



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, March 12, 2024 at 5:30 PM

MINUTES

1

2 **Call Meeting to Order**

3 Pledge of Allegiance

4 Moment of Silence

5 **Present**

6 Mayor Elizabeth Morey

7 Mayor pro tem Matt Neal

8 Council Member Paula Sherlock

9 Council Member Robert Neilson

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11 **Absent**

12 Council Member Mark Batenic

13

14 **Amendments to / Approval of Agenda**

15 **Motion** made by Council Member Sherlock to approve the March 12, 2024 agenda as presented,
16 Seconded by Council Member Neilson. The motion passed unanimously.

17 Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Sherlock, Council Member Neilson

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19 **Consent Agenda**

20 **Motion** made by Council Member Sherlock to approve the consent agenda as presented, Seconded by
21 Council Member Neilson. The motion passed unanimously.

22 Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Sherlock, Council Member Neilson

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24 1. Minute Approval- February 6, 2024 Council Mtg. & Closed Session

25 2. Government & Education Access Channels proposed budget for 2024-2025

26 **Presentations**

27 3. Recognition (Town Hall Little Free Library)-Eagle Scout Austin Bellinger

28 Town Manager Ogburn recognized Eagle Scout Austin Bellinger for his achievements and
29 presented him with a Certificate of Appreciation for his community service.

30 4. Juniper Trinitie Culvert Bridge Replacement Design-Kimley Horn

31 Andrew Phillips, project manager and engineer for Kimley Horn, provided an update on
32 the progress, permitting, and design of the core slab bridge to replace the Juniper/Trinitie
33 culvert. He stated headway is being made with the design, all permits have been
34 submitted and are currently in review, and Kimley Horn is getting ready to submit 65%
35 completed plans to the town for review. These plans would include all roadway and
36 roadside drainage. The design plans are a bit behind but will be submitted and hopefully
37 to everyone's liking. The bridge will be lowered to provide a better line of sight for
38 vehicles all while not losing much of a vertical clearance for the boats navigating the
39 canal.

41 Staff Reports

- 42 • Deputy Town Manager/Planning Director-Monthly Permit Report & Planning Board Update
 - 43 ○ December, January, and February monthly permit reports.
 - 44 ○ **Dare County EMS/Fire Station 4 at 28 E. Dogwood Trl.** -The Building Inspector issued
 - 45 the Certificate of Occupancy yesterday. An open house will be held on Friday from
 - 46 2:00 to 6:00 p.m. which will also include guided tours of the new facility as well as free
 - 47 blood pressure checks provided by Dare County EMS staff members.
 - 48 ○ **Land Use Plan Update** -The draft plan is currently being reviewed by other State and
 - 49 Federal agencies and comments are being accepted from adjoining jurisdictions. All
 - 50 comments are supposed to be sent to the Town no later than April 1st.
 - 51 ○ **Planning Board**-The Town Planning Board meets on March 18th at 5:00 p.m. here in
 - 52 the Pitts Center. The purpose of the meeting is for the Board to reconsider ZTA-23-03,
 - 53 a Zoning Text Amendment application submitted by the Town of Southern Shores to
 - 54 amend the Town's current lot width requirements. The Board will also consider ZTA-
 - 55 24-02, a Zoning Text Amendment application submitted by the Town of Southern
 - 56 Shores to amend the Town's lot disturbance/stormwater management permit
 - 57 requirements by establishing that a lot disturbance/stormwater management permit
 - 58 is required to remove trees greater than 6 inches in diameter, measured at 4.5 feet
 - 59 above the ground, within a front, side or rear yard (setback) on any unimproved lot in
 - 60 the general commercial zoning district and the penalty for noncompliance.
 - 61 ○ **Historic Landmarks Commission**-The Town Historic Landmarks Commission may meet
 - 62 on March 26th at 9:00 a.m. here in the Pitts Center (still waiting on confirmation if all
 - 63 or most members can attend). If the meeting is held, the purpose of the meeting is for
 - 64 the Commission to hold a hearing to consider an application for a Certificate of
 - 65 Appropriateness submitted by Clayton Small to replace the garage windows, garage
 - 66 doors, and siding shingles at 116 Ocean Blvd.
- 67
- 68 • Police Chief - January and February monthly report.
- 69 • Fire Chief- February monthly report and annual end of year report.
- 70 • Town Manager-FY2024-25 Budget Planning
 - 71 ○ Town Manager Ogburn reviewed the proposed budget planning schedule and the list
 - 72 of potential capital improvements for FY 2024-25

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Budget Calendar

March 7 Department Head Budgets Due to the Town Manager
April 9 Regular Monthly Council Meeting. 5:30
April 16 Mid-month meeting. 9:00
Preliminary budget discussion to receive Town Council input.
May 7 Regular Council Meeting and
Manager’s Recommended Budget Presented to Town Council. 5:30
TBA Council Workshop to discuss recommended budget (if necessary).
~~May 21 Mid-month meeting. 9:00~~
TBA Council Workshop to discuss recommended budget (if necessary).
June 4 Regular Council Meeting and Public Hearing on the Budget and
potential adoption of the budget.

*Budget must be adopted no later than June 30.

Potential Capital Improvement Estimates

Culvert replacement	\$1,600,000
Duck Rd. multi-use-path ext.	\$325,000
Multi-use-path repairs	\$150,000
Document scanning	\$180,000
Building renovation	\$250,000

TOTAL \$2,505,000

- Town Attorney-no report

General Public Comment

None

Old Business

5. Consideration of File Room Addition & Document Scanning

Town Manager Ogburn stated the Planning Department file room is no longer manageable, it is lacking space, and the floor structure is compromised by the weight. The council previously expressed interest in having the documents scanned, to protect the public records and provide a more efficient way for the public to access the documents. To still maintain the paper copies, an addition to the room will be required. There is also a need for some town hall improvements and security upgrades. Town Manager Ogburn would like to bid on a couple of options and come back to the council for consideration. He felt including all improvements, security upgrades, and a file room addition bid together as a package would be cost effective.

Council Member Neilson asked if the documents would then be available electronically to the public. Town Manager Ogburn stated it would. The town already has the software necessary to accomplish this.

Mayor pro tem Neal stated bidding everything together is a good cost-effective way to look at the project.

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By consensus of all council- direct the town manager to bid out the full package (file room addition and needed renovations/security upgrades) and go out to bid with the projects.

Mayor Morey called for a five-minutes recess (6:30 p.m.)

Meeting Reconvened (6:36 p.m.)

New Business

6. Public Hearing-Consideration of ZTA-24-01

Town Attorney Lauren Arizaga-Womble opened the public hearing and called on staff for a report.

Planning Director Haskett staff presented his staff report. At the February 6, 2024 Town Council meeting, the Town Council directed Town Staff to draft Town Code amendments to modernize the Town Code. As a result, Town Staff has drafted ZTA-24-01 which includes proposed amendments to one Section in Chapter 24, Planning and several Sections in Chapter 36, Zoning. The proposed amendments are as follows:

Part I, Section 24-27, Powers and Duties:

- Removes the previous statutory reference that grants authority for Planning Boards and replaces it with the new reference (160D-301).
- Replaces the powers and duties of the Planning Board so that they are consistent with G.S. 160D-301(b).

Part II, Section 36-203, RS-8 Multifamily Residential District:

- Establishes a 40 percent lot coverage requirement for multifamily dwellings.

Part III, Section 36-207, C General Commercial District:

- Removes multifamily dwellings from the list of Permitted Uses (use by right).
- Establishes a 100-foot setback requirement for restaurants without a drive-through or with a drive through facility from residential districts and residential uses and 50 feet from planned unit developments (PUDS).
- Establishes a 100-foot setback for drive-through facilities or establishments (small) from residential districts and residential uses and 50 feet from PUDs.
- Establishes to establish a 50-foot setback requirement for buildings and other facilities associated with mixed use group development of commercial and residential buildings from residential districts, residential uses, and PUDs.
- Establishes a 20-foot buffer requirement where a mixed-use group development abuts a residential district, residential use, or PUD.
- Establishes multifamily dwellings according to the density and dimensional requirements of the RS-8 multifamily residential district as a Special Use.

- 153 • Establishes a 50 ft. setback requirement for commercial buildings and facilities from
154 residential
155 districts, residential uses, and PUDs.
156 • Establishes a 20-foot buffer requirement where a commercial use or district abuts a
157 residential district, residential use, or planned unit development and to require replanting of
158 dead vegetation in buffers

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160 Part IV, Section 36-209, Prohibited Uses in all Districts:

- 161 • Establishes miniature golf courses, storage units, warehouses, and wind farms as
162 prohibited uses in all zoning districts.

163
164 Part V, Section 36-297, Building and Zoning Permits Required; Time Limitations for Site Plans,
165 Building Permits and Zoning Permits:

- 166 • Establishes that approved site plans expire if a building permit and zoning permit are not
167 issued within one year of approval.
168 • Establishes that only building permits expire if construction has not commenced within
169 180 days of issuance of a building permit and zoning permit.
170 • Establishes that building permits, zoning permits, and site plan approvals expire if work is
171 discontinued for one year.
172 • Establishes that if an application made in accordance with approved regulation is
173 submitted for a development approval and a development regulation change between the
174 time the application was submitted and a decision is made, the applicant may choose
175 which version of the development regulation will apply to the application. If the
176 development permit applicant chooses the version of the rule or ordinance applicable at
177 the time of the permit application, the development permit applicant shall not be
178 required to await the outcome of the amendment to the rule, map, or ordinance prior to
179 acting on the development permit.

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181 Part VI, Section 36-299, Application for Building Permits, Zoning Permits and Site Plan
182 Requirements:

- 183 • Requires showing the proposed to scale architectural elevations of the front, sides, rear
184 and rooflines of proposed structures shown on site plans.
185 • Removes submittal of the proposed method for treating wastewater, location of all
186 wastewater collection and treatment facilities (including any applicable property to be
187 reserved for possible future wastewater use), name of any regulatory agency that must
188 approve wastewater system, name of and written approval for connection from any
189 organization that will collect or dispose of wastewater as requirement for site plan
190 approval and establishes it as a requirement prior to issuance of a building permit and
191 zoning permit.
192 • Requires a rendering showing the proposed front, sides, and rear appearances of the
193 structures relative to views from adjacent properties, including retained vegetation,
194 proposed landscaping and other site elements.
195 • Requires showing the number of bedrooms and/or occupants.
196 • Establishes that improvements that require a new wastewater treatment facility, or
197 connection to an existing wastewater treatment facility, documentation from the North
198 Carolina Utilities Commission certifying that the owner of the wastewater treatment

- 199 facility is an approved public utility; is the utility franchise holder; and is the permit holder
200 issued by the North Carolina Department of Environmental Quality. All documentation of
201 these requirements shall be submitted with the site plan application.
- 202 • Establishes that improvements that require connection to an existing wastewater treatment
203 facility, documentation from the North Carolina Department of Environmental Quality
204 certifying that the wastewater treatment facility is in compliance with all applicable
205 requirements must be submitted with the site plan application, including adherence to permit
206 conditions issued by the North Carolina Department of Environmental Quality.

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208 Part VII, Section 36-300, Application for Permit for Special Uses:

- 209 • Establishes that written applications for Special Use Permits shall be submitted to the
210 Planning and Code Enforcement Department instead of the Town Planning Board no later
211 than 30 days prior to the Planning Board meeting at which the plan is to be reviewed.
- 212 • Establishes that no Special Use Permit application shall be deemed complete unless it is
213 accompanied by a site plan drawn to scale which complies with the site plan requirements
214 contained in section 36-299.
- 215 • Establishes that the Town Planning Board shall review Special Use Permit applications and
216 recommend approval, conditional approval, or rejection of applications to Town Staff
217 instead of the Town Council.
 - 218 • 160D-301(b)(6) allows Planning Boards to provide a preliminary forum for
219 review of quasi-judicial decisions, provided that no part of the forum or
220 recommendation may be used as a basis for the deciding board.
- 221 • Reorganizes the Section so that it follows the Special Use Permit process chronologically.
- 222 • Establishes requirements for transmitting Special Use Permit applications, reports, and
223 written materials to the Town Council.
- 224 • Establishes procedural requirements for evidentiary hearings held by the Town Council
225 when considering Special Use Permits.
- 226 • Establishes that approved Special Use Permits shall be recorded by the applicant in the
227 county registry.
- 228 • Establishes that a building permit and zoning permit must be issued within one year of
229 approval of a Special Use Permit application and accompanying site plan. If a building
230 permit and zoning permit are not applied for and issued within one year from the date of
231 final approval of the Special Use Permit application and accompanying site plan, the
232 Special Use Permit approval and site plan expire and the applicant must submit a new
233 Special Use Permit application and accompanying site plan.

234
235 Part VIII, Section 36-304, Vested Right:

- 236 • Revises the Section title to Vested Rights – Site Specific Vesting Plans.
- 237 • Deletes the Section in its entirety and replaces it with the requirements established in G.S.
238 160D-108.1

239
240 **STAFF RECOMMENDATION:**

241 Approval of ZTA-24-01 with the exception of moving Section 36-299(b)(2)c.5. to 36-299(6)g.
242

243 Town Attorney Lauren Arizaga-Womble addressed her concerns with the term “residential use”
244 because it is permitted in the commercial district, it will actually become a moving target when it
245 comes to non-conformities.

246 Town Attorney Lauren Arizaga-Womble also addressed the Planning Board’s review of a special use
247 permit and making recommendations to staff rather than Town Council. 160D-301(b)(6) allows
248 Planning Boards to provide a preliminary forum for review of quasi-judicial decisions, provided that no
249 part of the forum or recommendation may be used as a basis for the deciding board.

250 Mayor Morey stated a quasi-judicial hearing does not allow general public comment. She felt it was
251 important for members of the public to make comments and this process would provide that
252 opportunity through the Planning Board.

253 The council extensively reviewed each section, noting any corrections or modifications required.

254 Attorney Womble called on members of the public for comment.

255 Matt Huband-110 Landing Trail- thanked staff for this ZTA and asked council to pass the ZTA for the
256 betterment of the community.

257 Mike Stone-8 Sandfiddler Ct-family owns several commercial parcels and felt this would prevent the
258 parcel from being developed to its highest and best use.

259 Staphanie Huband-110 landing Trail-thought they had bought with the residential 50 ft. protection.
260 The adjacent commercial parcel was given extra lot coverage. The goal of Southern Shores seems to be
261 to protect a lot of the vegetation and not all properties will be built to its full commercial use.

262 Andy Ward- The most recent special use proceedings have shown several apparent vulnerabilities in
263 our ordinance pertaining to buffers, setbacks, and wastewater treatment. This ZTA tonight is good
264 solid work from both town staff, town attorneys, and the Planning Board. He urged the council to
265 approve the ZTA.

266 Hearing no further comments, Town Attorney Lauren Arizaga-Womble closed the public hearing.

267 Hearing no further comments, and having already reviewed each section, **Motion** made by Mayor
268 pro tem Neal to adopt ZTA 24-01 with the following changes:

- 269 1. page 3, section 6 strike quasi judicial decision.
- 270 2. page 5-6, strike part 3, residential uses within description (found on line 4, 11, 23, 25,
271 and following page line 5, and 7.
- 272 **3. page 10, section 5 which has been stricken, replace in entirety.**
- 273 4. page 13, strike line 5 through "propose to wastewater"
- 274 5. page 14, line 15 should read " The town planning board shall provide a preliminary
275 review on a special use permit application. The board shall submit the findings of the
276 review to town staff.

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

280 **MOTION:** Mayor pro tem Neal moved to consider agenda item #8 before agenda item #7,
281 Seconded by mayor Morey. The motion passed unanimously.

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283 8. Consideration of Resolution 2024-03-02 Opposing the Release of Helium Balloons

284

285 Southern Shores resident Debbie Swick is heading up a campaign to educate all of Dare
286 County about the detrimental impacts' helium balloons have on our fragile coastal
287 environment. Attached for your consideration is a Resolution Opposing the Release of Helium
288 Balloons.

289 Council Member Sherlock supports the resolution but felt further discussion and information
290 would be needed to consider an ordinance.

291 Mayor Morey stated this is not about selling or purchasing balloons but rather using them
292 wisely and safely.

293

294 **Consensus** of the Council to direct staff to present 3-5 examples of ordinances that other
295 coastal towns have adopted, and council will then have further discussions about the
296 potential of an ordinance.

297 **Motion** made by Mayor pro tem Neal to adopt Resolution # 2024-03-02 Opposing the release
298 of Helium Balloons, Seconded by Council Member Neilson. The motion passed unanimously.
299 Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Sherlock, Council Member
300 Neilson

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302 7. Mini-Brooks Exception Policy Approval-Pursuant to G.S.143-64.32

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304 The agenda summary read as, G.S. 143-64.32 authorizes a unit of local government to exempt
305 itself from the Mini-Brooks Act, which means that it will not be required to use the
306 Qualification Based Services process and may select an architect, engineer, surveyor, or
307 alternative construction delivery method firm by whatever method it chooses (or no method
308 at all). The statute does not impose much by way of requirements for utilizing the exemption
309 – it simply requires the unit to put the exemption in writing. However, the exemption is
310 capped at \$50,000, meaning the estimated cost of the contract cannot exceed this amount.
311 Contracts with an estimated cost of \$50,000 or more cannot be exempted and the QBS
312 process must be used.

313 Throughout the fiscal year, the town needs the services of an engineer for project design such
314 as street improvements, smaller stormwater projects, multi-use-paths and sidewalk
315 extensions. Most of, if not all, these projects have come at a cost well below the \$50,000
316 required for exemption.

317 The process for hiring an engineering firm for projects such as the culvert replacement on
318 Juniper/Trinitie Trail would require a formal QBS process.

319 Rather than securing these engineering services via a yearly contract or going through the
320 lengthy and time consuming QBS process, staff is requesting the Council adopt the attached

321 resolution which gives the town manager the authority to contract for architectural,
322 engineering, and surveying services for certain small projects.

323

324 **Motion** made by Mayor Morey to adopt the attached, Resolution #2024-03-01, Seconded by
325 Council Member Sherlock. The motion passed unanimously.

326 Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Sherlock, Council Member
327 Neilson

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329 9. Historic Landmarks Commission Reappointment-Wanda Brett-Jordan

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331 Council appointed Wanda Brett-Jordan as the alternate member on the Town Historic
332 Landmarks Commission on May 2, 2023 with a term that was effective immediately and
333 expired on February 3, 2024. Ms. Brett-Jordan has indicated she would like to continue
334 serving on the Commission.

335 **Motion** made by Mayor Morey to Reappointment-Wanda Brett-Jordan, Seconded by Council
336 Member Neilson. The motion passed unanimously.

337 Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Sherlock, Council Member
338 Neilson

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340 10. Planning Board Appointment

341 Alternate Planning Board member Dan Fink (first position) resigned from the Board on
342 February 12, 2024. Town Staff has two applications to serve on the Board on file from Charles
343 Ries and Richard Filling.

344 Staff recommends moving Michael Zehner from the second alternate position to the first
345 alternate position on the Town Planning Board and appointment of Mr. Ries or Mr. Filling as
346 an alternate member in the second position on the Town Planning Board with a term that
347 begins immediately and ends on June 30, 2024.

348 Council Member Sherlock stated it was an abundance of riches to have these citizen's
349 volunteer.

350 Mayor Morey felt the applications were equally impressive and in the absence of flipping a
351 coin, **Motion** made by Mayor Morey to appoint Charles Reis as second alternate, Seconded by
352 Council Member Sherlock. The motion passed unanimously. Voting Yea: Mayor Morey, Mayor
353 pro tem Neal, Council Member Sherlock, Council Member Neilson

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355 **General Public Comment**

356 None

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358 **Council Business**

359 Council Member Neilson thanked the council for passing the Government Access Channel budget.

360

361 Mayor pro tem Neal stated the Housing Taskforce last scheduled meeting was canceled, but one is
362 scheduled for next week. He hopes to have an update at that point.

363 Mayor Morey stated the next council meeting is April 9th and a workshop on April 16th at 9:00 am. She
364 encouraged residents to reach out if they have any questions, concerns, or priorities about the budget.
365 The Flat-Top tour is scheduled for April 27th and the town's own 13 Skyline will be included in that tour.
366 This Friday is the grand opening of the new Fire/EMS Station at East Dogwood.

367

368 **Adjourn**

369 Hearing no further business, **Motion** made by Council Member Sherlock to adjourn the meeting at 8:04
370 p.m., Seconded by Mayor pro tem Neal. The motion passed unanimously.

371 Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Sherlock, Council Member Neilson

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DRAFT