



Town of Southern Shores

"A Town of Volunteers"

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Joint Meeting-Town of Southern Shores and Martin's Point

May 17, 2000

1:00 p.m.-Pitts Center

John Stephens, Facilitator, from the Institute of Government (IOG), gave a brief summary of his educational background and explained the rules of the meeting regarding time limits on speaking and how the boards and the audience would be allowed to interact. He explained that, if necessary, the group can call an independent attorney through the IOG in Raleigh to help answer legal questions. He called the meeting to order at 1:05 p.m.

Board Members present. (See attachment 1)

The Town Council of Southern Shores: Paul Sutherland, Mayor; Hal Denny, Mayor pro tem; Joseph Campbell; Gene Kennedy; and Don Smith.

Martin's Point Homeowner's Association: David Jones, President; John Finelli, Vice President; Mary Davis, Secretary; Kathy Halloran, Treasurer; Bridge McDowell; Erik Karlsson; Jim Riveria. Absent: Richard Walsh.

Dare County Commissioners: Geneva Perry and Cheryl Byrd.

Mr. Stephens asked David Jones, President of Martin's Point Homeowner's Association to begin. D. Jones submitted and read two objectives dated May 15, 2000 regarding the issues at hand between Martin's Point, the extraterritorial jurisdiction (ETJ) of Southern Shores and Southern Shores.

The two objectives to be discussed are: 1) Martin's Point wants to be released from the exercise of ETJ by the Town of Southern Shores and 2) Martin's Point wants the Town of Southern Shores and Dare County to enter into a contract whereby the Town of Southern Shores agrees not to annex Martin's Point against the will of the citizens. (See attachment 2) of complete detail of Mr. Jones discussion.

MAY 17, 2000

Paul Sutherland, Mayor of Southern Shores, submitted and read a response dated May 17, 2000. He began by stating the Council's expectations from this meeting. He presented a list of advantages to Martin's Point being the ETJ to Southern Shores; a past history with Martin's Point ETJ and the current misperceptions and misunderstandings between the two. Mayor Sutherland continued by saying that an April 24 Martin's Point newsletter stated incorrectly that the Town of Southern Shores wants to annex Martin's Point. He clarified the statement that Southern Shores does not have police powers in Martin's Point. He stated that the Town Police Department only would go there as mutual aid to the County Sheriff's Department upon the Sheriff's request. He stated that Martin's Point has not had to "beg for variances" as stated in Mr. Jones previous statement. (See attachment 3 of the complete detail of Mr. Sutherland's discussion).

Geneva Perry, County Commissioner, stated that the commissioners represent all of the people in the County. The Commissioner's voted to approve the petition submitted to them by the Martin's Point residents by a 4 to 1 vote, Commissioner Byrd voting no. She stated that the commissioner's supported the objectives stated today by David Jones. She continued by saying Martin's Point restrictive covenants are more restrictive than the zoning ordinances of Southern Shores. She stated that Martin's Point is an affluent community. She continued by saying the Commissioners mutual goal is to seek legal means to preclude the annexation of Martin's Point by the Town of Southern Shores. She stated that the regulation of zoning should be returned to the County. Hostile annexation does not serve the best interest of neighbors. She urges Southern Shores to honor the request made by Martin's Point and allow the County to work with Southern Shores to resolve the issues. (See attachment 4 of Ms. Perry's comments).

Cheryl Byrd, County Commissioner, stated that when the vote was taken at the Commissioner's meeting regarding the petition submitted by Martin's Point she felt it best to vote no since there was a lack of information and there had been no time to review the request. She explained that having an ETJ allows a municipality to regulate the planning and zoning of the land and recently by state statute allows a municipality to regulate water within one mile of the ETJ. She stated that the meeting today is to allow Southern Shores and Martin's Point to discuss the annexation of Martin's Point. She recommends they look at the advantages and disadvantages that would involve each of them before any decision is made. They need to assess the legislation of annexation. She feels the petition that was submitted by Martin's Point to the County Commissioners has weaknesses. She stated that only one ETJ in North Carolina has been successful in prohibiting annexation. She stated that Martin's Point might not be able to meet the requirements to become a municipality but it should be discussed today what is expected. (See attachment 5 of Ms. Byrd's comments).

John Finelli asked of Council what does Southern Shores want?

Councilman Denny stated that the Town of Southern Shores wants to continue to have Martins Point ETJ. He stated that Council has been advised legally to keep the ETJ in order to maintain the Town's personal watercraft ordinance (PWC). He stated that any discussion of annexation of Martin's Point came from protecting the Town's PWC ordinance. He stated that he doesn't have a concern regarding residential zoning in Martin's Point being regulated by the County but he would be concerned about the commercial zoning area, in that, he has no faith in County zoning regulations.

Jim Rivera stated we (Martin's Point residents) have the same concerns commercially as Southern Shores; we don't want to see something undesirable in that strip – and that's something we need to address at some point in the future. Mr. Sutherland made a comment in his write-up that right now we're only built out 45%. Where did that number come from? We think we're getting close to 60% right now. I'm head of the architectural control committee, I see all the plans and I listen to all the people that come in and are planning to do something in the future. Right now, I'm expecting we will probably start 20 houses in Martin's Point this year, plus or minus a couple. Twenty houses is 10% of what's left to be built. What were going to find is were going to hit that 60% range by the end of the year or maybe the first quarter of next year to the point that no matter how you figure it – and there are three or four different formulas – that we could hit the 60% range to where we could be in fact eligible to be annexed.

Mayor Sutherland stated that a professional planner had run the numbers and came up with the 45% build out figure.

John Finelli asked what happens to the figures if two lots are recombined and one house is built on the property? He stated that this could change the figure. He asked why the Town would not vote to have a one-year moratorium on annexation of Martin's Point?

Mr. Stephens commented that if I follow your concern Mr. Finelli, you don't see how the two pieces fit in together regarding the 45% or the 60% build out figure projection and when annexation would become a live issue and that Council is taking a lack of action on the suggested one-year annexation moratorium.

Mayor Sutherland stated that it wasn't a lack of action. Council took a vote. It was five to nothing to not support the County Commissioner's request of a moratorium. The reaction to that vote was that Council did not want to obligate future councils.

Mayor Sutherland stated that the question was were we willing to give up the ETJ on the land mass of Martin's Point but not give up the waterway; second question were we willing to give a one-year moratorium on annexation. He stated the first question is not possible, because we give up ETJ over the waterway if we give it up over the land mass-our attorney told us that, so, we're not going to do that.

Councilman Campbell stated that at the County Commissioner's meeting the chairman asked would the Town consider giving up the ETJ on the land mass but not the waterway and to agree to a one year moratorium on annexing Martin's Point and Council did vote no. He explained legal counsel advised them to not give up the ETJ if they wanted to continue the PWC ordinance.

Councilman Kennedy stated that he does not want to annex Martin's Point however; he is concerned that the commercial construction meets the satisfaction of the citizens of Southern Shores. He explained that the Town received authority from state statutes that allowed them to have an ETJ. He stated that he is willing to do whatever is necessary to maintain the ETJ over the waters.

David Jones stated that it amazes him that it all seems to boil down to the PWC/law, as it applies to ETJ. He stated that Martin's Point agrees that a PWC ordinance is needed but that the one the Town has adopted is so discriminatory and he warned that the Town is going to run into trouble with it legally. Mark my words, he said, but that is okay - it will do for a while. So, if we say, okay, we agree with you and we'll work with you on the personal watercraft, we'll work with you on the industrial - commercial stuff bordering Martin's Point. I swear to God we will do that. But we cannot believe you when you say you don't have reasons to not annex us- there are 75 million reason why you should annex us- and believe me it would be easy as heck for you to do so. We've got all the roads all done, it wouldn't cost you one penny to annex us other than legal fees. We know that. We all want our representation and we don't get it on the planning board/vote. Does that vote for Paul Sutherland as Mayor? Heck no it doesn't. Give up ETJ and we will work with you on personal water craft issue and promise, not promise, sign a legal document that you will not annex us. That's all we're asking and we have been asking what are your designs on Martin's Point - and it hasn't been answered yet- other than we are not going to annex within the next year. We are on the bubble of 60% developed.

Cheryl Byrd stated that the County has no ETJ authority that only municipalities can acquire or relinquish ETJ's. She stated that if Southern Shores and Martin's Point are discussing to give up the ETJ land and not the ETJ water is something that can not be settled today that it is a legal matter.

Councilman Campbell adamantly stated that he personally would never vote to annex Martin's Point.

Councilman Kennedy also expressed the same desire as Mr. Campbell to not annex Martin's Point.

Mary Davis asked that if Council could maintain the PWC for the ETJ over the water and the commercial area legally would the Council release the ETJ over the land?

Mayor Sutherland stated that it could be considered.

Councilman Denny stated that his interest is to continue enforcing the PWC over the ETJ water and controlling the zoning in the commercial area of Martin's Point and that he would be okay with the question made by Mary Davis. He stated that he has read the restrictive covenants for Martin's Point and he has found them to be very restrictive.

Jim Rivera stated that he attended a Council meeting in which the Council stated that at a "retreat" they discussed the annexation of Martin's Point and that Martin's Point residents were not invited. He stated that upon his research regarding ETJ's it states that an ETJ is a land use issue and that authority to an ETJ is for planning and zoning issues only but now Southern Shores has also included the PWC which involves police powers into Martin's Point. He is aware that state statute has allowed for this authority, however.

Councilman Denny stated that the retreat in question was fully advertised – participation of the public was invited. He stated that is not an issue and I hope you don't spread it around that this Council does things in secret. It was an open meeting, advertised in the newspaper and the public was invited. Read the newspaper. He also stated that it is true that PWC is a different issue than zoning, but you should have read further. There's a recent state statute on PWC's that ties the two of them together.

Mr. Stephens recapped the discussion by saying that Mr. Rivera felt Martin's Point was being ignored by not knowing of the Council's "retreat" and a discussion regarding annexation of Martin's Point but that proper public notice was given of the meeting.

He continued by saying that what Councilman Denny is saying is that whether you call it a retreat or something else, it was a meeting of the town council, that under the laws they had to advertise it in a particular way in a newspaper- and it was open to the public in general and that although it was not necessarily a written invitation the public was invited by placing it in the paper and that was sufficient – so that people interested could attend.

Councilman Campbell stated that one item high on our budget is advertising. I don't think you can pick up any of our local papers without an announcement of one of our meetings – whether it's the planning board – in the retreat – the purpose of the retreat is to stimulate ideas. We've got 57 separate things which we discussed – they were alternatives to some things – just like any type you go into some type of brainstorming – there's no bad questions asked. He stated that when the PWC public hearing was held, in this room, everyone had an opportunity to attend.

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Joint Town of Southern Shores/Martins' Point Meeting
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Mayor Sutherland read a letter dated 9-7-99 (attachment 6) submitted to the County Commissioner's by David Watson, resident of Martin's Point, requesting that the County take zoning control over Martin's Point.

David Jones requested that a meeting be held with the Town Council, the Martin's Point Board and the County Commissioners to discuss giving up the ETJ and to not annex Martin's Point for one-year. We want something in writing agreeing to these issues. He stated that the Martin's Point Board would help in the re-writing of the PWC ordinance with the Town.

Councilman Kennedy stated there is State law governing annexation and those are the rules that must be followed. What we agree on at this moment, or a moment in the future, might not be binding on those that follow us.

John Stephens summarized to this point that Martin's Point does not wish to be annexed and that the current Council of Southern Shores does not wish to annex Martin's Point.

John Stephens continued by saying that David Jones wants something in writing from the Council and the Town has stated that if they were to sign a document agreeing to not annexing Martin's Point then it would be only be for the life of this Council.

Kathy Halloran asked if other ordinances expire with the life of a Council?

Mayor Sutherland stated that they do not but this would not be an ordinance.

Jim Rivera stated that there are some residents of Martin's Point that thinks it would be a good idea to be annexed and that may be true in the future but not now. He stated that if Martin's Point were to be annexed it should be a mutual decision and acceptable by a vote by both parties.

Councilman Kennedy remarked that the state statutes sets the criteria for annexation.

Mayor Sutherland asked if the Martin's Point Board would drop the petition if Council agreed to support the moratorium against annexation?

Councilman Kennedy asked if the Martin's Point Board has made an agreement with the Town of Kitty Hawk to not annex them?

John Finnelli stated that the Town of Kitty Hawk could not annex Martins Point.

Geneva Perry explained that this meeting was initiated by the County Commission Chairman, Stan White, and Commissioner Cheryl Byrd upon receipt of the request from

David Watson at the Commissioner's meeting held May 1, 2000. She hoped that this meeting would allow for some resolution. It appears that each side needs to give a little. She recommends that discussion on suitable zoning for the commercial zone and the PWC ordinance as applied to Martin's Point should be reviewed by both parties. If the parties would like to attend a County workshop that could be arranged. She stated that personal watercraft is a controversial issue and the County does not have the legal authority to regulate but that municipalities do. She said that the County is proud of the Town of Southern Shores and Martin's Point and the County does not want trash in front of Martin's Point commercial area.

Bridge McDowell stated that for him one of the big issues is representation. He said that it hasn't been emphasized too much. Martin's Point has no right to vote for Council but you have all the opportunity to make various decisions about things in our community and we have no power to place a vote on the table on those issues. That to me is a very important issue. To pick up on comments just made, the purpose of this meeting is to bring people together and he is positively surprised by the fact that we really have two big issues on the table. 1) PWC issue and 2) Zoning out front. The annexation we all agree on that – no by Martin's Point and Town Council says that they don't want to talk about. Everyone in Martin's Point has extremely high vested interest – higher even than Southern Shores – about what happens to that commercial space out front. We all want it developed in the most absolute positive way. There's a lot of common ground in that issue and that leaves us with the PWC issue.

Cheryl Byrd stated that the County does not have ETJ over water. She stated that having an ETJ allows the control of zoning and planning issues with stricter rules than what the County has. She stated that she understands that if the Town of Southern Shores would agree to resolve the commercial zone and the PWC then things could move ahead.

Kathy Halloran addressed Ms. Perry's comments by asking if the Commissioners would be willing to listen to a proposal where the Town would control the Martin's Point commercial zone but that the rest of Martin's Point zoning be under the control of the County?

Geneva Perry commented that she was not sure. That would be a legal question and would need to be addressed by an attorney. She continued by saying there is some misunderstanding that Martin's Point would have no representation on the Planning Boards or Board of Adjustment. She stated that it is possible that a Martin's Point resident could be on the County's Boards but that if they did become under the jurisdiction of the County's zoning then they would lose their right to be on the boards of Southern Shores.

Councilman Kennedy stated that on the legal aspects- we've got your attorney saying, it's okay, don't worry about ETJ on the water and ours saying well, if we give up ETJ on land we give up ETJ on the water. I think we need to get this resolved, need clarification of ETJ on water and ETJ on zoning, either through the Institute of Government or by going to State Attorney General to ask exactly on the water and ETJ on zoning – to clarify law – and whether or not we can split the residential zoning from the commercial district, once that is resolved then I'm fairly confident, at least as far as I'm concerned, then confident we could come to agreement on ETJ issue. Also we need an interpretation on the law as far as annexation – what kind of binding agreement can be reached, if any, for present council and council members in the future. I think if we get those resolved and then get back together at a later time, representatives of the council, the county, Martin's Point, maybe not the entire group but selected individuals to a committee to get some of this resolved and try to get a planning legal opinion so that we know where we're at and then proceed from there.

Mary Davis commented that it seems the meeting is at a point that some outside legal opinion could be used.

Jim Rivera commented that in a meeting that took place in January- the comment was made about "begging for variances". He stated that the two variances he is aware of is one that happened about two weeks ago- a piece of property that really needed variance because the lot was up and down and trying to resolve the elevation for a house site was almost impossible to regulate because there was a 20ft. elevation change for every 20 ft that you went on the lot. The other one ended up going to legal counsel and it took a while to resolve. Councilman Denny and Mr. Sutherland made a comment back in January that they would be willing, at least entertain, that together with the Martin's Point Homeowners Assoc. get together with the planning and zoning from Town of Southern Shores and work out some significantly different zoning/planning regulations for the Martin's Point zone. We understand what your issue is as far as big houses and dune line and all that stuff. We're very sympathetic to that and I'm appalled at what some of these places have done and appreciate what you're trying to do. Unfortunately, we get houses, some people trying to come in and build a house at 6,000 or 7,000 sq. ft. and you can't do it under current regulation and we need to come up with some changes so that we don't have to go to a variance every time. One fella just had to wait four months before he could start construction on his house – and he wanted to be in his house this summer and right now it will probably not be before Christmas because of the scheduling and whatever. There are things that just don't need to go to variance and we need to work out different regulations. Maybe sit down together and work that out. My committee is willing to do that.

Mayor Sutherland stated we have always been agreeable to sitting down for discussion.

Commissioner Perry suggested that a group be formed of the County Commissioners, County Planning, and Attorney, Mayor Sutherland, David Jones, President of Martin's Point and whatever number from the Boards are needed to discuss the concerns and work out a resolution.

John Finnelli stated that he is not a proponent of jet skis but he wants everyone to be represented regarding the waterways. He feels the County should work on this issue and that the Town's PWC ordinance is discriminatory. He stated it is a tough issue and that a County elected official should represent Martin's Point. He feels a \$100.00 a year for a family of 4 is too high a price to be allowed to ride their jet ski.

Councilman Smith stated that 44 signatures were on a petition submitted June 14, 1999 by Martin's Point residents supporting the PWC ordinance. Mr. Finnelli responded by saying he did not remember any fee being addressed at that time.

David Jones stated that the petitioners may have not known what they were signing and for the Town to be enforcing a police power in Martins' Point is appalling.

Councilman Smith asked Mr. Jones where he was during the public hearings for the PWC? Mr. Jones responded by saying nobody knew what the PWC was.

Mayor Sutherland stated if the Martin's Point residents sign petitions and are not aware of what they are signing maybe they did the same on the petition that was submitted to the County.

Bridge McDowell stated that Martin's Point had no representation when the PWC ordinance was voted on and 44 signatures is not many people.

Mr. Finnelli stated that he thinks the PWC ordinance could be worked out and an agreement reached if everyone would set down and discuss it.

Councilman Denny stated that in addressing Commissioner's Perry suggestion to set up a committee is a good idea. He stated that he is proud of the County and the Town in the way they have managed growth but he believes the Town's zoning is better.

Mr. Stephens reviewed the issues for the Town, in that, Council agrees they have no plans to annex Martin's Point, they are willing to relinquish the zoning over the residential land but to keep the ETJ over the commercial land and the waterways to maintain the PWC ordinance.

Mayor Sutherland stated that the PWC applies to everyone. It does not regulate Martin's Point residents only. It applies to Southern Shores residents and tourists and all that who wish to use a personal watercraft in the Town's ETJ waterways.

Mr. McDowell stated that the communication between Martin's Point and the Town has been improved today. He stated that a number of Martin's Point residents believed that annexation was a real threat but now if it is not an issue Martin's Point can continue to move forward with their request to withdraw from the Town as an ETJ.

Mr. Jones stated that it is the intent of the Martin's Point residents to leave the petition on the table and see what the legislators do. Mr. Finnelli stated that he hopes the issue can be resolved and he agrees with Mr. Jones in leaving the petition with the legislators.

Mr. Stephens reviewed that the Town will continue to oppose Martin's Point in their legislative endeavors.

Mr. Stephens opened the floor for public comment.

Mr. Jones commented that in a conversation with Mayor Sutherland he asked Mayor Sutherland why do you want to annex Martin's Point? His response was 'just because'.

Sylvia Valentino stated that when the PWC issue and public hearing came up she asked the Martin's Point President what is the feeling of Martin's Point regarding this? She stated that he responded by saying, "Martin's Point has no opinion".

Jim Connors stated that he wished the County had taken more time to review the Martin's Point request before they adopted it and sent to the legislators.

Commissioner Perry stated that the commissioners do more homework than the media implies.

Commissioner Byrd stated that homework could not have been done since the petition was received the day the commissioners voted on it. She also stated that the Town of Southern Shores was not aware of the petition.

Mal Smith asked the Martin's Point Board if they have talked to unincorporated Duck and why they want to be relieved of zoning control from the County?

Someone from Martin's Point asked about the guard gate being removed from Martin's Point as stated in their newsletter? Mr. Finnelli stated that is in regards to changing the guard service not removing the guard gate.

Commissioner Perry stated that if the ETJ was removed from Southern Shores the Martin's Point commercial zone would be controlled by the County zoning regulations as well as the residential area and as it is now Martin's Point has representation on the Town's Planning Board and Board of Adjustment.

Park Johns stated that in the past a representative from Martin's Point used to attend Town Council meetings and report back to the Martin's Point Homeowner's Board but that no one does this now.

Norman Shearin, Attorney for Martin's Point Homeowners' Association, stated that the ETJ is the foundation the PWC ordinance was written. He stated that land use issues could be resolved. He stated that future boards would not be bound by what is done by a board now. He further stated that he did not blame Southern Shores for contesting the petition.

Mr. Stephens asked for responses to the public comment.

Mr. Jones stated that under legal advice Martin's Point has no plans to drop the petition to the legislators and he suggest that all further discussion with Southern Shores on the issue of annexation be tabled until the legislators make their decision.

Mayor Sutherland stated that he is surprised to hear that Martin's Point is not willing to drop the petition but that the Town will continue to talk about the PWC ordinance.

Councilman Campbell wanted clarification that the Martin's Point Board has agreed to table the issue and not open to talk to the Town?

Mr. Jones stated that he thinks that they should wait for the legislators ruling before any more discussion takes place. He asked Mr. Shearin, their attorney, if that is the advice he had given?

Mr. Shearin, Martin's Point Attorney, said no. He stated that open discussion should continue that a lot has come from this meeting. He continued in saying that the Town should continue to oppose the petition. He recommended that the committee suggested by Commissioner Perry should be set up and they should work on some common ground issues talked about to day while waiting for the legislator's response.

Mr. Jones stated that he stands corrected.

Jim Rivera stated that the petition would not be withdrawn but that discussion still can be moved ahead on the PWC ordinance.

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Councilman Kennedy stated that if the petition fails to get the results you hope for discussion should still continue. He stated that there appears to be an openness by both parties to work towards some resolution regarding the PWC and the commercial zone and this should be through the committee.

Mr. Stephens asked for final closing comments.

Mayor Sutherland stated that the deadline to submit legislation in response to Martin's Point petition is today. It would more than likely not be submitted. It would not be addressed until the next season.

Commissioner Byrd thanked everyone for coming and to John Stephens for facilitating the meeting. She commented that there appears to be more in common than there is differences between the parties and that this has been a good meeting.

Mr. Jones echoes Commissioner's Byrd's comments and he stated that it will be seen what will happen after the legislators make their decision.

Mr. Stephen's asked for anymore comments hearing none he closed the meeting at 3:30 p.m.

ATTEST:


Mayor

Respectfully submitted:


Town Clerk

5/17/00 - 1:00pm

Joint Meeting of Southern Shores/Martin's Point ETJ

Panel Members

Town of Southern Shores:

Paul Sutherland, Mayor
Hal Denny, Mayor Pro Tem
Joe Campbell, Council Member
Gene Kennedy, Council Member
Don Smith, Council Member

Dare County

Cheryl Byrd, County Commissioner
↳ Geneva Perry, County Commissioner

Martin's Point Homeowners Association

David Jones, President
John Finelli, Vice President
Mary Davis, Secretary
Kathy Halloran, Treasurer
Richard Walsh, Member
Bridge McDowell, Member
Erik Karlsson, Member
Jim Rivera, Member

Facilitator

*Dr. John Stephens, Institute of Government

attachment 1

**Martin's Point Homeowners Association
PO Drawer 2029, Kitty Hawk, NC 27949**

May 15, 2000

Subject: Extraterritorial Jurisdiction

We have two objectives: (1) We want to be released from the exercise of Extraterritorial Jurisdiction by the Town of Southern, and (2) We want Southern Shores and Dare County to enter into a contract whereby Southern Shores agrees not to annex Martin's Point against the will of our citizens.

In 1979 the Town Council of Southern Shores brought Martin's Point within its extraterritorial jurisdiction. Martin's Point was undeveloped and unzoned, and this action was taken to protect Southern Shores from undesirable development which could adversely affect property values in Southern Shores. It is now over 20 years later, and it is clear by the way Martin's Point has developed and by the quality of houses and roads in Martin's Point that Southern Shores should no longer have any concerns in this matter.

The residents and property owners of Martin's Point have made it clear through our petition that we want to return to Dare County for building and subdivision regulations. The Southern Shores codes and regulations are meant to deal with their situations and problems, not ours. And the residents of Martin's Point don't want to be in a position where they have to beg for a variance every time Southern Shores implements an ordinance which should not apply to us. Further, it will be increasingly difficult politically for Southern Shores to grant Martin's Point variances and exceptions as they try to control and placate their own property owners. If we have a problem, we want to address it to our elected representatives, not another town which holds power over us for their own benefit.

Our second concern is a hostile annexation by Southern Shores. We were informed by the Southern Shores Town Council that they discussed annexing Martin's Point at a retreat on January 10. At their Council meeting on February 16, they stated that they were reviewing their alternatives in the area of annexation. At their April 4 meeting they voted not to have a one year moratorium on annexation. We consider the threat to be real and insist upon a written contract to protect ourselves.

Throughout this dispute the Town Council of Southern Shores has indicated that their primary concern is maintaining a personal watercraft ordinance in Jean Guite Creek. If that is the case, they should accept the solution proposed by the Chairman of the Dare County Commissioners: Southern Shores should relinquish control over Martin's Point, agree not to annex us against our will, and work out a personal watercraft ordinance with our representatives in the County.

Attachment 2

May 17, 2000

Meeting With Martin's Point - - - -

Expectations - Martin's Point property owners will be provided with additional information that may clarify certain items of misinformation. With this information in hand Martin's Point residents may decide to change their current efforts to have ETJ removed.

Advantages To Martin's Point With SS ETJ

- Reduced flood insurance premiums because of SS Flood Plain Management Plan. Currently a 20% reduction in premium is obtained. Current updating of the Plan is expected to maintain this reduction. SS has the top rating in the state.
- SS zoning has been good for MP. Our zoning for the MP commercial district, for example, is much more restrictive than Dare County. This is as requested by MP.
- MP is in a separate zoning district, ET-1. Zoning in this district can be tailored to MP wishes and has been in the past. This may not be possible under Dare County zoning. The Food Lion in Duck is a good example. Residents did not want it but Dare County zoning permitted.
- MP has a representative on both the SS Planning Board and the Board of Adjustment. It is highly unlikely that this will be the case under County Zoning.
- The old DOT parcel in front of MP has been donated to the Roanoke Island Commission. It is not known what ultimate use may be made of this parcel. One use that may have been considered is establishment of some sort of boat facility there which would transport folks to/from Roanoke Island. This type of commercial activity is not a permitted use under current zoning. It may be with Dare County zoning. **MP specifically asked SS to extend ETJ to the DOT site in Dec. '92 to ensure that there was an acceptable use with this parcel.**

Past History With ETJ and Martin's Point

- SS has had an outstanding relationship with MP over many years.
- SS is unaware of any instance where MP has requested unique zoning provisions that have not been favorably acted upon. The most recent enactment with respect to large homes is a good example. When recent zoning changes were made to address the large home issue, the ETJ Rep from MP asked that certain provisions not apply and certain should apply. In both cases the wishes of the ETJ Representative were carried out.
- There have been two instances wherein a matter in Martin's Point was taken to the Board of Adjustment. In both instances the matter was settled to the satisfaction of the Martin's Point representative to the Board of Adjustment.
- The recently enacted Personal Watercraft ordinance was done with good input from MP. A public hearing was held with 4 opposing but a petition was received favoring the proposed ordinance by 44 MP residents.

Attachment 3
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(over)

COMMENTS ON BEHALF OF THE DARE COUNTY BOARD OF COMMISSIONERS

Martins Point-Southern Shores ETJ Relationship.....May 17, 2000

Submitted by Geneva Perry

On behalf of the Dare County Board of Commissioners, I want to thank Dr/Mr. Stevens for agreeing to mediate this conflict.

First I want to state that the Dare County Board of Commissioners voted to support the position of the Martin's Point Homeowners Association by a 6 to 1 vote, with Mrs. Byrd being the sole dissenting vote.

It is the intent of the Board of Commissioners to support the wishes the citizens of Martin's Point to achieve their goal to discontinue the extra-territorial jurisdiction (ETJ) currently practiced by the Town of Southern Shores over land and waters of the Martin's Point subdivision. It is apparent that when the ETJ was established the land was undeveloped and not even platted, and in fact a threat to the affluent community that Southern Shores was attempting to preserve. Today the Martins Point subdivision is a private, limited, gated community, with enforced architectural review and restrictive covenants that are equal to or more restrictive than the zoning codes of the Town of Southern Shores. Conditions today are far different than those that prompted the ETJ relationship many years ago, and in fact by its own development standards, Martins Point is one of the most affluent communities in Dare County. Therefore, it only can be concluded that there is some unspoken ultimate goal by the Town in its efforts to retain the ETJ relationship.

Because of the desire of the Homeowners Association to have regulatory issues pertinent to Martin Point decided by the Dare County Board of Commissioners, it is the mutual goal of both parties to seek authorization of those legislative measures necessary to preclude the annexation of Martins Point by the Town of Southern Shores.

Since future development of this gated community poses no risk of incompatible land use to the adjacent Town, we feel the ETJ relationship should be voluntarily discontinued and the regulatory affairs of Martins Point should be returned to Dare County, as requested by the residents of Martins Point. Such regulatory authority would include addressing use of the adjacent waterways which are a concern of each party.

A hostile annexation of Martins Point by the Town of Southern Shores would not serve the best interest of the citizens of either entity; and certainly would disrupt the good neighbor relationship heretofore existing between the two.

On behalf of the Dare County Board of Commissioners I strongly urge the Town of Southern Shores to honor the request made by the Martins Point Community by discontinuing the ETJ relationship, and allow the County to work with the Town to resolve the other issues in question.

attachment 4

May 17, 2000

Submitted by Cheryl Byrd
Dare County Commissioner

Summary of Issues and Questions Associated with Dispute between Martins Point and Southern Shores over Relevance of ETJ Jurisdiction

1. In exercising Extraterritorial Jurisdiction (ETJ) over the Martins Point (MP) area, including adjacent waters, Southern Shores has authority in the following areas:
 - a. Planning and zoning of land in MP;
 - b. Issuance of building permits for MP and associated inspections;
 - c. Regulation of Personal Watercraft (PWC) in waters adjacent to MP; and
 - d. Enforcement of ordinances pertaining to these areas alone.
2. Both MP and SS generally agree on the need for regulation of PWC use in common and adjacent waters, but residents in both areas may not be completely happy with some aspects of the current regulations.
3. Residents of MP and SS may have different concepts of the notion of "representation" as it relates to the matters involved with ETJ. Perhaps we need to fully explore both the advantages and disadvantages of representation for MP under ETJ, and similarly, the advantages and disadvantages of representation for MP without ETJ in matters pertaining to planning, zoning and jet ski regulation. In all other matters, MP is already represented by the Dare County Board of Commissioners, because it is an unincorporated area in the County.
4. If there are problems with the current planning and zoning for MP, either in the code itself or in the methods used to develop the code, they should be discussed today so they can be resolved.
5. Concerns about annexation need to be fully discussed. Does SS want it, and is it possible now or in the future? Why is MP afraid of it? Does everyone understand both the advantages and disadvantages for both MP and SS of annexation if it became possible in the future?
6. Perhaps we need to assess the probability of success or failure of the current MP request to the State legislature for permanent relief from ETJ and future annexation by SS or anyone else:
 - a. When the petition prepared by the MP Homeowners Association was assembled, actual ownership of property in MP and voting status in MP of those who signed was not fully indicated or verified. After close examination myself, I believe that fewer than half of the registered voters in MP have signed the petition.
 - b. Only one area in the State of NC has ever been able to exempt itself from annexation by an adjacent municipality. When the RTP became attractive to Durham, it used its substantial financial and political clout in Raleigh to get a local law passed to exempt it from annexation by any adjacent municipality.
7. I do not know whether MP could meet the requirements to become a municipality itself, nor do I know whether MP residents have any desire to explore this possibility. I also do not know what other options may be available to address the concerns of both MP and SS residents and property owners, but I hope this work session today will lead to a better future relationship.

attachment 5

at least 6

800-431-234

[Handwritten signature]
J. S. WILSON

Thank you for your time, I appreciate

and appreciate your thoughts regarding this matter.

I am sure, as the proposed EIT Representative, I would like to request that your office look into the
of Dane County with respect to the Board's Policy. I understand that a new law may occur
and for that the interests of the voters in Madison's Policy would be better served by Dane County
I had enclosed a copy of a proposed ordinance change by the Town of Berlin in 2008. A meeting to
discuss this proposal is scheduled for tonight at 7:30 P.M. in Southern Shore Town Hall.

You are much appreciated for your time on Friday regarding the proposed ordinance change by the Town of Berlin.

10-17-12

THOMAS L. WHITE, JR.

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April 7, 1999

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P. 001

P. 002

SOUTHERN SHORE REALTY

2524731817

(252) 473-2988

2:52 PM FAX 252 261 7200

14:59

10 THOMAS L. WHITE, JR.