



TOWN OF SOUTHERN SHORES
TOWN COUNCIL REGULAR MEETING

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

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www.southernshores-nc.gov

PITTS CENTER

Tuesday, May 02, 2023 at 5:30 PM

MINUTES

Call Meeting to Order

Pledge of Allegiance

Moment of Silence

Present

Mayor Elizabeth Morey

Mayor pro tem Matt Neal

Council Member Paula Sherlock

Council Member Mark Batenic

Absent

Council Member Leo Holland

Amendments to / Approval of Agenda

Motion made by Council Member Sherlock to approve the agenda as presented, Seconded by Council Member Batenic. The motion passed unanimously.

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

Consent Agenda

Motion made by Council Member Batenic to approve the consent agenda of May 2, 2023, Seconded by Council Member Sherlock. The motion passed unanimously.

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

1. Budget Amendment-Channel Markers
2. Minute Approval
3. Resolution #2023.05.01-Pledge of Support for the Lost Colony

Staff Reports

Deputy Town Manager/ Planning Director Wes Haskett reviewed the permit and planning report for the month of April. He also summarized the following department highlights:

HB 409 Regulation of Accessory Dwelling Units

-From the NCLM brief last Friday: HB 409, which would preempt most local regulations and allow a second residence to be built on most single-family-only lots in the state, was amended and voted out of the House. The bill will now move to the Senate.

The measure, despite the amendment, would still require local governments to allow a second residence to be built on any lot in the state with single-family-only zoning, subject to certain

statewide rules in the bill. At the same time, HB 409 would preempt many existing local ADU ordinances.

Under the proposal, ADUs would not be subject to local parking requirements or owner occupancy requirements, which will likely lead to most ADUs being used for short-term rentals, like Airbnb's. The amendment increases the minimum setback to 10 feet but would still prohibit local governments from denying utility connections to the units so long as the utility has the capacity to service both dwellings.

At their April 17th meeting, the Town Planning Board unanimously recommended that the Council adopt a resolution in opposition to HB 409 and HB 474 (which requires local governments to allow small housing in residential zones).

Land Use Plan Update

-A public workshop was held on April 26th to receive public input on the draft updated Land Use Plan. The draft updated plan has been posted on the Town website and we will be accepting comments until May 17th. The consultant is planning on having the draft updated plan revised and ready for Planning Board review in June.

Planning Board

- The Town Planning Board will hold its regular meeting on April 15th at 5:00 p.m. here in the Pitts Center. The purpose of the meeting is for the Board to consider ZTA-22-08, a Zoning Text Amendment application submitted by Casey Varnell on behalf of Pledger Palace, CDEC, Inc. to amend Town Code Sections 36-57, 36-207(b), and 36-209(a) to allow Shared space-occupancy Dwellings in the Commercial zoning district.

The Board will also consider ZTA-23-04, a Zoning Text Amendment application submitted by Matthew Huband to amend Town Code Sections 36-207(c)(l)b., 36-207(c)(1.S)b., 36-207(c)(11)j., 36-207(c)(11)k., 36-207(d)(7), and 36-207(d)(8) to establish a 50 ft. setback requirement for restaurants from planned unit developments, a 50 ft. setback requirement for drive-through facilities or establishments (small) from planned unit developments, a 50 ft. setback requirement for mixed use group developments from planned unit developments and residential districts, a 50 ft. setback requirement for commercial buildings and facilities from planned unit developments, and a 20 ft. buffer requirement where a commercial use or zone abuts a residential district or planned development.

The Board may also consider an ordinance to relinquish the Martin's Point ETJ area.

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

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

Town Manager

o Beach Nourishment Update-Weeks Marine will be in Southern Shores on or about May 12th to start the two-day project before demobilizing. There is a surplus of sand fences that will be stored at Dare County and then installed once the first row of fencing gets covered by sand. Staff have planted as much beach grass as they could in will resume planting once the next window of planting opens in the fall. CPE has submitted a monitoring/ maintenance plan proposal for 2023 at

the cost of \$33,000 and will be on the June agenda. CPE will hold an update meeting that is open to the public at 1:30 p.m. at the Duck Town Hall on May 3rd.

o Ginguite Creek Channel Dredging- back in 2013 the channel dredging project was added to the permit that the town had for phase two of the canal dredging. The discussion at that time was that the towns would enter an MOA, a memorandum agreement that would dictate what would happen the next time the channel needed to be dredged. That MOA was never approved.

o Seasonal Traffic Mitigation

Town Manager Ogburn reviewed a list of items the town has attempted in an effort to mitigate seasonal traffic. The town started out with no left turns and over the years increased the number of weekends that no left turns were prohibited, these are no left turns for cars on 158 making a left turn onto South Dogwood. The town started with about four weekends and that morphed into about eight weekends in the last two years. The town did not do it this past summer because the intersection is not in Southern Shores jurisdiction. Kitty Hawk must agree to allow us to put his in place before NCDOT agrees. Kitty Hawk is not comfortable with us continuing to do that in part because U-turns are permitted in the bypass and that's a safety concern. Cars just find the first place they can turn around to come back to make the turn. It also pushes traffic to other places in town. The town has made some great progress with the travel apps and Council will consider a resolution that would put a permanent roadblock and not instruct drivers to make the left turn. Mr. Ogburn stated a lot of the issues that the town has run into are legal issues or constitutional issues. He continued by stating the town has done education and outreach, multiple message boards, the mayor has done a video that the property managers agreed to send to their renters, numerous advocacy steps were taken in support of the Mid Currituck Bridge (fourth circuit sided with NCDOT and denied Southern Environmental Law's request for a re-hearing), and barricading streets with jersey walls that only backed up traffic to the cemetery on South Dogwood. The barricades only pitted neighbor against neighbor and heated confrontations. If you put a gate on one street, you will be asked to place a gate on all the other streets. The traffic issue just gets moved from one area to another. It is a big challenge that has not been solved.

Town Attorney Hornthal reiterated Town Manager Ogburn's Mid Currituck Bridge update in which the fourth circuit sided with NCDOT and denied Southern Environmental Law's request for a re-hearing. He suspected the odds of the Supreme Court accepting the case would be low.

General Public Comment

George Berry- 239 N. Dogwood-Town may want to consider surveying individuals when it comes to the town bridges and consider taxing boat owners to pay for canal dredging and bridges. The traffic resolution is commendable. Traffic affects everyone, ask the public how they want to proceed with traffic options.

Debbie Newberry-267 N. Dogwood-cost sharing for those living on the canals, same as was done for beach nourishment. Traffic-why can't the town install a gate; these are private roads. The technology is there to make it a solution. The resolution will help to a point, will not be a solution.

Ralph Sitterson-33 East Dogwood-no left turn on Dogwood and NC12 on weekends.

John Hall-237 Wax Myrtle-moved here six years ago and realizes the infrastructure not set up for all this traffic, we do not need these people. Speeding is an issue, requesting speed bumps be installed.

Andy McConaughy -299 Wax Myrtle Trail-is there a dialogue with the town of Duck and law enforcement in Duck to enhance the speed going through Duck. The 25-speed limit and multiple pedestrian crosswalks stall the traffic. Control the pedestrian traffic so vehicular traffic can move forward.

George Berry- 239 N. Dogwood-Council should communicate with Duck Council about pedestrian crossings and coordinated/timed lights for pedestrians.

Old Business

New Business

4. Discussion of Seasonal Traffic Mitigation

A. Consideration of Resolution #2023.05.02 No Cut thru Traffic

Mayor Morey stated she and the Town Manager met by Zoom with WAZE, which is one of the traffic navigation apps and is owned by Google. The gentleman they spoke with were essentially the guys that set the metric to what people get off their phone and they were amenable to helping. They understand our frustration and have visited here. Waze have assured us that if we adopt this resolution, update signage, that they will help, and the app will no longer say this is the faster route. People are going to do what they do but at least the app will not be saying the cut through is faster. Mayor Morey stated she felt this was different from what the town had done before.

Mayor Morey called on Police Chief David Kole for comment. Chief Kole stated it was impressive that WAZE was agreeable to work with the town. He stated the roads are public, and citizens/drivers have rights, and they cannot be stopped just for driving through. Trucks can be stopped because of the 5-ton weight limit. Law enforcement will still be out there and placed at specific strategic locations on the weekends.

Town Manager Ogburn asked if the Council had any further direction for staff.

Mayor pro tem Neal stated the amount of animosity brought on by the barricades was unsettling. He was willing to support temporary speed bumps but felt signage would take forever to make an impact.

Both Council Member Batenic and Sherlock were not in favor of the barricades. Council Member Sherlock was willing to consider temporary speed bumps as long as they did not hinder public safety.

Mayor Morey was concerned with the conflict that the barricades brought, and they are a safety hazard. She is not willing to support barricades but will consider speed humps but would like to see more information. She has spoken with the Town of Duck's leadership, and they are not willing to support any changes to their crosswalks. She has met with real estate management boards and tourism boards, and she understands the frustration. She hopes that the Mid Currituck Bridge will get built and relieve some of this traffic frustration.

Mayor pro tem Neal stated he would like more information on speed bumps/humps as well.

Consensus of Council to direct staff to come back to Council with more information on speed bumps/humps.

Motion made by Mayor pro tem Neal to adopt Resolution 2023.05.02, Seconded by Council Member Sherlock. The motion passed unanimously.
Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Sherlock, Council Member Batenic

5. Consideration of Planning Board Appointment

Planning Board Member Jan Collins was appointed as a regular Planning Board Member on February 7, 2023, which created a vacant alternate position. Town Staff has received two applications from residents that are interested in serving on the Board.

Council Member Batenic was impressed with the qualifications of both applicants but leaned towards the one applicant that had experience with planning.

All the council agreed both applicants are qualified but felt one applicant's experience with planning and zoning would be beneficial to the Planning Board at this moment.

Motion made by Mayor Morey to appoint Mr. Zehner as Planning Board Alternate #2 with a term that begins immediately and ends on June 30, 2024, Seconded by Council Member Batenic. The motion passed unanimously.

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

6. Consideration of Historic Landmarks Commission Appointment

Historic Landmarks Commission Member Michael Guarracino was appointed as a regular Historic Landmarks Commission member on December 6, 2022, which created a vacant alternate position. Town Staff has received one application from a resident that is interested in serving on the Commission.

Motion made by Mayor Morey to appoint to appoint Wanda Brett-Jordan as an alternate member on the Historic Landmarks Commission with a term that begins immediately and ends on February 3, 2024. Seconded by Council Member Sherlock. The motion passed unanimously.

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

Mayor Morey called for a 5-minute recess at 7:02 p.m.
Meeting reconvened 7:07 p.m.

7. Manager's Recommended Budget FY23-24

Town Manager Cliff Ogburn presented his budget message to the Council and filed a copy with the Town Clerk. His message read as, presented for your consideration is the Town manager's recommended budget for Fiscal Year July 1, 2023, through June 30, 2024, which has been prepared in accordance with the North Carolina Local Government Fiscal Control Act, as required by North Carolina General Statute Chapter 159-11. This budget is a result of a great deal of hard work from all staff, particularly Finance Officer Bonnie Swain.

Inflation continues to impact the Town's budget and personnel. Rising rapidly during 2021, the consumer Price Index (CPI) twelve-month percent change recently peaked at 9.1% in June 2022. While this index has since fallen to 6.0% as of February 2023, this is still significantly higher than the Federal Reserve's target of 2.0%. In order to combat inflation, the Federal Reserve has continuously raised interest rates since 2022, most recently raising them another quarter of a percentage point in March 2023.

Tourism continues to be very strong. The Dare County Tourist Bureau reported a 33.78% increase in gross occupancy collected for the 2021 calendar year. Growth continued in 2022 with an increase of 5.60%. Thus far in 2023, the months of January and February show a less than 1% increase which could signal a leveling out. A graph produced by the US Bureau of Labor Statistics shows a statewide recovery in the leisure and hospitality industry.

The Town continues to realize strong revenues for both sales and occupancy taxes. The pre-Covid budget, 2019-2020, saw sales and occupancy revenue at \$948,993 and \$1,001,880 respectfully. The Town is expected to receive approximately \$1,750,000 in sales and \$1,800,000 in occupancy for the current FY and is budgeting \$1,678,069 and \$1,815,928 for FY 2023-2024. The difference between shared revenues pre-covid as compared to FY 23-24 is a 76.82% increase for sales and 81.25% increase for occupancy. This is equivalent to approximately \$1.5 million or a 9.24 cents tax increase. Staff recognizes that eventually these revenues will decline and are cautiously watching to see if these numbers go back to pre-covid figures in order to be able to maintain a sustainable budget. This expectation was accounted for in the planning of the current FY 22-23 budget. The Town did not experience the leveling out of revenues as expected except for land transfer. Although increases are expected in sales and occupancy taxes in the next fiscal year, a further drop in land transfer tax is anticipated.

Budget Overview for Fiscal Year 2023-2024-This year's General Fund budget totals \$9,731,450, an increase of \$940,674 or 10% from the Fiscal Year 2022-2023 adopted budget. Last year's budget noted "while a tax increase for General Fund Expenditures is not recommended at this time, a tax increase will likely be part of the FY 2023-24 budget". The same can be said this year looking forward. The tax rate had not increased for over nine consecutive fiscal years until 2021-22 when taxes were raised four cents town wide to pay the loan for the beach nourishment project. Over those years the Town experienced a decline in shared revenues consequently. With the increase of four cents, the impact on shared revenues was an increase of 2.17%. Last year, a tax increase of 2.2 cents would have balanced the budget. One cent in ad valorem taxes generates \$167,039. This year revenues will match expenditures, marking the first year since 2021 that an appropriation from Fund Balance was not necessary. Therefore, a tax increase is not recommended at this time. The budget recommends no change in the tax rates already established for the beach nourishment debt service.

Use of Fund Balance-Through several years of careful and deliberate conservative budgeting, the Town has accumulated a large fund balance. These funds can be used to balance the budget, pay for large capital items, and possibly be transferred to the Capital Reserve Fund for future project needs. Ideally, fund

balance should be used for future projects rather than budgeted for annual operating expenses. Last year revenues exceeded expenditures negating the appropriation from fund balance.

While funding to replace the Trinitie/Juniper Trail Culvert is not accounted for in a line item, it is anticipated that as a result of planning and permitting efforts currently underway, a large use of Fund Balance will be used for construction.

The Town recently committed \$400,000 from Fund Balance for the purchase of the flat top home located at 13 Skyline Dr, which has been serving as the office for the Outer Banks Community Foundation.

Capital Improvements-Long-range plans articulate the Town's vision and provide a framework for how the Town should grow and develop, provide public services, and maintain the qualities that define the Town of Southern Shores. The Town Council has emphasized the need to address street maintenance as well as stormwater management. Staff will continue to identify projects and recommend funding those projects when they become construction ready.

In 2021 the Town Council approved a 10-year street improvement plan generated by an engineering firm. The recommended budget includes \$1 million for funding year three of this plan. The sidewalk from Triangle Park at the Duck Road and Ocean Blvd split up to East Dogwood Trail is budgeted at \$328,416, which includes a \$150,000 grant from the Outer Banks Tourism Bureau.

A new truck for the Public Works Department is also recommended for funding.

Capital Reserve Fund-The Town established a capital reserve fund in 2007 which was amended in 2012 and periodically appropriates money to the reserve fund. Establishing a capital reserve fund affords the Town a more formalized mechanism to save money for future capital expenditures. It also provides greater transparency than using fund balance because the Council must indicate how it ultimately intends to expend the moneys. It is a less flexible savings option, though. Once money is appropriated to a capital reserve fund, it must be used for capital expenditures. The funds may not be used to fund operating expenses, even in an emergency situation.

Beach Nourishment-FY 2023-2024 marks the third year of debt service payments for the 2022/2023 beach nourishment project, budgeted at \$11,325,189. Funding for this project consists of Dare County Occupancy Tax for Beach Nourishment at \$4,371,401, Department of Environmental Quality Grant Award of \$1,408,247 and Town contribution of \$5,545,541. The Town adopted two Municipal Service Districts to generate the necessary revenue to meet its contribution including \$0.715 for those in MSD 1 and \$0.03 for those in MSD 2. All properties in the Town paid an additional \$0.04 in taxes as part of this contribution which brought the tax rate from \$0.1958 to \$0.2358. Additionally, to lower the tax rate for all properties, the Town Council approved a total appropriation from Fund Balance of \$1,000,000. These rates can be set in any manner that generates the required revenue to cover the debt service for the project.

One cent in MSD 1 generates \$27,535 for a total of \$196,576. One cent in MSD 2 generates \$58,759 for a total of \$176,015, and one cent generates \$167,039 town wide for a total of \$668,156. Beach Nourishment Revenue had a 99.65% collection rate.

Personnel-Merit funds are budgeted at \$114,113. Merit increases are budgeted at a maximum of 5% depending on individual performance evaluations. COLA is recommended at 6.5% for each employee at a cost of \$122,022.

Mandatory Town contributions to the State Retirement System are anticipated to increase from 12.13% to 12.88% for general employees, while increasing from 13.04% to 14.10% for law enforcement officers.

Small groups medical insurance renewal rates are based on statewide claims for the year of all small groups. The Town will see an approximate 5% increase to the medical premiums for employees.

FY 2023-2024 Health Insurance- \$15,262 monthly \$16,056 monthly (a yearly increase of \$9,521)

The Town provides a “Cafeteria Plan” to offset the cost of dependent health care of \$675 per month. A cafeteria plan is a separate written plan maintained by an employer for employees that meets the specific requirements and regulations. A 3.7% increase is recommended equaling \$25 per month.

The Town has spent considerable efforts on attracting and retaining new employees. In an effort to incentivize long tenured employees, retiree health benefits are recommended for revision by removing the cap placed on retiree premium reimbursement. Retiree premiums are recommended to be reimbursed in full, providing the benefits are equal to or less than active employees. The 25-year requirement for retirees to receive benefits is recommended to be in accordance with a graduated scale of, 10-14 years receiving 50%, 15-19 years 75% and 20 years or more 100%.

In recognition of the long tenured employees who have made a commitment to the Town, an increase in longevity pay is recommended.

Present Recommended

0-4 years 0 0

5-9 years \$500 \$1,000

10-14 years \$1,000 \$2,000

15-19 years \$1,500 \$3,000

20-24 years \$2,000 \$4,000

25 or more \$2,500 \$5,000

This marks the first year of the town endeavoring on a two-year budget, the second year being a planned year. By encouraging staff to think strategically over multiple years instead of simply balancing the budget for a single year, will better position the Town in the future. Town staff were directed to budget for the next fiscal year, which barring any unforeseen or mandated changes, will provide a strong basis to start the FY 2024-2025 budgeting process. FY 2025-2026 will then become the next planned year. Because the town can only adopt the budget annually, the plan year will have no binding impact.

The recommended budget will be posted on the Town’s website and will be available for inspection at Town Hall by contacting Town Clerk, Sheila Kane. The public hearing to receive citizen comment and feedback on the recommended budget is scheduled for June 6, 2023, at 5:30 pm.

B. Council Discussion of Budget Items

Council Member Batenic stated the manager’s recommended budget contained no tax increase, no need to balance it by use of fund balance, and funding for a fully staffed police department.

Town Manager Ogburn confirmed Council Member Batenic’s comments and that they were correct. He did add that the recommended budget did not contain funding for the Trinitie Juniper culvert bridge replacement.

Mayor Morey liked the two-year budget and the continued discussions on budget items throughout the year, explaining it made the requested changes in the budget easy to comprehend and understand as the Council has been informed of the items throughout the year. Mayor Morey highlighted the fact that this is the tenth budget year without a tax increase. She stated walking paths are the most popular item the town spends money on, other than fixing streets. If a tax

increase was to be suggested it should be to enhance or expand these requested items. Another item that needs to remain on the radar is the reality that there will come a time that the volunteer fire department will no longer be volunteers. Does the town consider a tax increase to cover the potential volunteer fire department becoming a paid fire department? These are long term items to think about. You cannot justify a tax increase when you have a lot of revenue coming in but if you have a tax increase to fund a particular item, people understand.

Mayor pro tem Neal stated at some point the fund balance alone cannot continue to do our capital improvement projects, so we need to continue to fund that by raising the tax rate a little bit and keep contributing to the capital reserve fund. He recommended any surplus to be placed towards the culvert bridge or capital reserve fund.

Council Member Sherlock asked that the council be sensitive to a tax rate increase, as MSD 1 had a substantial increase and there is a reassessment coming in the near future.

Mayor pro tem Neal stated a revenue neutral tax rate will be published if the values change substantially. The town is fortunate to have a balanced budget without a tax increase.

Fire Chief Limbacher stated we are extremely fortunate to still have a volunteer department but appreciates the look forward and planning.

Mayor pro tem Neal asked Fire Chief Limbacher if the majority of cost would be salaries, Chief Limbacher completely agreed.

Finance Officer Bonnie Swain reviewed the retiree changes proposed in the recommended budget.

Council Member Sherlock asked about the cart rollback service. Town Manager Ogburn stated that could be funded under the current budget.

Consensus of all Council to direct the Town Manager to spend funds for cart rollback as he sees fit.

General Public Comment

Andy McConaughy- 299 Wax Myrtle-thought the barricades worked well and cautioned on the use of speed bumps as they are permanent.

Debbie Newberry-267 N. Dogwood-speed bumps are a good temporary item. The bigger thought is street design, the residential streets are too wide. Suggested the fire department being a blended volunteer and paid department. Time to get tough with the Town of Duck.

Council Business

Mayor Morey announced the next Council meeting is June 6th and a Planning Board meeting will be held May 15th.

Council Member Batenic stated the Gov-Access TV put a great video out on e-bikes.

Council Member Sherlock reported the Albemarle Regional Planning Organization met and conducted some housekeeping business items.

Adjourn

Hearing no further business, Motion made by Council Member Batenic to adjourn the meeting at 7:56 p.m., Seconded by Council Member Sherlock. The motion passed unanimously.

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

DRAFT