Town of Southern Shores Town Regular Council Meeting
Pitts Center 5375 N Virginia Dare Trail
Southern Shores, NC 27949
August 6, 2024

Present

Mayor Morey
Mayor pro tem Neal
Council Member Sherlock
Council Member Batenic
Council Member Neilson

Call Meeting to Order

The meeting was called to order by Mayor Morey.

Pledge of Allegiance

Moment of Silence

A brief moment of silence was observed.

Amendments to / Approval of Agenda

Mayor Morey initiated the discussion on the agenda and asked if any council members had amendments to propose. Without any suggested amendments, Council Member Sherlock **moved** to approve the agenda as presented, Seconded by Council Member Neilson. Motion passed unanimously.

Consent Agenda

The consent agenda, comprising several budget amendments and minutes' approval, was presented. Mayor Morey called for any concerns regarding the consent agenda. There were none, and a **motion** to approve was made by Council Member Batenic, Seconded by Council Member Sherlock. The council voted unanimously in favor.

1. Budget Amendments 1-14 (encumbered funds)
2. Budget Amendments #15 & #16
3. Minutes Approval

Presentations by Police Chief Kole

Swearing in Ceremony for Officer Chris Simpson: A ceremonial swearing-in was conducted for Officer Simpson's promotion to Sergeant. He was also recognized for five years of service and awarded an advanced certificate.

Introduction of New Officers: Officers Sophia Wright and Tucker Melton were introduced and sworn in by the Town Clerk.

Introduction of Community Resource Officer Garrett Jones: Recognized for his role and community engagement.

Presentation of the "Outer Banks Promise" by the Outer Banks Visitors Bureau

Mayor Morey welcomed representatives Lee Nettles and Jeff Schwartzenberg from the Outer Banks Visitors Bureau to present the "Outer Banks Promise." The "Outer Banks Promise" is a destination pledge that encourages small, impactful steps to protect the area for future generations.

The pledge aims to inspire both residents and visitors to preserve the area's unique environment and culture. The presentation commenced with a short one-minute video, created in collaboration with a local cinematographer showcasing the natural beauty of the Outer Banks and highlighting the importance of the pledge. This pledge is designed to foster responsible visitor behavior to protect the Outer Banks' environment and cultural heritage.

Staff Reports

Deputy Town Manager/Planning Director Monthly Permit Report

The Deputy Town Manager gave an overview of the permits issued for July, comprising various zoning, building, and trade permits. The council was informed of warning citations issued for ordinance violations.

- #### Planning Board Update

  Wes Haskett communicated that the Planning Board would next meet in September, as the August meeting was canceled.

- #### Town Website Update - GIS

  Wes Haskett guided the council through the town's new GIS map viewer, highlighting its functionalities and layers available to the public.

Fire Chief - Monthly Report

The Fire Chief presented the department's activity report for July, emphasizing safety precautions around fireworks and correct disposal to prevent fires.

Town Attorney

The Town Attorney reported having no matters to discuss.

General Public Comment

No public comments were made during this session.

Old Business

There was no old business to discuss.

New Business

Dare County Motorola Flex RMS Interlocal Agreement

Police Chief Kole presented a new Memorandum of Understanding (MOU) for the Flex CAD system, a collaborative effort among the county and neighboring town law enforcement agencies, including the towns of Duck, Southern Shores, Nags Head, and Manteo. Chief Kole emphasized his main concern about data migration costs associated with switching to a new system after the initial five-year contract period. He assured the council that this concern had been addressed within the MOU, with a commitment from the county to cover these data migration expenses if a system change occurs when the contract expires in five years. The MOU has already been vetted by the town's attorney. Each town will appoint two

representatives to a standards committee to oversee the system, with decisions requiring a majority vote.

Council Member Batenic inquired about the standards committee included in the agreement and whether it was managed by the county. Chief Kole explained that each town would contribute two representatives to this committee, which would operate under a system of equal voting rights to make decisions by majority vote, should changes or amendments be necessary.

Motion made by Council Member Neilson to authorize the Town Manager and Police Chief to sign the interlocal agreement as presented, Seconded by Council Member Batenic. The motion passed unanimously. Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Sherlock, Council Member Batenic, Council Member Neilson

Public Hearing on Zoning Text Amendment (ZTA-24-04)

ZTA-24-04, a Zoning Text Amendment application submitted by the Town of Southern Shores to amend Town Code Section 36-207(b) and Town Code Section 207(c) to establish planned unit developments as a special use, to amend Article IX by amending the review and approval process for planned unit developments, to amend Town Code Section 36-209 by adding cryptocurrency mining as a prohibited use in all zoning districts, and to amend Town Code Section 36-171 by establishing that a lot disturbance/stormwater management permit is required to remove trees greater than 6 inches in diameter, measured at 4.5 feet above the ground, within a front, side or rear yard (setback) on any unimproved lot in all zoning districts and the penalty for not obtaining a lot disturbance/stormwater management permit to remove trees greater than 6 inches in diameter, measured at 4.5 feet above the ground, within a front, side or rear yard (setback) on any unimproved lot in all zoning districts.

The public hearing for the Zoning Text Amendment (ZTA-24-04) was led by the Town Attorney, who officially opened the hearing with a comprehensive overview of the amendment's objectives. This proposal aimed to amend town codes to include specific ordinances for planned unit developments, prohibit cryptocurrency mining, and implement new permit requirements for tree removal. Deputy Town Manager Wes Haskett provided further insights, explaining that the removal of trees greater than six inches in diameter within setback areas would require a permit in all zoning districts, which had sparked debate about potential overregulation. Concerns were raised over individual property rights versus the objective of preserving tree canopies and town character.

During the public hearing on Zoning Text Amendment (ZTA 24-4), the Council reviewed proposed changes to zoning regulations covering four key areas: planned unit developments (PUDs), cryptocurrency mining, tree removal permits, and procedural updates. The first proposed change aimed to streamline PUD approvals, aligning them with existing special use permit procedures and eliminating redundant planning board recommendations. The Council agreed with staff recommendations to update these processes, making them more efficient and compliant with state requirements.

On the matter of prohibiting cryptocurrency mining, Mayor pro tem Neal called for specificity, suggesting the term should be "cryptocurrency mining facilities" to distinguish from personal, small-scale mining activities conducted within residences.

The Council then reviewed a proposed amendment expanding tree removal permitting requirements to all zoning districts, which led to a detailed discussion. Council voiced concerns regarding the extent of regulation imposed by such amendments, particularly on personal property rights Emphasis was also placed on the fact that the proposed amendment did not necessarily result in the preservation of trees, as getting a permit was only a procedural requirement that still allowed tree removal. Additionally, Council members

highlighted that there was no provision for emergency tree removal, which could delay necessary action.

Public comments included Richard Filling, who commented on the lack of real safeguards for trees despite the permit requirement, suggesting the need for tighter restrictions to actually protect significant trees within setback zones. In contrast, Duke Geraghty a representative from the Outer Banks Home Builders Association highlighted potential legislative overreach, suggesting that the town needed to ensure it had statutory authority to enforce what might effectively be considered a tree ordinance.

Town Attorney Hornthal closed the public hearing.

After deliberation, the Council voted to restrict mandatory tree removal permits to general commercial districts only, omitting residential areas from this requirement. The Council approved ZTA 24-4 with amendments and directed staff to examine further options for emergency tree removal provisions and consider a future comprehensive review of the PUD ordinance.

Motion made by Mayor pro tem Neal to adopt ZTA-24-04 with the following changes:

1. Page three, line 26 keep struck out words "the general commercial" and strike out "all town zoning."
2. Page 6, line 17 add the word "facilities" after cryptocurrency mining.
3. Page 10 strike 5-11.

The motion Seconded by Council Member Neilson. The motion passed unanimously. Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Sherlock, Council Member Batenic, Council Member Neilson

General Public Comment

No additional public comments were made.

Council Business

Consideration of Future Accessory Dwelling Unit (ADU) Discussions

During the discussion on Accessory Dwelling Units (ADUs), Deputy Town Manager Wes Haskett initiated by presenting background information on ADUs and the potential impact of recent state legislative proposals that could mandate ADU allowances across North Carolina municipalities. Deputy Town Manager Haskett advised that proactively establishing local ADU regulations might allow the town to retain control over aspects like setbacks and lot coverage, should state mandates move forward.

Council Member Sherlock shared her support for ADUs, highlighting the ongoing housing crisis and need for affordable rental options, particularly for local residents and essential workers. She stated that ADUs could be beneficial as long as they remained within current lot coverage limits and maintained the character of single-family neighborhoods.

Council Member Neilson raised concerns about the potential strain on infrastructure, and disrupting the neighborhood character.

Mayor pro tem Neal addressed property rights, supporting the flexibility for homeowners to add ADUs within reasonable regulations. However, he stressed the importance of respecting existing neighborhood covenants and homeowners 'association rules, which may already

restrict ADU construction. He recommended an evaluation of these covenants to understand potential regulatory conflicts and find a balanced approach.

The Council's **consensus** was to further investigate the ADU proposal directing staff to gather and assess local covenants (SSCA & CPOA), approximate the number of lots currently under 25% lot coverage, and gather insights from other town and communities with ADU policies. This would allow the Council to create a well-balanced approach to ADUs, potentially enhancing housing availability without compromising neighborhood integrity. The council provided no direction for the Planning Board at this time.

Mayor pro tem Neal felt staff would need assistance sorting through all the covenants, Mayor Morey agreed to ask for volunteers.

Council Comments

Following the discussion on Accessory Dwelling Units (ADUs), each council member shared individual updates and comments on various town matters:

Council Member Sherlock provided updates on her representation on the Albemarle Rural Planning Organization, with an upcoming meeting scheduled for August 21. She also led the ongoing efforts to revitalize the town cemetery, mentioning meetings with community members and a certified arborist to identify necessary improvements, including tree management, sign relocation, and potential irrigation.

Mayor Pro Tem Neal mentioned an upcoming housing task force subcommittee meeting, stating there was steady progress but nothing substantial to report at this time.

Council Member Neilson reported on recent updates from Current TV. He suggested the Council consider investing in a single, more substantial project with their annual $5,000 fund, like a documentary on the history of flattop houses.

Council Member Batenic gave an update on the Outer Banks tourism industry, mentioning that while occupancy and meal receipts were softer this year, they still met budgeted projections. He highlighted that, after record-breaking years, the tourism industry was entering a "reset" period, with steady, if not extraordinary, visitor numbers.

Mayor Morey shared insights from her recent "Mayor's Chat," where residents raised questions about housing, the Juniper Culvert Bridge replacement, and plans for beach grass and sand fencing. The next council meeting is scheduled for September 3rd. She closed with an anecdote illustrating the cooperative spirit of residents and visitors alike: a visitor expressed gratitude to an officer managing traffic during a heavy congestion incident and offered him a bottle of water, a gesture that aligned well with the "Outer Banks Promise" discussed earlier in the meeting.

Adjourn

The council meeting concluded with a motion from Council Member Batenic to adjourn at 7:14 PM, Seconded by Council Member Neilson. The Motion passed unanimously. Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Sherlock, Council Member Batenic, Council Member Neilson

ATTEST:

Elizabeth Morey, Mayor

TOWN OF SOUTHERN SHORES SEAL NC

Respectfully submitted,

Sheila Kane, Town Clerk

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