To: Members of the Town of Smithfield Town Council

From: Smithfield Financial Review Commission

Subject: Municipal Court Analysis and Recommendation

Date: November 4, 2015

In accordance with the mandate from the Smithfield Town Council relating to the institution of Municipal Court (hereinafter referred to as SMC) to be held in Town, The Smithfield Financial Review Commission (hereinafter referred to as FRC) compiled data related to this topic for use in its analysis of the advantages and disadvantages of holding a municipal court in Smithfield.

The information below is based upon information obtained from the RI Traffic Tribunal Chief Magistrate William Guglietta and Steven Sao Bento, Court Administrator .The period covered by the information is January 2012 to December 2014.

<u>Facts</u>

1. Number of Summons Count: 9,939, offenses 11,143.
2. Number of summons counts eligible for SMC disposition: 8,021.
3. Summons offenses not resulting in any revenue: 1,177 dismissed cases; 317 dismissed by police per Rule 26A.
4. Those cases dismissed with good driving record 1,651, where Smithfield currently receives and would continue to receive $35 per case of the $60 charges mandated by Statute. This amounts to $57,785.
5. Those cases guilty and guilty absentia totaled 2,245 and would be at the full amount of the ticket cost unless adjudicated for less by the judge of the SMC.
6. There were 2,624 prepaid cases.
7. Smithfield residents accounted for 15.8% of the 8,021 cases eligible for SMC. This amounts to 1,267 cases.
8. Speeding fines 1-10 MPH if by mail results in a SMC receiving a net of $56 versus net received now of $54, a difference of $2.
9. Speeding fines for 1-10 MPH if by hearing would be $81 net to SMC versus currently Smithfield receives $54, a difference of $27 per case.
10. For those cases where over 11 MPH offense the Town currently receives $166 per case whereas SMC would net $81 per case. A difference of $85.
11. Smithfield received the following amounts from RITT during 2012-2014 per Town Finance Director.

Year	Total Received	Revenue Per Summons
2012	$100,224.95	$ 27.51
2013	96,129.23	31.47
2014	105,862.41	32.68

The institution of municipal court in the Town of Smithfield would subject the Town and its employees to considerable additional tasks and precautions, including, but not limited to:

Accounting and Controls

a) Collection of money requires individual with no other Town duties so as to segregate duties.

b) Reconciliation of amounts received from offenders versus the amount due to the SMC (accounts receivable).

c) Counterfeit cash issues.

d) Embezzlement issues (See attached articles).

e) Coordination with RI Division of Motor Vehicles to correctly release auto registrations and licenses.

f) Record retention issues. The Town would need sufficient space to store records for indefinite period of time for legal and other purposes.

g) Need separation of duties; cash collections, reconciliations, deposits (need police escort), reconciliation of effort with results.

Security matters

a) Numerous individuals with diverse backgrounds moving through Town Hall:

- We do not know who these people are.
- Unlike RITT and State Courts, people with traffic violations could be violent criminals and or gang members. RITT has this problem and enjoys the use of the Capitol Police.
- Security scanning equipment. Numerous weapons have been discovered by Capitol Police from people entering the RITT. SMC would need some type of security system to prevent weapons from entering the building, not just the court. Town employees would be put in dangerous situations. SPD cannot police this.

Interpreter

a) Requires interpreter for non-English speaking people.

- Constitutional concerns
- Other legal issues
- Very expensive.

Other matters

a) Problems with Police not writing tickets due to union negotiation issues.

b) For cases where SMC cannot adjudicate the case, Smithfield does not receive ANY money for the case from RITI where RITI holds the hearing.

c) SMC cannot charge any more money than the RITI would charge,-illegal to do so.

d) The amount of money the State receives never changes regardless of the amount for which the **S**MC Judge adjudicates case.

e) Magistrate has power to terminate the SMC should the court not follow the rules promulgated by the RITT.

f) Lack of sufficient internal controls INVITES opportunity for theft.

g) Many issues with partial payment accounts.

Summary

The SMC analysis is not just a fiscal one. It requires careful consideration of the need for security systems, proper security personnel, collections and reconciliation personnel, separation of these individuals reporting to Town management.

Careful consideration needs to be given to the tangible and intangible costs of instituting a SMC. These would include, but not be limited to, judge salary, clerks, bookkeepers separate from town employees, security system and personnel costs, accounting systems and personnel, etc.

Some have suggested a partnership with Johnston MC for the purpose of hearings, etc. The issue is that if stopped in Smithfield, confusion would result from having to report to a different jurisdiction. Also, certainly Johnston would impose some type of cost to Smithfield for their services. Further, what judge would adjudicate the Smithfield cases? Would our police then need to report to Johnston MC and under what jurisdiction does that case then fall? Who would collect the money and control the accounts receivable, Smithfield revenues due, registration and license issues and a host of other concerns that must be addressed.

Recommendation

Based upon the extent of initial security costs, the ongoing accounting and control issues of instituting the Smithfield Municipal Court, annual budgetary process, potential financial fraud issues raised and the fact that Smithfield currently receives an average of $100,739 per year without its own Municipal Court, the Smithfield Financial Review Commission does not recommend allocating resources for the institution of a municipal court in the Town.

Respectfully submitted,

Smithfield Financial Review Commission
Kenneth J. Sousa, PhD, Chairperson
Joseph Passaretti, CPA, Vice-Chairperson
Roger Warren, Secretary
Michael Iannotti
Mirek Kula
John Van Luling