



Town of Southern Shores

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Southern Shores Town Council
Town of Southern Shores, North Carolina

Regular Meeting
November 1, 2005
7:00 p.m.-Pitts Center

MINUTES

The Southern Shores Town Council met on November 1, 2005, at the Pitts Center.

The following Council Members were present: Mayor Hal Denny, Council Members Jodi Hess, Dan Shields, David Sanders, and Brian McDonald.

Also present were: Carl Classen, Town Manager; Carrie Gordin, Town Clerk; and Ike McRee, Town Attorney.

OPENING

Mayor Denny called the meeting to order at 7:00 p.m., led the Pledge of Allegiance and held a moment of silence for the Barry Shannon family for the passing of Nancy Shannon.

APPROVAL OF AGENDA

Mayor Denny suggested amending the agenda to include under New Business A. Ordinance 2005-11-01- Charter Cable Franchise Fee.

Council Member Hess moved to approve the agenda with the suggested amendment. Council Member Shields seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

APPROVAL OF MINUTES

Council Member Shields moved to approve the July 5, 2005 minutes as presented. Council Member McDonald seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

PUBLIC COMMENT

Mayor Denny opened the public comment section of the meeting. Hearing no comments, Mayor Denny closed the public comment.

REPORTS

Planning Board (Clerk's Note: A copy of the October 17, 2005 report is attached hereto as Exhibit A and made part of these minutes)

George Kowalski presented the October 17, 2005 Planning Board report.

As part of the October 17, 2005 Planning Board, the Planning Board requests that the Stormwater Management Advisory Committee tenure be extended to complete needed data before a report is completed.

The Planning Board is having a special meeting on November 15, 2005 at 1:00 p.m. in the Pitts Center to discuss privilege license tax, permitted home occupations and allowed commercial uses.

Mid-Currituck Bridge-Build the Bridge/Preserve Our Roads (BB-PR)

Bob Palombo gave a brief update on the Mid-Currituck Bridge. Gene Gregory, past Currituck County Commissioner, has been appointed by Governor Easley to the North Carolina Bridge Authority. The Board is holding a phone conference with the Director of the Turnpike Authority on November 3. The BB-PR president and vice president were told by NCDOT, following a tour of Southern Shores and Corolla, that the Bonner Bridge is priority at this time and they don't have the Mid-Currituck Bridge feasibility study scheduled. NCDOT stated there has been no traffic study on NC12/Hwy. 158 since 1998. Mr. Palombo stated that any road improvements to NC12 would need to consider the driving road way, multi-use paths, and stormwater management and will put a strain on the rights-of-way.

Southern Shores Volunteer Fire Department (SSVFD)

Fire Chief Harvey presented monthly fire report. The SSVFD donated a fire truck to Biloxi, Mississippi. They held their annual BBQ on October 22 at the south fire station and raised \$800 to be given to the Chicamacomico Volunteer Fire Department for their ailing fire chief.

PUBLIC HEARINGS

Ordinance 2005-09-01 - Recombination of Nonconforming Lots (Clerk's Note: A copy of Ordinance 2005-09-01-Recombination of Nonconforming Lots is attached hereto as Exhibit B and made part of these minutes)

Mayor Denny opened the public hearing on Ordinance 2005-09-01- Recombination of Nonconforming Lots. Hearing no comments from the public, he closed the public hearing. He stated that Ordinance 2005-09-01 clarifies the language in the existing zoning ordinance.

Council Member Shields moved to approve Ordinance 2005-09-01 - Recombination of Nonconforming Lots as presented. Council Member Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

Ordinance 2005-08-02 - User Friendly Beach Accesses (Clerk's Note: A copy of Ordinance 2005-08-02 - User Friendly Beach Accesses is attached hereto as Exhibit C and made part of these minutes)

Mayor Denny opened the public hearing on Ordinance 2005-08-02 – User Friendly Beach Accesses. Hearing no comments from the public, he closed the public hearing.

Council Member Shields moved to approve Ordinance 2005-08-02 - User Friendly Beach Accesses as presented. Council Member Sanders seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

OLD BUSINESS

Resolution 2005-11-01 - OBX Marathon (Clerk's Note: A copy of Resolution 2005-11-01 - OBX Marathon is attached hereto as Exhibit D and made part of these minutes)

Mayor Denny read Resolution 2005-11-01 as amended. He stated that Amy Montgomery, Events Chairperson, provided information at the October 4, 2005 Council meeting regarding the upcoming OBX Marathon to be held on November 12, 2006.

Council Member Shields moved to approve Resolution 2005-11-01- OBX Marathon as amended. Council Member McDonald seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

NEW BUSINESS

Ordinance 2005-11-01-Charter Franchise Fee

Mayor Denny stated that the State Legislators a 7% sales tax upon cable TV subscribers beginning January 1, 2006, but the legislation allows 5 of the 7 cents per hundred tax to be kept in the Town if the local government has a cable franchise fee. Mayor Denny stated that Ordinance 2005-11-01 establishing a Charter Cable Franchise Fee has been drafted by the Town Attorney and that Council is required to adopt franchise agreements at two separate regular Council meetings. For second passage Ordinance 2005-11-01 if passed at this meeting would be placed on the December 6, 2005 Council meeting agenda.

Council Member Hess moved to approve Ordinance 2005-11-01-Charter Franchise Fee as presented. Council Member Shields seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

OTHER ITEMS

Council

Council Member Shields presented the Outer Bank Hydrology Management Committee Findings Report saying that Norma Mills, Chief of Staff to Senator Basnight provided through email that Senator Basnight is pleased with the leadership and efforts the committee spent in compiling the report. Copies are available at Town Hall.

Mayor

Mayor Denny had no comments.

Town Manager

Carl Classen provided a Power Point presentation on the Town's September 30, 2005 Quarterly Financial Report.

The Town auditor will present the FY 2004-2005 audit to Council at the November 15, 2005 Council meeting.

Town Attorney

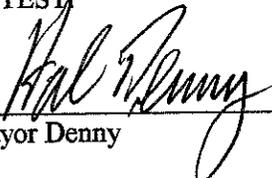
Mr. Ike McRee introduced Ben Gallop, a new colleague to the firm of Hornthall, Riley, Ellis, & Maland.

PUBLIC COMMENT

Mayor Denny opened the public comment section of the meeting. Hearing no comments, Mayor Denny closed the public comment.

Council Member Shields moved to adjourn the meeting at 7:55 p.m. Council Member Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Member absent.

ATTEST



Mayor Denny

Respectfully submitted:



Carrie Gordin, Town Clerk

Exhibit A

Memorandum

To: Southern Shores Town Council
CC: Town Manager
From: Jim Groff, Chairman, Planning Board
Date: 12/8/2005
Re: Recap, Planning Board Meeting of October 17, 2005

Planning Board recommended actions for the Town Council: None.

- I. Organization:** Chairman Groff called the meeting to order at 7:05 PM. Planning Board members Kowalski, Russell, Peckens, and Walter were present, as were ETJ member Halloran and Alternate McDanel. Alternate Poisel was absent, excused. Also present were the Code Enforcement Administrator and Southern Shores Realty representative, M. Stone.
- II. Public Comment:** None.
- III. Committee Reports:** **Long Range Plan Advisory Committee:** Provided interim report to Council on October 4th. Continuing to analyze and assemble data. Discussed proposals offered during the Transportation meeting. Implementation at least 10 years away. Largest issue is how to fund adopted solutions. **Stormwater Management Advisory Committee:** Meeting planned for October 21st. NC 12 consultant experiencing problems collecting design data for road. Committee will have to be extended beyond current termination date. **Home Occupation Committee** presented draft regulations for Board comments and Committee discussion. Next step is developing procedure for public input.
- IV. Applications:** None
- V. Policy Discussions:**
- A. Ordinance No. 2005-09-02 - Non-commercial Signs:** Noting that this ordinance had been returned to staff for revision, discussion suggested adding a definitions distinguishing "banner" signs from "solid" signs, increasing the size limitation of the former to 60 square feet and the latter to 40 square feet, and defining the term "Temporary". The revised ordinance should also contain language to prevent a series of signs, (each being within the size limitation), from being erected in close proximity to one another, (Burma Shave). There was a lengthy discussion regarding

regulating placement of signs on private property. The Board requires the Town Attorney's presence for its discussion of political signage.

- B. Privilege License Tax, Permitted Home Occupations and Allowed Commercial Uses:** Board recommended holding a 'workshop' on either November 10th or 15th at 1:00 PM to review the business spreadsheet and determine businesses that should be permitted, permitted conditionally or prohibited in Southern Shores.

Announcements: Next meeting: Monday, November 21, 2005; 7:00 PM; Pitts Center.

Adjournment: Upon motion, the Board meeting adjourned at 8:35 PM.

Exhibit B

Ordinance No. 2005-09-01

**AN ORDINANCE OF THE
SOUTHERN SHORES TOWN COUNCIL
AMENDING THE TOWN OF SOUTHERN SHORES ZONING ORDINANCE RELATED
TO RECOMBINATION OF NONCONFORMING LOTS**

Dare County, North Carolina

BE IT ORDAINED BY THE SOUTHERN SHORES TOWN COUNCIL AS FOLLOWS:

Article I: Purpose

The purpose of this Ordinance is to amend the Town of Southern Shores Zoning Ordinance enacted on July 7, 1981 and amended and restated by ordinance adopted on July 3, 2001.

Article II. Construction

For purposes of this Ordinance, underlined words (underline) shall be considered as additions to existing Zoning Ordinance Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Language of the adopted Town Code shall be shown in italics (*italics*).

Article III. Amend Article V, Section 4.05, Paragraph 2, Reduction of Lots or Areas Below Minimums

Article V, Section 4.05, of the Town of Southern Shores Zoning Ordinance is hereby amended to read as follows: ~~by striking the existing language and adopting new language to read as follows:~~

No yard or lot existing at the time of passage of this Ordinance on or after July 7, 1981 shall be reduced in dimension or area below the minimum requirements set forth herein.

Yards or lots created after the effective date of this Ordinance on or after July 7, 1981 shall meet at least the minimum requirements established by this Ordinance.

Article IV. Amend Article V, Section 4.08, Lot Access Requirements

No structure requiring a building permit shall be erected on any lot having less than thirty (30) feet of frontage and which:

1. *Does not abut either a public right-of-way or a private street or easement at least 30 feet in width which has been approved in accordance with the provisions of this Ordinance, the Subdivision Ordinance, or any applicable Town ordinance and recorded by the Register of Deeds of Dare County, or*
2. *Does not have access to a public street or highway which access is described in an instrument recorded in the Register of Deeds office of Dare County prior to adoption of this Ordinance.*

Article V. Amend Article V, Section 5.02, Paragraph 2, Non-conforming Lots of Record

Article V, Section 5.02, paragraph 2 of the Town of Southern Shores Zoning Ordinance is hereby amended to read as follows: ~~by striking the existing language and adopting new language to read as follows:~~

2. ~~*If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance.*~~
 - a. If on or after July 7, 1981 two or more adjacent and vacant nonconforming lots are in single ownership at any time, and such lots individually have less frontage, area or width than the minimum requirements of the district in which such lots are located, then such lots shall be considered and treated as a single lot or several lots that meet the minimum requirements of this Ordinance for the district in which such lots are located.
 - b. When a nonconforming lot is adjacent to one or more conforming lots under the same ownership, and when any portion of a proposed structure, or required use is located on two or more lots, the lots shall be combined into one single lot of record, and a plat combining such lots shall be recorded in the county registry prior to the issuance of a building permit.

Article VI. Severability

If any words, phrases, language, section or other portion of this Ordinance is held invalid by a court of competent jurisdiction, then all remaining words, phrases, language, section or other portion of this Ordinance shall remain in full force and effect.

Article VII: Effective Date

This Ordinance is effective immediately upon adoption.

Adopted this the 1st day of November, 2005.

Mayor Hal Denny

ATTEST:

Carrie Gordin, Town Clerk

S E A L

Vote: 5 Aye Nay 0

Approved as to form:

Ike McRee, Town Attorney

Date Introduced: 9/20/2005

Date(s) Published: October 20, 2005 Publication: Coastland Times
 October 27, 2005

Date(s) of Public Hearing(s): November 1, 2005

Exhibit C

Ordinance No. 2005-08-02

**AN ORDINANCE OF THE SOUTHERN SHORES TOWN COUNCIL
RELATING TO AMENDING THE ZONING ORDINANCE
REGARDING USER-FRIENDLY BEACH ACCESSES**

Dare County, North Carolina

BE IT ORDAINED BY THE SOUTHERN SHORES TOWN COUNCIL AS FOLLOWS:

Article I: Purpose

The purpose of this Ordinance is to amend the Zoning Ordinance of Southern Shores, Dare County, North Carolina, which was originally adopted by the Town Council on July 7, 1981 and subsequently amended.

Article II. Construction

For purposes of this Ordinance, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Language of the adopted Town Code shall be shown in italics (*italics*).

**Article III. Amend Section 3.02 Southern Shores Zoning Ordinance –
Definition of Specific Terms and Words**

Section 3.02 of the Southern Shores Town Zoning Ordinance is hereby amended to read as follows:

COMMUNITY BEACH ACCESS: Beach Access ocean dune platforms, walks, ramps, (including Hatteras Ramps), steps, sidewalks and related accessories such as bike racks, parking areas, flagpoles and signage owned or operated by a not-for-profit entity which is constructed for, open to, and available for use by property owners, members, and their guests or by the Town.

YARD: A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the ground level of the graded lot upward, provided however that fences, walls, poles, posts, ocean dune platforms, walks, accessible ramps, steps and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility or any other requirements of this Ordinance.

**Article IV. Amend Section 4.12 Southern Shores Zoning Ordinance –
Ocean Dune Platforms, Walkways, Steps**

Section 4.12 of the Southern Shores Town Zoning Ordinance is hereby amended to read as follows:

Section 4.12 Ocean Dune Platforms, Walkways, Steps.

INTENT.

Regulation of these structures is intended to preserve the natural appearance and integrity of the frontal dune and provide minimal interference with the natural accretion of sand and growth of vegetation.

A. OCEAN DUNE PLATFORMS.

Ocean Dune Platforms shall not exceed two hundred (200) square feet in area and no supporting posts shall be placed within four (4) feet of on the east side of the frontal dune. At the time of construction, ocean dune platforms will be at least eighteen (18) inches and no more than twenty-four (24) inches above the highest natural grade within the footprint of the proposed platform. No part of the platform structure, except a flagpole, shall extend more than three (3) feet above the platform deck. Permanently attached seating and areas incorporating permanently attached seating are considered part of such ocean dune platforms.

B. WALKWAYS, AND/OR STEPS.

~~One structural walkway, and/or steps are permitted across the primary dunes (Article XVI)~~ provided that they the walkway and / or steps are constructed in a manner which entails negligible alterations to the primary any dune. Walkways and steps shall not exceed four (4) feet in width. Walkways and steps constructed on the frontal dune will reasonably follow the contour of the dune and will be placed at least 18 inches and not more than 24 inches above natural grade.

**Article V. Amend Section 7.01 Southern Shores Zoning Ordinance –
RS-1 Single Family Residential District**

Section 7.01 (B) of the Southern Shores Town Zoning Ordinance is hereby amended to read as follows:

B. Permitted Uses

The following uses shall be permitted by right:

1. Detached single-family dwelling consisting of no more than seven (7) bedrooms or septic system capacity for more than fourteen (14) people.
2. Customary accessory buildings and structures including but not limited to swimming pools, tennis courts, and garages provided no living space is provided in the accessory structure. Accessory beach access walks, ramps and steps shall not exceed four (4) feet in width. Accessory ocean dune platforms shall not exceed two hundred (200) square feet.
3. Home occupations as defined in Section 3.02 of this ordinance.
4. Town-owned or leased facilities.
5. Piers and docks, only when accessory to a building for which a building permit has been obtained. Piers and docks must be permitted by all applicable local, state, and federal agencies having jurisdiction. The activity associated with the pier or dock must be permitted by the zoning district where the pier or dock is anchored. No such permitted dock or pier shall extend into adjacent waters more than seventy-five (75) feet from an

estuarine bulkhead, Mean High Waterline, or from a line connecting the outermost limits of the Coastal Wetlands on either side of the proposed structure, whichever is nearest the channel. Only one pier or dock is permitted per building site.

- 6. *Estuarine Bulkheads. Estuarine bulkheads must be permitted by all applicable local, state, and federal agencies having jurisdiction.*
- 7. Community Beach Accesses including ocean dune platforms, and associated seating areas, walks, ramps and stairs. Such Community Beach Accesses may be up to six (6) feet in width and must be permitted by all applicable local, state, and federal agencies having jurisdiction.

Article VI. Severability

If any words, phrases, language, section or other portion of this Ordinance is held invalid by a court of competent jurisdiction, then all remaining words, phrases, language, section or other portion of this Ordinance shall remain in full force and effect.

Article VII: Effective Date

This Ordinance is effective immediately upon adoption.

Adopted this the 1st day of November 2005.

Mayor Hal Denny

ATTEST:

Carrie Gordin, Town Clerk

S E A L

Approved as to form:

Vote: Aye: 5 Nay: 0

Ike McRee, Town Attorney

Date Introduced: October 4, 2005

Dates of Publication: October 20, 2005 and October 27, 2005 Publication: Coastland Times

Date(s) of Public Hearing(s): November 1, 2005

Exhibit D

Resolution 2005-11-01

RESOLUTION SUPPORTING THE DARE COUNTY OBX MARATHON

WHEREAS, the Dare Education Foundation and the Outer Banks Relief Foundation, along with other members of the community have come together to plan the Inaugural OBX Marathon, a 26.2 mile marathon to span the Outer Banks from Kitty Hawk to Manteo, as well as a Half Marathon and a Family Fun Run on November 12, 2006, and;

WHEREAS, the OBX Marathon will attract thousands of runners, walkers, family members and friends from many states and nations which will extend the fall tourist season and give the Outer Banks an economic boost, and;

WHEREAS, the OBX Marathon will also be an opportunity for the entire community to become involved and is serving as the annual signature fundraising event for the Dare Education Foundation and the Outer Banks Relief Foundation.

NOW THEREFORE, BE IT RESOLVED that the Southern Shores Town Council supports the OBX Marathon and urges Southern Shores residents and businesses to participate in this exciting event.

This Resolution adopted this 1st day of November, 2005.

Hal Denny, Mayor

ATTEST:

Carrie Gordin, Town Clerk