



Town of Southern Shores

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Town of Southern Shores

Council Meeting

February 3, 2009

7:00 P.M.-Pitts Center

Minutes

The Southern Shores Town Council met on February 3, 2009 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 Ben Gallop, Town Attorney.

Mayor Smith called the meeting to order at 7:00 p.m. led the Pledge of Allegiance and held a moment of silence our troops serving around the world.

APPROVAL OF AGENDA

Mayor Smith requested item VII.b. Board of Adjustment appointment is removed from the agenda and he moved to approve the agenda as amended. Council Member McDonald seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, and Stroud and Pfizenmayer voting aye; no council member voting no and no Council Member absent.

PUBLIC COMMENT

Mayor Smith opened Public Comment.

Sarah Tyler, 165 Wax Myrtle Trail, stated she spoke at the Mayor's Chat regarding the unfortunate incident that happened in Kitty Hawk where dogs running loose attacked and killed someone's dog that was in its own yard. She stated she supports stronger laws and the enforcement of them to keep our people and animals safe. She asked Council to review our current ordinances and see what can be done. She offered her time and knowledge to work with Council on this issue like she had done previously on the Animal Control Committee.

Norm St. Laurent, 63 Hickory Trail, thanked Council for all that they do and he asked that Council do the right thing and give the best of their talents during their annual retreat.

Hearing no other comments Mayor Smith closed public comment.

APPROVAL OF MINUTES- January 6, 2009

Council Member Hess moved to approve the January 6, 2009 minutes as presented. Council Member McDonald seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, and Stroud and Pfizenmayer voting aye; no council member voting no and no Council Member absent.

CONSENT AGENDA

FY 2008-09 Budget Amendment #2

Council Member Hess moved to approve Budget Amendment #2 as presented. Mayor Smith seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, and Stroud and Pfizenmayer voting aye; no council member voting no and no Council Member absent.

[Clerk's Note: A copy of FY 2008-09 Budget Amendment #2 is hereby attached as Exhibit A].

REPORTS

Quarterly Financial Report

Bonnie Swain, Finance Officer, presented the financial reported from July 1, 2008 to December 31, 2008.

[Clerk's Note: A copy of the Quarterly Financial Report is available at Town Hall during regular business hours].

Planning Board Recap-January 21, 2009

Nancy Wendt, Planning Board Chairman, presented the recap from the January 21, 2009 meeting. She provided Council with a copy of a Statement of Work for the Planning Advisory Group (PAG) and a copy of the Capital Improvement Plan and Budgeting Principles.

[Clerk's Note: A copy of the Planning Board Recap of January 21, 2009 is hereby attached as Exhibit B].

Southern Shores Volunteer Fire Department –None

Southern Shores Police Department

Police Chief Kole presented monthly report. Council Member Pfizenmayer asked about the community watch program. Chief Kole stated anyone interested needs to come and talk to him.

Southern Shores Civic Association (SSCA)

Dan Shields, president, stated their Board is looking at things to do for the upcoming year and asked that anyone having any ideas contact them.

Chicahawk Property Owners Association (CPOA)

Robin Morgan reported the CPOA is taking a visible assessment of the trees on their common property and she stated they are interested in the community watch program and will contact him. Chief Kole responded by saying someone needs to come to the police department to discuss it.

Canal Dredging Update

The Town Attorney provided an update from John Leidy stating at this point everything is moving along on schedule. The Town has provided the required documents to Division of Coastal Management (DCM) and the reviewing agencies. Once reviewed the Town will await the final permitting decision from DCM based on the Town's amended plan. That permitting decision must be communicated to the Town on or by February 27, 2009.

PUBLIC HEARING -Ordinance 2008-12-01-Non-Conformities for Side Yard Setback

Pat Forrester, Permit Officer, provided a brief history of facts on the development of this ordinance with a Power Point presentation. She stated in 2000 the side yard setback requirement was changed from ten feet to fifteen feet with unintended consequences which made seventy-eight percent of the town's existing structures non-conforming and in accordance to our zoning rules a non-conformity can't be increased. She stated anyone that wanted to make improvements to their house was required to go before the Board of Adjustment (BOA) to request a variance. She stated there have been fourteen appeals to the BOA since 2000 and two were denied. She stated the Planning Board and the Town Attorney have worked together to draft this ordinance for consideration tonight. She stated if the ordinance is approved it will allow an increase of the non-conformity under certain circumstances and would allow the owners of seventy-eight percent of the structures better use of their property.

The Town Attorney opened the public hearing.

Mark Martin, 191 Wax Myrtle Trail, stated when the Town changed the side yard setback from ten feet to fifteen it became a problem. He stated as a building contractor he has run into this situation many times. He stated when the ordinance was changed he was told it would only affect twenty percent of the structures and it was dismissed. He thanked everyone involved in working on this change and stated it is a great start. He supports the ordinance completely.

Hearing no other comments the Town Attorney closed the public hearing.

Council Member Hess moved to approve Ordinance 2008-12-01 as presented. Mayor Smith seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, and Stroud and Pfizenmayer voting aye; no council member voting no and no Council Member absent.

[Clerk's Note: A copy of Ordinance 2008-12-01 is hereby attached as Exhibit C].

OLD BUSINESS

Southern Shores Volunteer Fire Department Draft Contract

The Town Manager stated there have been several productive meetings and negotiations are on-going.

NEW BUSINESS

Travel Policy

The Town Manager presented an update to the Travel Policy to reflect the specific amount allowed for meals while attending training for Council consideration.

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

[Clerk's Note: A copy of the amended Town Travel Policy is hereby attached as Exhibit D].

OTHER ITEMS

Manager

The Town Manager stated Atlantic Tree, the Town's chipping service contractor, has proposed a three year contract with a ten percent reduction for Council consideration.

Council Member Stroud asked if we should seek bids. The Town Manager stated the town does not need to go out for bid on service contracts and he stated this contractor has given great service to the Town. He stated the current contract does not expire until November 2009. Council agreed the Manager should seek additional quotes.

The Town Manager provided Council with information on a Wellness Initiative for the employees. He stated as a follow-up to a December employees Wellness Clinic another clinic will be held in ten months to compare results. Bonnie Swain has proposed for good health a program encouraging the employees to participate as teams will be set up and they are holding "Salad Wednesdays". He asked for Council's support by considering giving the winning team a day off. He stated the North Carolina League of Municipalities representatives will be present at the Retreat to give a short Wellness presentation.

Mrs. Swain stated grants are available.

Mayor Smith asked if there would be a discount on Town insurance after the ten month evaluation. Mrs. Swain stated no but for every dollar spent on health there is a two to five dollars savings.

The Town Manager asked Council if they wanted to cancel the February 24 scheduled workshop. Council agreed to wait until the retreat is held to make that decision to see what issues may still need to be addressed.

Attorney

The Town Attorney stated since the Kitty Hawk dog attack there has been discussion among the other towns for an ordinance that would apply consistently to all the towns. He will keep Council updated.

He reported other counties have joined in the challenge against the Department of Insurance and a hearing has been set in Wake County. He stated the insurance increases have been put into place in some counties and they are trying to fight it.

He stated he is working on several towns behalf (Duck, Nags Head and Southern Shores) on this Department of Insurance challenge and he is requesting each town share in the cost of his expenses as they may arise. Council agreed by consensus to share in his expenses on this issue.

Mayor-None

Council -None

GENERAL PUBLIC COMMENT

Mark Martin, 191 Wax Myrtle, stated the issue on the Department of Insurance rate increases is very important and he urged everyone to look at their wind and hail policies. He stated the higher the value of your house the higher the deductible. He stated the change in the policy is for every incident and you would be charged for example \$6,000 deductible per event on a \$150,000 valued home.

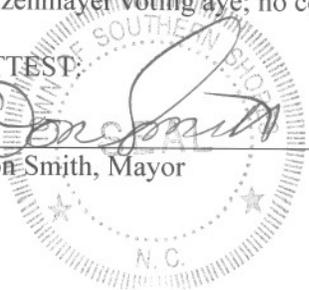
Council Member McDonald asked the Town Attorney is the funding received adequate. The Town Attorney stated Dare County is picking up the difference but possibly more funds will be needed.

Hearing no other business Council Member McDonald moved to adjourn at 8:10 p.m. Council Member Hess seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, and 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

To: Southern Shores Town Council

Copies: Town Manager (Charlie Read)
Town Staff (David Cowan, Pat Forrester, Carrie Gordon,
Alvin Rountree, Merrie Smith)
Planning Board (Mike Florez, Bob Palombo, Dave Peckens, Jay Russell,
Nancy Wendt, Sam Williams and ETJ Rep, Ed Overton)

From: Nancy Wendt, Planning Board Chair

Date: January 29, 2009

Re: Recap, Planning Board Meeting of January 21, 2009

RECOMMENDED ACTIONS FOR THE TOWN COUNCIL:

None

MEETING RECAP

- I. **CALL TO ORDER:** Chairperson Wendt called the meeting to order at 7:00pm. Planning Board Members Nancy Wendt, Jay Russell, Dave Peckens, Mike Florez, Bob Palombo, and Alternates Sam Williams and Bill Gleason were present. ETJ Representative Ed Overton was absent with excuse. Also in attendance were Executive Assistant Merrie Smith and Code Enforcement staff members Alvin Rountree and Pat Forrester.
- II. **APPROVAL OF AGENDA:** Dave Peckens motioned to approve the agenda. Jay Russell seconded the motion. The motion passed unanimously.
- III. **APPROVAL OF MINUTES:**
None – December Meeting was cancelled.
- IV. **PUBLIC COMMENT:**
None
- V. **PERMIT APPLICATIONS**
None
- VI. **OTHER BUSINESS – OLD**
 1. **The Cove Update** – Pat Forrester reported that the permit application is active and on schedule. The permit will expire by August 2009 if no work is done.
 2. **Proposed Ordinance No. 2008-10-01pb Non-Conforming Side Yard Setbacks** – Pat Forrester reported that the community workshop on January 5th was well received. Those in attendance at the Public Workshop on January 5th supported the proposed changes to the non-conforming section of the Zoning Ordinance as submitted to the Town Council on December 2, 2008. There were no concerns raised and no requests for changes to the proposed Ordinance.

3. **Proposed Text Amendment Change Height Calculation Formula** – Pat Forrester reported that Code Enforcement has put this ordinance on hold until April or later in order to complete the Public Hearing and Town Council decision on non-conforming side yard setbacks before proceeding with the review and approval process for the proposed change to the height calculation.

VII. OTHER BUSINESS – NEW

None.

VIII. COMMITTEES: STATUS AND REPORTS

1. **INACTIVE Stormwater Management Committee** (J. Russell) – Jay Russell reported that the committee is currently inactive. On a related matter, Jay reported that the Town of Duck's road elevation project on NC 12 adjacent to the border with Southern Shores is on a hold due to budgetary constraints.
2. **ACTIVE Wireless Committee:** (Chair, Larry Lawhon; PB Members Peckens & Wendt) – Larry Lawhon reported that industry players are responding enthusiastically to invitations to meet with the Wireless Committee to present their technical requirements for wireless facilities. The status of these meetings is as follows:
 - a. **Sprint / Nextel** – This meeting is scheduled for February 10, 2009 at 1:00pm (After the Planning Board meeting the meeting with Sprint / Nextel was moved to February 17, 2009 at 1:00pm Pitts Center with a tour to follow.)
 - b. **US Cellular** – Invitation has been accepted and the meeting date is to be determined. US Cellular informed the committee that they do not have an antenna array on the Dominion Power facility as initially reported. Their antennas are co-located on the water towers in Southern Shores and Duck along with the other carriers.
 - c. **ATT** – An initial meeting was held with ATT and their tower partner SAI on December 16, 2008. A follow up tour with their RF engineers will be scheduled in February.
 - d. **Verizon / Alltel** – An initial meeting was held with Verizon and their tower partner on December 16, 2008. A follow up tour with their RF engineers will be scheduled in February. As a result of the Verizon / Alltel merger, Verizon gains access to Alltel's 800 MHz licenses and will be switching to this frequency for all service to the Outer Banks. Verizon expects that the lower frequency, which penetrates clutter (buildings, vegetation, etc.) better than their current 1900 MHz frequency may improve the quality of reception within Southern Shores.

The next Wireless Committee meeting is scheduled for January 30, 7pm Pitts Center.

3. **INACTIVE Hazard Mitigation Plan Committee** (PB Members Florez & Palombo)
No activity.
4. **INACTIVE Roads/Streets Committee:** (PB Member Peckens)
The Kingfisher / Soundview Trail project is done. Alvin Rountree explained that they will be checking the performance of the rejuvenation work periodically to determine if it is effective. The contract provides a three year guarantee. Poteskeet has been

surveyed and the Chicahawk Trail survey is underway. Both projects are on schedule.

5. ACTIVE Planning Advisory Group (LR / Comprehensive, Land Use & Capital Improvement Planning) (PB Members Florez, Gleason, Williams and Wendt)

Several planning and budgeting activities including integrating the new CIP into the preparation of next year's proposed operating budget, completing the CAMA LUP update and clarifying Southern Shores LR Comprehensive Plan elements need more attention than the town staff can give them. In the absence of a town planner, the Town Manager asked for the Planning Board's help to get this work done.

Bill Gleason, the leader of the 2008 CIP project, Mike Florez and Sam Williams, the Planning Board representatives to the CAMA LUP Steering Committee, and Nancy Wendt, the Planning Board Chair, proposed the creation of a Planning Advisory Group to fill this need. They discussed this idea with the Town Staff on January 7th and they presented the concept to the Town Council on January 20, 2009. Both the Town Staff and the Town Council unanimously endorsed the recommendation that the Planning Board create this group.

Based on the Town Staff's and the Town Council's support, the team presented their proposal to the Planning Board (see the attached presentation.) After a brief discussion Bob Palombo motioned to approve the creation of the Planning Advisory Group to coordinate planning work within Southern Shores. Jay Russell seconded the motion. The motion passed unanimously.

IX. Other Items:

1. **Administrative Items** – Merrie Smith reported that two (2) applications have been received for February's meeting.

2. **Code Enforcement Items:**

None

3. **Chairperson Items:**

None

4. **Planning Board Member Items:**

None

X. ANNOUNCEMENTS:

The next regular meeting of the Planning Board is scheduled for February 17, 2009 at 7pm at the Pitts Center. NOTE – this meeting is on Tuesday because Monday is a Holiday.

XI. ADJOURNMENT: Upon motion, the Planning Board meeting adjourned at 8:50pm.

Ordinance No. 2008-12-01

**AN ORDINANCE OF THE SOUTHERN SHORES TOWN COUNCIL
AMENDING THE TOWN'S ZONING ORDINANCE TO PROVIDE FOR
THE ENLARGEMENT OR ALTERATION OF CERTAIN
NON-CONFORMING STRUCTURES**

Dare County, North Carolina

BE IT ORDAINED BY THE SOUTHERN SHORES TOWN COUNCIL AS FOLLOWS:

Article I: Purpose

The purpose of this Ordinance is to amend the Zoning Ordinance of Southern Shores, Dare County, North Carolina, which was originally adopted by the Town Council on July 7, 1981 and subsequently amended.

Article II. Construction

For purposes of this Ordinance, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Language of the adopted Town Code shall be shown in italics (*italics*).

Article III. Amend Section 5.02 Southern Shores Zoning Ordinance –

Sec. 5.02. Regulation of non-conformities.

C. Non-conforming structures. Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this article by reason of restriction on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains lawful, subject to the following provisions:

- 1. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity. In the case of a structure on pilings with a non-conforming side, front or rear yard setback, enclosing the space below any portion of the structure does not increase its non-conformity unless the footprint of the structure within the non-conforming setback is increased by such enclosure. In the case of a residential primary structure with a non-conforming side yard setback which was compliant with the side yard setback in effect at the time of construction of the non-conforming portion of the structure, the enlargement or alteration of the structure in a manner which violates the current side yard setback does not increase the structure's non-conformity unless the enlargement or alteration also: (i) extends into the side yard beyond the existing non-conforming portion of the structure; or (ii) violates the side yard setback in effect at the time the non-conforming portion of the structure was initially constructed.*

Article IV. Severability

If any words, phrases, language, section or other portion of this Ordinance is held invalid by a court of competent jurisdiction, then all remaining words, phrases, language, section or other portion of this Ordinance shall remain in full force and effect.

Article V: Effective Date

This Ordinance is effective immediately upon adoption.

Adopted this the 3rd day of February 2009.

S E A L

Don Smith, Mayor

ATTEST:

VOTE: 5 Aye 0 Nay

Carrie Gordin, Town Clerk

Approved as to form:

Ben Gallop, Town Attorney

DATE OF FINAL RECOMMENDATION BY PLANNING BOARD:	DECEMBER 2, 2008
DATE INTRODUCED BY TOWN COUNCIL:	DECEMBER 2, 2008
DATES OF PUBLICATIONS:	JANUARY 15, JANUARY 22, 2009
DATE OF PUBLIC HEARING:	FEBRUARY 3, 2009
NAME OF NEWSPAPER:	COASTLAND TIMES

Exhibit D

Adopted 3/4/08
Revised 2/3/09

**TOWN OF SOUTHERN SHORES
TRAVEL POLICY**

Purpose

It is the intent of this policy to provide Town employees' a comprehensive reference for uniform interpretation of payment or reimbursement for travel expenses incurred while traveling on Town business.

All employees and officials of the Town are subject to this policy.

Employee & Council Member Responsibility

It is the responsibility of the Town employee or Council Member to use moderation in incurring travel expenses; thus the same care should be exercised in incurring expenses that a prudent person would exercise if traveling on personal business and spending personal funds. Excess costs, circuitous routes, luxury accommodations, and unnecessary and unjustified services in the performance of official business are not acceptable under this standard. Town employees and Council Members will be responsible for unauthorized costs and any additional expenses incurred for personal preference or convenience. Where practical, Town credit cards will be issued to responsible Town employees as a tool to help minimize the personal financial impact of conducting Town business. Detailed documentation is required of all Town credit card use. Willful violation of this policy may result in dismissal from Town employment or other disciplinary action.

Transportation

Transportation expenses include personal automobile, taxi, bus, train, airplane, motor pool charges, auto rentals, tolls and parking fees. All travel expenses must be incurred by and for employees or Council Members while conducting official Town business to be eligible for reimbursement. Receipts are

necessary for reimbursement for auto rentals and all other means of transportation when available. The Town will pay the allowable automobile mileage rate as established by the Internal Revenue Service. Whenever possible employees should ride together or use Town owned vehicles.

Lodging

The Town will pay actual expenses incurred for lodging. Moderately priced accommodations should be sought as well as a government rate where available.

Meals

The Town will pay a travel advance or allow use of a Town credit card for meals as outlined in the guidelines by GSA. The amount for most towns/cities in NC is \$39.00 per day. The guidelines by GSA allow more for meals in specific towns/cities as outlined on their website. In the event the employee decides to use the Town credit card for meal purchases, a detailed receipt of what was ordered must be turned into the Finance Officer upon your return. Alcohol will not be paid for by the Town. Any purchase of alcoholic beverages is at the employee's or Council Member's expense.

The per diem may not be used, nor will an employee be reimbursed when a meal is furnished as part of a conference registration or is otherwise provided without cost. Employees and Council Members may receive allowances for meals (as stated above) for partial days of travel when the partial day is the day of departure or the day of return. Below are the guidelines:

Breakfast: Depart duty station prior to 6:00 a.m.

Lunch: Depart duty station prior to 10:00 a.m. (day of departure). Return to duty station after 2:00 p.m. (day of return).

Dinner: Return to duty station after 8:00 p.m. If stopping for dinner would cause the employee to return after 8:00 p.m., when he/she would otherwise have returned before 8:00 p.m., dinner will not be reimbursed.

Other Expenses

The Town will reimburse for long distance calls that relate to Town business. Personal phone calls while traveling are at the employee's expense.

Local Expenses

The cost of meals may be reimbursed when an employee/official pays for someone else's meal as a legitimate guest of the Town. The Town will also reimburse for after hours meals when attendance is a matter of Town business. The Town will not reimburse employees for "working lunches".

The Town will pay the allowable rate for local mileage for use of personal vehicles on Town business. Transportation from home to office is not reimbursable. Local mileage reimbursement expenses shall be submitted within 90 days of occurrence.