



Town of Southern Shores  
Regular Council Meeting  
February 2, 2021

**FEBRUARY 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, Finance Officer Bonnie Swain, 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, February 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 Mayor pro tem Morey. The motion passed unanimously (5-0).

**CONSENT AGENDA**

The consent agenda consisted of the following items:

- Council Meeting Minutes – January 5, 2021
- Budget Amendment #18- Police Department Donation
- Budget Amendment #19-Insurance Proceeds to Replace Solar Powered Crosswalk Light

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

## **PRESENTATION**

Mayor Bennett recognized Lorelei Costa for volunteering to serve on the Historic Landmarks Commission board for the Town of Southern Shores.

## **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 January. The Planning Board met on January 19<sup>th</sup> to begin their final review of the Adoption Draft of the Town Code. The Planning Board's next scheduled meeting is February 16<sup>th</sup> at 5:00 PM
- Police Chief David Kole presented the Police Department's report for January.
- Fire Chief Ed Limbacher presented the Fire Department's report for January.
  - 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 received 9 RFQ's for the pavement condition study. Once staff reviews them, we will be making a recommendation to Council at the February 16<sup>th</sup> meeting.
  - Road improvements to Wood Duck Ct. are complete, a similar project is due to start on Last Hunt Lane.
  - Approximately 45 of the 185 beach nourishment easements have been mailed.
  - Representative Hanig introduced our local bill, HB30 and it adds us to the list of the items that a municipality can condemn or eminent domain for a project (for the beach nourishment project-our easement does not take the properties, it simply gives us the right to do the project).
  - Councilman Conners, the Town Manager, along with collaboration from the Southern Shores homeowner associations, have created a walkway and trails map. Staff will inquire about a grant to pay for printing.
  - Public Works staff and volunteers from the SSCA will be placing the collected Christmas trees out on the beach tomorrow morning.
  - The Town Code update will be placed on an agenda very shortly.
- Town Attorney Gallop had nothing to report.

## **GENERAL PUBLIC COMMENT**

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

Public Comment-Rod McCaughey, 8 11<sup>th</sup> Ave- The SSCA has executed the beach nourishment easement. It is difficult to do the right thing sometimes, but this was the right thing to do. There seems to be an inequity with the MSD boundaries.

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

## **OLD BUSINESS**

None

## **NEW BUSINESS**

### **BEACH NOURISHMENT PROJECT-FILING OF THE MSD REPORT**

The agenda summary read as follows, at its December 1, 2020 and January 19, 2021 Council meetings, staff presentations and Council discussion was held regarding the process of establishing Municipal Service Districts to generate revenue to fund the 2022 beach nourishment project. As part of the requirement to prepare a report defining the purpose of the districts, the Town Council also discussed the proposed boundaries of each District.

As discussed at previous Council meetings, North Carolina General Statute 160A Article 23 details the requirements for establishing Municipal Service Districts. NCGS 160A-537(b) requires that before the public hearing required by subsection (c), the city council shall cause to be prepared a report containing:

- (1) A map of the proposed district, showing its proposed boundaries.
- (2) A statement showing that the proposed district meets the standards set out in subsection (a); and
- (3) A plan for providing in the district one or more of the services listed in G.S. 160A-536.

The report shall be available for public inspection in the office of the Town Clerk for at least four weeks before the date of the public hearing. Staff is presenting this report at this meeting for Council approval.

If the Council approves filing the report, then a public hearing will need to be scheduled. More specifically, NCGS 537(c) says:

Hearing and Notice. - The city council shall hold a public hearing before adopting any ordinance defining a new service district under this section. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall include a map of the proposed district and a statement that the report required by subsection (b) is available for public inspection in the office of the city clerk. The notice shall be published at least once not less than one week before the date of the hearing. In addition, it shall be mailed at least four weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the proposed district. The person designated by the council to mail the notice shall certify to the council that the mailing has been completed and his certificate is conclusive in the absence of fraud.

It is recognized that the earliest scheduled meeting of the Council for this public hearing would be March 16. However, that meeting is held at 9:00 a.m. and may not provide the best opportunity for citizens to comment. The Council may want to consider scheduling a special meeting for the purpose of this public hearing. Due to the difficulties associated with the Coronavirus for gathering for a public hearing such as this, staff will be as accommodating as possible to make sure that anyone wishing to be heard can do so safely. To meet the requirements, staff will mail the required notice to all owners within the proposed districts no later than February 5, 2021 and publish the Public Hearing Notice.

Then the required Public Hearing could be held during a special meeting but no earlier than March 8, 2021. NCGS 160A-537(f) requires that an ordinance defining a service district shall not be finally adopted until it has been passed at two meetings of the Town Council by majority vote of the voting members present, and no service district shall be defined except by ordinance. Council may take its first vote on the ordinance at this meeting.

At the Public Hearing and no later than five 5 days afterwards, an owner of a tract or parcel of land located within the proposed districts may submit a written request to the Town Council for the exclusion of the



tract or parcel from the proposed district. The owner shall specify the tract or parcel, state with particularity the reasons why the tract or parcel is not in need of the services, facilities, or functions of the proposed district to a demonstrably greater extent than the remainder of the Town and provide any other additional information the owner deems relevant. If the Town Council finds that the tract or parcel is not in need of the services, facilities, or functions of the proposed district to a demonstrably greater extent than the remainder of the Town, the Town Council may exclude the tract or parcel from the proposed district (NCGS 160A-537(c1)).

The dates for the remaining steps in the process would then follow be:

- April 13, 2021 – First vote to establish required ordinance if no vote is taken at the March meeting.
- May 4, 2021 Council takes second vote.
- Tax rate would be established with adoption of FY 2021/22 budget
- Effective Date – July 1, 2021

Town Manager Ogburn clarified that there will be a town wide tax rate, a contribution to the project, and the rest of that revenue will be distributed among two MSD's.

Councilman Holland asked if the mailing would go out town wide. Town Manager Ogburn stated the mailing would go out to those in the MSD's only, as it is not required to be a town wide mailing.

Mayor Bennett stated he did not want to blindsides anyone but has been thinking the project through. He was concerned with the scope of the project and the cost. He stated is as we address the critical concerns now, and reduce the scope of the project, we could probably pay for it in a different way.

Town Manager Ogburn replied to Mayor Bennett, stating he thinks what you heard from the engineer was the southern end is justified based on the erosion, the central portion of the beach is in need due to storm vulnerability, and the northern end was included because of an expressed need to have a wider beach because it was too steep. If the scope of work were to be reduced based on the design, you would be taking out those properties north of Third Avenue. The cost savings would be in the reduction of cost per cubic yard, as the mobilization would be the same.

Councilman Neal stated the northern section requires far less cubic yard of sand to get a "useable beach". It might be a marginal cost to have the northern section included and we would be aiding Duck and keeping their sand in place by building up the northern section. The county is pitching in 50% of the cost of the project, we should view it as a county issue. It is a long term 30-year protection for our shoreline unless you want to discuss shoreline abandonment, which no one will bring up. He stated he just did not see a lot of cubic yards due to be wasted on the northern beaches.

Mayor pro tem Morey stated the difficulty of the decision is weighing on all of us. Two years of data is not a lot of data. Moving forward you must think of protection from storms and sea level rise, as we go into the future. It is a big project, a lot of money and the biggest project the town has done. She further stated if we are going to do it, she leans towards doing the whole beach.

Council discussed Dare County and their commitment to the Southern Shores project and/or Avon.

Councilman Holland stated he is inclined to do the entire beach, but we may have to compromise and due the more critical areas first. He stated he did not know if that was feasible, picking selective parts to do.

Town Manager Ogburn stated if the County does not contribute, then the project will lose integrity. The Council is struggling with the MSD maps and this current map does not have to be the final one Council adopts. Council can adopt something less than this. The notice to be advertised states based on the public hearing, the maps are subject to change.

Councilman Neal stated the County has been the driving force behinds the project and if they reduce or eliminate their participation, we will obviously just have to address the emergency areas only.

Mayor Bennett stated if we tax this project town wide it would be .08 cents on the tax rate and eliminate MSD's. The canal project was shared by the town.

Town Manager Ogburn stated If you are going to tax the project town wide you will get equal resistance, if not more resistance from that idea that a property sitting the farthest back from the ocean is paying the same rate as someone on the ocean. The benefit to the beach nourishment project is that it helps fight erosion from those houses, it stabilizes the infrastructure, stabilizes the income from those houses, and that is a greater benefit, that is the distinction between the beach nourishment project and the canal project.

Councilman Neal stated the manager is looking for authority to file the report and advertise the MSD's. The boundary lines can be redrawn after the public hearing, they do not need to be set tonight in concrete. The public hearing will be for the boundaries, not the tax rate. He was inclined to remove some of the properties included in MSD 1, but is fine advertising it, as is, for now.

Council was in consensus to leave the maps as currently drawn, for now.

Councilman Holland stated he felt it would be best to have the public hearing set as its' own agenda, not try and combine it into another meeting.

**MOTION:** Councilman Neal moved to approve the report to establish municipal service districts as defined by the NC General Statutes. The motion was seconded by Mayor pro tem Morey. The motion passed unanimously (5-0).

**MOTION:** Mayor pro tem Morey moved to set a public hearing for the MSDs on Tuesday, March 16<sup>th</sup> at 5:30 PM. and a budget workshop same day, at 9:00 AM. The motion was seconded by Councilman Holland. The motion passed unanimously (5-0).

#### HISTORIC LANDMARKS COMMISSION PUBLIC HEARING

Town Attorney Gallop opened the public hearing and called on Planning Director Wes Haskett for a report.

Mr. Haskett stated at the January 5, 2021 Town Council meeting, Council directed Town Staff to draft a Town Code Amendment (TCA) to establish an alternate member position on the Town's Historic Landmarks Commission. A Public Hearing is required prior to approval of the TCA-21-01. There is currently one volunteer application on file that was submitted by Michael Guarracino and he is interested in serving on the Commission. A separate motion would need to be made to appoint Michael Guarracino as an alternate member of the Town's Historic Landmarks Commission with a term to begin immediately and expire on February 2, 2024.



Town Attorney called for public comment, hearing no one wishing to speak, he closed the public hearing.

**MOTION:** Mayor Bennett moved to approved TCA-21-01 as written. The motion was seconded by Mayor pro tem Morey. The motion passed unanimously (5-0).

**MOTION:** Mayor Bennett moved to appoint Michael Guarracino as an alternate member of the Town's Historic Landmarks Commission with a term to begin immediately and expire on February 2, 2024. The motion was seconded by Councilman Holland. The motion passed unanimously (5-0).

CONSIDERATION OF POTENTIAL STREET IMPROVEMENT PROJECTS ON HILLCREST DR. AND SEA OATS TRAIL

Town Manager Ogburn reported the Town Council last adopted a recommended plan for street improvements from the Capital Improvement Infrastructure Committee on July 9, 2019 for fiscal year 2019-2020. The Town Engineer began the engineering and design for street improvements on Hillcrest Dr. and Sea Oats Trail, which were labeled as the second and third priority on the adopted plan, in the early part of last fiscal year. Both these projects are ready to go out for bid solicitation. Due to the concerns of lost revenue because of the Coronavirus, no funds were budgeted for street improvements in the current FY. Funds for this expense would come from unassigned fund balance. It should be noted that current year budget amendments totaling near \$650,000 should be subtracted from the \$2,995,546. Staff is comfortable with estimating today's available fund balance at around \$2,300,000.

Mayor pro tem Morey was comfortable putting the projects out to bid to obtain a cost.

Mayor Bennett felt only one project should be bid at this time.

Councilman Neal stated he was not comfortable moving forward with both projects until the 10-year capital improvement plan was completed. He then stated, looking at the revenues, he would be willing to put Sea Oats Trail out to bid, with acceptance of the lowest bidder.

Council ultimately felt that Hillcrest Dr. should finished being engineered (missing section) before being placed out to bid.

**MOTION:** Mayor Bennett moved to direct the Town Manager to solicit bids for Sea Oats Trail. The motion was seconded by Councilman Holland. The motion passed unanimously (5-0).

**By Consensus,** Council directed the Town Manager to have the town engineer finish the plans for Hillcrest Drive.

**GENERAL PUBLIC COMMENT**

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

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

**MAYOR/ COUNCIL COMMENTS**

Mayor pro tem Morey gave a status update on two things related to seasonal cut thru traffic. The consultant report and findings are due in a couple of weeks. The traffic committee has been contacted and a final report requested. Once everything is received, council can schedule a special meeting to discuss this very vexing problem of seasonal cut thru traffic.

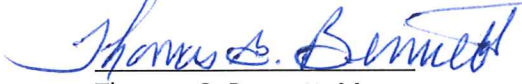
Councilman Neal praised the Town's Public Works Director David Bradley, for a job well done that involved a neighbor of his. He also gave a brief update of the Streets Committee, stating the 10-year capital improvement plan draft was discussed and reviewed.

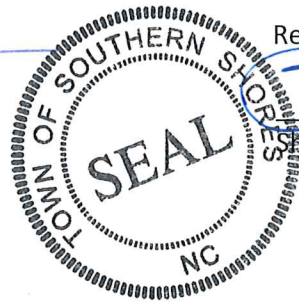
Councilman Holland stated there is a Red Cross blood drive at the Holy Redeemer Catholic Church tomorrow at noon. He also provided a brief Tourism Board update. Occupancy revenue was up 48% for the month of November, 10% year to date. Food revenue was up 28% for November, but still down 17% year to date. Councilman Holland also requested everyone keep Tatum Love in their prayers, she is the young citizen recently critically injured in a car accident, and her mother serves with him on the Tourism Board.

**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 Neal. The motion passed unanimously (5-0). The time was 6:58p.m.

ATTEST:

  
Thomas G. Bennett, Mayor



Respectfully submitted,

  
Sheila Kane, Town Clerk