

**TOWN OF SMITHSBURG, MD
MAYOR AND COUNCIL
REGULAR MEETING MINUTES
NOVEMBER 3, 2020**

The regular meeting of the Smithsburg Mayor and Council was held on Wednesday, November 3, 2020 at 7:00 PM in the second floor meeting room of the town hall with Councilmembers Donald Souders, Richard Hetherington, Cassandra Weaver, Tracey Knight-Simane and David Dan present. Also in attendance was Town Manager Debra Smith and Chief Bruce DeGrange. In attendance by Zoom was Clerk/Treasurer Justine Keadle. The meeting was opened with the Pledge of Allegiance led by Councilmember Weaver.

On a motion by Councilmember Souders, second by Councilmember Dan to suspend Article 2.7 and 2.10 of the Meeting Rules and Procedures, 2.7 requiring the Town Attorney to be present and 2.10 the use of cell phones. Motion carried.

Approval of Minutes:

On a motion by Councilmember Knight-Simane to amend the meeting minutes of the October 7, 2020 Mayor and Council minutes. Amendments were not presented at the time of the motion. **On a motion** by Councilmember Souders to table the minutes to the December meeting. Clarification that amendments are for the Work Session and not the regular meeting. **On a motion** by Councilmember Souders, second by Councilmember Weaver to approve the minutes of the October 7, 2020 Mayor and Council Meeting as presented. Motion carried.

On a motion by Councilmember Knight-Simane to amend the October 27, 2020 Work Session minutes. Amendments were not presented. **On a motion** by Councilmember Knight-Simane, second by Councilmember Hetherington to table the minutes to the December meeting. Motion carried.

On a motion by Councilmember Souders, second by Councilmember Hetherington that the minutes the Town Clerk provided following the unofficial meeting on September 1, 2020 be accepted along with the transcribed version of the recording from that night in addition to all recall minutes or recollection minutes that were submitted by the due date of September 18th by the Mayor. Motion carried by majority vote of Council with Councilmember Dan in opposition. Clarification was given regarding the September 18th deadline and the additional recall minutes that were provided today.

Approval of Executive Minutes:

On a motion by Councilmember Hetherington, second by Councilmember Dan to approve the minutes of the October 7, 2020 Executive Session Meeting and leave them closed. Motion carried.

Approval of Treasurers Reports: **On a motion** by Councilmember Souders, second by Councilmember Hetherington to approve the Treasurer's reports for the month of October as presented. Motion carried. Councilmember Dan thanked the Clerk/Treasurer for providing the restricted fund balances.

MAYOR'S REPORT: Mayor Kesselring reported the following: (1) Thanked Chandler Fishack for Fall Festival. (2) Volunteered with Steam and Craft Show. (3) Prepared the meeting and installed a tv. (4) Worked with Tabitha's Table. Thanked the Steam and Craft for donating food to Tabitha's Table.

TOWN MANAGER'S REPORT: Town Manager reported the following: (1) Submitted the State Aid for Police Protection (SAPP) estimated expenditures for FY 21 in the amount of \$429,801. Estimated expenditures for FY21 will be used to calculate the estimated local aid funding for FY22. (2) Met with Joel Resh, Assistant District Engineer for the State Highway Administration and Liz Jones, Chief of Staff for Senator Paul Corderman (along with Mayor Kesselring and Public Works Supervisor John Renard) to further discuss the consideration of transferring W. Water Street to Penn Ave to the State. Mr. Resh provided a concept cost estimate for the road transfer that would cost the State an estimated \$1,302,145.00 for the paving and estimated \$1,341,900.00 for the town's portion for drainage and storm water management.

- Minimum of 1-1½ years before design can be completed and a minimum of 3 years before any funds can be dedicated for the design.

- Will meet again in 2 years to discuss funding status and MOU with the town.
- Meanwhile the town can begin the engineering process internally rather than using State engineers to save cost as well as begin the process of obtaining funding and coordinating the upgrading of water and sewer to be done at the same time.

(3) Contacted all six-(6) EDC members as well as WC Business Development Commission Director Susan Smith to coordinate their first meeting (please see email below) Hearing from four of the six members and Ms. Smith, all agree after the holidays works best and Wednesday will be the best day to meet. (4) Utility shut offs will resume with notices going out on Wednesday and actual shut offs occurring on November 18th. Currently 224 notices are due to be mailed that includes the Community Action Council assistance information that has previously been provided to customers.(5)Would like to thank the staff for the excellent job and hard work that went into this year's audit.

DEPARTMENTAL REPORTS

Police Chief Report: Chief DeGrange submitted the following report; (1) There were 149 calls for service during the month of October with 0 arrests. (2) Assisted Washington County Sheriff's Office 7 times, Maryland State Police 6 times, Fire Dept 1 time, Frederick Co. Sheriff's office 1 time and SEMS 3 times. (3) Issued 13 traffic citations, 63 warnings, 8 SERO's, 1 Parking Ticket and 511 Speed Camera. (4) Officer Munson and Karen Parks attended NIBRS Training.

Public Works Report:

Water/Distribution:

- Water purchased from the City of Hagerstown for the month October 2020 was 6,794,944 gallons.
- Unmetered water usage was : 930 gallons (CL2 tests) 675 gallons (for all other)
- Water residuals received from the City of Hagerstown at Point of Entry (POE) ranged from .92 to 1.77 ppm. (daily average 1.28 ppm)
- Processed Miss Utility tickets as requested
- Read multiple water meters to eliminate unfounded concerns of leaks and high bills (over 100, see report)
- Worked with homeowners at 18 Byron to monitor unusual usage (see report) □ Daily station checks
- Install new meters and participate in bucket tests on lots 41, 58, and 59 of Mountain Shadows
- Raise the fire hydrant on Boswell for change in grade
- Lower meter pit in driveway on United for change in grade
- Took water meter for 18 Byron to City of Hagerstown Water Dept. to be tested and return

Sewer/Collections:

- Sewer flows to W. C. Wastewater Treatment Plant for the month of August 2020 were 4,592,000 gallons
- Marked Miss Utility Tickets as requested
- Daily station checks
- Sewer Pump Station Run Times

Month	#1 High School	#2 Henrietta	#3 Chip's Meadows	Total run hours
January				
February	22.69	29.50	75.22	127.41
March	23.62	20.30	68.99	112.91
April	36.18	18.90	61.64	116.72
May	19.02	22.00	67.52	108.54
June	13.02	13.90	49.15	76.07
July	12.28	13.50	56.34	82.12
August	13.65	14.20	44.41	72.26
September	18.37	32.70	46.31	97.38
October	16.29	12.50	45.22	74.01

Streets/Sidewalks:

- Set out barricades and removed for National Night Out parade, Fall Festival at SEMS, and Trick or Treat
- Replaced bulb at square
- Repaired pavement on West Douglas Court from water repair on 9-28-20
- Kept storm drains and curb lines clear
- Weekly trash collection at the square
- Set up flags in the square (national Night Out Parade) and remove

Parks:

- Installed new nets at Lion's basketball court
- Removed sod from the base lines and pitcher's mound at Lion's Park □ Weeded playgrounds at both parks
- Re installed toddler swing that was vandalized at Veteran's Park
- Began clearing of brush around Lion's Park Pond
- Cleaned up limbs and trash as needed at both parks
- Re-grade along third base line for drainage improvement on Lion's ball field □ Lowered and raised flags for Supreme Court Justice Ginsberg
- Removed and reset picnic tables from pavilion 1 at Veteran's for a funeral
- Coned off parking for The Wolfe's Den for special event
- Fall clean-up of Memorial Park (walnuts and tree debris)
- Power wash sidewalks at Memorial Park gardens

MS4

- Completed repairs of swales at 102 Emily Way
- Maintain storm drains and gutters of debris and trash
- Review progress of permit / training

Equipment/Vehicles, Etc.:

- Replaced tires on 2017 F-350 with gently used tires retained from a previous truck
- Purchased pressure washer
- Repaired flat tire on John Deere mower

Routine Maintenance:

- Mail
- Continued the mowing of the properties that we own (mowing, weed eating, and spraying)
- Pressure wash Town Hall

Meetings/trainings, etc.:

- Met with Huntzburry Bros. to repair pavement on West Douglas Court
- Met with Manager, Mayor, and state representatives regarding transfer of Water Street
- Met with Mike Hicks, Randy Dick, and Ryan Homes Superintendant regarding minor issues
- Met with Manager and Mike Hicks to review progress on MS4 report and upcoming parks grants
- Met with Mark Barnhart and Chandler Fishack regarding improvements to ball field in preparation for 2021 season
- Met with Eric Dutrow of Maryland Rural Water to review water leak situation at 18 Byron
- Attended Mayor and Council Work Session
- Attended Mayor and Council Meeting
- Met with Jeter Paving to resolve high meter pit in driveway on United

Other:

- National Night Out Parade (barricades, banners, flags)
- Fall fest
- Halloween / movie night in the park
- Halloween / Trick or Treat
- Fall Clean-up

Breakdown of Labor in Man hours	Oct	Sept	Aug	July	June	May	April	March	Total
Parks	131	91	116	112	122	93	63	75	801
MS4	13	4	8	9	2	43	24	19	122
Water	125	119	57	51	71	55	69	113	660
Sewer	23	25	44	66	33	46	66	83	320
Roads	16	19	1	6	10	19	1	9	81
Maintenance	63	55	50	43	48	41	51	122	473
Total hours worked	456	313	320	312	319	306	284	452	2762
Ms. Utility Tickets	5	6	20	21	36	36	24	17	144

Zoning Administrators Report: (1) Next Planning meeting will be on November 17, 2020 (2) 24 inspections, 10 permit inquires, 8 zoning inquires, 3 fence inquires, 8 permits processed and 0 zoning complaints. (3) Assisted Public Works with utility notifications. (4) Attended meetings regarding the development of Mountain Shadows and Cloverly Annexation.

- Councilmember Souders thanked staff for taking care of the water issue on Byron and the situation from Tuesday. Inquired about the number of water hours in his report and what the number was contributed to. John Renard stated it was due to water reads, re-reads and bill concerns. Councilmember Souders inquired if we knew how the “leak” list was generated. John Renard stated no and that there were no leaks other two the residents were already aware of. Councilmember Souders inquired to the Town Manager if she knew how the list was generated. Town Manager Debra Smith stated it was being looked into internally with various agencies. Councilmember Dan stated the town appreciates everything he does and is a very valuable employee.
- Councilmember Weaver inquired if the job posting was put up for the resignation. Chief DeGrange stated he would be posting.

On a motion by Councilmember Souders, second by Councilmember Dan to approve Departmental Reports. Motion carried.

- Councilmember Hetherington inquired to Councilmember Dan if he was going to explain how he gathered the water information. Councilmember Dan responded he would make the information public in due time.

COMMISSION REPORTS

Community Activities Commission: Submitted copy of meeting minutes.

Parks Commission: Submitted copy of meeting minutes.

Planning Commission: None

Library Advisory Board: None

EDC: Councilmember Weaver stated the first meeting will be discussion on the Economic Development and the first meeting will be held after the first of the year.

On a motion by Councilmember Souders, second by Councilmember Dan to approve all commission reports. Motion carried.

COMMUNITY ORGANIZATION REPORTS:

SEMS Report: Dale Fishack submitted the following report: Total calls for service during the month of October was 98. 16 calls in Frederick County and 4 calls in Franklin County. During the month of October SEMS personnel participated in the stand by at Smithsburg High School football game, trick or treat and National Night Out. Held first Fall Festival that attracted over 1200 people, 50 vendors and numerous displays of farm equipment, train cars and vintage cars and trucks. This was a successful fundraiser for the department and we would like to thank all who helped make it a success.

Smithsburg Fire Co- The following report was submitted by Danny Gibson (1) 33 calls for October, 304 volunteer responses, 230.41 volunteer hours on scene and 10 average number of responders per call. (2) 6 structure fires, 8 motor vehicle accidents, 8 medical assist, 5 Automatic fire alarms, 1 CO Alarm, 1 Public Service and 4 miscellaneous. (3) Mutual aid: 2 in Franklin County and 4 in Frederick County.

CITIZENS COMMENTS/CONCERNS:

- Warren Spaid, 12910 Quirauk School Road, Sabillasville-Expressed his concerns over the location of the speed camera and the lack of notification to the public. Asked for all citations from the new camera to be vacated and money returned from the date the camera was moved and that a traffic study be conducted and it to be discussed in an open meeting and advertised. Councilmember Hetherington stated the town did everything they are required to do by law and the speed limit is posted. Councilmember Dan inquired about the camera at the crosswalk. Councilmember Hetherington stated no because it is at a traffic light. Councilmember Weaver suggested the discussion about the speed camera be moved to another meeting. Mayor Kesselring stated we could move it to the January Work Session.
- Tammy and Tim Biser, 18 Byron Drive-Expressed their concerns over their high water bill and leak inspection done at their residence. Mayor Kesselring stated the town had the meter replaced and the meter was tested and accurate. Town Manager Debra Smith stated she could provide them with the full report of what was done at their residence and that we have offered a payment plan. Councilmember Dan stated he makes a big deal about smart meters and this would help alert the town and potentially the homeowner. Councilmember Hetherington stated the Bisers had two plumbers in and the town has done everything on our end so we are at a crossroads. Councilmember Dan inquired about a policy to address leaks for residents. Councilmember Weaver asked for the discussion to be added to a future Work Session. Councilmember Hetherington inquired what happens if this phenomenon happens again. Tammy Biser stated that she was told by a former employee from Middletown to ask about the bill. Councilmember Knight-Simane inquired if they got a payment plan. Clerk/Treasurer stated what the discussion was regarding the payment plan offered to the Bisers. Councilmember Weaver stated so you understand you have a payment plan. Councilmember Knight-Simane inquired if we were going to work with them on the next bill. Mayor Kesselring stated yes.
- Mark Barnhart, 103 Grandview Court-Expressed his concerns over the happenings in the town and in meetings. Had donors inquire what was going on in town. Asked for the elected officials to get along and stop with the social media posts.

OLD BUSINESS: None

NEW BUSINESS:

Approval of FY20 Financial Audit-On a motion by Councilmember Souders, second by Councilmember Knight-Simane to approve the FY20 audit. Motion carried.

Approval of Ordinance 2020-01; Transfer Streets from Mountain Shadows-On a motion by Councilmember Dan, second by Councilmember Souders to approve Ordinance 2020-01. Motion carried.

Approval of Ordinance 2020-02; Transfer Mountain Shadows Storm Water Management System-On a motion by Councilmember Hetherington, second by Councilmember Souders to approve Ordinance 2020-02. Motion carried. Councilmember Dan stated to the public we are going through these very quickly but we have talked about these quite extensively previously.

Approval to Obtain All Town Project Files/Documents from Eco Land Solutions and Maintain Mike Hicks as Town Engineer-On a motion by Councilmember Hetherington, second by Councilmember Souders to keep Mike Hicks as town engineer and request Ecoland turn over all current files and projects. Councilmember Dan inquired if there were any conflicts of interest or if some resources would no longer be available to Mike Hicks. Town Manager Smith stated he would have everything available to him. Mayor Kesselring stated Ecoland reached out and there are no conflicts. Motion carried.

Appointment of Noah Coleman to the EDC-On a motion by Councilmember Souders, second by Councilmember Hetherington to approve the appointment of Noah Coleman to the EDC. Motion carried.

Approval to acknowledge local businesses with Certificate of Recognition-On a motion by Councilmember Hetherington, second by Councilmember Souders to move forward with the acknowledgement of local businesses with

certificates. Councilmember Dan inquired which businesses. Town Manager Smith stated it would be businesses with store fronts within town limits. Motion carried.

Planning Commission Application/Request to Fill Vacancy-Councilmember Souders stated that we are changing the way we normally do this. Town Manager Smith stated that this has occurred by request of the Planning Commission because they had a resignation and one person will need to recuse themselves from an upcoming discussion. **On a motion** by Councilmember Souders, second by Councilmember Dan to suspend the normal course of approving a person to a committee. **On a motion** by Councilmember Souders, second by Councilmember Hetherington to approve Evonne Renard to the Planning Commission to serve out remaining term of Kenneth Carpenter. Councilmember Dan inquired if there was an alternate and if there were restrictions on serving on two boards. Town Manager Smith stated the only alternate position is on the BZA. Councilmember Souders stated the only restriction is that spouses cannot serve on the board. Motion carried.

Councilmember Remarks:

Councilmember Knight-Simane-I have been in office for one hundred and nineteen days today. I have felt ostracized and unwelcomed by some of the Councilmembers. I've tried to be kind and considerate. I ran my campaign to be transparent for our citizens. I may agree with some of Councilmember Dan's positions but I do not align myself with him. I am my own person. I've felt bullied and belittled. Our citizens should see professionalism and working together for the good. We may disagree and that's okay, but screaming during a meeting is unacceptable and unprofessional. I'd like to offer a peace flag and an olive branch. I need peace. I will no longer involve myself in poor attitudes and childish behavior. I want to apologize for any wrong doing. I misread the code of conduct that I was not able to talk to town employees, however that was incorrect and I am not able to direct town employees. I hope moving forward we can work together professionally.

Councilmember Dan-I was born in communist Romania and my parents fled and we came here as refugees. I take my responsibility to serve the citizens very seriously and it's very personal for me. Had I remained in Romania I would not have been able to do this. There is a lot going on behind the scenes you don't see and I take it very personally. We are new members and it has been very disheartening. When I ran for election I had people caution me that I didn't know what I was getting myself into. It is unfortunate and not the way a public body should behave. In America we're a democracy and the elections determine the direction that the governments take not the career employees that set the direction, it's the elected officials. Give us a little grace, a little bit of breathing room, allow us to ask questions, give us information when we request it. I don't think that's too much to ask.

Councilmember Hetherington-Nice to see a good crowd to night. Everyone take notice the EDC is up and running now and hoping that brings good things to the town and the opportunity for business's to come here. We approved the audit and from internally, the accountant and the auditors it is the best audit we've had in years. We are in tremendous financial shape and it shows we have all been doing what we have been elected to do and placed the town in a strong position to move forward. High School golf team finished second in the County today and 4 or 5 players in the top ten. Kuddos to Councilmember Weaver's son who placed tenth in the County.

Councilmember Souders-Thanks to Chandler Fishack and the EMS for the Fall Fest it was a great event for the town. Also to SCAC for the movie night and Halloween festivities. It was a little different due to COVID but still a success and put a lot of time and effort into it. Welcomed Evonne to the Planning Commission and thanked Ken Carpenter for his service on the board. Thanks to those who volunteer and who have served on community over the years. Thanks to staff, ours and Fire and rescue, that participated in trick or treat to make sure it was safe and fun. Thanks to those who came in tonight. One thing charged to this council was there was no real access, there was no Facebook, Zoom and we didn't have a revamped website and we've done those things the last few years. For those of you to come in and speak I'd rather have that then the keyboard warrior. I did Chat with a Councilmember with Councilmember Dan last Thursday. We are on two different planets on certain aspects of government and how government should function. We agreed that when we can agree on issues that matter to the community we can agree to work together to do that. We may not become best friends after our tenor but there's nothing wrong with civil conversations. Before Councilmember Dan was just a resident he came to meetings and was engaged and I'd like to see more people do that instead of being keyboard warriors. I also think we each have an element of personal responsibility whether that's being involved in the community or holding the

officials accountable. I am the longest serving member of the Council. Everyone that is sitting here, we do care about this community and wouldn't give up our time if we didn't care. We will work to do the best for the community. I think we can all do a little bit better having the same persona behind the scenes and when we are in public.

Councilmember Weaver-Thanks to the citizens who are here and by Zoom. Thanks to the citizens who signed up to speak and the desire to come before this body to ask questions, make inquiries or provide constructive feedback. Welcomed Bonnie. Looking forward to what she can bring to the Planning Commission. Thanks to all the staff who are here or by Zoom. Thanked Town Manager for written report and asked Mayor Kesselring for written report as well. Thanked everyone and look forward to the future. Congratulations to my son. Good to see amidst the pandemic that parents and coaches who have made it a point to advocate youth athletics to direct them away from phones, Xboxes, and social media that can be detrimental to them and adults. Good to see the youth back out there.

Mayor Kesselring-Thanked Chief DeGrange for his work on trick or treat and closing down the roads. I have a teenage daughter that plays sports so there are meetings you won't see me here I am either at work or at my kids sports.

Proposed November Work Session Items:

Potomac Edison Proposal to Install an Electric Vehicle Charging Station

Proposed Amendments to the Meeting Rules of Procedure

Continued Review of Charter Language Regarding the Mayor Breaking Tie Votes

Review of Proposed Ordinance 2020-03; Repeal and Replace Charter Chapter 284 Vendors and Peddlers

Councilmember Dan asked to add the following items to the Work Session; Vendor Balance Detail for FY20, audio recordings from September 1st and 22nd and the purchase of town flags. Mayor Kesselring stated that items are to be requested through the entire Council. Per the Charter these items are to be requested by the body not an individual. Consensus to add the items to the Work Session, no motion needed. Town Manager Smith stated she would look into ordering flags.

CONVENE IN CLOSED SESSION

On a motion by Councilmember Weaver, second by Councilmember Souders at 8:47 PM to close the regular Session and move into executive session for the purpose of 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*. Councilmember Dan inquired if there was a closed meeting statement and who was the designated trainee. Councilmember Souders stated that was something that should have been put on the agenda to appoint someone. Councilmember Dan stated we need someone appointed. Councilmember Souders stated to Councilmember Dan obviously you know the Open Meetings Act and instead of putting us behind the eight ball if we don't have the required information, we are going to have to table this again. Councilmember Weaver rescinded her motion to close the regular session and move into executive session.

On a motion by Councilmember Weaver, second by Councilmember Souders to adjourn the meeting at 8:48 PM. Motion carried.

Respectfully submitted,

Justine Keadle
Clerk/Treasurer