

**MINUTES**  
**SMITHFIELD CITY COUNCIL MEETING**  
**May 9, 2012**

The Smithfield City Council met in a regular scheduled meeting at 96 South Main, Smithfield, Utah, on Wednesday, **May 9, 2012**. The following were present constituting a quorum.

Mayor	Darrell G. Simmons
Council Members	Brent Buttars Jeffrey Barnes Barbara Kent Kris Monson Dennis Watkins
City Manager	James P. Gass
City Recorder	O. Dean Clegg

Mayor Simmons called the meeting to order at 6:00 p.m.

Councilmember Barbara Kent offered a prayer and led the Pledge of Allegiance

**Visitors:** Tyler Richardson, Ben Katz, Jacob Gregory, Russell Elwood, Cole Morrow, Erika Sidwell, P. U. Sidwell, Glen Thornley, Kiley Fisher, Bessie Tuveson, Ken Tuveson, Wayne P. Elwood, Kaydence Elliott, Annalee Brewer, Dallin Mark, Johnny Mage, Ralph Erickson, Ruth Swaner, Nathan Paulsen, Justin Jensen, Dee Ryan, Jon Wells, Alyssa Carey, Ryan Deane, Spencer McOkelsh, Nathan Holland, Dale Cox, Edwin Dadgett, Rose Mary Anderson, Dennis Anderson, Rigo Chaparro, and Jean Douglass

**Agenda:**

Welcome and Opening Ceremonies

1. Consideration of Consent Agenda  
Minutes of City Council Meeting held April 25, 2012
2. Resident Input
3. Hearing a Report from Historical Society
4. Consideration to Appoint Advisors to the Youth Council
5. **Public Hearing**, not to begin prior to 6:30 p.m., to Receive Public Comments for Consideration of **Ordinance 12-02**, “Which Amends the Zoning Ordinance, Title 17, in Particular Amending Section 17.04.070, “Definitions”, Deleting Chapter 17.93 “Residential Facility for Handicapped Persons”, and Creating a New Chapter 17.93, “Residential Facilities for Persons with a Disability”, and Deleting Chapter 17.94 “Residential Facility for Elderly Persons”, and Creating a New Chapter 17.94 “Residential Facility for Elderly Persons”.
6. Presentation of Progress of New City WEB Page
7. Department Report (Fire)
8. Public Hearing to Consider Study of South Smithfield Storm-Sewer
9. Consideration of Tentative Budget for all Funds for Fiscal Year 2012/2013  
Set Public Hearing for Final Budget (June 13, 2012, 6:30 p.m.)

## **Continuation of Minutes of City Council Meeting held on May 9, 2012**

10. City Manager Items  
    Leishman Property Exchange for Sunset Trail
11. Mayor and Council Reports  
    Buttars: Cemetery
12. Adjournment

### **Consideration of Consent Agenda**

#### **Minutes of City Council Meeting Held April 25, 2012**

Mayor Simmons declared the consent agenda approved as corrected.

### **Resident Input**

Smithfield resident Wayne Elwood addressed the council with a concern about the recent water bill. He has visited with several citizens who are concerned. During the winter months the city does not read the meter and only charges the minimum service fee. When the meter gets read in the spring our water bills are high because it's then that we are charged for the water used.. Please read the meter each month so we can level our water bills out.

City Manager Jim Gass said one of the problems with reading the meters in the winter is they are covered with snow. As far as spreading it out, we have an equal pay program that is available to any resident.

Councilmember Barbara Kent asked if we could put that in the city newsletter. Mr. Gass stated that it has been sent out with the newsletter. City Recorder Dean Clegg said next month we will encourage people to go on equal pay.

Councilmember Brent Buttars asked if we need to up the minimum so the bill isn't such a shock.

City Recorder Clegg said there will be a brightly colored sheet in the next bill explaining why last month's bill was higher. Residents can come in to the city office and we will set them up for equal pay.

Mayor Simmons said in as much as there was some misunderstanding he wonders if this has created a hardship on some residents. He wondered if there is anything the city can do.

City Manager Jim Gass said if these residents will come in, we will meet with them and try to work something out. WE may try a different approach next winter.

### **Hearing a Report from the Historical Society**

Ralph Erickson, Chairman of the Historical Society gave a letter to Mayor Simmons and Councilmember Jeff Barnes from Jeff Gittins. He said the Historical Society has had a busy two weeks. They met with Mr. Kurt Huffaker. They met him at the tabernacle and took him inside. Later he met with the historical board. Mr. Huffaker gave a presentation on how to go about saving and preserving historical buildings. He considered our building as being salvageable. They were encouraged by that. The historical society is pressing forward on his recommendations. We are now exploring what he advised us to do.

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The historical committee met with Jeff and Linda Gittins. They made recommendations on what they would like to have happen within the next year. They made a recommendation concerning structural evaluation. It is believed that the cost for the evaluation would be about \$5,000.

Committee recommended the vines on the north side of the building be removed completely due to the damage they can cause to the bricks. It could be a nice Eagle Scout project. Rain gutters need to be fixed or preferably replaced. A custodian should be appointed to care specifically for that building. There is an opinion that it has been neglected. Councilmember Jeff Barnes said the floor needs to be refinished and furnaces replaced. We could have the youth council have a clean-up day to clean the building. They could also sponsor tours through the building.

Another suggestion was to sell books on the history of Smithfield and put the money in a fund for the historical committee. Arrangements have been made for cleaning, carpet and repair of the upper room in the west annex.

They would like to put the tabernacle on the state list of historical buildings.

One member of their committee would like to identify war veteran graves in the cemetery.

Mr. Erickson and Ruth Swaner weeded the front side of the tabernacle and put new plants. They spent about \$100 of their personal money. In the future could they be allowed \$1,000 to work on the south side of the building?

Mr. Erickson asked if there is a water system at the tabernacle. City Manager Jim Gass said there is a sprinkling system and a timer at the building.

When the budget is done for the 2012/2013 year, the historical committee would like to be considered. Twenty-seven hundred dollars will not cover what they have in mind. When the billings are sent out for water there is a space for "Friends of the Library". They would like to have a space for "Donations for the Tabernacle."

Councilmember Dennis Watkins told Mr. Erickson there has not been space allocated on the city bill for "Friends of the Library".

City Manager Gass informed Mr. Erickson the budget for the Historical Society had been raised to \$5,000.

Whenever someone wants to tour the museum they need to call Mr. Erickson. Councilmember Barbara Kent asked Mr. Erickson for his phone number to Councilmember Kent.

### **Consideration to Appoint Advisors to the Youth Council**

Councilmember Barbara Kent said Lorita Dewey has been asked to serve as the Head Advisor of the Smithfield Youth Council. Mrs. Dewey will have Shelley Olsen and April Gooderidge as committee members. All these ladies worked with the Youth Council last year.

**Motion:** Councilmember Barbara Kent made a motion to appoint Lorita Dewey, Shelley Olsen, and April Gooderidge as advisors to the Smithfield Youth

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Council. Councilmember Kris Monson seconded the motion. A roll call vote was taken with the following votes recorded:

Yea: Councilmembers Barnes, Buttars, Kent, Monson, and Watkins  
Nay: None  
Motion Passes

**Public Hearing, not to begin prior to 6:30 p.m., to Receive Public Comments for Consideration of Ordinance 12-02, “Which Amends the Zoning Ordinance, Title 17, In Particular Amending Section 17.04.070 “Definitions”, Deleting Chapter 17.93 “Residential Facility for Handicapped Persons”, and Creating a new Chapter 17.93 “Residential Facility for Persons with a Disability”, and Deleting Chapter 17.94 “Residential Facility for Elderly Persons”, and Creating a New Chapter 17.94 “Residential Facility for Elderly Persons”**

City Manager Jim Gass said we have had chapters that have dealt with these matters in the past. Since then there have been numerous federal and state laws that have been adopted that has required several changes be made. The ordinance has been reviewed and amended by Attorney Jorgensen and we now feel it meets all federal and state requirements.

Mayor Simmons opened the public hearing at 6:33 p.m. There were no comments so Mayor Simmons closed the public hearing at 6:34 p.m.

**Motion:** Councilmember Dennis Watkins made a motion to approve **Ordinance 12-02**

A roll call vote was taken and the following votes cast:

Yea: Councilmembers Barnes, Buttars, Kent, Monson, and Watkins  
Nay: None

Motion Passes

**ORDINANCE 12-02**

WHEREAS, the City Council of Smithfield City, Cache County, Utah, passed and adopted the Smithfield Municipal Code on December 13, 1995; and

WHEREAS, the City Council has determined there is a need to update, repeal, amend and/or modify certain provisions contained in the referenced Municipal Code;

NOW, THEREFORE, the City Council of Smithfield City, Utah hereby adopts, passes and publishes the following:

**AN ORDINANCE AMENDING THE ZONING ORDINANCE, TITLE 17, IN PARTICULAR AMENDING SECTION 17.04.070 “DEFINITIONS”, DELETING CHAPTER 17.93 “RESIDENTIAL FACILITY FOR HANDICAPPED PERSONS”, AND CREATING A NEW CHAPTER 17.93 “RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY”, AND DELETING CHAPTER 17.94 “RESIDENTIAL FACILITY FOR ELDERLY PERSONS”, AND CREATING A NEW CHAPTER 17.94**

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**“RESIDENTIAL FACILITY FOR ELDERLY PERSONS”.**

BE IT ORDAINED BY THE CITY COUNCIL OF SMITHFIELD CITY, CACHE COUNTY, UTAH, AS FOLLOWS:

1. The following definitions shall be deleted.

**17.04.070: DEFINITIONS**

**ELDERLY PERSON:** A person who is sixty (60) years of age or older who desires or needs to live with other elderly persons in a group setting but who is capable of living independently.

**HANDICAPPED PERSON:** A person who has a severe, chronic disability attributable to a mental or physical impairment or to a combination of mental and physical impairments, which is likely to continue indefinitely and which results in a substantial functional limitation in three (3) or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency; and requires a combination or sequence of special interdisciplinary, or generic care, treatment, or other services that are individually planned and coordinated to allow the person to function in, and contribute to, a residential neighborhood.

**RESIDENTIAL FACILITY FOR ELDERLY PERSONS:** A single-family or a multiple-family dwelling unit that is not operated as a business, and that is owned by one of the residents or by an immediate family member of one of the residents, or shall be a facility for which the title has been placed in trust for a resident; and the facility shall be consistent with the existing zoning of the desired location , and shall be occupied on a twenty four (24) hour per day basis by eight (8) or fewer elderly persons in a family type arrangement.

**RESIDENTIAL FACILITY FOR HANDICAPPED PERSONS:** A single-family dwelling unit, consistent with existing zoning of the desired location, that is occupied on a twenty-four (24) hour per day basis by eight (8) or fewer handicapped persons in a family type arrangement under the supervision of a house family or manager, and that conforms to all applicable standards and requirements of the Utah Department of Human Services, and is operated by or operated under contract with that department. This shall not, however, be construed or applied as limiting or altering the existing provisions of the zoning ordinance as they relate to residential dwellings, except as herein specifically provided.

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2. Chapter 17.93 Residential Facility For Handicapped Persons shall be deleted in its entirety and the following Chapter 17.93 Residential Facility For Persons With A Disability shall be added.

Chapter 17.93

**RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY**

SECTION:

- 17.93.010: Purpose of Chapter
- 17.93.020: Definitions
- 17.93.030: Conditions
- 17.93.040: Design Standards
- 17.93.050: Reasonable Accommodation

17.93.010: **PURPOSE OF CHAPTER:** The purpose of this chapter is to describe and outline the conditions and procedures to be followed in establishing a Residential Facility For Persons With A Disability.

17.93.020: **DEFINITIONS:** As used in this chapter:

**DISABILITY:** A physical or mental impairment which substantially limits one or more of a person's major life activities, including a person having a record of such impairment, or being regarded as having such an impairment. "Disability" does not include current illegal use of or addiction to any federally controlled substances as defined in Section 102 of the Controlled Substance Act, 21 U.S.C. 802, or successor law. As used in this definition:

A. "Physical or mental impairment" includes:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
3. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease,

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diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

B. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

C. "Has a record of such an impairment" means: has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

D. "Is regarded as having an impairment" means: a person who:

1. Has a physical or mental impairment that does not substantially limit one or more major life activities but is treated by another person as constituting such a limitation;

2. Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of other toward such impairment; or

3. Has none of the impairments defined in paragraph A of this definition but is treated by another person as having such an impairment.

**REASONABLE  
ACCOMMODA-  
TION:**

A change in a rule, policy, practice, or service necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. As used in this definition:

A. "Reasonable" means a requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability.

B. "Necessary" means the applicant must show that, but for the accommodation, one (1) or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice.

C. "Equal opportunity" means achieving equal results as between a person with a disability and a non-disabled person.

**RESIDENTIAL  
FACILITY FOR**

Means a residence in which not more than eight (8) persons with a disability reside and which is licensed or certified by:

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**PERSONS WITH**

- A DISABILITY:**
- A. The Utah Department of Human Services under Utah Code Ann., § 62A-101, et seq., as amended, or
  - B. The Utah Department of Health under Utah Code Ann., § 26-21-3, et seq., as amended.

17.93.030: **CONDITIONS:** A Residential Facility For Persons With a Disability shall be allowed as a permitted use in any zone where residential dwellings that are not Residential Facilities For Persons With a Disability are allowed. All persons or entities desiring to establish a Residential Facility For Persons With A Disability shall first make application to the planning commission for a permit demonstrating zoning/land use regulation clearance. The permit shall be granted by the planning commission when compliance with the following requirements is established:

- A. **Code Compliance:** The facility shall comply with all applicable building, safety, and health regulations, the Americans With Disabilities Act, fire regulations, and all applicable state code standards and licensing requirements, and any standards set forth in any contract with a state agency.
- B. **Site Development; Parking:** The following site development standards and parking standards shall be applicable:
  - 1. Each facility shall be subject to minimum site development standards applicable to a dwelling unit in the zone in which the facility is located and Section 17.93.040, below, except as may be modified by the provisions of this chapter; and
  - 2. The minimum number of off street parking spaces required for a facility shall be the same as for similar structures located in the same zoning district as defined in Chapter 17.24 of this title. In addition to those listed in Chapter 17.24, there shall be 1 parking stall per staff member at the highest number of staff that would be present in the facility at one time.
  - 3. An existing structure may not be utilized as a Residential Facility For Persons With A Disability, unless no structural or landscaping alterations that change the structure's residential character are required for the facility to operate. Any alterations to the structure, landscape, or site will require the approval of the appropriate Land Use Authority and must be complete in compliance with this section.
- C. **Prohibited Persons:** No facility shall be made available to an individual who has demonstrated, by prior behavior, actions and/or criminal convictions, or as a resident, that he or she:
  - 1. May be determined to be or does constitute a direct threat to the health or safety of other individuals; or



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2. Has or may engage in conduct resulting in substantial physical damage to the property of others.
- D. Licensing: Prior to occupancy of the facility, the person or entity licensed or certified by the Utah Department of Human Services or the Utah Department of Health to establish and operate the facility shall:
1. Provide a certified copy of such license to the city recorder and maintain said license in full force and effect at all times;
  2. Certify, in a sworn affidavit submitted with the application for a business license, compliance with the Americans With Disabilities Act;
  3. Certify, in a sworn affidavit submitted with the application for a business license, that all current residents/clients qualify and that all future residents/clients will qualify prior to admission to the facility;
  4. Certify that placement in a facility must be on a voluntary basis and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility;
  5. Certify, in a sworn affidavit submitted with the application for a business license, that no person will be placed or remain in the facility whose prior or current behavior, actions and/or criminal incidents or convictions, has demonstrated that such person is or may be a substantial risk or a direct threat to the health or safety of other individuals, or whose said behavior, actions and/or incidents or convictions have resulted in or may result in substantial physical damage to the property of others; and such a sworn affidavit or statement shall be resubmitted to the city recorder on each sixth month anniversary after the issuance of the city business license required to operate said facility, the intent being that there be such a sworn affidavit on file with the city recorder that is no older than six (6) months;
  6. Apply for, obtain and maintain a city business license in accordance with the procedures stated in Title 5 of this Code, as amended, on forms to be supplied by the city;
  7. Any business license issued in accordance with the provisions of Title 5 of this Code, as amended, may be revoked and any application denied, by reason of the failure of the applicant or licensee to comply with the provisions of this chapter, said Title 5 of this Code, or any other applicable statute, ordinance, rule or regulation, by following the procedures set forth in Section 5.04.165 of Title 5 of this Code, as amended.
  8. Obtain and maintain the liability insurance required by the Department of Human Services, the Department of Health, or as is standard in the industry in the event neither state agency requires that such insurance be obtained and maintained.

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- E. Nontransferable Use: The use permitted by this section is nontransferable and shall terminate if:
  - 1. A facility is devoted to or used as other than a Residential Facility For Persons With A Disability;
  - 2. The license or certification issued by the Department of Human Services, Department of Health or any other applicable agency, including the city, terminates or is revoked; or
  - 3. The facility fails to comply with the conditions set forth in this section.
- F. Appeal: Any person or entity adversely affected by a final decision of the land use authority regarding an application or request for a Residential Facility For Persons With A Disability may appeal that decision to the Appeal Authority as provided in Chapter 17.10 of this Code.

17.93.040: **DESIGN STANDARDS:** In order for new construction to reflect the design and character of the existing neighborhood the following standards shall be met:

- A. The roof design of the proposed structure or remodel roof shall be a pitched roof of the same slope as the most common roof slope of the homes on the side of the block on which the proposed building is located; and
- B. The type of exterior materials shall be of traditional home finishing materials of brick, siding, or stucco. The use of these materials shall be applied in such a manner as to blend in with the neighborhood where the building is located and not draw undue attention to the building because of the materials, their color and combination being uncharacteristic of the other buildings in the neighborhood.

17.93.050: **REASONABLE ACCOMMODATION**

- A. Reasonable Accommodation Required: None of the foregoing conditions shall be interpreted to limit reasonable accommodation necessary to allow the establishment or occupancy of a residential facility for person(s) with a disability.
- B. Application: Any person or entity who wishes to request a reasonable accommodation shall make application to the Planning Commission in compliance with the Smithfield City Reasonable Accommodation Policy. Said application shall specifically articulate, in writing, the following:
  - 1. The name, mailing address and phone number of the applicant;
  - 2. The nature and extent of the disability;
  - 3. An exact statement of the ordinance or policy from which the applicant needs a reasonable accommodation;

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4. The applicant's proposed reasonable accommodations(s);
  5. A statement detailing why the proposed accommodation is reasonable and necessary in order to afford person(s) with a disability equal opportunity to use and enjoy housing; and
  6. The physical address of the property where the applicant intends on living.
- C. Decision: The Planning Commission shall render a decision on each application for a reasonable accommodation within ninety (90) days. The decision shall be based on evidence of record demonstrating the existence of the conditions stated in items 1, 2, and 3 below, while taking into consideration, the information stated in items 4 through 6 below, and considering other factors deemed relevant to properly evaluate the Application:
1. The requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability.
  2. That but for the accommodation, one (1) or more persons with a disability will be denied an equal opportunity to enjoy housing within the community.
  3. That equal results will be achieved as between the person with a disability requesting the accommodation and a non-disabled person.
  4. Given the scope of the accommodation requested, the impact on the immediate neighborhood will not be unreasonable.
  5. That the accommodation will not fundamentally alter the Zoning Ordinance of Smithfield City and that the accommodation will not create a fundamental change in the character of a residential neighborhood.
  6. That the accommodation will not be an undue burden or expense to the city.
- D. Findings and Conclusions: Written findings and conclusions of the Planning Commission shall be sent to the applicant within thirty (30) days after the decision by the Planning Commission.
- E. Appeal: Any person or entity adversely affected by a final decision of the Planning Commission regarding a request for a reasonable accommodation may appeal that decision to the Appeal Authority as provided in Chapter 17.10 of this title.
3. Chapter 17.94 Residential Facility For Elderly Persons shall be deleted in its entirety and be replaced with the following. Chapter 17.94 Residential Facility For Elderly Persons shall be added.

### Chapter 17.94

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**RESIDENTIAL FACILITY FOR ELDERLY PERSONS**

SECTION:

17.94.010: Purpose of Chapter

17.94.020: Definitions

17.94.030: Conditions

17.94.040: Design Standards

17.94.010: **PURPOSE OF CHAPTER:** The purpose of this chapter is to describe and outline the conditions and procedures to be followed in establishing a Residential Facility for Elderly Persons.

17.94.020: **DEFINITIONS:**

**ELDERLY PERSON:** A person who is sixty (60) years of age or older who desires or needs to live with other elderly persons in a group setting but who is capable of living independently.

**RESIDENTIAL FACILITY FOR ELDERLY PERSONS:** A single-family or a multiple-family dwelling unit that is not operated as a business, and that is owned by one of the residents or by an immediate family member of one of the residents, or shall be a facility for which the title has been placed in trust for a resident; and the facility shall be consistent with the existing zoning of/applicable land use ordinances for the desired location, and shall be occupied on a twenty four (24) hour per day basis by eight (8) or fewer elderly persons in a family type arrangement.

17.94.030: **CONDITIONS:**

- A. A Residential Facility for Elderly Persons shall not be considered a business because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility.
- B. A Residential Facility for Elderly Persons shall be allowed as a permitted use in any zone where residential dwellings are allowed, except in areas zoned to permit exclusively single-family dwellings, as set forth in sections 17.48.020, 17.52.020, 17.56.020, 17.60.020, 17.63.020, 17.64.020, 17.68.020, 17.72.020 and 17.80.020 of this title where they shall be allowed as a conditional use, with a conditional use permit. All persons or entities desiring to establish a Residential Facility for Elderly Persons shall first make application to the planning commission either for a conditional use permit as authorized under chapter 17.32 of this title or for a Residential Facility for Elderly Persons permit in areas where the facility is allowed as a permitted use. In zones where a conditional use permit is required, the right to establish a Residential Facility for Elderly Persons is subject to the granting of a conditional use permit and complying with all requirements and

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procedures of chapter 17.32 of this title in addition to the requirements listed below. In zones where a Residential Facility for Elderly Persons is allowed as a permitted use, the permit shall be granted by the planning commission when compliance with the following requirements is established:

1. Residential facilities for Elderly Persons shall comply with all requirements of UCA § 10-9a-516 through 519, and also acknowledge and comply with the following requirements:

a. The facility shall meet all applicable building codes, safety codes, zoning (land use) regulations, the Americans with Disabilities Act, and health ordinances applicable to single-family or similar dwellings; except as may be modified by the provisions of this Chapter.

b. No facility shall be made available to an individual who has demonstrated, by prior behavior, actions and/or criminal convictions, or as a resident, that he or she:

- (1) May be determined to be or does constitute a direct threat to the health or safety of other individuals; or
- (2) Has or may engage in conduct resulting in substantial physical damage to the property of others.

c. Minimum site development standards shall meet the provisions of the zone in which the facility is located and of Section 17.94.040 below, except as may be modified by the provisions of this chapter.

d. The facility shall be capable of use as a Residential Facility for Elderly Persons without structural or landscaping alterations that would change the structure's residential character.

e. In cases where the facility will occupy an existing residential building, the facility shall be capable of being used as a residential facility for Residential Facility for Elderly Persons without structural or landscaping alterations that would change the structure's residential character.

f. No Residential Facility for Elderly Persons in areas zoned exclusively for single-family dwellings shall be established or maintained within three-quarters (3/4) mile of another existing Residential Facility for Elderly Persons or Residential Facility For Persons With A Disability, with the distance to be measured in a straight line between the closest property lines of the lots or parcels on which such existing and proposed facilities are or are to be located.

g. No person being treated for alcoholism or drug abuse shall be placed in a Residential Facility for Elderly Persons.

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h. Placement in a Residential Facility for Elderly Persons shall be on a strictly voluntary basis and not a part of or in lieu of, confinement, rehabilitation, or treatment in a correctional facility.

i. Any permit granted or issued pursuant to this chapter is nontransferable and terminates if the structure is devoted to a use other than as a Residential Facility for Elderly Persons or, if the structure should cease or fail to comply with the provisions of state law or of this chapter.

2. Prior to occupancy of the facility, the person or entity licensed or certified by the Department of Human Services and/or the Department of Health to establish and operate the facility shall:

a. Provide a certified copy of such license to the City Recorder and maintain said license in full force and effect at all times;

b. Submit, obtain and maintain an annual Facility Operation Permit on forms provided by the city;

c. Certify in a sworn affidavit submitted with the annual Facility Operation Permit Application, compliance with the Americans With Disabilities Act;

d. Certify, in a sworn affidavit submitted with the annual Facility Operation Permit Application, that no person will be placed or remain in the facility whose prior or current behavior, actions and/or criminal incidents or convictions, have demonstrated that such person is or may be a direct threat to the health or safety of other individuals, or whose said behavior, actions and/or incidents or convictions have resulted in or may result in substantial physical damage to the property of others; and such a sworn statement shall be resubmitted to the city recorder on each 6<sup>th</sup> month anniversary after the issuance of the annual Facility Operation Permit required to operate said facility, the intent being that there be such a sworn affidavit on file with the city recorder that is no older than six (6) months;

e. Any annual Facility Operation Permit may be revoked and any application denied, by reason of the failure of the applicant/licensee to comply with the provisions of this Chapter, or any other applicable statute, law, ordinance, rule or regulation, by following the procedures set forth in Section 5.04.165 of said Title 5, and as it may be amended;

f. Obtain and maintain the liability insurance required by the Department of Human Services, the Department of Health or as is standard in the industry, in the event neither state agency requires that such insurance be obtained and maintained.

3. Appeal: Any person or entity adversely affected by a final decision of the land use authority regarding a request or application for a Residential Facility for

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Elderly Persons may appeal that decision to the Appeal Authority as provided in Chapter 17.10 of this Code.

17.94.040: **DESIGN STANDARDS:** In order for new construction to reflect the design and character of the existing neighborhood the following standards shall be met:

- A. The roof design of the proposed structure or remodel roof shall be a pitched roof of the same slope as the most common roof slope of the homes on the side of the block on which the proposed building is located; and
- B. The type of exterior materials shall be of traditional home finishing materials of brick, siding, or stucco. The use of these materials shall be applied in such a manner as to blend in with the neighborhood where the building is located and not draw undue attention to the building because of the materials, their color and combination being uncharacteristic of the other buildings in the neighborhood.

4. Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, in whole or in part, the same shall not affect the validity of the ordinance as a whole, or any other part thereof.

5. All ordinances, and the chapter, clauses, sections, or parts thereof in conflict with provisions of this ordinance are hereby repealed, but only insofar as is specifically provided for herein.

6. This ordinance shall become effective after the required public hearings and upon its posting as required by law.

THIS ORDINANCE shall be attached as an amendment to the Smithfield Municipal Code above referred to.

Approved and signed this 9<sup>th</sup> day of May, 2012.

SMITHFIELD CITY CORPORATION

/s/ Darrell G. Simmons

Darrell G. Simmons, Mayor

ATTEST:

/s/ O. Dean Clegg

O. Dean Clegg, Recorder

**Presentation of Progress of New City WEB Page**

City employees Char Izatt and Dale Cox were in attendance to explain to the council the new Smithfield City Web Page that is currently being created.

Mrs. Izatt gave the overview. They have been working with our webmaster and host, Loreta Gale of Infobytes who has been the creator of the page. The city has been represented by a committee composed of Dale Cox, Char Izatt, Karen Bowling and Kathy Downs from the

## **Continuation of Minutes of City Council Meeting held on May 9, 2012**

library, and Brenda Smith from the police Department., are working on infobites.com. Lorita Gale is representing infobites. We pay currently paying \$131.54 per month to host the page through Infobytes.

Mrs. Izatt reviewed the various features found on the new web page and the potential it has for future expansion. Mr. Cox indicated he thought the page would be on line in about three weeks.

### **Department Report (Fire)**

Fire Chief Jay Downs was in attendance to give a report of the activities of the Smithfield Fire Department. Chief Downs handed out a booklet "Smithfield Fire and Cache County Ambulance Report 2012." He is the Smithfield Fire Chief/Cache County EMS Coordinator. The Smithfield Fire Department handles calls north of Hyde Park to the Idaho border within the unincorporated area. This past year (2011) we handled 116 fire calls and 168 ambulance calls within Smithfield. Jeremy Hunt is the Emergency Management Coordinator. We have four full-time employees who work on the ambulance.

In 2007 we received a Safer Grant from FEMA for training and are now spending the last of that grant. In 2012 we applied for the Safer Grant and a State Fire Fighter Assistance Grant and received \$4,531. Chief Downs also reviewed several other grants the department has been successful in obtaining. He did note however, the availability and amount of grants is diminishing which will have an impact on future budgets. Not only are the number and amount of grants diminishing but the cost of supplies and equipment continue to increase. As an example he cited self contained breathing apparatus unit which use to be about \$2,000 are now about \$8,000. Chief Downs gave much of the credit for the number of grants we have received over the years to Mike Weibel.

Mayor Simmons asked Chief Downs if the Fire Department had done any calculation of hours given in volunteer against paid time. Chief Downs said he would guess it to be about three to one. Chief Downs has applied for more grants.

City Manager Jim Gass said our biggest need now is a new engine at a cost of about \$300,000.

Fireman Jeremy Hunt talked about volunteer hours contributed by the department including 135 hours required for EMT certification and 250 hours for first responders.

Mayor Simmons asked how unification with other departments has been going and our contracts with Hyde Park, Amalga and Benson. Chief Downs said it is going great. He explained the benefits of mutual aid between the departments and how it maximizes resources throughout the county. It was also mentioned that the departments of the county are working toward comparable arrangements with Box Elder and Rich counties.

Councilmember Brent Buttars asked if there is a class in Maryland by FEMA. Chief Downs answered, "Yes, we sent two guys back there for a week of training."

Chief Downs apologized because some of the fire fighters were not at the meeting. They are at the station working on preparations for Health Days on Saturday.



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Chief Downs expressed thanks to the city council for everything they do for the Smithfield Fire Department. It is greatly appreciated.

### **Public Hearing to Consider Study of South Smithfield Storm-Sewer**

City Manager Jim Gass said we have talked about the need for a study in council meetings before. It deals with a storm sewer on the south end of town. We have no storm sewer capabilities on the south end of town. The initial plan is to collect storm water south and west of the Logan and Northern Canal and route it to Second West down to Tenth South then down to the wetlands located on city property at 1000 South and 1200 West. The study will include the development of a computer model to look at the entire region and give us insights on the suitability of our initial concept and make recommendations. It will also specify pipe line sizes for the backbone of any system and where those lines should be located. Our current plan is to solicit grant money through the Community Impact Board in the amount of \$15,000. Any grant funds received would need to be matched by the city at a 50% level. The purpose of the public hearing is to inform the residents of our intentions and to receive their input.

Mayor Simmons opened the public hearing at 7:40 p.m. Citizen Russell Elwood said he would like City Manager Jim Gass to explain where the storm water is currently running. He has expressed concern in the past about stormwater that flows from the Auction property to his property located between 600 South and 800 South near 200 West. He feels the majority of this stormwater flows across his hay field and causes damage for which he should receive some remuneration for damages.

City Manager Gass said the majority of the water goes through property belonging to Kim Foster, but some does find its way on to his field. Mr. Elwood also claimed water from Main Street and the old Del Monte plant also flows through the Auction and onto his land and has for the last 25 years. City Manager Gass responded that there was no water from Main Street that flows to his property, but rather is captured in a storm sewer located within the right-of-way.

City Manager Gass told the public that if the city were going to spend something in the neighborhood of a half million dollars to address the stormwater problems in the area, he wanted to make sure the money was being spent in such a manner that the problems identified could be solved in a responsible manner.

Councilmember Brent Buttars said "The property down there is so clay-bound, does it hold the water?" City Manager Gass answered that it goes down through a slough then makes its way to the wetlands. Our initial plans are to detain it on the city property and release it at a control rate to the wetlands.

Councilmember Jeff Barnes asked who will be doing the study. City Manager Gass said JUB Engineering.

Mayor Simmons closed the public hearing at 7:45 p.m.

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Councilmember Dennis Watkins asked if that grant is a given. City Manager Gass answered, "No, it is not, but the potential could be as high as 95%."

Councilmember Barbara Kent asked if this would help us meet our storm water regulations. City Manager Gass answered that the study itself does not do address requirements imposed through our stormwater permit.

**Motion:** Councilmember Dennis Watkins made a motion to pursue a grant to study the South Smithfield Storm Sewer. The motion was seconded by Councilmember Brent Butters. A roll call vote was taken with the following results:

Yea: Councilmembers Barnes, Butters, Kent, Monson, and Watkins

Nay: None

Motion Passes

### **Consideration of Tentative Budget for all Funds for Fiscal Year 2012/2013** **Set Public Hearing for Final Budget (June 13, 2012 at 6:30 p.m.)**

City Manager Jim Gass told council members what they see before them is about the same as what they saw last time. There was a modification as mentioned before to the budget for the historical society. That budget went from \$2,700 to \$5,000 with the increase being added to a miscellaneous category. A change was also made to the golf course budget to realistically reflect the expected profit expected from the sell of merchandise in the proshop. Initially we were projecting a 50% profit when realistically the golf course has only achieved a profit of about 35% over the years. As a result of this change, modifications were made to the golf course budget to absorb the lower profit amount, but due to the tight golf course budget we were only able to identify changes that left the budget \$7,900 short of balancing. It is being proposed that the budget be supplemented by this amount from the general fund. If the Spring of 2013 is good, chances are they won't need any assistance from the general fund.

Mayor Simmons asked if this would all come up in a public hearing on June 13. Mr. Gass answered, "Yes".

It was noted that there are no funds identified in the budget for improvements to the Youth Center (tabernacle). If there are future improvements identified, funding for those improvements will likely have to come from the general capital improvement fund.

Mayor Simmons suggested we let Councilmember Barnes visit with the committee and make a presentation to the council. Mayor Simmons added that due to liability insurance, how much can we do with the historical society helping out?

City Manager Gass said our insurance company has cautioned us before on using volunteers, so we would want to check with the insurance company when a proposal is made. Mayor Simmons suggested we just watch it. The floor at the youth center does need a lot of work.

Councilmember Dennis Watkins questioned if a department expends more than the amount allotted to them, how do we make that up? City Manager Gass said it is not uncommon to see

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budgets go into the red, we do budget adjustments in the middle of the year and at the end of the year. If necessary, we do have some department budgets that are well into the black, and we could use their money to help out those that turn up in the red.

City Recorder Dean Clegg said enterprise funds can end the year with more expenses than revenue. The general fund has to balance. State law requires that we pass the final budget before the end of June.

Councilmember Dennis Watkins asked if departments are exceeding their approved expenditures should those departments be penalized. City Manager Gass said we need to see what the reasons are. Some expenditures are unexpected and unavoidable.

Councilmember Watkins would like the police chief to reconsider and ask for about the same as last year. The majority of complaints that he has received as a council member is the amount being spent for police. Councilmember Jeff Barnes said the police chief has the responsibility to stay within his budget. City Manager Gass urged council who are concerned with the police budget to meet face to face with the police chief.

Councilmember Barnes had a question on Supplies -- \$3,500 in the police budget. City Manager Gass couldn't give specifics. It's a line item common in several budgets and it catches items that don't fit in more specific categories.

**Motion:** Councilmember Dennis Watkins made a motion to approve the tentative budget for all funds for fiscal year 2012/2013 and set Public Hearing for final budget (June 13, 2012, at 6:30 p.m.) The motion was seconded by Councilmember Brent Buttars. A roll call vote was taken with the following votes recorded:

Yea: Councilmembers Barnes, Buttars, Kent, and Watkins  
Nay: None  
Absent: Councilmember Kris Monson  
Motion Passes

Councilmember Jeff Barnes asked "How do we get this out?" It's available at the city office or we will attempt to get int on the web page.

**2012-13 GENERAL FUND  
REVENUES**

Taxes	2,327,857.70
Licenses and Permits	172,900.00
Intergovernmental	634,478.31
Charges for services	893,900.00
Revenues from Fines	170,000.00
Miscellaneous revenues	15,845.00
Additional Revenue	8,750.00
Use of prior balances	123,556.36

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TOTAL	4,347,287.37
Inc (-) dec (+) to Reserve	43.88
TOTAL REVENUES	4,347,331.24

**EXPENDITURES**

Legislative	738,209.26
Youth Council	4,775.00
City Court	79,400.00
Administration	81,125.00
Attorney	59,400.00
Non Departmental	122,320.73
General Government Buildings	88,500.00
Elections	200.00
Planning and Zoning	5,850.00
Police	757,109.53
Fire	423,744.08
Emergency Services	1,000.00
Building Inspection	10,394.58
Animal Control	41,297.50
Streets	165,250.00
Public Works Administration	9,723.09
Class C Roads	397,006.36
Sanitation	725,000.00
Shop and Garage	14,100.00
Park and Park Areas	63,275.53
Celebrations	27,850.00
Senior Citizen Program	17,200.00
Historical Society	5,000.00
Library	160,711.25
Cemetery	27,800.00
Contributions	321,089.33
General Fund Total	4,347,331.24

**ENTERPRISE FUND**

Water Revenue	851,100.00
Water Expenditures	941,786.70
Water From Reserves	90,686.70
Sewer Revenue	1,091,200.00
Sewer Expenditure	781,436.28
Sewer Net	309,763.72

## Continuation of Minutes of City Council Meeting held on May 9, 2012

Storm Sewer Revenue	222,500.00
Storm Sewer Expenditure	225,675.89
Storm Sewer from Reserves	3,175.89
Golf Revenue	1,113,660.00
Golf Expenditure	1,121,637.78
Golf from General Fund	7,977.78

### **SPECIAL FUND**

Recreation revenue	425,250.00
Recreation expenditure	523,003.85
Recreation net	-97,753.85
Park impact revenue	113,500.00
Park impact expenditure	113,500.00
Park impact net	0.00
Gen'l Capital Impr. Revenue	750.00
Gen'l Capital Impr. Exp.	126,116.06
Gen'l Capital Impr. Reserves	-125,366.06

### **City Manager Items**

#### **Leishman Property Exchange for Sunset Trail**

In the development of Country View, Phase II Subdivision, the city was granted an 8 foot wide right-of-way for a trail leading from 900 East eastward across the LHP&S Canal to Sunset Trail. The city has never developed the trail because Rocky Mountain Power, Century Link, and the Cable Company placed utility boxes near the entrance blocking access. We have had discussions with the two adjacent property owners, Rod Leighman and Jeff Champlin, about moving the right-of-way to another location, but haven't done so to date. Now Rod Leishman wants to build a large shed on the south side of his property which would require a portion of the right-of-way and additional property from Jeff Champlin. In an attempt to obtain the property he is requesting the city consider exchanging the right-of-way for property on the north side of his lot where it adjoins property belonging to Olaf Jensen. There are utility boxes belonging to Century Link and the Cable Company which appear to be easily moved. A survey by Ben Johnston revealed the existing fence and landscaping doesn't follow the deed lines and some of the right-of-way would have to come out of property Mr. Jensen has assumed is his. When this was discovered Mr. Leishman reviewed the problem with Mr. Jensen and explained the possible right-of-way exchange and that a portion would come from what had been considered Jensen property. According to Mr. Leishman, Mr. Jensen understood the problem and the plan to move the right-of-way and was OK with it. Mr. Gass is now requesting permission from the city council to pursue the exchange. It has gone before the Planning and Zoning Commission and they have approved it.

## **Continuation of Minutes of City Council Meeting held on May 9, 2012**

Mayor Simmons suggested Mr. Gass personally review the proposal with Mr. Jensen to make sure he clearly understands what is being considered before proceeding.

City Manager Gass said as they resolve the property, it will be a good situation for the city. Mr. Gass will visit with the Jensens and report back to the city council.

### **Annexations**

There are three proposed annexations to the city. One is at 10th South and 400 West. A business in Hyde Park has inquired about re-locating here. They want to annex into the city, our current city limit line is at 200 West. Because they don't adjoin the existing city limit line they would have to find people who are willing to annex with them. This business is a manufacturing operation. The area has been designated as agricultural in the current General Plan. There is no water for fire protection or power to the property. The city council was not enthusiastic about the potential annexation.

### **LDS Church**

The LDS Church is interested in a piece of property belonging to the Pitcher family near the corner of 600 South and 250 East. We have encouraged the Low family and the Benson Family to consider joining with the Church on any annexation because of the interest they have shown in the recent past. This annexation could also include property belonging to Scott Lyman where he tried to build storage units but was turned down by Cache County at our urging.

### **Hansen's**

The Hansen family from Ogden has 160 acres east of Hillside Drive near the east end of Summit Drive. They have come to the city before with a request to annex, but the city had stalled the request until water and sewer was more available to the area. Much of this area still wouldn't be available for development because of the steep terrain.

### **Mike and Connie Gittins Property**

Connie Gittins lives on 300 South and about 360 East. She wants to put up a fence along the property line but the city owns a narrow strip of property between her property and the street right-of-way which would require her to place the fence a considerable distance back from the road. Where the strip of property has no value to the city, Mr. Gass is recommending the city deed the property to Mr. and Mrs. Gittins. All councilmembers were in agreement with the request.

### **Petersen Springs**

Over the past few years city employees have been working to rehabilitate the Peterson Springs in Smithfield Canyon. Deep rooted vegetation has infiltrated the collection lines and choked off the collection system's ability to receive and transport water. As the springs have been improved, chloroform has appeared in the samples that have been taken. Much of this is attributed to the rock used in the redevelopment of the springs and our inability to disinfect the springs. The

## **Continuation of Minutes of City Council Meeting held on May 9, 2012**

chloroform isn't fecal in nature so its potential health risk is significantly lessened, nevertheless if chloroform is discovered in any form in the distribution system the notification to the public and the follow up testing can be significant. For this reason, City Manager Gass feels strongly that the city needs to provide a means to chlorinate the water before it enters the system because it is currently untreated and he has not allowed it to be turned into the system. He has contact Sunrise Engineering to assist in the design of a chlorinator which can be built early summer and hopefully be on line by July allowing for the inclusion of the Peterson Springs in our water supply. Scott Archibald from Sunrise is expecting the facility to cost in the neighborhood of \$50,000 while Mr. Gass is hoping to do it for around \$30,000. He asked the council for permission to continue pursuing this improvement. The building would be up on Upper Canyon Road. We have the money to do this.

Councilmembers Barnes, Buttars, Kent, and Watkins gave their consent to continue.

### **Meikle Dairy**

City Manager Gass told the council he had been in contact with the State Division of Water Quality concerning the growing dispute between residents and the owners of the Meikle Dairy. The dairy has constructed a facility to treat the effluent from their dairy which includes land application of the waste. The smell from the new operation has been terrible and is causing considerable friction between the homeowners and the dairy. In response to his request the Division sent up a person to review the situation. They noted afterwards that they were surprised by the size of the herd, the minimal land available for land application, and how close the wheel line was to the existing homes. The representative noted some management corrections that were necessary and repairs that were needed on the equipment. With the corrections it is felt the system will be far less objectionable. Councilmember Jeff Barnes said it all comes down to management. They are not doing a good job of managing their water.

### **City Streets and Parks**

Crack sealing on city streets is going on right now. Work at Sunset Park has stalled because we've reached a point where we need help from Parsons. The money for this work will come from the park impact fund and will have to be added to the FY12 budget when we adjust the budget in June.

### **Water**

We are not planning on putting Forrester Acres, Mack Park, or the cemetery on secondary water this year because irrigation water will be in short supply.

### **Tree Planting for Arbor Day on Health Days**

Arbor Day Tree Planting will be at noon on Saturday. The Tree City USA Plaque is lost. If we can't find it, Mr. Gass thinks he can get another one from Tree City USA.

### **Mayor and Council Reports**

## **Continuation of Minutes of City Council Meeting held on May 9, 2012**

### **Mayor Simmons' Report**

The last couple of years we have gone on a summer schedule for city council meetings (one meeting per month.) He plans on following that same pattern this year. If business is so that we need two meetings, please let City Manager Gass know.

As of right now plan on the following meetings being held.:

June 13, July 11, August 8

There are other dates available if we need to have these meetings. All council members were in agreement.

### **Councilmember Watkins Report**

Nothing

### **Councilmember Monson's Report**

Councilmember Monson reported there were 105 riders in the family bike ride on Monday night. The weather was great. The golf tournament was great! They raised lots of money. Thursday night will be the Stratford Loosle Music Competition. It starts at 7:30 at Sky View. The Childrens' Theatre will be presented on Friday and Saturday nights. It will be "Alice in Wonderland". The Rec Center has done an awesome job planning and setting up the Health Days Celebration. It would be nice if people would go to the music competition. The scholarship pageant was really nice. Mike Nielsen has done lots of work on the float. City officials should meet and ride in antique cars. Please be there the same time and place as last year.

Councilmember Buttars suggested we have an officer at the end of the parade to help move the traffic as the Lion's Club give out ice cream and move people so there is not a "bottleneck".

Councilmember Monson added there are 390 preregistered for the "Fun Run" with over 600 total expected. The route is already marked.

Councilmember Brent Buttars reported that Councilmember Kris Monson and Rec Center Director Brett Daniels did a wonderful job on the Jenny Christensen radio program.

### **Councilmember Barnes' Report**

#### **Arbor Day Celebration**

Phyllis Smith will have some students there to assist with the celebration. City Manager Gass will talk to Chad Kendrick with regards to the tree planting ceremony to everyone will know where to meet.



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The Tree Committee will be hosting a booth to inform and educate the public. It was suggested that we do a better job of advertising the fact that Smithfield is a Tree City USA city. More visible signs on both the north and south entrances into the city was recommended.

City Recorder Dean Clegg asked if we may get the new "Tree City USA" flag following the celebration so it can replace the flag currently flying over the library.

### **Councilmember Kent's Report**

Councilmember Kent will be gone when Sky View is having their awards ceremony. Councilmember Barnes would be available to present the award on behalf of the city if someone from Sky View is willing to do so.

### **Councilmember Buttars' Report**

What is the name of the new secretary for the Police Department? Maria Tena.

Have we replanted the trees in front of Callaways? Yes. Trees were also planted in front of Sky View.

Do we know what the council will be riding in for the parade? No

Councilmember Buttars will get the candy for the parade. He will get the candy at Lee's.

Who orders the ice cream? The ice cream is ordered through the Rec Center.

Who takes care of the signs? The Rec Center.

### **Cemetery**

Councilmember Buttars passed out a copy of a sign they would like to use at the cemetery entrances listing rules of the cemetery. They would like to have it posted on all three gates. It was noted that it is illegal to walk dogs in the cemetery.

At the next meeting we will talk about the costs of burials at the cemetery. Mr. Buttars and Mr. Clegg will work together on this. Councilmember Buttars read in the Herald Journal that almost half of burials in the Logan Cemetery are on Saturday. Smithfield is starting to have lots of burials on Saturday.

Mayor Simmons asked if there is a way to get a new version of the map at the cemetery. We try to do that every year and we're trying to find a version of the map that is less likely to fade.

Councilmember Dennis Watkins said there is a QR Code that mounts on the headstone. Maybe we need to look into this.

### **Adjournment**

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**Motion:** Councilmember Barbara Kent made a motion to adjourn. All were in agreement. Adjourned at 10:07 p.m.

Approved and signed this 13<sup>th</sup> day of June 2012.

SMITHFIELD CITY CORPORATION

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Darrell G. Simmons, Mayor

ATTEST:

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O. Dean Clegg, Recorder