



Town of Southern Shores

6 Skyline Road, Southern Shores, North Carolina 27949

Phone 252-261-2394 | Fax 252-255-0876

info@southernshores-nc.gov

www.southernshores-nc.gov

Southern Shores Town Council
Town of Southern Shores, North Carolina
Regular Meeting
June 7, 2005
7:00 p.m.-Pitts Center

MINUTES

The Southern Shores Town Council met on June 7, 2005, at the Pitts Center.

The following Council Members were present: Mayor pro tem Hess, Dan Shields and Brian McDonald. Mayor Hal Denny and Council Member David Sanders were absent.

Also present were: Carl Classen, Town Manager; Carrie Gordin, Town Clerk; and Tom White, acting Town Attorney.

OPENING

Mayor pro tem Hess called the meeting to order at 7:00 p.m. led the Pledge of Allegiance and held a moment of silence.

APPROVAL OF AGENDA

Mayor pro tem Hess asked that the agenda be amended to consider two resolutions under New Business (Item VII.) Hearing no objections so ordered.

APPROVAL OF MINUTES

Council Member Shields moved to approve the April 19, 2005, minutes as amended. Council Member McDonald seconded. The motion passed with Council Members Hess, Shields, and McDonald voting aye; no Council Member voting no; and Council Member's Denny and Sanders absent.

PUBLIC COMMENT

Mayor pro tem Hess opened the public comment.

Jon Kenton, 120 Tall Pine Lane, stated that as the chairman of the Cemetery Advisory Policy Committee he is requesting that Council consider moving ahead with the maintenance of the cemetery and cleaning it up overall. He also stated that he is not sure that in regards to the NC Community Foundation for a cemetery Perpetual Care Fund, which is on the agenda, to be the right way to proceed. He feels that the cemetery is an ongoing project and monies should just be budgeted. He stated that there is another foundation, the Outer Banks Community Foundation

that has been established for a very long time and has assets of five million dollars and he would encourage Council to investigate this foundation before making a decision.

Al Smith, 279 Sea Oats Trail, stated that he is a member of the American Legion. He stated on Memorial Day the group attends all the cemeteries to place flags on veterans' graves and that the Southern Shores Cemetery looked nice but that the sign needs to be replaced.

Hearing no other comments Mayor pro tem Hess closed the public comment.

REPORTS

Planning Board-May17, 2005 meeting

Jim Groff, Planning Board chairman, provided a copy of the report which is attached hereto as Exhibit A and made part of these minutes.

Two items addressed in the report are on the agenda as Public Hearing items and a special Planning Board meeting is scheduled for June 10 to discuss Planned Unit Developments.

Build the Bridge/Preserve Our Roads

Geri Sullivan announced that the NC House of Representatives has approved a toll authority bill to increase the number of projects from three to nine and gave NCDOT the authority until 2009 to issue a license to build a private toll bridge from the mainland to the peninsula bordering the state of Virginia. She publicly thanked Representative Culpepper for all his help on this endeavor and continued support is coming from Senator Basnight. She requested a Council Member attend the next board meeting on July 21 at 3:30 p.m. in the Pitts Center where discussion would be held regarding a status report given by the lobbyist.

Southern Shores Volunteer Fire Department

Chief Bakken presented the monthly report.

Canal Dredging Project

George Wood of Environmental Professional Inc., Project Manager, gave a current detailed update. The permit application has been submitted to CAMA. The final design results in 7.5 miles of canals to be dredged with approximately 134,774 cu. yd of spoils. Five property owners have agreed to allow the spoils on their property and are awaiting the executed easements. There would be three dredging events. Additional spoil sites may be needed and an area on Duck Woods Country Club (DWCC) property is being discussed. Legal ownership of the bottoms of the canals is being processed. It will be necessary to notify 484 adjacent property owners prior to the dredging and CAMA will provide the official notification by placing a notice in the local newspaper. CAMA will hold an on-site meeting and review their comments regarding the project. Property owners will have the opportunity to provide their comments on the project as well. A meeting is scheduled with the U. S. Army Corps of Engineers on June 14 to discuss the DWCC site. Project costs would be minimized as much as possible to save taxpayers money.

SPECIAL REPORTS

Paint Ball Advisory Committee

Dick Wood, chairman, provided a detailed report to Council. The Committee recommends that the Town not allow paint ball activity on community property but to allow paint ball equipment to be used on private property for practice only. They further recommended that the parents sign a document to be on file at Town Hall that the parents are solely responsible for any damages or accidents that may occur on or off their property. (A copy of the report is available in the office of the Town Clerk for a period of five years. Mr. Wood thanked the committee for all the discussion that was put forth and the hard decisions that were made. Mayor pro tem Hess thanked the committee members: Dick Wood, Margaret Lawler, Lauri Graham, Pat Wilson, Mike Bishal, Donn Snyder. Council will review the report at a later date.

Vegetation Advisory Committee

Jack Sheehan, chairman, stated that after three years of compiling information and reporting to Council the committee is submitting a resolution as a preliminary step to adopt a vegetation preservation standard. He stated that the committee is concerned about the remaining undeveloped lots, as well as the reconstruction of lots, in preventing clear cutting of properties. He stated the intention of the resolution is to propose a vegetation management plan with ordinances to follow. He would offer a moratorium on clear cutting as an alternative to allow Council time to consider the resolution.

Mayor pro tem Hess thanked the committee and requested that staff provide Council with a list of the recommended goals made at the Council's Retreat for review at the June 24 meeting.

PUBLIC HEARINGS

Zoning Ordinance # 2005-05-02 Screening Above Ground Appurtenances Relating to Natural Gas Facilities

Mayor pro tem Hess opened the public hearing and hearing no comments closed the hearing.

Council Members McDonald and Shields inquired about the necessity of a fence around the distribution sites. Mayor pro tem Hess stated that due to the lack of Council members being absent a vote would not be held tonight. Mr. White advised that if any substantial changes are made to the ordinance another public hearing would be required. Mayor pro tem Hess stated that staff would clarify what changes if any are needed to be discussed at the next meeting.

Ordinance # 2005-05-05-Natural Gas Franchise

Mayor pro tem Hess asked if anyone had signed up to speak, there were no comments. She stated that to adopt a franchise two votes by Council is required. Council voted to approve the franchise on April 19, 2005. Council agreed before voting the second time that the screening ordinance would be in place so there will not be a second vote tonight. The vote would be held on both ordinances at the next meeting.

Ordinance # 2005-06-01-FY 2005-2006 Budget

Mayor pro tem Hess opened the public hearing.

Council Member McDonald requested that speakers be allowed to have additional time to speak other than the allowable three minutes. Mayor pro tem Hess agreed to allow five minutes.

John Ruggerio, 140 E. Holly Trail, stated that when he originally came to Southern Shores it was due to small government, friendly people, low taxes, and winding roads but now all that has changed. He stated that Council needs to review the budget line by line and not just rubber stamp it. He asked Council to spend this budget like their own; spending only what is affordable not spending the undesignated fund balance for other projects rather than for emergencies. He stated that Council is spending our money in ways that we do not approve and future spending is setting a precedent for increased taxes and more government.

Robert Pfeil, 136 E. Holly Trail, stated that he reviewed the proposed budget line items and he has found discrepancies such as the land transfers tax, ABC revenues, and parking ticket fines. He suggested that some projects in the Capital Improvement Fund be delayed until there can be an accumulation of funds and then plan the project based on the funds instead of raising taxes. He stated that it appears the undesignated fund balance is being used to fill budget gaps instead of using the funds for emergencies. He proposed that Council consider a restricted fund to be used for emergencies and the 50% reserve for operating expenses, with firm guidelines on how the monies are to be spent and any additional funds be put in the existing unrestricted fund balance. He asked that Council look for ways to save money in operating and personnel expenses and find ways to increase efficiency. He asked that Council spend wisely not see how much revenue can be spent.

Don Smith, 189 Wax Myrtle Trail, stated that initially he wants to say that there should be a date set that citizens can attend and that citizens can have a more open forum on the budget process. He stated that he was a Council person for four years. He stated that this year's proposed budget continues to spend more than the projected revenues just like last year. He reviewed some of Town Council's actions over the past two years illustrating how they feel about taxes and spending. He stated last year they raised taxes 11%, supported the County's attempt to raise the land transfer tax 1% to be used for beach nourishment, which was defeated, they did not attend the County meeting proposing to raise the sales tax to 8% to be effective in January 2006, and they have not taken a stand on beach nourishment. He stated the citizens must demand that Council stop wasting hard earned tax dollars and live within revenues and do what needs to be done. He also reminded everyone to use their vote wisely in November.

Rich Van Curren, 120 Otter Slide Drive, stated that many of the Council Member asked him to vote for them but none said they were pro tax. He also would like to see an open forum with Council on the proposed budget. He stated as he talks to his neighbors they all say they like Southern Shores as a low growth, non-commercial, easy going town. They don't like paved cul-de-sacs, wide sidewalks, and tags on their trash cans. He asked why the emergency fund is being spent on non-emergencies and who is mandating a tax increase of 27%. He stated that just because you have the power doesn't mean you have to exercise it, lower the taxes and not penalize your citizens.

Jim Kranda, 82 Poteskeet Trail, stated that he would like to see Council adopt a zero based budget program and if adopted, any changes that are needed would be documented and disclosed to the citizens.

Mo Utley, 132 E. Holly Trail, thanked Council for the street improvements. He stated that upon review of the proposed budget it appears to be out of control. He stated that he did not vote for Don Smith before but that what he is saying "is ringing my bell now". He stated that Council needs to look at what "I" need and what "I" want, this budget looks like a wish list. Hiring additional employees and purchasing more vehicles comes from the taxes. He suggested that

Council look at last year's budget and compare this budget and look how a tax increase and the County reassessment will affect people on fixed income.

Ursula Zdziarski, 267 N. Dogwood Trail, stated that she has a version of the proposed budget dated May 17, 2005 and a version that came out June 1, 2005 and the differences are interesting. She stated the cost of the Administration Department went up \$26,000 (4.8%), Public Works went up \$21,900 (5.2%), the Inspection Department went up \$15,000 (4.6%), and the Fire Department went up \$50,000 (21%) in just two weeks time. She asked what did Council find out in that two week period that said that the expenditures needed to be increased or did you find additional revenues that you didn't know you had and decided to spend them. She hopes that is not the Council's attitude.

Mayor pro tem Hess hearing no other comments closed the public hearing at 8:25 p.m. She stated that Council is not commenting tonight but she stated that Council did hold a public workshop regarding the proposed budget on May 27 which is a more informal format and the public may make comments. She stated that the next meeting will be held on June 24 and that the budget needs to be approved by June 30. She explained that there was not a \$50,000 increase to the fire department budget but a bookkeeping item change. The \$50,000 was moved from the Capital Improvement Plan reserve for fire vehicles, by advice from the accountant, to the fire department budget.

OLD BUSINESS

NC Community Foundation

Mayor pro tem Hess explained that a proposal is being discussed for a cemetery perpetual care trust. She stated that there are two foundations to consider and Council will further review this at the June 24 meeting.

2005 Spring Roads Improvement Project-Beech Tree Trail/E. Holly Trail

Mr. Classen reported that following amendment of the Beech Tree Trail portion of the 2005 Spring Improvement Project at the May 17 Council meeting, the Town Manager received a negotiated revised bid from the lowest responsible bidder (Barnhill). Barnhill reduced the bid from \$210,430 to \$159,101 for the Beech Tree Trail portion of the project. Mr. Classen stated that he conferred with the town's engineer and it is recommended that the project be held over until FY2005-06 and be included with other capital improvement projects scheduled for that fiscal year. He stated that Nags Head is investigating an idea for pooling road/stormwater project bids, which may entice more bidders and lower overall project costs.

Mr. Classen stated there are two areas on Beech Tree Trail that demand repair.

Mayor pro tem Hess expressed concern that the longer road improvements are put off the more they will cost at a later date. Council's consensus is to delay the project but discuss at the June 24 meeting.

NEW BUSINESS

Mayor pro tem Hess stated that two items have been added to New Business:

Proclamation Supporting Nursing (Which is attached hereto as Exhibit B and made part of these minutes)

Mayor pro tem Hess explained that proclamation's do not need Council's approval and she will sign the proclamation on behalf of the Town.

Resolution regarding Oyster Gardening on Public Waters (Which is attached hereto as Exhibit C and made part of these minutes)

Council Member Shields moved to adopt the resolution with edited language that Southern Shores supports it. Council Member McDonald seconded. The motion passed with Council Members Hess, Shields, and McDonald voting aye; no Council Member voting no; and Council Member's Denny and Sanders absent.

OTHER ITEMS

Council Items

Council Member McDonald expressed his concern regarding road improvements. He would like to have available to Council a list of the Town roads in need of repair. He suggests that a committee be appointed to compile such a list and present to the residents and ask them to support by referendum at the November election a tax increase or a bond.

Mayor Items-none

Town Manager

Mr. Classen reported on the monthly Building Inspections report. He provided information regarding the Stormwater Management Hydrological Study from Land Management Group with an initial evaluation of the Town's stormwater areas of concern and proposed cost for continued study over a 12 month period.

Police Chief Pledger presented the monthly crime report.

Mike Hejduk, Code Enforcement Administrator reported that the East Carolina Bank has started initial construction and that the Town of Kitty Hawk has approved a BB&T and a Gateway Bank across from the East Carolina Bank location. He reported he attended a meeting regarding the new FEMA Flood Map. Mr. Classen recommended that the residents come to Town Hall to look at the map.

Mr. Classen reported that the Public Works Department is continuing to mow and ask the residents to mow to the right of way when they can.

Town Attorney-none

Mayor pro tem Hess stated that if any resident would like to see the impact the proposed tax rate will have on your property contact Town Hall with your assessed value and the amount will be calculated.

Public Comment

Peter McOrmond, 153 Duck Woods Drive, stated that the Planning Board discussed businesses in homes. He stated that he is concerned, as well as other residents, on the outcome from these discussions. He stated that in the broadcast email information it is asked that the trash/recycle cans be rolled back but it is not being done and it should be addressed.

Ray Sharpe, 46 Fairway Drive, stated that there was no opening and closing of the natural gas franchise public hearing. He stated that Council's concerns were directed at the natural gas screening ordinance public hearing being a precursor to the approval of the franchise ordinance that it was not done. He stated that it appears that Council is more concerned with buffers of the appurtenances than getting gas to the Town. He stated that Kitty Hawk Elementary School and Duck Woods Country Club is ready for natural gas. He requests that the natural gas franchise public hearing be opened, if it is legal to do so, and approve the franchise because Eastern North Carolina Gas is ready to run the lines and the screening issue could be resolved later.

Robert Pfeil, 136 E. HollyTrail, stated that he had two issues regarding the proposed budget. He stated that he agrees with Council Member McDonald to develop a long term plan for capital improvements and infrastructure. He stated that the citizens object to the piece-meal way of doing things. He suggests that the plan is based on the need and time frame and look for sources of funding before it is done. He feels that Council is not listening to the citizens; they don't want Council to spend money just to spend money save it and reduce the taxes.

Jack Meagher, 30 N. Dune Loop, asked Police Chief Pledger to explain the law regarding the pedestrian crossings with the painted crosswalks and signs posted on NC12. Mr. Classen stated that the Town will run the state law as applies on the Broadcast email again. Police Chief Pledger stated that once a pedestrian has entered the street the vehicle must stop to allow the pedestrian to cross.

Ron Barbaro, 51 Hickory Trail, stated that upon listening tonight he supports an overall plan for capital improvements. He feels improvements to the roads if it is a safety issue should be repaired on a short term basis. Any plan for other road improvements should be considered to be replaced, or remain with the character of the community, or turned into a highway. He asked Council not to turn the town into a Washington, DC.

Mayor pro tem Hess replied saying that in the past the decision was to resurface roads many times and now some of the roads need to be completely rebuilt. She stated that there has been planning in road repair. She stated that a public hearing was held regarding the Holly Trail project. She stated that Council took a tour of the town and saw the roads and she would like to see every street in Town documented.

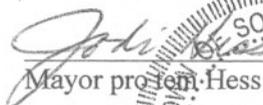
Mayor pro tem Hess stated that a public hearing was not required regarding the natural gas franchise but Council wanted to approve both ordinances to be considered at the June 24 meeting.

Mike Stone, Southern Shores Realty, stated that Council was informed at a previous meeting that if the screening ordinance was not approved before the franchise is approved it would be difficult to get the gas company to comply at a later date.

There being no further public comments and hearing no other business Mayor pro tem Hess asked for a motion to adjourn. Council Member Shields moved to adjourn at 9:10 p.m. Council Member McDonald seconded. The motion passed with Mayor pro tem Hess, Council Member Shields and McDonald voting aye; no Council Member voting no; and Council Member's Denny and Sanders absent.

ATTEST:

Respectfully submitted:


 Mayor pro tem Hess




 Carrie Gordin, Town Clerk

Memorandum

To: Southern Shores Town Council
CC: Town Manager
From: Jim Groff, Chairman, Planning Board
Date: 8/3/2005
Re: Recap, Planning Board Meeting of May 16, 2005

Planning Board recommended actions for the Town Council:

- 1. Set a public hearing date and adopt a proposed amendment to the zoning ordinance establishing a requirement for screening of above ground appurtenances, facilities and/or structures associated with natural gas utility systems.**

Organization: Chairman Groff called the meeting to order at 7:00 PM. Planning Board members Peckens, Walter and Alternates Poisal and McDanel, (sitting for Members Russell and Kowalski), were present. Also present were Town Manager Classen, Code Enforcement Administrator Hejduk, Fire Chief Bakken and Administrative Assistant Gabrys. Participating in this meeting were Republic Properties representatives Mazingo, Evans, Blinken, and Peters, Duck Woods Drive resident Connors, Sandy Ridge representative Davenport and Southern Shores Realty representative Stone.

Public Comment: J. Connors, owner of a home based business on Duck Woods Drive, spoke to what he believed to be "selective" and unfair implementation of the law regulating home businesses, and the singling out of Duck Woods Drive as the only place where violations occurred. He pointed out that landscapers were prohibited from advertising in the right of way in front of homes where they were working but church signage, "Click-it or Ticket" signs and signs prohibiting fireworks were allowed. Regarding advertising on vehicles, he noted that "rolling billboards" were allowed to park at the Market Place, obtaining free advertising. He concluded by opining that the Town had more pressing issues than home business violations of the law and recommended enforcing the code uniformly "across the board".

Committee Reports:

- 1. J. Walter** advised that information from the questionnaires was being entered into the computer and that the **Long Range Plan Advisory Committee** anticipated publishing a synopsis of their findings within a few weeks.
- 2. J. Russell** was excused from the meeting but copies of the **Stormwater Management Advisory Committee's** power point presentation to the Town

Council were made available to each member of the Board. The Committee plans no further meetings until the Town Engineer report is available.

Site Plan Applications:

1. **The Cove:** Following presentation and discussion, held over to the June meeting of the Board. Per Staff, Southern Shores Landing needs to submit a revised site plan showing that their recreation area does not intrude into the condominium footprint. Also, site application requires some revisions to accommodate fire department access.
2. **Sandy Ridge Center - Amended Site Plan:** Held over to the June meeting of the Board. Amended plan lacked Staff review. Changes made to building plan, (restaurant expanded), and other issues require resolution. Owner sought assurance that they will not lose previous Council approval if property transfer fails.
3. **Southern Shores Realty Recombination:** Proposed access to Southern Shores Realty's eight acres north of Sandy Ridge has concurrence of NC DOT, Goodwill Foundation and Sandy Ridge. Proposal lacked Staff review and written agreement between parties involved. Held over to June meeting of the Board.
4. **Fire Department - Amended Site Plan:** Lacked Staff review. Held over to the June meeting of the Board.
5. **Town Hall - Amended Site Plan:** Held over to the June meeting of the Board. Site plan not available and no staff review.

Other Business:

1. **Ordinance No. 2005-05-PB6 - Privilege License Tax:** Returned to Staff for revisions to make businesses listed in Tax Schedule consistent with those contained in the proposed ordinance relating to permitted and prohibited uses in commercial zones. To be addressed at the June meeting of the Board.
2. **Natural Gas Appurtenances Shielding:** Recommended Staff redraft the Kill Devil Hills ordinance into a proposed Southern Shores ordinance and recommended Council approve the ordinance to effect shielding of natural gas appurtenances.
3. **Uses in Commercial Zones:** Deferred action pending Staff inclusion of additional businesses, as well as a paragraph establishing conditional use for any business not listed, in the proposed ordinance.

Announcements:

1. PUD/Subdivision Workshop - June 10th; Noon; Pitts Center
2. Next meeting - Monday, June 20, 2005; 7:00 PM; Pitts Center

Exhibit B



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Resolution No. 2005-06-02

IN SUPPORT OF "OYSTER GARDENING"

WHEREAS, North Carolina's indigenous oysters are both a food source and serve as natural water filters, capable of filtering water at a rate of 1,500 times its body volume each hour or about 50 gallons per day; and

WHEREAS, oyster reefs are homes and nurseries for a wide variety of other marine life including blue crabs, red drum, speckled trout, flounder, shrimp, and river herring; and

WHEREAS, the presence of oyster reefs can also significantly reduce erosion of shorelines; and

WHEREAS, oysters are a keystone species in the estuarine environment and the health of the oyster population can be considered a reflection of the health of the ecosystem; and

WHEREAS, since the early 1900's oyster populations in North Carolina have plummeted with record harvests of 1.8 million bushels commercially harvested in 1902 and only 48,707 bushels commercially harvested in 2001; and

WHEREAS, North Carolina waters produce some of the finest, saltiest, and best-tasting oysters and have a wide-spread demand; and

WHEREAS, the North Carolina Division of Marine Fisheries has created the Oyster Restoration and Protection Plan which is a bold effort that requires public and private efforts, activities and resources for its success; and

WHEREAS, the Town of Manteo has long been involved in the protection of the waters Shallowbag Bay; and

WHEREAS, the State of North Carolina has allowed oyster shell cultch near Festival Park within Class SC water – water of such quality that they are suitable for recreation in and on the water, fishing, aquaculture, propagation and restricted harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation and navigation and as a habitat for fish and other estuarine and marine life, for monitoring; and

WHEREAS, oyster spats placed in Public Trust Waters for cultivation have been successfully grown; and

WHEREAS, other states, such as Virginia, have reported no known illnesses from oysters grown on piers in restricted waters; and

WHEREAS, the Town of Manteo is currently planning to improve the overall water quality in Shallowbag Bay by installing denitrification and phosphorous removal to its sewer system; and

WHEREAS, Shallowbag Bay would be an ideal location to garden oysters for later relocation in their natural habitats;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of Southern Shores does hereby support the Town of Manteo's request for the State of North Carolina to take necessary action to allow oyster gardening on piers In Public Trust Waters.

Adopted this 7th day of June 2005.

Mayor pro tem Hess

S E A L

Attest:

Carrie Gordin, Town Clerk

Exhibit C



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Proclamation #2005-06-01

NURSING ASSISTANT'S WEEK 2005

WHEREAS, nursing homes, home care and other long-term care agencies have accepted the responsibility for providing quality care and a quality of life for the elder, frail and disabled citizens in our community; and

WHEREAS, the well-being and happiness of those citizens depend in large part on the nursing assistants, home care aides, and others who provide daily, conscientious, hands-on care in nursing homes and other long term care settings; and

WHEREAS, these Career Nursing Assistants are instrumental in promoting and safeguarding the physical, mental, emotional, social and spiritual well-being of the residents, clients, and their families; and

WHEREAS, Career Nursing Assistants are trained professional who collaborate closely with other health care providers to provide quality care and also to elevate the status of their chosen profession,

NOW, therefore, the Town Council of Southern Shores does hereby proclaim the week of June 9-15, 2005 as:

NURSING ASSISTANTS' WEEK 2005

“NURSING ASSISTANTS: CARING IS MY CAREER ©”

AND, be it further proclaimed, that all citizens of Southern Shores are urged to join the Council, and others nationwide, to celebrate the 27th annual observances of Nursing Assistants' Week and to express encouragement and appreciation for the service performed by these caregivers in the public good.

Adopted this 7th day June 2005.

SEAL

Mayor pro tem Hess

ATTEST:

Carrie Gordin, Town Clerk

