



**Town of Southern Shores
Regular Council Meeting
March 6, 2018**

The Town of Southern Shores Town Council met in the Pitts Center located at 5377 N. Virginia Dare Trail at 5:30 p.m. on Tuesday, March 6, 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: Councilman 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. Council Meeting Minutes – January 9, 2018
2. Surplus Resolution 2018-03-01
3. Government and Education Access Channels Committee 2018-2019 Proposed Budget Request

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

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 February. Mr. Haskett also reported that the March 19th Planning Board meeting will cover two variance applications and a zoning text amendment, submitted by Southern Shores Crossing LLC, addressing shared parking in commercial districts.
- o Police Chief David Kole presented the Police Department's monthly report for the month of February.
- o Fire Chief Ed Limbacher presented the Fire Department's monthly report for February.
- o The Town Manager presented the Manager's report and addressed several matters:
 - o Palmetto Lane road improvement is on schedule.
 - o Skyline Road storm water management project has yet to commence but remains on schedule for completion date.

- o Clamshell Trail road improvement project is on schedule
- o Yaupon Trail's north section of bulkhead is out for bid.
- o Once the ocean calms from the storm, the beaches will be inspected.

PLANNING BOARD REPORT

Planning Board Chairman Williams reported that Jay Russell resigned from the Planning board, serving one month shy of 17 years of volunteering.

Mr. Williams also reported the Planning Boards report and recommendations will be presented during this evenings public hearing.

GENERAL PUBLIC COMMENT

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

1. Lori Williams – League of Women Voters

OLD BUSINESS

NONE

NEW BUSINESS

Beach Assessment Report -APTIM Coastal Planning & Engineering of NC, Inc-Ken Willson
Ken Willson, Project Manager with Aptim Coastal Planning & Engineering, Inc, briefed Council on the draft beach assessment report, explained the set of profile plots showing the different data sets used in the assessment for each profile, and made three recommendations to the Town:

1. Conduct a vulnerability assessment of the oceanfront structures
2. Continue Monitoring of the Beach Profiles
3. Determine a Minimum Cross Section Volume

Ken Willson reported that the shoreline is looking stable with no hot spots. Long term averages and short-term averages look to be stable and manageable. There are some areas that have a little less volume in the Town.

Mr. Willson explained the vulnerability assessment numerical model simulates a storm event, showing what the beach profile would look like afterwards. By doing so, a comparison of the pre- and post-storm beach profile gives a feel for where the damages might be along the shoreline. This is the vulnerability line. If Council was going to plan for a project this would be the high priority area. You can also look at shoreline changes in a five-year time scale and see what a project may look like.

Mr. Willson stated a beach profile is not recommended this next year unless some major impacts are seen to the beach from this latest storm. In the next couple months, Kitty Hawk, Duck and Kill Devil Hills are doing a survey to monitor the projects that just went in. Kitty Hawk is monitoring 5,000' into Southern Shores already as part of their beach maintenance plan (as part of Kitty Hawk's project taper area).

Mr. Willson recommended the vulnerability assessment and determination of a minimum cross section volume be under one contract. At the end, the Town would have a plan in place, cost estimates, time frame, and a look of what a major beach nourishment project would look like five years from now.

Mr. Willson stated monitoring what the beaches are doing is a healthy thing to do and that's how they keep track of what is going on out there. A beach profile was just done, so unless there are dramatic changes, a profile study could be pushed off until spring 2019. The Town Manager asked Ken Willson to explain the cost of these projects and timeframe to Council.

Project #1 and #3 together (vulnerability assessment and minimum cross section volume) will cost \$60,000 and all can be done in FY2018-2019. Project #2 (monitoring of the beach profiles) with a cost of \$34,000 can be contracted in 2019 and actually started in spring 2019, bleeding into early FY 2019-2020 (July -August 2019).

Mr. Willson stated he did not see an urgency and it could be a long-term plan.

MOTION: Mayor Bennett moved to direct the Town Manager to include all three projects (Conduct a vulnerability assessment of the oceanfront structures, Continue Monitoring of the Beach Profiles. Determine a Minimum Cross Section Volume) at a total cost of \$94,000 be included in his FY 2018-2019 budget expense projections. The motion was seconded by Councilman Connors. The motion passed unanimously (5-0).

[Clerk's Note: a copy of the PowerPoint presentation, beach assessment report, and profile plots data sheets are hereby attached as exhibits.]

NEXT AGENDA ITEM

Presentation of SSVFD Architectural Design Drawings

Fire Chief Ed Limbacher introduced Ken Newell of Stewart, Cooper and Newell architects.

Ken Newell reviewed the site plan, floor plan, elevations with options and the preliminary projected cost estimate of \$ 4.9 - 5.5 million based on the size of the structure and current construction costs. A final price will be determined during the actual bidding phase. He stated this is the schematic design phase. He addressed some areas of concern from the Council previously: parking on Pintail Lane, roof materials, and exterior material choice.

The Town Manager stated the setback requirements and possible number of parking spaces will require a Town Code change. The rear of the proposed site, which is Town of Southern Shores property, will require an easement and a cross-use agreement. The process of developing these may start up shortly as they need to be in place to get the bid specs.

The Town Manager stated his projected FY2018-19 budget will include an amount potentially needed by the Fire Department for debt service in the upcoming year - which will be reviewed by Council at the upcoming budget session. The current approved work for the project will head towards the bidding process in FY2018-19.

[Clerk's Note: a copy of the PowerPoint presentation is hereby attached as exhibit]

NEXT AGENDA ITEM

Public Hearing-The Public Hearing will be for ZTA-18-02, a Zoning Text Amendment application submitted by the Town of Southern Shores to amend the Southern Shores Town Code by amending Section 36-175, Wireless Telecommunications Sites and Towers.

Town Attorney Gallop opened the public hearing.

Wes Haskett Town Planner, presented the Staff report for ZTA 18-02 a Zoning Text Amendment application submitted by the Town of Southern Shores to amend the Southern Shores Town Code by amending Section 36-175, Wireless Telecommunications Sites and Towers. He stated

N.C.G.S. § 160A-400.50 et seq. governs the Town's authority to regulate wireless telecommunications facilities. 2017 N.C. Sess. Law 159 made substantial changes to the text of N.C.G.S. § 160A-400.50 et seq. and become the law of North Carolina as of July 21, 2017. The changes to N.C.G.S. § 160A-400.50 et seq. affect the Town's regulations of wireless telecommunications facilities and require that the Town's Zoning Ordinance be updated accordingly. N.C.G.S. § 160A-400.50 as amended provides that the Town is not authorized to require the construction or installation of wireless facilities or to regulate wireless services other than as set forth in N.C.G.S. § 160A-400.50 et seq. N.C.G.S. § 160A-400.54 provides that the Town shall not prohibit, regulate, or charge for the collocation of small wireless facilities other than as set forth in N.C.G.S. § 160A-400.50 et seq. Similarly, the statutory amendments place limitations on the Town's ability to regulate the use of rights-of-way and utility poles by wireless providers using small wireless facilities.

Town Staff is proposing to amend the Town Zoning Ordinance by amending Section 36-175, Wireless Telecommunications Sites and Towers by adding language to allow Small Wireless Facilities and the use and installation of utility poles in accordance with aforementioned General Statutes. A Small Wireless Facility is defined as a wireless facility that meets both of the following qualifications:

1. Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than six cubic feet.
2. All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For purposes of this sub subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground based enclosures, grounding equipment, power transfer switches, cut off switches, vertical cable runs for the connection of power and other services, or other support structures.

The proposed language would allow Small Wireless Facilities as a permitted use in all zoning districts which may collocate along, across, upon, or under any Town rights-of-way. Following review and approval of a wireless application, a wireless provider may place, maintain, modify, operate, or replace associated utility poles, city utility poles, conduit, cable, or related appurtenances and facilities along, across, upon, and under any Town rights-of-way. The placement, maintenance, modification, operation, or replacement of utility poles and city utility poles associated with the collocation of Small Wireless Facilities, along, across, upon, or under any Town rights-of-way shall be subject only to review or approval if the wireless provider meets all the following requirements:

1. Each new utility pole and each modified or replacement utility pole or city utility pole installed in the rights-of-way shall not exceed 50 feet above ground level.
2. Each new Small Wireless Facility in the rights-of-way shall not extend more than 10 feet above the utility pole, city utility pole, or wireless support structure on which it is collocated.

The Town may provide free access to Town rights-of-way on a nondiscriminatory basis in order to facilitate the public benefits of the deployment of wireless services. Or, the Town may assess a rights-of-way charge for use or occupation of the rights-of-way by a wireless provider. In addition, charges shall meet all of the following requirements:

1. The rights-of-way charge shall not exceed the direct and actual cost of managing the Town rights-of-way and shall not be based on the wireless provider's revenue or customer counts.
2. The rights-of-way charge shall not exceed that imposed on other users of the rights-of-way, including publicly, cooperatively, or municipally owned utilities.

3. The rights-of-way charge shall be reasonable and nondiscriminatory.

The Town's currently adopted Land Use Plan contains the following Policy that is applicable to the proposed ZTA:

- Policy 2: The community values and the Town will continue to comply with the founder's original vision for Southern Shores: a low density residential community comprised of single family dwellings on large lots (served by a small commercial district for convenience shopping and services located at the southern end of the Town. This blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

RECOMMENDATION

Town Staff and the Town Planning Board have determined that the proposed amendments are consistent with the Town's currently adopted Land Use Plan and the Town Planning Board unanimously (4-0) recommended approval of the application.

Planning Board Chairman Williams presented the Planning Board report. He stated the Planning Board, although not in favor of the amendment realizes it had to be approved. He stated the areas that the Town has a little control of are the fall zone (public safety), design standards, stealth concealment standards, and historic preservation requirements. The Planning Board approved the amendment unanimously.

Town Attorney Gallop called on members of the public wishing to speak:

1. Larry Lawhon-what type of frequency are we looking at, fall zone should be mapped, recommend stealth manner and the number of towers that can be placed.
2. Andrew Darling-answered Mr. Lawhorn's inquiry about the frequency from carriers

Town Attorney Gallop closed the public hearing and called on Council for deliberation. He stated the Town can only deny if it doesn't meet one of the four criteria.

Council discussed possible means of regulations. The Town Attorney reminded Council again that it can only be one of the four criteria.

MOTION: After deliberating, Mayor Bennett moved to approve ZTA 18-02, a Zoning Text Amendment application submitted by the Town of Southern Shores to amend the Southern Shores Town Code by amending Section 36-175, Wireless Telecommunications Sites and Towers. The motion was seconded by Councilman McDonald. The motion passed unanimously (5-0).

GENERAL PUBLIC COMMENT

Mayor Bennett called for public comment and no citizen spoke.

MAYOR COMMENTS & RESPONSES

Mayor Bennett stated after the recent storm the beaches will be monitored. He also attended the recent ARPO meeting. Discussed was the need to replace the Alligator River Bridge, and a record of decision on the Mid-Currituck Bridge should be given in a few months.

COUNCIL COMMENTS & RESPONSE:

Councilman Conners stated the Capital Infrastructure Improvement Planning Committee met in February. He encouraged committee members to go visit Fairway Drive, so some citizens' recent correspondences to the Council can be properly addressed. He also stated he has attended Council meetings of all the neighboring towns and will summarize what items they discuss and his observations.

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 7:58p.m.

ATTEST:

Respectfully submitted,

Thomas G. Bennett, Mayor

Sheila Kane, Town Clerk