



Town of Southern Shores

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Council Meeting

August 3, 2010

7:00 p.m.-Pitts Center

The Southern Shores Town Council met on August 3, 2010 at the Pitts Center.

The following Council Members were present: Mayor Hal Denny, Council Members Jodi Hess, Kevin Stroud, Jim Pfizenmayer and George Kowalski.

Also present were: Acting Town Manager David Kole, Town Attorney Ben Gallop and Town Clerk Carrie Gordin.

Mayor Denny called the meeting to order at 7:00 p.m., led the Pledge of Allegiance and held a moment of silence for our armed forces serving around the world.

APPROVAL OF AGENDA

Council Member Hess moved to approve the agenda as presented. Council Member Kowalski seconded. The motion passed with Mayor Denny and Council Members Hess, Stroud, Pfizenmayer and Kowalski voting aye.

RECOGNITION OF TEAM NIGHT HAWK

Mayor Denny recognized a group of students from First Flight High School who competed in the Marine Advanced Technology Education Center (MATE) Remotely Operated Vehicle (ROV) international competition in Hawaii. The local team's ROV, nicknamed "Romvy", competed against 34 high schools and 27 colleges world-wide in Hawaii, and won first prize. Mayor Denny introduced the team members present, Barry Lawler, Charles Brady, Chris Brennan, David Spruill, Sean O'Neal and Patrick Gray as well as their Coach and Teacher Mr. Andrew Thomas. Mayor Denny presented them each with a certificate commending them for their achievement. The students, known as Team Night Hawk, introduced "Romvy" and performed a demonstration, with team members explaining a little about the process of building the robot.

GENERAL PUBLIC COMMENT

Yvonne Sternberg, 57 Hickory Trail, thanked the Police Department for the increased police presence on Hickory Trail which has helped in traffic control.

Lori Williams, 109 Pudding Pan Lane, stated she thinks Meals on Wheels is a good program but it is not the Town's responsibility to pay for the service.

Ed Cowell, 134 Beech Tree Trail, stated he has been reading the criticism towards the Town's Fire Department. He stated his health problems caused him to need the EMS and members of the Fire Department were on call also. He appreciates all that they do. He stated our Fire Department is a good deal, just look at Kitty Hawk and Nags Head Fire Department's budgets.

Dan Osman, 39 11th Avenue, began by apologizing to Council for his comments made to the media. He recognized certain allegations surfacing due to an investigation by the media (WTKR TV Channel 3) over the last three months, allegations regarding irregularities and questionable financial dealings between the Town government and the Southern Shores Volunteer Fire Department. He requested Council Members Stroud and Pfizenmayer and all Town citizens join him in demanding full accounting by the Council on certain issues including conflicts of interest, the process for filling Council vacancies, and the Town's contract with the Fire Department.

David Shrader, Deputy Fire Chief, stated that Mr. Osman was attempting to represent the interests of the Town citizens but he doesn't represent his (Shrader's) interests. He stated that other citizens for whom Mr. Osman was speaking should express their own views in public. He stated Mr. Osman is a convicted drug dealer and people shouldn't rely on his comments as opinions of the citizens of the Town.

APPROVAL OF MINUTES - July 20, 2010 Regular meeting

Council Member Hess moved to approve the July 20, 2010 minutes as corrected. Mayor Denny seconded. The motion passed with Mayor Denny and Council Members Hess, Stroud, Pfizenmayer and Kowalski voting aye.

CONSENT AGENDA-Confirmation of Southern Shores Civic Association Contract Amendment-Marina Use

Council Member Hess moved to approve the Southern Shores Civic Association Contract amendment for the North Marina. Council Member Kowalski seconded. The motion passed with Mayor Denny and Council Members Hess, Stroud, Pfizenmayer and Kowalski voting aye.

[Clerk's Note: A copy of the SSCA contract amendment is hereby attached as Exhibit A].

STAFF REPORTS

Town Planner

Wes Haskett provided information on several issues: update on the Town's Land Use Plan, information for Council's consideration in allowing dogs on the beach, review of the Town's fee schedule for possible amendment, research on purchasing warning tags for items left on the beach; it was decided to hold off until next Spring to acquire the tags.

Police Department

Chief Kole provided reports for the months of June and July. Chief Kole did note that according to the traffic counter over 111,000 cars were counted over the July 4th weekend then the traffic counter over-loaded and stopped working.

Southern Shores Volunteer Fire Department-No report.

Surf Rescue-No report.

Mayor Denny read a letter from a visitor thanking the lifeguard service for a quick response and averting a potentially disastrous outcome.

REPORTS FROM BOARDS, COMMITTEES and ASSOCIATIONS

Planning Board

Sam Williams, Chairman, previously provided Council with recaps from the Planning Advisory Group on July 7 and special Planning Board meeting on July 12, 2010. He asked that Council submit their issues to him or Wes Haskett for the joint Planning Board/Council meeting to be held on September 21, 2010.

[Clerk's Note: Copies of the Planning Advisory Group meeting and the Planning Board are hereby attached as Exhibit B].

Southern Shores Civic Association (SSCA)

Karen Kranda, President, reported the SSCA will be working with the Town and the rental companies early next Spring on trash and parking issues. The SSCA is still in negotiations with AT&T on the wireless tower. In answer to Council Member Pfizenmayer's question when the sound side beach would be open, she stated the Division of Water Quality has recommended that the breakwater be removed, however cost is an issue. The next SSCA Board meeting will be held on Friday, August 6, 9:00 a.m. at the North Marina.

Chicahauk Property Owners Association (CPOA)

Marianne Landrum announced the CPOA annual picnic is scheduled for September 25, details to follow.

Build the Bridge-Preserve Our Road (BBPR)

Robert Palombo reported the State legislators on the House side removed the funding for the Mid-Currituck Bridge but Senator Basnight promised the budget would not be passed without funding for the bridge and he stayed true to his word and even increased the funding annually from \$15 million to \$28 million after three years. The environmental impact study will be completed in September and the bridge is scheduled to be completed in 2014.

Mayor Denny remarked that Mr. Palombo has been involved with this project since 2002, and has given the Town exemplary and skilled representation.

PROJECT REPORTS

Canal Dredging Project

Project Manager Tom Bennett reported the Town is waiting for the CAMA permit and for the contractors to resolve some remaining issues between them. He addressed concerns from a property owner across from the dewatering area and plans are to meet with the property owner at some point.

OLD BUSINESS

Trinitie Trail/Juniper Trail Bridge Repair-Joe Anlauf, Town Engineer

Mayor Denny stated at the last meeting Council had questions regarding this project but the Town Engineer was not available for comment.

Joe Anlauf provided a Power Point presentation. Issues he addressed included erosion – escarpments and sink holes, deflection and undermining of road. He stated this is a culvert bridge and is not required to be

inspected by NCDOT. He recommends geotechnical evaluation of the soils, a physical survey of existing bridge, structural design of bridge and a geotechnical evaluation which is required all of which is needed before a bid can be solicited. He recommends the bridge be replaced and not repaired, with the consideration that the bridge be widened which would allow for future NCDOT inspection.

Following Council discussion Council, by consensus, requested the Town Engineer contact several structural engineers to provide a quote on an evaluation of the bridge and to report back.

Home Delivered Meals Program

Council Member Pfizenmayer stated the Home Delivered Meals program has not been active in Southern Shores for some time and he is trying to restart the program. The service is directed through the Albemarle Commission (county/state funded program) and costs are \$6 per person per meal per day (5 days) and he has six people interested. He requests Council consider funding the program by setting up a line item in the budget. He has people willing to donate money to the program but they want the money to only go to the Town.

Mayor Denny questioned if Council agreed to this type of funding where would the Council stop? He does not support making any move at Town level when it is a county sponsored program.

Following discussion by Council it was noted it has been Council's practice to not appropriate public funds to non-profit organizations.

Council Members, by consensus, do not support this as a Town program.

The Town Attorney will review and report to Council on the legality of accepting donations being placed in the budget for a special purpose.

Council Member Pfizenmayer will contact the County to see how the funding is appropriated for this program and report to Council.

Dogs on Beach

Mayor Denny stated Council, at last meeting, was presented with a petition with over 100 signatures requesting Council consider allowing dogs, under supervision, on the beach from May-15 to September 15 from 6 am to 10 am.

Following Council discussion the Town Attorney recommended a draft ordinance amendment be presented to Council before any action is taken.

Council agreed and supports waiting for the Town Manager to return so he can be involved in the discussion.

Filling Council Vacancy

Mayor Denny stated, due to Council Member Hess not in attendance at the last meeting, this item be placed on this agenda. He referred to NCGS 160A-63 which defines how Council vacancies are filled.

Council Member Pfizenmayer addressed that a past Council had voted 5 to 0 to forward a request to the area's state legislators for the Town to be allowed, by amendment to its Charter, to hold a special election for filling any future Council vacancy. However, the Town Council did not pass any formal resolution to forward to the area's state legislators requesting the necessary legislation.

Following discussion, Council Members Stroud and Pfizenmayer support a Charter amendment providing for a special election to fill future Council vacancies. Mayor Denny and Council Members Hess and Kowalski support continuing to following the current requirements of NCGS 160A-63 regarding the filling of Council vacancies.

Following Council discussion Mayor Denny stated this issue has been thoroughly debated and is moot. No action was taken.

Fire Department

Mayor Denny stated since Council Member Hess was absent from the last meeting, this item had been placed on this agenda for any further relevant discussion. The Mayor stated two Council Members support the Fire Chief becoming an employee of the Town and two Council Members do not support such action.

Council Member Hess stated she supports the arrangement as it currently is and looks forward to a better relationship between the Fire Department and the Town.

Following further Council discussion, Mayor Denny stated discussion on this issue has been thoroughly debated and has been exhausted. No action was taken.

NEW BUSINESS -None

OTHER ITEMS

Town Manager

The Acting Town Manager reported that through a sale of surplus property, \$6,300 was received by the Town as revenue.

Town Attorney

The Town Attorney stated Council may need to hold a special meeting regarding a canal dredging issue.

Mayor

Mayor Denny stated following last Council meeting he was informed by the Town Manager (Peter Rascoe), a member of the Coast Guard Reserve, that he had been notified to report for active duty within two days as support for the federal government's response to the ongoing oil spill in the Gulf of Mexico. Before Mr. Rascoe left he appointed Police Chief Kole as Acting Town Manager in accordance with NCGS 160A-149.

Mayor Denny moved to ratify the appointment of Chief Kole as Acting Town Manager during Mr. Rascoe's absence. Council Member Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Stroud, Pfizenmayer and Kowalski voting aye.

Mayor Denny moved to approve supplemental compensation in the amount of five hundred dollars (\$500) a week to Chief Kole during Mr. Rascoe's absence. Council Member Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Stroud, Pfizenmayer and Kowalski voting aye.

Mayor Denny requested Council consider not holding the workshop on August 17. Hearing no objection, the workshop will not be scheduled by the Mayor.

Mayor Denny announced Bonnie Swain, Finance/Personnel Officer, attended a recent NC Organization of Municipal Personnel Officers (OMPO) conference and she was elected President.

Mayor Denny stated the First Flight Society is celebrating National Aviation Day/Wilbur Wright's birthday on August 19 and by written invitation the Council has been invited to attend.

Council

Council Member Kowalski stated he does not accept Dan Osman's apology. Council Member Kowalski stated there is no conflict of interest for him when past Council Members including Don Smith, Gene Kennedy, Paul Sutherland and David Sanders were also Fire Department members while on Council. He further stated the Fire Department's LOSAP (benefits) Program is cited in the existing fire services contract and the originator of the program was former Mayor Don Smith. Council Member Kowalski further stated that following that time Don Smith, Merrie Smith, and Al Smith while members of the Fire Department, had "double-dipped" from the program before they quit the Department.

GENERAL PUBLIC COMMENT

Dan Osman, 39 11th Avenue, stated nineteen years ago he did make some bad choices and he paid his dues. He is speaking his own free mind. The citizens should have the right to vote to fill a Council vacancy. The citizens should hold the Council members accountable on what they are doing and why because they voted for them. He apologized again for calling the Council members idiots.

David Sanders, 158 Beech Tree Trail, stated while Don Smith was on the Council, for the first time Council had awarded themselves a monthly stipend. Mr. Sanders questioned if that action was not a conflict of interest in spending tax payers' money. Mr. Sanders recalled past Council discussions on holding a referendum to see if Council members should be paid, but no action was ever taken.

Pat Wilson, 101 Bear Track Lane, stated she supports building a new bridge at Trinitie/Juniper Trails and encourages Council to consider this. She doesn't support the Town being involved in the "Meals on Wheels" program there are other organizations to help with this.

Norm St. Laurent, 63 Hickory Trail, thanked Council for all they do and to keep up the good work. He asked that the Mayor hold everyone to the three minute rule for public comment. He supports Council looking at placing a weight limit on the Trinitie/Juniper Trails Bridge. He also appreciates the extra Police presence on Hickory Trail but there is a continuing speeding issue that needs to be addressed.

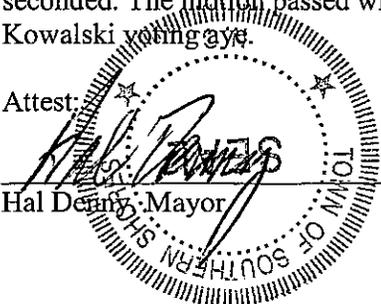
Dave Shrader, 273 N. Dogwood Trail, thanked Council for considering an ordinance amendment to allow dogs on the beach.

Karen Kranda, 82 Poteskeet Trail, stated the last election was a referendum with a vote of 816-352. Council should remember this and citizens that are complaining should remember this. The voter's have put their trust in the current Council to maintain the Town.

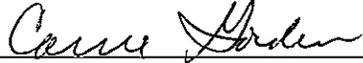
Hearing no other business Mayor Denny moved to adjourn the meeting at 10:10 p.m. Council Member Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Stroud, Pfizenmayer and Kowalski voting aye.

Attest:

Hal Denny, Mayor



Respectfully submitted:


Carrie Gordin, Town Clerk

NORTH CAROLINA
DARE COUNTY

SECOND AMENDMENT TO
LICENSE AGREEMENT

THIS SECOND AMENDMENT TO LICENSE AGREEMENT ("Second Amendment") is made and effective this ___ day of July, 2010 by and between SOUTHERN SHORES CIVIC ASSOCIATION, INC., a North Carolina nonprofit corporation ("Licensor") and TOWN OF SOUTHERN SHORES, a North Carolina municipal corporation ("Licensee").

RECITALS

1. Licensor and Licensee have entered into that certain License Agreement dated August 14, 2009, as amended by First Amendment dated November 16, 2009 (the "License").
2. The License, among other things, provided that Licensee would pay to Licensor certain consideration in connection with the benefit conferred on Licensee by the License.
3. Licensor and Licensee desire to amend the License to clarify and otherwise provide for the payment of such "Consideration," as defined below.
4. Upon payment of the Consideration, Licensor and Licensee desire that the License be terminated.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both parties, Licensor and Licensee hereby agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. Notwithstanding anything herein or in the License to the contrary, Licensee shall pay to Licensor as full consideration under the License the amount of Fifteen Thousand and no/100 Dollars (\$15,000.00) (the "Consideration"), which shall be paid to Licensor within five (5) days of the date of this Second Amendment.
3. While Licensor represents that it will likely use the Consideration for bulkheading expenses somewhere at the North Marion property owned by Licensor, there shall be no restriction under the License or otherwise with respect to Licensor's use or application of such funds.
4. Except as specifically modified hereby, the License remains in full force and effect as written; provided, however, that upon payment in full of the Consideration, the License shall terminate except for any provisions in the License, which, by their terms, expressly

survive termination and except for Licensee's obligations to complete certain restorations and improvements to the North Marina property, at Licensee's expense, including the repaving and repair of the asphalt driveway and the addition of certain trees, as agreed upon by Licensee and Licensor.

IN WITNESS WHEREOF, Licensor and Licensee, by and through their duly authorized officers or representatives have executed this Second Amendment as of the date and year set out above.

LICENSOR:

Southern Shores Civic Association, Inc.

By: _____
Karen Kranda, President

LICENSEE:

Town of Southern Shores

By: _____
Hal Denny, Mayor

ATTEST:

Town Clerk

AFFIX: Town Seal

Exhibit B

To: Southern Shores Town Council (Hal Denny, Jodi Hess, George Kowalski, Jim Pfizenmayer, Kevin Stroud)

Copies: Town Manager (Peter Rascoe)

Town Attorney (Ben Gallop)

Town Staff (Pat Forrester, Carrie Gordin, Alvin Rountree, Merrie Smith, Bonnie Swain)

Planning Board (Mike Florez, Bill Gleason, Larry Lawhon, Elizabeth Morey, Bob Palombo, Jay Russell, Sam Williams and ETJ Rep, Ed Overton)

From: Wes Haskett, Town Planner

Date: July 27, 2010

Re: Recap, PAG Working Session July 7, 2010

PAG RECOMMENDED ACTIONS FOR THE TOWN COUNCIL – Schedule a joint Town Council and Planning Board meeting to discuss the status of all current projects.

PAG MEETING RECAP July 7, 2010

The Planning Advisory Group working session convened at 7:00 pm. Planning Board Members Mike Florez; Bill Gleason, Bob Palombo, Jay Russell, Sam Williams, alternate member Larry Lawhon, Town Planner Wes Haskett, and Executive Assistant Merrie Smith were present.

Planned agenda items for the meeting included:

1. Planning Board Projects
2. Planning Board Meetings and Officers

Jay Russell asked for any additions or changes to the agenda. There were none.

PLANNING BOARD PROJECTS (Jay Russell)

Jay Russell reported that several events had taken place since the last PAG meeting and that he felt that the Planning Board should step back from current projects until September. Jay suggested that the Town Planner and/or the Town Manager confirm which projects the Town Council wants the Planning Board to pursue. The Parks, Recreation, and Open Space Long Range Plan Statement of Work (SOW) was not completed and the effort has been cancelled. All other projects that the Planning Board has been working on have an associated SOW, nearly all which have been approved by the Town Council. Merrie Smith suggested that the Planning Board and Town Council hold a joint meeting to discuss current projects and whether or not the Town Council is interested in pursuing them. The PAG agreed that it would be beneficial to hold a joint meeting to update the Council on all projects. The PAG also agreed that the Town

Council should vote on whether or not to move forward with a project after the joint meeting is held.

PLANNING BOARD MEETINGS AND OFFICERS (Sam Williams and Wes Haskett)

Sam Williams reported that there was still some confusion about the difference in regular Planning Board meetings and PAG meetings. He suggested that the Planning Board consider amending its Rules of Procedure. The amendment would consist of eliminating the PAG and creating Planning Board Workshop in its stead. Hopefully this will reduce confusion and increase flexibility for the Planning Board to address projects or administrative items as needed. The PAG agreed that the Rules of Procedure should be amended and agreed to discuss these changes at the next regular Planning Board meeting.

Wes Haskett reported that a new election of Planning Board officers was needed being that the previously elected Chairperson had resigned and the Town Council had not yet approved the election. Wes suggested that the Planning Board hold a Special meeting for the election of officers since at least two regular members would not be able to attend the regularly scheduled July 19, 2010 Planning Board meeting. The PAG agreed to hold a Special Planning Board meeting on July 12, 2010 to elect officers and to consider amending the Board's Rules of Procedure.

UPCOMING MEETINGS & PROPOSED AGENDA ITEMS

1. Planning Board Application Review meeting July 19, 2010 – Cancelled
2. PAG Working Session September 8, 2010 Pitts Center 7 pm

ADJOURNMENT

The PAG meeting adjourned at 8:15 pm.

To: Southern Shores Town Council (Hal Denny, Jodi Hess, George Kowalski, Jim Pfizenmayer, Kevin Stroud)

Town Attorney (Ben Gallop)

Copies: Town Manager (Peter Rascoe)

Town Staff (Pat Forrester, Carrie Gordin, Alvin Rountree, Merrie Smith, Bonnie Swain)

Planning Board (Mike Florez, Bill Gleason, Larry Lawhon, Elizabeth Morey, Bob Palombo, Jay Russell, Sam Williams and ETJ Rep, Ed Overton)

From: Wes Haskett, Town Planner

Date: July 27, 2010

Re: Recap, Special Planning Board Meeting July 12, 2010

PLANNING BOARD RECOMMENDATIONS FOR THE TOWN COUNCIL: None

I. CALL TO ORDER: Town Planner Wes Haskett called the Special Meeting to order at 9:00 am. Planning Board Members Mike Florez, Bill Gleason, Bob Palombo, Sam Williams, and alternate member Larry Lawhon were present. Chairperson Jay Russell was absent with excuse and ETJ Representative Ed Overton was absent. Alternate member Larry Lawhon substituted for Jay Russell. Executive Assistant Merrie Smith was also present.

II. APPROVAL OF AGENDA:
Bob Palombo motioned to approve the agenda as written with the exception of changing the starting time of the meeting from 7:00 pm to 9:00 am. Larry Lawhon seconded the motion. The motion passed unanimously.

III. ELECTION OF OFFICERS:
Election of Chair and Vice-Chair for July, 2010 ~ June, 2011

Town Planner Wes Haskett called for nominations for Planning Board Chairperson for the period of July 2010 – June 2011. Bob Palombo nominated Sam Williams for Chairperson and Bill Gleason seconded the nomination. The Planning Board unanimously voted to elect Sam Williams as Planning Board Chairperson.

Town Planner Wes Haskett called for nominations for Planning Board Vice-Chairperson. Bill Gleason nominated Mike Florez for Planning Board Vice-Chairperson. Bob Palombo seconded the nomination. The Planning Board unanimously voted to elect Mike Florez as Vice-Chairperson. Per the Town Code (Chapter 24 Article II Section 24-24) the election of these Planning Board officers are subject to the approval of the Town Council.

IV. APPROVAL OF MINUTES:
Mike Florez motioned to approve the minutes from the June 21, 2010 Planning Board meeting. Bob Palombo seconded the motion. The motion passed unanimously.

V. PUBLIC COMMENT:
None

VI. PERMIT APPLICATIONS & PROPOSED ORDINANCES:
None

VII. OTHER BUSINESS:
Planning Board Rules of Procedure

Chairperson Williams noted that at its July 7, 2010 meeting the Planning Advisory Group (PAG) discussed the possibility of amending the Planning Board's Rules of Procedure pertaining to the Planning Advisory Group (PAG). To reduce confusion and increase flexibility for the Planning Board to address projects or administrative items as needed it was proposed that the PAG be eliminated and its meetings be replaced by Planning Board Workshop meetings. This format mirrors the Town Council's meeting format. Bill Gleason moved to amend the Planning Board's Rules of Procedure as stated above. Larry Lawhon seconded the motion.

Bill Gleason noted that he would like to see some flexibility in the meeting schedule for the Planning Board workshop meetings. Wes Haskett noted that the Board could amend Section 5 (a) by deleting "shall" and adding "may" would provide flexibility. Bob Palombo motioned to adopt the amended Rules of Procedure as stated. Bill Gleason seconded the motion.

Bob Palombo noted that Section 9 should also be amended by deleting "shall" and adding "may" to provide flexibility with respect to Planning Board Workshop meetings. Larry Lawhon suggested that the effective date be added to the title of the document. Bob Palombo withdrew his previous motion and motioned to adopt the Rules of Procedure as stated. Larry Lawhon seconded the motion. The motion passed unanimously.

VIII. ANNOUNCEMENTS:

None

IX. REGULAR MEETINGS:

Regularly scheduled meetings for the next month:

1. Planning Board Regular Meeting July 19, 2010 Pitts Center 7pm - Cancelled
2. Planning Board Workshop Meeting August 2, 2010 Pitts Center 7 pm – Cancelled
3. Planning Board Regular Meeting August 16, 2010 Pitts Center 7 pm ?
4. Planning Board Workshop Meeting September 8, 2010 Pitts Center 7 pm
5. Planning Board Regular Meeting September 20, 2010 Pitts Center 7 pm ?
6. Planning Board Workshop Meeting September 20, 2010 Pitts Center 7 pm ?
7. Joint Town Council and Planning Board Meeting September 21, 2010 ?

X. ADJOURNMENT:

Bill Gleason moved to adjourn. Mike Florez seconded the motion to adjourn. The Planning Board meeting adjourned at 9:25 am.