



Town of Southern Shores
Regular Council Meeting
March 2, 2021

MARCH 2, 2021 MINUTES: Regular Council Meeting

LOCATION: Pitts Center -5377 N Virginia Dare Trail, Southern Shores, NC 27949

COUNCIL MEMBERS PRESENT: Mayor Tom Bennett, Mayor pro tem Elizabeth Morey and Councilmen Matt Neal, Jim Conners, and Leo Holland.

COUNCIL MEMBERS PARTICIPATING REMOTELY: None

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Town Attorney Ben Gallop, Town Manager Cliff Ogburn, Deputy Town Manager/Planning Director Wes Haskett, Town Clerk Sheila Kane, Police Chief David Kole, and Fire Chief Ed Limbacher.

The Town of Southern Shores Town Council met in the Pitts Center located at 5377 N. Virginia Dare Trail at 5:30 p.m. on Tuesday, March 2, 2021.

CALL TO ORDER / PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE

Mayor Bennett called the meeting to order at 5:30 p.m., led the Pledge of Allegiance, and held a moment of silence.

AMENDMENTS / APPROVAL OF AGENDA

MOTION: Councilman Holland moved to approve the agenda with amendment. The motion was seconded by Councilman Conners. The motion passed unanimously (5-0).

CONSENT AGENDA

The consent agenda consisted of the following items:

1. Council Meeting Minutes – January 19, 2021 & February 16, 2021
2. Pickups and Releases
3. 2021-2022 Budget for the operation of the Government Education Access Channels

MOTION: Councilman Conners moved to approve the consent agenda as presented. The motion was seconded by Councilman Holland. The motion passed unanimously (5-0).

STAFF REPORTS

The following department heads presented reports for the month:

- Deputy Town Manager/Planning Director Wes Haskett presented the department's monthly permit report for the month of February.
- Police Chief David Kole presented the Police Department's report for February.
- Fire Chief Ed Limbacher presented the Fire Department's report for February.
 - Fire Chief Limbacher presented a year end wrap up of operations by video presentation.
- The Town Manager presented the Manager's report on operations highlights:
 - Town of Southern Shores received the NCDEQ zero-emission vehicle charging station grant.
 - March 9th is the bid opening for Sea Oats Trail.
 - Road improvements to Last Hunt Lane began today.
 - The Town has received 29 of 135 easements for the beach nourishment project.
 - A public hearing on the MSD's will take place in the Pitts Center March 16, 2021 at 5:30 pm
 - NC Sea Grant initiative aimed at septic health awareness is in the works.
 - Easement legislation-HB 30 is being heard in committee today.
- Town Attorney Gallop had nothing to report.

GENERAL PUBLIC COMMENT

Mayor Bennett called for public comment and hearing no citizen wishing to speak, he closed public comment.

OLD BUSINESS

TOWN CODE UPDATE-CHAD MEADOWS (participating remotely via Zoom)

Chad Meadows presented a PowerPoint presentation to Council, summarizing the Town code ordinance update and steps remaining in the project.

Overview

- Project Background
- Document Overview
- Chapter Review
- Next Steps

Project background – goals

- Reformat the Code for easier use and more clarity.
- Eliminate obsolete/redundant provisions.
- Relocate policy language to outside the Code.
- Address changing State law.
- Re-organize chapters to locate similar provisions together (definitions, enforcement, authorities, etc.)
- Simplify and clarify wording.
- Supplement with illustrations, where appropriate

Project Background – Steps

- Initiation- October 2015
- Community Survey -March 2016
- Public Forum- March 2016
- Code Assessment -October 2016
- Issues Discussion with Council- March 2017
- Final Draft- December 2018
- Public Forum- January 2019
- Legal Review- September 2020
- Adoption Draft -November 2020

Document Review-19 Chapters

Chad Meadows talked about each of these chapters very briefly, focusing on what the chapter does, and the key changes between the current Town Code and the proposed draft code. The version of the code in front of Council included text amendments made through December of 2020.

Chapter highlights are as follows:

CHAPTER 1: GENERAL PROVISIONS

Purpose: Introductory provisions, language construction, amendment, & applicability.

Key Changes: relocated definitions and violations to new consolidated chapters, incorporated ETJ boundary language, and increased focus on language clarity.

CHAPTER 2: ADMINISTRATION

Purpose: Identifies the statutory authority for the Town code, identifies the review authorities in Town who administer the Town code provisions (Council, Planning Board, BOA, Manager, Town Clerk, Police Chief, Fire Chief, Enforcement staff, etc.

Key changes: consolidates all Town-Authority related material, employs statutory references instead of prose listing. Sets out rules of procedure to be followed by appointed boards.

CHAPTER 4: DEFINITIONS

Purpose: Sets out the definitions and abbreviations used throughout the Town Code.

Key Changes: Definitions consolidated here, standards removed from definitions, many terms identify the section they pertain to.

CHAPTER 6: FIRE PREVENTION AND PROTECTION

Purpose: Sets out the fire-related provisions relocated from current Chapter 14, including the fire prevention code, fire inspections, fire alarm permits, basic fire safety requirements for buildings and sites, and open burning provisions.

Key Changes: relocates definitions to Ch. 4, relocates authority material to chapter 2, relocates violations to Ch. 36, updates to address statutory changes in fire code, clarifies the fire alarm permit procedure, open burn provisions (prohibited, allowed without permit, allowed with permit) clarified.

CHAPTER 8: MOTOR VEHICLES AND TRAFFIC

Purpose: Sets out the rules for operation vehicles (motorized and non-motorized), town vehicles on beaches, and procedures for abandoned/junked vehicles.

Key Changes: re-configured to be more topic based, street-related provisions relocated to Ch.18, definitions and offense-related provisions relocated elsewhere, off-street parking to zoning chapter, clarify town authority for vehicles on the beach.

CHAPTER 10: EMERGENCY MANAGEMENT

Purpose: Addresses town operations during and after an emergency (flood, hurricane, civil unrest, etc.) and the recovery afterwards. It covers the establishment of a state of emergency, powers and responsibilities during an emergency, and how the Town will facilitate reconstruction.

Key Changes: no significant changes, relocation of definitions and powers and duties, clarified that emergency powers of Town officials only exist for the duration of the state of emergency.

CHAPTER 12: SOLID WASTE

Purpose: Sets out the standards pertaining to solid waste and recycling for individual landowners and provisions pertaining to solid waste contractors.

Key Changes: update for consistency with town practice (# of containers and placement), removal of repetition, correct contractor language.

CHAPTER 14: WASTEWATER

Purpose: Sets out the standards and procedures for establishment of wastewater management systems for single-family homes and for uses other than single family homes.

Key Changes: renamed from chapter utilities and focused solely on wastewater (since that is what Ch. 32 deals with), definitions and enforcement provisions relocated as with other chapters, revision of terms for consistency, removal of repetition.

CHAPTER 16: CABLE TELEVISION

Purpose: Sets out the rules governing cable television providers seeking to install cable TV infrastructure in the Town.

Key Changes: relocated from current chapter 8 (business and business regulations) to its own chapter due to its unique nature, minor re-ordering for clarity, no substantive change.

CHAPTER 18: STREETS, SIDEWALKS, OTHER PUBLIC PROPERTY

Purpose: Sets out the rules for street features, encroachment agreements, tree removal in the ROW, and public assembly. Interestingly, there are no provisions on sidewalks or public beach access in the current standards despite the chapter name.

Key Changes: only minor reorganization, relocation of some street-based provisions from current chapter 20, addition of public assembly TA-2020-08-01.

CHAPTER 20: BUILDINGS & BUILDING REGULATIONS

Purpose: Adopts state building code, construction inspections, and property numbering standards

Key Changes: relocation of the various provisions establishing the planning department and adopting the building code to other relevant chapters, statutory authority to enforce building code moved to new chapter 36 on enforcement, planning department establishment moved to Ch. 2 administration, building permit and certificate of compliance relocated to zoning chapter-few substantive changes.

CHAPTER 22: ZONING

Purpose: Sets out the standards controlling development.

Key Changes:

- Reduced from 16 articles to 6.
- Definitions relocated to Code Chapter 4.
- Enforcement provisions relocated to Chapter 36.
- General language clarifications
- Added transitional provisions.
- Added rules of measurement.
- Added standard review procedures.
- Standardized procedural section structure.
- Graphically driven district language
- Proposed additional clarity on encroachments.
- Added new summary use table.
- New procedure for classifying unlisted uses.
- Accessory uses distinguished from principal uses.
- Added accessory dwelling unit standards.
- Added new temporary uses.
- Updated parking standards
- Revised the landscaping standards.

- Updated the signage standards.
- New commercial design standards

CHAPTER 24: BUSINESS AND BUSINESS REGULATIONS

Purpose: Sets out the rules for solicitor's permits and alcohol sales.

Key Changes: Solicitor's permit slightly reorganized and reformatted, but no significant changes.

CHAPTER 26: SUBDIVISIONS

Purpose: Sets out the standards for subdivision of land and installation of public utilities.

Key Changes: Establishes a new minor subdivision procedure, adds final plat certificates, Improvements to performance guarantees.

CHAPTER 28: FLOOD DAMAGE PREVENTION

Purpose: Sets out the standards and procedures for development located with the special flood hazard area

Key Changes: Carries forward current language from TCA-2020-01 with no changes, definitions relocated to Chapter 4.

CHAPTER 30: WATERWAYS AND BEACHES

Purpose: Sets out the standards and procedures for activities on or near the water, including the beach and dunes.

Key Changes: Consolidates similar provisions into common sections, addition of illustrations, cross references only to CAMA provisions.

CHAPTER 32: CEMETERIES

PURPOSE: Sets out the standards for the Southern Shores (municipal) Cemetery.

KEY CHANGES: largely carried forward with only reorganization, policy-related material pertaining to funding through the sale of plots has been removed.

CHAPTER 36: OFFENSES & ENFORCEMENT

Purpose: Identifies the violations, nuisance provisions, enforcement procedure, and remedies.

Key Changes: consolidates all enforcement-related provisions, new summary of violations by civil/criminal nature, new noise standards, clarifies available remedies.

Chad Meadows stated that it is important to remember the Planning Board is still reviewing some of these chapters, and the draft text may evolve slightly between now and document adoption. He recommended the following next steps and dates:

- Planning Board meeting to conclude review of Ch. 22, 26, 28 (March 15)
- Planning Board revisions incorporated into Adoption Draft (March)
- Town Council meeting – discussion of substantive comments to staff (April 13)
- Town Council revisions incorporated into Adoption Draft (April)
- Public Hearing on adoption (May 4)

Councilman Conners stated several zoning text amendments have been passed since this project of updating the code began and was concerned of the chance one adopted amendment may not be reflected in the code update. Chad Meadows stated he has received a total of sixteen text amendments from staff since 2016 and will make sure all amendments are incorporated.

Councilman Neal asked for examples of policy language outside of the Town code that has been taken out. Mr. Meadows stated a code assessment was prepared back in 2016 that identified the various policy statements that were candidates for coming out. That information can be found in the input summary matrix on section 2.5 which starts on page 16. That identifies those locations of policy that he felt were appropriate to pull out of the document.

Council had no further questions or comments for Chad Meadows and ended the zoom presentation at 6:40 p.m.

Councilman Neal asked Council to discuss the review process. He stated that it seems like the substantive changes that have come from this code update process have already been included in our Town code and what we are really looking at is format change and a “glossification” of our Town code. He asked, are we inadvertently making changes that we do not know? We are reviewing the updated adoption draft Town code to make sure it complies with our current Town code, fearful that we are drastically changing something. Maybe we have taken the best of the product from the Town update process and adopted it in the code. We still have some chapter 160D regulations that need to come in and some other legal compliance, but we just bring that into the code rather than taking the draft document and adopting it as in totality, we take the concepts that have come out of this code update process and we bring them into the existing language. It seems like this would be a simpler process. He further stated, he does not see an added benefit of clarity by this adoption draft that we do not already have.

Mayor pro tem Morey stated she has been involved with the process for a number of years. The intention of the update is sound, it was worthwhile. The process that we have gone through, the public interaction, the comments that have been received, the staff interacting with the public and the consultant, and the planning boards’ work, has all been worthwhile. It has not been an easy process and it seems we are at a point where we’re more concerned about making an error than we are about making the product better. After speaking with many people who use the code, including current Planning Board Chairperson Andy Ward, Councilman Conners, Councilman Neal and staff, we think our current code is pretty good, it is simple and easy to use. We are in a place now that we just need to deal with Town code amendments, and zoning text amendments to take care of what has to be changed. It will be a faster, more efficient process and we are less likely to end up with inconsistencies in our code.

Councilman Holland asked if what Councilman Neal and Mayor pro tem Morey are saying is, we move ahead and only have to focus on the 160D?

Councilman Neal suggested rather than focus on the adoption draft and the language presented in the reformatting of the chapters and the reorganization of the definitions, we focus on having the staff prepare a few focused zoning text amendments, and Town code ordinance amendments that can focus primarily on chapter 160D compliance and other state regulations that have changed, that were embodied in the adoption draft.

Councilman Conners agreed and was more comfortable keeping the current Town code and making what changes were necessary to bring it into compliance with 160D.

Councilman Neal stated he is prepared to make a motion but first would summarize his thoughts. He stated the tone of the motion would be to direct the Planning Board to focus on chapter 160D and other state regulatory changes that need to be made to our current existing code and not continue to work towards the draft adoption.

Mayor pro tem Morey added, and similarly staff would be working on the Town code amendments that are not appropriate for the Planning Board to address through zoning text amendments; including any other

improvements that have become obvious, as we have worked on this process for five plus years. Ms. Morey also asked the Town Attorney to provide his opinion.

Town Attorney Gallop recommending staff provide a list of topics and leave 160D compliance as its own task.

MOTION: Councilman Neal moved to instruct staff to take valuable elements out of the adoption draft written by CodeWright for review by the Planning Board and the Town Council for future consideration. The motion was seconded by Councilman Conners. The motion passed unanimously (5-0).

Mayor pro tem Morey inquired with the Town Manager if he was comfortable with the motion and what the Town Attorney advised. Town Manager Cliff Ogburn stated he was comfortable and that for clarity, staff's goal moving forward would be to focus on 160D and have that done by July 1st, ideally. There would also be other items coming through the Planning Board and from staff, but not on a schedule.

Councilman Neal recommended to leave it up to the Town Manager's judgement as to prioritization and schedule.

Councilman Conners asked Deputy Town Manager/ Planning Director Wes Haskett if all the zoning text amendments have been incorporated into the draft code. Mr. Haskett stated to the best of his knowledge everything was incorporated, with the exception of one ZTA which was incorrectly incorporated. He stated it was not consistent with what was adopted. Mr. Haskett further stated everything is in the current code, so there is no need to focus on if everything is included in the draft, as we are only transferring what we want from the draft to the current.

GENERAL PUBLIC COMMENT

Mayor Bennett called for public comment and the following citizen spoke:

1. Andy Ward- Council made a wise decision with the Town code this evening. There is a lot of money and time invested in creating this document. There is nothing wrong with our old document and we have updated our own code along the way these past couple of years. All codes should be written as policy neutral.

Hearing no one else wishing to speak, Mayor Bennett closed public comment.

MAYOR/ COUNCIL COMMENTS

Mayor Bennett thanked the Dare County Health Department led by Sheila Davies and our Emergency Management team led by Drew Pearson for the outstanding manner of which they have managed this entire vaccination process. It is a well-organized and an efficient system.

Councilman Holland gave a Tourism Board activity update. Occupancy collections for the month of December were up 73%, 11% for the calendar year. The interesting thing is last year the occupancy collection was up 38% in December 2019, so this is another 71% on top of that. Meal collections are not as positive, off 4% in December, 16% for calendar year. Councilman Holland also stated that he has been assigned to internal committees within the Tourism Board, Finance & Budgeting Committee and the Personnel Committee.

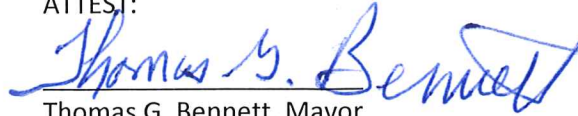
Councilman Conners thanked the Town Manager and Staff for fixing a chronic flooding problem at the intersection of NC158 & South Dogwood.

Mayor pro tem Morey reminded the public that there are two meetings on March 16th, a workshop meeting at 9:00 a.m., followed by a public hearing at 5:30 p.m.

ADJOURN

MOTION: Hearing no other business the Mayor called for a motion to adjourn. Councilman Holland moved to adjourn. The motion was seconded by Councilman Conners. The motion passed unanimously (5-0). The time was 7:07 p.m.

ATTEST:


Thomas G. Bennett, Mayor



Respectfully submitted,


Cheryl Kane, Town Clerk