



Town of Southern Shores
Regular Council Meeting
March 5, 2019

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 5, 2019.

COUNCIL MEMBERS PRESENT: Mayor Bennett, Mayor pro tem Chris Nason and Council Members Fred Newberry, Jim Conners and Gary McDonald.

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Town Attorney Ben Gallop, Town Manager Peter Rascoe and Town Clerk Sheila Kane

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 Conners moved to approve the March 5, 2019 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:

- Council Meeting Minutes – February 5, 2019
- Resolution 2019-03-01 Resolution in Support of Continued Funding for The Safe Routes to Schools Program
- Tax Pick up & Releases
- Budget Amendment #8 - Anticipated increased legal costs for the remainder of fiscal year.
- Budget Amendment #9 - Revenue from new copier provider / pass-through for year's current provider cost.
- 2019-2020 GEAC Budget Approval, Interlocal Agreement & Standing Operating Procedures for Government Education Access Channels.
- Budget Amendment #10 – D.A.R.E. Grant Revenue - for expense of School Resource Officer Training

MOTION: Councilman Conners moved to approve the consent agenda as presented. The motion was seconded Mayor Bennett. The motion passed unanimously (5-0).

STAFF REPORTS

The following Department Heads presented Department reports for the month:

- Town Planner Wes Haskett presented the Planning Department's monthly report for February. The Planning Board's next meeting is March 18th.
- Police Chief David Kole presented his Department's monthly report for February and asked the public to remember to lock their cars as there has been several reports of items stolen from vehicles.

Councilman McDonald asked Police Chief David Kole if there was any update to the vandalism at 62 Ocean Blvd. Chief Kole stated it is still an open and pending investigation.

- Fire Chief Limbacher presented the Fire Department's monthly report for February and praised all safety personnel involved in the recent fire on Dogwood Trail.
- The Town Manager presented the Manager's report on operations highlights:
 - The Town Manager attended a planning meeting with Town Managers, Mayors, the County Manager, and the Chairman to the Dare County Board of Commissioners to discuss protocols for utilizing funds in the occupancy tax, beach nourishment fund that the county maintains. The county reported by 2022 there will be 7.5 million dollars in the fund available for new projects (this is not inclusive of maintenance money which has been set aside out of the fund). There are other areas in the county that need beach nourishment but the message from the county appears to be that if Southern Shores would like to participate in the 2022 allocation they would need for the Town to basically pull the trigger and commit to a project as soon as possible. The soon as possible is preferably the first meeting in April if Council is serious about engaging in the beach nourishment project that was discussed by Council on February 26th- Council Planning session. The County reported the next allocation after 2022 would be in 2027. The Town Manager further reported that the 7.5 million would be the county's share and Southern Shores would be responsible for committing to the other half, matching the funds. In running the numbers, the Town would need to commit to the revenue generated by roughly .08 cents on the current tax base of the Town. If planning pans out and Council chose to hire DEC & Associates the revenue possibly could be raised by municipal service districts, a combination of districts or town wide increase. Southern Shores would need to come up with the revenue raised by .08 cents town wide in order to participate. If Southern Shores is serious about the project in 2022 then Council would need to commit with the county by form of a resolution. This should be placed on the April agenda and Council could certainly hold a public hearing at this time. If Council commits by resolution, the recommendation would be to go ahead and hire DEC and Associates to start planning immediately.

- Mallard Cove Patio Homes Association has requested the Town take over their private street and place their request on the April agenda for Council consideration. The Town Manager has requested a list of documents from the homeowner association to aid Council in their deliberations.
- Town Attorney Gallop had nothing to report.

Councilman Conners inquired if the Mallard Cove Homeowner Association had money set aside for street improvement/repairs and if these funds would be turned over to the Town if their request is granted. Town Manager Rascoe stated he has not received any information other than the letter of request.

MOTION: Councilman Conners moved to add further discussion of the beach vulnerability report and beach nourishment project 2022 to the April 2nd agenda. The motion was seconded by Mayor pro tem Nason. Councilman Newberry asked to amend the motion to include a public hearing on beach nourishment. The motion was amended and seconded by Mayor pro tem Nason. The amended motion passed unanimously (5-0).

GENERAL PUBLIC COMMENT

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

1. Nancy Birindelli-303 Sea Oats-representing the Dare League of Women Voters by distributing the 2019 Citizen Guide.
2. Anthony Dibernardo-32 Ninth Ave-the most simple, clear and concise way to limit bedrooms is by using septic. Carolina Designs has the new Saga homes advertised as room for 100 guests. Is this a quasi-motel, Air B&B? Council needs to be proactive.
3. Ann Sjoerdsma-69 Hickory Trail-ZTA 18-09 has never been subjected to a public hearing. Preferential treatment with the Mayor's motion tonight. Not satisfied with disclosure that Mr. Nason gave at the last meeting in regard to his relationship with Mr. Love-his financial arrangements, what benefit has he received and would appreciate a recusal ahead of these motions. "Mr. Love may be threatening litigation. I don't threaten, but I do think an ethics complaint is something to be considered".

OLD BUSINESS

Proposal to Adopt Planning Board's Recommendation (PB) of ZTA-18-09 (Non-Conforming Lots)

MOTION: Councilman Conners moved that the Town Council adopts ZTA-18-09 alpha as presented to the Town Council by the Planning Board at the Town Council February 5, 2019 regular scheduled Town Council meeting. The motion was seconded by Mayor Bennett.

MOTION: Mayor pro tem Nason moved to be recused from this vote per the Town Attorney's guidance. The motion was seconded by Councilman McDonald. The motion passed unanimously (5-0).

Councilman Conners stated at the last Council meeting, Council was unable to make a decision and that seems to be a developing pattern among the Council. He would like to approve this motion because it solves the original problem, recombination of lots. He stated further research is going to be taken but he sees no reason to keep delaying and delaying. Both Council and the Planning Board have done their jobs. It is a very confusing issue and Council keeps kicking the can down the road. If Council does not adopt this motion, he foresees at least three months or more before it comes back to Council for consideration.

Councilman McDonald stated Council sent this back to the Planning Board at their last meeting and that he recalls this ZTA is only for changing one lot and that he asked that of the Town Attorney at the last meeting.

Town Attorney Gallop stated he does not believe that is correct. There are two different changes, one change does deal with one single lot which he addressed when questioned, but the second change addresses multiple lots. Also, Council's action directed staff to go back and identify all the non-conforming lots and bring that back to Council. That passed unanimously.

Councilman McDonald stated the other thing is that the Planning Board did not act on ZTA PB. They voted on 18-09 at their meeting and directed it be corrected and he stated he assumed it would come back and that would be PB.

Town Attorney Gallop stated that is incorrect. The Planning Board voted to recommend with a specific change and that recommendation with specific change is ZTA 18-09PB.

Councilman McDonald asked what is the specific change?

Town Attorney Gallop stated the specific change can be found on page 2 line 40 "not adjacent to any other land under the same ownership" was the recommendation request, a recommendation with that language included in that spot. That is different than a vote to draft this and bring it back. The Planning Board's vote to recommend with that change and that puts it in front of the board.

Councilman McDonald thanked Attorney Gallop and questioned since Council sent it back has no action been taken on this ZTA by the Planning Board. He stated he has an issue with a full Council directing it to go back and now Council is bringing it back without giving the Planning Board a chance or opportunity to view it? He further stated, procedure wise it is not in line with what we decided.

Town Attorney Gallop stated the Council direction was not to send it back to Planning Board but rather to give the Planning Board specific work and staff specific work on determining the non-conforming lots; consider that and come up with another recommendation, that will be different. He stated the motion was not related to this specific provision ordinance anyway. There was a public hearing, it had a recommendation from the Planning Board, and the board can either vote up or down on the motion or it can table it. He further stated he thought it is appropriately here from a procedural perspective for the board to consider.

Mayor Bennett called for any further discussion.

Councilman Conners stated he would like to add that he is deliberately trying to call a vote on this. He wants the residents to know that at least some Council Members are trying to solve the original problem, and work on this needs to continue.

Councilman McDonald stated that is what we directed at our last meeting.

Councilman Conners called the question and Mayor Bennett called for a vote. The motion failed (2-2) Councilman Conners and Mayor Bennett voting affirmative; Councilman Newberry and Councilman McDonald opposing. (Mayor pro tem Nason recused)

NEXT AGENDA ITEM

Proposal to Refer to Planning Board an Ordinance (To Be Drafted by Staff) Allowing for Sale or Development of Non-Conforming Lots at Least 20,000 SF in Area and Greater Than or Equal to 50 Feet in Width

Mayor Bennett made a motion "have staff draft a ZTA for Planning Board consideration with proposed ordinance language that would allow the sale or development of a non-conforming lot that is at least twenty-thousand square feet in area and greater than or equal to 50' feet in width", called for a second and opened the floor for deliberations

Councilman McDonald asked the Mayor if he would amend his motion to include less house size on different size lots. Mayor Bennett stated it would be cumbersome and chose to leave his motion as made.

Councilman Newberry clarified that this would be going back to the Planning Board and Council was not voting on an ordinance this evening. Mayor Bennett confirmed that this was to go to the Planning Board for consideration.

MOTION: Mayor Bennett moved again to have staff draft a ZTA for Planning Board consideration with proposed ordinance language that would allow the sale or development of a non-conforming lot that is at least twenty-thousand square feet in area and greater than or equal to 50' feet in width. The motion was seconded by Councilman Conners. The motion passed unanimously (5-0).

NEXT AGENDA ITEM

A Discussion About the Membership and Composition of the CIIP Committee

MOTION: Councilman Newberry moved to have the CIIP (Capital Infrastructure Improvement Planning Committee) be solely composed of citizen representatives and that the Councilmen currently on the CIIP should resign from it and their seats be filled by citizen representatives approved by the Council. The motion was seconded by Councilman McDonald.

Councilman Newberry stated the Mayor and the Mayor pro tem are on the CIIP committee by default and that he did serve on that committee for a short time but has done a lot of rethinking and believes the committee should solely be made up of citizen representatives that should be able to identify, research and recommend capital improvement projects. This committee should have access to staff resources. Mr. Newberry stated it is pretty obvious Council members were influencing the committee.

Councilman Nason stated it gets too political and unnecessary. He would rather see it abolished, getting Council off the committee, and allowing staff to do their job.

Councilman Connors agrees with the politicizing and that the committee should be abolished and turned over to the Town Manager.

Mayor Bennett stated the CIIP committee has been effective and works well. He is not in favor of abolishing the committee.

Councilman McDonald stated it is hard to get community members involved and that the CIIP committee does not need to be dissolved. He agrees that Council is an influence on the committee and agrees with Councilman Newberry's motion.

Hearing no other comments Mayor Bennett called for a vote. The motion failed (2-3) Councilman Newberry and Councilman McDonald voting affirmative; Mayor Bennett, Mayor pro tem Nason and Councilman Connors opposing.

GENERAL PUBLIC COMMENT

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

1. Ann Sjoerdsma-69 Hickory Trl-beach nourishment, rush to judgement and one month is not enough time to get word out. Council is doing a great disservice is they "pull the trigger"; on beach nourishment. The issue is whether Southern Shores needs it.

MAYOR COMMENTS & COUNCIL COMMENTS

Mayor Bennett reiterated that it is the County that has created this timeframe, window of opportunity. Southern Shores can join in or not.

Councilman Newberry stated he would like to hear from the public on beach nourishment but is not ready to make a decision in April.

Councilman Connors reminded the public of his meeting scheduled in the Pitts Center on March 15th at 6pm on the possibility of a branch library in Southern Shores.

Councilman McDonald asked that the beach nourishment public hearing be placed at the beginning of the agenda, so the public does not have to wait to be heard. He also asked the Mr. Haskett, Deputy Town Manager/Town Planner if the Town had an events ordinance. Mr. Haskett

stated the ordinance addresses facilities where the primary function is to host events and to his knowledge the Town does not currently have any.

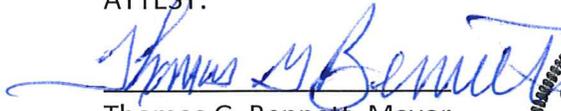
Consensus of all Council, to place the beach nourishment public hearing ahead of staff reports on the April 2nd agenda.

CLOSED SESSION- Request of the Town Attorney for a Closed Session pursuant to NCGS § 143-318.11(a)(3): to consult with the Southern Shores Town Attorney to preserve the attorney-client privilege with regard to the matter of the Request of Gwendolyn Snyder-Smuts for a Hearing before the Town of Southern Shores Board of Adjustment to appeal a decision of the Town Zoning Administrator [APA-19-01].

ADJOURN

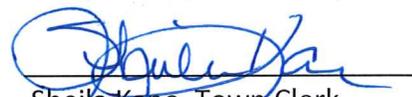
MOTION: Upon returning from closed session and hearing no other business, Councilman McDonald moved to adjourn the meeting. The motion was seconded by Mayor pro tem Nason. The motion passed unanimously (5-0). The times was 8:21 p.m.

ATTEST:


Thomas G. Bennett, Mayor



Respectfully submitted,


Shejla Kane, Town Clerk