



Town of Southern Shores

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RESOLUTION INVOKING CENSURE OF A MEMBER OF THE SOUTHERN SHORES TOWN COUNCIL FOR IMPROPER MEETING BEHAVIOR

RESOLUTION 2018-08-01

WHEREAS, the CENSURE of a Member of the Southern Shores Town Council serves as an official expression of pronounced condemnation and disapproval of the Member by the Town Council for an improper and inappropriate action, including breach of meeting decorum; and

WHEREAS during the July 10, 2018 Regular Meeting of the Southern Shores Town Council, Members of the Council were engaged in debate of a Motion to Not Adopt a proposed zoning text amendment (ZTA-18-04) being considered as an item of business on the meeting agenda; and

WHEREAS Councilman Gary McDonald initially introduced the Motion being debated, it being seconded by Councilman Fred Newberry; and

WHEREAS Councilman Christopher Nason, during the debate, spoke in opposition to Councilman McDonald's pending Motion; and

WHEREAS Councilman McDonald, subsequently speaking again in support of his Motion, spoke directly to Councilman Nason stating "How much money do you need to make?"; and

WHEREAS Councilman Nason immediately responded to Councilman McDonald's statement to him by twice denying he is "making any money for this" and by twice requesting Councilman McDonald to retract his statement, to which Councilman McDonald refused to do so; and

WHEREAS Mayor Tom Bennett, as the presiding officer of the Council meeting, requested that Councilman McDonald apologize for the personal comments he made towards Councilman Nason; and

WHEREAS Councilman McDonald refused to apologize, only stating "The truth sometimes hurts.", as well as specifically acknowledging that statement was not an apology; and

WHEREAS Councilman McDonald did not offer, nor has he since offered, any evidence to substantiate the truth of his statements, nor did he offer any evidence that the outcome of passage of the zoning text amendment being considered was reasonably likely to have a direct, substantial, and readily identifiable financial impact on Councilman Nason; and

WHEREAS since the July 10, 2018 Council meeting, Councilman McDonald has not made any public retraction or apology for his comments made towards Councilman Nason; and

WHEREAS a transcript of the relevant portion of the July 10, 2018 Council meeting is attached to this Resolution; and

WHEREAS the Town of Southern Shores *Code of Ethics and Standards of Conduct for Council Members* prohibits impropriety and the appearance of impropriety in all activities by a Council Member and was acknowledged in writing by Council Member McDonald on November 24, 2015; and

NOW THEREFORE BE IT RESOLVED, based on Councilman McDonald's unsubstantiated statements made publicly and personally to Councilman Nason, and his refusal to publicly retract them and publicly apologize to Councilman Nason and the citizens of the Town of Southern Shores, the Southern Shores Town Council does hereby CENSURE Councilman McDonald for his improper and unsubstantiated statements made to Councilman Nason, thereby constituting improper behavior as a member of the Town Council.

Resolved this 7th day of August 2018.



Tom Bennett, Mayor
On Behalf of the Southern Shores Town Council



Attest:



Town Clerk

RESOLUTION 2018-08-01 ATTACHMENT

Transcript of a Portion of July 10, 2018 Regular Meeting of Southern Shores Town Council

Beginning at time of 2:48:16 on audio-visual recording of meeting at link:

<https://www.youtube.com/watch?v=ZAubUn WRd4&feature=youtu.be>.

(Portion of comments during debate of Councilman McDonald's seconded Motion to not adopt the Planning Board Recommendations of Zoning Text Amendment (ZTA)-18-04, Item 5.C. of meeting agenda.)

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Mayor Bennett: "We have three choices, we can send it back to the Planning Board, we can vote against it, or we can vote for it."

Councilman McDonald: "We have a motion and a second on the floor."

Mayor Bennett: "The motion on the floor is"

Councilman McDonald: "No offense Andy. I voted this down the first time and the reason I did was sixty-eight percent of the people in the community responded to a survey that we had recently done and they were against it. Their comments were to leave it alone, ah, and I respect your lesson and ability but these folks really, I don't, they are intelligent folks they don't really need a lesson right now. I know they've done their research. Ah.. And a majority of our community is against this. I don't know why it came back up ... well I ... [turning towards and addressing Councilman Nason directly] How much money do you need to make?" ... (audience laughter)

Councilman Nason: "I'm not making any money for this."

Councilman McDonald: "I mean I'm serious."

Councilman Conners: "That is un-called for. That is outright un-called for."

Councilman McDonald: "I'm sorry."

Councilman Nason: "Gary please retract that. Please retract that. Because I'm not making any money for this, very honestly."

Councilman McDonald: "No."

Councilman Nason: "This is more about the renovation process than anything else."

Councilman McDonald: "You're giving us a history lesson on what you believe. I let you go the whole time. You interrupted Fred two or three times, I mean come on."

Councilman Conners: "Wait a minute I want to go back to that. That kind of behavior is outright un-called for."

Mayor Bennett: (banging gavel) "Gentlemen." (banging gavel)

Councilman Nason: "That is entirely inappropriate."

Mayor Bennett: (banging gavel) "Gentlemen, gentlemen." (banging gavel). Gary, I think you owe Mr. Nason an apology for that last comment."

Councilman Conners: "I think an apology is in order."

Councilman McDonald: "Ok."

Mayor Bennett: "I'll handle this Jim ... Jim."

Councilman Conners: "I'll be quiet."

Mayor Bennett: (To Councilman McDonald) "It's pretty simple. You spoke a little bit out of turn. I think you owe him an apology."

Councilman McDonald: "Ahhhm."

Mayor Bennett: (To Councilman McDonald) "Not a big deal."

From the Audience-Ann Sjoersdma: "It's true."

Councilman McDonald: "The truth sometimes hurts."

From the Audience-Ann Sjoersdma: "It's true."

Mayor Bennett: "That's not an apology."

Councilman McDonald: "That's right."

Mayor Bennett: "Have it your way."

Councilman Nason: "I make a motion that we censure Mr. McDonald for his comments."

Councilman Conners: "I'll second that."

Mayor Bennett: "We have a motion and a second."

Councilman McDonald: "Well, we're in, you've already got a motion on the floor."

Mayor Bennett: "I know that. Hold on, we've got a motion on the floor we've not finished considering. I can't handle but one at a time."

Councilman Conners: "Ok."

Mayor Bennett: "The motion on the floor is to not adopt the recommendations of the Planning Board reference to ZTA 18-04. Is there any further discussion on that?"

Mayor Bennett: (pausing) "If not, I call at this time for a vote."

Councilman Conners: "Can we clarify what a yay vote or a nay vote means?"

Mayor Bennett: "A yay vote means we're supporting not approving ZTA 18-04."

Councilman Conners: "Not adopt, ok."

Mayor Bennett: "All in favor of Mr. McDonald's motion please indicate by saying aye."

Councilman Newberry: "Ah, repeat the motion please."

Mayor Bennett: "Gary will you repeat your motion?"

Councilman McDonald: "I made the motion that we not adopt ZTA 18-04, and that we not send it back to the Planning Board."

Mayor Bennett: (To Councilman Newberry) Do you need that motion repeated or have you got it?"

Councilman Newberry: "I got it."

Mayor Bennett: All in favor of Mr. McDonald's motion indicate by saying aye."

Councilman McDonald: Aye

Councilman Newberry: Aye

Mayor Bennett: We have two ayes, anymore ayes?

Mayor Bennett: All opposed.

Councilman Conners: "No."

Mayor Bennett: "No."

Councilman Nason: "No."

Mayor Bennett: "So we are not going to...ah cancel that, support that motion. Do I have a motion to send it back to the Planning Board for their consideration?"

Councilman Nason: "I'll support that, that's fine."

Councilman Conners: "I'll second that motion."

Mayor Bennett: "Any further discussion of that one?"

Councilman McDonald: "Well, sixty-eight percent of the community voted, I mean come on folks, what is it about not supporting your community that y'all are against?"

Mayor Bennett: "You said that. I'm not saying we are not supporting the community, I'm saying we send it back to the Planning Board for their consideration one more time. That's all I'm saying. I am respecting Mr. Ward's request that we do that. I think, there's a new Planning Board, let them look at it. If they come back and say we don't like any of this or we love it all. I don't know what they are going to say."

Councilman McDonald: "Well we said one time we didn't like any of it. ... (addressing Councilman Nason) Then you brought it back."

Councilman Nason: "No, what people didn't like was the pool."

Councilman McDonald: "September to February, you brought it back."

Councilman Conners: "This happens in probably every municipality in government in the United states, where something may be voted down, elections have consequences, and it comes back up again. Or you don't even have to have an election, that people will tweak things and bring the same issue up."

Councilman McDonald: "When the majority of your community says they don't support it?"

Councilman Conners: "Based on a survey that was so poorly written most people didn't take it."

Councilman McDonald: "CodeWright."

Councilman Conners: "That was a very poorly written survey."

Councilman Nason: "Tom, we have a motion on the floor."

Mayor Bennett: "I got, I got it."

Mayor Bennett: "There's a motion on the floor gentlemen to send this back to the Planning Board one more time. All in favor?"

Councilman Conners: "Aye."

Councilman Nason: "Aye."

Councilman McDonald: (raised his hand.)

Mayor Bennett: "Aye."

Mayor Bennett: "All opposed?" (Looking at Councilman Newberry)

Councilman Newberry: "Send it back."

Mayor Bennett: "Thank you. The motion has been passed to send this back to the Planning Board one more time."

Councilman Nason: "I'd like to make a motion. I'd like to, and this is related to this issue that just came up, I'd like to make a motion that this board formally censure Mr. McDonald for his comments. They were totally out of line, there's no evidence for it, and ..."

Councilman Conners: "I second that motion."

Councilman Nason: "... I will accept his apology, I will withdraw it if you apologize now, if you don't feel like it that's fine. I would like or the board to formally censure him for his comments."

Councilman Conners: "And I'm seconding that motion."

Mayor Bennett: "Any further discussion?"

Councilman Nason: (to Councilman McDonald) "If you go ahead and apologize I'll accept it and move on."

Councilman Newberry: "I don't know what he said couldn't hear him. ... Repeat it, I don't know what he said"

Councilman Nason: "I was requesting that the Board formally censure Mr. McDonald for his comments. I'd willing to be willing to accept ... "

Councilman Newberry: "I don't know what he said. How can I censure him if I don't know what he said? Repeat what he said."

Councilman Nason: "I'm not going to repeat it."

Councilman Newberry: I didn't hear. I didn't hear you. Y'all talk too low down there.

Councilman McDonald: "I use my microphone."

Mayor Bennett: (To Councilman Nason) "Will you repeat what he said?"

Councilman Nason: "No, let's no even repeat it, it is so wrong in so many levels that it annoys the crap out of me.

Councilman Conners: It was an accusation that Mr. Nason is making money off of the passage of that."

Councilman Nason: "off of this change ... Yes, I agree with that."

Councilman Conners: 'That's how I interpreted that."

Councilman Nason: "Yes I agree with that."

From the audience – Ann Sjoerdsma – "How much money do you need to make?... exact quote"

Mayor Bennett: "Yes, which in my opinion is inappropriate. It should not have been said. ... We have a motion by Mr. Nason to censure Mr. Mc Donald's remark and essentially censure him for making that remark. I have a second for that motion. All in favor of doing so please indicate by saying aye."

Councilman Conners: "Aye."

Councilman Nason: "Aye."

Mayor Bennett: "All opposed?"

Councilman Newberry: "Nay."

Councilman McDonald: (raised his hand)

Mayor Bennett: "Nay. The motion is not carried. Thank you.

Mayor Bennett: "Let's look at the agenda here one more time before nightfall."

Time: 2:55:46