Town of Smithville
Planning Board Minutes
May 1, 2019

Planning Board Members: Chair, Shane Butler, Robert Brooks, Adam Whitbeck, Pamela Holcomb, and Julie Hatfield

Planning Board Members Absent/Excused: Julie Hatfield was absent

Others in Attendance: Lori Eaton - Planning Board Clerk, Karl Ludwig, Town Clerk - Alison Owens, Hwy. Superintendent - Vince Witkowski, and Angelo Cioffi

7:00 Chair Butler called the meeting to order.

Review and Approval of Minutes:

Chair Butler asked for approval of the Minutes from April 3, 2019. Pam Holcomb motioned to approve, Adam Whitbeck 2nd. All Ayes.

7:01 Call for New Business - There was no new business.

7:02 Old Business

- Right to Farm Law

This was presented to the Town Board and scheduled for a Public Hearing on June 17, 2019.

- Road Preservation Law

Road Preservation Law was brought to the Town Board and changes were recommended. The revised RPL, which included Mr. Ludwig's suggestions, was presented and emailed to all Planning Board members. Chair Butler removed the words "property owner" thus excluding them from any liability for road damages incurred by the contractor. He reiterated, as stated in Section I, that a Road Preservation Law was originally intended to address large commercial activities.

Mr. Brooks fears that by removing the property owner from the RPL, the Town of Smithville would be responsible for paying for any road damage exceeding the contractor's bond fee.

Mr. Ludwig argued that if damages exceed the amount that property owners earn from the log income, this could bankrupt families, and added that Smithville is already an economically depressed area.

Mr. Brooks then asked Mr. Ludwig if he believes the Town should cover the cost. At which point, Mr. Ludwig stated that the Town should go after the contractor. Mr. Brooks fears the possibility of having a contractor forfeit the bond and skipping town. He mentioned how it took 55 years for Smithville to pay for the Railroad. Mr. Brooks suggests setting the bond in excess of what is needed, but Mr. Witkowski argued that this could prevent contractors from ever wanting to do business in Smithville.

Town Clerk Owens suggested charging a flat-rate fee, but Mr. Brooks objected saying that this would be unfair to someone logging just a few acres versus someone logging thousands of acres.

Hwy. Supt. Witkowsi proposed assigning a fee based on expected log income or perhaps a bond in the amount of $500,000. He also mentioned that other towns post signs stating: Absolutely no trucks during certain times of the year. Mr. Brooks said there is documentation somewhere that states how many dirt roads each town has.

Mr. Witkowski commended logging companies such as Bowman's and Gutchess for their respectful practices thus far into 2019.

Pam Holcomb and Chair Butler asked Mr. Witkowski about the possibilities of setting the bond based on an *estimate* of what it would cost to repair the road if damages were incurred or perhaps setting the bond based on mileage. Mr. Witkowski stated that this would be dependent upon how far contractors are traveling on town roads. He also pointed out that contractors are already paying a road tax and that Smithville can't afford to be chasing contractors away.

Chair Butler stated that McDonough has a fee, not a bond, but he does not know the amount.

Clerk Owens said maybe it would be a good idea for Smithville to ask neighboring towns that are the size of Smithville what amount of damage has been done to their roads. Ms. Holcomb and Mr. Brooks suggest finding out what other towns are using and base the amount on that.

Mr. Ludwig suggested that contractors provide a certificate of insurance along with the bond.

Town Clerk Owens asked what the difference was between a bond and a certificate of insurance. Mr. Witkowski believes that a bond is guaranteed payment and that a liability policy is only good for the amount of your policy. Clerk Eaton pointed out that a bond is NOT a

guarantee if the contractor forfeits the bond like Mr. Brooks stated earlier. Pam Holcomb agreed.

Clerk Owens pointed out that the Community Center is Town property, and that the Town's attorney requires that anyone renting the Community Center obtain a one-day Certificate of Insurance.

Mr. Ludwig mentioned that there is a considerable amount of State Land that gets logged and wondered If the State would be willing to pay up for damage done by the contractor.

Mr. Witkowski agreed and stated that some of Smithville's town roads go through State Land that the Town maintains and Smithville gets CHIPS money. The State would probably say, "See you later." The State uses a contractor, so again, it should fall in the contractor' lap.

Chair Butler said the bond will be determined by the Town Board.

Mr. Ludwig proposed including Hwy. Supt. Witkowski to Section IV, subsection 3 of The Road Preservation Law as someone with the authority to shut down any operation.

Chair Butler informed Mr. Witkowski that the issues with the RPL are not presented to the Town Board until PB has a final copy of the RPL drafted.

Items yet to be decided upon include:

- -Requiring a bond, a Certificate of Insurance, or both
- -Dollar amount of Bond
- -Whether property owner is exempt from liability and removed from RPL
- -Whether Code Enforcer is removed from RPL and authority is granted to Hwy. Supt.
- -Amending Section IV, subsection 3 of RPL to include Hwy. Supt. Witkowski.

Clerk Eaton suggested having Town Sup. Heisler contact the Town's attorney and explain that the PB does not know how to proceed and ask for advisement. Mr. Witkowski suggests going to the other towns first.

Clerk Owens suggested contacting The Association of Towns about how to proceed. Mr. Brooks agreed said that was an excellent idea. Pam Holcomb agreed since Smithville pays to have that resource.

7:46 Adjournment Bob motioned to adjourn, Pam 2nd.

Respectfully submitted,

Lori Eaton
Planning Board Clerk

Next Planning Board Meeting is June 12, 2019