



TOWN OF SOUTHERN SHORES
TOWN COUNCIL REGULAR MEETING

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

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PITTS CENTER

Tuesday, January 03, 2023 at 5:30 PM

MINUTES

Call Meeting to Order

Pledge of Allegiance

Moment of Silence

Amendments to / Approval of Agenda

Mayor Morey **moved** to amend the agenda to include a presentation from Dr. Lisa Colvin and Kelly Flock from Kitty Hawk Elementary School, Seconded by Councilman Holland. Motion passed unanimously (5-0).

Councilman Batenic **moved** to approve the agenda as amended, Seconded by Council Member Sherlock. The motion passed unanimously (5-0).

Consent Agenda

1. Minute Approval-11/15/22 and 12/6/22
2. Surplus Resolution-Resolution 2023.01.01

Councilman Holland **moved** to approve the agenda as amended, Seconded by Council Member Sherlock. The motion passed unanimously (5-0).

Presentations

Dr. Lisa Colvin and Kelly Flock from Kitty Hawk Elementary School presented a PowerPoint presentation [attached] entitled "Everyone's Playground."

Staff Reports

Deputy Town Manager/Planning Director Wes Haskett presented the building permit report for the month of December. The Land Use Plan Update was reported the survey is still open and it will close on January 8th. The town received 341 responses on December 22nd. The Planning Board will hold its regular meeting on January 18th (which is a Wednesday) at 5:00 p.m. here in the Pitts Center. The purpose of the meeting is for the Board to continue discussion of potential commercial design standards. The Board may also consider ZTA-23-01, a Zoning Text Amendment application submitted by the Town of Southern Shores to amend Town Code Section 36-57, Definition of Specific Terms and Words (N.C.G.S. 160D language).

Police Chief David Kole presented the Police Department report for the month of December.

Fire Chief Ed Limbacher presented the Fire Department report for the month of December.

Town Manager Ogburn reported on the following operational highlights:

Beach Nourishment Update- A resolution with the beach nourishment project has been worked out with Weeks Marine, CPE, and Dare County. When Weeks Marine comes back in March to construct the Duck project, they will place 37,500 cubic yards of sand in the northern end of Southern Shores' project. the 37 500is the amount of sand that's necessary to bring every station North of Fifth Avenue to 22 cubic yards a foot. No additional funds will be necessary, it is all coming out of what has been budgeted for the total project. The town set out with two goals with the project; south of Fifth Avenue was to establish storm damage reduction to ready the beach for a strong hurricane, north of that area was to establish a useable beach.

Councilman Holland asked if there was a firm date for Weeks Marine to return in March? Town Manager Ogburn stated the town has not received a firm date.

Council Member Sherlock asked to clarify that Southern Shores will not be paying any more for Weeks Marine to come back. Town Manager Ogburn stated the budget that is in place now, including the contingency, will cover the cost of this sand. There will be no additional money coming from the town.

Council thanked the Town Manager for all his hard work in resolving the issue.

Town Attorney Hornthal reported that oral arguments took place on the fourth circuit about the Mid County Bridge and a lot of good questions were asked that allowed our lawyers to say things that were helpful.

General Public Comment

None

Old Business

None

New Business

3. Public Hearing-SUP-22-01, a Special Use Permit application submitted by Timmons Group on behalf of Fire Service Real Estate, Inc. to construct a new EMS/Fire Station at 28 E. Dogwood Trl.

Attorney Hornthal called on those wishing to provide testimony to be sworn in with the Town Clerk. Mr. Hornthal then opened the public hearing and called on staff for a report.

Planning Director Haskett presented the staff report which read as, the applicant seeks a Special Use Permit to construct an 8,756 sq. ft. EMS/Fire Station at 28 E. Dogwood Trl. Parking for the proposed EMS/Fire Station is shown on site as well as in the Town right-of-way along E. Dogwood Trl. The site plan also shows a 10 ft. wide landscaped buffer along the northern and eastern property lines (as discussed at the March 21, 2022 Planning Board meeting). The applicable lot coverage requirement for Fire Stations is 85% and the site plan shows a proposed total of 68.9%. There are no lights shown on the proposed plans. There are two permanent signs shown at a total of 46.9 sq. ft. and there is one appx. 4 ft. tall, 6 sq. ft. temporary sign shown. The Planning Board granted a Variance on December 1, 2022 to allow stormwater in the drainage area that contains

the concrete apron off of E. Dogwood Trl. to be collected and stored in the retention area located at 29 E. Dogwood Trl. as it is today.

Fire Stations are a permitted use in the R-1, Low-density Residential District provided that a Special Use Permit is granted by the Town Council following a recommendation made by the Town Planning Board. In granting any Special Use Permit, the Board may recommend appropriate conditions and safeguards in conformity with Article X, Administration and Enforcement. Before granting any Special Use Permit, the Town 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 Chapter and additionally required by the Town Council as authorized by the Chapter.
- 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 Special Use for which the application is made.

The Land Use Plan identifies this area as Residential in the R-1, Low-density Residential Zoning District which is consistent with the improvements proposed in the application. All applicable regulations in the Town Zoning Ordinance and all of Town Staff's concerns that are applicable to this application have been identified or are addressed in the recommended conditions. Town Staff recommends conditional approval of the application and the Town Planning Board recommended conditional approval of the application with the following conditions:

- 1. The following permit shall be issued prior to submittal of a Building Permit application:
 - a. Improvement Permit and Authorization to Construct a new wastewater collection, treatment and disposal system as issued by the Dare County Health Department.
- 2. A lighting plan shall be submitted with the Building Permit and Zoning Permit application.
- 3. A maximum of two wall signs shall be permitted not to exceed 64 sq. ft. A maximum of five temporary signs, not exceeding 6 sq. ft. and 5 ft. in height each, shall be permitted while the building is under construction. Revised plans shall be submitted with the Building Permit and Zoning Permit application (this recommended condition has been satisfied).
- 4. The applicant must strictly abide by all requirements of the Town Code and must also strictly comply with all other applicable local, State, and Federal requirements.

Applicant Kim Hamby with Timmons Group presented the project. The project is to replace the existing EMS and fire station that currently exists on the site at the corner of Highway 12 and East Dogwood Trail. In the development of this new facility there will be improved parking for visitors along Dogwood Trail, as well as all the necessary parking for the staff. Configuration of that

parking and building is going to be very similar to what it is currently but with some improvements. There will be a new septic system that has been approved. A variance from storm water requirements was requested and we are requirements to store or treat the inch and a half runoff from all of the site except for the small portion of the apron from the overhang limits of the building out to the street.

Councilman Batenic asked if there would be an entrance to the main parking lot from Duck Road? Ms. Hamby stated the entrance to the main parking lot will be on Duck Rd. NCDOT typically honors existing curb cuts when there is no change in use.

Councilman Holland stated at the Planning Board meeting there was some discussion about the storage shed and asked for a status. Ms. Hamby stated the storage shed is in good condition and is not owned by Fire Services or the County and is part of Ocean Rescue. Ocean Rescue is going to move the building out of the way during construction and will move it back to the same location.

Councilman Holland asked for confirmation that only two of the four bays enable full drive through. Ms. Hamby stated only two of the bays will allow drive through, due to the limited space the fire trucks will need to back in off of East Dogwood Trail.

Councilman Holland was concerned with the noise of the trucks backing in during late nights/early mornings.

Mayor Morey asked what the plan was for the three entities during demolition and construction? Planning Director Haskett stated EMS services will be temporarily locating their equipment and vehicles to a site on Juniper Trail. Surf Rescue will be relocating the shed temporarily.

Fire Chief Limbacher stated the rehab truck will be temporarily located to the main fire house on Dogwood Trail.

Mayor Morey asked Ms. Hamby if she knew the timeline of the project. Ms. Hamby stated there is already a construction manager and they are in the process of getting all the necessary subcontractors and expects the project to take about a year.

Hearing no further questions, Attorney Hornthal called on council for deliberations.

Motion made by Council Member Sherlock to approve SUP with conditions 1, 2, and 4, Seconded by Council Member Holland. The motion passed unanimously (5-0).

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock, Council Member Batenic

4. Public Hearing-TCA-22-04, a Town Code Amendment application submitted by the Town of Southern Shores to add Town Code Section 1-13, Conflicts of Interest.

Attorney Hornthal opened the public hearing and called on staff for a report.

Planning Director Haskett presented the report which read as, in 2019 the N.C. General Assembly enacted North Carolina General Statutes Chapter 160D, Local Planning and Development Regulation, which consolidated and clarified former Chapters 160A and 153A that addressed development regulations for Municipalities and Counties. The Chapter became effective January 1, 2021 with the requirement that all Municipalities and Counties update their ordinances to be compliant with it by July 1, 2021. Due to the Town Code Update project, Town Staff chose to postpone amending the Town Code to be compliant with Chapter 160D until the amendments from the Town Code Update project were complete.

As a result of that postponement, and in an effort to bring the Town Code into compliance with Chapter 160D without making numerous amendments, the Town Council adopted Town Code Amendment TCA-21-05 on July 6, 2021 that clarified that the North Carolina General Statutes (in particular Chapter 160D) must be satisfied whenever the Town Code conflicts with, contradicts or is otherwise inconsistent with the North Carolina General Statutes. The next proposed amendment required under Chapter 160D is a Town Code Amendment (TCA) that incorporates conflicts of interest requirements from 160D into the Town Code.

Mayor Morey stated currently in our ordinance there is no ordinance addressing conflict of interest. Planning Director Haskett confirmed that was correct and 160D requires municipalities and counties to adopt a conflict of interest whether by ordinance or by policy.

Council Member Sherlock stated she was not aware that the town did not have a conflict-of-interest policy. Planning Director Haskett stated all of staff and council all have taken oaths of office which addresses being ethical and moral, similar to this conflict-of-interest ordinance.

Attorney Hornthal closed the public hearing and called on Council for deliberation.

Motion made by Council Member Batenic to approve TCA-22-04 as presented, Seconded by Mayor pro tem Neal. The motion passed unanimously (5-0).

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock, Council Member Batenic

5. 2023-2024 Biennium Legislative Goals

Mayor Morey nominated Town Manager Ogburn to represent Southern Shores in the 2023-2024 Biennium Legislative Goals, all Council members agreed by Consensus.

General Public Comment

None

Council Business

Mayor Morey stated the next meeting is Tuesday, February 7th. Also, if you would like to volunteer to do some beach grass planting information will be in the newsletter.

Councilman Holland provided a Tourism Board report for October. Occupancy was off .5%, but up 5.9% year to date. Meals were off 35% but up 3.5% year to date. He also provided copies of the State of Dare County Tourism and will provide information in the next newsletter.

Adjourn

Hearing no further business Mayor Morey called for a motion to adjourn. Councilman Holland **moved** to adjourn the meeting at 6:47 pm, Seconded by Councilman Batenic. The motion passed unanimously (5-0).

ATTEST:


A. Elizabeth Morey, Mayor



Respectfully submitted,


Sheila Kane, Town Clerk

The attached documents are incorporated herewith and are hereby made a part of these minutes.