



Town of Southern Shores

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Town of Southern Shores
Council Meeting
March 25, 2008
8:00 AM.-Pitts Center

Minutes

The Southern Shores Town Council met on March 25, 2008 at the Pitts Center.

The following Council Members were present: Mayor Don Smith, Brian McDonald, Jodi Hess, Kevin Stroud and Jim Pfizenmayer.

Also present were: Charles Read, town manager, Carrie Gordin, town clerk and Ike McRee, town attorney.

Mayor Smith called the meeting to order at 8:00 a.m., led the Pledge of Allegiance and held a moment of silence for our troops serving around the world.

APPROVAL OF AGENDA

Mayor Smith stated items B. and C. under Old Business need to be deleted and he moved to approve the agenda as amended. Council Member McDonald seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, Stroud, and Pfizenmayer voting aye; no council member voting no and no council member absent.

PUBLIC COMMENT

Mayor Smith opened the public comment section.

David Sanders, 158 Beech Tree Trail, asked Council to consider, in the future, having the Spring Large Item pickup within two weeks after Easter due the fact that property owners who have summer rentals come down during Easter week to prepare their cottages for the rental season and they have debris that needs to be disposed.

Merrie Smith, administrative assistant, explained this is the earliest Easter and the Large Item pickup is scheduled for April 22.

Council Member Stroud stated the Large Item pickup is provided by Dare County and they set the schedule.

Staff will contact the county to request that, in the future, this service be scheduled to be around the Easter holiday.

Hearing no other comments he closed the public comment section.

APPROVAL of MINUTES – February 26, 2008 and Special Meeting February 26, 2008

Council Member Hess moved to approve the minutes as presented. Council Member McDonald seconded. The motion passed with Mayor Smith, Council Members Hess, McDonald, Stroud and Pfizenmayer voting aye; no council member voting no and no council member absent.

CONSENT AGENDA-FY 2008-09 Budget Amendments (#4-7)

Council Member McDonald moved to approve the budget amendments as presented. Council Member Hess seconded. The motion passed with Mayor Smith, Council Members Hess, McDonald, Stroud and Pfizenmayer voting aye; no council member voting no and no council member absent.

[Clerk's Note: A copy of the FY 2008-09 Budget Amendments (#4-7) is attached hereto as Exhibit A].

REPORTS

Police Chief Kole presented Council with a 2007 Annual Report. He stated copies are available from the Police Department and the report would be placed on the Town's website. He showed the new parking signs to be posted along the avenues and stated there would be more parking violations written since there is visible notice on where parking is available or not available. He is waiting for the cross-over signs to come in.

Mayor Smith asked if it is possible when street signs are replaced that they can be replaced with the bigger size signs like they are using in Kill Devil Hills.

The town manager stated that would be looked into and that the Department of Transportation has said the cross walk signs would be placed by the end of April.

OLD BUSINESS

Storm Water Policy Advisory Committee

Mayor Smith stated the Storm Water Policy Advisory Committee is requesting to be placed on an inactive status since they have completed their report. The committee is willing to be called upon again, by council, as the need arises.

Mr. McRee stated by putting the committee on inactive status it would require the committee to follow the Open Meetings laws and any meeting would be a special meeting and would require a 48-hour advance notice.

Council Member Hess moved to place the Storm Water Advisory Committee on inactive status. Council Member McDonald seconded. The motion passed with Mayor Smith, Council Members Hess, McDonald, Stroud and Pfizenmayer voting aye; no council member voting no and no council member absent.

Street/Storm Water Project

Council Member McDonald, as being a member of the Storm Water Committee, stated it was recommended that council consider asking the town engineer to develop design estimates for upcoming street/storm water projects. He stated the engineer has been involved in all the storm water studies and has the documentation. Design estimates should be submitted for storm water along NC 12 and as a secondary project to include the Road Committee recommendations for Chicahauk and Poteskeet Trail should be submitted to be included in next year's budget.

The town manager stated he has met in a preliminary meeting with the town engineer and he will follow up.

David Peckens, chairman of the Roads Committee, stated a joint meeting was held with the Storm Water Committee and they all agreed that council should solicit engineering design estimates. He stated that the committee has completed assessing half of the roads and the costs for the other half would be addressed over the next couple of years. He stated the committee should be through looking at the roads by the end of April with a report to follow at some time.

NEW BUSINESS

Government Access Channel Budget (Channel 20) (GAC)

Council Member Hess stated GAC is requesting council approve the expense of a share of the GAC budget as provided in the Interlocal Agreement. She stated GAC is also asking the towns to consider an amendment to the FY 2007-08 budget as well as a proposed restructuring of the GAC Committee and pooling of funds received by each member. She stated the County Attorney is present to explain additional considerations.

Council Member Hess moved to approve the one thousand dollar expenditure for the GAC budget as requested and to approve the budget amendment as presented. Mayor Smith seconded. The motion passed with Mayor Smith, Council Members Hess, McDonald, Stroud and Pfizenmayer voting aye; no council member voting no and no council member absent.

Cable Franchise Revenues

Bobby Outten, county attorney, stated that the town was receiving revenues as it pertained to the Cable Franchise Agreement but the legislators have since taken those funds away. The legislators set up a caveat that allows three million dollars to be divided by the number of PEG channels that apply. He stated the town receives seven thousand dollars a quarter but that it can not go into their general fund and needs to be used for the GAC. He stated the request is that all the towns agree to pool their funds to be used to enhance the PEG channels but that each town still would be required to pay their share of the GAC budget. He stated if there is an agreement to pool the funds then permanent staff members could be hired instead of using county employees. He stated in addition to the request that the funds be pooled GAC is requesting the Dare County School Board become a member of the GAC Committee and funds would then be used for Channel 19 also. He stated he is asking council to consider these requests by consensus. He stated that all the towns need to agree before a new Interlocal Agreement would be written and presented for council consideration. He stated he is going before each town to explain these request and he has received favorable responses from Dare County, Manteo and Kill Devil Hills.

Mayor Smith asked what the town gets if the funds are pooled. Mr. Outten stated the use of staff, equipment and program availability.

It was stated there is the capability of showing town meetings on Channel 20 but the individual town has to pay for the cost of filming the meetings. Currently Nags Head, Kitty Hawk and the county show their meetings on Channel 20.

Mayor Smith asked if there is an option to get out of the agreement if council decided not to participate. Mr. Outten stated there should be a term in the agreement to cover that issue.

Council Member Hess moved to allocate funds received from the Cable Franchise revenues in a pool for the GAC to be used for Channels 19 and 20 and to include the Board of Education as a GAC Committee member. Council Member Pfizenmayer seconded. The motion passed with Mayor Smith, Council Members Hess, McDonald, Stroud and Pfizenmayer voting aye; no council member voting no and no council member absent.

Appoint Planning Board Member

Mayor Smith stated that Joe Walter, Planning Board member, submitted his resignation on March 10, 2008 and as council just approved appointments to the Planning Board at their last meeting they need to appoint an alternate member since Mike Florez, alternate, moved to a full time member.

Council Member Stroud nominated Sam Williams as alternate to the Planning Board. Council Member Hess seconded. The motion passed with Mayor Smith, Council Members Hess, McDonald, Stroud and Pfizenmayer voting aye; no council member voting no and no council member absent.

Dare County Hurricane Debris Removal Contract

Mayor Smith stated in preparation for the upcoming hurricane season the County is requesting Council approve the annual Dare County Hurricane Debris Removal Contract. He stated this is the same contract that has been approved over the past several years by Southern Shores as well as the other towns.

Council Member Hess moved to approve the Dare County Hurricane Debris Removal Contract as presented. Mayor Smith seconded. The motion passed with Mayor Smith, Council Members Hess, McDonald, Stroud and Pfizenmayer voting aye; no council member voting no and no council member absent.

[Clerk's Note: A copy of the Dare County Hurricane Debris Removal Contract is attached hereto as Exhibit B].

Annual Clean-Up Week

Mayor Smith stated the town has sponsored for the past several years and encourages the residents to participate in a "Clean-Up Week" (April 21-25). Staff is requesting that council approve the event and agree to set a date of April 26, 2008 for a "Thank You" picnic sponsored by the town for all of our volunteers. Volunteers can pickup bags etc. at Town Hall all week and leave the bags at the street corners where Public Works will collect them.

Merrie Smith, administrative assistant, stated Department of Transportation will provide orange trash bags and will pick up those bags along NC12. She stated there would be no dumpsters at Hillcrest as in the past. She stated information would be sent out in the broadcast email as well as in the Town Newsletter that is being sent to all property owners. She stated she estimates 150 in attendance and requested that council approve \$1,000 for food and thank you items.

Mayor Smith moved to approve the event and authorize the funds in the amount of \$1,000. Council Member McDonald seconded. The motion passed with Mayor Smith, Council Members Hess, McDonald, Stroud and Pfizenmayer voting aye; no council member voting no and no council member absent.

Council Member Stroud recommended that a budget line be established in next year's budget for this type of event.

OTHER ITEMS

Town Manager

The town manager requested council approve, as in the past, to allow the Town of Nags Head to prepare and solicit Request for Proposal (RFP) for Hurricane Debris Removal Contracts and that Southern Shores "piggy backs" with the Town of Nags Head on their selection of contractors for this year's hurricane debris removal.

Mayor Smith moved to authorize the town manager to contact Nags Head to say Southern Shores wishes to continue being part of their solicitation and selection for the upcoming Hurricane Debris Removal Contracts. Council Member Pfizenmayer seconded. The motion passed with Mayor Smith, Council Members Hess, McDonald, Stroud and Pfizenmayer voting aye; no council member voting no and no council member absent.

Town Attorney-None

Mayor

Mayor Smith asked if council wants to address the issue by a letter or resolution to support the county's position on beach driving on national parks. He stated the county is currently in litigation on this issue.

Council Member Pfizenmayer stated he supports driving on the beach at Oregon Inlet and Ocracoke and that we should have a say.

Dan Shields stated that the county is waiting on the court ruling and if the county loses they will fight. He stated this impacts the whole county, revenues would be lost and stores would close. He encouraged everyone to write to their legislators.

Willo Kelly, Outer Banks Home Builders/OB Realtors representative, explained that an injunction has been placed on seven miles of beach to prohibit driving on the beach but this also includes a cut off where driving could be allowed. She stated the Department of Interior is not contesting the issue. She stated the court ruling is expected on April 4.

Mayor Smith asked if there is a resolution available that council may review and consider. Ms. Kelly provided one.

Mr. McRee stated that all national parks on the east coast are affected by this outcome. He stated his firm is representing the county on this issue. He stated due to the economic impact this outcome could have, each town may need to provide an affidavit at some point.

Mayor Smith read the resolution provided. Council then requested staff prepare the resolution for changes as applicable to the town and submit for consideration.

Mayor Smith then moved to approve the resolution with those changes due to the time constraint council would like to see the resolution submitted to the proper agencies immediately. Council Member McDonald seconded. The motion passed with Mayor Smith, Council Members Hess, McDonald, Stroud and Pfizenmayer voting aye; no council member voting no and no council member absent.

[Clerk's Note: A copy of Resolution 2008-03-04 is attached hereto as Exhibit C].

Mayor Smith stated that council agenda items needs to be presented a week before the meeting is scheduled to allow staff time to prepare or the item would be placed on the next meeting agenda.

Council

Council Member McDonald thanked Joe Walter for his service on the Planning Board. He reported the Wireless Committee is meeting tonight at 7:00 p.m. He asked for an update on the canal dredging project.

Mr. McRee stated papers have been filed with the Division of Water Quality and Coastal Area Management Agency (CAMA) and an update would be available at the April 1 council meeting.

Council Member Hess asked about the extension request on the grant for the Land Use Plan update. The town manager stated the town received a letter of approval on the grant extension and that council would receive a copy.

Council Member Hess asked about the continued availability of the grant money for the canal dredging. Mr. McRee stated the town has been told the money has been appropriated but it could be re-appropriated to somewhere else.

Council Member Pfizenmayer asked for volunteers for the town's 30th anniversary celebration for next year. Information will be placed in the town newsletter to be mailed out soon.

Council Member Stroud asked if funds from the \$800,000 grant can be used now towards legal expenses on the canal dredging project. The town manager stated that John Leidy, attorney, will be providing an update for the April 1 council meeting.

Council Member Hess stated she believes the funds will be appropriated when the permit is received.

Council Member Stroud asked for an update on the buoy issue and do we know if we have jurisdiction on those waters. He recommended that the town draft an ordinance to prevent this from happening in the future.

The town manager stated he has been in contact with the Coast Guard and CAMA. He is meeting with a Coast Guard personnel next week to investigate.

Mr. McRee stated the town code does provide some power of authority by prohibiting house boats.

Mayor Smith stated he has been in contact with the owner of one of the buoys and he was told the property owner and the Coast Guard had given him permission two years ago to place the buoy. He was told the Coast Guard said it was okay as long as it doesn't impact navigation.

Council Member Pfizenmayer stated that the Coast Guard has no jurisdiction in Ginguite Creek.

The town manager asked that we wait until we receive an opinion from the Coast Guard before any action is taken.

PUBLIC COMMENT

Mayor Smith opened the public comment section.

Lori Williams, 109 Pudding Pan Lane, asked what happened to the trash/recycle cans at the town's parking lot. Merrie Smith, administrative assistant, said the town took them away. They were being abused and other cans are available at the crossover.

Willo Kelly stated there is a Coastal Resource Commission meeting to be held at the Clarion Hotel to continue the discussion on the new state storm water regulations. She stated everyone needs to be concerned and if regulations are passed will become effective August 1, 2008.

Hearing no other comments he closed the public comment section.

Hearing no other business Council Member McDonald moved to adjourn the meeting at 9:50 a.m. Mayor Smith seconded. The motion passed with Mayor Smith, Council Members Hess, McDonald, Stroud and Pfizenmayer voting aye; no council member voting no and no council member absent.

ATTEST:


Don Smith, Mayor



Respectfully submitted:


Carrie Gordin, Town Clerk

**Town of Southern Shores
Budget Amendment Number # 5**

**Public Works
Increases**

Account Number	Description	Amount
59-50090	Training	\$500
59-50112	Supplies	\$5,000
59-50117	Advertising	\$100
59-50151	Equipment Purchase	\$700
59-50927	Town Bldgs. & Maint.	\$4,000
59-50901	Street Sign Maint.	\$2,000
TOTAL		\$ 12,300

**Public Works
Decreases**

Account Number	Description	Amount
59-50126	Vehicle Operations	\$5,000
59-50904	Engineering Services	\$7,300
TOTAL		\$ 12,300

Explanation: To purchase storage cabinets required by OSHA, street signs for NC 12, building maintenance, etc.

Recommended By:

Charles Read, Jr.

Approved By:

Don Smith, Mayor

Date

**STATE OF NORTH CAROLINA
COUNTY OF DARE**

**HURRICANE/DISASTER DEBRIS REMOVAL
INTERLOCAL AGREEMENT**

This Agreement, made and entered into this the 25th day of March, 2008, by and between Dare County ("County"), a political subdivision organized and existing pursuant to the laws of the State of North Carolina, and the Town of Southern Shores ("Municipality"), a municipal corporation organized and existing pursuant to the laws of the State of North Carolina.

RECITALS

It is hereby determined and declared by the parties that:

A. In the event of a natural disaster, the President of the United States and/or the Governor of the State of North Carolina may declare Dare County a natural disaster area, making Dare County and the municipalities within Dare County eligible for Federal and/or state disaster relief, including funds for the cleanup of debris.

B. In the event of a storm-related natural disaster, such as a hurricane, disaster debris cleanup is often a critical component of the disaster recovery process.

C. Debris cleanup on a county-wide basis requires a coordinated effort between the municipalities within the County, the County, state and federal agencies, and private contractors in order to ensure resources are applied where the need is most critical and to ensure the public health, safety, and welfare is protected.

D. The disaster debris cleanup effort will require prioritizing areas for immediate cleanup, and perhaps temporarily suspending or rescheduling regular solid waste, yard waste, and recycling services.

E. The County is contractually obligated to provide disposal of all solid waste collected within Dare County pursuant to the Municipal Waste Management Agreements entered into between the County and the municipalities.

F. During a natural disaster in which the Dare County Control Group has been activated, decisions regarding debris cleanup are coordinated through the Control Group and implemented by the County.

G. In order to achieve the orderly and efficient cleanup of debris, it is appropriate that the County, in consultation with the Dare County Control Group, coordinate the County-wide disaster debris collection effort through the County's solid waste collectors and contractors, and that cleanup efforts within the municipalities be conducted under the County's contracts for disaster debris cleanup, unless the Town has made alternative provisions to secure a separate contract for disaster debris cleanup.

11. The County, through a competitive bid process which included the possibility of cleanup activity within the Town as well as unincorporated Dare County, has entered into contracts with debris management companies ("Contractors") for debris cleanup following a natural disaster ("Contracts"), and the Town desires to reserve the right to utilize the County contract through this Agreement for debris cleanup within the Town.

1. The County and Town are authorized to enter into this Agreement pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes, and desire to do so for the reasons stated above.

NOW THEREFORE, in consideration of the terms, conditions, and covenants expressed herein, the parties agree as follows:

1. In the event of a natural disaster, the County, upon activation of the Contracts by Dare County Control Group, shall coordinate the collection of disaster related debris cleanup pursuant to the terms and conditions of the Contracts in consultation with the Dare County Control Group.

2. Such cleanup shall include cleanup with the Town pursuant to the terms and conditions of the Contracts.

3. Pursuant to this Agreement, the Town shall:

a. Identify contact personnel to coordinate with County and the Contractors cleanup activity within the Town's jurisdiction.

b. Provide personnel to serve as field inspectors to monitor debris loading and issue debris load tickets, and to validate load tickets and record truck volumes at disposal sites pursuant to the Contracts.

c. Assume all responsibility for coordinating directly with the Contractors in seeking Federal and state disaster relief reimbursement of expenditures incurred from cleanup work performed by the Contractors pursuant to the Contracts.

d. Secure Right-of-Entry Agreements from property owners within the jurisdiction of the Town as necessary.

e. Negotiate with the Contractors for any expenditures for debris cleanup not reimbursed by Federal or state disaster relief assistance.

f. Cooperate in good faith with the Dare County Control Group and Contractors in the disaster recovery and cleanup process.

4. Pursuant to this Agreement, the County shall:

a. Coordinate, in consultation with the Dare County Control Group, debris cleanup, including prioritization of cleanup activities following a natural disaster, pursuant to the terms and conditions of the contract.

b. Respond in good faith effort to specific requests for assistance from the Town.

4. Maintain the Contracts in good standing unless cancelled pursuant to the terms and conditions of the Contracts, and, in the event that the Contracts are terminated or modified, immediately notify the Town of such termination or modification.

5. All terms and conditions of the Contracts entered into between the County and the Contractor shall apply equally to cleanup work performed by the Contractor within the Town's jurisdiction when the Contracts are activated by the Dare County Control Group.

6. This Agreement shall be in effect for the same term as the Contracts, and shall renew under the same terms and conditions as the Contracts.

7. This Agreement may be terminated in whole or in part in writing by either party provided that no termination may be effected under the other party is given not less than thirty (30) days prior written notice of intent to terminate.

8. This Agreement shall be modified only by the prior written approval of both parties.

9. Any notice, acceptance, request, or approval from either party to the other party shall be in writing and shall be deemed to have been received when either has deposited same in the United States Postal Service or personally delivered with signed proof of delivery.

10. Each party agrees to indemnify and hold harmless the other party for any claims of damage, loss, injury, or any other legal, judicial, or administrative claims arising out of or resulting from this Agreement and any work performed pursuant to the Contracts. All indemnifications and immunities from liability incorporated within the Contracts shall apply to this Agreement and are hereby incorporated by reference.

11. If any provisions of this Agreement are held, for any reason, to be unconstitutional, unenforceable, invalid, or illegal in any respect, such decision shall not affect or impair any of the remaining provisions of this Agreement, and the parties shall, to the extent they deem to be necessary and appropriate, take such actions as are necessary to correct any such provisions.

12. This instrument contains the entire Agreement between the parties, and cancels and supersedes all prior negotiations, representations, understandings, or agreements, either written or oral, between the parties with respect to the subject matter hereof.

13. This Agreement is governed by and construed in accordance with the laws of the State of North Carolina.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first written above.

TOWN OF SOUTHERN SHORES

Don Smith, Mayor

COUNTY OF DARE
Warren Judge, Chairman

ATTEST:

Carrie Gordin, Town Clerk

ATTEST
Fran Harris, Clerk to the Board



Town of Southern Shores

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Resolution 2008-03-04

Resolution Supporting the Negotiated Rule Making Process and Against Closing Vehicular Access to Beaches

Whereas, Town of Southern Shores recognizes the Cape Hatteras National Seashore as a pristine treasure in the National Park System which includes a wide variety of shore birds and wildlife, and

Whereas, Town of Southern Shores further recognizes the NPS dual mandate of balancing tourism and resource protection within the Cape Hatteras National Seashore; and

Whereas, hundreds of thousands of US citizens vacation each year on the Outer Banks to enjoy its history, culture, cuisine, and beaches; and

Whereas, the Outer Banks of North Carolina and specifically Hatteras and Ocracoke Islands are world famous for its surf fishing, boating, surf boarding, kite boarding, windsurfing, ocean kayaking, sunbathing, shelling, and other beach activities; and

Whereas, the areas recommended for complete closure deny practical access to some of the world's most productive surf fishing areas which include Oregon Inlet, Cape Point, Hatteras Spit, North Ocracoke, South Ocracoke, 24 hours/ 365 days a year; and

Whereas, several diverse user groups have been selected by the US National Park Service as stakeholders, referred to as the Federal Advisory Committee, and charged with developing an Off Road Vehicle plan for the Cape Hatteras National Seashore and are negotiating in good faith; and

Whereas, closure of the beach due to action by the courts circumvent the good faith efforts of the Negotiated Rule Making,

Whereas, the Town of Southern Shores also recognizes Dare County dependence on tourism as its #1 industry, providing the economic substance for its citizenry and that Dare County is one of only four "Donor" counties out of 100 North Carolina counties; and

Whereas, the Town of Southern Shores acknowledges the current lawsuit against the National Park Service and the economic devastation Dare County would suffer if the beaches are closed to beach driving.

Therefore, Be it Resolved, that the Southern Shores Town Council encourages Dare County, State, Federal elected officials and the US Department of Justice to fully engage a committed defense to prevent irreparable economic harm to the citizens of Dare County by premature closing of any beach until the Negotiated Rule Makers can complete its mission.

Approved this 25th day of March 2008.

SEAL:

ATTEST:


Carrie Gordon, Town Clerk


Don Smith, Mayor