



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, April 09, 2024, at 5:30 PM

MINUTES

1 **Call Meeting to Order**

2 Pledge of Allegiance

3 Moment of Silence

4 **PRESENT**

5 Mayor Elizabeth Morey

6 Mayor pro tem Matt Neal

7 Council Member Paula Sherlock

8 Council Member Mark Batenic

9 Council Member Robert Neilson

10

11 **Amendments to / Approval of Agenda**

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

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

16

17 **Consent Agenda**

18 **Motion** made by Council Member Sherlock to approve the consent agenda, Seconded by Council
19 Member Batenic. The motion passed unanimously.

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

22

23 1. Minutes Approval- March 12, 2024

24 2. Budget Amendment #25

25 3. Tax Pickups & Releases

26

27 **Staff Reports**

28 Deputy Town Manager/Planning Director Wes Haskett provided a monthly permit report and the
29 following updates:

30 Land Use Plan Update-Two comments on the draft plan were submitted by State agencies during
31 the review and comment period (DWR and NCEM). We're waiting for DCM to provide suggested
32 revisions and then we should be able to move forward with the public hearing.

33 Outer Banks Regional Hazard Mitigation Plan Update-The Outer Banks Regional HMP Committee
34 will be meeting on April 22nd to start the process to update the plan, which must be done every
35 five years in order to maintain eligibility for pre-disaster and post-disaster mitigation funding from
36 FEMA. The effort will also help the Counties and the Towns identify hazard risks, understand
37 vulnerability, and develop ways to proactively mitigate risk. A public project kickoff meeting will
38 also be held on April 22nd at 5:00 p.m. at the Dare County Emergency Operations Center located
39 at 370 Airport Rd. in Manteo.

40

41 13 Skyline Rd. Landmark Designation-The landmark designation application and report for 13
42 Skyline Rd. have been sent to the State Historic Preservation Office for their required review. We
43 hope to have consideration of the application on the May 28th Historic Landmarks Commission
44 meeting agenda followed by the June 4th Council meeting agenda for the public hearing to
45 designate the property as a Historic Landmark.

46

47 Planning Board-The Town Planning Board will meet on April 15th at 5:00 p.m. here in the Pitts
48 Center. The purpose of the meeting is for the Board to reconsider ZTA-23-03, a Zoning Text
49 Amendment application submitted by the Town of Southern Shores to amend the Town's current
50 lot width requirements. The Board will also consider ZTA-24-03, a Zoning Text Amendment
51 application submitted by the Town of Southern Shores to establish commercial design standards.

52

53 Police Chief David Kole presented the police department report for the month of March.

54 Fire Chief Ed Limbacher presented the fire department report for the month of March.

55 Town Manager Ogburn provided a brief update on the following:

56 Southern Shores Landing WWTP – rate increases-The North Carolina Department of Environmental Quality
57 permits the operations and maintenance side, and the North Carolina Public Utilities Commission regulates
58 the business side of the operation of that plant. The plant has been charging the rate of \$90 a month since
59 2009 and recently there was a filing for a rate increase on January 12th. The commission will either file the
60 order or they'll have a hearing. The commission staff approved an interim emergency rate because they
61 saw the need for the plant Emergency Operations and so that rate went from 90 to \$180 until a public
62 hearing could be held, that public hearing was held March 18th. Only the customers can comment at that
63 public hearing, it's not for the public to comment. The commission has 180 days from the request date to
64 decide.

65 Earth Day Events- The Southern Shores Civic Association, Chicahauk Property Owners Association, and the
66 Town of Southern Shores coordinated the annual Southern Shores Clean-up event April 20-22.

67 Flat Top Tour is scheduled for Saturday, April 27th from 1pm-5pm. The Town's flattop located at 13
68 Skyline will be included in this tour and a ribbon cutting / open house ceremony will be held ahead
69 of time.

70 Chicahauk Sidewalk- The sidewalk improvements at Chicahauk /112 have been completed with the
71 exception of some grass being planted.

72 Southern Shores Cemetery- The driveway through the cemetery is getting more gravel installed.

73 Channel Markers relocated-A CAMA major permit was acquired, and the channel markers have
74 been relocated.

75

76 **General Public Comment (Limit: 3 minutes per speaker.)**

77 Debbie Swick encouraged the council to adopt an ordinance banning the release of balloons due to
78 their negative environmental impacts.

79 Robert Rackens- expressed concern over the safety of pedestrian traffic due to the location of the
80 driveway entrance of the newly built home next to the Town's Chicahawk Trail parking lot.

81 **Old Business**

82 **New Business**

83 Discussion of a Potential Ordinance Banning the Release of Balloons

84 At the March 12, 2024, Town Council meeting, resident Debbie Swick spoke about the
85 negative impacts that releasing balloons into the air has on the environment and wildlife.
86 Mrs. Swick urged the Council to take action that would prohibit the release of balloons. After
87 discussion, the Council unanimously passed a resolution opposing the release of balloons.
88 After further discussion, the Council directed staff to provide examples of ordinances from
89 other North Carolina coastal communities so that the item could be considered again at a
90 future meeting.

91 If the Town Council chooses to consider the adoption of an ordinance that would ban the
92 release of balloons in the Town, staff ask that direction be given to coordinate a draft
93 ordinance for possible adoption at the May 7, 2024 regular Town Council meeting.

94 Council Member Sherlock recommended adding schools to the list of entities and encouraged
95 staff to write an ordinance similar to the Town of Ducks', allowing consistency from one
96 municipality to another.

97 Council Member Batenic stated this would be a hard ordinance to enforce.

98 Mayor pro tem Neal stated the greater enforcement is as more towns adopt it and then taken
99 to a state level, that there's a greater understanding across a broader population.

100 Town Manager Ogburn stated it falls under the Chapter 26, Police Power and will require
101 education.

102 Mayor Morey stated it is another education tool that will require some self-enforcement.

103 **Motion** made by Mayor pro tem Neal to direct staff to bring an ordinance, which includes
104 Council Member Sherlock's suggestions, banning the release of balloons back to the council,
105 Seconded by Council Member Sherlock. The motion passed unanimously.

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

108

109 Public Hearing-ZTA-24-02

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

111 Planning Director Wes Haskett presented the staff report which read as, at the February 6,
112 2024, Town Council meeting, Council directed Town Staff to draft Town Code amendments to
113 modernize the Town Code. At the March 12, 2024, Town Council meeting, the Council
114 adopted ZTA-24-01 (with revisions) which included amendments to Chapter 24, Planning and
115 several sections in Chapter 36, Zoning. The initial draft of ZTA-24-01 included amendments to
116 Section 36-171, Lot Disturbance and Stormwater Management which were withdrawn by

117 Town Staff prior to the February 21, 2024, and the Planning Board meeting. Town Staff is now
118 proposing similar amendments to Section 36-171, Lot Disturbance and Stormwater
119 Management which if approved, would do the following:

- 120 • Establish that a Lot Disturbance/Stormwater Management Permit is required to remove trees
121 greater than 6 inches in diameter, measured at 4.5 feet above the ground, within a front, side
122 or rear yard (setback) on any unimproved lot in the general commercial zoning district.
- 123 • Establish the penalty for not obtaining a Lot Disturbance/Stormwater Management Permit to
124 remove trees greater than 6 inches in diameter, measured at 4.5 feet above the ground, within
125 a front, side or rear yard (setback) on any unimproved lot in the general commercial zoning
126 district.
 - 127 ○ It would be an offense for any person to remove a tree greater than 6 inches in
128 diameter, measured at 4.5 feet above the ground within a front, side or rear yard
129 (setback) on any unimproved lot within the general commercial zoning district without
130 first obtaining a Lot Disturbance/Stormwater Management Permit.
 - 131 ○ It would be an offense for a property owner to employ, authorize or direct any third
132 person or entity to remove a tree greater than 6 inches in diameter, measured at 4.5
133 feet above the ground within a front, side or rear yard (setback) on any unimproved lot
134 within the general commercial zoning district without first obtaining a Lot
135 Disturbance/Stormwater Management Permit.
 - 136 ○ A separate offense shall be deemed to have been committed for each tree greater than
137 6 inches in diameter, measured at 4.5 feet above the ground within a front, side or rear
138 yard (setback) on any unimproved lot within the general commercial zoning district that
139 is removed without first obtaining a Lot Disturbance/Stormwater Management Permit.
 - 140 ○ When a tree greater than 6 inches in diameter, measured at 4.5 feet above the ground
141 within a front, side or rear yard (setback) on any unimproved lot within the general
142 commercial zoning district is removed without first obtaining a Lot Disturbance/
143 Stormwater Management Permit, a warning citation would be issued to the offender
144 allowing 30 days to abate the violation. A replacement tree similar in size would be
145 required to abate the violation. If the violation is not abated within 30 days, the
146 offender would be subject to a civil penalty in accordance with Town Code Section 1-
147 6(d).

148 The Town's currently adopted Land Use Plan contains the following Policy that is applicable to
149 the proposed ZTA:

- 150 •Policy 2: The community values and the Town will continue to comply with the founder's
151 original vision for Southern Shores: a low-density residential community comprised of single-
152 family dwellings on large lots (served by a small commercial district for convenience shopping
153 and services located at the southern end of the Town. This blueprint for land use naturally
154 protects environmental resources and fragile areas by limiting development and growth.
- 155 •Policy 26: Promote open space, tree protection, and natural vegetation diversity.
 - 156 ○ Action Item 26-b Encourage lot preparation methods that preserve natural
157 vegetation and minimize clear cutting.

158 RECOMMENDATION-Town Staff has determined that the proposed amendments are
159 consistent with the Town's currently adopted Land Use Plan and Town Staff recommends

160 approval of the application. The Town Planning Board recommended approval (4-1) of the
161 application at the March 18, 2024, Planning Board meeting. The Board also recommended by
162 consensus directing Town Staff to draft another ZTA that would apply the proposed
163 amendments to all other zoning districts.

164 Council Member Batenic confirmed it was just for vacant unimproved lots.

165 Council Member Sherlock asked about the penalty. Town Planner Wes Haskett stated the civil
166 penalty is up to \$500. per tree.

167 Mayor pro tem Neal asked if there was a provision for emergency tree removal. Planning
168 Director Wes Haskett stated the previous drafts did contain a provision but not this version.
169 Staff can issue lot disturbance permits fairly quickly and staff felt they would prefer the
170 applicant to submit an application.

171 Mayor pro tem Neal stated he would like to see an emergency provision worked into the
172 ordinance eventually.

173 Mayor Morey asked if staff had any discretion with the penalty and if there was an appeals
174 process. Planning Director Haskett stated the dollar amount allows discretion, up to \$500 and
175 the board of adjustment would hear any appeals.

176 Council Member Neilson inquired if staff has had any pushback about the ordinance. Planning
177 Director Haskett stated staff have not.

178 Town Attorney Hornthal closed the public hearing.

179 **Motion** made by Mayor pro tem Neal to approve ZTA 24-02 as written, Seconded by Council
180 Member Sherlock. The motion passed unanimously.

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

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184 2024 Southern Shores Beach Monitoring Proposal

185 Coastal Protection Engineering has submitted their proposal for the second year of monitoring
186 the beach after the most recent beach nourishment project. Year one monitoring cost
187 \$33,475. The cost of year two monitoring is \$34,882, amounting to an increase of \$1,407 or
188 approximately 4.2%.

189 Staff Recommendation: The town has implemented a long-term beach management
190 program to sustain its beach. The 2022/2023 beach nourishment project added
191 approximately 1,048,400 cy of sand to the beach. The town must monitor this project to
192 measure its performance and to evaluate potential future project goals. It is also
193 important that property owners know where the "sand is" that was placed on the beach.
194 To be eligible for potential FEMA reimbursement to replace sand loss after a declared
195 storm, FEMA must determine that we have established and adhered to a maintenance
196 program involving periodic renourishment to preserve the original design. For these
197 reasons, the staff's recommendation is to accept this proposal.

198 Mayor Morey stated we do things according to a standard that everyone else does when
199 they do a project like this, and it provides the data needed to back up the project.

200 Council Member Sherlock stated the monitoring is a requirement if the town would
201 request FEMA reimbursement for storm damage.

202 **Motion** made by Council Member Batenic to approve the 2024 beach monitoring contract as
203 presented, Seconded by Mayor pro tem Neal. The motion passed unanimously.
204 Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Sherlock, Council Member
205 Batenic, Council Member Neilson
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207 **General Public Comment** -none

208 **Council Business**

209 Council Member Neilson stated staff has placed a CurrentTV link on the homepage of the town's
210 website. CurrentTV will also be producing several short videos for Southern Shores; Juniper Trail bridge
211 replacement, citizen education on milfoil in the canals, and the flattop tour.

212 Mayor pro tem Neal attended the Dare County Board of Commission meeting earlier in the day and
213 will be attending the Dare County Housing Task Force later next week.

214 Council Member Sherlock reported she recently visited the Museum of the Albemarle for a fascinating
215 presentation on Frank Stick and the origins of Southern Shores. So would like to get Southern Shores to
216 sponsor the presentation here in town for the residents at a later date.

217 Council Member Batenic provided a report for the Tourism Board. The month of January and February
218 numbers were down in occupancy and meals, and this will most likely be a settling year,

219 Mayor Morey stated a mid-month workshop meeting will be held April 16th to discuss the budget.
220 CurrentTV interviewed the mayor for their next special project, which should be out shortly. She also
221 attended the Dare County Board of Commission Special Meeting about affordable housing. The
222 commissioners voted 7-0 to return the 35 million back to the state but the Housing Task Force meeting
223 will still be held next Tuesday. The town is having a ribbon cutting at the 13 Skyline Flat Top on April
224 27th.

225

226 **Adjourn**

227 Hearing no further business, **Motion** made by Council Member Batenic to adjourn the meeting at 6:32
228 p.m., Seconded by Council Member Neilson. The motion passed unanimously.

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