

Southern Shores Town Council  
Town of Southern Shores, North Carolina

Regular Meeting  
January 6, 2004

MINUTES

The Southern Shores Town Council met on January 6, 2004, in the Pitts Center, Southern Shores Town Hall Complex, Southern Shores, North Carolina. The following members were present:

Mayor Paul Sutherland  
Council Members: Hal Denny, Dan Shields, David Sanders, and Jodi Hess  
Carl Classen, Town Manager  
Ike McRee, Town Attorney  
Carrie Gordin, Town Clerk

**Opening**

Mayor Sutherland called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance. Mayor Sutherland asked that moment of silence be held for the families' loss of Bob Deacon, Gray Griggs, and Gertrude Burns, also for the armed forces and those not in uniform that protect our freedom that we enjoy tonight.

Mayor Sutherland made a motion to amend the agenda to include an additional item (17) Closed Session to discuss an attorney/client matter. All agreed. The motion passed with Council Members Denny, Hess, Sanders, Shields and Mayor Sutherland voting aye; no Council Member voting no; and no Council Members absent or not voting.

Council Member Denny moved to adopt the minutes for the Council meeting of December 2, 2003 as presented. Council Member Shields seconded. The motion passed with Council Members Denny, Hess, Sanders, Shields and Mayor Sutherland voting aye; no Council Member voting no; and no Council Members absent or not voting.

Mayor Sutherland stated that it is always a privilege to recognize the people in Town.

Council presented Jim Morrison, SSVFD, with a certificate of appreciation for the time he spent applying for grants of which \$95,000 was received to purchase needed equipment for the fire department.

Council also recognized Mike Hejduk and Pat Forrester, Building Inspections Department with certificates for the work they have been involved in on the Floodplain Management Program. The Town of Southern Shores was mentioned in a national publication as one of twelve towns as a leader in floodplain management.

## **Reports**

Bob Palombo reported that the Mid-Currituck Sound Bridge Campaign is moving forward and have 17,230 signatures on the petition and over 900 members.

Fire Chief Bakken presented monthly fire department report. He reported that the reflective address sign program is a success and that 282 address signs have been posted. He requested that everyone participate. He also stated that the fire department is looking for a few good men and women.

## **Public Hearings**

### An Ordinance to Amend the Official Zoning Map – South Fire Station/Public Works Building

Mayor Sutherland called the public hearing to order on consideration of a draft zoning ordinance to amend Town map-Rezone Southern Shores Fire Department/Town Public Works Building property (15 S. Dogwood Trail) from RS-1, Single Family Residential District to R-1 Low Density Residential District.

Mayor Sutherland stated that the purpose of the amendment is to allow a second telecommunication tower to be constructed at the fire department which is also used as the Town's Emergency Operations Center.

Mayor Sutherland asked if there is anyone wishing to speak on this subject. Hearing none, he closed the public hearing.

Mayor Sutherland made a motion to adopt the ordinance as presented. Council Member Shields seconded. The motion passed with Council Members Denny, Hess, Sanders, Shields and Mayor Sutherland voting aye; no Council Member voting no; and no Council Members absent or not voting.

### An Ordinance Relating to Fire Hydrant Clearance

Mayor Sutherland called a public hearing to order on consideration of an ordinance to amend Chapter 6 of the Town Code regarding radius clearance around Town fire hydrants. He stated that the purpose of the ordinance is to allow ample radius clearance around fire hydrants

Mayor Sutherland asked if there is anyone wishing to speak on this subject. Hearing none, he closed the public hearing.

Mayor Sutherland made a motion to adopt the ordinance as presented. Council Member Hess seconded. The motion passed with Council Members Denny, Hess, Sanders, Shields and Mayor Sutherland voting aye; no Council Member voting no; and no Council members absent or not voting.

### **Old Business**

#### Mallard Cove - Acceptance of private streets

Mr. Classen explained that Council directed staff to prepare a sample policy for the acceptance of streets into the Town System. This direction followed investigation by the Council that rights-of-way (improved or not) having an average width of sixteen (16) are eligible for inclusion in Powell Bill funding. It was discussed using the NCDOT standards for construction of subdivision streets as the basis for accepting improved streets into the Town System and whether streets should be completed or if existing streets with a cash contribution or bond to upgrade the streets would be acceptable.

Mr. Classen recommends the following policy for accepting private streets into the Town System.

- 1) *The owner of record as shown in the Dare County Registry of a private street and right-of-way may apply in writing to the Town Manager for inclusion of a private street or right-of-way into the Town System. Such application shall include a map prepared by a certified licensed surveyor registered in North Carolina of the private street and right-of-way, the location of all property lines intersecting with the private street and right-of-way, and on the map the names of all owners of record as shown in the Dare County Registry of the lots along private street and right-of-way.*
- 2) *The application shall include the name of any agent representing the applicant, and such agency appointment shall be signed by the applicant whose signature shall be notarized. The Town Manager shall advise the applicant of the number of applications and maps required, but the number shall be not less than seven.*
- 3) *Only roads in a condition consistent with the latest edition of NCDOT Subdivision Roads Minimum Construction Standards shall be considered for inclusion in the Town System. A one-way road and right-of-way may considered for inclusion if the road and right-of-way are improved to NCDOT Subdivision Roads Minimum Construction Standards except that the pavement are shall be not less than twelve feet, the shoulder area on each side of the pavement area shall be not less than three feet, and the ditch area having access to adequate storm water drainage shall be not less than five feet wide.*

- 4) *If the applications and maps are received on or before the first Tuesday of the month, the town manager shall forward copies of the application and maps to the Town Clerk who shall place the matter on the agenda of the Town Council during their next*
- 5) *Workshop meeting that is typically held on the last Tuesday of the month. The applicant or his agent shall appear at the meeting to answer any questions from the Town Council. The Town Council shall, within 45 days of the first meeting at which the application is considered, act on the application unless Mayor and the applicant (or agent) agrees in writing for one additional 45-day review period by the Town Council.*
- 6) *If the Town Council acts to allow acceptance of the road and right-of-way into the Town System, the applicant shall have one hundred eighty (180) days from the date of the Council approving action to bring the road and right-of-way into compliance with the standards outlined in Section 2 above. When the applicant believes that the road and tight-of-way is in compliance, he shall so state in writing to the Town Manager who shall engage the town engineer to inspect the road and right-of-way and he shall take such measurements and samples as are necessary to certify in writing to the Town Manager that the road and right-of-way are in compliance with the standards as set forth in Section 2 above. After of such certification, the Town Manager shall provide to the applicant a certificate of acceptance of the road and tight-of-way into the Town System that shall be given to the applicant upon the following actions:*
  - a) *A valid deed and survey approved by the town attorney transferring the right-of-way to the Town of Southern Shores and recordation of such deed in the Dare County Registry; and,*
  - b) *Payment of all engineering and legal fees incurred by the Town in reviewing the application.*

Mr. Classen stated that the draft standards could become part of the Town Code or accepted as a policy but a decision does not need to be made tonight.

After discussion, Mayor Sutherland made a motion to accept into the town road's system the presented standards for the acceptance of private streets as Town policy. Council Member Shields seconded. The motion passed with Council Members Denny, Hess, Sanders, Shields and Mayor Sutherland voting aye; no Council Member voting no; and no Council Members absent or not voting.

Powell Bill Roads Project - Cypress/Sweet Gum/ East Dogwood/Woodland

Mr. Classen stated that the FY2003-04 Powell Bill Road Project (Cypress/Sweet Gum/East Dogwood/Woodland Circle) Project was put out for bid in early December as per Council action on December 2, 2003. No bidders submitted packages in the first round so a second round of bidding was held with the bids due on Monday, December 29.

Bids received were from RPC, Contracting, Inc. in the amount of \$103,640.00 and Barnhill Contracting Company, Inc. in the amount of \$119,981.00.

Mr. Classen stated that a draft Purchase Order Contract, which the Town attorney has reviewed has been drawn for Council’s consideration for \$103,640.00 from RPC

Contracting, Inc. and that he recommends the Mayor, Town Manager, Clerk and other appropriate officials sign and execute all documents, including contracts, necessary to implement this action.

Mr. Classen also presented two additional items for Council to consider

Project Budget: Approve a FY2003-04 Powell Bill Road Project Budget in the amount of

Road Construction	\$103,640
Engineering and Inspections	\$ 10,364 (10%; <u>\$2018</u> expended thru 12/31/003)
Contingency	<u>\$ 10,360</u> (10%)
 TOTAL Project Budget	 \$124,368

Revenues	Powell Bill Revenue	\$106,243
	General Fund – Resurfacing (50706)	<u>\$18,125</u> *
	TOTAL Project Revenues	\$124,368

\* \$196,710.00 remaining in FY2003-04 Budget on 12/31/2003.

Appoint Volunteer Inspectors: Authorize volunteers Hal Denny and Bill Storey to act as inspectors on the project under the supervision of the Town Manager. Any change orders would need to be approved by the Town Manager. If a change order exceeds the Project Budget, the Town Council must approve the Change Order

Mayor Sutherland made a motion to accept the Purchase Order Contract in the amount of \$103,640. to RPC Contracting, Inc. for the Powell Bill Street Project and that all documents be executed accordingly. Council Member Hess seconded. The motion passed with Council Members Denny, Hess, Sanders, Shields and Mayor Sutherland voting aye; no Council Member voting no; and no Council Members absent or not voting.

Mayor Sutherland made a motion to approve the project budget as presented. Council Member Denny seconded. The motion passed with Council Members Denny, Hess, Sanders, Shields and Mayor Sutherland voting aye; no Council Member voting no; and no Council Members absent or not voting.

Mayor Sutherland made a motion to authorize volunteers Hal Denny and Bill Storey to act as inspectors on the project under the supervision of the Town Manager. Any change orders would need to be approved by the Town Manager.

If a change order exceeds the Project Budget, the Change Order must be approved by the Town Council. Council Member Shields seconded. The motion passed with Council Members Denny, Hess, Sanders, Shields and Mayor Sutherland voting aye; no Council Member voting no; and no Council Members absent or not voting.

#### Canal Clearing Project

Mayor Sutherland stated that SWD submitted a proposal and a contract has been accepted in the amount of \$12,000 to remove specific trees from the canals relating to Hurricane Isabel. He stated that FEMA has agreed to cover \$10,000 on that contract.

Mr. Classen stated that a second proposal from SWD in the amount of \$70,000 for canal clearing is before Council for consideration tonight. He stated that previous proposal received were from \$125,000 to \$180,000. The proposal is to clear all vegetation contributing a nuisance (as defined by law; copy attached) from the Town's 7+ miles of canals. This work would be completed by February 28, but a weather allowance would be granted. If a contract of this nature is not approved, staff will begin working with the Southern Shores Boat Club to identify and abate nuisance vegetation section by section throughout the canal system. Given current staff resources, this process will take over a year to complete the canal system.

Mr. Classen stated that staff was asked to develop a list of pro's and cons on four options. The four options are:

- Do nothing
- Execute SWD proposal (\$70,000)
- Direct property owner to correct nuisance; Town would coordinate participation in joint contract.
- Direct property owner to correct nuisance; Property owner selects own contractor to abate nuisance

After discussion, Council Member Shields made a motion to accept the \$70,000 proposal as presented and authorized the Mayor and Manager to execute the contract. Council Member Hess seconded. The motion passed with Council Members Denny, Hess, Sanders, Shields and Mayor Sutherland voting aye; no Council Member voting no; and no Council Members absent or not voting.

Mayor Sutherland stated that canal property owners would be notified and a broadcast email and press release would be sent regarding the project.

Mayor Sutherland stated that any property owner not cooperating would then be held responsible to remove the debris at their cost and if not done would be in violation of Town Code, which would then be enforced.

Southern Shores 25<sup>th</sup> Anniversary Committee Update

Jim Pfizenmayer, chairman of the 25<sup>th</sup> Anniversary Committee, announced that the committee is meeting January 7 at 9:00 a.m. in the Pitts Center and anyone interested to join the committee attend the meeting or notify him or Merrie at Town Hall.

**New Business**

Ordinance relating to a moratorium on lot filling

Mr. Classen presented a draft resolution regarding an amendment to the Town's Fee Schedule regarding application for permits and a draft ordinance relating to the blocking or obstructing Town streets due to drainage problems.

Upon review by Council, Council Member Denny made a motion to approve the Resolution No. 2004-01-02 to amend the fee schedule as presented. Council Member Hess seconded. The motion passed with Council Members Denny, Hess, Sanders, Shields and Mayor Sutherland voting aye; no Council Member voting no; and no Council Members absent or not voting. The Resolution, as passed, reads as follows:

Resolution No. 2004-01-02

**A RESOLUTION OF THE  
TOWN COUNCIL OF SOUTHERN SHORES, NORTH CAROLINA,  
RELATING TO FEES**

**Whereas**, the Town of Southern Shores seeks to recover all or a portion of the cost of providing services in specific instances;

**Now, Therefore, Be it Resolved**, the Southern Shores Town Council meeting this 6th day of January, 2004, does hereby amend the Town of Southern Shores Fee Schedule adopted March 4, 2003 that became effective July 1, 2003 by including the following phrase:

\* "All fees shall include, whenever applicable, the reasonable cost of any expert advice obtained by the Town or other direct expenses incurred by the Town during the review of the application. All fees must be paid in full prior to any further reviews by the Town or prior to issuance of any permits sought, whichever comes first."

**Be it Further Resolved** that this Resolution shall become effective immediately and shall apply to all applications submitted after the date of approval.

Approved this 6<sup>th</sup> day of January, 2004.

Mayor Paul Sutherland  
Town of Southern Shores

ATTEST:

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Carrie Gordin, Town Clerk  
Town of Southern Shores

After review of Ordinance No. 2004-01-01 Relating to Blocking or Obstructing Streets, Council Member Denny stated that he was not prepared to vote on the draft ordinance since Council only received it at this meeting. Hearing no motion on the Ordinance, Mayor Sutherland ordered the matter be brought up for discussion later in the meeting.

Mayor Sutherland made a motion that, upon action later in the agenda, the meeting would be recessed until January 13, 2004 at 9:00 a.m. in the Pitts Center at which time Council would discuss and consider the Ordinance and take other actions or consider other matters as may come before the Council . Council member Denny seconded. Mayor Sutherland stated that the Council retreat would follow.

Chipping program-private streets

Upon discussion by Council Mayor Sutherland made a motion to include the private streets into the chipping program. Council Member Sanders seconded. The motion passed with Council Members Denny, Hess, Sanders, Shields and Mayor Sutherland voting aye; no Council Member voting no; and no Council Members absent or not voting.

Appoint Alternate to Board of Adjustment

Mayor Sutherland made a motion to appoint Brian McDonald to the Board of Adjustment as an alternate to replace Council Member Hess who resigned from that position. Council Member Hess seconded. The motion passed with Council Members Denny, Hess, Sanders, Shields and Mayor Sutherland voting aye; no Council Member voting no; and no Council Members absent or not voting.

Approval of purchase of additional cemetery lots

Council Member Denny stated that Council has approved requests in the past for additional cemetery lot purchases. He made a motion to approve the request to purchase two additional lots by Mr. Rawdanowicz. Council Member Shields seconded. The motion passed with Council Members Denny, Hess, Sanders, Shields and Mayor Sutherland voting aye; no Council Member voting no; and no Council Members absent or not voting.

Resolution -Yearly Council meeting schedule

Mayor Sutherland made a motion to adopt the Resolution No. 2004-01-01 Relating to the 2004 Meeting Schedule. Council Member Hess seconded. The motion passed with Council Members Denny, Hess, Sanders, Shields and Mayor Sutherland voting aye; no Council Member voting no; and no Council Members absent or not voting. The Resolution, as approved, reads as follows:

Resolution No. 2004-01-01

**A RESOLUTION OF THE  
TOWN COUNCIL OF SOUTHERN SHORES, NORTH CAROLINA,  
RELATING TO THE 2004 MEETING SCHEDULE**

WHEREAS, the Town Council of Southern Shores hereby resolves to implement the following as its monthly meeting schedule for calendar year 2004 and;

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of Southern Shores, North Carolina, meeting this 6<sup>th</sup> day of January, 2004, that the regular monthly meetings of the Town Council of the Town of Southern Shores will take place generally on the first Tuesday of each month (except when a conflict such as Election Day or holiday falls on that day) beginning at 7:00 p.m. in the Kern P. Pitts Center but more specifically as follows:

Tuesday, January 6, 2004	Tuesday, August 3, 2004
Tuesday, February 3, 2004	Tuesday, September 7, 2004
Tuesday, March 2, 2004	Tuesday, October 5, 2004
Tuesday, April 6, 2004	Wednesday, November 3, 2004
Tuesday, May 4, 2004	Tuesday, December 7, 2004
Tuesday, June 1, 2004	Tuesday, January 4, 2005
Tuesday, July 6, 2004	

BE IT FURTHER RESOLVED, that meetings of Council will take place generally on the last Tuesday of each month, being called to order at 9:00 a.m. in the Kern P. Pitts Center but more specifically as follows:

Tuesday, January 27, 2004	Tuesday, August 31, 2004
Tuesday, February 24, 2004	Tuesday, September 28, 2004
Tuesday, March 30, 2004	Tuesday, October 26, 2004
Tuesday, April 27, 2004	Tuesday, November 30, 2004
Tuesday, May 25, 2004	Tuesday, December 28, 2004
Tuesday, June 29, 2004	Tuesday, January 25, 2005
Tuesday, July 27, 2004	

**BE IT FURTHER RESOLVED**, that the Town Council will conduct a retreat workshop meeting during the period January 13-14, 2004 at a time and place to be established by the Mayor;

**BE IT FURTHER RESOLVED**, that to process routine actions in an expeditious manner, a consent agenda may be utilized and administered by the Town Manager as part of Council's regular meeting agenda;

**BE IT FURTHER RESOLVED**, to insure public comment is heard, a Public Comment section will be continued on the agenda at regular monthly meetings of Council. Such comments shall not address matters on the current day's agenda and shall be brief and to the point. Neither the Mayor nor Council shall comment on items raised by the public except that the Mayor may refer the item to staff for further investigation or to place the item on the agenda for future consideration.

Adopted this 6<sup>th</sup>  
day of January 2004.

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Paul Sutherland, Mayor

ATTEST:

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Carrie Gordin, Town Clerk

### **Council's Agenda**

Council Members' Shields and Sanders had no additional items.

Council Member Hess stated that she would be attending the Government Access Channel committee meeting on January 13.

Council Member Denny reported that he was notified that he has been selected as the Town's representative on the Dare County Tourism Board.

### **Mayor's Agenda**

Mayor Sutherland announced that Tom Gjestson is having a hip replacement. A broadcast email would be going out with Tom's address for every one to forward their regards.

Mayor Sutherland announced that Stan White, representative on the DOT Commission, contacted him asking if Council would support the placement of mile markers being placed on NC12. Council supported the idea. Mayor Sutherland will forward correspondence.

Mayor Sutherland will attend a meeting with Regional Medical Center/Albemarle Hospital regarding future policy to remain open or immediately during a hurricane.

Mayor Sutherland stated that the SS Boat Club provided outstanding community support following Hurricane Isabel and that the Town sent a check of \$200 to help in the purchase of gas and that they graciously returned the check.

Mayor Sutherland stated that a letter was sent to the Dare County Commissioners requesting that they consider the property located at the foot of the Wright Memorial Bridge in the unincorporated district of Dare County (Martin's Point) to become a park. He stated that there is a rumor that the Town of Kitty Hawk has proposed to annex that property.

### **Town Manager's Agenda**

Mr. Classen stated that Neal Blinken, owner of the Ginguite Woods Water Reclamation Association, Inc. has requested a hearing to discuss the notice of violations he has received from the Town's Code Enforcement department.

Council upon discussion, set the date for January 13, 2004, at 9:00 a.m. in the Pitts. Council will also meet to review and consider the draft ordinance regarding the drainage issue and that the annual Council retreat would follow.

Mr. Classen stated that RFP's for Town engineer have been sent and the proposals received may be reviewed at the January 27 Council workshop.

Mr. Classen reported that an application for a grant in the amount of \$153,000 has been submitted for canal dredging and that the Town's share would twenty percent. He stated that he is looking for other means of funding.

Mr. Classen stated that Sprint is requesting an easement in the Chicahawk area and that the utility lines would be placed underground. He stated that further discussion would be needed of this issue.

Police Chief Pledger presented a criminal offense report comparing the years 2002 and 2003.

### **Town Attorney**

Ike McRee stated that the hearing for the Jeff Bowlin case is set for January 8, 2004.

**Public Comment**

Ed Cowell asked if Council is doing anything about the drainage problem on Ginguite Trail? Mayor Sutherland stated that the Code Enforcement Administrator is looking into it.

Mayor Sutherland made a motion to go into closed session to discuss an attorney/client issue. Council Member Shields seconded. The motion passed with Council Members Denny, Hess, Sanders, Shields and Mayor Sutherland voting aye; no Council Member voting no; and no Council Members absent or not voting.

Mayor Sutherland upon coming back into open session made a motion to recess the meeting until January 13, 2004 at 9:00 a.m. in the Pitts Center. Council Member Denny seconded. The motion passed with Council Members Denny, Hess, Sanders, Shields and Mayor Sutherland voting aye; no Council Member voting no; and no Council Members absent or not voting.

ATTEST:

Respectfully submitted:

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Mayor Sutherland

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Carrie Gordin, Town Clerk