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OFFICES ALSO IN
ELIZABETH CITY, NC

To: Southern Shores Mayor and Councilmen
Tom Gjestson

From: Tom White

Subj: Dare County Underground Utility District Implementation

Date: December 12, 2000

1. As you will recall I reported that I would be attending a meeting on the afternoon of 12/5/00 of the Dare County municipal attorneys and county attorney in order to discuss how the legislation providing for underground utility districts could be implemented.

2. The unanimous conclusion of the attorneys (and all attended) was that the legislation was impractical and politically unworkable. In addition it created an additional level of governmental bureaucracy with minimum accountability and even though the sole purpose of a district is to pay for the location of underground utility lines and its own administrative expenses, there is no procedure for the providing of guidance or direction by governments in order to determine when, what and where projects are to take place.

3. Other problems include that in order for any municipality to be in a separate district, the way the statute is worded, some unincorporated county land would have to be included in the same district. The county would have no authority to create any district which included a municipality. It could only create county districts in unincorporated areas and the towns, in order to participate, would have to annex themselves to a county created district. Conceivably this could result in six, maybe seven when Duck incorporates, districts. The geography of the county further complicates things.

4. Each district established by the county would have only two commissioners, one appointed by the county commissioners and one appointed by the Roanoke Island Commission (for what reason we don't know unless the thought was that this applied to only the district encompassing Roanoke Island, but it doesn't say that). In addition each municipality annexing itself to a district would

appoint a commissioner. So any district of an unincorporated area would have two commissioners and if a municipality joined, a commissioner from each municipality.

5. Each district would be a separate corporate body having articles of incorporation and a charter issued by the secretary of state and would govern itself.

6. The governmental attorneys group has recommended that the county go back to the legislature to totally rewrite this legislation to: (1) give each municipal and county government the authority to tax the electric and telephone utilities and the cable television franchisees in the same amounts as now stated (\$1.00 per month on each residential bill and \$5.00 per month on each commercial bill, except CATV which stays a \$1.00 per month for commercial) and to place those funds collected in a restricted account to be used solely for underground utility placement, and (2) give the governments the authority by interlocal agreement to, if any so choose, join with one or more other local governments to create a larger service area. This would give each government the ability to plan the implementation within its jurisdiction, and supplement the funds collected in order to expedite projects. As a comment, if you do the math, it would take years to collect enough funds to pay for any reasonably sized project.

7. Each of the attorneys is to ask his governmental board to consider the above recommendation and to give the response to the county attorney before he contacts a legislative representative to ask for the changes. So I would present this to you for consideration.

s/ Tom

Thomas L. White, Jr.

KAUFMAN & CANOLES

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Attorneys and Counselors at Law

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eakeeney@kaufcan.com

December 28, 2000

VIA EMAIL AND U.S. MAIL

Paul Sutherland, Mayor
Town of Southern Shores
6 Skyline Road
Southern Shores, NC 27949

Moratorium on Large Rental Structures

Dear Mayor Sutherland and Council Members:

It has recently come to my attention that on January 2, 2001, you are conducting a public hearing to consider a proposed moratorium on large rental structures.

Earlier this year, on behalf of the Outer Banks Home Builders Association and others, I worked with the Planning Board, with your consultants, with your staff, and most certainly and especially with the Council, concerning the previous moratorium. In fact, sometime this past spring, based on the record, it was my understanding that after considerable thought and dialogue, it had been determined by you that the then existing moratorium would expire. Now it appears that the issue is being reconsidered and may be readopted on or after January 2, 2001.

On its face, the proposed resolution and proposed action, in the opinion of some, could subject the Town to litigation. It is my understanding that Dare County Commissioner Richard Johnson and others have so advised you. For example, a one-year moratorium might be viewed by some as excessive. The actions proposed could be viewed as discriminatory, and the language, as proposed, including but not limited to "nominal bedrooms," could be viewed by the Courts as vague and unenforceable.

The recent record of the Town of Manteo was extensive, yet they recently, according to the newspaper reports, defended and for that matter continue to defend some litigation that has proved to be extremely expensive for the Town. I acknowledge that your fine Town is currently in litigation involving, among other items, your regulations dealing with personal water crafts (jet skis). All these items were based on extensive studies and independent records and documentation. I believe that this past spring your own consultants, after conducting an extensive study, advised against a moratorium or any action which you are now contemplating. Your record to proceed could be viewed as suspect.

Hampton
757 / 827-9207

Newport News
757 / 873-6300

Norfolk
757 / 624-3000

Virginia Beach
757 / 491-4000

Williamsburg
757 / 259-3800

Paul Sutherland, Mayor
December 28, 2000
Page 2

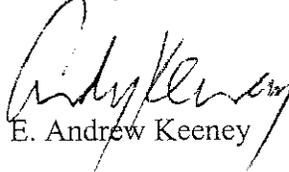
I implore you to spend at least the next thirty (30) days working with citizens, consultants, lawyers, rental companies, and the Outer Banks Home Builders Association to achieve a much more workable and presumably enforceable ordinance than that which is currently being considered.

Several have said that as your resolution and proposed ordinance are now drafted you are merely buying a lawsuit and potentially expending tens of thousands of dollars in taxpayer money to defend the lawsuit. Thirty days, more or less, to further study, document, and draft an ordinance restricting "large rental structures" would certainly be time and efforts well spent.

Please note that on a personal basis I share some of your questions or concerns regarding certain large rental structures and more certainly support your goals and objectives for maintaining the quality of life in the Town of Southern Shores and in the Outer Banks. However, the means does not, as currently drafted, justify the end result and you could end up with no moratorium at all.

Thank you again for your considerations of these views and comments. Since I will not be available to personally testify at the public hearing on January 2, 2001, I ask that this correspondence be entered into the record.

Sincerely,



E. Andrew Keeney

EAK/dbk

cc: Hal Denny, Council Member (via email)
Gene Kennedy, Council Member (via email)
Joseph Campbell, Council Member (via email)
Don Smith, Council Member (via email)

70003368.01

1/1/01

SOUTHERN SHORES FIRE DEPARTMENT
15 S. Dogwood Trail
Southern Shores, NC 27949

Dave Bakken, Chief

Barry Shannon, Chairman

MONTHLY REPORT TO TOWN -FIRE CALLS FOR 2000

CALLS ANSWERED	DECEMBER	FY 00-01
STRUCTURE 111	1	19
PROP O/S STRUCTURE 112	0	1
VEHICLE FIRE 131	0	2
BRUSH FIRE 142	0	5
EMS 311	10	83
RESCUE 300	1	3
VEHICLE ACCIDENT 322	0	13
SERVICE CALL 500	2	6
GOOD INTENT 600	1	3
FALSE MALFUNTION 735	0	20
FALSE UNINTENTIONAL 740	7	40
HAZARDOUS CONDITION 400	2	6
OTHER 900	0	0
TOTAL CALLS	24	201
MUTUAL AID GIVEN	7	43
MUTUAL AID RECEIVED	6	60
CASUALTIES	0	0
PROPERTY LOSS \$	0	0
VOLUNTEER HOURS	809	6238



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December 29, 2000

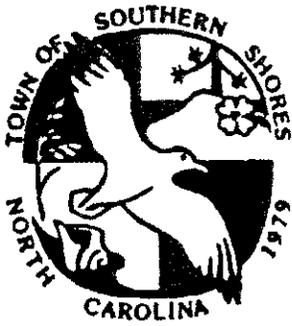
MONTHLY PERMIT SUMMARY

TYPE CONSTRUCTION	NO.	COST	FEES
SOUTHERN SHORES			
New	5	1,005,000.00	6,639.11
Add/Alt	1	20,000.00	100.00
Other	11	62,307.00	724.00
TOTAL SS	17	1,087,307.00	7,463.11
CUMULATIVE FY2001	123	10,402,649.16	68,742.25
TOTAL HOMES SS	1953	5 Certificate(s) of Occupancy issued this month)	
(TOTAL LAST YEAR)	1878		
MARTIN'S POINT			
New	0	-	-
* Add/Alt	0	-	-
Other	0	-	-
TOTAL MP	0	-	-
CUMULATIVE FY2001	16	1,705,476.00	10,768.11
TOTAL HOMES MP	181	2 Certificate(s) of Occupancy issued this month)	
(TOTAL LAST YEAR)	163		
CAMA PERMITS	0	-	-
PLAN REVIEW FEE	9	-	770.00
ADD TO PERMITS	1	-	95.04
RE-INSPECTIONS	0	-	-
ZONING BOOK	0	-	-
TOTAL MONTH		1,087,307.00	8,328.15
TOTAL YEAR		12,108,145.16	87,579.71

Respectfully submitted,

Michael Hejduk
 Michael Hejduk
 Building Inspector

* We will reporting certificates of occupancy issued and possible additions to open permits for Martin's Point.



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Ordinance No. 01-01-006

AN ORDINANCE AMENDING CHAPTER 4 OF THE CODE OF ORDINANCES OF THE TOWN OF SOUTHERN SHORES

BE IT ORDAINED, by the Town Council of the Town of Southern Shores, North Carolina, that Chapter 4 of the Code of Ordinances of the Town of Southern Shores be amended as follows:

PART I. Chapter 4, Fire Prevention and Protection, Article II, Fire Prevention, Division 2. Open Burning, Section 4-40 Combustible materials is hereby amended by adding (8) to read as follows:

(8) Initial burning shall generally be allowed only between the hours of 9 a.m. and 6 p.m. but no combustible materials shall be added to the fire after 3 p.m., except that under favorable meteorological conditions, deviations may be granted by the Fire Chief or his designee.

PART II. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

PART III. This ordinance shall be in full force and effect from and after the 2nd day of January 2001.

Paul Sutherland
Mayor Sutherland

ATTESTS:

Cassie Jordan
Town Clerk

Date Adopted: 1/2/01
Vote: 5 Ayes Noes

Approved as to form:

Thomas H. Hester
Town Attorney

Ordinance No. 01-01-005

AN ORDINANCE AMENDING CHAPTER 1 OF THE
CODE OF ORDINANCES OF THE TOWN OF SOUTHERN SHORES

BE IT ORDAINED by the Town Council of the Town of Southern Shores, North Carolina, that Chapter 1 of the Code of Ordinances of the Town of Southern Shores be amended as follows:

PART I. Chapter 1, Section 1-6. **General penalty etc.**, subparagraph (d), the third sentence is hereby amended to change the daily civil penalty from \$50.00 to a maximum of \$500.00 and shall read as follows:

Unless otherwise provided by a specific provision of this code, such civil penalties shall be no more than five hundred dollars (\$500.00) for each violation, and each day any single violation continues shall be a separate violation.

PART II. Chapter 1, Section 1-6. **General penalty etc.**, is hereby amended to add a new subparagraph as (d-2) which reads as follows:

(d-2) The following violations of the provisions of Chapter 13. Cable Services Regulatory Ordinance, of this Code shall subject the offender to the following specific civil penalties after a fifteen (15) calendar day written notice by the Town of its intent to assess a civil penalty:

1. For failure of a franchisee to materially complete construction or to extend service in accordance with the Cable Services Regulatory Ordinance or the Cable Television Franchise Agreement - \$250.00 for each calendar day the violation continues.
2. For failure to materially comply with requirements for Access Channels - \$250.00 for each calendar day the violation continues.
3. For failure to materially comply with the Institutional Network provisions of the Cable Services Regulatory Ordinance or the Cable Television Franchise Agreement - \$250.00 for each calendar day the violation continues.
4. For repeated, willful failure, or continuing failure, after the fifteen day written notice of the intent of the Town to assess a penalty, to submit reports, maintain records, provide documents, or provide information required or authorized to be requested by the Town - \$250.00 for each calendar day the violation continues.
5. For failure to materially comply with the requirements of any of the Customer Service Standards. Failure to comply with each single standard is a separate violation - \$250.00 for each calendar day the violation continues.

6. For failure to comply with the Sale and Transfer provisions of the Cable Services Regulatory Ordinance or the Cable Television Franchise Agreement - \$250.00 for each calendar day the violation continues.
7. For violation of any provision of the Cable Services Regulatory Ordinance or the Cable Television Franchise Agreement which requires the franchisee to do, perform, construct, comply or to refrain from or not do, perform or construct any act or thing - \$250.00 for each calendar day the violation continues.
8. For operating a cable television system or any other service or system in the Town for which a franchise agreement is required by the Cable Services Regulatory Ordinance without having a Cable Television Franchise Agreement with the Town - \$500.00 for each calendar day the violation continues.

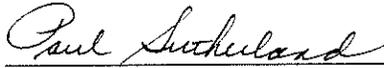
PART III. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

PART IV. This ordinance shall be in full force and effect from and after the 2nd day of January, 2001.

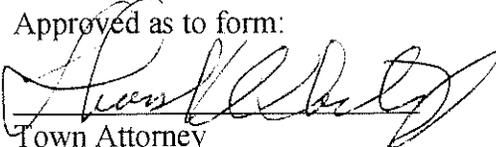
ATTEST:



Carrie Gordin, Town Clerk



Paul Sutherland, Mayor

Approved as to form:


Town Attorney



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Ordinance No. 01-01-004

AN ORDINANCE AMENDING CHAPTER 5 OF THE CODE OF ORDINANCES OF THE TOWN OF SOUTHERN SHORES

BE IT ORDAINED, by the Town Council of the Town of Southern Shores, North Carolina, that Chapter 5 of the Code of Ordinances of the Town of Southern Shores be amended as follows:

PART I. Article II. Town Vehicle License, Section 5-31 through Section 5-36 is hereby repealed.

PART II. Article V. Stopping, Standing and Parking, Division I. Generally, Section 5-108. Controlled parking residential area is hereby repealed.

PART III. Article V, Stopping Standing and Parking, Division I. Generally, Section 5-107. Parking on shoulders is hereby repealed and replaced as follows:

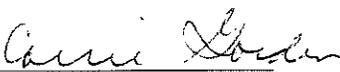
Sec. 5-107. Parking permit.

- (1) As an exception to section 5-106, vehicles bearing current town parking permit stickers may park in designated Town parking areas. This in no way modifies existing or future signs prohibiting parking completely or limiting parking in certain areas.
- (2) When parking on shoulders, vehicles must not impede two-way traffic.
- (3) All efforts will be made to utilize grassy areas on the shoulders and not to destroy natural shrubbery.
- (4) Parking that block driveways, fire hydrants and intersections is strictly forbidden.

PART IV. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

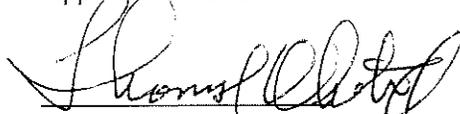
PART V. This ordinance shall be if full force and effect from and after this 2nd day of January 2001.

ATTEST:


Town Clerk


Mayor

Approved as to form:


Town Attorney

Date: 1/2/01

Vote: 5 Ayes ___ Nays



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Ordinance No. 01-01-003

Moratorium

MORATORIUM ON LARGE RENTAL STRUCTURES

WHEREAS, the Town Council of Southern Shores continues to be seriously concerned about the potential adverse impacts on the Town and its citizens resulting from the increasing presence of large rental structures designed and constructed for simultaneous use by multiple families and groups, those impacts include:

1. The impact on our current low density, quiet residential neighborhoods when joined by high density, large rental structures each housing in excess of fourteen (14) rental vacationers (mini-hotels).
2. The impact on our fragile groundwater quality of high volumes of human waste created by high density large rental structures utilizing septic systems of varying quality and capacity.
3. The impact on public safety of a large number of persons (over 14) who are not permanent residents and are thus at risk during emergency situations because of an unfamiliarity with the large rental structure they are occupying for a short period of time and which was constructed under residential building codes. (Multi-family units create special water supply, policing, firefighting and rescue needs).
4. The impact on our citizens who bought land and/or built homes in Southern Shores not expecting to some day have high density, large commercial rental homes as neighbors, drastically changing the ambiance, economics, character and environment of the neighborhood.
5. The impact of large rental structures on the land use plan's finding that town residents strongly agree that Southern Shores should continue to develop as a low density, single family residential community and that Southern Shores should manage further growth to minimize the negative effects on environmental quality.
6. The impact on our neighboring surface waters (canals, Ginguite Creek, Atlantic Ocean and Currituck Sound) of large volume septic systems, especially those that are failing, are over utilized, under engineered or undersized.
7. The impact on large numbers of town citizens and civic association members who have expressed through letters, emails, petitions, board resolutions, telephone calls and opinion surveys the belief that large rental structures (mini-hotels) are not compatible with the current and planned low density, single family residential nature of Southern Shores.
8. The impact of substantially increased parking requirements, heavier traffic flows and congestion on public safety, cost and usage of roads by vehicles driven by large numbers of large home renters.
9. The incompatibility of the large rental structure use with existing permitted uses in residential zoning districts.

WHEREAS, the Council seeks time to further study these impacts and to develop appropriate regulations to manage them;

WHEREAS, the Council does not desire to prohibit all construction of residential units and thus deprive owners of the reasonable and rightful use of their property;

NOW, THEREFORE, The Town Council of the Town of Southern Shores does hereby ordain as follows:

The issuance of building permits for new construction or the remodeling of existing structures in Zoning Districts RS-1 (Single Family Residential District) and R-1 (Low Density Residential District), as indicated on the Official Zoning Map, which would result in a structure with more than seven (7) bedrooms (including nominal bedrooms or areas used for sleeping), and/or where that new construction or remodeling permits occupancy by more than fourteen (14) persons, is prohibited.

Effective this 2nd day of January, 2001. This ordinance shall be in full force and effect until the first Town Council meeting in January 2002.

Adopted this 2nd day of January, 2001



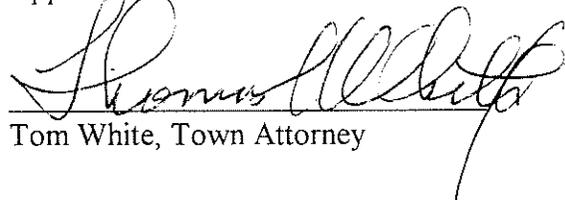
Paul Sutherland, Mayor

ATTEST:



Carrie Gordin, Town Clerk

Approved as to form:



Tom White, Town Attorney



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Ordinance No. 01-01-002

To Amend the Town of Southern Shores Town Code Chapter 7 Planning and Development, Article VII Flood Damage Prevention

BE IT ORDAINED by the Town Council of Southern Shores, North Carolina, the Town Code is hereby amended as follows:

PART I. Amend Section 7-215, Provisions for flood hazard reduction (e) Standards for areas of shallow flooding (AO zone) (1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest grade **plus 2 feet of freeboard**. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two (2) feet above the highest adjacent grade.

PART II. All ordinances or parts of ordinance in conflict with this ordinance are hereby repealed.

PART III. This ordinance shall be in full force and effect from and after the 2nd day of January 2001.

Paul Sutherland
Mayor Sutherland

ATTEST

Cassie Gordon
Town Clerk

Date Adopted: 1/2/01
Vote: 5 Ayes Noes

Approved as to form:

Donald R. [Signature]
Town Attorney