



**Town of Southern Shores
Regular Council Meeting
October 4, 2016**

The Town of Southern Shores Council met in the Pitts Center located at 5375 N. Virginia Dare Trail at 5:30 p.m. on Tuesday, October 4, 2016.

COUNCIL MEMBERS PRESENT: Mayor Bennett, Mayor Pro Tem Fred Newberry, Council Members Leo Holland, Chris Nason and Gary McDonald.

COUNCIL MEMBERS ABSENT: None

CALL TO ORDER / PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE

Mayor Bennett called the meeting to order at 5:30 p.m., led the Pledge of Allegiance, and held a moment of silence.

AMENDMENTS / APPROVAL OF AGENDA

MOTION: Council Member Holland moved to approve the agenda. The motion was seconded by Council Member Nason. The motion passed unanimously (5-0).

CONSENT AGENDA

The consent agenda consisted of the following items:

— Approval of Minutes-September 6, 2016

MOTION: Council Member Holland moved to approve the consent agenda. The motion was seconded by Council Member Nason. The motion passed unanimously (5-0).

ANNUAL AUDIT PRESENTATION FY 2015-2016

FY2015-2016 Audit Presentation

Teresa Osborne of Dowdy and Osborne presented the report and findings from the June 30, 2016 audited financial statements. The Town of Southern Shores received an unqualified opinion which is the best opinion a municipal government can receive. The opinion states that the Town's financial statements are prepared and presented in accordance with general accepted accounting principles. Additionally, there were no significant deficiencies or material weaknesses noted.

The following financial highlights were presented in the audit:

- The assets and deferred outflows of resources of the Town of Southern Shores exceeded its liabilities and deferred inflows of resources at the close of the fiscal year by \$ 14,229,846 (net position)
- The government's total net position increased by \$ 1,846,995, due primarily to capitalization of assets (net of depreciation) in the current year amount of \$ 1,232,729 and revenues over budget and expenses under budget in the current year of \$ 603,972.

- As of the close of the current fiscal year, the Town of Southern Shores' governmental funds reported combined ending fund balances of \$ 4,894,756, an increase of \$ 629,010 over the prior year. Approximately 22 % of this total amount or \$ 1,068,569 is non-spendable, restricted, committed or assigned.
- The Town implemented GASB Statement 73 this year. With the new reporting change, the Town is required to report the funds set aside for the Law Enforcement Officers Special Separation Allowance in the general fund because they are not in a trust fund meeting the criteria outlined in GASB Statement 67 and 68. This resulted in a restatement to beginning fund balance in the General Fund and net position of the governmental activities in the amount of \$ 212,223.
- At the end of the current fiscal year, unassigned fund balance for the General Fund was \$ 3,761,481 or 62% of total general fund expenditures for the fiscal year.
- Total property valuation increased \$ 14,418,636 (1.10%) from \$ 1,314,982,273 in fiscal year 2015 to \$ 1,329,400,909 in fiscal year 2015.
- The general fund budget for the year was adopted with a tax rate of 22 cents per \$ 100 of assessed valuation; which represented the same tax rate as the prior year.

STAFF REPORTS

Town Planner:

The Town Planner presented the Planning Department's monthly report containing the following:

- Permitting and Inspections September, 2016

Southern Shores Police Department

Chief Kole presented the Police Department's monthly report for September.

Southern Shores Volunteer Fire Department: Fire Chief, Ed Limbacher presented the Fire Department's monthly report for September.

BOARD AND COMMITTEE REPORTS

Planning Board

Wes Haskett, Town Planner presented the Planning Board report for the month of September. A copy is attached.

PRESENTATION - PROPOSED ASSESSMENT OF BEACH PROFILE (PowerPoint Attached)

Kenneth Willson of Coastal Planning and Engineering of NC, Inc. presented a PowerPoint presentation to Council on the benefits of conducting an assessment to determine the current profile of the Town's public trust ocean beach. He stated beach profile data exists for the northern part of Southern Shores' beach from 2004-2006, and beach profile data will be generated for a portion of the southern part of the beach as a component of the 2017 Town of Kitty Hawk beach nourishment project. He proposed to Council gathering current beach profile data for the Town's remaining central section of beach.

Mr. Wilson's proposal consisted of the following:

- Beach Profile Surveys – Conduct surveys in conjunction with the post construction surveys for Duck, Kitty Hawk, and Kill Devil Hills.
- Beach Profile Report – Includes: Methodology, data, profile plots, plan view charts, photos, survey monument information
- Beach Monitoring Analysis – Shoreline Change and Volume Change Analysis

- Beach Monitoring Report – Methods, Identify Erosion and accretion patterns, and provide recommendations as warranted

The Mayor opened the floor for questions about the process to Council and the public. Both the Council and the public asked numerous questions about the process, the cost, and the benefits.

Mayor Pro tem Newberry asked Mr. Willson why the Town should not just use the Army Corp of Engineers. Mr. Willson stated his company already has assets in the area. Councilman Newberry stated he would like to see a cost benefit analysis and a historical cost analysis for beach nourishment. Mr. Willson stated the Town of Duck had a vulnerability analysis done which proved to be beneficial to them and Southern Shores could do the same.

Council Member McDonald asked how would beach nourishment hold up to the strong currents and waves of the Outer Banks. Mr. Willson stated in the current upcoming projects in neighboring Towns the sand grade is matched up to blend with the natural beach already there and all the projects will utilize a hopper dredge. Council Member McDonald also asked if the eco-system is taken into account and asked the average cost per for beach nourishment. Mr. Willson stated permits take 2-3 years, in which an environmental assessment is developed. Mr. Willson stated the current projected cost in the adjacent Town's nourishment projects is approximately \$25 million per every five miles of beach nourished.

Council Member Nason asked if this process was needed to eventually move forward with beach nourishment. Council Member Nason also asked if there is access to historical data from the Army Corp of Engineers. Mr. Willson stated that US Army Corps of Engineers beach profile data exists for the northern part of Southern Shores' beach from 2004-2006.

After further discussion, by consensus, Council agreed to table the discussion of the proposal.

GENERAL PUBLIC COMMENT

Mayor Bennett called for public comment and the following citizens offered comment with topic(s) as indicated:

- Van Price, 18 Ocean Blvd.-supports beach nourishment. We need to protect our beaches
- Mr. Edwards- Ocean Blvd. Beach erosion is a big issue. Bought his house in 1992 and most of the dune and beach have been lost in the past year. Need to work together to find common solution.
- Paul Bowen, 16 Ocean Blvd.-lives in a Frank Stick-designed house and has worked with Army Corps of Engineers and beach nourishment. Would like to donate his time and experience.
- Jim Burrus-Thanked the Mayor for coming out on a Saturday to see the loss to the beaches in the Pelicans Watch Area. Has re-thought the idea of the Pelicans Watch area homeowners getting together to pay solely for beach nourishment in that area and doesn't think that is right.
- Toni Radomski-Ask Army Corp of Engineers for help with the beach. No stop signs should be removed. Go back to vehicle parking stickers
- Andrew Darling-Add a second public comment period to meetings. Do not remove any stop signs. Beach nourishment should have a public hearing. Place Town's Amicus Brief on website.
- Ann Sjoerdsma-Says she is in shock as this seems like an orchestrated hearing from people in Pelicans Watch, and they clearly had notice that this was going to be taken up and the rest of the Town did not; opposes stop sign removal; Code Wright draft assessment of Town Code should be in plain English, release closed session personnel records.

- Tommy Karole-thanked Fire Dept. and how quick they worked to clear trees in the roads during the recent storm. Do not remove stop signs. Parking stickers.
- Jim Kranda-reducing speed limit on NC12 will allow for low speed vehicles. There are 3,200 properties and only 135 Town beach parking spots to go around. Stickers go with cars when they are sold. Permits to park are not perks just for residents, but are for all property owners.
- Joe VanGieson-do not remove stop signs. Season traffic has not been addressed.
- George Berry-prefers stickers. Stop signs slow traffic down.
- Linda Craney-requested the last sentence in the historic landmark ordinance stating it is optional - should be listed first in the ordinance.

[Clerk's Note: A copy of the public comment signup sheet is hereby attached].

OLD BUSINESS

Public Hearing-Establish a Historic Landmark Designation Program and a Historic Landmarks Commission

The Town Manager gave a brief introduction.

Town Attorney Gallop opened the Public Hearing and called for comment. The following citizens spoke:

- Richard Walker
- Ann Sjoerdsma
- Emily Walker
- Steve Gudas

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

Mayor Pro Tem stated he supports the ordinance and the program but would like to see some wording and editing changes. He stated it was difficult to follow.

Council Member Nason stated it is a standard ordinance and sometimes they are hard to read but he is comfortable with the format as written.

Council Member McDonald asked the Town Manager if the tax assessor was clear on how to bill taxes for these properties to which the Manager stated it was clear as stated in the governing state statute.

Council Member McDonald inquired if the Landmarks Commission approves everything. The Town Manager stated the Commission will set up guidelines to use in considering approvals for a property's exterior changes.

Mayor Pro Tem Newberry stated he supported the ordinance as long as Council reserves the right to revise it if an issue comes up.

MOTION: Council Member Nason moved to accept the ordinance as written establishing a Historic Landmark Designation Program and a Historic Landmarks Commission. The motion was seconded by Council Member Holland. The motion passed unanimously (5-0).

NEW BUSINESS

Beach parking Access Permits

Mayor Pro Tem Newberry stated he would like to go back to the sticker system for Town parking permits. He stated he has received complaints from the residents about the hang tags system and has witnessed firsthand the difficulty of finding a Town parking spot to go to the beach. Councilman Newberry stated he felt the system was being abused as many of the

vehicles he saw parked with hang tags had out of state license plates. He stated he is not saying all of the out of state tags may not be legitimate, but he says the system is most likely being abused. Councilman Newberry stated he has received 50 emails supporting the sticker system.

Council Member Holland stated there are many stickers floating on vehicles.

Council Member Nason and asked the Town Manager to give a history of the Town parking system.

Town Manager Peter Rascoe stated there are 3,280 different properties in the Town of Southern Shores, owned by 3,207 property owners – all of whom are eligible to receive a parking permit for the Town's 135 parking spaces which are situated near the SSCA owned beach accesses. In June 2015, there were 5,600 active vehicle windshield stickers outstanding for use of the 135 Town parking spaces. Prior to June 2015, as long as any Southern Shores property owner produced any vehicle registration in his or her name, or in the name of an immediate family member, that property owner could obtain a parking permit sticker for that vehicle. There was never any limit on the number of sticker permits issued – as long as the sticker permits issued were for vehicles registered in the owner's name or in the name of immediate family members. Since June 2015 which is the month the parking permits were switched from windshield stickers to hanging tags, there have been 3,244 hanging tag permits issued for the two-year period 2015-2016. They represent 895 of the eligible 3,280 properties. The hanging tag permit concept allows a property owner the convenience of transferring a single parking permit to another family member or visitor with a vehicle – and has been found to be especially convenient if a vehicle is handicap equipped or equipped with an installed child seat. He stated the issuance of parking permits to Town property owners in the form of hanging tags has been easier to administer for Town staff and holds the permit-holding owner accountable for the number of permits received. As a part of this system, property owners owning open Jeeps, low speed vehicles, and motorcycles have been issued sticker permits upon their request, and those permits count as one of the property owner's four maximum permits.

Town Manager Peter Rascoe then stated during recent discussions with the SSCA regarding beach access parking, Town staff acknowledged a reminder that these permits are not valid in SSCA-owned parking spaces and are for use of the 135 Town-owned designated parking spaces only - can be printed on the back of a numbered hanging tag permit. And by issuing 2 tags maximum to a property owner regardless of the number of properties owned, that would further reduce the number of outstanding parking permits for the usable 135 parking spaces. He also stated an extra one of the permits could also be issued to a property owner for that owner's bona fide long-term Southern Shores resident family residing in a property of the owner.

Mayor Pro Tem Newberry stated he can challenge every comment the Town Manager made.

Council Member McDonald stated the issue seems to be the system in place and not the actual stickers.

Council Member Nason stated he would like for Mayor Pro Tem Newberry to work with the Town Manager to come up with a solution that would work for both staff and Council. Mr. Newberry stated no, that he wanted to go back to stickers.

Mayor Pro Tem Newberry stated only if Council votes to go back to stickers would he then be willing to work with suggestions for implementing the program.

MOTION: Mayor Pro Tem Newberry moved to discontinue hang tags and go back to stickers. Council Member McDonald second the motion. The motion failed with Mayor Pro Tem Newberry and Council Member McDonald voting YES; Mayor Bennett, Council Member Nason and Holland voting NO.

Amendment to Council Rules of Procedure #15-Public Address to the Council

Mayor Pro Tem Newberry stated he would like to add an additional public comment period to meeting agendas. He stated the first public comment should be before Old Business and the second public comment after New Business.

MOTION: Mayor Pro Tem Newberry moved to amend the Council Rules of Procedure item #15-Public Address to the Council to include a second public comment period to future agendas. The motion was seconded by Council Member McDonald. After Council discussion on this matter, the motion passed unanimously (5-0).

Public Hearing- Consideration of Conditional Use Permit Application CUP-16-02 to add lighting to the SSCA Tennis Courts located at 320 Hillcrest Drive

Town Attorney Gallop stated this is a quasi-judicial hearing and all those wishing to speak to approach the podium to be sworn in by the clerk.

Town Planner Wes Haskett presented the staff report (attached).

After the staff report, Council Member McDonald stated the applicant had not checked the appropriate box on the front page of the application making the application incomplete. He referred to the Town Attorney on this matter.

Town Attorney Gallop asked the applicant if it was his intention to check the box on the front page of the application as the requested condition use permit is mentioned elsewhere in the application. The applicant stated yes it was the intention. Town Attorney Gallop stated the applicant may amend his request to check the appropriate box.

Council Member Holland stated there was a previous conditional use permit issued for the same property. He asked the Town Planner if they needed to go back and address anything. Town Planner Wes Haskett stated if Council approves this conditional use permit it will replace the previous conditional use permit.

Town Attorney Gallop asked if there have been any ordinance changes to the applicable ordinances since the conditional use permit for tennis courts was approved in 2001 and does the application seek to change anything else about the property other than the lighting? Town Planner Wes Haskett stated the ordinance language has remained the same and the lighting is the only change to the CUP requested.

Council Member Holland confirmed that the lights are to be turned off at the tennis courts at 9:00 pm to which the Town Planner stated that is correct.

Council Member McDonald confirmed that the height of the lights is to be 18 feet and not the requested 24 feet. The Town Planner stated the maximum height allowed by Town Code is 18 feet and anything higher would require a text amendment.

Mayor Pro Tem Newberry asked if the adjacent property owners have been properly notified. Town Planner Wes Haskett stated the adjacent property owners have been properly notified in accordance to the state statute.

Council Member Nason asked about the buffer surrounding the courts.

Mitch Halloran with Coastal Engineering and Surveying, representing the Southern Shores Civic Association, stated the SSCA is seeking a conditional use permit in order to add lights to the tennis courts. He stated according to the SSCA there is a demand for lighting at the tennis courts and the association solicited Coastal Engineering and Surveying to do an analysis of the site and seek the conditional use permit before moving forward with final engineering of the lighting system.

Mr. Halloran stated the preliminary lighting analysis has been done and said it would be in accordance with Town ordinances. It will be 20 ft candles on 18ft light poles. The lights would be full cut off with sharp edges. There are sufficient setbacks and a dense vegetative buffer.

Mayor Pro Tem Newberry stated to Mr. Halloran that the design of these lights should make for a low impact to adjoining property owners. Mr. Halloran stated the fixture itself is focused with a sharp edge such that the light beams out onto the court and not away from the court. Also, with the setbacks and the vegetative buffer, the impacts should be minimal.

Council Member Holland asked Town Planner Wes Haskett if any property owners responded to the letter sent out to the adjoining properties in which Mr. Haskett stated some had.

Town Attorney Gallop stated to Council that any emails received by Council about this conditional use permit are not sworn testimony and may not be considered because they are ex-parte communications.

Council Member McDonald asked what type of security lock system was installed on the lights so that someone cannot just turn them on and off at any time. Mr. Halloran stated that has not been engineered yet but those devices are usually under lock and key.

Council Member Holland asked if the lighting is on a timer. Mr. Halloran stated they may be on a photo cell and the SSCA will have that set up.

Hearing no other comments or questions from Council, Town Attorney Gallop opened the public hearing up for sworn testimony and the following spoke:

- George Berry (adjacent property owner)-The light timer should not be on after 9:00 pm and the SSCA needs to make sure there are checks and balances to make sure the lights are controlled
- Jay Dunlap (member of the SSCA and its Tennis Committee): the SSCA sent out a survey about placing lights at the tennis courts. The SSCA received 113 responses and out of that number 74 thought it was a good idea to light the tennis courts.
- John Chiles (adjacent property owner) Has been strong supporter of the tennis courts. He was told by members of the SSCA in the original conditional use permit request consideration in 2001 that the tennis courts would never have lights placed up. He said he took the association's word then and would have never agreed on it had he known they would change their minds.

Hearing no other testimony, Town Attorney Gallop closed the public hearing.

MOTION: After discussions, Council Member Holland moved to approve Condition Use Permit application CUP-16-02 to add lighting to the SSCA tennis courts located at 320 Hillcrest Drive with the condition that lights will be turned off by 9:00 pm. The motion was seconded by Council Member McDonald. The motion passed (4-1) with Mayor Pro Tem Newberry and Council Members Nason, Holland, and McDonald voting YES; Mayor Bennett voting NO.

OTHER BUSINESS

Town Manager's report

The Town Manager addressed several matters:

- Preparations continue by Town Staff for the possibility of Hurricane Matthew coming this weekend. The Town EOC will commence on Thursday. We are currently under a Declaration of State of Emergency and will possibly see a mandatory evacuation Thursday.
- Atlantic Tree Experts have doubled their crews and Waste Management has brought in crews to attempt to finish up the remaining Tropical Storm Hermine debris pick-up before possible arrival of the next storm event.
- The audit prepared by Dowdy and Osborne will be placed on the website tomorrow morning.
- Code Wright Planners' final assessment of the current Town Code has been completed and is posted on the Town's website. Code Wright will now bring draft proposed amendments to Council during the project's timetable explained as at previous meetings.

Mayor Pro tem Newberry asked when exactly will Code Wright present the proposed amendments, to which the Town Manager stated he did not know but it should be sometime in the Spring and it is a three (3) step process with public input.

Mayor Pro tem Newberry also asked if results of public input on the draft code assessment were not supposed to be presented to Council on October 10th. The Town Manager stated Code Wright had previously informed Council it would have the final assessment - with public input attached - to Council by October 10th. The final assessment has in fact now been delivered to Council, with submitted public input included, this morning – earlier than October 10. Councilman Newberry also asked if Code Wright could comeback during the November or December meeting to discuss the final assessment. The Town Manager stated a return visit to discuss his final assessment, but it would be his recommendation to have Code Wright review the final assessment when the first round of draft proposed amendments is presented during the appropriate public input period.

Council Member McDonald stated that the budget was grossly underfunded for storm clean-up and we will need to plan better for long term planning, and we continue to be reactive and not proactive and that he has an issue with that. He stated we have had to make one budget amendment and now we will need to make another for the next storm.

The Town Manager explained that for a major disaster event, such as a declared-disaster storm, FEMA reimburses the Town in accordance with its guidelines. The Town only budgets for undeclared storms which is why there is \$25,000 in the budget based on previous years' trends. He explained that budget line can be increased to any amount at the pleasure of the Council.

Mayor Bennett stated that number is from historical data and why would Council budget more than what you need if you know a declared storm is going to be covered by FEMA?

Council Member Nason asked to table the discussion for now as we have enough time to address that during next year's budget discussions.

Mayor Bennett stated we have a declared storm currently coming that could have a substantial impact with substantial flooding. The plan as of now is to anticipate a mandatory evacuation.

Council Member's Comment & Responses

Mayor Pro Tem Newberry stated we may have mentioned it earlier but he thinks Council needs to have a Public Hearing on beach nourishment.

MOTION: Mayor Pro Tem Newberry moved to have a public hearing on beach nourishment at the December 6th Council meeting. The motion was seconded by Council Member McDonald. The motion passed unanimously (5-0).

The Town Manager asked for clarification of the topic so staff can prepare. He asked Council if the public hearing was for the broad topic of beach nourishment or some specific initiative.

The Mayor stated they received a good overview at the current meeting and asked Mayor Pro tem Newberry if he wanted to get into specifics of beach nourishment.

Mayor Pro Tem Newberry stated he wanted to give the public a chance to comment, all of the public. He stated in other words by giving notice.

The Town Manager stated he would advertise it as the concept of beach nourishment to get citizens comments on beach nourishment.

Mayor Pro Tem Newberry stated he would like to hear from both sides of it - the pros and the cons. He asked the Town Manager if we had experts he could bring in. He stated he is not making a case for or against it, but we need to hear both sides so Council can make educated decisions.

Council Member Nason stated he thinks we are better off just hearing public comment to see what people have to say, and then taking that under advisement. Mayor Pro Tem Newberry stated that would be fine.

Mayor Pro tem Newberry stated it is critical to educate the public but to educate the Council as well.

Council Member McDonald stated he would like to make a motion at this point.

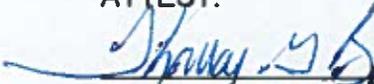
MOTION: Council Member McDonald made a motion that stop signs recommended to be removed by the Public Safety Committee at the Council's September meeting, not be removed. The motion was seconded by Mayor Pro Tem Newberry. The motion passed unanimously

Council Member Holland stated he attended the Bureau of Ocean Energy and Management public hearing regarding the possible Kitty Hawk wind farm in the ocean. There are four phases and they are currently in leasing phase. None of the five companies involved seem like they are interested, and it is a very expensive process. Councilman Holland also stated he represents Southern Shores on the Tourism Board and the Tourism Bureau won a platinum and gold award for advertising and marketing.

ADJOURN

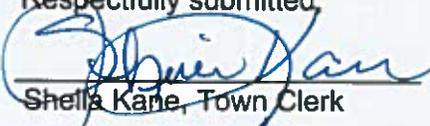
MOTION: Council Member Holland moved to adjourn. The motion was seconded by Council Member Nason. The motion passed unanimously (5-0). The time was 9:35 pm.

ATTEST:


Thomas G. Bennett, Mayor or



Respectfully submitted,


Shella Kane, Town Clerk