



Town of Southern Shores
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Council Meeting
May 3, 2011
7:00 p.m.-Pitts Center

The Southern Shores Town Council met on May 3, 2011 in the Pitts Center.

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

Also present were: Town Manager Peter Rascoe, Acting Town Attorney Robert Hobbs and Town Clerk Carrie Gordin.

Mayor Denny called the meeting to order at 7:00 p.m. led the Pledge of Allegiance. He held a moment of silence to honor the Navy Seals and for all our men and women in uniform serving around the world.

He stated Ben Gallop, Town Attorney, is not available for tonight's meeting so Robert Hobbs will be sitting in his place.

APPROVAL OF MINUTES-April 5, 2011 and April 19, 2011

Mayor pro tem Hess moved to approve the April 5, 2011 minutes as presented. Council Member Kowalski seconded. The motion passed with Mayor Denny and Council Members Hess, Pfizenmayer, Stroud, and Kowalski voting aye.

Council Member Kowalski moved to approve the April 19, 2011 minutes as presented. Council Member Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Pfizenmayer, Stroud, and Kowalski voting aye.

CONSENT AGENDA

Annual Audit Contract

Proclamation 2011-05-01 Municipal Clerk's Week (May1-May 7)

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

Mayor Denny acknowledged the Proclamation 2011-05-01 Municipal Clerk's Week (May1-May 7) by thanking Carrie Gordin, Town Clerk.

[Clerk's Note: A copy of the Proclamation 2011-05-01 Municipal Clerk's Week (May1-May 7) is hereby attached as Exhibit A].

STAFF REPORTS

Town Planner

Wes Haskett, Planner, presented the April Building Inspections/Code Enforcement Report.

Mayor Denny asked where the sand fencing is being installed and at what cost. The Town Planner stated the Town allocated \$10,000 of the \$20,000 available funds for the placement of new sand fencing and replacement fencing. He stated replacement fencing was to be installed in areas between Pelican's Watch and Thirteenth Avenue. New sand fencing was to be installed between Ninth Avenue and Tenth Avenue as well as between the Triangle Park access and Porpoise Run access.

Council Member Hess asked if beach grass was planted. The Town Planner stated beach grass was not included this year.

[Clerk's Note: A copy of the April Building Inspections/Code Enforcement Report is hereby attached as Exhibit B].

Police Department

Police Chief Kole presented the monthly report. He reported the 800 MHz radios have been installed in the vehicles and working well. He reported a road rage incident at the Market Place, involving a gun, with the assailant being arrested. He also reported that Officers Mann and McKeever responded to a call in which they used the AED and saved a man's life. A formal presentation will be given at a later time.

Southern Shores Volunteer Fire Department-No report

Mayor Denny asked David Sanders, Town volunteer fireman, how the radios are working in that department. Mr. Sanders stated initially there were some glitches but the radios seem to working well.

REPORTS FROM BOARDS, COMMITTEES, AND ASSOCIATIONS

Town Planning Board

Sam Williams, Chairman, announced the meeting time of the May 16 Planning Board meeting will be changed from 7:00 p.m. to 3:00 p.m.

Southern Shores Civic Association

Larry Lawhon reported the shower facility at the Hillcrest Beach access is complete. The annual membership drive is on-going currently with 1,300 properties joining. The North Marina has a new bulkhead, boardwalk and a kiosk with electricity. The east side of the parking lot will be closed for a short period of time for re-paving. SSCA has been contacted by AT&T confirming the draft lease will be presented to them soon. The General Membership meeting will be held Monday May 9 at 7 p.m. in the Pitts Center.

Council Member Pfizenmayer asked what the status of the wading beach for the summer may be. Mr. Lawhon stated the SSCA has been notified that due to state budget cuts the wading beach will no longer be able to have the water tested by the state. Signs will be posted to notify that "swimming will be at your own risk". The Town Manager commented that state public funds can no longer be used for private entities.

Chicahauk Property Owner's Association-No report

FY2011-2012 PROPOSED BUDGET HEARING

Mayor Denny stated staff has worked on preparing the proposed budget with several open budget workshops being held over the past few months. He stated the Town Manager formally presented the proposed FY2011-2012 Budget to Council at the April 19, 2011 meeting. The proposed budget has been made available to the public.

He opened the FY2011-2012 Budget Hearing and asked for public comment.

Hearing no comments he closed the Budget Hearing.

He proposed formal action for the FY2011-2012 Proposed Budget be placed on the June 7 Council meeting agenda. Council agreed.

GENERAL PUBLIC COMMENT

Linda Lombardi, 141 Poteskeet Loop, addressed Council regarding her concerns on who is responsible for the mowing of the street rights-of-way following the recent road paving project on Poteskeet Loop. She said she was told she would need a permit to landscape the right-of-way but sees others have landscaped and she would like to see those permits. She asked when she would be receiving a response from the Town on her concerns. Mayor Denny stated the Town Manager will be available to respond to her questions after the meeting.

CONDITIONAL USE HEARING-CUP 11-01 Request a permit to operate a restaurant at 1 Ocean Blvd.

Mayor Denny stated this hearing is a general quasi-judicial (legislative matter) procedure with certain criteria to be followed. He asked before he opens the Conditional Use hearing is there any Council Member who has a conflict of interest on this issue. Council Members did not have any conflict. He asked the Town Clerk to swear in all the parties desiring to give testimony.

The Town Clerk swore in Wes Haskett, Town Planner and Daniel Lewis and Scott Foster, applicants.

Mayor Denny opened the hearing.

The Town Planner provided a staff report dated March 31, 2011 on the Conditional Use Application Permit and he stated as is in the report the Planning Board and Town staff recommends approval of this Conditional Use Permit with conditions as is included in the report.

Mayor Denny asked the applicants if they had any questions of the Town Planner. They had none. He asked if Council had any questions of the Town Planner. They had none.

Council Member Pfizenmayer commented the applicant should meet all the zoning requirements.

Mayor Denny asked if the applicants wished to present comments.

Mr. Foster stated the business originally was a specialty food market but moved into being a restaurant. In 2008 they moved to seek seating as a restaurant with the Dare County Health Department which was approved. In December 2009, they requested an extension in seating and reclassification with the Dare County Health Department as a restaurant and were approved. In working with the Town's previous Code Enforcement Officer and following the proper procedure, they were informed they only needed to submit

an updated floor plan and no conditional use permit was needed. He stated the water usage is only at 15% capacity for the shopping center, which is not an issue.

Mayor Denny asked if staff had any questions of the applicants. They had none. Mayor Denny asked Council if they had any questions of the applicants. They had none.

Hearing no other comments Mayor Denny closed the hearing.

Mayor Denny moved that Council adopt the findings a.b.c.d. and recommendation number one as delineated in the March 31, 2011 staff report and that Council approve the CUP 11-01 application of Coastal Provisions Market to operate a restaurant.

Mayor pro tem Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Stroud, Pfizenmayer and Kowalski voting aye.

[Clerk's Note: A copy of the March 31, 2011 CUP 11-01 application Staff Report is hereby attached as Exhibit C].

OLD BUSINESS-None

NEW BUSINESS-None

OTHER ITEMS

Town Manager

The Town Manager reported:

- The Life Guard Service is now providing a roving life guard, and beginning the Saturday before Memorial Day three manned stands will be opened (E. Dogwood Trail, Hillcrest Drive and Chicahawk Trail).
- Public Works Department is painting crosswalks/stop bars at street crossovers.
- Byrd Brothers, the canal dredging contractor, is in the final stages of completing clean-up of the canal dredging project's Phase 1. A final invoice will be submitted once a sample report is provided.
- The canal dredging project (Phase 2) process is to apply for a permit. The Town's Project Manager, Environmental Permit contractor, and Town Engineer will be meeting with the CAMA Regional representatives on what is needed to file for the permit. A scoping meeting is scheduled with state and federal agencies for May 26.

Town Attorney-None

Council

Council Member Kowalski asked if any information became available regarding the previous discussion of acquiring the use of certain property to be used for a Town parking lot.

The Town Manager stated in accordance to the Town Code and if a property owner would agree, the lot would need to have a hard surface.

Council Member Stroud suggested the Town Code be amended if needed to not require a hard surface and that this issue be placed on a future agenda for discussion.

Council Member Pfizenmayer requested information be listed on the Town's website and Broadcast Email reminding everyone that dumping of yard debris in the canals is illegal.

Mayor

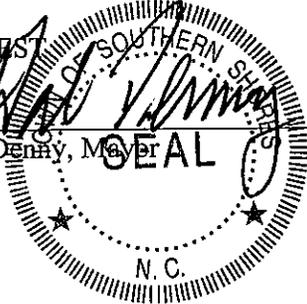
Mayor Denny stated there appears to be no upcoming items for the May 17 meeting so he would recommend the meeting be canceled if Council has no objection. Council concurred.

Following regular business Mayor Denny moved to go into closed session to consider approval of closed session minutes in accordance with N.C.G.S. 143-318.11(a)(1) and N.C.G.S. 143-318.10(e). Mayor pro tem Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Pfizenmayer, Stroud, and Kowalski voting aye.

Upon returning to open session Mayor pro tem Hess moved to adjourn the meeting at 8:05 p.m. Council Member Kowalski seconded. The motion passed with Mayor Denny and Council Members Hess, Pfizenmayer, Stroud, and Kowalski voting aye.

ATTEST

Hal Denny, Mayor



Respectfully submitted:

Carrie Gordin
Carrie Gordin, Town Clerk

Municipal Clerks Week
May 1 through May 7, 2011

Whereas, The Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world, and

Whereas, The Office of the Municipal Clerk is the oldest among public servants, and

Whereas, The Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and

Whereas, Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all.

Whereas, The Municipal Clerk serves as the information center on functions of local government and community.

Whereas, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, province, county and international professional organizations.

Whereas, It is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk.

Now, Therefore, I, Hal Denny, Mayor of the Town of Southern Shores, do recognize the week of May 1 through May 7, 2011, as Municipal Clerks Week, and further extend appreciation to our Municipal Clerk, Carrie Gordin and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

Dated this 3rd day of May, 2011

Mayor

Attest: _____

5-3-11 TC Report

1. Shoreline Management

-Work on the replacement and installation of new sand fencing on Town beaches started last weekend and the work should be finished this weekend, weather permitting.

2. Stormwater Management Ordinance

-At last night's meeting, the Town Planning Board and I continued discussion of a draft Stormwater Management Ordinance. We reviewed and discussed other local Stormwater Ordinances and standards which could possibly be included in our draft ordinance. I will submit a complete draft ordinance to the Planning Board for review and discussion during the June 6th Planning Board Workshop Meeting.

3. Wireless Facilities

-We still have not been contacted by AT&T regarding the proposed stealth tower to be located at Triangle Park.

-The Verizon Wireless collocation inspection report has been reviewed and approved by the Dare County Building Inspector and Dare County Water Department. The report noted that:

1. Safety ladder rungs (lower/upper) found to have rust, pitting and corrosion.
2. Safety ladder climb cable (lower) found to have dried epoxy coated on it in places making safety grab operation difficult.
3. Safety ladder climb cable (lower) found to be connected top and bottom but with too much slack in cable. Tightening needed.
4. Safety ladder climb cable (upper) found to be routed incorrectly at top of tank over possible cutting edge.
5. Safety ladder climb cable (upper) spring connection found to be completely rusted and inoperable.

Although a Certificate of Compliance has been issued for this project, the Dare County Water Department has locked out any/all climbing of the tower until these safety concerns are addressed and a purchase order to address these concerns was placed on April 26th.

4. Mailed 2 Code Enforcement Violation Letter in April

- One violation letter was for the illegal dumping of yard trimming waste, leaves, and tree and shrubbery trimmings and the other violation letter was for exceeding the maximum timeframe allowed for Town provided wood chips to remain in a right-of-way.

5. Permitting and Inspections for April

- 4 zoning permits were issued.

-25 building permits were issued: 1 new single-family dwelling, 2 additions, 2 remodels, and 20 others.

-82 Dare County building inspections were conducted (45 job sites).

-Total amount of fees collected in April: \$2,958.50.

STAFF REPORT

To: Southern Shores Town Council
Date: March 31, 2011
Case: CUP 11-01
Prepared By: Wes Haskett, Town Planner/Code Enforcement Officer

GENERAL INFORMATION

Applicant: Coastal Provisions/Daniel Lewis
1 Ocean Blvd.
Southern Shores, NC 27949
(252) 480-0023

Requested Action: Conditional Use Permit to operate a restaurant in addition to existing food store.

PIN #: 987717023048
Location: Southern Shores Crossing Shopping Center
Zoning: C, Commercial

Existing Land Use: "Developed"

Surrounding Land Use & Zoning:

North- Developed; RS-1, Residential District
South- Developed; C, Commercial District
East- Developed; C, Commercial District
West- Developed; RS-1, Residential District

Applicable Regulations: Zoning Ordinance: Article III Interpretation and Definition of Terms; Article VII, Schedule of District Regulations; Article X, Administration and Enforcement.

SPECIAL INFORMATION

Public Utilities: Existing water service and septic system.
Public Services: The property is within the Town limits; Town protection services are available.
Transportation: The subject property has frontage on Ocean Blvd.
Physical Characteristics: Developed (existing shopping center).

ANALYSIS

The applicant seeks a Conditional Use Permit to operate the existing Coastal Provisions Market as a restaurant by providing indoor and outdoor seating with a full service menu. A Development Permit was issued for the use on March 29, 2006 which included a condition that prohibits indoor and outdoor seating. Restaurants are permitted uses in the C, Commercial zoning district provided that a Conditional Use Permit is granted by the Town Council following

a recommendation made by the Planning Board. In granting any conditional use permit, the Town Council may prescribe appropriate conditions and safeguards in conformity with Article X, Administration and Enforcement. Before granting any Conditional Use Permit, the Town Council shall make affirmative findings that:

- a. The applicant has met the requirements of the applicable provisions of the Town chapter pertaining to zoning, subdivision chapter, and all other applicable ordinances.
- b. That the use as proposed will conform with the Town's Land Use Plan, and will be compatible with the area in which it is to be located, if developed in accordance with the conditions specified in the applicable chapter and additionally required by the Town Council.
- c. That the use will not materially endanger the public health and safety if located where proposed and developed according to the plan submitted.
- d. That the use as proposed will not overburden the Town Volunteer Fire Department fire-fighting capabilities and the county water supply capacity to the Town, as said facilities and capabilities will exist on the completion date of the conditional use for which the application is made.

RECOMMENDATION

The Land Use Plan identifies this area as Developed in the C, Commercial zoning district which is consistent with the proposed use. The Town Planning Board unanimously (6-0) recommended approval of the application and all applicable regulations of the Town Zoning Ordinance and all of Town Staff's concerns that are applicable to this application have been identified. Town Staff recommends approval of the application and offers the following conditions for consideration:

1. That the applicant must strictly abide by all requirements of the Town Zoning Ordinance and must also strictly comply with all other applicable local, State, and Federal requirements.