



# Town of Southern Shores

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Southern Shores Town Council  
Town of Southern Shores, North Carolina  
Regular Meeting  
August 2, 2005  
7:00 p.m.-Pitts Center

## MINUTES

The Southern Shores Town Council met on August 2, 2005, at 7:00 p.m. in the Pitts Center.

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

Also present were: Carl Classen, Town Manager; Carrie Gordin, Town Clerk; and Ike McRee, Town Attorney.

### OPENING

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

### APPROVAL OF AGENDA

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

### APPROVAL OF MINUTES

Council Member Shields moved to approve the June 7, 2005 minutes as amended. Council Member Sanders seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

### RECOGNITION OF POLICE OFFICERS

Police Chief Pledger introduced newly-hired Police Officer Darrell Brickhouse.

Mayor Denny recognized Senior Police Officer Jon Slegel for his four years of service with the Town.

## PUBLIC COMMENT

Mayor Denny opened the public comment section of the meeting.

Tom Welch, 17 Skyline Road, addressed Council regarding Southern Shores Realty request for a recombination of property located adjacent to the proposed site plan for the Sandy Ridge Shopping Center. He stated that he and his neighbors are concerned about Skyline Road becoming a cut-through street to Hwy. 158 if the eight acres owned by Southern Shores Realty is developed. He requests that Council oppose any connection of Skyline Road to Hwy. 158, allowing the South Park Road access to a residential area.

Jim Evans, Republic Partners, representing The Cove LLC, contract purchasers of a site along US 158 at Ginguite Creek said their site plan is a multi-family (condo) 36-unit proposed in a commercial zone. The condominium units are three-bedroom, with parking underneath and other amenities provided. The price of the units will be \$400,000-\$500,000 each. He stated that all requirements to date for the site plan have been recommended for approval by the Planning Board with conditions and request Council approve the site plan.

Andy Keeney, attorney, and resident in Martin's Point, said he is representing the owners of the Cove. He stated there has been no citizen opposition to the proposed development. He is recommending some changes to the application summary as adopted by the Planning Board. Specifically he would like to see Item 3 deleted or at a minimum consider a thirty day time frame instead of six months as these prohibits any real estate contract for the sale of a condominium for six months following the day when a violation of a wastewater treatment plant is found to be corrected. He stated this is a six month penalty without a warning.

Hearing no other comments Mayor Denny closed the public comment section.

## REPORTS

Planning Board (Clerk's Note: A copy of the Report is attached hereto as Exhibit A and made part of these minutes).

Jim Groff, Planning Board Chairman, presented a report on the July 18, 2005 Planning Board meeting. He stated that several items from the July 18 Planning Board meeting, with Planning Board's approval, are on tonight's Council agenda and he will comment when each issue is addressed.

### Mid-Currituck Sound Bridge Update

Geri Sullivan reported that the good news is the federal government has awarded a \$2.0 million grant to East Carolina University to be used for a feasibility study addressing private funding for the Mid-Currituck Bridge. The North Carolina General Assembly is prepared to pass a bill that will empower the North Carolina Turnpike Authority to plan to build the Bridge using a private contractor. She thanked the Council for their leadership in this endeavor as well as former Mayor Sutherland.

### Southern Shores Volunteer Fire Department

Fire Chief Harvey presented the monthly report.

**PUBLIC HEARING -Conditional Use**

**Southern Shores Landing Planned Unit Development –Site Plan Amendment LDA 2005-07-07**

Mayor Denny opened the public hearing at 8:35 p.m. for the Conditional Use Hearing for the Southern Shores Landing Planned Unit Development site plan.

The Town clerk swore in Dan Martier, 103 South Dogwood Trail.

Mr. Martier stated he is representing the developer of Southern Shores Landing, Duck Shores LLC and Duck Shores LLC agrees with the amended site plan presented tonight.

Hearing no other public comments Mayor Denny closed the hearing at 8:37 p.m.

**OLD BUSINESS**

**Southern Shores Landing Planned Unit Development-Site Plan Amendment LDA 2005-07-07**

Mayor Denny read the special conditions as listed in the Town Council Application Summary.

Hearing no discussion from Council, Member Shields moved to approve the Southern Shores Landing Planned Unit Development-Site Plan Amendment LDA 2005-07-07 with the special and standard conditions included. Council Member Sanders seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

**A. Special Conditions:**

1. *Only that portion of the amended site plan (LDA 2005-07-07) that addresses the reduced recreation / fitness area is herein considered; and,*
2. *The new recreation / fitness area shall be henceforth the metes and bounds as described in Book 1642, Page 369 of the Dare County Registrar, but not as subsequently amended, unless so approved by the Town; and,*

**B. Standard Conditions:**

1. *The applicant must strictly abide by all requirements of the Zoning Ordinance of Southern Shores, North Carolina, and must also strictly comply with all other local, state, and federal ordinances, laws, rules and regulations as one or more ordinances, laws, rules and regulations may apply to this development, including any conditions related to approval; and,*
2. *No building permit shall be issued until written evidence satisfactory to the Code Enforcement Administrator is submitted to the Town in accordance with Section 10.04 B.6, Southern Shores Zoning Ordinance; and,*
3. *For purposes of this application and this application alone, the phrase "Building Inspector" found in Section 10.04 B.8, Southern Shores Zoning Ordinance, shall be the Code Enforcement Administrator as appointed by the Town Manager; and,*
4. *Per the provisions of Section 10.02 B, C and D, Southern Shores Zoning Ordinance, approval of this application shall be null and void if:*
  - a. *No building permit for the principal structure is issued within one hundred and eighty (180) days from the date of final approval of the site plan by Town Council; and,*

- b. *The start of construction has not commenced within 180 days from the date of issuance of the building permit or if after commencement work is discontinued for a period of 12 months; or,*
- c. *The work authorized by the building permit issued is not prosecuted to completion within 18 months of the date of issuance of the building permit.*

The Cove Multi-Family Housing Site Plan (LDA-2004-12-03)

Jim Groff, Planning Board Chairman stated that the Planning Board has reviewed this project over several months with numerous changes and he was unaware that the applicant had any objections to the proposed conditions until tonight. He would like Council to consider not allowing the sale of the condominiums until the wastewater treatment plant is operational and without violations for a six month period.

Discussion was held regarding the Ginguite Woods Wastewater Treatment Plant (GWWTP). Two properties (Southern Shores Landing and The Cove) are served by GWWTP.

Mayor Denny suggested that the word *submission* under condition one, as presented, be changed to *recordation*, that condition two is deleted, condition three to be amended as discussed.

Mayor Denny moved to approve the Cove Multi-Family Housing Site Plan LDA-2004-12-03 revision E with conditions. Council Member Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent. The conditions are as follows: 1) the word *submission* is changed to the word *recordation* in item one; 2) delete item two in special conditions; 3) change the word *qualified* engineer to *professional* engineer in item four; 4) amend language in item three that will require disclosure by the Cove developers in all its sales contracts of the impact of an improperly operating or in violation operating wastewater treatment plant on issues of a certificate of occupancy; and include all boiler plate language.

**Special Conditions:**

1. *Submission Recordation of an Amended Site Plan for the Southern Shores Landing PUD reflecting the withdrawal and dedication of easements document signed by Northern Outer Banks LLC, Southern Shores Landing Property Association and Duck Shores LLC.*
- ~~2. *Public Hearing to be held to ensure that all parties have an opportunity to comment on the reduction in the recreation area.*~~
- ~~3. *No sales of the Condominium units be permitted until the Ginguite Woods Water Reclamation Association (GWWRA) [aka Ginguite Woods Wastewater Treatment center] is in operation without violation for six (6) consecutive months beginning with Council Approval of the site plan. If a violation occurs, then a new six (6) month period shall commence on the business day following the day the violation has been found to be corrected by the agency issuing the violation.*~~
2. *Prior to ground disturbing activity, placement of fill or installation of pilings a structural survey of adjacent homes by a ~~qualified~~ professional engineer shall be conducted at the expense of the applicant and report submitted to the Code Enforcement Administrator.*
3. *Disclosure by the Cove Developers in all its sales contracts of the impact of an improperly operating or in violation operating sewage treatment plant on the issues of a certificate of occupancy.*

**Standard Conditions:**

1. *That the applicant must strictly abide by all requirements of the Zoning Ordinance of Southern Shores, North Carolina, and must also strictly comply with all other local, state, and federal ordinances, laws, rules and regulations as one or more ordinances, laws, rules and regulations may apply to this development, including any conditions related to approval; and,*
2. *No building permit shall be issued until written evidence satisfactory to the Code Enforcement Administrator is submitted to the Town in accordance with Section 10.04 B.6, Southern Shores Zoning Ordinance; and,*
3. *For purposes of this application and this application alone, the phrase "Building Inspector" found in Section 10.04 B.8, Southern Shores Zoning Ordinance, shall be the Code Enforcement Administrator as appointed by the Town Manager; and,*
4. *Per the provisions of Section 10.02 B, C and D, Southern Shores Zoning Ordinance, approval of this application shall be null and void if:*
  - a. *No building permit for the principal structure is issued within one hundred and eighty (180) days from the date of final approval of the site plan by Town Council; and,*
  - b. *The start of construction has not commenced within 180 days from the date of issuance of the building permit or if after commencement work is discontinued for a period of 12 months; or,*
  - c. *The work authorized by the building permit issued is not prosecuted to completion within 18 months of the date of issuance of the building permit.*

Southern Shores Town Hall Complex site plan amendment (LDA-2005-05-04)

Mayor Denny reviewed the presented site plan and moved to approve the Southern Shores Town Hall Complex site plan amendment (LDA-2005-05-04) as presented within the existing budget. Council Member Shields seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

Southern Shores Volunteer Fire Department-East Station-Site Plan amendment (LDA-2005-05-03)

Mayor Denny stated the site plan provides for construction of an accessory building to be used for Ocean Rescue equipment located at the East fire station. Council Member Shields moved to approve the Southern Shores Volunteer Fire Department-East Station-Site Plan amendment (LDA-2005-05-03) as presented. Mayor Denny seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

Ordinance 2005-03-PB8 - User Friendly Beach Access

Mayor Denny stated that at a joint meeting held with the Planning Board, Council directed the Planning Board to draft a user friendly beach access ordinance. The Planning Board is submitting Ordinance 2005-03-PB8 - User Friendly Beach Access. Mayor Denny moved to set a public hearing at the September 6, 2005 Council meeting on Ordinance 2005-03-PB8 - User Friendly Beach Accesses, hearing no objection so ordered. The draft ordinance will be reviewed by the Southern Shores Civic Association prior to the public hearing with additional review by Planning Board and staff.

### Vegetation Advisory Board Appointments

Mayor Denny stated that Resolution No. 2005-07-01 was approved at the July 5 Town Council meeting establishing the Board and its responsibilities. Mayor Denny stated that most of the original membership of the Vegetation Committee has agreed to remain as the Vegetation Board except for Ursula Zdziarski, who has resigned from the committee.

Council Member Hess moved to approve Jack Sheehan, Elsa Edwards, Dick Wood, Rob Milne, and Helen van Laer, as members of the Board. Council Member Shields seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

### NEW BUSINESS

#### Traffic Sign-Children at Play-Wax Myrtle Trail

Mayor Denny stated that Council has received a request from Ms. Karen Haley, 318 Wax Myrtle, asking that a "Children Playing" sign be placed near 312 and 323 Wax Myrtle. Based upon Section 5-58, Southern Shores Town Code, a "Children Playing" signs falls within the requirement for Town Council approval.

Mr. Classen stated there are presently no town standards for reviewing the placement of signs when requested by citizens. Council may want to address this issue at another time.

Council Member McDonald moved to approve the placement of the "Children Playing" sign as requested. Council Member Shields seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

### OTHER ITEMS

#### Council Items

Council Member Sanders requested that staff provide a map or some type of graphic showing where the tax base is coming from for the town. Hearing no objection, so ordered by Mayor Denny.

#### Mayor Items

Mayor Denny had no additional comments.

#### Town Manager Items

Mr. Classen stated that the Police Department has nineteen (19) bicycles that have been unclaimed for a period of not less than 60 (sixty) days. Pursuant to NCGS15-12(b) these bicycles can be given to an eligible non-profit group for their use after required publication and posting of a notice that owners may claim their bicycles.

Mr. Classen recommends that these bicycles not claimed by their owners, be donated to Pathways, an organization that aids seasonal foreign guest workers. Mr. Classen recommends that Council approve Resolution 2005-08-02 authorizing the donation of the unclaimed bicycles to Pathways International, a 501-C3 not-for profit organization.

Pathways will take the bicycles "as is", repair and store them, and then allow bicycles to be used to aid next summer's workers get to and from their places of employment.

Mr. Classen stated that on October 6, 1998, the Town Council adopted an ordinance granting authority to dispose of personal property having a value of \$5,000 or less. He recommends Council approve amended Ordinance 2005-08-02, which allows for donations to be eligible to non-profit organizations and also reflects the change in the form of government since 1998.

Mayor Denny moved to adopt Resolution 2005-08-02 as presented. Council Member Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

(Clerk's Note: A copy of the approved Resolution 2005-08-02 is attached hereto as Exhibit B and made part of these minutes).

Hearing no objection, Mayor Denny directed staff to amend Ordinance 2005-08-01 to read under Section 5 and in accordance to N.C. General Statute 160A-279 that disposal of any personal property shall be disclosed in writing to the Town Council not later than thirty (30) days following consummation of any such private sale and to submit amended Ordinance 2005-08-01 for Council's consideration at the September 6, 2005 Council meeting.

Mr. Classen reported that the FY 2005-06 Canal Dredging Grant application has been submitted to the Division of Water Resources (NCDENR) but a resolution is also required. He recommends that Council approve Resolution 2005-08-01 relating to water resources development project with an amendment to section eight as recommended by the Town attorney. Additional language in section eight would read to the extent authorized by law, the Southern Shores Town Council will hold the State harmless from any damages that may result from the construction, operation and maintenance of the project. Council Member Shields moved to adopt Resolution 2005-08-01 as amended in section eight. Council Member Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

(Clerk's Note: A copy of the approved Resolution 2005-08-01 is attached hereto as Exhibit C and made part of these minutes).

Mr. Classen provided a draft Request for Proposal (RFP) for updating the Town's zoning, subdivision and other land use ordinances. He stated that these ordinances have not been comprehensively updated since the Town incorporated in 1979 and the Planning Board recommended that this work be done prior to expiration of the current Planned Unit Development (PUD) moratorium on November 2, 2005, but the timeframe is not realistic given the need for writing the new language, review by the Planning Board, review by the Town Council, public hearing(s), and final adoption. The Town attorney has submitted draft ordinance language regarding the recombination of lots for Planning Board's review at their next meeting. Hearing no objection, Mayor Denny directed the Town Manager to proceed with the RFP and report the findings at the September 6 Council meeting.

Mr. Classen reported that the Town has received a letter asking the Town is interested in renewing the Blue Sky trademark at a cost of eight hundred dollars (\$800) for a one time declaration of continued use. He stated that trademarks have a ten year life cycle before a renewal is required and he contacted the Blue Sky Foundation to see if there is interest in transferring the trademark to the foundation and they are willing to reimburse the cost to maintain the trademark. Mayor Denny moved to approve the renewal of the Blue Sky trademark registration at a reimbursable cost of eight hundred dollars (\$800). Council Member Shields seconded. The motion passed with Mayor

Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

Mike Hejduk, Town Code Enforcement Administrator provided the monthly Building Inspection's report and reported that sixty-six letters were mailed to Town property owners regarding the Town Ordinance governing Home Occupations.

Police Chief Pledger presented the monthly crime report.

Glenn Alexander, Public Works Supervisor provided a monthly report. The Public Works Department replaced the Southern Shores Civic Association emergency access at Ocean View Loop and worked on the Town's new parking lot as well as their daily work orders.

Mr. Classen thanked the Public Works Departments for the three days they spent re-building the Ocean View Loop emergency access.

Town Attorney Items

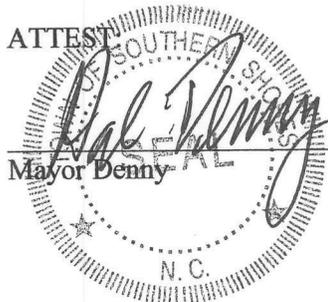
Mr. McRee reported that he received the needed information from the Town engineer and can now proceed with the deeds of easement for the East Holly Trail cul-de-sac improvements. He is also working on the easements for the spoil sites for the Hillcrest property owners.

PUBLIC COMMENT

Mayor Denny opened the public comment section of the meeting. Hearing no comments, Mayor Denny closed the public comment.

Mayor Denny moved to recess at 9:18 p.m. until August 30, 2005 at 7:00 p.m. in the Pitts Center for a closed session to discuss a personnel matter in accordance to N.C. General Statute 143-318.11(a)(6).

ATTEST



Respectfully submitted:

  
Carrie Gordin, Town Clerk