

**TOWN OF SMITHSBURG, MD
MAYOR AND COUNCIL
REGULAR MEETING MINUTES
October 5, 2021**

The regular meeting of the Smithsburg Mayor and Council was held on Tuesday, October 5, 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, Clerk/Treasurer Jenni House, and Police Chief Robert Marker. The meeting was opened with the Pledge of Allegiance led by Councilmember Knight-Simane.

Approval of Agenda: Town Manager, Chad Rooney, stated the agenda needed to be amended, removing the Special Session Minutes of August 24, 2021 and adding Special Session Minutes of September 20, 2021, Executive Session Minutes of September 7, 2021, and September 20, 2021. **On a motion** by Councilmember Fritsch, second by Councilmember Dan to approve the agenda as amended. **Motion carried**, with Councilmember Weaver not present.

Presentation: Swearing-In of Chief of Police: Mayor Souders swore in the new Chief of Police Robert Marker. Chief Marker stated he was born in Wolfsville, MD and graduated from Middletown High School in 1989. Chief Marker stated he has been married to his wife Jessica for 26 years and they have 3 adult children.

Proclamation: Fire Prevention Month: Mayor Souders read the proclamation for the record, and thanked all of the volunteers for their service.

Proclamation: Breast Cancer Awareness Month: Mayor Souders read the proclamation for the record. As we all know COVID has wrecked a lot of lives, not only with the virus, but also prevented a lot of people from going to the doctors and getting health screenings, so as we get back to some sort of normalcy, hopefully people will go get checked for all types of cancer and illnesses.

Approval of Minutes:

- Closed Session Minutes – August 10, 2021
- Closed Session Minutes – August 10, 2021
- Special Session Minutes – August 12, 2021
- Special Executive Session Minutes – August 12, 2021
- Special Session Minutes – August 13, 2021
- Special Executive Session Minutes – August 13, 2021
- Special Session Minutes – August 23, 2021
- Special Executive Session Minutes – August 23, 2021
- Special Session Minutes – August 24, 2021
- Mayor & Council Minutes – September 7, 2021
- Closed Session Minutes – September 7, 2021
- Special Session Minutes – September 18, 2021
- Special Executive Session Minutes – September 18, 2021
- Special Session Minutes – September 20, 2021
- Special Executive Session Minutes – September 20, 2021
- Work Session – September 21, 2021

On a motion by Councilmember Dan, second by Councilmember Fritsch to approve all open meeting minutes with the amendment of adding the names of everyone in attendance. **Motion carried**, with Councilmember Weaver not present.

- First Closed Session – August 10, 2021- Councilmember Dan stated that one paragraph stated the council discussed moving forward with something, and he objected, and would like the meeting minutes to reflect his objection. Councilmember Knight Simane stated the third paragraph needs some grammatical changes. **On a motion** by Councilmember Dan, second by Councilmember Knight Simane to approve the minutes with amendments. **Motion Carrier**, with Councilmember Weaver not present.
- Second Closed Session – August 10, 2021 – **On a motion** by Councilmember Knight Simane, second by Councilmember Dan to approve the minutes as presented. **Motion carried**.
- Special Executive Session Minutes – August 12, 2021 - **On a motion** by Councilmember Knight Simane, second by Councilmember Dan to approve the minutes as presented. **Motion carried**, with Councilmember Weaver not present.
- Special Executive Session Minutes – August 13, 2021- **On a motion** by Councilmember Dan, second by Councilmember Knight Simane to approve the minutes as presented. **Motion carried**, with Councilmember Weaver not present.
- Special Executive Session Minutes – August 23, 2021 – Mayor Souders stated that the names of everyone in attendance would be added to the minutes. **On a motion** by Councilmember Fritsch, second by Councilmember Dan to approve the minutes with the addition of the names in attendance. Councilmember Knight Simane stated there was a typo which needs corrected. **Motion carried**, with Councilmember Weaver not present.
- Special Session Minutes – August 24, 2021- **On a motion** by Councilmember Fritsch, second by Councilmember Knight Simane to approve the minutes as presented. **Motion carried**, with Councilmember Weaver not present.
- Closed Session Minutes – September 7, 2021 – **On a motion** by Councilmember Dan, second by Councilmember Knight Simane to approve the minutes as presented. **Motion carried**, with Councilmember Weaver not present.
- Special Executive Session Minutes – September 18, 2021 and September 20, 2021 – Mayor Souders stated an amendment will be added to show who was in attendance. On a motion by Councilmember Fritsch, second by Councilmember Dan to approve the minutes with the amendment. Motion carried with Councilmember Weaver not present.

Approval of Treasurers Reports: Councilmember Dan ask if the \$471,597.16 revenue for the Real Estate Taxes was for the first payment, the Clerk Treasurer said that was for first semiannual payments and some yearly payment. Councilmember Dan then ask what the Excise Tax funds could be used for, the Clerk Treasurer is going to check into that and let Mayor and Council know. **On a motion** by Councilmember Fritsch, second by Councilmember Dan to approve the Treasurer’s Report as presented. **Motion carried**, with Councilmember Weaver not present.

COMMUNITY ORGANIZATION REPORTS:

SEMS Report: Dale Fishack submitted the following report: Total calls for service during the month of September was 137 calls with 10 calls in Frederick County and 14 calls in Franklin County. Mr. Fishack reminded everyone of the Smithsburg Emergency Medical Fall Festival was October 23, 2021 and that Fire Prevention Month is this month. He asked that everyone test their smoke detectors and if having difficulty call your local Fire Department for assistance. Mayor Souders wanted to confirm the hours of the fall festival which

are 9AM – 4PM, with fireworks in Veteran’s Park at 6PM. Councilmember Knight Simane ask Mr. Fishack about road closures for the Fall Festival, he replied Maple Ave to the railroad tracks, Railroad Lane to the Police Station, and Railroad Lane to the car wash.

Smithsburg Fire Co- No Report was submitted

MAYOR’S REPORT: Mayor Souders reported the following:

- Attended the MML Dinner in Keedysville, with Town Manager, Chad Rooney and Councilmember Dan.
- Attended the Steam and Craft Show
- Attended the Farmers Market
- Attended the Council interviews.
- Met with Washington County Administrator, John Martirano
- Wrote a letter to Washington County Board of Education regarding the bus stop at Mountain Shadows
- Wrote a letter to BB&T regarding the branch closure in Smithsburg.
- Met with Sara Greaves regarding the premium pay to employees

Councilmember Dan ask Mayor Souders about having an employee luncheon that was discussed. Mayor Souders stated he was waiting on the arrival of the last new hire, however a luncheon is being worked on.

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

- Council was provided with an outline of items that have been worked on
- Lunch with Paul Mantello, Boonsboro Town Manager, would like to congratulate Paul and his wife on the birth of a baby girl
- Met with Washington County Administrator, John Martirano
- Met with Republic Services to discuss collection concerns
- Met with Clinton Nogle, Beaver Creek Quarry to discuss material the 2.5 acres project
- Met with Yvonne Ford to discuss upcoming topics for the EDC
- Met with Joel Resh, Senator Corderman, and Delegate Wivell to discuss turning over Water Street to the State
- Met with Denise Carter Mid-America Energy Services to discuss town’s electric usage
- Conducted 3 interviews for Public Works
- Attended the Farmers Market
- Preemptive meeting with grant writer, conversation to continue this Friday
- Met with Ianaro to discuss options for the Mountain Shadows sidewalk
- Attended a web meeting with Chelsea Sites,
- Attended web meeting with regarding retirement services their company offers
- Met with T-Mobile, along with Chief Marker to discuss the phone services for the police department and the town.

Councilmember Dan ask what is the hold up with Water Street transfer, Town Manager, Chad Rooney, stated right now it’s getting him up to speed. Dan from conversation with Wivell there is a substantial dollar amount we would need to contribute. Numbers are from last February, the Town Manager asked for updated numbers. Waste and recycling services, you have Wolfes Den and Dixie Diner crossed out and Maple Grove in red. Maple Grove Estate has been turned over to the Planning Commission. Wolfes Den has had their own service since October 1st. Dixie has been bringing their stuff out in large barrels, Republic ask to have a conversation with them about providing them 95-gallon containers with wheels which is easier for them to get it to the street and a mechanism to help Republic Services workers lifting the heavy containers. Mayor Souders stated Councilmember Dan brought up a conversation about a fall cleanup. Town Manager, Chad Rooney, stated it could be October 16th or the 30th. Town Manager, Chad Rooney, stated this would be a drop off. Councilmember Dan ask why a drop off and not a pick up, Mayor Souders stated they are having a hard time finding employees. Councilmember Dan stated that was a concern for elderly people or people who need assistance, he suggested having the town do a pick up for residents that need it.

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 Dan stated he would like to ask Public Works Supervisor, John Renard, why the water loss has improved. Town Manager, Chad Rooney, stated he would need to ask. Councilmember Weaver ask if there was a tolerable threshold for water loss. Councilmember Dan stated that MDE states you cannot exceed 10% or they will put you on probation and dictate what you need to do. Mayor Souders stated that since Councilmember Knight Simane stated an email was received tonight before the meeting from a resident, Mr. Thomas Kisner, 128 Geiser Way, who couldn't attend regarding a sinkhole around 128 -130 Geiser Way. The sinkhole was filled in with concrete, dirt and clay. The resident is worried about what will happen when we get torrential rains again. Town Manager, Chad Rooney, stated he will follow up with the resident tomorrow. The concrete is acting like a plug to minimize the water getting in. Town Manager, Chad Rooney, reiterated that he will contact Mr. Kisner tomorrow.

Councilmember Dan stated he went to look at the sinkhole and spoke to the resident. There is a sewer line about 6 feet away from the sinkhole, wanted to know if a dye test was done to see if water wasn't going to the sewer. Town Manager, Chad Rooney, stated a dye test was not done. Councilmember Dan stated that is a substantial amount of water going somewhere. Mayor Souders, the email from Mr. Kissner will be sent to the Clerk Treasurer to add to the minutes.

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

CITIZENS COMMENTS/CONCERNS:

Joe Clopper- 23431 Raven Rock Road, Smithsburg MD – Mr. Clopper ask that Mayor and Council reconsider moving the meeting back to 7:00PM, stating town residents are having a hard time getting to the meetings in time. Mr. Clopper also wanted to praise the new chief and the police department. In the last 2 weeks he has seen the officers walking the streets 3 times. This is getting back the trust of the residents and back to the “small town” feel. Councilmember Dan stated he also feels the meetings should be moved back to 7PM, Mayor Souders stated it would need to be put on the October workshop.

OLD BUSINESS:

Consider “2.5 Acres” Project Bid Package: Town Manager, Chad Rooney, stated this is an item carrying over from the September work session, advertisement would be amended to start on the October 15, 2021 with a deadline of November 5, 2021. Councilmember Weaver ask if a decision was made not to pursue Clean Earth Town Manager, Chad Rooney, replied that it was a split decision so instead of putting it to vote, it would be put out to bid. Further discussion was held regarding the use of Clean Earth versus putting the project out to bid.

On a motion by Councilmember Fritsch, second by Councilmember Dan to approve putting the project out to bid with the amended dates. **Motion Carried.**

Consider Town Attorney Request for Proposals (RFP): Town Manager, Chad Rooney, stated he wanted to make sure there was an official vote to advertise for the request for proposals. The proposals are advertised on the MML website, in the Herald Mail Newspaper and the Frederick News Post. The Town Manager stated he would also be advertising in the Washington Post and the newspaper in Cumberland Maryland. **On a motion** by Councilmember Dan, second by Councilmember Weaver to advertise for the new Town Attorney. **Motion Carried.** Councilmember Dan ask what would happen if we needed to extend the advertisement, Mr. Rooney stated we would need to have that conversation with the current attorney next Friday, October 15, 2021, if nothing is received.

Re-Consider Date for Trick or Treat Night – Mayor Souders stated that Trick or Treat has not always been on the 31st. When Chief Knight was hired, he set Thursday as the day that he preferred Council consider for Trick or Treating. The last couple of years it has been on the October 31st, so I would ask Council to reconsider and change the date to the Sunday, the 31st, based on the emails, text messages, concern for trick or treating being on the same night as the football game. Councilmember Dan did a pole on his website and an overwhelming number of responses chose the 31st. Mayor Souders stated that he would suggest that Mayor and Council make it October 31st going forward until new Mayor and Council take over. Councilmember Weaver stated that some people may have a problem with it being on Sunday, however at this point I don't think we could pick a day to suit everyone's preference.

On a motion by Councilmember Knight Simane, second by Councilmember Fritsch Trick or Treat will be on October 31st every year from 6PM – 8PM for the Town of Smithsburg. **Motion carried.**

NEW BUSINESS:

Consider Use for Speed Camera Fund – Chief, Robert Marker stated on September 24, 2021 he met with Doug Mullendore, from the Washington County Sheriff Department. During the course of the conversation Chief Marker was reminded of the need to change radios for the Smithsburg Police Department in order to stay in communication with the Washington County Sheriff Department and Dispatch. The town would be able to replace the radios off of the contract for the Sheriff's Department. The cost to replace 5 radios would be \$18,442.50. Chief Marker is requesting to use funds from the Speed Camera funds to pay for the radios. Councilmember Dan stated that council doesn't plan to do a budget review until December **On a motion** by Councilmember Weaver, second by Councilmember Dan to allow Chief Marker to purchase 6 L3 Harris Radios not to exceed \$25,000.00, from speed camera funds. **Motion Carried.**

Chief Marker stated they deployed the speed monitor on Boswell Blvd. between September 15th and September 21st. During that time there were 1148 vehicles with only 23 vehicles exceeded the speed limit. Chief Marker also stated that he found out the speed trailer does capture data, so he ordered new batteries for that and will update the Mayor and Council as needed.

Consider Resolution 2021-06: A Resolution Outlining the Zoning Review Fee Schedule: Town Manager, Chad Rooney read the resolution for the record, along with a memo from the Town Planner, Tim Long. On a motion, with discussion by Councilmember Dan, second by Councilmember Fritsch to approve Resolution 2021-06. Councilmember Dan stated the fees would have applied to Clovery, however they are not retroactive and will not be applied to Clovery. Town Manager Chad Rooney and Mayor Souders both stated that was the case. Councilmember Dan then ask if we have checked with other Municipality's, and Town Manager Chad Rooney stated that Town Planner, Tim Long works with the Town of Sharpsburg and this is pretty similar if not exact to their Resolution. Councilmember Weaver ask about the levy of the Resolution with the Mayor signature on it, since there is still a pending with the Attorney General. **Motion carried.**

Consider Resignation of Ludmila Paliyenko-Sherman from Parks Commission: On a motion by Councilmember Dan, second by Councilmember Knight Simane to accept the resignation of Ludmila Paliyenko-Sherman from the Parks Commission. Councilmember Dan thanked Ludmila for her services on the Park Commission. Councilmember Dan ask that we consider doing some type of formal recognition for members when they resign or finish their term on a commission. Mayor Souders stated that is something that will need to be worked on and add to a future workshop. **Motion carried.**

Consider Resignation of Ellen Carmen from the Economic Development Commission: On a motion by Councilmember Weaver, second by Councilmember Dan to accept the resignation of Ellen Carmen from the Economic Development Commission. Councilmember Weave thanked Ellen for her time served and wish her well. Councilmember Knight Simane ask if anyone knew what business was going in, and Councilmember Fritsch stated he thought it was a laundry mat. Councilmember Dan thanked Ellen for your service. **Motion carried.**

Consider Request for Scarves in the Square: Town Manager, Chad Rooney, stated he received a request from Tara Wynkoop at Trinity Evangelical Lutheran Church to do “Scarves in the Square.” The Sunday school class would like to tie scarves around the light post for anyone to take. Mayor Souders ask about a date and Town Manager, Chad Rooney, stated it would be January 23, 2022. Councilmember Knight Simane ask about the dates, due to the Studio doing Yard Bomb in the Square. Councilmember Dan wanted to make sure it was light post only, and the Town Manager confirmed that is true. Councilmember Weaver stated she wants to be clear that Mayor Souders stated that we need to get back to some normalcy and follow procedure to do these things on Work Sessions. Councilmember Dan ask if it would make sense to have Ms. Wynkoop come in and make a presentation. Mayor Souders stated yes, he would like them to come in and make a presentation so the public can also be involved. Mayor Souders stated an invitation will be extended to Ms. Wynkoop or anyone else that may want to come and make the presentation.

Mayor Souders stated for information only, no debut no discussion tonight. Any questions schedule a time to come in and meet with the Town Manager. Town Manager, Chad Rooney, stated he wanted to give Council time to read through the policies leading into the work session later this month to collect some insight.

For Information Only

COVID-19 Policy - The COVID 19 policy came up with potential exposures that came up with town staff. I wanted to put something in place that employees know if certain things occur they know what to expect.

Social Media Policy/ Electronic Devices Policy - Social Media, Electronic Devices Policy are not defined in handbook as of now. If certain violations are occurring employee will know what to expect.

Hotel Rental Tax Funds Policy – We haven’t had a policy in place. There’s no way for an organization to request funds other than coming to a Mayor and Council meeting. We will need to work thru the police and a form. The form will be put on the website, and an organization can fill out for request and submit it to the town manager. The Town Manager will then distribute the form to council. The form will be reviewed at a Mayor and Council meeting for a formal vote.

Councilperson Dan do we have a policy for when we fly flags at half-staff, Councilmember Fritsch stated it depends on the situation. Councilmember Dan stated he signed up for flag notifications and gets them often, so it might be something worth looking into.

Councilmember Remarks:

Councilmember Dan – Attended the Farmers Market, exciting to see it’s still well attended, a lot of energy, a good event. Attended the MML dinner in Keedysville with the Town Manager and the Mayor. Attended the Smithsburg Fire Department meeting, and the target completion date for the concession stand is before the carnival. The Fire Company will be having a 90th Celebration next year and will be reaching out to the town for

assistance with the celebration. Received a message from former councilmember, Jack Wenthe and he ask me to mention there will be a Veterans Day Ceremony on November 11th at 2:00 PM. Mr. Wenthe ask if the town office could do the flyers as they have done in the past. Legislative Action Request, we met a couple weeks ago, whittled the LAR down, asking the State to restore Highway User Funding, it was cut in 2010, second one is Police Accountability Board created a county wide oversight board for police accountability, we are asking State Legislation to allow Municipalities to create their own accountability boards. Last but not least, we have Trunk of Treat on the 22nd, EMS Fall Festival on the 23rd and the Farmers Market, the last one, on the 25th, we have a weekend coming up that is all Smithsburg Events, should be a very exciting time.

Councilmember Knight Simane – Attended the Farmers Market. Met with a Boy Scout Troup to help them work on earning their government certificate. Thanks Ellen and Ludmila for their service on Commissions. Thanks Chief Marker for reaching out to the other Municipalities and help rebuild the bridge. Forever grateful for Chief Marker working on rebuilding the respect of the community and the citizens for the policy department

Councilmember Fritsch – Hopes Chief Marker has a good vacation. Welcomed Chief Marker. Thanked the commissions.

Councilmember Weaver- Nothing

The next Work Session is October 26, 2021

The next Mayor & Council Meeting is November 2, 2021

Next Commission Meetings:

- Economic Development Commission – October 11, 2021 @ 7:00PM; Council Chambers
- Smithsburg Community Activities Commission – October 19, 2021 @ 7:00PM; 2nd Floor Community Room (Behind Council Chambers)
- Parks Commission – October 11, 2021 @ 7PM; Zoom (information online)
- Planning Commission – October 19, 2021 @ 7PM; Council Chambers
- Election Board – TBD

MOTION TO CLOSE REGULAR SESSION AND MOVE INTO EXECUTIVE SESSION

On a motion by Councilmember Weaver, second by Councilmember Fritsch to close regular session at 8:44 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; Section (3) to consider the acquisition of real property for a public purpose and matters directly related thereto.*

In attendance was Mayor Souders, Councilmembers David Dan, Tracey Knight-Simane, Cassandra Weaver and, James Fritsch. Also in attendance was Town Manager Chad Rooney. The purpose of the session is to discuss the hiring of a new Public Works Worker and the council vacancy.

RECONVENE IN OPEN SESSION

On a motion by Councilmember, second by Councilmember to reconvene in open session at 10:23PM, **motion carried.**

MOTION TO ADJOURN

On a motion by Councilmember, second by Councilmember to adjourn the meeting at 10:24PM, **motion carried.**

Respectfully submitted,

Jenni House
Clerk/Treasurer