

Southern Shores Town Council
Town of Southern Shores, North Carolina
Regular Meeting
February 15, 2005
9:00 a.m.-Pitts Center

MINUTES

The Southern Shores Town Council met on February 15, 2005, at the Pitts Center.

The following members were present:

Council Members: Jodi Hess, Mayor pro tem, Dan Shields, David Sanders, and Brian McDonald

Absent: Mayor Hal Denny

Carl Classen, Town Manager

Carrie Gordin, Town Clerk

Opening

Mayor pro tem Hess called the meeting to order at 9:00 a.m. and led the Pledge of Allegiance. She reported that Mayor Denny is absent due to a death in the family.

Mayor pro tem Hess held a moment of silence for Mayor Denny's family and for all those who need a prayer.

Approval of Agenda

Council Member Shields moved to approve agenda. Council Member McDonald seconded. The motion passed with Mayor pro tem Hess and Council Members Shields, Sanders, and McDonald voting aye; no Council Member voting no; and Mayor Denny absent.

Public Comment

Mayor pro tem Hess asked if anyone wished to speak on issues not on the agenda at this time. She stated that those who wish to speak on items placed on the agenda would be allowed to speak as they addressed by Council.

Jane Smallwood of 8 Purple Martin Lane asked Council to consider some type of tax relief for those full time property owners who live on waterfront property who are on a fixed income, elderly, and/or retired due to the County's re-evaluation on properties. She stated that her property evaluation increased by 259%. She stated that even if the County uses the neutral tax rate at .22 her tax increase will be a large amount on top of paying the Town taxes. She stated that property insurance also increased substantially and that it is a heavy burden on her as well as other property owners in Town. She stated that she does not want to sell her property and hopes that Council will be able to help when setting the tax rate.

Reports

A. Mid-Currituck Sound Bridge Campaign Update: Bob Palombo reported that things are moving ahead and the next meeting of the Board is February 16 at 9:00 a.m. in the Pitts Center.

B. Southern Shores Volunteer Fire Department: Fire Chief Bakken reported that a large mailing went to residents of Dare County from the Dare County Association of Fire Officers requesting donations to be used to repair a training structure that is located in Buxton. He verified that it is a legitimate organization and that the SSVFD is a member of the organization. He stated that it has always been the practice of the SSVFD to not solicit money from citizens and that due to the location of the training structure they do not use it.

C. Canal Dredging Project: Mr. Classen stated that a full report would be given at the March 1 Council meeting.

Old Business

A. Ordinance No. 2005-02-bb Relating to Paintball Markers

Mayor pro tem Hess called upon those wishing to speak on this issue.

James Wilkinson of 79 Poteskeet Trail stated that he supports Council to allow paint ball games. He stated that he has been a physician here since 1987 and has never seen an injury from paint balls. He stated that it is a good outlet for the kids in an approved place. He asked Council to consider the parents in making their decision in not approving of these games; parents may need to travel a long distance to a place that allows these games. He also stated that this recreation is not played 24 hours; it is a few hours a week and should be allowed.

Mike Bishall of 80 Gravey Pond stated that the kids enjoy this activity. He stated that he supports this for the kids. He stated that this allows kids to show responsibility. He stated that he feels the community is growing and strengthening through our children and this issue has allowed interaction between the adults as well as the children. He also stated that this activity will wane through the year in that the kids will be doing other

things as the weather changes due to the heat, bugs and snakes. He asked that Council support this.

Pat Wilson of 101 Bear Track Lane stated that she has presented her concerns to Council at a previous meeting, asking Council to not allow this activity. She stated that she is not against kids but that she doesn't feel this activity is a good use for the common area. She stated that it would be better suited somewhere not near a neighborhood. She stated that she has watched these games when no adult were present and the kids were not using protective gear. She feels these games are better suited on private property. She stated that the barrier boards have been dismantled but are still laying on the property.

Cory Taylor of 86 Poteskeet Trail stated that this game is not a cheap game, equipment is expensive. He stated that this is healthy outdoor fun and is provided great interaction with the children and that they learn responsibility. He stated that he supports what Mr. Bishall said and he has played with the kids and he said it doesn't hurt much when you are hit. He stated that the paint balls are biodegradable and water based. He hopes Council will support this.

Steve Culpepper of 92 Poteskeet Trail stated that he supports the games and that he does understand the complaints but that the adults are here to try to work out a suitable site for the games. He stated that they do not want to alienate the neighbors and he asked that Council support this issue.

Ed Lawler of 81 Gravey Pond Trail stated that he has observed the games and feels the organization of those involved is impressive. He supports the games and he feels it teaches the kids needed social skills. He asked that Council allow the games to continue.

Gary McDonald of 74 Trinitie Trail stated that he is the principal of Kitty Hawk Elementary School and president of the Chicahawk Homeowner's Association and that he supports the games. He stated that there are always new things that come up with children that adults aren't going to like. He stated that he could remember when Rock n Roll was not liked. He stated that common property has no rules and regulations at this time but that rules could be made, if that is what the homeowners want. He stated that he has watched these games several times and adults were present. He stated that outsiders may come but he supports the kids. He stated that the kids are our future. He stated that the kids did come and ask permission and he feels that says a lot of them. He asked that Council use their best judgment and support this issue.

Bonnie Pfennighaus of 174 Sassafras Lane stated that she sent Council a letter regarding this issue in which she referred to the Town Ordinance that is already in place that does not allow paint ball guns (any air powered guns) and that Council should enforce it. She stated that she has watched the games and that adults are not there always present all the time. She asked what is the sport in shooting each other and do we want these guns in Southern Shores. She stated that she is a retired deputy sheriff and she knows that paint balls do cause bruising when a person is hit. She asked Council, is this the type of activity we want in Town.

Mayor pro tem Hess hearing no other comments from the public asked Council for comments.

Council Member Sanders stated that as the ordinance is drafted any property owner may utilize paint ball games on their property. He asked is it better to have one place than to have several about town.

Mr. Classen reviewed the draft ordinance and stated that he failed to include an expiration date for the ordinance to be renewed, if needed. He stated that they are not referred to as paint ball guns but rather paint ball markers. He suggested if the ordinance is adopted to include a 5-year time frame or whatever time frame Council sees fit. He stated there is no standard for an expiration date that it would be Council's decision but that the ordinance could be amended at any time.

Council Member McDonald stated that the ordinance does not include the requirement of wearing protective gear. He asked is this something to be addressed in the ordinance. Mr. Classen stated that such language would need to be researched and industry standards written regarding protective equipment available.

Police Chief Pledger stated that he doesn't believe proper education has been given to the children on this issue from the parents. He stated that according to the law a law officer has the authority to shoot anyone if they are pointing a gun at them. He stated that it is against the law to point a gun at someone. He stated that "toy" guns look like real guns. A visual was shown of a real gun and a paint ball gun and they looked very similar.

Some suggestions for consideration were for the kids to attend a firearm safety course, to set specific times for the games and to alert as many people as possible of those times.

Discussion was held on what happens if there is no adult present and a number of children are playing, who gets a citation. Mr. Classen stated that all would be cited as a criminal offense, if the child is a juvenile then the parents would be cited. Mr. Classen stated that at this time no citations have been given, Council is trying to educate the public.

Police Chief Pledger stated that his officers would not cite anyone on a first offense but ask the kids to break up. He stated that the officers do have to enforce the law.

Council Member Sanders stated that he has conflict with this issue and that he does want to allow the kids to continue these games but if by approving this ordinance subjects someone to be arrested, he is not sure. He stated that he himself belongs to the National Rifle Association and supports gun sports.

Council Member Shields stated that when the jet-ski ordinance was enacted, it is required that a safety course is taken maybe an education safety course should be included in this ordinance. He stated that once the course has been attended, a card would be distributed and they would carry the card during 'game' times.

Mayor pro tem Hess stated that she thinks it is great that the kids are learning responsibility and accountability. She stated that she has concern about kids coming from other towns to play once they learn that this is being allowed in Southern Shores. She is concerned about how this would be enforced. She stated that it does not appear that the other towns have addressed this issue.

Pat Wilson stated that the law is not being enforced. She stated that the kids set up the play area and that the public was not made aware. She stated that no public forum was held and the citizens did not get to express their concerns.

Council Member Sanders asked the parents if they would object to the kids attending a hunter safety course as a prerequisite to playing the games. They said they would not object.

Gary McDonald stated that the legal age to be charged as an adult is 13. He stated that the hunter safety course doesn't recognize those under the age of 13 of which they are entitled to receive a hunting license. It was stated that the ages of the children involved in these "games are between the ages of 10-15. He stated that there is a volunteer gun safety course held in school.

Council Member McDonald made a motion to direct the Mayor to appoint a committee consisting of a Council Member, the Town Manager appoint staff to include police officer, civic association representatives, and residents from both sides of the issue to discuss and provide policy recommendations on this issue. Council Member Shields seconded. The motion passed with Mayor pro tem Hess and Council Members Shields, Sanders, and McDonald voting aye; no Council Member voting no; and Mayor Denny absent.

Mayor pro tem Hess asked those citizens wishing to be on the committee contact Town Hall and she thanked everyone coming to the meeting and for all their input given today.

B. NC 12 Joint Drainage Project

Mr. Classen stated that on February 4, representatives of Duck, NCDOT, and Southern Shores heard presentations from the two finalists for providing consulting services on the NC12 Joint Drainage Project Study. Southern Shores was represented on the selection committee by Council Member Dan Shields and Town Manager Carl Classen. The two firms making presentations were VHB (Virginia Beach) and Hobbs Upchurch (Nags Head). Mr. Classen stated after careful deliberation, the Committee selected VHB by acclamation. Mr. Classen provided a copy of the Scope of Services being proposed by VHB. He provided information stating the project is estimated to be completed in six to nine months and that the Town will act as the fiscal agent on the project at an estimated cost of \$45,000, with \$15,000 being contributed by Duck, Southern Shores and NCDOT each.

C. Chicahauk Hydrological Study Area – Select Contractor

Mr. Classen stated that three firms submitted proposals in response to the Request for Qualifications (RFQ) sent out on this study:

Edwin Andrews & Associates, P.C.
Groundwater Management Associates, Inc.
Land Management Group, Inc.

He stated that the submittals have been reviewed with Joe Anlauf, Town Engineer and based upon the review he recommends engaging Land Management Group (Mr. John Williams) of Wilmington. He stated that Land Management will not charge the Town for the cost of Phase One; the overall cost is still estimated at \$20,000 for the study.

Council Member Shields moved to accept Land Management Group, Inc. proposal as submitted. Council Member Sanders seconded. The motion passed with Mayor pro tem Hess and Council Members Shields, Sanders, and McDonald voting aye; no Council Member voting no; and Mayor Denny absent.

D. Street Numbering Project – Town Hall

Mr. Classen stated that upon review of the list of property numbering problems throughout Southern Shores is topped by the Town Hall with its current address on Skyline Road when there is no access to the Town Hall complex from Skyline Road.

Mike Hejduk submitted an alternative plan for the Town Hall complex for Council's review.

Discussion was held regarding that adjacent property owners need to be informed of possible address changes.

Discussion was also held regarding the construction of the hotel in Kitty Hawk and the traffic impact it will have on the intersection at NC 12/Hwy.158. Council directed staff to set up a meeting with the Town Manager, Mayor and Planner of Kitty Hawk, and NCDOT representatives. Hearing no objection,so ordered.

E. Capital Improvement Plan

Mr. Classen provided several Capital Improvement Plan sheets used by the Town of Kill Devil Hills to Council for review. He stated that by using these sheets, created using Microsoft Excel form the nucleus of their Capital Improvement Plan and avoids costly specialized software. He stated that staff would be using the lists developed during the Retreat and elsewhere to start creating the Southern Shores Capital Improvement Plan. He stated that he would provide draft to Council at the March 1 meeting.

New Business (Discussion and possible action)

A. Resolution No. 2005-02-aa Relating to the Hazard Mitigation Plan

Town of Southern Shores
Hazard Mitigation Plan

WHEREAS, the citizens and property within the Town of Southern Shores are subject to the effects of natural hazards and man-made hazard events that pose threats to lives and cause damages to property, and with the knowledge and experience that certain areas, i.e., flood hazard areas, are particularly susceptible to flood hazard events; and

WHEREAS, the Town desires to seek ways to mitigate situations that may aggravate such circumstances; and

WHEREAS, the Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Legislature of the State of North Carolina has in Section 1 Part 166A of the North Carolina General Statutes (adopted in Session Law 2001-214—Senate Bill 300 effective July 1, 2001), states in Item (a) (2) “For a state of disaster proclaimed pursuant to G.S. 166A-6(a) after November 1, 2004, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act”; and

WHEREAS, Section 322 of the Federal Disaster Mitigation Act of 2000 states that local government must develop an All-Hazards Mitigation Plan in order to receive future Hazard Mitigation Grant Program Funds, and

WHEREAS, it is the intent of the Town Council of the Town of Southern Shores to fulfill this obligation in order that the Town will be eligible for state assistance in the event that a state of disaster is declared for a hazard event affecting the Town;

NOW, therefore, be it resolved that the Town Council of the Town of Southern Shores hereby:

Adopted on August 3, 2004 the Town of Southern Shores Hazard Mitigation Plan; and

Vests the Town Manager with the responsibility, authority, and the means to: Inform all concerned parties of this action.

Cooperate with Federal, State and local agencies and private firms which undertake to study, survey, map, and identify floodplain or flood-related erosion areas, and cooperate with neighboring communities with respect to management of adjoining floodplain and/or flood-related erosion areas in order to prevent aggravation of existing hazards.

Adjust the boundaries of Dare County and the municipal planning jurisdiction whenever a municipal annexation or extraterritorial jurisdiction revision results in a change whereby the municipality assumes or relinquishes the authority to adopt and enforce floodplain management regulations for a particular area in order that all Flood Hazard Boundary Maps (FHBMs) and Flood Insurance Rate Maps (FIRMs) accurately represent current planning jurisdiction boundaries. Provide notification of boundary revisions along with a map suitable for reproduction, clearly delineating municipal corporate limits and extraterritorial jurisdiction boundaries to all concerned parties.

Appoints the Town Manager to assure that the Hazard Mitigation Plan is reviewed annually and in greater detail at least once every five years to assure that the Plan is in compliance with all State and Federal regulations and that any needed revisions or amendments to the Plan are developed and presented to the Town Council of Southern Shores Board of Commissioners for consideration.

Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the Hazard Mitigation Plan.

This the 15th day of February 2005.

Jodi Hess, Mayor pro tem

Carrie Gordin, Town Clerk

Mr. Classen presented a formal resolution adopting the Hazard Mitigation Plan that Council adopted last summer. He stated that this resolution meets the standards needed to provide the Town with the highest possible points from the Community Rating System (CRS) and correspondingly keep flood insurance rate the lowest possible and tasks the Town Manager with providing information and taking other initiatives already being done by the Town.

Council Member Shields moved to adopt resolution as presented. Council Member Sanders seconded. The motion passed with Mayor pro tem Hess and Council Members Shields, Sanders, and McDonald voting aye; no Council Member voting no; and Mayor Denny absent.

Other Items (Discussion and possible action)

Council Members

Council Member Sanders presented Council with a copy of synopsis of a phone conversation that he received from a property owner. He explained that in the conversation, the property owner addressed the unfriendliness he felt when he called Town Hall when asking for help. He asked that Council not review this as a staff issue.

He stated that the Town is a service organization and should put our best foot forward to assure the citizens that we are here for them not the other way around. He stated that Council's actions should reflect the general good for the community. He stated that at times he feels Council does send a mixed message to the property owners. He stated that other property owners have expressed the same feelings to him at times.

Council Member Shields stated that times have changed and Council is dealing with issues in a business manner. He stated that Council wants to make the Town the best it can be but can't satisfy everyone. He stated that the attitude of the Town has changed because the type of business has changed.

Council Member Sanders stated that the out-of-town property owners may some day be a full-time resident and to continue volunteerism from the residents we must deal with the property owners with respect.

Chief Pledger stated that in the past the police officers would put trash cans out and pull them back, they might take an elderly resident to the grocery but the officers can't do that anymore. He stated that there are more residents and more responsibilities and those types of things can't be done now.

Mr. Classen stated that as part of the retreat items discussion was held on community pride. He stated that how the Town presents itself does matter. He stated that in the past code enforcement was lenient but now the Town is enforcing the law and there is a backlash from past attitudes.

Council Member McDonald stated that the trash can issue is not going away. He suggested that the residents be polled and the question would be 'do you want your taxes raised' to provide the service to have trash/recycle cans removed from the streets. Mr. Classen stated that he would prepare some choices for Council's consideration regarding trash/recycle cans.

Council Member Hess provided a copy of the Government Access Channel Budget for Council's review. She stated that this issue would be placed on the March 1 agenda for consideration.

Mayor

Mayor pro tem Hess stated that Mayor Denny requested Council to discuss the request from the Coast Guard Auxiliary if the Town had a place to store 'dry suits' in the Pitts Center. After discussion it was decided that the Town did not have ample storage for such items.

Mayor pro tem addressed the materials regarding Salt Water Fishing Licenses. She stated that Council could adopt the presented resolution with amended language, write a letter similar to the one the Mayor of Nags Head has written or do nothing. Council Member Sanders moved to postpone a decision on this issue until Mayor Denny has a chance to

participate in the discussion. Council Member Shields seconded. The motion passed with Mayor pro tem Hess and Council Members Shields, Sanders, and McDonald voting aye; no Council Member voting no; and Mayor Denny absent.

Town Manager

Mr. Classen submitted a list of issues to Council for review. He handed out a memo regarding the revenue neutral tax rate as additional information.

Public Comment (Limit: 3 minutes per speaker) No comments were heard.

Hearing no other business, Council Member Shields moved to adjourn the meeting at 11:15 a.m. Council Member Sanders seconded. The motion passed with Mayor pro tem Hess and Council Members Shields, Sanders, and McDonald voting aye; no Council Member voting no; and Mayor Denny absent.

ATTEST:

Respectfully submitted:

Mayor Denny

Carrie Gordin, Town Clerk