



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 07, 2021 at 5:30 PM

MINUTES

1 Call Meeting to Order

2 Pledge of Allegiance

3 Moment of Silence

4 Present

5 Mayor pro tem Elizabeth Morey

6 Council Member Jim Conners

7 Council Member Leo Holland

8 Council Member Matt Neal

10 Absent

11 Mayor Tom Bennett

13 Amendments to / Approval of Agenda

14 Town Manager Ogburn requested Council remove and table Resolution 2021-09-02 *Resolution*
15 *Opposing US Fish and Wildlife Service's Proposed Designation of Critical Habitat for the Rufa Red Knot*
16 from the consent agenda.

17 Consent Agenda

18 1. Minutes- May 4, 2021 & August 3, 2021

19 2. Consideration of Resolution opposing US Fish & Wildlife Service's proposed designation of
20 critical habitat for the Rufa Red Knot

21 3. Resolution 2021-09-03 Awarding Badge and Service Weapon -Police Sergeant George M.
22 Farrow. NCGS 20-187.2

23 **Motion** made by Council Member Holland to remove item #2 from the consent agenda (Resolution
24 Rufa Red Knot) and approve items #1 and #3 on the consent agenda, Seconded by Council Member
25 Conners. Motion passed unanimously (4-0).

26 Voting Yea: Mayor pro tem Morey, Council Member Conners, Council Member Holland, Council
27 Member Neal

28 Council approved the agenda as amended by **Consensus**.

30 Presentations

31 4. Service Award- 20 Years of Service, Deputy Chief Jonathan Slegel

32 Police Chief David Kole recognized Deputy Chief Slegel for his 20 years of service.

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Staff Reports

Deputy Town Manager/Planning Director Wes Haskett presented his department’s monthly report for August. He announced the Southern Shores Planning Board will hold a Special Meeting on September 14, 2021 at 5:30 p.m. in the Pitts Center. The purpose of the special meeting is for the board to participate in an online UNC School of Government legislative zoning decisions workshop. The Planning Board will hold a regular meeting on September 20th at 5:00 p.m.

Police Chief David Kole presented his department’s monthly report for August.

Fire Chief Limbacher presented his department’s monthly report for August.

Town Manager Ogburn provided a summary of the following operational highlights:

- Beach Nourishment Update- On September 2, 2021 Dare County received 3 bids from dredge contractors in response to its solicitation for bids for the Town of Duck, Town of Southern Shores, Town of Kitty Hawk, and the Town of Kill Devil Hills beach nourishment projects. Weeks Marine, Inc. submitted the low bid based on the Base Bid and the Additive Bid, which totaled \$27,932,500 for all four projects. There are still several steps to take with obtaining permits. The town rate is in line with this budget. Town Manager Ogburn will be seeking easements for 12 parcels in the Town of Duck included in the northern tapper once he presents the easements to Council for approval.
- Traffic-Town Manager Ogburn recommends citizens send letters or emails to Congressman Greg Murphy in hopes of getting more attention to the Mid-Currituck Bridge. Summer traffic numbers do seem to show that the no left turn barricades had some merit. He also recommended meeting with the Town of Duck in the near future.
- Tax Bills-Town Manager Ogburn provided a detailed explanation of how beach nourishment will be displayed on a resident’s tax bill. Beach nourishment is taxed on real estate and vehicle tax.
- The electric vehicle charger which was installed August 19th and has been used five times so far.
- The October meeting should include the SEPI plan with possible construction costs. He would also like to discuss Police salaries; salaries have fallen behind and it has had an impact. Even though a study was done and implemented, a year later police salaries are about \$4,000 behind the starting salary of other jurisdictions.
- Town Manager Ogburn requested Council consider moving the Wednesday, November 3, 2021 Council meeting to the following Tuesday, November 9th at 5:30 PM. The manager and two Council Members will be attendees at the NCBIWA conference which conflicts with the original council meeting date.

Motion made by Council Member Conners to reschedule the November 3, 2021 regular Council meeting for Tuesday, November 9, 2021 at 5:30 PM, Seconded by Council Member Neal. The motion passed unanimously (4-0).

75 Voting Yea: Mayor pro tem Morey, Council Member Conners, Council Member Holland, Council
76 Member Neal
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78 **General Public Comment (Limit: 3 minutes per speaker.)**

79 Public Comment-Ed Kuszmar-174 Duck Rd-would like Council to consider installing a sidewalk along the
80 east side of NC12 in front of his property, it is a safety issue.

81 Public Comment-Vince Ferretti-296 Wax Myrtle Trail-commends Council for transparency of the beach
82 nourishment taxes but does see a problem with vehicles being taxed for beach nourishment. Vehicles
83 do not go up in value like property does, vehicles depreciate. NCGS needs to be changed when it
84 comes to beach nourishment and should not apply to vehicles.

85 Public Comment-Andy Ward- 147 Bayberry Trail- The Planning Board will be taking up the temporary
86 sign ordinance. He encouraged election candidates to follow the temporary sign rules.

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88 **Old Business**

89 None
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91 **New Business**

92 5. Public Hearing- SPA-21-01, a Site Plan Amendment application submitted by Aston Properties to
93 amend the site plan for the Marketplace Shopping Center

94 Town Attorney Gallop opened the public hearing.

95 Deputy Town Manager/Planning Director Wes Haskett presented the staff report, which read
96 as, the applicant seeks an amendment to the site plan for the Marketplace shopping center by
97 demolishing a portion of one building and construction of a new 24,000 sq. ft. Marshalls, a new
98 6,000 sq. ft. retail space for a business to be determined, and parking lot modifications. The
99 proposed parking lot modifications include the use of permeable pavers in order to be eligible for
100 a maximum lot coverage of 67% instead of 60%. Currently, the proposed lot coverage is 67.1%. As
101 of September 1, 2021, we have not received enough documentation to determine the
102 permeability of the proposed pavers which could affect the square footage of permeable pavers
103 required.

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105 The proposed signage for Marshalls includes three wall signs, one under canopy sign, and one
106 name plate on the freestanding sign which are in compliance with the Town's sign requirements.
107 There are 150 proposed parking spaces with 102 of them being permeable and a total of 613
108 parking spaces for the site which are in compliance with the Town's parking requirements. A
109 lighting plan and required documentation have also been provided that demonstrate compliance
110 with the Town's outdoor lighting requirements.

111 The Land Use Plan identifies this area as Commercial in the C, General Commercial zoning district
112 which is consistent with the improvements proposed in the application. All applicable regulations
113 of the Town Zoning Ordinance and all of Town Staff's concerns that are applicable to this
114 application have been identified or are addressed in the recommended conditions. Town Staff
115 recommends conditional approval of the application and the Town Planning Board unanimously

(5-0) recommended conditional approval of the application at the August 16, 2021 Planning Board meeting. Both recommend the following conditions:

1. The following approvals shall be issued prior to submittal of a Building Permit application:
 - a. Soil Erosion Sedimentation Control Plan Permit for land disturbance over 1 acre as issued by the NCDEQ;
 - b. Stormwater Management Permit as issued by the NCDEQ;
 - c. Wastewater approval by the Dare County Health Dept. (tentative approval received from the Dare County Health Dept. and the N.C. Dept. of Health and Human Services).
 - d. Review and approval of potable water distribution system modifications or extensions by the Dare County Water Dept. (tentative approval received).
2. Lot coverage shall be reduced to not exceed 67% prior to submittal of a Building Permit application.
3. Documentation showing the proposed permeable paver product and its permeability shall be submitted prior to submittal of a Building Permit application.
4. The applicant must strictly abide by all requirements of the Town Code and must also strictly comply with all other applicable local, State, and Federal requirements.
5. Prior to issuance of a Building Permit, the Town Engineer and the applicant's representative shall evaluate the existing stormwater system for glaring deficiencies and address them.

Councilman Neal asked how "glaring conditions" are determined in condition #5. Town Engineer Joe Anlauf stated condition number 5 is to basically make sure there is no failure.

Councilman Connors asked the Town Engineer what he thought the state would say about the storm water system being built so many years ago. Mr. Anlauf stated it would probably be eligible for an exemption and that the storm water system appears to be in good shape and most likely there will be no need for drastic re-work.

Councilman Holland asked Karen Partee from Aston Properties how flexible Marshalls was about the trees in the front? Ms. Partee stated Marshalls was not flexible in that area at all. There is no visibility to the stores.

Town Attorney Gallop called for comment and the following citizens provided comment:

Public Comment-Brian Hedrick-17 Palmetto Dr-concerned with the noise and construction debris. Was hoping for better noise abatement than a fence. Concerned with dumpsters being serviced so early in the morning.

Public Comment-Ann Sjoerdsma-232 N Dogwood Trl-The Planning Board was very thorough, and she is hesitant to say anything. Not consistent with the Land Use Plan Vision Statement of 2008; community served by small commercial district. Opposed to the removal of the grove in the parking lot, 6000 square foot store with no tenant, the land use goals and policies of 2008 stated no big box retailers.

Public Comment-Karen Partee, Aston Properties-we will abide by all requirements and construction requirements. She will talk to the property manager about the servicing of the dumpsters in the early morning. Marshalls is a Jr. box, not a big box store. This will be an opportunity to revitalize the Marketplace Shopping Center, a turning point. The tree removal is not a parking space issue, it is a visibility issue. Tenants need to be visible, and signage

needs to be visible. CVS's lease is coming up for renewal and Aston properties is hoping to keep them as a tenant. Would hope the Council will join in helping revitalize the commercial community.

Public Comment-Lilias Morrison-43 Fairway Drive- remember that the Daniels Department Store used to be in the Marketplace. She remembers it being larger than the proposed Marshalls. There was also a Cinema and two upscale restaurants, and a dress shop. There was not enough business to keep the restaurants going. The impact of Marshalls will be beneficial. She hates to see the trees go but understands the visibility. The Town will be better once again.

Public Comment-Patricia (Trisha) Farinholt, 69 Ocean Blvd.-you cannot see all the stores in Duck, yet they are busy. Council has the ability to change the terms.

Hearing no other comments, Town Attorney Gallop closed the public hearing and called on Council for their consideration.

Councilman Conners stated the big box store comment was interesting, as Food Lion is that large. The trees that are being removed are sweetgums and pines and will be replaced with other trees in other areas. There is essentially no "local" business in the Marketplace now, as it is made up of a Starbucks, Jersey Mikes, Verizon, CVS, Dollar Store and Food Lion. He stated he is in favor of approving the site plan with the proposed Planning Board conditions.

Councilman Neal asked Planning Director Haskett if Council had any jurisdiction on the building itself, esthetics. Mr. Haskett stated the Town did not. Councilman Neal stated he had no questions.

Councilman Holland stated he likes his trees but understands that Marshalls is not flexible in that area. We need a viable commercial area. The Marketplace is on life support, and we do not want it to look like the current empty Kmart.

Mayor pro tem Morey thanked Lilias Morrison for the reminder of previous establishments in the Marketplace. The Marketplace has really struggled and in general we are getting something the Town needs.

Motion made by Council Member Conners to approve SPA-21-01 as submitted with conditions 1-5 as recommended by the Planning Board, Seconded by Council Member Holland. The motion passed unanimously (4-0).

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

Mayor pro tem Morey called for a short recess at 6:54 p.m. Council reconvened at 7:03 p.m.

6. Financial Advisory Agreement and Budget Amendment #11

Town Manager Ogburn addressed agenda items #6 and #7 simultaneously.

The Financial Advisory Agreement details the services provided by DEC Associates, INC for financial closing of the Town's Beach Nourishment/Shoreline Protection project. Prior to this agreement,

the Town previously contracted with DEC Associates for planning purposes. The amount of the financial agreement is \$30,000 plus an additional \$2500 for incidentals.

Town Manager Ogburn stated budget amendment #11 covers the financial agreement plus incidentals, and an additional \$12,500 for Local Government Commission Fees, for a total of \$45,000.

Motion made by Mayor pro tem Morey to approve the Financial Advisory Agreement with DEC Associates, Seconded by Council Member Conners. The motion passed unanimously (4-0).

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

Motion made by Council Member Holland to approve the associated budget amendment #11, Seconded by Councilman Conners. The motion passed unanimously (4-0).

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

7. Southern Shores Beach Nourishment Projects - Initial Resolution #2021-09-01 Directing the Application to the Local Government Commission for Approval of a Special Obligation Bond; Requesting Local Government Commission Approval of The Town's Special Obligation Bond; and certain related matters

State law G.S. 120 - 157.1 – 157.4 adopted and effective on June 24, 2011 requires that certain capital projects to be financed with debt in an amount exceeding \$1,000,000 be reported to the Joint Legislative Committee on Local Government and to the Fiscal Research Division of the North Carolina General Assembly.

Resolution 2021-09-01 required a “findings” resolution directing the application for 2021 Special Obligation Bonds to the Local Government Commission for approval.

Motion made by Council Member Conners to approve Resolution 2021-09-01, Seconded by Mayor pro tem Morey. The motion passed unanimously (4-0).

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

8. Consideration of Dare County Tourism Impact Grant

Town Manager Ogburn provided a summary which stated staff is requesting authorization to apply to the Dare County Tourism Board for a Tourism Impact Grant. The grant request would be for funding to secure traffic data that will be instrumental in helping the Town better evaluate and understand the impacts that tourism related traffic generates. Further funding may be requested to purchase equipment used to mitigate the impacts of tourism generated traffic. The town has contracted in previous summers to place signage and barricades along US 158 at South Dogwood to prohibit left hand turns on to South Dogwood. The grant request would be in an amount not to exceed \$50,000 and requires no match. The information collected is likely useful on a county wide level.

Companies such as Streelight Data, collect location records from smart phones and navigation devices in connected cars and trucks. Data is derived from navigation-GPS data and Location-Based Services (LBS) data. Adding context from numerous other sources like parcel data and digital road network data, they can develop a view into traffic patterns in Southern Shores as well as all of Dare County.

This data can help to better understand where the traffic that cuts through the residential streets of Southern Shores originates from including from within the county or out. We can determine the volume of traffic that uses Southern Shores as a cut through by either turning off US 158 or NC 12, and where it exits the residential streets including the turning movements in general. This information would be on a platform that we can access and analyze data to see the routes taken to and through the Town.

Mayor pro tem Morey stated perhaps this will provide some resources to deal with the impact of tourism.

Councilman Holland stated the traffic counts numbers have been shared with the Tourism Board.

Motion made by Council Member Neal to authorize the Town Manager to apply for a DCTB Tourism Impact Grant, Seconded by Council Member Holland. The motion passed unanimously (4-0).

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

9. Consideration of FEMA Building Resilient Infrastructure and Communities (BRIC) Grant and Budget Amendment

The Building Resilient Infrastructure and Communities (BRIC) Program, is funded by FEMA and administered through a partnership with the North Carolina Division of Emergency Management (NCEM). NCEM has the authority and responsibility for developing and maintaining a State Standard Hazard Mitigation Plan, reviewing the Building Resilient Infrastructure and Communities Program sub-applications, recommending technically feasible and cost-effective sub-applications to FEMA and providing pass-thru funding for FEMA-approved and awarded project grants to eligible sub-applicants. Letters of Interest are due no later than October 1, 2021 at 5:00 pm.

The proposed project areas are included in the NC 12 Drainage Study completed by VHB Engineering in cooperation with the Town of Duck, and NCDOT, to address potential solutions to flooding throughout the roadway corridor. Staff submitted a Letter of Interest for funding in 2020 for the identified solution at the Sea Oats project and was invited to submit a full application for FEMA's consideration. However, staff was unable to pull together the required documentation and meet the pre-application planning requirements in time to submit a full application. Attached is a contract provided by VHB Engineering NC, P.C. for grant application assistance to better position the town to submit a full and competitive application. The application will require pre-design level of refinement of the initial concepts included in the 2006 report in order to develop construction cost estimates, address potential right-of-way impacts, address grading and drainage issues, and confirm environmental compliance and permitting requirements. However, the preliminary engineering, final design, construction documents, environmental compliance

documents and permitting of the drainage projects will be accomplished under a separate contract pending the actual grant award.

The NC12 corridor in Southern Shores has inadequate drainage or stormwater infrastructure in place to provide conveyance of roadway drainage to adequate receiving systems. Instead, the sandy soils within the corridor provide for infiltration of stormwater runoff from the roadway and contributing runoff from public side streets. The roadway floods frequently from storm events of various intensities due to the lack of drainage infrastructure and periods of saturated soils. This situation caused extensive flooding in the lowest areas along the corridor, negatively impacting residents, tourists, and emergency personnel. Although an extreme, this was indicative of sub-standard drainage conditions, and helped reinforce the need for improvements along NC12, thereby leading to this request.

Councilman Neal asked the Town Manager if American Rescue Plan Act Funds (ARP) could be used towards the grant. Town Manager Ogburn stated it could not.

Mayor pro tem Morey inquired if there was a state fund for BRIC. Town Manager Ogburn replied yes.

Motion made by Council Member Neal to approve the Budget Amendment #12 and authorize the Town Manager to sign the grant application contract with VHB Engineering NC, Seconded by Mayor pro tem Morey. The motion passed unanimously (4-0).

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

General Public Comment

None

Council Business

Councilman Holland provided the monthly Tourism Board report. Occupancy for the month of June was up 24%, 103% year to date. Meals were up 37%, 88% year to date.

Councilman Neal thanked Police Sergeant George Farrow for his 25 plus years of service and asked Chief Kole if Sgt. Farrow would be in attendance before his official retirement, so that Council could formally thank him and wish him well in his retirement. Police Chief David Kole stated Sergeant Farrow will be in attendance at a future meeting.

Councilman Conners provided an update on the Monarch Flyway, stating planting will start in late October. He also stated the Government Access Committee will be meeting soon for their regular meeting and the Room at the Inn homeless shelter program recently provided mental health training and resources.

Mayor pro tem Morey thanked the residents for attending and asked everyone to please remain vigilant with virus mitigation efforts.

Adjourn

319 Hearing no further business, **Motion** made by Council Member Holland to adjourn the meeting at 7:36
320 p.m., Seconded by Council Member Conners. The motion passed unanimously.
321 Voting Yea: Mayor pro tem Morey, Council Member Conners, Council Member Holland, Council
322 Member Neal
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