Town of Southern Shores

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Town of Southern Shores
Recessed Council Meeting
July 15, 2008
8:00 AM.-Pitts Center

Corrected

Minutes

The Southern Shores Town Council met on July 15, 2008 at the Pitts Center.

The following Council Members were present: Mayor Don Smith, Brian McDonald, Jodi Hess, Kevin Stroud and Jim Pfizenmayer.

Also present were: Charles Read, Town Manager, Carrie Gordin, Town Clerk and Ben Gallop, Town Attorney.

Mayor Smith reconvened the meeting from July 7, 2008 to order at 8:00 a. m.

He stated the purpose of the meeting is to continue discussion on the cut-through traffic on S. Dogwood Trail. He stated there will be a closed session following the meeting on a personnel matter and the Town Manager has some items to be discussed. He stated Council will open public comment at the end of the meeting.

The Town Manager stated John Leidy, Town Attorney, has given the go-ahead to begin a letter campaign to our Raleigh representatives on our canal dredging project. He stated the citizens could be reached through the broadcast email and he suggested providing a post card to them that could be sent.

Council Member Hess stated it was her understanding that we should be doing what is needed to set up the meeting with the fourteen agencies. She drafted a letter but found it to be difficult and she isn't sure what it is we want our citizens to do.

The Town Manager stated he would like to see a multitude of postcards sent to show there is support from the citizens.

Council Member Stroud stated following the meeting that he attended in Raleigh with Senator Basnight's Director of Special Projects it didn't seem like he supported holding such a meeting and it has been two months and nothing has been done.

Council Member Hess stated she has some ideas that could be used in the letter or post card. The Town Manager stated the meeting should be held and he will contact Senator Basnight's Chief of Staff today.

The Town Manager reported the appointment to the Shoreline Management Commission does need to be a council member to replace Mayor Smith.

Mayor Smith moved to appoint Council Member Hess as the town's representative to the Shoreline Management Commission. Council Member McDonald seconded.

The motion passed with Mayor Smith and Council Members McDonald, Hess, Pfizenmayer and Stroud voting aye; no council Member voting no; and no council Member absent.

The Town Manager requested a council member be on the Capital Improvement Plan (CIP) task force. Council Member Pfizenmayer volunteered. Council unanimously agreed.

Mayor Smith began the discussion on the cut-though traffic issue and the proposed draft ordinance prepared by Ben Gallop.

Mr. Gallop stated there are two changes that need to be made under Part I. in paragraph 1, last sentence to delete North Carolina Highway 12 to read northern boundary of the town and to add a sentence as paragraph 3 to read: Summer months between Memorial Day to Labor Day.

Mayor Smith read Section 5-88 and included the changes as proposed.

Council Member McDonald stated he does not see assigned a specific penalty if there is a violation he asked it is enforceable. The Town Attorney stated most town ordinances are not specific in the ordinance regarding penalties there is a general penalty section in the Town Code. He stated there are two ways to prove there is a violation (1) is to follow someone through town and (2) or if an officer pulled someone over and asked where did you come from and where are you going.

Mayor Smith asked if a local worker living in Kitty Hawk and comes through the town on the weekend to clean pools, for instance, they would be impacted and could potentially get a ticket. He feels this will create more problems than needed and Duck and Kitty Hawk might try to keep us from cutting through their town. It would be easy to pass this and not enforce it but he won't support this. He thinks there are things that can be done such as placing signs that read speed limits strictly enforced and placing signs no through traffic and posting an officer or a car in certain areas and should be given a chance. He stated he has to cut through the town on the weekends to get to Food Lion. He stated we live in a tourist area and we have to deal with it, it is only ten-twelve weekends a year. He doesn't feel this ordinance is a good solution.

Council Member Pfizenmayer stated he talked to the police over the weekend and they parked a car on S. Dogwood and at the Dick White Bridge and they did a great job. He stated the majority of the traffic did follow the signs and some residents received tickets. He stated the speed limit needs to be controlled and S. Dogwood and it would be difficult to have a path. He suggests enforcing what we have it is only for a few weeks out of the year. He doesn't support stopping people to ask where they are going and putting ordinances on the books they we aren't going to enforce. He doesn't think this ordinance is the answer.

Council Member McDonald asked if additional funding is provided to the police department to have an officer patrolling on S. Dogwood Trail would this help to heavily enforce the speeders.

The Town Manager stated the ordinance drafted is a good document but some additional time is needed to discuss how it could be enforced. He would like to see how the stepped-up enforcement and the signs work over the next several weeks. He stated it will affect our neighbors as well has our citizens. He doesn't want to see our police department to be perceived as being unfair and following people up and down the street is not an effective way to use their time. He supports the police department receiving additional funds as needed.

Council Member Stroud stated this has been an issue every year and is getting worse and worse and nothing has been done for the past five to six years. He stated it has been learned that the Town would not lose Powell Bill money. He stated many people spoke at the last meeting; the room was full, asking that something be done. He doesn't believe that this ordinance puts the police department in an unfair situation. He stated in order to put up no through traffic signs we need to pass an ordinance.

He wants the cut-though traffic to stop and Council is not willing to pass the ordinance. He stated pass the ordinance as written and then figure out how to enforce it. He stated the roads are not built to have this amount of traffic. He stated he wants to post signs to read NO Cut Through Traffic and see how that works, then park an unmanned police car on S. Dogwood Trail and then put an officer in the car to see how that works to deter traffic. He has never said he would want to put an officer in an unfair situation. He stated he is asking for an ordinance that will give the officer teeth to enforce it. He stated recently the Mayor Smith wanted to remove an ordinance on the books because it wasn't being enforced but it is there to allow the officer to enforce it if needed. He stated he doesn't live on S. Dogwood but he would like to see something done.

Mayor Smith responded to Council Member Stroud by saying you can't compare the issue of the dog ordinance with no through traffic. He supports picking up dog feces on the beach but he does not support the ordinance of picking up after your dog in the woods when other animals cats, deer etc. can go wherever. He has always been against that part of the ordinance. He stated what you are saying that business people in the other towns can't come through the town or they are to sit in weekend traffic but we aren't going to enforce it. He stated the tourist will know it isn't going to be enforced. He stated there are twenty-five hundred people living in town and only twelve people spoke and he doesn't think we should have a knee-jerk reaction to a few people.

Council Member Stroud stated the reason only a few people spoke is because the rest of the people wanted to hear what is happening but they have been waiting for years and nothing has been done. He stated if the ordinance is passed then the officers have teeth to enforce it just like the ordinance that says dog feces is to be picked up. He stated the only reason nothing has been done is because it was thought the Powell Bill funds would be lost.

Chief Kole stated his department would not be put in an unfair situation they will enforce it.

Council Member Stroud stated by having a traffic stop it won't affect residents when they are asked where are you going and they give their address. Chief Kole stated they will show license.

Council Member Hess stated it will affect residents who live on NC12 and now NCDOT is holding a traffic study again. She stated some of the reasons when discussed five years ago was for the very reasons talked about today. She stated it wasn't the only reason that we would lose Powell Bill funds. She stated posting these signs will not stop the traffic. She stated we were to have three things today for discussion. We were to have statistics, a letter from DOT stating we won't lose Powell Bill funds and to have an ordinance for consideration.

The Town Attorney stated in talking with the Powell Bill representative there appeared to be a misinterpretations of terms by using the word "closed" and what is required to be a Powell Bill street is a road open to the general public at all times. Limiting through traffic is not closing the road. The placement of a barricade would only cause you to lose funds for that portion of a road.

Council Member McDonald stated he heard from the citizens their concern is for safety.

Council Member Stroud stated with volume you have speeding cut down the volume.

Council Member Pfizenmayer stated the traffic light allows about 15 cars to get through. Reduce the speed to 15 mph. He stated there is no way a path could be placed there without being costly and people would lose 15' of right-of-way frontage and the ordinance is not going to help with the safety issue.

Geri Sullivan stated DOT is thinking about widening NC12 again and the Town had support of all the other towns and the counties to support the building of the bridge.

She asked are we looking at being a gated community. She has a large amount of data beginning in 2001. She asked how many cars are actually cutting through that are tourist or is it locals going through town or going to Duck.

Carter Jones stated put up a sign that reads Local Traffic Only.

Council Member McDonald addressed the ordinance and stated if approved this means he is forced to break the law or he is not allowed to drive through his town and he doesn't support that.

The Town Attorney stated the Town can't prevent Currituck or out-of-state people from coming into town unless you possibly used a permit process. He explained to use Local Traffic Only does not apply to people it applies to a place. He stated the ordinance is written as it would apply to Local Traffic Only.

Council Member Hess asked if the Traffic Map could be amended by placing a sign but without approving this ordinance. The Town Attorney stated he would look into it.

The Town Manager stated he has authority, by ordinance, to post informational signs but we aren't sure this sign is a traffic control device or an information sign.

Council Member McDonald stated put up speed limit strictly enforced signs and give tickets if they are one mile over the speed limit.

[Clerk's Note: A copy of the proposed ordinance amending Section 5-88 of the Town Code is hereby attached as Exhibit A.]

Public Comment

Geri Sullivan, 31 10th Ave., stated she agrees traffic is a problem she has had her mail box knocked down, seen people using the bathroom, we live in a tourist community and they keep our taxes down. Have some patience and don't turn our town into a community that no one wants to come to.

Ursula Bateman, 360 Sea Oats Trail, stated she lives on the Duck border and sees all the traffic. She stated when she built her house she knew traffic would be a problem but we are only impacted 12 weeks out of the year. She stated all the town is a problem. Lower the speed limit if needed and don't make it a gated community and don't get the other towns angry with us.

Al Ewerling, 187 S. Dogwood Trail, he lives at the Dogwood (s) intersection. He has watched this town over the past four years with other ordinances i.e. home occupation where Council tried to prevent our business owners from having their equipment on their property. We are not working for the residents. He stated traffic has increased over the years and it needs to be stopped. Something has to be put on the books and if we don't we are right back where we were 5-6 years ago. We are going to be Virginia Beach all over again, Dogwood Trail will be another NC12 if something is not done. Residents need to take back their town.

Carter Jones, 142 S. Dogwood Trail, stated there is an issue. He can't let his kid ride her bike on the weekends. Reduce the speed limit, put up signs local traffic only or no through traffic something needs to be done.

Bill Owen, 65 S. Dogwood Trail, stated he is a professional land surveyor by trade and S. Dogwood is acting as a collector street by definition except it has driveways. He stated the discussion regarding the Woods Road in Kitty Hawk it is a DOT Road and the two streets can't be compared.

He stated S. Dogwood Trail is a health, safety and welfare issue. He stated there is a 60' right-of-way and trees can be taken down if needed to make the street safe. He doesn't even want his thirteen-year son on

that street because it is not safe. He stated there is a blind curve that is dangerous. He stated any school day is more dangerous than traffic on the weekend. He stated the street needs traffic control and there are things that can be done but it will cost money but there needs to be something done for safety.

David Sanders, 158 Beech Tree Trail, stated he uses the cut-through and residents also use the cut-through. He asked if Council takes action to consider the people in Chicahauk when creating an ordinance or putting up signs. He stated in the past Chicahauk people petitioned Council requesting that Council do something on the same issue. He stated people will use Juniper Trail if it is not included.

Ursula Bateman asked if people leaving from NC12 are being considered. Council Member Stroud stated the ordinances deals with this traffic also.

Council Member Stroud moved to adopt the ordinance with the amendments made by the Town Attorney. Hearing no second the motion failed.

Council Member McDonald stated he agrees with the need to reduce traffic to make it safer. He supports putting up no through traffic signs if it doesn't require an ordinance and putting signs up that read speed limit strictly enforced. He stated he supports having additional officers on the weekends.

The Town Manager stated he will follow up on the placement of signage when he hears from the attorney. Staff is getting prices on signs.

Council Member McDonald asked if all the different signs at S. Dogwood Trail could be consolidated in some way. The Town Manager stated it will be looked into.

Council Member Hess would like to continue working with the GPS system on any changes that are made. The Town Manager stated once there is an executive directive approved he would contact them.

Chief Kole stated speeding isn't the problem. He stated the average speed is 28 mph and mostly it is locals speeding. He stated he asks his officers to use common sense and discretion. He feels a no left turn sign is the answer and if the Town shows they are trying to do something maybe DOT would be willing to do something.

The Town Attorney stated Council has the authority to raise and lower the speed limit during a seasonal period.

Mayor Smith asked Chief Kole if lowering the speed limit on S. Dogwood from Memorial Day to Labor Day would help. Chief Kole stated speeding isn't the problem the road is the problem as well as other streets in Town.

Council Member Pfizenmayer stated this is an issue to be discussed during long range planning and if the street needs to be improved with paths etc.

Bill Owen stated he was a member of the Long Range Planning Committee in 1995 and it was discussed to remove trees on S. Dogwood but nothing has been done. He stated there is no place to pull off in an emergency. Council's concerns should be the health, welfare and safety of the people.

Chief Kole reported there were 20,000 cars on NC12 on the 4th of July and 2,200 cars on S. Dogwood Trail Thursday-Saturday two weekends before that.

The Town Manager stated the attorney will check to see if no through traffic signs are considered as informational or as traffic control devices and once defined we will act on that. The officers would use saturation patrols and this will show that the Town is doing something. We then can go to DOT to ask them to consider installing a no left turn sign with the exception for emergency vehicles.

Hearing no other business Mayor Smith called for a five-minute recess and then stated Council will go into closed session to discuss a personnel issue under NCGS 143.318.11 (a) (6). Council Member McDonald seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, Stroud, and Pfizenmayer voting aye; no council member voting no and no council member absent.

Mayor Smith moved to go into closed session at approximately 10 p.m. Council Member McDonald seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, Stroud, and Pfizenmayer voting aye; no council member voting no and no council member absent.

Mayor Smith moved to go out of closed session at 10:30 p.m. Council Member McDonald seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, Stroud, and Pfizenmayer voting aye; no council member voting no and no council member absent.

Mayor Smith moved and Council Member Pfizenmayer seconded to return to open meeting. The motion passed with Mayor Smith and Council Members McDonald, Hess, Stroud, and Pfizenmayer voting aye; no council member voting no and no council member absent.

Council Member Stroud expressed concerns about the length of time on red light at NC 12 and East Dogwood. He was advised that this was controlled by DOT.

Hearing no other business Council Member Hess moved to adjourn the meeting at 10:35 p.m. Council Member Pfizenmayer seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, Stroud, and Pfizenmayer voting aye; no council member voting no and no council member absent.

ATTEST:

TOWN OF SOUTHERN SHORES SEAL N.C.

Don Smith, Mayor

Respectfully submitted:

Carrie Gordin, Town Clerk

Exhibit A-Failed (Includes amended language)

AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA

WHEREAS, the Town of Southern Shores (the "Town") may enact ordinances to protect the health, safety, and welfare of its citizens under North Carolina General Statutes § 160A-174; and

WHEREAS, the Town has general authority and control over and has the power to regulate the use of all public streets, sidewalks, alleys, bridges and other ways of passage within its corporate limits and may enact ordinances regulating the same under North Carolina General Statutes § 160A-296; and

WHEREAS, the Town Council finds that the volume of traffic traveling through the Town increases greatly during the summer vacation season beginning approximately on Memorial Day and ending approximately on Labor Day; and

WHEREAS, the Town Council further finds that a significant amount of the increased traffic travels from North Carolina Highway 158 along the southern border of the Town northward along residential streets, including South Dogwood Trail and Juniper Trail, to North Carolina Highway 12 to reach the northern border of the Town; and

WHEREAS, the Town Council further finds that a significant amount of the increased traffic also travels from the northern border of the Town to the southern border of the Town at North Carolina Highway 158 by traveling southward upon residential streets including South Dogwood Trail and Juniper Trail; and

WHEREAS, the Town Council further finds that the residential streets used for travel through the Town between the northern and southern borders of the Town were not constructed in such a manner so as to be able to safely and efficiently support the increased traffic volume due to their narrow widths, low speed limits the use of such streets by the citizens of the Town and their children for recreational purposes such as walking and bicycling; and

WHEREAS, the Town Council further finds that the residential streets used for travel through the Town between the northern and southern borders of the Town were not constructed to handle the increasing amount of traffic and that such traffic will cause early deterioration of the roadway and increased maintenance costs to the Town; and

WHEREAS, the Town Council further finds that North Carolina Highway 12 is the most suitable means of motor vehicle travel through the Town from North Carolina Highway 158 to the northern border of the Town and vice versa; and

WHEREAS, the Town Council further finds that regulation of the traffic traveling between the northern border of the Town and North Carolina Highway 158 will increase the safety of the citizens of the Town and decrease the deterioration of the residential streets commonly used for travel through the Town; and

WHEREAS, the Town Council finds that it is in the interest of the public's health, safety, morals and general welfare that the Town of Southern Shores's Code of Ordinances be amended as stated below.

NOW, THEREFORE, BE IT ORDAINED by the Town Council for the Town of Southern Shores, North Carolina that the Code of Ordinances shall be amended as follows:

PART I. For the purposes of this Ordinance, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Language of the adopted Town Code shall be show in italics (*italics*).

PART I. That **Section 5-88 be added to the Code of Ordinances** as follows:

Section 5-88. Through Traffic to Use N.C. Highway 12

No person shall operate a motor vehicle within the corporate limits of the Town to travel or with the intent to travel through the Town from North Carolina Highway 158 to any location north of the northern border of the Town unless such travel is wholly upon North Carolina Highway 12. The same shall apply to travel from north of the Town's northern border to North Carolina Highway 158. This section shall not apply to any person who makes a bona fide stop at a residence or business while traveling within the corporate limits of the Town between North Carolina Highway 158 and the Town's northern border.

This section shall not be construed to limit the travel of authorized emergency vehicles, including those driven by volunteer firefighters or EMS workers acting pursuant to their official duties, or Town owned vehicles being used by a Town employee acting within the scope of their employment or official capacity. This section shall remain subject to the provisions of Section 5-4 of this chapter and may be modified or temporarily repealed by the mayor or his authorized agent whenever a state of emergency is declared pursuant to Chapter 12, Section 12-13 of this Code.

This section shall only be in affect during the summer months between Memorial Day and Labor day of each year.

PART II. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

PART III. If any words, phrases, language, section or other portions of this Ordinance is held invalid by a court of competent jurisdiction, then all remaining words, phrases, language, sections or other portions of this Ordinance shall remain in full force and effect.

PART IV. This ordinance shall be in full force and effect from and after the ____ day of _____, 2008.

_____
Mayor

ATTEST:

_____
Town Clerk

APPROVED AS TO FORM:

_____
Town Attorney

Date adopted:_____
Motion to adopt by Commissioner _____
Motion seconded by Commissioner _____
Vote: _____ AYES _____ NAYS