



Town of Southern Shores

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Town of Southern Shores

Council Meeting

May 3, 2006

7:00 p.m.-Pitts Center

MINUTES

The Southern Shores Town Council met on May 3, 2006, at the Pitts Center.

The following Council Members were present: Mayor Don Smith, Council Members Jodi Hess, Dan Shields, David Sanders, and Brian McDonald.

Also present were: Webb Fuller, Interim Town Manager; Carrie Gordin, Town Clerk; and Ike McRee, Town Attorney.

OPENING

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

Mayor Smith introduced Webb Fuller, Interim Town Manager.

APPROVAL OF AGENDA

Mayor Smith requested that the agenda be amended to hear George Wood's canal dredging update since Mr. Wood has another commitment and Police Chief Hamilton has requested to be moved up on the agenda so he may attend the Town of Duck's Council meeting tonight. Mayor pro tem Shields moved to amend the agenda and place Mr. Wood's canal project update before the Public Comment section and that Chief Hamilton be placed under Presentations as item 3.C. Council Member Sanders seconded. The motion passed with Mayor Smith and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent or not voting.

APPROVAL OF MINUTES

Mayor Smith presented the minutes from the March 28, 2006, April 4, 2006, and April 18, 2006 Council minutes. Several minor corrections were submitted. Mayor pro tem Shields moved to approve the minutes as corrected. Council Member Sanders seconded.

The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent or not voting.

Canal Dredging Update

George Wood, EPI, contractor for the Town's dredging project, stated that due to the resignation of Mr. Classen, project coordinator, he is here tonight to update Council where the project is and ask for direction from Council. Mr. Wood stated that his staff is prepared to move ahead but the Town has not secured spoil sites. All requests for spoil sites have been turned down and the original spoil sites were abandoned due to not receiving all easements required. Mr. Wood requests that Council assign someone as point of contact for the project and that Council provide guidance to him and his staff. Council assigned Webb Fuller as the project coordinator.

PUBLIC COMMENT

Mayor Smith opened the public comment, hearing no comments Mayor Smith closed the public comment and continued with the meeting.

PRESENTATIONS

Recognition of Lt. Paul Terry-Duck Police Chief Hamilton

Chief Hamilton presented Lt. Paul Terry with a framed certificate thanking him for helping the Town of Duck Police Department with their fire arms training.

U.S. Fish and Wildlife Department-Firewise Communities

Kelly Van Druten with the U.S. Fish and Wildlife Department presented a very informative public service program regarding ways to protect your home and property from wildfires.

REPORTS

Planning Board

George Kowalski presented the April 17, 2006, Planning Board report in Chairman Groff's absence.

Following the report several zoning ordinances were recommended by the Planning Board that requires a public hearing.

Mayor pro tem Shields moved to set Ordinance 2006-05-01-Church facility height for a public hearing on June 6 Council meeting. Council Member Sanders seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent or not voting.

Council Member Hess moved to set Ordinance 2006-05-02- Charity Event Signs for a public hearing on June 6 Council meeting. Mayor pro tem Shields seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent or not voting.

Mayor pro tem Shields moved to set Ordinance 2006-05-03- Temporary Signs for a public hearing on June 6 Council meeting. Council Member Sanders seconded. The motion passed with

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Mayor Smith and Council Members Shields, Hess, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent or not voting. Mr. McRee recommended that the two ordinances regarding signs be returned to the Planning Board for further review. He stated that he has provided additional comments on the ordinance dealing with political signs to meet with the ACLU's concerns for Planning Board's consideration.

He recommends Planning Board draft one ordinance addressing all sign issues to present to Council.

Council Member Hess moved to rescind the motion to send Ordinance 2006-05-02 Charity Event Signs for public hearing and Mayor pro tem Shields rescinded his second.

Mayor pro tem Shields moved to rescind his motion to send Ordinance 2006-05-03 Temporary Signs for public hearing and Council Member Sanders rescinded his second.

Mayor pro tem Shields moved to return Ordinance 2006-05-02 Charity Event Signs and Ordinance 2006-05-03 Temporary Signs to Planning Board for review and submit for recommendation as one ordinance including comments submitted by the Town attorney.

Mayor Smith stated that he is concerned how Ordinance 2006-05-04-Lot Coverage would affect property owners who do not want to have an asphalt or concrete driveway. He does not support that a grass driveway should be counted as lot coverage.

Mike Hejduk, Code Enforcement Administrator, stated that the allowable 30% lot coverage should be enforced and that driveways should be counted. He stated that often after a house is built the owner will install a concrete or asphalt driveway and that currently no permit is needed for driveways.

Following discussion on Ordinance 2006-05-04-Lot Coverage Mayor pro tem Shields moved to hold a public hearing on June 6. Council Member McDonald seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent or not voting.

(Clerk's Note: A copy of the April 17, 2006, Planning Board Report is attached hereto as Exhibit A and made part of these minutes).

Mr. Hejduk stated that the new Dare County Flood Informational Rate Maps (FIRM) becomes effective September 20, 2006.

Mid-Currituck Sound Bridge Campaign Update

Bob Palombo reported that East Carolina University met with DOT to discuss contracting with DOT in hiring a project manager. The next meeting scheduled with East Carolina University, BB/PR Board and Council is June 7.

Southern Shores Volunteer Fire Department

Fire Chief Harvey presented monthly report.

Police Department

Police Chief Pledger presented the monthly crime report. Chief Pledger introduced two new officers: Officer Dean Mc Manus and Officer Mike Torres.

Code Enforcement Department

Mike Hejduk reported that the Town received a draft report from the State regarding the status of the Town's Hazard Mitigation Plan. He stated that the Town has maintained a Class 6 rating and the rate is good for five years. He stated that the department is presently updating Chapter 4-Fire Prevention of the Town Code.

Mr. Hejduk stated that the department is working on correcting property numbering issues and that 972 warning citations have been mailed requesting that property owners comply with the Town Code. He stated upon evaluation of the data base program it may be found that only a small percentage of properties need corrected and that some type of grandfathering or amendments to the Town Code may be in order.

Public Works Department

Glenn Alexander presented monthly report. The Town's parking lot on Chicahawk Trail is completed.

OLD BUSINESS

Mid-Dogwood Trail Multi-Use Path

Mayor pro tem Member Shields explained that a request has been submitted to the Tourism Board asking that the Mid-Dogwood Trail Multi-Use Path project grant application location of the path be amended from Tall Pine Lane to Fairway Drive. He stated that it is not the intention of the Council to propose a path over a bridge. The Tourism Board will meet on May 18 to review this request.

Mayor Smith stated that he has concerns regarding the cost of the path as well as the impact it will have on stormwater. He questioned if this is something that the people really want, get public response before there is a commitment.

Mayor Smith directed Mr. Fuller to contact Joe Anlauf, Town engineer, to review the status of this path and report to Council. Hearing no objection, so moved.

Council Member Hess stated this issue will be discussed during the budget process.

Hiring Town Manager Advertisement

Hearing no objection Mayor Smith directed Mr. Fuller to proceed with the advertising for a permanent Town manager.

Planning Board Appointment

As noted in the Planning Board reported two alternates are needed one now and one July 1. Two resumes are submitted for Council's consideration: Jim Conners and Nancy Wendt.

Mayor pro tem Shields moved to appoint Jim Conners as first alternate and Nancy Wendt as alternate to begin July 1 for a one year term. Council Member McDonald seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent or not voting.

Atlantic Tree

Mark Fletcher, Atlantic Tree, presented a three-year contract extension with a 90-day cancellation notification for Council's consideration. Mayor pro tem Shields moved to accept the contract as presented. Council Member Hess seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent or not voting.

NEW BUSINESS - None

OTHER ITEMS

Council Members

Council Member Sanders requested again that the Town consider painting a line from Hillcrest to East Dogwood to NC12 to designate where pedestrians and bikers can travel. Also he asked if questions were answered at the Mayor's chats. He was told that staff is working on answering questions from the Mayor's chats.

Council Member Hess reported that the previous town manager had planned to meet with a group of citizens and the police chief to discuss ideas to improve the operation of the police department but that meeting was cancelled. She stated that she was contacted by some of those citizens who wanted to hold the meeting. She stated that the meeting was held on April 30 and attended by Jim Gradeless, Pat Forbis, Charlie O'Shields, and Chief Pledger and all have law enforcement backgrounds. She stated that Mayor pro tem Shields also was in attendance. She stated that Charlie Reade chose not to attend. He had provided input to Mr. Classen earlier. Areas of discussion were varied and it was the opinion of the group that the police department was being managed effectively and that Council should support the police department. The group agreed to meet with Council at any time to discuss any of the matters reviewed.

Mayor pro tem Shields stated that a firm has agreed to consolidate the Town's stormwater studies at a cost of \$20,000 and that there is money in the current budget.

Council Member Hess moved to approve the expenditure of \$20,000 from the current budget to contract with Nancy Wright to consolidate the Town's stormwater studies. Mayor pro tem Shields seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent or not voting.

Mayor

Mayor Smith stated that Council sent a letter (March 13, 2006) to the Dare County Commissioners requesting as a follow up to a Town resolution that they explain how there are going to distribute the 1% sales tax collected for beach nourishment and he has not heard from them. He requested to send a follow up the letter. Council agreed.

Mayor Smith requested that the parking fine could be increased from \$25 to \$50. He stated that the previous Town manager was working on the amendment but asked if Mr. Fuller could work on that.

Mayor Smith reported that the Control Group met on April 24 and discussion was held regarding the availability of satellite phones. The cost for the contract has increased beyond the County's budget.

Mayor Smith suggested that the Town manager set the date for the Town's annual hurricane preparedness meeting.

The Town attorney stated that due to the resignation of Mr. Classen as the Town's manager/budget/finance officer Council is required by state statute to appoint a budget/finance officer.

Mayor pro tem Shields moved to appoint Webb Fuller, interim town manager as the Town's Budget Officer and Bonnie Swain, Town's Tax Collector/Finance Technician as the Finance Officer. Council Member Sanders seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent or not voting.

Mayor Smith stated that the Grass Roots cemetery landscaping contract is expiring and it is time to consider the care and maintenance of the Town's cemetery to be done by the Public Works Department. He stated that Gras Roots has provided great service as the Town's landscaping contractor on the cemetery and recommends that the town manager notify Grass Roots Lawn and Garden Care that the cemetery landscaping contract would not be renewed.

Tom Chisholm, with the Network for Endangered Sea Turtles (NEST), requested that the Town continue to provide the use of the Town's ATV for searching and reporting of sea turtle nests as well as stranded or dead mammals on the beach.

Police Chief Pledger stated that the ATV is not in the best of working condition and he had discussion with the previous Town manager but nothing was put in the budget for a new ATV. He stated that there is money in the current budget for such a purchase. He stated there is new state law that requires drivers of an ATV needs to wear a helmet.

Council recommends the town manager notify NEST that the ATV would not be available.

Town Manager

Mr. Fuller stated that he appreciates being in Southern Shores.

Town Attorney

Mr. McRee called for a closed session to discuss an attorney /client privilege matter.

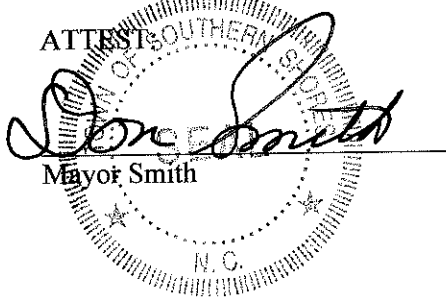
PUBLIC COMMENT

No one signed up to speak.

Mayor Smith moved to go into closed session under G.S. 143-318.11a.3 to discuss an attorney /client privilege matter. Mayor pro tem Shields seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent or not voting.

Mayor pro tem Shields moved to return to open session and to adjourn the meeting at 9:40 p.m. Council Member Hess seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent or not voting.

ATTEST



Mayor Smith

Respectfully submitted:



Carrie Gordin, Town Clerk

EXHIBIT A

Memorandum

To: Southern Shores Town Council
CC: Town Manager
From: Jim Groff, Chairman, Planning Board
Date: 4/17/2006
Re: Recap, Planning Board Meeting of April 17, 2006

Planning Board recommended actions for the Town Council:

1. **Disestablish the Long Range Plan Advisory Committee.**
2. **Ordinance No. 2006-02-01 - Non-Commercial Charity Event and Political Signs: Set a public hearing date and adopt these revisions, (as amended), to the Zoning Ordinance to allow placement of temporary signs intended to promote specific non-commercial, (charity), events organized by tax exempt groups, and also to remove specific current restrictions on political signs in the Town as suggested by the ACLU.**
3. **Ordinance NO. 2006-04-PB4 – Regulations Governing Signs: Set a public hearing date and adopt these revisions, (as amended), to the Zoning Ordinance to permit churches, schools, country clubs or other semi-public institutions to install one two-sided name sign or bulletin board, not exceeding a total height of nine, (9), feet above approved grade as shown on the site plan, not exceeding thirty-two, (32), square feet in size, (excluding any support structure), indirectly lighted and set back at least fifteen, (15), feet from the property line.**
4. **Ordinance No. 2006-03-PB3 – Lot Coverage: Subsequent to holding a public hearing date, adopt these revisions, (as amended), to the Zoning Ordinance in order to clarify that which is to be counted as lot coverage in the instance of single family residential home sites.**

5. **LDA 2004-12-02 – The Cove Multi-Family Housing – Extension of Site Plan Approval: Approve ‘The Cove’s’ request for a 75 day extension to their site plan approval.**
6. **LDA 2005-12-01 – All Saints’ Church, Conditional Use Amendment: Conditioned upon Council disapproval of previous Planning Board recommendations regarding rezoning and dimensional recommendations concerning churches, adopt this revision to the Zoning Ordinance to allow All Saints’ Church to proceed with site planning for Phase I, (administration space, classrooms, etc.), of their planned expansion.**

Organization: Chairman Groff called the meeting to order at 7:03 PM. Planning Board members Kowalski, Russell, Peckens and Walter, and Alternate McDanel, were present. Also present were Code Enforcement Administrator Hejduk and Administrative Assistant Gabrys. In attendance at the meeting were Cove representatives J. Evans, J. Mazingo, and Neal Blinken; All Saints’ Church representative, J. Gaultieri; Ginguite Trail property owner, Donna Clark and Southern Shores Realty representative M. Stone. Subsequent to approval of an amended agenda, the Board approved the minutes of its February 20th meeting, (amended), and March 20th meeting.

Public Comment: None

Committee Reports:

1. **J. Walter** advised the **Long Range Plan Advisory Committee’s** amended report has been approved by Council, thereby concluding the work of the Committee. Upon motion, the Board recommended Council disestablish this Committee.
2. **J. Russell** stated that the **Stormwater Management Advisory Committee** now has the Quible report under consideration and will meet in early May to pursue recommendations for revisions to the Town Ordinances to improve stormwater management. He noted that the Committee is seeking the assistance of interns to help cull information from the various reports.
3. **J. Groff** stated that he is reviewing Town Manager comments on a proposed **home occupation** ordinance and will attempt to have a draft ordinance for Board consideration at its next meeting.
4. **M. Hejduk** stated that while the **Hazard Mitigation Plan Committee** hasn’t met, Staff is actively pursuing revisions to the Hazard Mitigation Plan.

Site Plan Applications:

- 1. Ordinance No. 2006-02-01 – Non-Commercial Charity Event and Political Signs:** Subsequent to discussion, the Board amended the proposed ordinance by retaining, on page 3, line 17, the language that requires political signs to be removed within three days after an election, and on Page 4, line 2, inserting the word “face” and deleting the phrase “side and no one side shall have a length greater than ten (10) feet.”

The Board retained line 17 because it felt strongly that political signs should be promptly removed after an election, that court cases primarily focused on time limits before an election and that time limits “for cleaning up” were not an issue.

The Planning Board, by motion unanimously adopted, then recommended Council adopt this proposed ordinance in order to allow temporary ‘charity event’ signs and banners and address concerns raised by the ACLU in their letter dated March 7, 2006.

Note: The Board will appreciate the Town Attorney’s opinion as to whether political signs can be prohibited in the Town Right of Way and whether the Town can require political signs to be removed within a specific time after an election.

- 2. Ordinance No. 2006-04-PB4 – Regulations Governing Signs:** Review of this proposed amendment to the Zoning Ordinance revealed that it appeared to be inconsistent with other signage regulations and treated churches and schools differently. Accordingly, the Board revised the language on page 2, lines 1-4 to the following: “One two-sided name sign or bulletin board, not exceeding a total height of nine (9) feet above approved grade as shown on the site plan, or exceeding thirty-two (32) square feet in size, (excluding any support structure), indirectly lighted and set back at least fifteen (15) feet from the property line.” and deleted the added language on lines 29 through 34.

The Board, by motion unanimously adopted, then recommended this revised ordinance for Council approval.

- 3. Ordinance No. 2006-03-PB3 – Lot Coverage:** This proposed ordinance seeks to clarify that which should be included in lot coverage calculations by recognizing that many porous driveways, paths, sidewalks, patios, parking areas and similar are frequently ultimately paved with asphalt or concrete, thus increasing stormwater runoff and defeating the intent of the thirty percent lot coverage restriction. The proposed revision provides that a space for driveways and required parking areas will be included in lot coverage calculations, whether improved or not, and that all such calculations shall be made by a duly licensed land surveyor,

engineer or similar. Board revisions to the proposed ordinance included on page 1, line 29, following "path" the phrase "that allows motorized vehicular", on page 2, line 23 following the words "principal structure ", the phrase "as well as required external parking spaces", and on line 29, substituting the phrase "for vehicle turn around" for the words, "turning vehicles around". The words "pavers, or similar" were also inserted on page 3, line 23 after the word "brick".

By motion, the amended proposed ordinance was unanimously recommended for Council approval by the Planning Board.

Other Business:

- 1. LDA 2004-12-02 – The Cove Multi-Family Housing – Extension of Site Approval Plan:** Mr. J. Evans and Mr. J. Mozingo discussed the delays they encountered in seeking various permits, including a Stormwater Runoff permit, CAMA permit, COE 404 Wetland permit, etc. While some delay can be attributed to submission of incomplete plans and/or applications on the part of The Cove, as well as depiction of an unauthorized boat marina north of the proposed condominium, the Board, after exhaustive discussion with Staff and representatives of The Cove, concluded that bureaucracy was ultimately the culprit and against Staff recommendation, recommended, by motion unanimously passed, that Council approve The Cove's request for a seventy-five (75) day extension of their site plan approval, an extension that will extend the date for granting a building permit to approximately mid-July.

It should be noted that CAMA's regulations preclude use of Geoblock in the buffer zone between the condominium and Guinguite Creek, and therefore CAMA is expected to deny The Cove's application. The Cove to will therefore have to seek a variance from the Coastal Resource Commission. While the CRC is expected to act favorably on the variance request, its first opportunity to do so is in the mid-June time frame, hence the request for a 75 day time extension.

Staff noted that there are a number of other issues to be resolved prior to issuance of the building permit, including final plans, a contract price, condominium covenants, etc. Staff is also concerned that permits are being granted to the property owner, Northern Outer Banks Associates, and not the developer, Republic Properties, thus creating a division in responsibilities. The Board did not pursue resolution of this issue.

- 3. LDA 2005-12-01 – All Saints' Church, Conditional Use Amendment:** All Saints' Church is anxious to submit a site plan to the Town for the first phase of its expansion project, (administrative spaces, classrooms, etc). It cannot do so however until Council acts on the Planning Board's previous recommendations regarding rezoning of the Church's property

and dimensional requirements for churches in the R-1 zone. Further, should Council reject these proposed changes, All Saints' Church cannot proceed under the existing ordinance for churches in a RS-1 district. The purpose of this proposed ordinance is to revise the language for churches in RS-1 zones and thus allow All Saints' Church to proceed with Phase I of their proposed expansion.

Ms. Donna Clark, a resident of Kitty Hawk and owner of unimproved property at 3 Ginguite Trail, expressed concern regarding increased traffic from a larger church, noting that attendees already park on her property. She also expressed disappointment at not being notified about the Church's plans, was apprehensive about the size of the proposed, (Phase II), sanctuary, parking lot lighting, traffic patterns and road, (Pintail) capacity, particularly if the church was going to operate a week-day school.

Subsequent to discussion with all concerned parties, the Board recommended, conditioned upon Council disapproval of its previous recommendations, Council approval of this proposed amendment to the Zoning Ordinance

4. **Ordinance No. 2006-04-PB7 – Temporary Signs:** Discussion deferred pending Town Attorney review and development of a proposed amending ordinance.
5. **Ordinance No. 2006-040PB5 – Zoning Ordinance Relating to Home Occupations:** Chairman Groff, noting that this ordinance is linked to the permitted uses in commercial zones proposed revised ordinance, stated that he, Staff and Mrs. Poisal have been meeting frequently to revise the lists of businesses to ensure consistency in treatment and avoid redundancy. He opined that the revisions should be complete for a workshop review in May and that he was also attempting to incorporate Town Manager comments into the proposed Home Occupation Ordinance to allow review of both proposed ordinances at the same time by the Board.

Other Business:

1. New Business:

- a. **Rules of Procedure:** Discussion deferred pending Council development of their Rules of Procedure to use as a guide for the Planning Board.

Other: Chairman Groff, noting that Mr. McDanel had resigned and that this was his last meeting, thanked him and commended him for his invaluable contributions to the Town, citing his practically single-handed development of the Home Occupations regulations, involvement in the

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Commercial Uses proposed ordinances and Long Range Plan Advisory Committee involvement. Then, without objection, Chairman Groff asked that Mr. McDanel's resignation letter be entered into the record..

Announcements: Next regular meeting: Monday, May 15, 2006; 7:00 PM,
Pitts Center

Adjournment: Upon motion, the Planning Board meeting adjourned at 10:30
PM