



# Town of Southern Shores

**"A Town of Volunteers"**

6 Skyline Road, Southern Shores, NC 27949

Telephone: (252) 261-2394 Fax: (252) 261-0452

Web Site: [southernshores.org](http://southernshores.org)

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Special Council Meeting

August 29, 2000

9:00 a.m.-Pitts Center

1. Call meeting to order
2. Public Hearing
  - a. Proposed Amendment to the Extraterritorial Jurisdiction and Town Zoning Map
3. Consideration of amendments to the Extraterritorial Jurisdiction and Town Zoning Map.
4. Adjourn

Council Workshop to follow



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Public Hearing

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9:00 a.m.-Pitts Center

1. Mayor Sutherland called the meeting to order at 9:00 a.m.
2. Mayor Sutherland led the Pledge of Allegiance
3. Moment of Silence

Mayor Sutherland asked that a moment of silence be held for the families of Harold Via, (long time resident, original Council member, Mayor pro tem, fire chief and many other volunteer jobs), Brad Scherrin, (wood carver of the Town's seal), Phillip Brassington, (long time resident), and William Bradna, (a tourist who sustained fatal injuries while swimming near the Purple Martin access).

4. Public Hearing
  - a. Amending Extraterritorial Jurisdiction and Zoning Map

Mayor Sutherland called the public hearing to order at 9:05 a.m. He explained that upon a request from Martin's Point and many meetings, the proposed zoning amendment is to release Martin's Point residential zone from the Town's zoning and planning jurisdiction and they will then fall under the jurisdiction of the County. There is a 60-day time frame for the County to incorporate Martin's Point residential into Dare County zoning. It could be done sooner, however.

He explained in the text of the amendment it addresses the Outer Banks Recreational Association (OBRA), which is now Duck Woods Country Club, and that this is just an administrative correction. He explained that if the ordinance is adopted the Town would still control the planning and zoning of Martin's Point commercial zone and still have jurisdiction over the waterways as adopted in the Town's personal watercraft ordinance.

Mayor Sutherland called upon those wishing to speak at the hearing.

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Special Council Meeting  
Public Hearing  
August 29, 2000

Ann Kaplan of 3044 Martin's Point Road, stated that she and her family are in support of the proposed zoning amendment but feels the ordinance needs to be clearer regarding the status of the homes currently under the Town's zoning jurisdiction (see comments). She also addressed Council on another issue regarding a stop work order placed on a neighboring property by the Town Building Inspector against a retaining wall. She came before Council at the previous Council meeting and asked them to follow through in doing something.

Mayor Sutherland asked Tom White to address her remarks.

Tom White, Town Attorney, stated that the ETJ ordinance (public hearing) is not the appropriate ordinance to deal with the concerns that Mrs. Kaplan has raised (the retaining wall). He stated that the general statutes address that.

He explained that an Interlocal Agreement will be signed with the County and the Town will continue to administer all the permits that it is already involved in until they are closed. The Town also will continue to pursue any enforcement action that is in process. In order to avoid the necessity of having to change horses in mid stream and getting a different interpretation. All new enforcement and all new permits will be executed by the County and will become effective as soon as the agreement is adopted and the County is notified. The County will have a maximum of 60 days under the statute to consider the zoning in Martin's Point and to take official action to implement zoning. During that 60-day period Southern Shores zoning ordinance remains in full force and effect in Martin's Point until that action takes place.

Ms. Kaplan asked if that means the "wall" issue will never go under the County jurisdiction? Tom White explained this issue will go under the County once the current action that is in process by the Town is completed and is satisfied and resolved, the County will have jurisdiction. Mrs. Kaplan asked even if the issue goes longer than 60 days? Tom White explained that the issue would fall under the Interlocal Agreement.

Mayor Sutherland asked if anyone else wished to speak? Hearing no one he closed the public hearing at 9:15 a.m.

Mayor Sutherland made a motion to adopt the ordinance amendment as presented. Councilman Kennedy seconded. Approved unanimously.

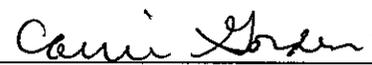
Mayor Sutherland made a motion to adopt the zoning map as presented. Councilman Kennedy seconded. Approved unanimously.

Mayor Sutherland adjourned the public hearing at 9:17 a.m.

Attest:

Respectfully submitted:

  
Mayor

  
Town Clerk

AN ORDINANCE TO AMEND THE EXTRATERRITORIAL  
JURISDICTION OF THE TOWN OF SOUTHERN SHORES  
TO DELETE CERTAIN AREAS  
(By Amending and Restating Ordinance Number 79-0006  
as amended by Ordinances of May 4, 1993 and September 22, 1999)

THAT WHEREAS the Town Council of Southern Shores by ordinance number 79-0006 on August 7, 1979 brought the properties known as the OBRA (Outer Banks Recreational Association) property and Martin's Point within its extraterritorial jurisdiction pursuant to Section 6-1 of the Town Charter and N.C.G.S. 160A-360;

AND WHEREAS the OBRA property was thereafter annexed into the Town of Southern Shores by ordinance adopted on the 5th day of May, 1981 effective June 1, 1981, and thereby became incorporated into the Town corporate limits and no longer a part of the town's extraterritorial jurisdiction;

AND WHEREAS the property known as the residential portion of Martin's Point formerly owned by P. K. Gravely or the China American Tobacco Co. (CATCO), their successors and assigns, has been requested to be excluded from the extraterritorial jurisdiction of Southern Shores and the Town Council has determined that the residential portion of Martin's Point, but excluding the commercial portion bordering U.S. Highway 158, is no longer an area of critical concern to Southern Shores;

AND WHEREAS in order to exercise police power jurisdiction authorized by other statutes, to regulate the planning and development within, and to promote the orderly use of, waters and waterways adjacent to and adjoining the Town and its extraterritorial jurisdictional areas, and to promote the health, safety and welfare of the citizens, residents and visitors to the Town, the Town Council has determined that it is necessary and prudent to amend the existing extraterritorial jurisdiction of the Town as authorized by Section 6-1 of the Town Charter and N.C.G.S. 160A-360 in order to eliminate the OBRA and residential portions of Martin's Point;

NOW THEREFORE the Town Council of the Town of Southern Shores, North Carolina does hereby amend and restate the Extraterritorial Jurisdiction Ordinance of September 22, 1999 which amended and restated Ordinance Number 79-0006 as amended on May 4, 1993 as follows:

PART I.



6016586  
Page: 1 of 6  
09/05/2000 01:01PM

BE IT ORDAINED by the Town Council of Southern Shores, North Carolina, that the following two tracts are hereby removed and deleted from the extraterritorial jurisdiction of the Town of Southern Shores: (1) the Duck Woods Golf Course Property of "OBRA" also known as the Outer Banks Recreation Association, and (2) the Martin's Point residential lots heretofore designated as the ET-1 Zoning District of Southern Shores, said tracts being described as follows:



TRACT NO. 1: OBRA: That certain parcel of land owned by the Outer Banks Recreation Association, bounded on the south by U. S. Highway #158; on the west by Dogwood Trail and Blocks 200, 201 and 202, Southern Shores; on the north by Block 118, Southern Shores and the property formerly owned by David Stick; and on the east by the property formerly owned by David Stick, the property of Kitty Hawk Land Co. Inc., and Blocks 228 and 229, Southern Shores.

TRACT NO. 2: MARTIN'S POINT. A portion of that certain tract of land formerly owned by P. K. Gravely or the China American Tobacco Co. (CATCO), their successors and assigns, bounded on the south by the Martin's Point commercial lots; on the west by Currituck Sound; on the north by Currituck Sound; and on the east by Ginguite (a/k/a Jean Guite) Creek also known as Martin's Point Creek.

PART II.

WHEREAS, there exist certain tracts of land and areas of waters bordering or adjacent to the Town of Southern Shores corporate limits;

AND, WHEREAS, for the purposes of regulating orderly growth and protection of the Town's health and welfare, it is desirable to exercise extraterritorial jurisdiction as to these three tracts pursuant to the General Statutes of North Carolina and Section 6-1 of the Charter incorporating the Town of Southern Shores.

THEREFORE, BE IT ORDAINED by the Town Council of Southern Shores, North Carolina, that the following three areas of the extraterritorial concern be included in the extraterritorial jurisdiction of the Town of Southern Shores for the planning and regulation of development pursuant to Article 19 of Chapter 160A of the North Carolina General Statutes, and other statutes providing for police power enforcement within areas of extraterritorial jurisdiction, said areas being commonly referred to as (1) The Martin's Point Commercial lands extending westward from the western corporate limits of Southern Shores along the northern right of way of highway U.S. 158 to Currituck Sound on the west and along the southern edge of the Martin's Point residential development, (2) the waters of Currituck Sound within one mile of the western corporate limits of the Town but excluding those sound waters located westward of Martin's Point, and (3) the waters of the Atlantic Ocean within one mile of the eastern corporate limits of the Town, each of which tracts is more particularly described as follows:

TRACT NO. 1: MARTIN'S POINT COMMERCIAL. All that certain tract of land located and bordered on the East by Ginguite (a/k/a Jean Guite) Creek, on the South by U.S. Highway 158, on the West by Currituck Sound, and on the North by the Martin's Point residential lots and bounded as follows: Beginning at the intersection of the North margin of the Right of Way of U.S. Highway 158, the same being the North boundary of the Town of Kitty Hawk, with the west shoreline of Ginguite Bay or Creek; thence along the northern margin of the right of way of U.S. Highway 158 South 70 deg. 03 min. 05 sec. West 1624.11 feet to the eastern shoreline of Currituck Sound; thence cornering and along the eastern shoreline of



Currituck Sound North 27 deg. 13 min. 01 sec. West 260.69 feet to a point; thence cornering and along the southern boundary of the Martin's Point residential lots North 63 deg. 24 min. 14 sec. East 187.33 feet; thence North 27 deg. 13 min. 01 sec. West 50.00 feet; thence North 64 deg. 08 min. 47 sec. East 1496.90 feet to the western shoreline of Ginguite Creek; thence cornering along the western shoreline of Ginguite Creek South 20 deg. 31 min. 20 sec. East 333.43 feet to the point of beginning.

TRACT NO. 2: GINGUITE CREEK AND CURRITUCK SOUND WATERS. All those waters lying within one mile of the western corporate limits of Southern Shores in Ginguite (a/k/a Jean Guite) Creek also known as Martin's Point Creek and Currituck Sound but excluding those sound waters located westward of Martin's Point and more particularly described as follows: Beginning at the intersection of the North margin of the right of way of U.S. Highway 158, the same being the North boundary of the Town of Kitty Hawk, with the east shoreline of Ginguite Bay or Creek the same being the western corporate limits of Southern Shores; thence along the northern margin of the right of way of U.S. Highway 158 westward to its intersection with the east shoreline of Martin's Point; thence northward along the east shoreline of Martin's Point following the meanderings of the mean high water mark to the northernmost point of Martin's Point; thence westward in Currituck Sound on a course of South 67 deg. 31 min. 23 sec. West 2358.78 feet to a point; thence cornering North 10 deg. 21 min. 11 sec. West 7670.27 feet to a point; thence cornering North 64 deg. 29 min. 04 sec. East 4994.96 feet to the northwestern corner of the Southern Shores corporate limits located at the intersection of the eastern shoreline of Currituck Sound with the southern boundary of the lands known as the H.C. Hargrave Tract; thence cornering and in a southerly direction along the western corporate limits of Southern Shores, following the meanderings thereof to a point at the intersection of the eastern shoreline of Ginguite Bay or Creek with the North margin of the right of way of U.S. Highway 158, the point of beginning.

TRACT NO 3: ATLANTIC OCEAN WATERS. All those waters lying within one mile of the eastern corporate limits of Southern Shores in the Atlantic Ocean and bounded as follows: Beginning at the southeast corner of the corporate limits of Southern Shores at the intersection of the North boundary of the Town of Kitty Hawk with the shoreline of the Atlantic Ocean; thence from the beginning point North 64 deg. 29 min. 04 sec. East, 5020.12 feet to a point; thence cornering North 25 deg. 04 min. 52 sec. West 19,617.00 feet to a point; thence cornering South 64 deg. 29 min. 04 sec. West 5020.13 feet to the northeast corner of the Southern Shores corporate limits at the intersection of the southern boundary of the lands known as the H.C. Hargrave Tract with the shoreline of the Atlantic Ocean; thence cornering and along the shoreline of the Atlantic Ocean in a southerly direction following the meanderings thereof to the point of beginning.

The above described three tracts are more particularly shown on that certain map entitled "Town of Southern Shores, Dare County, North Carolina Extraterritorial Jurisdiction Map", by Quible & Associates, P.C., dated February 2, 2000, revised July 6, 2000 and attached to this ordinance and made a part thereof.



AND BE IT FURTHER ORDAINED that the Southern Shores Planning Board proceed in conformity with the provisions of the ordinance creating said Board and the General Statutes of North Carolina to develop and recommend to the Town Council proposals relative to the application of zoning and land subdivision regulations in each of the extraterritorial areas.

PART III.

Chapter 7, of the Southern Shores Code of Ordinances Section 7-2. **Area in extraterritorial jurisdiction**, is hereby amended to read as follows:

**Sec. 7-2. Area in extraterritorial jurisdiction.**

The following areas adjacent to the Town shall be included in the extraterritorial jurisdiction of the Town for the planning and regulation of development pursuant to Article 19 of Chapter 160A of the North Carolina General Statutes, said areas being described as follows:

TRACT NO. 1: MARTIN'S POINT COMMERCIAL. All that certain tract of land located and bordered on the East by Ginguite (a/k/a Jean Guite) Creek, on the South by U.S. Highway 158, on the West by Currituck Sound, and on the North by the Martin's Point residential lots and bounded as follows: Beginning at the intersection of the North margin of the Right of Way of U.S. Highway 158, the same being the North boundary of the Town of Kitty Hawk, with the west shoreline of Ginguite Bay or Creek; thence along the northern margin of the right of way of U.S. Highway 158 South 70 deg. 03 min. 05 sec. West 1624.11 feet to the eastern shoreline of Currituck Sound; thence cornering and along the eastern shoreline of Currituck Sound North 27 deg. 13 min. 01 sec. West 260.69 feet to a point; thence cornering and along the southern boundary of the Martin's Point residential lots North 63 deg. 24 min. 14 sec. East 187.33 feet; thence North 27 deg. 13 min. 01 sec. West 50.00 feet; thence North 64 deg. 08 min. 47 sec. East 1496.90 feet to the western shoreline of Ginguite Creek; thence cornering along the western shoreline of Ginguite Creek South 20 deg. 31 min. 20 sec. East 333.43 feet to the point of beginning.

TRACT NO. 2: CURRITUCK SOUND WATERS. All those waters lying within one mile of the western corporate limits of Southern Shores in Ginguite (a/k/a Jean Guite) Creek also known as Martin's Point Creek and Currituck Sound but excluding those sound waters located westward of Martin's Point and more particularly described as follows: Beginning at the intersection of the North margin of the right of way of U.S. Highway 158, the same being the North boundary of the Town of Kitty Hawk, with the east shoreline of Ginguite Bay or Creek the same being the western corporate limits of Southern Shores; thence along the northern margin of the right of way of U.S. Highway 158 westward to its intersection with the east shoreline of Martin's Point; thence northward along the east shoreline of Martin's Point following the meanderings of the mean high



water mark to the northernmost point of Martin's Point; thence westward in Currituck Sound on a course of South 67 deg. 31 min. 23 sec. West 2358.78 feet to a point; thence cornering North 10 deg. 21 min. 11 sec. West 7670.27 feet to a point; thence cornering North 64 deg. 29 min. 04 sec. East 4994.96 feet to the northwestern corner of the Southern Shores corporate limits located at the intersection of the eastern shoreline of Currituck Sound with the southern boundary of the lands known as the H.C. Hargrave Tract; thence cornering and in a southerly direction along the western corporate limits of Southern Shores, following the meanderings thereof to a point at the intersection of the eastern shoreline of Ginguite Bay or Creek with the North margin of the right of way of U.S. Highway 158, the point of beginning.

TRACT NO 3: ATLANTIC OCEAN WATERS. All those waters lying within one mile of the eastern corporate limits of Southern Shores in the Atlantic Ocean and bounded as follows: Beginning at the southeast corner of the corporate limits of Southern Shores at the intersection of the North boundary of the Town of Kitty Hawk with the shoreline of the Atlantic Ocean; thence from the beginning point North 64 deg. 29 min. 04 sec. East, 5020.12 feet to a point; thence cornering North 25 deg. 04 min. 52 sec. West 19,617.00 feet to a point; thence cornering South 64 deg. 29 min. 04 sec. West 5020.13 feet to the northeast corner of the Southern Shores corporate limits at the intersection of the southern boundary of the lands known as the H.C. Hargrave Tract with the shoreline of the Atlantic Ocean; thence cornering and along the shoreline of the Atlantic Ocean in a southerly direction following the meanderings thereof to the point of beginning.

PART IV.

All ordinances or parts of ordinances in conflict with this ordinance are hereby amended to conform to this ordinance.

Adopted this the 29<sup>TH</sup> day of AUGUST, 2000

*Paul Sutherland*

Paul Sutherland, Mayor

ATTEST:

*Carrie Gordin*

Carrie Gordin, Town Clerk

Approved as to form:

*Thomas L. White, Jr.*

Thomas L. White, Jr., Town Attorney



I, Carrie Gordin , Clerk of the Town of Southern Shores, North Carolina, do hereby certify that the foregoing is a true and correct copy of an ordinance entitled " An Ordinance To Extend The Extraterritorial Jurisdiction Of The Town Of Southern Shores " <sup>Special</sup> ~~regular~~ adopted by the Town Council of the Town of Southern Shores, North Carolina in a duly constituted meeting of said Board held on 29 August, 2000, at which a quorum was present, and as appears of record in the minutes of the said Board duly recorded in Minute Book No. 71.

WITNESS my hand and official seal of the Town of Southern Shores, North Carolina this 29<sup>th</sup> day of August, 2000.

Carrie Gordin  
Carrie Gordin, Town Clerk

STATE OF NORTH CAROLINA  
COUNTY OF DARE

I, MEREDITH A. SMITH, a Notary Public of the County and State aforesaid, certify that Carrie Gordin, Town Clerk for the Town of Southern Shores, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 29<sup>th</sup> day of ~~September~~ August, 2000.

Meredith A. Smith  
Notary Public

My Commission Expires: 3/1/03



NORTH CAROLINA, DARE COUNTY

The foregoing Certificate of Meredith A. Smith, a Notary Public of Dare County, North Carolina is certified to be correct.

This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Barbara M. Gray      Vanzella McMullan  
REGISTER OF DEEDS      ASSISTANT REGISTER OF DEEDS



29 AUGUST 2000

**CPOA/TOWN ISSUES**

**\*\* SIDEWALKS ALONG CHICAHAWK TRAIL AND TRINITIE TRAIL**

Over the period of the last 5 years the CPOA has had erected sidewalks along Chichahauk Trail and Trinitie Trail. These sidewalks have been funded by the CPOA and are on the Town's easement along the roads.

The sidewalks have been maintained by the CPOA utilizing the services of Jimmy Hewett. He has mowed the grasses between the sidewalk and the roadway. On occasion he has trimmed bush growth where necessary to keep the walkways cleared.

Since the installation of the sidewalks there have been three occasions where sidewalks have been broken by heavy vehicles during construction on the lots. ( Lot 547 - Lot 564 & Lot 368 ). The procedure for correction of these breakages was for the President, CPOA to send a letter notifying the property owner of the breakage and stating that repairs need to be made by them and stating that a reply by them be made by a date certain.

The above procedure questioned the enforcement of repairs by the CPOA in that while the CPOA built the sidewalks they are on the Town's easement. Accordingly, advice was requested from the Town's Manager and the Town's Building Inspector. Therefore, the current procedure is for the President CPOA to send a letter to the Lot owner with a copy to the Building Inspector for follow-up.

The question to be addressed now is for the long-term maintenance of the sidewalks - the CPOA or the Town of Southern Shores?

**\*\* Issue #2 BIKE PATH**

The CPOA is proposing to construct a Bike Path / Walking path between the west end of Chichahauk Trail and the north end of Sea Oats Lane. All of this construction will be accomplished on CPOA common property. Price estimates are still pending.

**\*\* Issue #3 ROADSIDE DISTRUCTION**

Vehicles are making "U" Turns from the roadside parking area near the corner of Chichahauk Trail and Route 12. The result is that the vehicles are going off the road on the north side of Chichahauk and grinding up the

roadside and possibly running up onto the sidewalk.

**Recommend that this situation be reviewed with the possible solution of placing wooden barriers similar top those at the corner of Chicahauk Trail and Spindrifft Trail.**

**\*\* CPOA CAPITAL IMPROVEMENTS RECAP**

**Remove old and install new playground equipment on the play field near the tennis courts on Trinitie Trail.**

**Sidewalks - Chicahauk Trail and Trinitie Trail (1997-98)**

**Bike path / walking path Chicahauk Trail And Sea Oats Lane (2000)**

**Sidewalks - Spindrifft Trail - (2001/2002 - 2003)**

8/29/00

My name is Ann Kaplan. My husband, Murray Kaplan, myself and our daughter, Becky, live at 3044 Martin's Point Road in Martin's Point. I am here to testify in support of the proposal. However, I do not believe that the proposal as currently drafted satisfies some very serious issues.

Presently, there are 16 homes under construction in Martin's Point. These homes are proceeding under a building permit that was issued by the town of Southern Shores and subject to regular inspections. All of these homes should continue to be covered under the town's jurisdiction through the date of certificate of occupancy. This issue is very unclear in the proposal now before you.

Additionally, there are currently 6 homes pending before the Martin's Point Architecture Review Board. These homes are presumably designed under the current town ordinances. To change the jurisdiction and have these people subject to new rules and perhaps need to redesign their home would be undue hardship.

Lastly, and most importantly to us, my home sits next door to a property that is currently subject to a stop work order issued by the Town. I look out my window at a 7 foot 5 inch retaining wall along the sound and along my lot line. What is built or currently being built, is not what was authorized by the Martin's Point Architecture Review Board, by Martin's Point Homeowners Association Board of Directors, and most importantly, by the Town of Southern Shores.

There is no one who sees this wall who does not find it objectionable. I am fearful that your stop work order will be ignored. I am fearful that my family will continue to be impacted by the wall. I am fearful that you will adopt this proposal to remove Martin's Point from ETJ coverage and all of your enforcement actions to protect the rules and regulations will be useless.

I ask that your proposal be modified to grandfather and to continue your jurisdiction over the lot next to me. Please do not allow the monster wall to continue or the situation that I now confront to be ignored.

Thank you for the opportunity to be heard.