



TOWN OF SOUTHERN SHORES
TOWN COUNCIL REGULAR MEETING

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

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www.southernshores-nc.gov

PITTS CENTER

Tuesday, September 06, 2022 at 5:30 PM

MINUTES

1 **Call Meeting to Order**

2 Pledge of Allegiance

3 Moment of Silence

4 **Present**

5 Mayor Elizabeth Morey

6 Mayor pro tem Matt Neal

7 Council Member Leo Holland

8 Council Member Paula Sherlock

9 Council Member Mark Batenic

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11 **Amendments to / Approval of Agenda**

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

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

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17 **Consent Agenda**

18 The consent agenda consisted of the following:

19 1. Minutes-August 2, 2022 Regular Mtg. & Closed Session

20 2. Budget Amendment #12 & #13

21 3. Tourism Board's Re-appointment of Council Member Holland through 2023

22 4. Government Access Channels Proposed Attendance Policy

23 5. Proclamation from Children and Youth Partnership -Diaper Need Awareness Week

24 6. Resolution in support of legislation re: digging dangerous holes on the beach

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

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

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General Public Comment (Limit: 3 minutes per speaker.)

Public Comment-Len Schmitz-184 Wax Myrtle- spoke in opposition to the year around speed limit change along Ocean Blvd/NC12 in Southern Shores. The reduced speed limit will allow golf carts on NC12, and he feels this will become a safety hazard.

Staff Reports

Deputy Town Manager/Planning Director Wes Haskett presented the monthly permit report for August. He also reported the Planning Board will meet on September 19th to consider ZTA 22-10 mixed use group development of commercial and residential buildings, ZTA 22-08 Casey Varnell on behalf of Pledger Palace, and possible ZTA 21-08 regulations governing signs. The Historic Landmarks Commission may be meeting on September 27th to consider a certificate of appropriateness application submitted by Courtney Clements 23 Porpoise Run.

Mayor Morey asked if there have been any complaints on the activity at the Marketplace Shopping Center and if they are required to provide the town updates.

Planning Director Haskett stated there were a couple complaints initially during the demolition, but the building inspector has done a great job ensuring a specific plan was in place for the fence and construction area. The contractor is not required to provide updates other than request inspections or permits.

Police Chief David Kole presented the Police Department Report for the month of August.

Fire Chief Ed Limbacher presented the Fire Department Report for the month of August.

Town Manager Cliff Ogburn provided operational highlights on the following:

- Ginguite Trail Stormwater Project Update is out to bid. The bid period began on August 25th and will close September 29th. The project is on the website, and it has been sent to multiple bidders. Staff is hopeful to get the project started in October or November.
- Beach Nourishment-Weeks Marine is considering starting Southern Shores in the next couple weeks, this would be at the first subline located at approximately 60 Ocean Blvd and work their way south. There will be meetings occurring every two weeks to provide updates on the projects (all four towns) and answer questions from the public and other stakeholders.
- Paving Project for 2022 is substantially complete. The contractor started August 1st and finished August 26th. There are still some punch list items to address and we are still waiting on some of the costs per quantity. Ideally there would be enough savings to overlay Mizzen Mast and Turtle Pond. The overlay work on Hickory, Chicahauk and Sound View is the look that we are going for, the patching is the first step and then the overlay is the look we are seeking. The second year of the paving plan can be adjusted, and staff would like to further discuss this at the mid-month workshop meeting.

Council Member Sherlock asked if the ocean front property owners will be notified of the start of the beach nourishment project? Town Manager Ogburn stated it will be placed on the website and in the newsletter. The website also has a map that tracks the progress of the beach nourishment.

73 Town Attorney Hornthal reported the two CAMA permits that were issued back in 2018 to SAGA
74 for development for the sites located at 98 and 134 Ocean Blvd. were appealed to an
75 administrative law judge who affirmed the local CAMA Permit Officer's permit. The petitioners
76 then appealed that to the next level of appeal which is Wake County Superior Court and Judge
77 Rebecca Holt Wake County issued her opinion on June 19th affirming both the administrative law
78 judge and the original permits issued by the local officer. The petitioners then had 30 days to
79 appeal that decision and that deadline ran on August 18, 2022, with no appeal. The permits are
80 good.

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82 **Old Business**

83 None

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85 **New Business**

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87 7. Public Hearing-PSP-22-01, a preliminary subdivision plat submitted by Matthew Casella to
88 subdivide the property located at 267 Hillcrest Dr.

89 Town Attorney Hornthal opened the public hearing and called on Planning Director Haskett
90 for the staff report.

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

101 Town Staff recommends approval of the preliminary plat with the following conditions:

- 102 1. The exemption certificate shown on the preliminary plat shall be deleted.
103 2. A certificate of approval by the Planning Board shall be added to the final plat.
104 3. A certificate of approval by the Town Council shall be added to the final plat.

105 The Town Planning Board unanimously (5-0) recommended approval of the preliminary plat
106 with the above conditions at the August 15, 2022 Planning Board meeting.

107 Town Attorney Hornthal called on the public for comment. Hearing no citizen wanting to
108 provide comment he closed the public hearing.

109 Council Member Holland stated the only question that the Planning Board had was if the well
110 was a functioning well? The applicant stated he did not have a definitive answer yet.

111 Council Member Sherlock stated the subdivision plat meets all the requirements and she has
112 spoken to homeowners in the area and they agree.

113 **Motion** made by Mayor pro tem Neal to approve PSP 22-01 with the following conditions:

- 114 1.The exemption certificate shown on the preliminary plat shall be deleted.
115 2. A certificate of approval by the Planning Board shall be added to the final plat.
116 3. A certificate of approval by the Town Council shall be added to the final plat.

117 Motion Seconded by Council Member Holland. The motion passed unanimously (5-0).
118 Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member
119 Sherlock, Council Member Batenic
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- 121 8. Public Hearing-ZTA-22-09, a Zoning Text Amendment application submitted by Mila Smith to
122 amend Town Code Sections 36-163 and 36-207(b)(3)

123 Town Attorney Hornthal opened the public hearing and called on Planning Director Haskett
124 for the staff report.

125 Planning Director Wes Haskett presented the staff report. The applicant is proposing a Zoning
126 Text Amendment (ZTA) to amend Town Code Sections 36-163 and 36-207(b)(3) to allow group
127 fitness, aerobics, dance, martial arts, yoga, gym, and/or weight training as a permitted use in
128 the C, General Commercial zoning district. The proposed amendments to Section 36-207(b)(3)
129 establish the proposed use which would allow various group fitness service establishments.
130 The proposed amendments to Section 36-163 establish the minimum parking requirement for
131 the proposed use which requires one parking space for each 250 square feet of gross floor
132 space. As a permitted use, such establishments could be approved administratively if they are
133 proposed to be located in an existing building and a site plan is not required. If a site plan is
134 required, it would have to be reviewed by the Planning Board and the Town Council.

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136 Town Staff has determined that the proposed amendments are consistent with the Town's
137 currently adopted Land Use Plan and Town Staff recommends approval of the proposed ZTA.
138 The Town Planning Board unanimously (6-0) recommended approval of the application at the
139 August 15, 2022 Planning Board meeting.

140 Town Attorney Hornthal called on the public for comment. The applicant addressed Council.

141 Applicant Mila Smith shared her prepared statement, essentially thanking the Council for their
142 consideration and her wanting to see the process through. She unfortunately has chosen to
143 not relocate her business to Southern Shores at this time. The location she had in mind was
144 rented to another business before this zoning text amendment process could be completed.

145 Hearing no further comment, Town Attorney Hornthal closed the public hearing.

146 Council was disappointed Ms. Smith had changed her mind and hoped that she may
147 reconsider in the future.

148 Mayor pro tem Neal had no issue with adding the use.

149 Hearing no opposition to adding the use, Mayor Morey called for a motion.

150 **Motion** made by Council Member Sherlock to approve ZTA 22-09 as recommended by staff
151 and the Planning Board, Seconded by Council Member Batenic. The motion passed
152 unanimously (5-0),

153 Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member
154 Sherlock, Council Member Batenic
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156 9. Discussion of Potential Crosswalk at Tenth Ave

157 NC DOT Division 1 has agreed with a recommendation from an evaluation of the town's
158 crosswalks done by the State Traffic Safety Engineer and a consultant from VHB Engineering
159 for an additional crosswalk at 10th Ave and Duck Road. The study was performed as a cursory
160 review while a study was being performed for the Town of Duck. DOT will fund the
161 installation of the crosswalk and the Town will need to fund the cost for the overhead
162 lighting.

163 Council Member Batenic asked if NCDOT would do another crosswalk study if Council chose to
164 pursue? Town Manager Ogburn stated perhaps if Council requested one.

165 Mayor pro tem Neal stated adding another crosswalk between the two lights makes sense.
166 We have had more citizen advocacy to place it on Tenth Ave. and it is more centrally located
167 between the lights.

168 Council Member Holland agreed that we have had more citizen's request the crosswalk be
169 placed at Tenth Avenue.

170 Mayor Morey stated by viewing the aerial photos the pathway through tenth Avenue is well
171 utilized. Ideally, Council would like to see a paths on both side of NC12 the whole way from
172 the south end of NC12 to the north end of town. This Council has recognized and hope to get
173 a Tourism Grant to do a segment of the pathway and then continue from there. Council hears
174 from the residents that they want more paths on NC12 and a safe way to get across the road
175 to get to the beach.

176 Mayor Morey allowed comment from a citizen wishing to speak.

177 Public Comment-Stacia and Mark LeBlanc-#9 Tenth Ave -spoke in opposition to the crosswalk
178 being placed at Tenth Ave. They advocated for the crosswalk to be located on 9th or 11th
179 Avenue, as there are more houses located on those streets.

180 Mayor Morey stated Council has heard from several residents that live on the dunes behind
181 the avenues and they use a path that gets them to the cul de sac on Tenth Avenue. These
182 residents have advocated for the crosswalk on Tenth Avenue.

183

184 **Motion** made by Council Member Batenic to approve the installation of a crosswalk at 10th
185 Avenue by NC DOT and a Town expense not to exceed \$4,000 to install the overhead solar
186 lights., Seconded by Council Member Holland. The motion passed unanimously (5-0).

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

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190 **General Public Comment**

191 Public Comment-Tony DiBernardo-32 Ninth Ave- sent emails to several Council Members throughout
192 the years and have only heard back from two. The footpath on Duck Road is atrocious and the town
193 needs to look at its infrastructure and maintain it.

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197 **Council Business**

198 Council Member Holland provide a Tourism Board report. Occupancy collections for the month of June
199 were up 7%, 5.19% year to date. Meal's collections were up 1.2%, 5% year to date. Visitor spending in
200 NC increased 45% in 2021, equating to an additional 12-13 thousand jobs related to the Tourism
201 business. This keeps our tax dollars down.

202 Council Member Batenic asked the manager how many more weekends the barriers will be out on the
203 streets? Town Manager Ogburn stated this past weekend was the last one for the season.

204 Mayor Morey stated the next meeting is a Council workshop meeting scheduled for Tuesday,
205 September 20th at 9:00 a.m. Council hopes to hear an update from the Kimley Horn Report and Council
206 will discuss budget issues. There will be a Mayor's Chat October 19th at 4:00 p.m.

207

208 **Adjourn**

209 Council Member Holland moved to adjourn, Seconded by Mayor Morey. Motion passed unanimously
210 (5-0).