



TOWN OF SOUTHERN SHORES

TOWN COUNCIL REGULAR MEETING

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

www.southernshores-nc.gov

PITTS CENTER

Tuesday, October 04, 2022 at 5:30 PM

MINUTES

Call Meeting to Order

Pledge of Allegiance

Moment of Silence

Present

Mayor Elizabeth Morey

Mayor pro tem Matt Neal

Council Member Leo Holland

Council Member Paula Sherlock

Council Member Mark Batenic

Amendments to / Approval of Agenda

Motion made by Council Member Holland to approve the agenda as presented, Seconded by Council Member Sherlock. The motion passed unanimously (5-0).

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock, Council Member Batenic

Consent Agenda

The consent agenda consisted of the following:

1. Amend Budget Ordinance FY2022-2023
2. Budget Amendment #14
3. Minute Approval

Motion made by Council Member Sherlock to approve the consent agenda, Seconded by Council Member Holland. The motion passed unanimously (5-0).

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock, Council Member Batenic

Presentations

4. Audit Presentation -Teresa Osborne

Teresa Osborne presented the results of the FY21-22 audit, highlighting the following:

- The town received an unmodified opinion on its financial statements, which is the best opinion you can receive.
- No significant deficiencies or material weaknesses noted.
- American Rescue Plan funds are required to be shown as a major fund.
- \$3,306,528.00 revenues over expenditures, municipal service district (MSD) and town wide beach nourishment brought in about 1.7 million that didn't get spent last year because it is implemented the year before the first debt payment. Of the 3.3 million, 1.7 million is from the beach nourishment taxes which is sitting in the capital reserve fund on June 30th. In addition to that, the town received \$471,354.00 in American Rescue Plan funds, \$233,000 reimbursement to general fund from beach nourishment bond funds, and \$900,000 in shared revenues came in over budgeted amount. Tourism and property sales remained strong, and revenues came in over budget.
- Total fund balance is \$11,571,941.00. Of that amount, \$2,186,00.00 belongs to the capital reserve, \$2 million is stabilization by state statute (which is revenues recognized as income as of June 30th but did not actually receive the money until July or August). This leaves the amount in unassigned fund \$6,557,121.00. The town has a fund balance policy of 3 million.
- Actuarially Determined Liabilities for post-employment benefits (pension and retiree health insurance) funding is not required but the LCG has started recommending that local governments maybe look at starting to set money aside.
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Staff Reports

Deputy Town Manager/Planning Director presented the monthly report for September. The Land Use Plan community kickoff meeting with the consultant is tentatively scheduled for November 15th. The day will consist of a joint meeting between the Planning Board and Council, Department Head meeting with the consultant, and a community tour followed by the first public workshop meeting. The Planning Board will meet October 5th for a special meeting to perform the duties of the Board of Adjustment and hold a public hearing to consider APA-22-01. The board's regular meeting will be held October 17th at 5:00 p.m. The Historic landmarks Commission may be meeting on October 25th.

Council Member Sherlock asked if the rental companies were being responsive to inquiries to pick up cans left at the curb of empty rental properties. Planning Director Haskett stated some were.

Mayor Morey asked for a Marketplace update. Planning Director Haskett stated the walls are up, and work has been done to the parking lot. The second store will be seeking a permit to complete the interior of the shoe store. The town has received no other complaints. Marshalls would like to be in there in March or April.

Police Chief David Kole presented the Police Department's report for September and provided an update to the ultralight crash.

Council Member Sherlock asked that the rescue responders be recognized at the next meeting.

Fire Chief Ed Limbacher reported the Fire Department's report for September.

Town Manager followed up on the vacant lot next to the Pitts Center than is zone G&I and asked Council to keep it on their radar of possibilities of use. He also reported Southern Shores' first beach nourishment public input meeting took place in the Pitts Center last week. Citizens asked very good questions. A new survey will need to be conducted before dredging can start (must be done 10 days or less before dredging commences). Dredging will take approximately 45 days.

Town Attorney Phillip Hornthal provided a brief Mid Currituck Bridge Litigation Update-Oral arguments are scheduled sometime between December 6th through the 9th. Attorney conflicts must be reported by October 11th.

General Public Comment

Jeff Hummel-50 Juniper Trail-owns the house closest to the culvert Juniper/Trinitie Bridge. The Town Manager has kept him abreast of the project and he would like to remain involved and informed. Safety and aesthetics are his priorities.

Old Business

None

New Business

5. Reconstruction Task Force-Annual Appointment

Planning Director Wes Haskett reported, Section 12-69 of the Town Code requires an annual appointment of a Reconstruction Task Force which would be activated upon the declaration of a building moratorium following a major storm event. The task force is responsible for advising the Town Council on a wide range of post-storm reconstruction issues. A primary function of the task force is to receive and review damage reports and other analyses of post-storm circumstances and to compare these circumstances with mitigation opportunities identified prior to the storm, to discern appropriate areas for post-storm change and innovation. The Task Force consists of two elected officials, two Planning Board members, Town Staff, a representative from the building or realty community, one representative from the SSCA, and one representative from the CPOA:

- Mayor
- Mayor Pro Tem
- Planning Board Chairperson
- Planning Board Vice Chairperson
- Town Manager
- Deputy Town Manager/Planning Director
- Police Chief
- Fire Chief
- SSCA President
- CPOA President
- Construction Community Representative (David Buchanan)

Hearing no discussion, Mayor Morey called for a motion.

Motion made by Council Member Sherlock to appoint the Reconstruction Task Force as presented, Seconded by Council Member Batenic. The motion passed unanimously (5-0).
Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock, Council Member Batenic

6. Public Hearing-Final Subdivision Plat Submitted by Matthew Casella to Subdivide the Property Located at 267 Hillcrest Dr.

Town Attorney Hornthal open the public hearing and called on staff for a report.

The Town's Subdivision Ordinance establishes a review process for subdivisions that requires Planning Board review and approval of all preliminary and final subdivision plats (except for exempted subdivisions). The applicant is requesting to subdivide the lot located at 267 Hillcrest Dr. into two new lots. The existing single-family dwelling and other improvements currently situated at 267 Hillcrest Dr. are proposed to be located on new Lot 1-B with a lot size of 70,360 sq. ft. and the remaining property is proposed to be located on new Lot 1-A with a lot size of 52,016 sq. ft. Both lots as proposed meet the Town's minimum lot size requirement of 20,000 sq. ft. and lot width of 100 ft. Both lots also meet the Town's frontage requirement by providing at least 30 ft. of frontage that abuts a public right-of-way or private street.

Town Attorney Hornthal called on the public for comment. Hearing none, the public hearing was closed.

Mayor Morey stated Council has seen this information before and hearing no discussion, she called for a motion.

Motion made by Council Member Sherlock to approve the final plat for 267 Hillcrest Dr., Seconded by Council Member Holland. The motion passed unanimously (5-0).
Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock, Council Member Batenic

7. Public Hearing-ZTA-21-08 Application Submitted by the Town of Southern Shores to Amend Town Code Sections 36-57 and 36-165

Town Attorney Hornthal open the public hearing and called on staff for a report.

Planning Director Wes Haskett reported, at the March 2, 2021 Town Council meeting, the Town Council instructed Town Staff to take valuable elements out of the adoption draft of the Town Code Update written by CodeWright for review by the Planning Board and the Town Council for future consideration. The proposed amendments to Section 36-57, Definition of Specific Terms and Words and 36-165, Regulations Governing Signs are a result of a U.S. Supreme Court ruling that signage requirements should be content neutral. In an effort to make the Town's sign requirements content neutral, the proposed language addresses signage based on the applicable zoning district the subject property lies within. The Planning Board first considered the application at the October 18, 2021 Planning Board meeting and recommended approval to the Town Council.

The Town Council considered the application at the November 9, 2021 Town Council meeting. Following several comments during the public hearing, the Town Council voted to send the application back to Town Staff and the Planning Board for revisions, including allowing signs in

the Town right-of-way during campaign season. Town Staff has made several revisions to the proposed language since November, 2021 which include: Allowing temporary signs in the Town right-of-way during campaign season with permission of the adjacent property owner(s), revised the requirements for signs on properties that are for sale or lease, revised the definition of "sign", revised the definition of "temporary sign", revised the requirements for signs at major entrances to subdivisions, revised the requirements for wall signs in the Commercial zoning district, and revised the requirements for temporary signs in all zoning districts.

Both the Planning Board and Town staff recommend approval.

Town Attorney Hornthal called on the public for comment. Hearing none, the public hearing was closed.

Mayor Morey thanked staff, the Town Attorney, and the Planning Board for all the work that went into this ordinance. A lot of work went into this revision. It takes a lot of work to write an ordinance that strikes a balance between trying to accomplish what we want to accomplish for the aesthetics of the town but also recognizing free speech rights, as well as an ordinance the town can use when necessary.

Mayor pro tem Neal asked for the legal opinion. Town Attorney Hornthal stated the ordinance is well done and content neutral.

Council Member Batenic stated it is easy to follow, especially with the tables for illustration.

Council Member Sherlock agreed with Council Member Batenic, stating the charts clarify the requirements.

Mayor pro tem Neal asked If someone is in non-compliance once this is adopted what is going to happen to them?

Planning Director Wes Haskett stated we looked at an amortization period but according to Mr. Gallop that would have required appraisers, appraisals done to see if the town's interest outweighs the value, and we did not pursue that much further. When this becomes effective it may create some non-conformities.

Mayor Morey stated but enforcement will be as it always it, primarily complaint driven.

Motion made by Mayor pro tem Neal to approve ZTA-21-08 as presented, Seconded by Council Member Holland. The motion passed unanimously (5-0).

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock, Council Member Batenic

8. Public Hearing-ZTA-22-10 Application Submitted by the Town of Southern Shores to Amend Town Code Section 36-207(c)(11)i

Town Attorney Hornthal open the public hearing and called on staff for a report.

Planning Director Wes Haskett reported, at the May 19, 2022 Planning Board meeting, the Board recommended approval of a revised version of ZTA-22-06 which established mixed use group development of commercial and residential buildings as a Special Use in the C, General Commercial zoning district. Some of the recommended revisions included some of the dimensional requirements from the C, General Commercial zoning district. On June 7, 2022,

the Town Council adopted ZTA-22-06 with most of the language recommended by the Board, including a requirement for maximum building height, which is established in the dimensional requirements for the C, General Commercial zoning district.

The maximum building height requirement for the C, General Commercial zoning district (and all other zoning districts) states: Maximum building height shall be 35 feet, measured from the average of the existing, undisturbed grade at the building corners. If the average of the existing, undisturbed grade at the corners of the building is less than eight feet above mean sea level, the maximum building height may be measured from up to eight feet above mean sea level. Only the first sentence from that requirement was included in the Planning Board's recommendation and what was ultimately adopted by the Town Council. Town Staff believes that omitting the second sentence was an oversight, and that it should be included in the requirements for mixed use group development of commercial and residential buildings as it is a part of the maximum building height requirement for all zoning districts.

Council Member Sherlock asked to clarify that this is not changing anything, it is just keeping it consistent. Planning Director Haskett stated it is nothing new, just carrying forward what already applies everywhere in the town.

Council Member Holland stated it is defining it in the ZTA.

Mayor pro tem Neal asked if it was explored to just remove the dimensional requirements out of the use schedule. Planning Director Haskett stated in this case, we just recommended adding the additional sentence.

Mayor pro tem Neal asked if Planning Director Haskett reviewed all the other dimensional requirements. Mr. Haskett confirmed he had.

Town Attorney Hornthal called on the public for comment. Hearing none, the public hearing was closed.

Motion made by Mayor pro tem Neal to adopt ZTA-22-10 as approved by the Planning Board and presented by town staff, Seconded by Council Member Batenic. The motion passed unanimously (5-0).

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock, Council Member Batenic

9. Consideration of RFQ for Trinitie/ Juniper Bridge

At the September 20, 2022, workshop meeting, Council received a presentation from Kimley Horn which included three alternatives for the replacement of the Trinitie/Juniper Bridge. Council selected option #2. The RFQ is now being presented for consideration.

Town Manager Ogburn briefly reviewed the RFQ contents.

Council Member Holland asked if Kimley Horn would be a bidder? Town Manager Ogburn stated he was confident they would submit a bid.

Motion made by Council Member Batenic to approve the RFQ Professional Engineering Services Planning and Design Services for the Juniper/Trinitie Trail Bridge Replacement Project as presented, Seconded by Council Member Sherlock. The motion passed unanimously (5-0).
Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member

Sherlock, Council Member Batenic

10. Consideration of Proposals-Ginguite Trail Drainage Improvement Project

Town staff received bids for the proposed Ginguite Trail Drainage Improvement Project. The project includes a groundwater lowering system designed to reduce the duration of time that stormwater is standing in the roadway after a rain event.

Town Manager Ogburn stated only two bids were received and the lowest most qualified bidder is Envirotech, staff recommends approval, along with the budget amendment. Funds will come out of fund balance.

Council Member Holland stated there was a large difference between the two bidders. Town Manager Ogburn stated he presumes that Fred Smith is loaded up with work and to fit this into their schedule would be costly. They want to remain engaged with the town but are more than likely too busy right now.

Motion by Council Member Holland to approve a budget amendment awarding Ginguite Stormwater project to the lowest qualified bidder, Seconded by Council Member Batenic. Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock, Council Member Batenic

Town Manager Ogburn asked for clarification in a motion to include the proposed budget amendment #15.

Motion by Mayor pro tem Neal to approve budget amendment #15, Seconded by Council Member Sherlock. The motion passed unanimously (5-0). Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock, Council Member Batenic

General Public Comment

None

Council Business

Mayor Morey reported the next regular meeting of Council is Tuesday, November 1st and the Land Use Plan tentative meeting date is November 15th.

Council Member Sherlock stated she may be interested in attending the Mid Currituck Bridge litigation oral arguments if allowed.

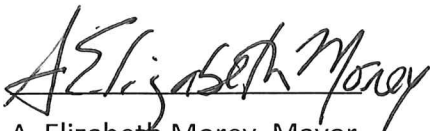
Council Member Holland provide a Tourism Board report, meals were up 9.2% for July, year to date is 6.4%. Occupancy is up 27% for July, 13% year to date. The Veteran's Day Ceremony will be at the Town Hall pavilion on November 11th at 11:00 a.m.

Adjourn

Council adjourned the meeting by consensus at 6:45 p.m.

ATTEST:

Respectfully submitted,


A. Elizabeth Morey, Mayor



Shelia Kane, Town Clerk

The attached documents are incorporated herewith and are hereby made a part of these minutes.