



Town of Southern Shores

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Town of Southern Shores

Council Meeting

April 3, 2007

7:00 PM.-Pitts Center

The Southern Shores Town Council met on April 3, 2007 at the Pitts Center.

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

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

Mayor Smith called the meeting to order at 7:00 p.m., led the Pledge of Allegiance and held a moment of silence for the armed forces serving around the world and for the British hostages being held by Iran.

APPROVAL OF AGENDA

Mayor pro tem Shields moved to approve the agenda as presented. Council Member Hess seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, and Sanders voting aye; no Council Member voting no; and Council Member McDonald absent.

PUBLIC COMMENT

Mayor Smith opened the public comment section of the agenda.

Geri Sullivan, 31 10th Ave., with Build the Bridge/Preserve Our Roads (BB/PR) provided an update on the Mid-Currituck Bridge project. She stated that several board members attended a meeting with David Joyner, Director of the NC Turnpike Authority on March 23, 2007. She stated discussion was held on the traffic study and Mr. Joyner thanked everyone for all the letters he received regarding the announcement of the bridge construction calendar. She stated that the Currituck county manager provided traffic data from the Chesapeake Expressway for comparison that was shared with Mr. Joyner. She stated that additional traffic studies would be made. She stated that the reported cost of the bridge (\$400+ million) included maintenance of the bridge for forty years. She stated there are five or six alternative routes for the bridge and when a draft environmental impact study is completed on April 18 a decision can be made on which route would be best. She stated that the current construction schedule is to begin in the fall of 2009 and completion by 2013. She stated the cost of the bridge does not include a bike path and that would be an additional fifty to ninety million dollars.

Mayor Smith thanked the committee for all their efforts.

John Gaultier, 140 Grey Squirrel, stated that he is concerned about a rental house on Ocean Blvd. that is being used commercially by holding weddings. He asked if there has been a special zone created that the rest of the property owners are unaware of.

Mr. Gaultier said he was told that the police department was contacted and gave permission for weekend parking of the vehicles in the town parking even for overnight parking. He stated that if that is the case then it would appear that the town is permitting or ignoring a zoning violation and that the police department is aiding and abetting a commercial enterprise in a residential zone. He asked if council is aware of this situation and if they approve of it or has any code enforcement action been taken or contemplated. He asked should the police department be giving permission to park in the town parking lot for a commercial event at the detriment of the residents.

Mayor Smith stated that this issue was addressed at the mayor's chat tonight and that he would ask the town manager to address Mr. Gaultier's concerns as discussed at the mayor's chat.

The town manager stated that this issue has been looked into. He stated that the house is being used as a weekly rental house and the town is not concerned about a particular activity in a rental home such as a wedding. We don't want to discriminate between activities such as graduation, family reunion, party, wedding etc. He stated that the person who rented the house did get approval from the town, not the police department, to use fifteen parking spaces in the town parking lot. He stated that several parking tickets were issued but they were voided since they had permission to park. He stated that following this event he has issued to staff that no special parking permits are to be issued for the town parking lot and there is no parking allowed in the town's right-of-ways except as denoted by signs allowing parking. He stated it is not the town's responsibility to provide parking for rentals and if a rental has nuisance issues such as noise it would be addressed by the town.

Hearing no further comments, Mayor Smith closed the public comment section of the agenda.

PRESENTATION

Nancy Caviness addressed council as the race director for a proposed 10k Run for February 16, 2008. She requested that council consider allowing the race to begin at the Marketplace in Southern Shores and to end at the Municipal Park property in Duck. She stated that a 10k Run would attract up to 500 runners and all benefits would go to a non-profit organization to be named at a later date. She requested that council approve the event concept and upon that approval she would proceed to obtain all permits, insurance, etc. and put together a detailed event proposal.

REPORTS

Planning Board

George Kowalski, chairman presented report from the March 19, 2007 meeting.

He stated that the Planning Board recommends council approval of Site Plan-Market Place Movie Theater LDA-2007-03-01 subject to special conditions as listed.

Mayor pro tem Shields moved to approve site plan LDA-2007-03-01 Market Place Movie Theater to include the standard and special conditions as recommended by the Planning Board. Mayor Smith seconded.

The motion passed with Mayor Smith and Council Members Shields, Hess, and Sanders voting aye; no Council Member voting no; and Council Member McDonald absent.

[Clerk's Note: Planning Board Report for March 19, 2007 is attached hereto as Exhibit A which includes the standard and special conditions for the LDA-2007-03-01 Market Place Movie Theater and made part of these minutes].

Southern Shores Volunteer Fire Department

Chief Harvey presented the monthly fire report.

Police Department

Lt. Paul Terry presented the monthly police report.

CONSENT AGENDA

Approval of Minutes-March 6, 2007

Mayor Smith moved to approve the consent agenda as presented. Council Member Sanders seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, and Sanders voting aye; no Council Member voting no; and Council Member McDonald absent.

OLD BUSINESS

Resolution 2007-04-01-Disposal of Surplus Personal Property

The town manager stated that this resolution would allow the manager to dispose of personal property that has little or no value.

Ike McRee stated that council adopted an ordinance a few years ago that is provided by general statute allows the town manager authority to dispose of personal property with value of less than \$5000 following a statutory process for selling the property and reporting to council. He stated this resolution is an addition to that ordinance which allows a process for the town manager to dispose of items that have no value and to report to council when this has been done.

Council Member Hess moved to adopt Resolution 2007-04-01-Disposal of Surplus Personal Property as presented. Council Member Sanders seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, and Sanders voting aye; no Council Member voting no; and Council Member McDonald absent.

[Clerk's Note: Resolution 2007-04-01-Disposal of Surplus Personal Property is attached hereto as Exhibit B and made part of these minutes].

NEW BUSINESS

Proclamation 2007-04-02-April Child Abuse Prevention Month

Mayor Smith read proclamation 2007-04-02-April Child Abuse Prevention Month and moved to adopt Proclamation 2007-04-02-April Child Abuse Prevention Month as presented. Mayor pro tem Shields seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, and Sanders voting aye; no Council Member voting no; and Council Member McDonald absent.

OTHER ITEMS

Council Members

Council Member Sanders requested that council consider changing the format of the agenda to allow the mayor and manager to speak before the council members under Other Items. This requires the council's Rules of Procedure to be amended. This request will be placed on the April 24 agenda.

Council Member Hess thanked everyone who participated in the Land Use Plan Meeting held at the Duck Woods Country Club. She stated that she felt that some of the information could be useful for budget purposes. She stated that she would like to find ways to continue to get more citizen input.

Mayor

Mayor Smith reported that the Shoreline Management Commission will recommend to the Dare County Board of Commissioners a plan that would allow a dune planting and sand fence project for the entire Dare County Outer Banks at a cost \$185,000 (interest from the sales tax collected for beach nourishment). Upon approval each municipality would be given a budget and a choice to either have their employees or go out for bid to have the installation completed. It was suggested that an expert be consulted on where the best areas to place the plantings and fence should be. He stated that this program would start in the fall.

Mayor pro tem Shields stated that additional money may be needed to fertilize the beach grass following the planting.

Town Manager

Webb Fuller reported that the appraisal for the Chicahawk spoil site is in process. He stated that he has met with the Hillcrest property owners and the town attorney is drafting a lease for their consideration.

He reported to council that he has seen two different canal dredging plans and there may be places that will not be dredged.

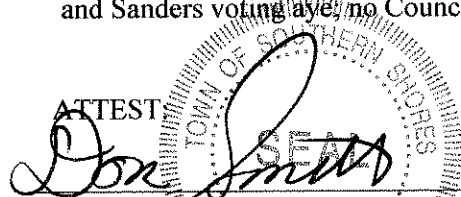
He stated that the canal committee will meet on April 5.

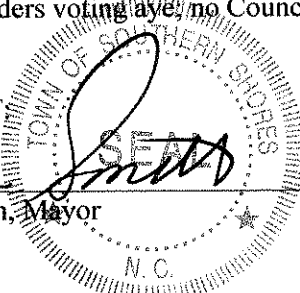
He asked council to review the memo regarding the Juniper Trail multi-use path.

PUBLIC COMMENT

Mayor Smith opened the public comment section of the agenda hearing no comments he closed the public comment section.

Hearing no other business, Mayor Smith adjourned the meeting at 8:10 p.m. Mayor pro tem Shields seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, and Sanders voting aye; no Council Member voting no; and Council Member McDonald absent.

ATTEST

Don Smith, Mayor



Respectfully submitted:


Carrie Gordin, Town Clerk

Memorandum

To: Southern Shores Town Council
CC: Town Manager
From: George Kowalski, Chairman, Planning Board
Date: 5/2/2007
Re: Recap, Planning Board Meeting of March 19, 2007

Planning Board recommended actions for the Town Council:

- 1. Approve the site application, subject to special conditions, LDA 2007-03-01, the Marketplace Movie Theatre.**

Organization: Chairman Kowalski called the meeting to order at 7:00 PM. Planning Board members George Kowalski, Georgine Poisal, Jay Russell, Dave Peckens, Joe Walter, Alternate Nancy Wendt, and Alternate Jim Connors were all present. Absent with excuse was ETJ Representative Ed Overton. Also in attendance were the Code Enforcement Administrator Mike Hejduk and Administrative Support Assistant Cyndy Gabrys.

Approval of Agenda: Agenda approved

Approval of Minutes: The minutes of Home Occupation workshop meeting, January 9, 2007, and the minutes of the regular meeting held January 16, 2007, were both approved with minor changes.

Public Comment: There was no public comment.

Committee Reports:

The **Stormwater Management Advisory Committee** report was presented by Jay Russell, who stated that the committee will meet with Robert McClendon of the UNC Coastal Studies Institute on April 4, 2007 to go over the final draft of the committee's report. There will also be a joint meeting between the Stormwater Committee and the Vegetation committee on March 28, 2007 to hear a presentation on the effects of dune construction on the Outer Banks by Bill Birkemeier of the Army Corp of Engineers in Duck.

The **Hazard Mitigation Plan Committee** report was given by Mike Hejduk. He stated that the Council will see the committee's recommendations again and decide what action to take.

The **Vegetative Advisory Committee** report was presented by its chairman, Jim Connors. Jim stated that a meeting was going to be held on March 20, 2007. He also stated that the committee no longer wanted to have their own public hearing at this time, but wanted to wait until they make a presentation of their proposed ordinance, to the Planning Board. They are leaning towards creating an ordinance similar to Duck's.

The **Land Use Plan/ Steering Committee**: The report was presented by Nancy Wendt who said that they have had one meeting on February on the 8th and two in March on the 9th and the 15th, with another scheduled for the 29th. They also had neighborhood meetings with residents in order to make citizens aware of the Land Use Plan. Mike Hejduk said that staff sent out 3,000 postcards regarding the Land Use committee and the main meeting to be held on March 29, 2007 at the Duck Woods Country Club.

Applications:

1. LDA 2007-03-01: The Marketplace Movie Theatre

This application is for the creation of a new building to take the place of the existing, unsafe, structural shell of the former movie theatre section at the Marketplace. Representing the Marketplace was attorney William Crowe. The new building will fit within the footprint of the condemned building, will have less floor area of about 1,000 ft², and consist of three stores. Demolition of the condemned building is dependent upon the approval of this plan.

Subsequent to discussion, the Board, by motion, unanimously approved the recommendation that Council approve the application LDA 2007-03-01 subject to the Standard Conditions and the Special Conditions as follows:

Special Conditions:

1. Temporary construction parking, equipment, and material staging area need to be provided prior to Site Plan approval. Access to the fire hydrant must not be blocked.
2. Wet or Dry Flood proofing requirements for Commercial Buildings within the Special Flood Hazard Area must be addressed.
3. Submit an 'as built' survey for the entire Marketplace property upon completion of the building.
4. Submit construction documents that must include a detailed site plan that complies with Town ordinances before a building permit is issued.

Old Business:

- 1. Ordinance No. 2006-06-PB9 (An Ordinance of the Southern Shores Town Council Relating to Amending the Zoning Ordinance Relating to Home Occupations.)**

Planning Board member Nancy Wendt explained that she was presenting three options on how to proceed with the establishment of a Home Occupation ordinance. Option A was leaving the existing code as is. Option B was to adopt language drafted and redrafted since June of 2006. Option C was to adapt the home occupation ordinance used in Savannah, Georgia. After extensive discussion, the Planning Board decided to do the following: Take Option A and remove sections "a", "c", and "f" from the current definition and leave sections "b", "d", "e", and "g." Since this idea originated with Mike Hejduk, Mike opined that he would not have any difficulty enforcing this modified definition. Or take Option C and modify several areas further. In order to expedite this matter, it was further decided that Nancy would rewrite both choices and send them to the Planning Board members for them to choose which of the two options they prefer. This has been done. Nancy will then take the selected option and create a new ordinance. This ordinance will be then presented to the Planning Board at the April meeting.

New Business:

There was no new business.

Other Items:

There were no other items presented by Planning Board members.

Mike Hejduk introduced Jeff Shields. Mr. Shields had sought a permit to place a shed on a piece of Martin's Point commercial property, Croatan Hwy., lot 6. Mike would not issue a permit since this is not a permitted right. No sheds are allowed on commercial properties. Mr. Shields felt that since the greenhouse had a shed, he also had that right. It was pointed out that greenhouse/nurseries have the permitted right to have a shed. He then stated that Martin's Point was placing a shed by their dumpsters so why could not he. He was told that this was a residential area not under the governance of Southern Shores. Mr. Shields said that since he could not find anyplace in our codes or ordinances, any writing that suggested that sheds were not allowed in commercial areas, he should be allowed to place a shed on his property. He was informed that any use not specifically designated as a Permitted or Conditional Use shall be deemed to be prohibited. Mr. Shields asked the Planning Board to change the ordinance. His request was denied.

Announcements:

Next regular meeting: Monday, April 16, 2007; 7:00PM Pitts Center

Adjournment: Upon motion, the Planning Board meeting adjourned.

RESOLUTION

**AUTHORIZING DISPOSAL OF WORTHLESS SURPLUS PERSONAL
PROPERTY**

WHEREAS, pursuant to Section 2-71 of the Code of Ordinances, as amended, the town manager or town manager's designee is authorized to dispose of surplus personal property valued at less than \$5,000; and

WHEREAS, at times some personal property of the town is worthless due to obsolescence, disrepair or other reasons and having no market value should be discarded as waste.

NOW, THEREFORE, BE IT RESOLVED BY the Southern Shores Town Council that the town manager or town manager's designee may discard without sale any personal property determined by the town manager to have monetary value of less than five hundred dollars (\$500). The town manager or town manager's designee shall keep a record of all property discarded in accordance with this resolution. Disposal of personal property in accordance with this resolution shall be reported to the Town Council within thirty (30) days of such disposal.

Adopted this 3rd day of April 2007.

Mayor Don Smith

Attest:

Carrie Gordin, Town Clerk