



Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

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

info@southernshores-nc.gov

www.southernshores-nc.gov

Town of Southern Shores

Council Meeting

November 8, 2006

7:00 p.m.-Pitts Center

MINUTES

The Southern Shores Town Council met on November 8, 2006, at the Pitts Center.

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

Also present were: Webb Fuller, Town Manager; Carrie Gordin, Town clerk; and Ike McRee, Town Attorney.

OPENING

Mayor Smith called the meeting to order at 7:00 p.m., led the Pledge of Allegiance and held a moment of silence for David Cowan and his family whose father is very ill, for the family of our deceased police chief, Thad Pledger, and for all our men and women in the armed forces around the world.

APPROVAL OF AGENDA

Mayor pro tem Shields moved to approve the agenda as presented. Council Member Hess seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent or not voting.

CONSENT AGENDA

Approval of Minutes

Mayor pro tem Shields moved to approve all the minutes as presented: Joint Planning Board/Council July 26 and July 31, 2006 minutes; September 26, 2006; October 3, 2006; and October 24, 2006 and the 2006 Tax Pickup and Releases for the months of July and August. Council Member Hess seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent or not voting.

PUBLIC COMMENT

Mayor Smith opened the public comment section of the agenda.

Geri Sullivan of 31-10th Avenue announced that the annual Build the Bridge-Preserve Our Roads (BB-PR) meeting would be held on November 30, 2006, at 7:00 p.m. in the Pitts Center. She stated that a status report on the meeting between the BB-PR and the Toll Bridge Authority would be given at that time.

Hearing no further comments, Mayor Smith closed the public comment and continued with the meeting.

REPORTS

Planning Board

George Kowalski, chairman of the Planning Board presented the October 16, 2006, Planning Board report.

In regards to the US Cellular request to install an emergency generator on site, Mayor pro tem Shields asked if US Cellular currently has an antenna and building at the site. Mr. Kowalski said yes.

[Clerk's Note: A copy of the October 16, 2006, Planning Board report is attached hereto as Exhibit A and made part of these minutes].

Southern Shores Volunteer Fire Department

Fire Chief Harvey presented the monthly report. Chief Harvey announced that fire hose testing would be held next week on Monday, Thursday, and Saturday at Hillcrest beach which will be closed.

Police Department

Lt. Paul Terry presented the monthly report. He also thanked Town council and staff for all their support given to the police department over the past month.

Quarterly Financial-Finance Department

The town manager provided a Quarterly Financial Report as of September 30, 2006, summarizing the revenues, expenditures and contracted services for council review.

PUBLIC HEARINGS

Ordinance 2006-09-01-Chapter 7, Planning and Development-Subdivisions

Mayor Smith requested Mr. McRee to open the public hearing. Mr. McRee asked Mike Hejduk, Town Code Enforcement Administrator, to review Ordinance 2006-09-01. Mr. Hejduk stated that the ordinance reflects recent regulations in two bills passed by the General Assembly in 2005 regarding land use issues.

Mr. McRee opened the public hearing, hearing no comments, he closed the public hearing.

Mayor pro tem Shields moved to adopt Ordinance 2006-09-01 as presented. Council Member Sanders seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent or not voting.

[Clerk's Note: A copy of Ordinance 2006-09-01-Chapter 7, Planning and Development-Subdivisions is attached hereto as Exhibit B and made part of these minutes].

Ordinance 2006-09-02-Lot Coverage with respect to driveways and parking area, lot disturbance, permits and site plan requirements

Mayor Smith requested Mr. McRee to open the public hearing. Mr. McRee asked Mike Hejduk to review Ordinance 2006-09-02. Mr. Hejduk stated that the ordinance addresses several changes. One major change provides that a minimum width of a driveway must be shown on the site plan regardless of the proposed type of driveway and that the driveway would be counted towards the 30% lot coverage.

Council Member McDonald asked what type of fee is charged for this permit. Mr. Hejduk stated a driveway permit is a minimum of seventy-five dollars in accordance to the fee schedule.

Council Member Sanders asked Mr. Hejduk to explain the 10x10 foot parking space. Mr. Hejduk explained that it is a turnaround and it's required so no vehicle would be required to back into a public right-of-way.

Mayor Smith stated that he is concerned that this ordinance penalizes those property owners from building a larger house because now the driveway would be counted as lot coverage. He doesn't agree that a grass driveway should be counted as lot coverage.

Mr. Hejduk stated that in meeting with the SSCA and CPOA representatives they showed support of this ordinance.

Council Member Hess stated that the town is obliged to keep the town like it is and this is a way to limit large homes. She stated this doesn't just apply to undeveloped lots but for all those houses that would be torn down and rebuilt.

Mr. Hejduk stated that the use of pavers and turf stone could be counted at a discount but property owners, at a later date, add asphalt or concrete as the driveway.

Council Member McDonald agrees with Mayor Smith and he suggested that the town notify all the property owners of undeveloped lots of this change in the ordinance before it is adopted.

Mr. Hejduk suggested not adopting the ordinance until the town's land use plan is adopted.

Mr. McRee opened the public hearing.

George Kowalski, 135 Duck Woods Drive, stated as chairman of the planning board, property owners should expect there would be changes to the zoning regulations over a period of time and when it is time to build you have to follow the current regulations. Homeowners are building the biggest houses they can to get the maximum return on their investment. The ordinance does not say you have to have driveway it says it will be drawn on the site plan to be counted as lot coverage. We want to keep the town like it is and we don't want gigantic houses.

Geri Sullivan, 31-10th Avenue, stated that drafting this ordinance has been a long process with the input from the planning board and the civic associations and the bottom line is Southern Shores has always taken a leadership role in what we want the town to look like and not have a town of mini hotels. She asked that council adopt the ordinance now and not wait.

Jim Conners, 83 Duck Woods Drive, stated that while he was the president of the SSCA the ARB turned down a fourteen bedroom house. The town then adopted an ordinance that allowed no more than a seven bedroom house. He said the community has said over and over we don't want large homes. He supports a standard for a minimum driveway. He stated that the demographics have changed over the past twenty years and ordinances have been adopted that have affected the building of homes. He urged council to pass the ordinance. He supports notifying property owners of the change but not to delay as it might cause a rush to take advantage of a loop hole.

Carl Berntsen, 141 W. Holly Trail, stated that he met with the town manager, the town attorney, and Mr. Hejduk regarding his neighbor, who subdivided his lot. Mr. Berntsen felt this was not in accordance to the zoning requirements. He questioned why the subdividing of that property did not go before the planning board. He stated that he was told in the meeting that it was a "done deal" and nothing could be done. He stated that Mr. Hejduk admitted that he read the ordinance wrong. Mr. Berntsen stated, at this time, the town officials have done nothing. He stated he would like to know what they are going to do.

Mr. McRee, hearing no further comments, closed the public hearing.

Mayor pro tem Shields moved to adopt Ordinance 2006-09-02 as presented. Council Member Hess seconded.

Council Member McDonald stated that he would like council to consider the effective date on this ordinance be extended 90 to 120 days from the date approved. He stated this would allow any property owners who have plans but haven't acted on them time to present their plans for review and approval.

Following discussion, Mayor pro tem Shields moved to amend his motion to include that the effective date of the ordinance should read 60 days from adoption. Council Member Hess seconded. Council Members Shields, Hess, Sanders, voting aye; Mayor Smith and Council Member McDonald voting no; and no Council Member absent or not voting.

The town attorney stated that the passing of this ordinance fails according to general statutes; and it requires that a majority vote is needed on the first reading for land use issues. Council placed Ordinance 2006-09-02 on the November 28 council agenda for consideration.

[Clerk's Note: A copy of Ordinance 2006-09-02-Lot Coverage is hereto attached as Exhibit C and made part of these minutes].

Ordinance 2006-11-01-Regulations Governing Signs

Mayor Smith requested Mr. McRee to open the public hearing. Mr. McRee asked Mike Hejduk to review Ordinance 2006-11-01. Mr. Hejduk stated that this ordinance did not change the requirement that no signs are allowed in the town rights-of-way.

Mr. McRee stated that the town received a letter from the ACLU and this ordinance was drafted to protect the first amendment regarding the placement of political signs.

Council Member Hess asked why real estate "for sale" signs could be up to five square feet including a rider sign. Mr. Hejduk explained that for visibility on a property that appears to be acceptable by the real estate community. He stated that representatives from the real estate business participated in the drafting of the ordinance. He stated that the placement of directional signs for an "Open House" needs to be placed on private property and the seller needs to have permission from the property owner where the signs would be placed.

Council Member McDonald asked what the status of Rotary sign will be with the amended ordinance placed at Kitty Hawk Elementary School. Mr. Hejduk stated that the Rotary sign was non conforming and they have the option of coming before council and requesting a variance. He has already notified the Rotary Club and he has not got to Outer Banks Forum sign yet.

Mr. McRee opened the public hearing.

Mike Stone, 8 Sandfiddler Court, stated that a five foot "For Sale" sign is too big. He stated a three and half size sign is adequate with a rider the length of a half square foot the sign would be acceptable. He stated if a larger sign is allowed someone will take advantage and make it even larger.

Mr. McRee, hearing no further comments, closed the public hearing.

Mayor pro tem Shields moved to adopt Ordinance 2006-11-01 as presented. Council Hess seconded.

Council Member Hess stated she would like to suggest that on line 9 (a), page 3 as stated Intended for a temporary period of posting on public or private property the words *of posting on public or private property* be deleted.

Council Member Sanders stated he is concerned about allowing 75% of commercial windows being covered by signage.

Mayor pro tem Shields moved to adopt Ordinance 2006-11-01 as amended per Council Member Hess's suggestion. Council Member Hess seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, and McDonald voting aye; Council Member Sanders voting no; and no Council Member absent or not voting.

OLD BUSINESS

Rules of Procedure

Council Member Hess stated that upon previous review of the Rules of Procedure council agreed that they should be written as a policy. The draft reflects those changes as well as some minor changes addressed by the town attorney.

Council Member Hess moved to accept these Rules of Procedure as presented. Mayor pro tem Shields seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent or not voting.

Youth Activities Committee Appointment

Mayor pro tem Shields stated that he previously asked council to consider appointing a committee to investigate what type of activities could be provided for the youths in town. He stated that the SSCA and the CPOA have agreed to be a part of the committee and each to provide a representative. He stated that he would like to see a committee of five and would seek additional interested people.

Mayor Smith stated that Kevin Stroud is interested in being on the committee.

Consensus of council is to approve the Youth Activities Committee as presented.

Set date for a conditional use hearing-US Cellular request to install emergency generator

Council reviewed an amended site plan and other related documents from US Cellular requesting to install an emergency generator at the site of the Dare County Water Tower behind Kitty Hawk Elementary School.

Mayor pro tem Shields moved to set a conditional use hearing per US Cellular's request for the December 5 council meeting. Mayor Smith seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent or not voting.

NEW BUSINESS

League of Women Voter's Contribution

The town manager stated that he received a request from the League of Women Voter's requesting a \$100 contribution to be used for the printing of their annual citizen's directory. He stated that the current budget did not include contributions and that upon review of current policy council does not give donations. He stated that he understands from staff that this is something that past councils have approved.

Mayor pro tem Shields stated that the League of Women Voter's publish an annual citizen's directory and that is what the donation is used for. He stated that the town uses the directory and is very beneficial.

Consensus of council is to authorize the town manager to submit funds in the amount of \$100 to the League of Women Voter's as requested.

OTHER ITEMS

Council Members

Council Member Hess announced that she attended a media information meeting and it was very informative.

Mayor

Mayor Smith stated that the Dare County Tourism Board is requesting that council submit two names from council. One nominee would be appointed as the town's representative on the tourism board. He stated that Mayor pro tem Shields' term expires on December 31, 2006 and the town is required to have a representative on the board. The Dare County Commissioners make the appointment.

Mayor pro tem Shields's stated that he is willing to remain on the board.

Council Member Hess volunteered to submit her name also.

Consensus of council is to submit Mayor pro tem Shields and Council Member Hess to the Dare County Tourism Board for consideration.

Town Manager

The town manager gave a brief update on the canal dredging project. He stated that the town is in discussion with the Chichahauk Property Owners Association (CPOA) Board on finding a suitable spoil site. He stated that a contractual agreement would need to be developed and it would need to be approved by the CPOA board and council. He stated that the town engineer is preparing the survey.

Town Attorney-none

PUBLIC COMMENT

Mayor Smith opened the public comment section of the agenda. Hearing no comments he closed the public comment section.

Hearing no further comments Mayor Smith moved to adjourn the meeting at 9:15 p.m. Mayor pro tem Shields seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent or not voting.

ATTEST
SEAL

Mayor Don Smith

Respectfully submitted:


Carrie Gordin, Town Clerk