



**Town of Southern Shores
Regular Council Meeting
May 1, 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, May 1, 2018.

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

COUNCIL MEMBERS ABSENT: Mayor pro tem Chris Nason

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 Councilman Newberry. The motion passed unanimously (4-0)

CONSENT AGENDA

The consent agenda consisted of the following items:

- i. Council Meeting Minutes – April 3, 2018 & April 17, 2018

MOTION: Councilman McDonald moved to approve the consent agenda as presented. The motion was seconded by Councilman Newberry. The motion passed unanimously (4-0).

STAFF REPORTS

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

- o Town Planner Wes Haskett reported that the Planning Board will hold their last Special Meeting on May 7th and at its regular scheduled meeting on May 21st non-conforming 50 ft lots and small cell wireless are the items of discussion.
- o Police Chief David Kole presented a monthly report for March and April.
- o Fire Chief Ed Limbacher presented the Fire Department's monthly report for April and reported the Department is engaging recruiting efforts in the local High School.
- o The Town Manager presented the Manager's report and addressed several matters:
 - o The CIIP streets for the current fiscal year are on track and are essentially complete.

- Ocean Rescue is now operating for the season and lifeguard stands will be going up Memorial Day weekend at Hillcrest, East Dogwood and later in June at 144 Ocean Blvd.
- The Town Manager gave a briefing of the Town's financial performance for the current fiscal year
 - As of March 31, 2018, Total Revenues are \$5,128,239.91
 - As of March 31, 2018, Total Expenses are \$4,271,209.69
 - As of same March 31, 2018, Revenues exceed Expenses by the amount of \$857,030.22
- The Town Manager has filed his balanced FY18-19 proposed operating budget with the Clerk, transmitted it to the Council, and will make it available to the public the following morning by placing it on the website, submitting it to the Town's sunshine list, and notice in the newspaper. Highlights of his report:
 - Funds from the Capital Reserve Fund have been proposed to fund a portion of the upcoming fiscal year's capital improvement projects.
 - New employee classification as of July 1, 2018 and unanimously approved on February 6, 2018
 - Construction of East Dogwood Trail Pedestrian Path
 - Increase in annual appropriation for capital street improvements
 - Implement an architect's assessment of Town facility needs
 - Implement coastal engineer's beach vulnerability study
 - No tax increase recommended
 - The Town continues to be free of all debt
 - A healthy unassigned fund balance being maintained
 - The Fire Department budget recommends an increase in compensation of \$60,000 (employed Deputy Chief previously briefed to Council).
 - The Fire Department proposed expenditure of \$267,700 for projected debt service cost reimbursement to the Fire Department for remainder of FY18-19 in case of the Town Council committing to participation in the Fire Department's financing construction of a new fire station
 - The Town Manager stated he will request the Mayor to place an agenda item - Public Hearing on the Proposed Budget FY18-19 for June 5, 2018 at 5:30 p.m.
- The Town Manager stated the Capital Improvement Infrastructure Planning Committee met on April 4th and did make a recommendation in reference to a citizen's Fairway Drive request to Council. Town Manager Rascoe deferred to Councilman and CIIP Co-Chair Conners for a brief report on that recommendation.

Councilman Conners stated the Capital Infrastructure Improvement Planning Committee made a recommendation by a unanimous vote of 6-0 that no further capital improvements be initiated on Fairway Drive at this time.

Councilman McDonald stated this item is not on the agenda and should be tabled to the next meeting.

Council took no action.

Councilman Conners asked the Town Manager if any citizen had requested employee salaries to which the Town Manager replied no such request has been received by Town staff.

Councilman McDonald inquired about the progress of the contract with the Southern Shores Volunteer Fire Department. The Town Manager stated the current contract is effective through July 1, 2019, and discussions are underway between him and Fire department leadership regarding a draft renewal contract.

The Town Attorney gave no monthly report.

BOARD REPORTS

Planning Board-Chairman Williams presented the monthly Planning Board report. Aside from this evening's scheduled public hearings the Planning Board will meet on May 21st to consider ZTA-18-06, 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, Facilities and Towers. The Board will also consider ZTA-18-07, a Zoning Text Amendment application submitted by the Town of Southern Shores to amend the Southern Shores Town Code by amending Section 36-132, Regulation of Structures and Uses Nonconforming.

Also, performing the duties of the Southern Shores Board of Adjustment, a Public Hearing will be held on May 21st. The purpose of the Public Hearing is to consider VA-18-04, a Variance application submitted by House Engineering, P.C. for a Variance from Section 36-202, (d), of the Southern Shores Town Code for the property located at 85A Ocean Blvd.

GENERAL PUBLIC COMMENT

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

1. Brian Kelly-14 Palmetto Lane-street improvement on Palmetto Lane was a job well done with little to no disruption to the residents.
2. Al Ewerling-187 Dogwood Trail-in reference to the Planning Boards procedure for ZTA-18-05, the Planning Board took the information from the applicant and added language and split the way the Code read into two separate establishment sizes.

Town Attorney Gallop replied that is the Planning Board's role, to propose changes and recommendations. What matters is what Council does. The Planning Board is an advisory body.

3. Tommy Karole-77 East Dogwood-important to start advertising the no left turn weekend. Felt the cost for one weekend was too high.

OLD BUSINESS

Affirmation of Council's September 5, 2017 directive for a single "No left-turn for US Hwy 158 - S. Dogwood Trail trial weekend" and Budget Amendment #13 to fund the trial

MOTION: Following a brief discussion, Councilman McDonald moved to approve Budget Amendment #13 to fund the trial no-left turn weekend. The motion was seconded by Councilman Conners. The motion passed unanimously (4-0).

NEW BUSINESS

Public Hearing- ZTA-18-01, a Zoning Text Amendment application submitted by Southern Shores Crossing, LLC to amend the Southern Shores Town Code by amending Section 36-163, Off-street Parking Requirements.

Planning Board Chairman gave an explanation of shared parking. The Planning Board recommended the approval of ZTA-18-01 Shared Parking with the following text amendments:

Shared parking. Within any one site, or on contiguous commercial sites, the required parking for any number of separate uses may be combined on the site or sites, but the number of parking spaces assigned to one use may not be assigned to another use, except as provided in this subsection.

- a. Shared parking shall be a conditional use requiring approval by the town council and subject to requirements imposed by the town council as provided in section 36-300.
- b. A portion of parking spaces required for one use may be used to meet the parking requirements of another use on the same, or on contiguous commercial, parcel(s) when the peak hours of operation and parking demands of the uses occur at different times of day which shall be established in the Conditional Use Permit.
- c. In the event that the peak hours of operation or parking demands of either site(s) change(s) such that the peak hours of operation are no longer different or the number of parking spaces required for either site increases, each site shall be brought into compliance with the parking requirements of this chapter.

Prior to final approval of the shared parking proposal, a shared parking agreement, in recordable form and executed by the property owners sharing parking, shall be submitted to the town. The shared parking agreement shall contain terms consistent with the provisions of the shared parking requirements set forth herein; shall contain terms prohibiting its revocation or modification without the town's prior notification; and upon final approval of the site plan, the shared parking agreement shall be recorded in the county registry at owners' expense.

- d. Shared parking agreements between adjacent lots require adequate and safe pedestrian access to and from the shared parking areas.

Town Planner Wes Haskett presented the staff report with a recommendation for approval as well.

Mr. Strader, for applicant, explained that business types require different amounts of parking. He stated the applicant would rather not harden the soil and ask for a text amendment in order to gain more parking.

Town Attorney Gallop closed the public hearing and called on Council for deliberation.

MOTION: Councilman McDonald moved to approved ZTA-08-01 Shared Parking. The motion was seconded by Councilman Newberry. The motion passed unanimously (4-0).

NEXT AGENDA ITEM

Public Hearing- ZTA-18-05, a Zoning Text Amendment application submitted by 5415 OBX LLC to amend the Southern Shores Town Code by amending Section 36-57, Section 36-163, and Section 36-207 to establish a Drive-through facility or establishment (small) as a Conditional Use in the C, General Commercial zoning district and applicable parking requirements.

Planning Board Chairman Williams presented the Planning Board's recommendation for approval of ZTA-18-05 along with an overview of the zoning text amendment. He stated the parcel in question is a small commercial lot between two banks. The applicant submitted a specific text change just for an ice cream shop. Mr. Williams stated for a long time the Town did not want drive thru's due to the possibility of fast food restaurants, so the Planning Board made small and large drive thru text amendments to prevent this. He further stated, a fast food restaurant could not fit on a lot that small. It is a tight site plan but will still fit the needs of the applicant. NCDOT has already approved a turning lane into the facility.

Town Attorney Gallop stated the general application is for the text amendment, not a specific business.

Councilman Newberry asked Chairman Williams if the public didn't want fast food drive thru's, what do they want now?

Councilman McDonald asked if a fast food restaurant met these requirements would it be allowed? Chairman Williams answered yes if it fit on the 20,000-sq.ft. lot. Councilman McDonald also asked if the conditional use permit could be made without the code change and what exits are on the proposed property. Chairman Williams stated no the CUP could not be made and there is an entrance off of RT158 and an additional exit in the rear of the property into the shopping center parking lot.

Town Planner Wes Haskett presented the staff report which recommended approval.

Mr. Strader, engineer for applicant, stated the applicant is sensitive to the community values and is also ok with the Planning Board drafted language.

Town Attorney Gallop called on public comment:

1. Steve Kiouis-74 Spindrift Trl-supports ice cream shop and fits well into the community.
2. Lambrose Vlahos-48 Honeysuckle Lane-supports ice cream shop-best use of the lot.
3. Linda Vahoos-48 Honeysuckle-supports ice cream shop-small mom and pop shop benefit community
4. Linda Vlahos-48 Honeysuckle-supports ice cream shop
5. Vasilios Kiourtzidis-227 Woodland Dr-in support of the ice cream shop
6. Jo Kiourtzidis-227 Woodland Dr-supports ice cream shop-best fit for the lot and community. Benefits locals and tourists
7. Ari Kiourtzidis-supports ice cream shop
8. Chad Weeks-4015 Creek Rd- in favor of development of lot and supports ice cream shop. Architect design is old fashion and David stick look.
9. Ursula Bateman-asked if it was only a drive through facility (applicant answered no)
10. Toni Radomski-40 Juniper Trl- questioned if we needed another ice cream shop. Traffic will back up on Juniper Trail. Why do we have to crowd space with another building?
11. Anne Sjoerdsma-69 Hickory Trail-issue of congestion and concerns at that location. More concerned with the backup of traffic than the nature of the business.

Town Attorney Gallop closed the public hearing and called for Council deliberation.

MOTION: Councilman Connors moved to approve ZTA-18-05 per the recommendation of the Planning Board. The motion was seconded by Mayor Bennett. The motion passed (3-1); Councilman Newberry casting the opposing vote.

[Clerk's Note: Supermajority first reading requirement applies to any ordinance or action having the effect of an ordinance. Therefore, a second reading of ZTA-18-05 will be required.]

NEXT AGENDA ITEM

Quasi-Judicial Land-Use Matter: CUP-18-01, a Conditional Use Permit application submitted by 5415 OBX LLC to open a Drive-through facility or establishment (small) at 5415 N. Croatan Hwy.

Town Attorney Gallop asked the applicant if they wished to table the conditional use permit until after the second reading of ZTA-18-05.

The applicant asked to table the conditional use permit until the June 5th meeting.

MOTION: Per the applicant's request, Councilman McDonald moved to table CUP-18-01 until the June 5, 2018 Council meeting. The motion was seconded by Councilman Newberry. The motion passed unanimously (4-0).

GENERAL PUBLIC COMMENT

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

1. Steve Kiouis- 76 Spindrift Trl-Food Lion is a lot of traffic, not a small ice cream shop
2. Chad Weeks-4015 Creek Rd--Dumans in Norfolk is great for the community, put people first. The land will be built on eventually and we cannot stop it. Put something with quality and a good image for the Town
3. Glenn Wyder- 170 Clamshell Trl-the no left turn will congest Chicahawk and the Town should address all areas, not just Dogwood.

MAYOR COMMENTS & RESPONSES

Mayor Bennett recognized what local residents Paul and Helen Ford have done for the community. They have both served on the Outer Banks Community foundation for several years. Helen Ford helped found *Food for Thought* out of essential need in our community. Years ago, twenty five percent of the Dare County families were using Food for Thought in order to feed their school age children over the weekends. The most recent number is 50% of Dare County families in our schools.

Mayor Bennett also recognized the large turnout of Southern shores residents helping out with the Special Olympics and it was a positive experience.

COUNCIL COMMENTS & RESPONSE:

Councilman Conners stated he has attended several meetings this month and there is a lot going on in the communities right now but he felt compelled to have to go back and address the doxing of Town employees. He stated when employee's information is put out there on social media and the Town has specifically tried to respect their privacy on this issue, we are doing them a grave disservice. He thinks the employees would like nothing more than to come in, and do their job and he finds it very irresponsible to be doxing them in public.

Councilman Newberry stated he is not opposed to the ice cream shop but rather opposed to the process that was used to change the ordinance. It is an extreme change going from 2 ½ acres to a 20,000 ft lot. The original ordinance was put in place for a reason and we are a unique community and would like it to remain that way.

Councilman McDonald acknowledge the tragic drowning of the little four-year-old in Kitty Hawk and hopes for a safe summer.

ADJOURN

MOTION: Hearing no other business, Councilman McDonald moved to adjourn. The motion was seconded by Councilman Newberry. The motion passed unanimously (4-0). The time was 7:45p.m.

ATTEST:


Thomas G. Bennett, Mayor



Respectfully submitted,


Sheila Kane, Town Clerk