



**TOWN OF SOUTHERN SHORES**  
**TOWN COUNCIL REGULAR MEETING**

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

Phone 252-261-2394 / Fax 252-255-0876

www.southernshores-nc.gov

**PITTS CENTER**

**Tuesday, December 06, 2022 at 5:30 PM**

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## **MINUTES**

### **Call Meeting to Order**

Pledge of Allegiance

Moment of Silence

### **PRESENT**

Mayor Elizabeth Morey

Mayor pro tem Matt Neal

Council Member Leo Holland

Council Member Mark Batenic

### **Amendments to / Approval of Agenda**

Motion made by Council Member Holland to approve the December 6, 2022, agenda as presented, Seconded by Council Member Batenic. The motion passed unanimously (4-0).

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

### **Consent Agenda**

The consent agenda consisted of the following:

- Tax Pickups and Releases
- Resolution 2022.12.02
- Minute Approval-November 1, 2022

Motion made by Council Member Batenic to approve the consent agenda as presented, Seconded by Council Member Holland. The motion passed unanimously (4-0).

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

### **Presentations**

#### Employee Recognition-5 Year Service Recognition, Jamie Hines

Mayor Morey recognized Police Officer Jamie Hines for his five years of service with the Town of Southern Shores.

### **Staff Reports**

Deputy Town Manager/Planning Director

Wes Haskett provided the monthly permit report for November. He also provided a Land Use Plan

update. The project page on the town website has been updated and staff is currently reviewing the draft survey. The survey will most likely be finalized within the next week and will be posted on the project webpage and in the Town newsletters. The Planning Board will be meeting on December 19th at five o'clock. The purpose is to consider a variance application VA-22-02 which was an application submitted by Carrie and Denise Skinner to seek relief from town code section 36-202(b)(5)c. at the property located at 36 Ginguite Trail. The board will also discuss the possibility of transferring the Martin's Point commercial properties in the town's extra territorial jurisdiction also known as ETJ to Dare County for Planning and Zoning purposes. He further stated, if time allows the board may also consider TCA 22-04 a town code amendment application submitted by the town to amend town code Section 1-13 Conflicts of Interest, this is another North Carolina General Statute 160D reference. The board may also continue discussion of potential commercial design standards.

Police Chief David Kole presented the Police report for the month of November.

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

Town Manager Cliff Ogburn reviewed the following operational highlights:

- With the help of town staff, the SSCA and Better Beaches, beach grass planting will begin shortly. The beach nourishment project had approximately a hundred thousand dollars' worth of sand fence that'll go up as part of the project.
- The Public Works building is requiring some improvements, a need for a conditioned space, upgrades to the public works office, as well as the bathrooms. Staff is working on a plan and hopefully will receive some bids and presented as a possible project sometime the first of the year.
- The survey work for a sidewalk on the east side of Duck Road has been authorized. The town was fortunate to receive a grant from the Tourism Board which should pay for half the project.
- There's a lot of activity going on with the wind farms and BOEM (Bureau of Ocean Energy Management). He encouraged the public to follow the project.
- Staff would like to tackle the next street project list at the first of the year.

Town Attorney Phillip Hornthal provided an update to beach nourishment easements. There were hearings yesterday before Judge Tillett on the two properties that the town was not able to voluntarily resolve through an easement. The two property owners did not respond, and the town had default judgment entered yesterday by Judge Tillett that essentially codified these. Also, oral arguments will be heard this Friday in respect to the Mid Currituck Bridge suit.

Mayor Morey asked how many beach nourishment easements were signed voluntarily? Town Manager Ogburn stated approximately 120 easements.

### **General Public Comment**

**Tom Peabody- 13 6th Avenue**-he stated he is standing before Council to speak against a flawed plan for beach nourishment above Third Avenue, the same message as his March 2021 exclusion request that was denied. Council ignored his tax exclusion request specific for the issue of nourishment north of Third Avenue saying that if they accepted it, they would have to apply the same exclusion to all other properties north of Third Avenue. Council issued an unfair set of bid documents with only a token amount of sand north of Third Avenue, less than a third of the amount of sand north of Third

Avenue was intended to be distributed for the rest of the beach and they awarded the contract a week's Marine. He has walked the beach and seen how little sand is out there and has seen how wide the beach is down at the bottom near the Kitty Hawk Pier. Incredibly unfair MSD. Council has the duty to rewrite MSD, to redraw MSD2 and to tax where the sand actually went.

**Jim Widmer-14 Wild Pony Lane-** There has been some recent damage to Chicahawk Property Owners Association land, at the turtle pond. There are very few turtles left at the turtle pond and they have had a tough enough drought season, but this impairment now has added to the issue. Curious what the town and or the property owner's association's recourse might be to reinstate the property back to normal condition. Plantings will be required at the very least. Can the town and the associations come to meet and repair the damage that has been done. It appears the property at 57 Ocean Boulevard took out trees and planting and it doesn't look good.

**Debbie Newberry-267 N. Dogwood-** Stated she wanted to start with she was never for beach nourishment but that is neither here nor there. The town moved forward so she supports it at this point, because the residents paid for it. The biggest concern is that it has been paid for, and she wants to make sure that the entire town or the entire beach gets what they deserve sand wise. Hopeful the council will be looking closely at this and resolve the issue and will tell the citizens how and when the upper beaches or the northern beaches will get the sand that they seem like they did not get during this project. How will this issue be resolved or at least explain to the citizens how everything was done appropriately, even though it doesn't appear that way.

## **Old Business**

### Consideration of RFQ – Juniper/Trinitie Culvert Bridge

At the September 20, 2022, workshop meeting, the Town Council received a presentation from Kimley Horn which included three alternatives for the replacement of the Trinitie/Juniper Bridge. The alternatives presented included a cast-in-place reinforced concrete flat slab bridge, a cored slab bridge, and a prefabricated buried arch structure. At the October 4 Regular Meeting, the Town Council directed town staff to advertise a Request for Qualifications to seek a qualified firm capable of providing planning and design services for a cored slab bridge for the Juniper/Trinitie Trail Bridge Replacement Project. The work will include, but is not limited to hydraulic design, geotechnical investigations with foundation recommendations, location and surveys, erosion control plans, roadway design, structure design, preparation of permit application, preparation of planning document, preparation of construction contract proposal and estimates, and utility conflict plans.

Four RFQs were received from the engineering firms SEPI, Kimley-Horn, TGS Engineers and Stewart. The RFQs were evaluated by the Town Manager, Town Engineer, Deputy Town Manager/Planning Director and the Public Works Director. The evaluation focused on company experience and qualifications, professional experience, project understanding and approach, and quality assurance and quality control. Kimley-Horn scored the highest in all four categories. Town staff has familiarity and experience working with three of these firms. Kimley-Horn was the firm that designed and managed the construction of the Tall Pine Bridge. Their familiarity with the area, building similar bridges in residential areas, their extensive work in the NCDOT Division One and excellent reference feedback are part of the reasons for their selection.

Staff recommends that the Town Council pass a motion to authorize the Town Manager to initiate a contract with Kimley-Horn for the construction of the cored slab bridge for the culvert replacement at Trinitie/Juniper Trail. This contract will be brought back to the Council for their approval at a future meeting.

Mayor Morey inquired about the timeline. Town Manager Ogburn stated a contract could be presented mid-January or February.

Mayor Morey stated similar projects seem to have a long timeline, two to two half years. Town Manager Ogburn stated some of these projects can linger on and the contract proposal would have all the details hammered out.

Council Member Holland stated the Tall Pine Bridge project took some time.

Council Member Batenic was eager to get a construction timeline set so everyone knew what to expect. He also stated that the water under the bridge is not navigable, and we want it to be.

Council Member Holland supported the staff recommendation of Kimley Horn based on the fact that the town has done work with them before, and they did the last bridge project.

Mayor Morey supported the recommendation. She stated others would have been okay as well, but it is comfortable with the recommendation.

Mayor pro tem Neal **moved** to authorize the Town Manager to negotiate a contract with Kimley-Horn, Seconded by Council Member Holland. The motion passed unanimously (4-0). Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Batenic

### Beach Nourishment Update

Town Manager Ogburn thanked Miss Becky Harrell. He stated she lives directly to the south of the Trout Run beach access and she has endured a lot over this project with noise and coming and going and he just appreciates her working with the town. The project started on October 7th, and it concluded or at least the last load of sand that Week's pumped was done on the 22<sup>nd</sup>. There were only nine days of downtime for weather. He stated he wished he could stand here, and we would be in a celebratory mood and fashion but unfortunately, we're not. The town understand completely the accountability to the taxpayers and to those in the MSDS but at this time we need to get answered and it is a complicated process. There are a lot of contracts as associated with this and there's a lot of moving pieces, so we've got some work to do. Weeks Marine and CPE have both been agreeable to meeting with town staff later this week for discussions.

Town Manager Ogburn reported he had a couple conversations with the County Manager about how this all because they entered into the contract for all four of the towns. They have said they'll stand with this and work with us for a result.

Mayor Morey stated that several emails from residents in different locations in the town and my answer is very similar to what Town Manager Ogburn just said tonight, which is we have the county in agreement with us and we are working through the issues. It is complicated and we're not going to be satisfied until we're satisfied.

Mayor pro tem Neal thanked Town Manager Ogburn for the effort he put into this over the last three weeks and getting the information that council has been asking for. It has been a rapid fire of information and getting it from the contract and the engineer back to council within timely manner. There's a lot of fact finding, and he's been digging hard and it's an eye-opening experience, all the data that's involved with this kind of project and it is complicated. We are getting all the decision makers in the same room to decide how we're going to do this, how it's going to come out, rather than pointing fingers.

## **New Business**

### 2023 Town Council Meeting Schedule-Resolution 2022.12.01

Staff presented a recommended meeting schedule for 2023. Two dates have been moved to accommodate a holiday and/or election. The third Tuesday of the month meetings are “as needed.”

**Motion** made by Council Member Holland to adopted Resolution #2022.12.01 Council Meeting Schedule for 2023 as presented, Seconded by Council Member Batenic. The motion passed unanimously (4-0).

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

### Historic Landmark Commission Appointments

The terms for two positions on the Town’s Historic Landmarks Commission will expire on December 6, 2022 and the terms for three positions will expire on December 11, 2022. All members except for Richard Perkins have indicated that they would like to continue serving on the HLC. Alternate member Michael Guarracino has indicated that he would like to fill the vacant position created by the departure of Richard Perkins.

Staff recommends reappointment of Lee Whitley and Kristine Kiousis with terms that are valid until December 6, 2025. Reappointment of Charlie Andrews and Tony DiBernardo with terms that are valid until December 6, 2024. Appointment of Michael Guarracino to Position D with a term that is valid until December 6, 2024.

**Motion** made by Council Member Batenic to reappoint Lee Whitley and Kristine Kiousis with terms that are valid until December 6, 2025, reappoint Charlie Andrews and Tony DiBernardo with terms that valid until December 6, 2024, and appoint Michael Guarracino to Position D with a term that is valid until December 6, 2024, Seconded by Council Member Holland. The motion passed unanimously (4-0).

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

## **General Public Comment**

None

**Council Business**

Mayor Morey announced the next council meeting will be held January 3<sup>rd</sup> at 5:30 pm. Also, there is a big event on Sunday December 18<sup>th</sup> with Santa and one of our Southern Shores Volunteer Fire Department fire trucks. Go out and meet Santa and donate a Toys for Tot.

Council Member Holland thanked the Knights of Columbus and those that attended the Veterans Day ceremony. He further stated that tomorrow is December 11<sup>th</sup>, Pearl Harbor Day and we need to remember that particular event in the history of our country.

**Closed Session**

**Motion** made by Mayor Morey moved to go into Closed Session pursuant to § 143-318.11.(a)(3) and N.C.G.S. § 143-318.11(a)(5), Seconded by Council Member Holland. The motion passed unanimously (4-0).

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

**Adjourn**

After returning to open session and taking no action, **Motion** made by Council Member Holland to adjourn at 7:16 p.m, Seconded by Council Member Batenic. The motion passed unanimously (4-0).

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

ATTEST:

Respectfully submitted,

\_\_\_\_\_  
A. Elizabeth Morey, Mayor

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Sheila Kane, Town Clerk

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