



**Town of Southern Shores
Regular Council Meeting
January 9, 2018**

The Town of Southern Shores Town Council met in the Pitts Center located at 5375 N. Virginia Dare Trail at 5:30 p.m. on Tuesday, January 9, 2018.

COUNCIL MEMBERS PRESENT: Mayor Bennett, Mayor pro tem Chris Nason, and Council Members Fred Newberry, Jim Conners 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 as presented. The motion was seconded by Mayor pro tem Nason. The motion passed unanimously (5-0)

CONSENT AGENDA

The consent agenda consisted of the following items:

1. Approval of Minutes-December 5, 2017
2. Budget Amendment #7-cost to replace a crosswalk light (recognizes the revenue received from insurance company of vehicle responsible for damage).

MOTION: Mayor pro tem Nason moved to approve the consent agenda as presented. The motion was seconded by Council Member Conners. The motion passed unanimously (5-0).

PRESENTATION- GOV-ED ACCESS CHANNEL - BOBBY DOBBS AND DOROTHY HESTER, DARE COUNTY

Bobby Dobbs and Dorothy Hester with Dare County presented a power point presentation summarizing all the Gov -Ed Access Channel has to offer and highlights and improvements from this year.

STAFF REPORTS

The following Department Heads presented Department reports for the month of November:

- o Town Planner Wes Haskett presented the Planning Department's monthly report containing permitting and inspections for the month of December. Mr. Haskett also gave notice of the January 16th Planning Board meeting in which the agenda will cover side yard setback requirements and Module One of the Town Code update project. Potential topics of discussion could consist of parking requirements for rental properties, commercial design standards, relocating oceanfront homes and Module One notes.

Following Mr. Haskett' s report, Councilman McDonald stated he wanted to clarify his observation that at the December Council meeting the approved ZTA-17-05 Accessory

Structures was to be sleeping “or” kitchen, but in reading the ordinance adopted by the Council you can have “both”.

The Town Attorney stated it is the word “and” in the definition of “dwelling unit” that can be confusing.

Town Planner Wes Haskett explained it is one or the other. The word “and” is used in the definition of “dwelling unit”, and “accessory structures” cannot contain “dwelling units”.

Councilman Newberry and Councilman McDonald stated they have received questions from residents about the previously adopted ordinance, asking if the Council’s recent change to the Town Code will change their RS-1 zoning district to a multi-family zoning district.

Mayor Bennett asked the Town Planner if he has received any or similar inquiries from any resident or other citizen.

Town Planner Wes Haskett stated since Council adopted the ordinance, he has not received any inquiries.

- Police Chief David Kole presented the Police Department’s monthly report for December.
- Fire Chief Ed Limbacher presented the Fire Department’s monthly report for December.
- The Town Manager presented the Manager’s report and addressed several matters:
 - The current fiscal year’s capital street improvement projects that are under contract now are Palmetto Lane and Skyline Road, both of which Council approved. Each project calls for a completion date of May 23, 2018.
 - Still waiting on the CAMA Major Permit for Yaupon Trail improvement.
 - The beach profile survey is being completed and the contracting coastal engineer will hopefully be ready to present to Council by March.
 - Unless Council directs otherwise, staff intends to apply to the Gov-Ed Access Channel for a grant for enhancements to the microphone system in the Pitts Center.
 - The Town Manager has a conflict with the October 2, 2018 Council meeting date due to a family commitment.

Councilman Conners asked about the delay of the CAMA major permit for Yaupon Trail and involvement by US Army Corps of Engineers.

The Town Manager stated the State permit-issuing agency has implied it is going to be issued.

Councilman Newberry asked the Town Manager why the Public Works Department did not try to remove the snow when it first started.

The Town Manager stated, that similar to what NCDOT is reporting as an explanation, the recent weather event’s precipitation and ice went down on the streets first before the snow and there is no capability of removing the thick ice element until the temperatures go up and the ice begins to thaw.

Mayor Bennett inquired if the East Dogwood Trail and NC 12 site beatification project was complete.

The Town Manager stated to the best of his knowledge it is complete.

REPORT OF PLANNING BOARD ON COUNCIL-DIRECTED CONSIDERATION OF TOWN CODE REGULATION OF TREE REMOVAL ON PRIVATE PROPERTY

Planning Board Chairman Williams presented the Planning Board report and recommendation on a possible Town Code regulation of tree removal on private properties. Upon the completion of his report, Chairman Williams reported that it is the Planning Board's recommendation that the current Town Code of Ordinances remain as it is currently with no changes regarding regulation of private tree removal.

Councilman Newberry asked Planning Board Chair Williams if the Planning Board had looked at the Town of Duck's private tree removal ordinance, and he stated it has been in place for several years and is successful. Mr. Newberry provided a summary of the benefits of trees and vegetation. In addition, he supported adopting a vegetation ordinance to preserve trees and vegetation in Southern Shores. He encouraged the Planning Board to go back and reconsider their recommendation.

Planning Board Chairman Williams replied to Councilman Newberry that he disagrees with him. He stated the current Town Code regulations have been in place for a long time with little push for change. The two prior proposals for zoning text amendment brought to Council were not approved by the Council. On the current matter of regulating private tree removal, Chairman Williams repeated that the Planning Board has recommended no change, and if Council itself wants a change to the Town Code on private tree removal it will need to provide the Planning Board direction on the details of any specific change the Council advocates.

Councilman Conners stated his understanding is that the Town Code rewrite is not to add new regulations but just to update.

Councilman McDonald stated the update was to clean up the Code.

Planning Board Chairman Williams stated that Code Wright provided options, but the Planning Board considered the matter as requested by Council and recommends no changes to the Town Code on the particular subject of regulating private tree removal.

Mayor Bennett stated that history has proven that the current policy is working throughout the Town as the number of trees is being sustained.

No further action taken.

GENERAL PUBLIC COMMENT

Mayor Bennett called for public comment and the following citizens offered comment:

1. Herb Council, CanStandOBX, offered a brief description of a devise securing trash cans from tipping over.
2. Sally Gudas, 156 Wax Myrtle Trail-supports designating 142 Ocean Blvd. as a historic landmark.
3. Joe Van Gieson, 228 N Dogwood - stated in Fiscal Year 16-17 the Town Manager approved street improvement contracts without having the Council's authority to do so; opposes any grant of such authority under Agenda item 6D.

The Mayor recognized the Town Manager for a reply to this citizen's allegation.

The Town Manager stated he had full authority of the Council to award such contracts in Fiscal Year 16-17 and the previous speaker must not have read the provisions of the Budget Ordinance adopted by the Council for Fiscal Year 16-17. The Town Manager also reminded the Council and the attending public that any such unauthorized action discrepancy would have been reported by the Town Auditor, and none had been reported.

4. Al Ewerling, 187 S Dogwood-ZTA on accessory structures- offered a question as to whether accessory structures are able to be rented or leased.

A Council-Staff discussion on this public comment was allowed by the Mayor.

Councilman McDonald stated the Chamber of Commerce's speaker at the December 5, 2017 Council meeting stated the Chamber supported "work force housing"

Mayor pro tem Nason stated Council has already voted on the matter of accessory structures the last Council meeting.

Councilman Conners stated if any Council Member wishes to have the matter re-considered, it needs to be placed on a future meeting agenda.

5. Trisha Farinholt-69 Ocean Blvd, supports 142 Ocean Blvd. for historic landmark designation. Against tree clear cutting.
6. George Berry, 239 N. Dogwood Trail -Council and the County need to look on finding and supporting a new urgent care provider to replace the regional medical center in Kitty Hawk that has closed.
7. Willo Kelly, NC Homebuilder's Association -NC Department of Insurance has denied the recent insurance rate increase request, and has scheduled a required hearing on the denial in July. She also commented she is familiar with the tree ordinance in Duck and that it has had several revisions over the years and is quite different than its original version.
8. Glenn Wyder, 170 Clam Shell Trail, President of CPOA -CPOA has no jurisdiction over private tree cutting. Due diligence is performed by providing strong suggestions of trees to not be cut during the pre-construction process. Stated one problem with restricting private tree removal is that often diseased or hurricane-damaged trees need to be removed.

OLD BUSINESS

SECOND READING-CONSIDERATION TO DESIGNATE 142 OCEAN BLVD AS A HISTORIC LANDMARK.

MOTION: Mayor Bennett moved to approve the ordinance designating the property and structure located at 142 Ocean Blvd as a historic landmark. The motion was seconded by Councilman Conners. Following discussion, the second reading of the ordinance passed 3-2 with Mayor Bennett, Mayor pro tem Nason, Councilman Conners voting YES; Councilman Newberry and McDonald voting NO.

Next Agenda item:

CONSIDER LAND USE PLAN (LUP) UPDATE (BUDGETED FOR FY 17-18) PROPOSALS PRESENTED DECEMBER 5, 2017

Mayor Bennett stated Council heard two presentations and reviewed the two proposals at the December 5th Council meeting. He asked Council what they thought to accomplish with the Land Use Plan update, as the Town is already regulated by CAMA and has a Land Use Plan in place.

Councilman Conners asked Town Planner Wes Haskett if Southern Shores is required to update its Land Use Plan.

Mr. Haskett explained that municipalities are required to have a comprehensive plan but that the State does not require a municipality to update its plan, and a CAMA-approved Land Use Plan may serve as a municipality's comprehensive plan but is not required to be updated. He also explained if a coastal municipality chooses not to adopt a CAMA-approved Land Use Plan, the municipality falls under the applicable County's CAMA-approved Land Use Plan.

Mayor Bennett suggested it might be best for the Town to wait until the Town Code update is complete before updating the Land Use Plan.

Councilman McDonald stated staff arranged for these proposals to be brought to Council, as per a Council-approved budget item.

Councilman Newberry stated that Mr. Haskett has stated state demographics have changed and Southern Shores should update its plan, it needs a vision and direction.

MOTION: After discussion, Councilman Conners moved that Council take no action on the Land Use Plan update proposals. The motion was seconded by Mayor pro tem Nason. The motion passed 3-2 with Mayor Bennett, Mayor pro tem Nason and Councilman Conners voting YES; Councilman Newberry and McDonald voting NO.

Councilman McDonald asked the Town Manager how much money has been placed in the current year's budget for the Land Use Plan update. The Town Manager stated \$60,000.

MOTION: Councilman McDonald moved to use the \$60,000 that was allocated for the Land Use Plan update to now be moved to the capital reserve fund. The motion was seconded by Councilman Newberry. The motion failed 2-3 with Councilman Newberry and McDonald voting YES; Mayor Bennett, Mayor pro tem Nason, and Councilman Conners voting NO.

Mayor pro tem Nason commented that budget amendment #8 (next agenda item) should be funded out of the \$60,000 and the balance then placed in the Capital Reserve Fund.

NEW BUSINESS

STAFF RECOMMENDATION OF ACTIVATION OF PUBLIC WORKS POSITIONS/BUDGET AMENDMENT # 8

The Town Manager reported he now has the opportunity to fill the vacant and currently unfunded Public Works Director position, and that he recommends Council approve Budget Amendment #8 to bring the Public Works Department to full personnel complement.

Mayor Bennett stated the Town Manager had previously sent Council an email detailing the request.

Councilman McDonald asked if the position had been advertised to which the Town Manager stated it was advertised.

Councilman McDonald stated at budget time the Town Manager recommended the position be unfunded, and he stated he asked the Manager at that time if money should be placed in for that position anyway.

The Town Manager again stated that he now has an opportunity to fill the position and that is the reason he is recommending the Council now provide funding for the position. He stated the Town Manager position does the hiring and firing of personnel for the Town.

Councilman McDonald commented that action on this item should be postponed as it had not been re-advertised this year, and he asked the Town Attorney for an opinion as to whether the personnel policy was followed.

Town Attorney Gallop stated the Town Manager has no further duty to advertise.

MOTION: Mayor pro tem Nason moved to approve Budget Amendment #8, funding Public Works personnel in the amount of \$19,438.00 to be funded from the \$60,000 originally budgeted for the Land Use Plan update, and the balance of the \$60,000 to be placed in the Town's Capital Reserve Fund. The motion was seconded by Councilman Conners. The motion passed 3-2 with

Mayor Bennett, Mayor pro tem Nason, and Councilman Conners voting YES; Councilman McDonald and Newberry voting NO.

NEXT AGENDA ITEM:

CONSIDERATION OF POSSIBLY ESTABLISHING NEW COUNCIL COMMITTEES

MOTION: Councilman McDonald moved to reestablish a planning committee, a budget committee, and a safety committee and appoint one Council Member to each of these committees. Councilman Newberry seconded the motion. During discussion, Councilman McDonald stated the reason for his proposed committees is so that citizens may observe staff do work.

The motion failed 2-3 with Councilman Newberry and McDonald voting YES; Mayor Bennett, Mayor pro tem Nason, and Councilman Conners voting NO.

Mayor pro tem Nason reminded Council that committees were previously abolished due to the lack of community attendance, lack of Council attendance, and that they had no consistency. He urged having staff bring items directly to the Council and then Council can discuss them in its own meetings.

NEXT AGENDA ITEM:

PUBLIC HEARING-CONSIDERATION OF ZTA-17-06: ZONING TEXT AMENDMENT APPLICATION SUBMITTED BY THE TOWN OF SOUTHERN SHORES TO AMEND THE SOUTHERN SHORES TOWN CODE BY AMENDING SECTION 36-171, LOT DISTURBANCE AND STORMWATER MANAGEMENT

Planning Board Chair Sam Williams presented the Planning Board report which recommended approval of Zoning Text Amendment (ZTA) 17-06.

Councilman Conners stated line 24 should read 3:1, rather than 1:3 which is a more common language.

Mayor Bennett stated line 43 second sentence should state "When required by the Zoning Administrator".

Councilman McDonald questioned if this was enforceable.

Town Attorney Gallop stated if you are in violation of a permit then your permit is revoked.

Town Attorney Gallop opened the public hearing and called for comment:

1. Willo Kelly-only concern is the certified survey stamp which can be costly if the project is a minor project. She stated the Mayor addressed this issue by stating "when required by the Zoning Administrator" on line 43 of ZTA-17-06

Hearing no other speakers, Town Attorney Gallop closed the public hearing.

MOTION: Councilman McDonald moved to approve ZTA-17-06 Amending Section 36-171, Lot Disturbance and Stormwater Management with the following changes:

1. Line 23 to read horizontal to vertical
2. Line 24 to read 3:1
3. Line 43 to insert "when required by the Zoning Administrator"

The motion was seconded by Mayor pro tem Nason. The motion passed unanimously (5-0).

NEXT AGENDA ITEM:

AUTHORIZE THE TOWN MANAGER TO AWARD CONTRACTS TO LOWEST QUALIFIED BIDDER FOR COUNCIL AUTHORIZED CAPITAL INFRASTRUCTURE IMPROVEMENT PROJECTS FOR FISCAL YEAR 2017-2018 (PROJECTS AUTHORIZED JULY 11, 2017)

Mayor Bennett stated on July 11, 2017 the Council took action to authorize capital street projects for fiscal year 2017-2018. That action also directed that the secured bids for the projects be brought back to the Council for award. Previous and through the annual budget adoption, the Council has authorized the Town Manager to award a contract to lowest qualified bidder for projects already authorized by the Council. That process resulted in the successful contractor being able to mobilize and start work right away, rather than having to wait for the next Council meeting.

Motion: Mayor Bennett moved the Town Manager be authorized to award a contract to the lowest qualified responsible and responsive bidder for Council-authorized capital street improvement projects. The motion was seconded by Councilman Conners. Following discussion and upon affirmative consensus of each Council Member, the motion was amended at the suggestion of Councilman McDonald that, as a post-award information item, the bid tally sheet for each awarded contract be reported to the Council at its next meeting in order that it becomes a part of that meeting's record. The amended motion passed unanimously (5-0).

GENERAL PUBLIC COMMENT

Mayor Bennett again called for public comment and no citizen spoke.

Mayor Comments & Responses

Mayor Bennett had no further comments

Council Comments & Response:

Mayor pro tem Nason requested the Mayor agendize a reconsideration of the Zoning Text Amendment recommended by the Planning Board pertaining to lot coverage on the next available Council meeting. [Note: ZTA-17-03 recommended to Council September 5, 2017 to amend Sec. 36-57 and Sec. 36-202 of the Town Code of Ordinances to establish new lot coverage requirements. Council acted that date to not accept the recommendation.]

Councilman McDonald asked the Mayor to follow through with discussing the urgent care with possibly the County and other local municipalities.

Councilman McDonald requested that a letter from the Council opposing the insurance rate increase be developed. By Consensus of Council, Mayor Bennett agreed to compose and mail such a letter.

Councilman Conners stated the agenda item he previously requested - discussing the East Dogwood Trail walking path, has been moved to a Council budget workshop meeting and will be discussed at that time. He also thanked the attending Coastland Times newspaper reporter for the historic landmarks article.

The Town Manager stated that the NC Wildlife Resources Commission has issued a draft coyote management plan that is on the Town's website for viewing.

Councilman Conners stated he has placed trail cameras around his property to see how many coyotes are in the area

ADJOURN


MOTION: Hearing no other business, Councilman McDonald moved to adjourn. The motion was seconded by Mayor pro tem Nason. The motion passed unanimously (5-0). The time was 8:24p.m.

ATTEST:


Thomas G. Bennett, Mayor



Respectfully submitted,


Shella Kane, Town Clerk