



# Town of Southern Shores

## "A Town of Volunteers"

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Council Meeting

June 5, 2001

7:30 p.m.-Pitts Center

1. Mayor Sutherland called the meeting to order at 7:30 p.m.  
Mayor Sutherland announced that Councilman Campbell is absent.

Mayor Sutherland announced that there are three public hearings scheduled tonight.

1) The parking lot lighting for the All Saint's Episcopal Church, 2) the RS-10 zoning amendment, and 3) the application permit for conditional use, amendment to the zoning ordinance. By statute a simple majority only is needed for number 1 and number 3 and for number 2 (RS-10 zoning amendment) all four Council members present must vote for it in order for it to pass.

2. Mayor Sutherland led the Pledge of Allegiance.

3. Moment of Silence-Mayor Sutherland asked that a moment of silence be held for the family of Jim Ward.

4. Consent Agenda-Minutes of May 1, 2001 Council meeting, monthly Building Inspections report and monthly Tax report. Councilman Kennedy made a motion to adopt the consent agenda as presented. Councilman Denny seconded. Approved unanimously.

5. Introduction of Officer Wagner-Police Chief Brazell introduced Christian Wagner and his wife, Amy. Chief Brazell stated that Officer Wagner is a third generation police officer from New Jersey and has completed 2 years of experience in the Charlotte area. Officer Wagner stated that he is happy to be here and is looking forward to serving in the community. Mayor Sutherland welcomed him and his family on behalf of the Council and the Town.

Mayor Sutherland recognized County Commissioner, Warren Judge, who is the Town's representative on the Board of County Commissioners.

6. Planning Board Recap-May 24, 2001

Dan Shields, Planning Board Chairman, presented the monthly recap.

Planning Board Recap cont'd

Mayor Sutherland asked for comments on the Planning Board recap.

Councilman Denny made a motion to approve the SSCA Boat Club site plans as recommended by the Planning Board for the improvements to the South marina as presented. Mayor Sutherland seconded. Approved unanimously.

7. Public Hearings

a. All Saints' Episcopal Church-Proposed parking lot lighting

Mayor Sutherland opened the public hearing at 7:40 p.m. Mayor Sutherland called upon those who signed up to speak.

Dahl Clark, 3 Ginguite Trail, stated that on behalf of the neighbors, they would like the church to consider proposing less lighting.

Mary Ann Mericle, 303 Duck Road, stated that she is a member of the church and it is very scary to go out to the car at night and there is a possibility of falling due to not being able to see with no lighting.

Tom Secules, 116 S. Dogwood Trail stated that he is a member of the church. He supports the lighting plan for the safety of the church and the community. He stated that the church is holding community events. They held a series of Holiday concerts in the late afternoon and when the concerts were over people were leaving in the dark. He asked that the Board consider the safety issue regarding the lighting.

Paul Hanson stated that he lives in Corolla but is a member of the church and is on the Currituck Board of Adjustment (BOA). He stated that the BOA has to rely on the basis of finding of facts and one of those criteria for a conditional use is to consider the health, safety, and welfare of the public when approving variance or conditional use. He stated that the Board needs to ask if a denial is in order how does it affect the safety of the public? He stated that the dark parking lot is a rendezvous for parties as is evident from the garbage and debris that needs to be disposed of regularly. He wishes that Council would grant the request.

Bob Slegel, 168 Dogwood Trail stated that he is a member of the church and he is concerned for the safety of himself as well as the fellow members. He stated in not having lights it is very bad for those who already have bad eyesight. He stated that his concern is if the church is not permitted the lighting whose responsibility is it if an accident does occur? He hopes Council will approve the request.

Public Hearings cont'd

Bob Morisseau lives in Duck and is a member of the church. He stated that insurance companies will tell you that your best friend is good lighting. He stated that the lighting is needed for security and safety reasons. It would also protect the property from loitering and burglary.

Carol Morisseau stated that the church is not open just on Sunday. It is a community center. Safety is a responsibility and as the use of the building grows it needs to be in a safe environment. Other public places provide a safe environment. She stated that it behooves the church to be a safe area and it depends on Council for that.

Dave Rhoads, 6065 Martin's Point Road, stated that he is a member of the church and that the church project started a long time ago. He stated that he has been assured that the lighting design will not invade adjoining property owners. He stated that the lights will give the parking lot safety and he strongly urges Council to approve the request.

John Tucker, 17 Wild Pony Lane, stated that he is sympathetic to Mr. Clark's presentation. He stated that in his opinion the lighting would not be offensive and the church is in nice surroundings. He stated that his wife would not attend any of the church functions after dark. He respectfully requests that Council approve the request.

Ken Rolley, 6 Mallard Cove, stated that he is a member of the church and also is the Co-Chairman of the building committee. He stated that the congregation is very grateful for Council allowing the church. He stated that the design of the church is so that it would be a good neighbor in the area. He stated that a presentation was made to the Planning Board in January for proposed lighting of poles to be 25' high. The Board asked the church to reduce the height and wattage and to come back. The church came before the Board again with a proposal for 15' high light poles and less wattage. He stated that the Town's zoning ordinance does not address lighting specifications in this situation. He stated that the suggested low lighting would not be effective. He stated that the Planning Board recommended approval of the current proposal and then Council elected to hold a public hearing. He stated that Council allowed the church and now there is a serious safety issue and to solve it lighting needs to be placed in the lot as proposed. He asked Council to approve the request.

Tess Judge, 4016 Ivy Lane, Kitty Hawk stated that she is a member of the church and of the building committee. She asked Council that she be allowed to read an email she received from Sandy Briggman, who could not attend the meeting. After the reading she presented a copy to Council.

Public Hearings cont'd

She stated that she presented the first request to the Planning Board, January 16, 2001 and the issue is still the same, parking lot lighting is needed for safety. She stated that the church welcomes everyone. She stated that the lights would be turned off at night and she asked that Council approve the request as presented.

Irma Leake, 2 Ginguite Trail, stated that she has opposed the proposed lighting of the church parking lot. She is not saying there should be no lights but that if lights are to be placed that they should be the lowest possible for what is needed. She stated the church chose to build in a residential zone and should follow the residential codes.

Mrs. Leake stated that it must have been an oversight that lighting was not on the site plan. She stated that the church has 5 lights on the church itself and that they burn all night every night. She stated that the lights should only be on when needed. She stated that she has forwarded her comments to Council prior to this meeting. She stated that she is concerned that when the church expands what considerations will need to be made?

Michelle Heimrich stated that she appreciated what Council has done to protect the citizens. She is concerned about the gathering of the night wildlife (deer and raccoon) in the parking lot and the safety of the people.

Mr. Heimrich stated that he thought there were going to be changes to the site plan and has since found out there are not, he would just like to say he supports the church's recommendation.

Mayor Sutherland read the names of the people who sent emails in support or opposing the request: Irma Leake, Dahl Clark, and Mr. Heimrich and they spoke tonight. He stated that Nancy Matthews did not speak tonight but did send an email in opposition to the proposal. He asked for anyone else wishing to speak, hearing no one he closed the public hearing at 8:05 p.m.

Mayor Sutherland asked D. Shields to review the process for the church's lighting proposal. See recap dated 4/16/01. D. Shields stated that the All Saints' Episcopal Church came before the Planning Board requesting a conditional use permit to install lighting in the parking lot. After much discussion the board asked that they review their proposal and try to lower the height and wattage proposed. The church came back to the Board with the current proposal to allow four lights 15 feet high and three lights to be 10 feet high.

Public Hearings cont'd

Mayor Sutherland asked Tom White to advise Council on what needs to be considered.

T. White stated that the church is a conditional use and in amending the site plan that is why the hearing is being held. It is not a matter of opposing or supporting the conditional use or whether or not lights should even be allowed. The sole issue before the Council is whether or not the proposal meets the standards of the ordinance, except in regards to the findings of fact. The zoning ordinance has only one section, Section 6.04 dealing with lighting, which he read and are the only standards for Council to consider. In order for Council to grant a conditional use you need to make three findings of fact according to the ordinance and safety is not one of them. He stated the three findings of fact are 1) the applicant has met the requirements of the ordinance; 2) granting the permit will be in general conformity with the Town's plan of development; (Land Use Plan) and 3) the proposed use will be compatible with the area in which it is to be located if developed under the conditions specified in the ordinance and those additionally required by Council. In the motion to approve or if it is found that one of those conditions cannot be met it would be in the motion to deny.

Councilman Smith asked as far as lighting if it doesn't conform to the RS-1 district is it allowed? T. White stated that Section 6.04 lighting is permitted, the standard for lighting is that it is shielded so the glare is reflected away from streets and adjacent property. One of the findings of fact is that granting the permit is that it is in general conformity with the Town's plan of development and the proposed use will be compatible with the area within which it is to be located. The only finding here is compatibility. To base a denial on that, fact would be needed that it is not compatible with the area.

Mayor Sutherland asked for any further discussion or a motion to approve or disapprove the application.

Councilman Denny made a motion that Council approve the lighting plan submitted by the All Saint's Episcopal Church as recommended by the Planning Board subject to the restriction that the lighting will not be turned on until one-half hour before a scheduled meeting and to be turned off no later than one-half hour after the close of that meeting.

T. White asked if the motion would be amended to incorporate the three findings in accordance with the Town's zoning ordinance Section 10.05 E. Application for Permit for Conditional Uses. Councilman Denny said that he would agree to that. Councilman Kennedy seconded.

Public Hearings cont'd

Councilman Kennedy stated that he agrees that the lights should be turned off no later than one-half hour after the event but he doesn't know that turning them on one-half hour before the event is feasible, it would depend on the event. He stated that when the last person leaves the lights should be turned off. He made a motion to amend the motion to delete the one-half hour turn on time before the event. Mayor Sutherland seconded. Mayor Sutherland called for a vote to adopt the amended motion. Approved unanimously.

Mayor Sutherland called for a vote to adopt the amended motion which reads that in accordance with the Town's zoning ordinance Section 10.05 E. Application for Permit for Conditional Uses and the restriction that the lighting be turned off no later than one-half hour after the close of the scheduled meeting approves the lighting plan submitted by the All Saint's Episcopal Church as recommended by the Planning Board. Approved unanimously.

Councilman Denny stated that he attended the Planning Board meetings in which this issue was discussed. He commented that he appreciates Ken Rolley's and Tess Judge's cooperation for considering Planning Boards recommendations. He urges the church to review those lights that are burning already, think about it as being a good neighbor. He also would like the "screening" enhanced so that the buffer area between the parking lot and Pintail Trail would be more effective. He stated that it has never been the position of the Leaks's that there should be no lighting, only that it should be the minimum for the parking lot.

Mayor Sutherland stated that the Town is happy to have the church and he is sorry that Council couldn't consider the Leake's request. He thinks Council has made the right decision and that the church will do what is right to be a good neighbor.

b. RS-10 draft zoning amendment.

Mayor Sutherland called the public hearing to order for the consideration of the RS-10 amendment to the zoning ordinance at 8:30 p.m. Mayor Sutherland asked if there was anyone wishing to speak? No one wished to speak. T. White suggested that the RS-10 amendment and the conditional use permit application amendment (item c. for public hearing) be included in the amended and restated draft zoning ordinance. Mayor Sutherland closed the public hearing at 8:32 p.m. Mayor Sutherland stated that the public hearing for the amended and restated draft zoning ordinance would be held on July 3<sup>rd</sup> at 9:00 a.m.

Public Hearings cont'd

Mayor Sutherland announced that this meeting would be recessed until June 26, at 9:00 a.m. at which time the FY 2001-2002 budget would be adopted.

d. Budget—Fiscal Year 2001-2002

Tom Gjestson presented the proposed FY 2001-2002 Budget including the budget message.

The proposal allows for a reduction to the taxpayers of two cents from 20 to 18 cents and with a \$2.8 million budget.

Mayor Sutherland announced that the budget would not be voted on until June 26. He thanked T. Gjestson for doing an excellent job and also thanked Council and the Town volunteers in all that they do in helping to keep the tax base down.

8. Set public hearing dates
  - a. Amended and Restated Zoning Ordinance
  - b. Dominion Power request for easement in certain Town rights-of-way

Mayor Sutherland announced that these public hearings would be held on July 3, 2001 at 9:00 a.m. in the Pitts Center. He stated that the Amended and Restated Zoning Ordinance which has embodied in it the things that we would have had a public hearing for tonight on RS-10 and the Conditional Use Permit Application amendment.

Mayor Sutherland stated that Council could grant the Dominion Power request but that they felt a public hearing would be in order before Council makes a decision.

9. Old Business

- a. Cable Franchise agreement and ordinance

Mayor Sutherland stated that the agreement has been read by Council and the draft ordinance is available in Town Hall. Mayor Sutherland moved to adopt the cable franchise agreement ordinance as a first reading. Councilman Smith seconded. Approved unanimously. T. White stated that the agreement needs to be read twice before the final adoption. Mayor Sutherland stated that Council would read and adopt the agreement at the July 3 meeting.

Old Business cont'd

b. Road Improvement Projects

Councilman Denny gave an update on the Town's road project, which consists of five improvement areas. He stated that Juniper Trail is complete but there is still ongoing improvements in the other areas. He thanked everyone for their patience and asked for their continued patience.

Mayor Sutherland commended Councilman Denny and Bill Storey for their hard work on this project.

c. Large Home Update

Councilman Kennedy stated that a tasking letter has been drafted and is awaiting the Mayor's signature asking the Planning Board to draft an amendment to the zoning ordinance to regulate large transient rentals (houses 8 bedrooms or larger) to be allowed in the commercial zone and that a public hearing be held in September for review.

d. Town Project Status

T. Gjestson gave an update on the projects. The Town storage building is in the design phase. New windows have been installed in the Town Hall and the Building Inspections Department. The painting of Town Hall is on hold until the renovation of the breezeway is complete. The trenching for the wiring of the new phone system has been contracted.

10. New Business

a. SSCA and Chicahawk Cost Sharing Agreements

T. Gjestson presented the cost sharing agreements to Council for the SSCA and Chicahawk and asked Council to approve the agreements for each at \$100 a month for a three-year term. Mayor Sutherland moved that the agreements be executed by the Mayor as proposed. Councilman Denny seconded. Approved unanimously.

b. Reduce speed limit on NC 12 to 35 MPH

Mayor Sutherland stated that there would be a meeting on June 18 with NCDOT to discuss the reducing of the speed limit on NC 12, as well as other issues. Mayor Sutherland stated that Council would hold a public hearing before anything is decided.

New Business cont'd

T. White stated that there would need to be a joint agreement with DOT before anything would be decided.

Councilman Smith stated that there are many folks, including himself, who do not want to see the speed limit changed. He would hold further comments until the meeting.

c. Proposed Amendment to Town Code-Chapter 12 to include Emergency Management

Mayor Sutherland stated that Council has the draft. T. Gjestson explained that the language change is to establish an emergency management team, authorize the mayor to declare a number of restrictions and prohibitions during a state of emergency, and reflect no price gouging.

Councilman Kennedy asked if there were any changes to the draft? Carrie Gordin, Town Clerk stated that there are 2 administrative changes that restate titles of sections.

Mayor Sutherland moved to adopt Chapter 12 as an amendment to the Town Code as presented with the noted administrative changes. Councilman Smith seconded. Approved unanimously.

d. Bridge Maintenance

T. Gjestson reported that bridge maintenance is needed on the bridge at Fairway Drive at a cost of \$8,500 and that this is not a budgeted item. Mayor Sutherland moved to authorize the expenditure of \$8,500 for the bridge maintenance as proposed. Councilman Denny seconded. Approved unanimously.

e. Beach Lifeguard Committee Report

Councilman Smith stated at the first meeting the committee set up a charter and objectives which are to review the feasibility of consolidation of lifeguard services for the five municipalities. This proposal is for an overall cost reduction with a single set of professional standards with regards to professional qualifications, remuneration, and an establishment of a single set of safety rules. He reported the next meeting would be held June 13. He asked Council to forward comments and suggestions to him before the meeting and that he would report back at Council's next meeting.

New Business cont'd

f. Proposed Contract Renewal Tidewater Fibre Recycling

T. Gjestson reported that the recycling contract needs to be renewed and he recommends extending the contract for three (3) years at a cost of a 3% yearly increase and a fuel surcharge. T. Gjestson stated that he doesn't have the actual contract but wanted to know if Council was favorable to the conditions? Council all agreed with the proposed terms. T. Gjestson stated that he would have the proposal at the next meeting.

11. Public Comment

Pete Macfarlane stated that he is upset over the Town's blatant disregard for the environment and the maritime forest by allowing the cutting down of trees for no apparent reason.

12. Council's Agenda

Councilman Denny-none

Councilman Kennedy-none

Councilman Smith corrected himself by saying that Commissioner Pitt (KDH) would be contacting Warren Judge and Renee Cahoon regarding the Lifeguard Committee meetings and that there were two people from Duck who attended the meeting also.

13. Mayor's Agenda

Mayor Sutherland announced that there would be a Hurricane Meeting at the Ramada Inn in Kill Devil Hills on June 13 in which he would be attending.

Mayor Sutherland reported that Neal Blinken, Developer of Ginguite Woods, spoke to Council at the workshop. Mr. Blinken stated at that meeting that the Town was not responsible for the delay in the project.

Mayor Sutherland reported that the Long Range Planning committee is meeting regularly to update the five-year old plan.

Mayor Sutherland announced that he would file with the Board of Elections to run for the Mayor's seat.

14. Town Manager's Agenda

T. Gjestson asked Police Chief Brazell to give the monthly report.

Mayor Sutherland announced that the Town's boat is in service and ready to patrol Ginguite Creek. Chief Brazell stated that the officers are in training and they are ready.

Al Smith asked Chief Brazell if the police return a call after a report has been called in to let the person know that something has been done. Chief Brazell said not necessarily.

T. Gjestson asked Fire Chief Bakken to give the monthly report.

Ursula Zdziarski reported that the emergency access at Hillcrest and S. Dogwood Trail couldn't be reached due to over-growth of brush. Chief Brazell said he would look into it.

15. Town Attorney's Agenda-none

Councilman Kennedy made a motion to recess the meeting at 9:35 p.m. to a regular adjourned session on June 26 at 9:00 a.m. Mayor Sutherland seconded. Approved unanimously.

Attest:

Respectfully submitted:

  
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Mayor Sutherland

  
\_\_\_\_\_  
Town Clerk