smithsburg Community Activities Commission – February 15, 2022 @ 7:00PM; 2<sup>nd</sup> Floor Community Room (Behind Council Chambers)
- Parks Commission – February 14, 2022 @ 7PM; Zoom (information online)
- Planning Commission – February 8, 2022 @ 7PM; Planning Office; ZOOM (information online)
- Election Board – TBD

#### **MOTION TO ADJOURN**

**On a motion** by Councilmember Weaver, second by Councilmember Dan to adjourn the meeting at 9:01 PM, **motion carried.**

Respectfully submitted,

Jenni House  
Clerk/ Treasurer