



**Town of Southern Shores  
Regular Council Meeting  
November 1, 2016**

The Town of Southern Shores Council met in the Pitts Center located at 5375 N. Virginia Dare Trail at 5:30 p.m. on Tuesday, November 1, 2016.

**COUNCIL MEMBERS PRESENT:** Mayor Bennett, Mayor Pro Tem Fred Newberry, Council Members Leo Holland, Chris Nason and Gary McDonald.

**COUNCIL MEMBERS ABSENT:** None

**CALL TO ORDER / PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE**

Mayor Bennett called the meeting to order at 5:30 p.m., led the Pledge of Allegiance, and held a moment of silence.

**AMENDMENTS / APPROVAL OF AGENDA**

**MOTION:** Council Member McDonald moved to approve the agenda. The motion was seconded by Council Member Nason. The motion passed unanimously (5-0).

**CONSENT AGENDA**

The consent agenda consisted of the following items:

- Approval of Minutes-October 4, 2016
- Budget Amendment #6 Transfer/Closeout-Capital Project Fund to General Fund
- Budget Amendment #8-To Recognize NCDOT Reimbursement Grant

**MOTION:** Council Member Holland moved to approve the consent agenda. The motion was seconded by Mayor Pro Tem Newberry. The motion passed unanimously (5-0).

**EMPLOYEE RECOGNITION**

Town Manager Rascoe presented a special recognition to Town Clerk Sheila Kane - Designation as Certified Municipal Clerk by the International Institute of Municipal Clerks through the NC School of Government

**STAFF REPORTS**

Town Planner:

The Town Planner presented the Planning Department's monthly report containing the following:

- Permitting and Inspections October, 2016

Southern Shores Police Department

Chief Kole presented the Police Department's monthly report for October and an incident/response report from Hurricane Matthew.

Southern Shores Volunteer Fire Department: Fire Chief, Ed Limbacher presented the Fire Department's monthly report for October and a special PowerPoint presentation (attached) consisting of an overview of the department.

Town Manager's report

The Town Manager addressed several matters:

- Some property owners in Town have recently received a safety protocol letter from the US Army Corps of Engineers regarding the former practice aircraft training area in Southern Shores which existed in the 1940s. According to the Corps of Engineers' FUDS (Formerly Used Defense Site) Project Manager overseeing this notice, since the former training area is so low on the DOD's priority for a full investigation and funds are not currently available for a closure investigation, the US Army Corps of Engineers is notifying property owners of safety protocols. Unfortunately, the local government administration was not notified prior to these notices going out.
- Hurricane Matthew storm debris cleanup began in Southern Shores October 24th and is estimated to continue over the next 4-6 weeks. During that time, the regular limb and branch service will be on hold until storm related debris pickup is complete.
- The 800 MH radios were out for several hours during the storm and communication with Dare Central and individual units was by HAM radio and cell phone communication only during that time.
- The South and East Dogwood Trail survey is still being compiled and the final report will be transmitted once complete.
- Applications are being received for the Historic Landmarks Commission and will be presented to Council for its consideration at the next meeting.

**GENERAL PUBLIC COMMENT**

Mayor Bennett called for public comment and the following citizens offered comment with topic(s) as indicated:

- Van Price, 18 Ocean Blvd. The time for beach nourishment is now, serious beach erosion, walkway steps that were just built have already fell in
- Monty Duncan-most important thing Southern Shores has is the beach-it takes care of our wallets.
- Bob Monroe-Thanked Police & Fire Chief for job well done during storm. 100 ft. frontage of beach is now 8 feet. Imperative the sand should be replenished.
- Brian Forbes-past president of Pelicans Watch-The beach is Town infrastructure which needs to be maintained. Old pilings from Sea Ranch need to be removed. Sand fencing erected by the Town the past couple of years has helped.
- Geri Sullivan-31 10<sup>th</sup> Avenue-Council voted down parking stickers 3-2 vote. You want people who can't park to pay for beach nourishment. Public hearing process is not good.
- Charlie Nash-26 Pelicans Watch-Beach nourishment works. It is important to shore up the dune. Pelicans Watch itself generates a large portion of occupancy taxes and pays a good deal in property taxes.

[Clerk's Note: A copy of the public comment signup sheet is hereby attached].

## **OLD BUSINESS**

### Consideration of Possible Speed Limit Change On Circle Drive-From The Current 15 Mph To 25 Mph

Council Member Holland and Council Member McDonald both stated they drove the proposed speed limit change of 25 mph along Circle Drive and felt it was too fast for that street. Mayor Pro Tem Newberry agreed.

**MOTION:** Council Member Holland moved to not change the speed limit on Circle Drive and keep the current 15 mph speed limit. The motion was seconded by Council Member McDonald. The motion passed unanimously (5-0).

### Reconsideration of Scope of Scheduled December 1 "Beach Nourishment" Public Hearing

Mayor Pro Tem Newberry stated the discussion of beach nourishment should be in the form of a public forum instead of a public hearing and experts should be brought in to give information such as the costs, the impacts. Council Member Newberry stated he is sympathetic to the citizens of Pelicans Watch but Council needs to be educated in order to make a smart decision. He said the December public hearing previously set by Council should be replaced by a Public Forum in a location large enough to hold the audience.

**MOTION:** Mayor Pro Tem Newberry moved to have the Town schedule, advertise and vigorously promote a public forum, not a public hearing, on the issue of beach analysis and nourishment. This is to be held separately from a regularly scheduled council meeting and that time limitations for speakers be adjusted to allow accepted experts objective and data driven scientific presentation on the pros and cons of beach nourishment. The motion was seconded by Council Member McDonald. The motion passed unanimously (5-0).

## **NEW BUSINESS**

### Budget Amendment #7-Create and Fund Budget Line for FEMA Reimbursable Projected Hurricane Matthew Expenses.

**MOTION:** Council Member Holland moved to approve budget amendment #7 to create and fund budget line for FEMA reimbursable projected Hurricane Matthew expenses. The motion was seconded by Council Member McDonald. The motion passed unanimously (5-0).

## **GENERAL PUBLIC COMMENT**

Mayor Bennett called for public comment and the following citizens offered comment with topic(s) as indicated:

- Van Price, 18 Ocean Blvd-If there is a way to piggyback with the other Towns doing beach nourishment in the upcoming year it would save many properties.

## **OTHER BUSINESS**

### Mayor's Comment & Responses

Mayor Bennett presented a resolution provided by Dare County pertaining to summer traffic control. He asked Dare County Commissioner Wally Overman who was present to explain the resolution.

**MOTION:** Council Member McDonald moved to approve the Resolution 2016-11-01 Summer Traffic Control presented by Dare County Commissioner Wally Overman asking the Highway Patrol to commit to working the intersection properly during the summer season. The motion was seconded by Council Member Holland. The motion passed unanimously (5-0).

### Council Member's Comment & Responses

Mayor Pro Tem Newberry stated he wanted to express thanks to the Fire Chief, Police Chief, and Southern Shores Staff for all of their efforts during Hurricane Matthew and also Hermine. He then stated Council voted against going back to the parking sticker at the last meeting and Council Member McDonald has done some research and looked at the Town Code. Council Member Newberry stated the Town Code indicates using stickers for parking permits and we have gone to hang tags. He stated evidentially, there was an administrative change to our Code and maybe the Town Attorney wants to weigh in but it is his understanding that any time there is a change to the Code you have to have public input and a vote by Council. He stated neither of those happened. Council Member Newberry stated that based on the public's input, his personal experiences, and the fact that over 50 people sent him emails, which was shared with each Council Member, expressing their desire to go back to stickers as permits. He stated Council Member McDonald received 37 emails wanting to go back to stickers. He stated the Town should go back to stickers as parking permits.

Council Member Nason asked the Town Manager for a history about how we got where we are. Town Manager Rascoe stated in May 2015 the Public Safety Committee discussed the use of tags instead of stickers for parking permits. It got to the Council at that time and was discussed. The only action Council took was to approve a replacement fee for hanging tags. It was discussed but just did not vote to change the wording. The emphasis at that time was on the word permit.

Council Member McDonald stated the Code says current Town parking permit stickers may park in designated Town parking areas. The Code has to be changed in order to use tags. So basically we are not following our own Code, he stated. Council Member McDonald asked Town Attorney Gallop if a public hearing is required to change the Code. Town Attorney Gallop stated a public hearing is not required unless it is a zoning code ordinance.

Council Member Holland stated a recommendation to then change the Code to say sticker or tag and give the property owner the option.

Mayor Pro Tem Newberry stated what Council keeps missing is the fact that the public says they want to go back to stickers.

The Mayor stated we can handle that without any trouble of all.

The Mayor state he intends to make a motion to amend Section 20-149 of the Town Code to allow the issuance of stickers or hanging tags, and to direct Staff to provide hanging tags and decals/stickers; no more than two of either per property owner. This can include one tag and one decal. These permits are to be issued for a two-year term (2017-2018). The Mayor stated this takes the tag issue off the table because now you can get them if you want them. The citizens that want stickers can have them and the ones that want hanging tags can have them. This addresses the issue and gives people a choice. The Mayor stated it is a compromise to get this issue behind us.

Council Member Nason stated the fact is the Town only has 135 parking spots. The Town has 3,280 properties. No matter what system is used, on a busy 4<sup>th</sup> of July weekend, you only have a 4% chance of finding a spot. He stated no matter what Council does, the problem of parking will not be solved-it is impossible. He supports Council Member Holland and Mayor Bennett's option of letting citizen's choose.

Mayor Pro Tem Newberry stated what was failed to be mentioned is the potential for abuse with the hanging tags. The SSCA system has worked for years. He stated to Council he does not see why you people are so against stickers, especially when the public has come out and said that is what they want. He stated he wrote an article in the newsletter and people had the opportunity to tell him if they wanted them or didn't. He stated I told you most people want them. He asked why is Council fighting it and why are they ignoring it.

Council Member Nason and Holland stated because there are other members of the community that want different.

Council Member Nason stated the only thing the article did was make people want more.

Council Member McDonald stated prior to 2015 there is no data to back the number of permits. He also stated the Town knew the number of stickers out, but the Town didn't keep who had what he said. He also stated the other thing he needs to add is that there is a vanity side to this. A lot of people in our community have stickers and they do not care to go to the beach. They want people to know they live in the Town of Southern Shores.

Council Member Holland stated if a sticker is provided to them as requested, then they can have their sticker.

Council Member Nason stated you could give license plates stating the Town of Southern Shores and he would support that. It would not be tied into the parking system.

Council Member Holland stated that those citizens that want the image can now get the parking permit sticker and put it on their car. The other citizens that want hanging tags can get the tags.

Mayor Pro Tem Newberry stated before he bought his house on Dogwood Trail he lived on Ocean Blvd. It was at one of the main parking areas, East Dogwood access, and there was not a parking issue with the sticker system.

Council Member Holland stated the hanging tag system has been in place since July 2015 and there was no conversation about it until Council Member Newberry wrote the article.

Citizen Al Ewerling commented to the Council he mentioned it at the first meeting.

Council Member Holland stated we have a good solution. You are only going to get two tags, or two stickers, or one of each.

Council Member McDonald stated he has 87 communications from people, they may not be all our people, but they have come forward and said they prefer stickers. He stated he wanted to go on record that he is not doing this for what he himself feels, this is what the community has asked, to go back to stickers.

Mayor Bennett then stated he is accommodating those people by giving them a choice.

Council Member McDonald stated he understands but that was changed without looking at the Code and that is an issue.

Mayor Bennett stated we are resolving that by amending the Code. Council Member McDonald stated but you simply just can't change every time you disagree just because you want to.

Council Member Nason stated yes you can. Council is in charge of the Code.

Council Member McDonald asked the Mayor to clarify the number of tags. He stated for instance if he owns seven (7) properties how many will he get. The Mayor stated his motion only allows for two (2).

Citizen Ewerling commented and asked the Mayor if he could put in there that the tags could just be for Town residents to which the Mayor's reply was No. The Mayor stated that he cannot discriminate against property owners.

Council Member McDonald asked to call to question and referred to Town Attorney Gallop stating he does not believe you can discriminate and only give two tags to owners of multiple properties.

Town Attorney Gallop stated he did not know if that is an issue. He stated he has stayed away from the parking question. It has been something that has been permitted in the past but he thinks there are legal risks with having any form of permits, particular that you give to people parking on the side of the street. For parking lots, you may have authority to do that, but there are risks in having permitting for property owners, citizens, non-property owners, and some property owners, and not for the general public if they are parking on the side of the road way. He stated he has not researched that.

Town Attorney Gallop stated there is a possibility that regulating by not allowing the general public to access public street parking creates a potential risk there that he has not researched. The risk is that the Town may not be able to regulate parking in a public street right-of-way in a way that discriminates either based on citizenry, ownership, or property - contrary to the general public because it is a public road.

Council Member McDonald stated he thinks Town Attorney Gallop should look into what can and can't be done. We are changing the Code to say multiple property owners can now only have two stickers/tags. The Mayor stated that only one word is being changed.

**MOTION:** Mayor Bennett again moved to amend Section 20- 149 of the Town Code to allow the issuance of stickers or hanging tags, and to direct Staff to provide hanging tags and decals/stickers; no more than two of either per property owner. This can include one tag and one decal. These permits to be issued for a two-year term (2017-2018). The motion was seconded by Council Member Nason. The motion vote was 3-2 with Mayor Bennett and Council Member Holland and Nason voting YES; Council Member Newberry and Council Member McDonald voting NO.

[A second reading will be necessary with majority vote to pass an ordinance amendment- the second reading of the seconded motion will be placed on December agenda for vote by Council.]

Council Member Holland thanked Town Staff for their Hatteras help. Six truckloads of items were donated by Southern Shores citizens for the people of Hatteras. Town Staff and the Dare County Sheriff's Office delivered the items.

Council Member Nason thanked the Police and Fire Departments for their efforts, as well as Town Manager Peter Rascoe during Hurricane Matthew.

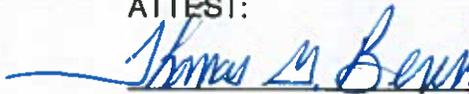
Council Member McDonald asked what is the status of the speed limit reduction request on NC12 in Southern Shores during the summer season. The Town Manager stated no feedback has been received from NCDOT to date.

Mayor Bennett stated he appreciated all comments received and the interest in the processes.

**ADJOURN**

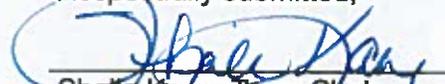
**MOTION:** Council Member Holland moved to adjourn. The motion was seconded by Council Member Nason. The motion passed unanimously (5-0). The time was 8:05 pm.

ATTEST:

  
Thomas G. Bennett, Mayor



Respectfully submitted,

  
Shella Kane, Town Clerk

