



Town of Southern Shores  
Regular Council Meeting  
December 1, 2020

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, December 1, 2020.

**COUNCIL MEMBERS PRESENT:** Mayor 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, Fire Chief Ed Limbacher, and Public Works Director David Bradley.

**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**

Town Manager Cliff Ogburn requested item 6A be considered immediately following the Fire Chief's monthly report (item 3C) to accommodate scheduling.

**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 – October 20, 2020

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

**PRESENTATIONS**

- Tribute to Warren Davis-Mayor Bennett recognized Warren Davis for his 37 years of community involvement with so many organizations here on the Outer Banks. We also celebrated Warren's coming 100<sup>th</sup> birthday, December 16, 1920.

- Employee Recognition
  - Forest Hood, 5 Years of Service
  - New Employee Introduction-Marcey Baum, Permit Officer & Kevin Clark, Building Inspector/ Code Enforcement Officer
- SSPD Recognition-Dare County Motorcycle Toy Run-Terry Gray

**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 November. In respect to the Town code update, the Town Attorney’s comments have been addressed and the necessary revisions have been made. The Planning Board will begin its review of the public hearing draft January 19, 2021.
- Police Chief David Kole presented the Police Department’s report for November.
- Fire Chief Ed Limbacher presented the Fire Department’s report for November.

**Southern Shores Fire District Firefighters’ Relief Fund**

The Fire Department Relief Fund is a board of five members, two of which are appointed by the Town Council. The Fire Chief serves as a tiebreaker vote only.

Monique Mims from 207 Sea Oats Lane is the recommendation from the Southern Shores Volunteer Fire Department for appointment of a Southern Shores citizen as a Trustee to the Southern Shores Fire District Firefighters’ Relief Fund Board of Trustees. The Fire District Firefighters’ Relief Fund is governed by state statutes of Article 84 of Chapter 58.

Hearing no objections to the appointment, Mayor Bennett called for a motion.

**MOTION:** Councilman Conners moved to appoint Monique Mims to the Southern Shores Fire District Firefighters’ Relief Fund Board of Trustees. The motion was seconded by Councilman Holland. The motion passed unanimously (5-0).

**GENERAL PUBLIC COMMENT**

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

Paul Borzellino-Invitation to his annual Christmas display on 7<sup>th</sup> Avenue, December 15-January 5.

**BUSINESS ITEMS**

**Beach Nourishment-MSD Boundaries**

Town Manager Ogburn directed Council on the process of establishing one or more Municipal Service Districts to generate revenue to fund the 2022 beach nourishment project. He reported, at this time, with funding from the Dare County Beach Nourishment Occupancy Fund uncertain, the focus will mostly be on establishing the district boundaries with less emphasis on potential tax rates for each of the districts until funding becomes clear. The districts can be established first and the tax rate applied later with the adoption of the annual operating budget.

In January of this year, DEC Associates presented to Town Council the typical process for funding beach nourishment projects to date in Dare County. The assumption being that funding from occupancy tax for beach nourishment would pay half of the cost of each project. The funding models assume that the other half would come from the equivalent of 7.82 cents of each town’ tax levy with the remaining portion negotiated with the County to be paid out of the occupancy tax for beach nourishment. The terms of the County contribution will need to be clarified in an Inter-local Agreement that the County and Town approve.

Current planning calls for property tax to be levied through a town wide tax so that all properties within the Town contribute, coupled with one or more Municipal Service Districts. The size and makeup of these Municipal Service Districts is what the Town Council needs to consider.

Mr. Ogburn presented a PowerPoint presentation with two options [attached], with the assumption that the Town will need to generate \$1,224,775 per year for 5 years to pay its portion of a ~\$16 million-dollar project. Its staff's opinion that regardless of the County funding, the boundaries will remain the same unless the project is greatly altered. In January of 2021, the Council will need to direct staff to prepare a report which initiates the process. The timeline that has been drafted for this process has the final adoption of the districts in April of 2021. There is approximately one month of excess time built into the calendar. The tax rates for the municipal services districts will go into effect July 1, 2021. The Dare County Tax Collector has requested that our districts be established no later than May 4, 2021 so that they can prepare for collection of the new tax.

Mayor Bennett reported there is no action at this time that Town Council needs to take. However, staff appreciates any feedback and discussion to generate a consensus among Council members to establish the districts.

Councilman Conners requested some street names be provided in the notice.

Councilman Holland asked what the protocol was for those wanting to be excluded?

Town Attorney Gallop reported that those property owners wanting to be excluded would need to do so by requesting it at the public hearing or in writing within 5 days of the hearing.

Councilman Neal confirmed that at the January meeting, Council will discuss the boundaries and then the February meeting Council will be provided a map reflecting these new boundaries. Town Manager Ogburn concurred.

Councilman Neal and Conners both discussed ocean influence maps. Councilman Conners requested Town Manager Ogburn to provide examples at the January meeting of how other towns tax for beach nourishment.

Mayor pro tem Morey stated if we introduce ocean influence into our discussion, could we direct the Town Manager to possibly get some more background as to how the ocean influence was derived. Town Manager Ogburn confirmed that he could provide that information.

No further action was taken at this time.

#### **Historic Landmarks Commission Appointments**

The two-year terms for Historic Landmarks Commission (HLC) members Lorelei Costa, Tony DiBernardo, and Richard Perkins will expire on December 11, 2020. HLC member Lorelei Costa has notified Town Staff that she will soon no longer reside in Southern Shores and therefore will no longer be eligible to serve on the HLC. HLC members Tony DiBernardo and Richard Perkins have both indicated that they would like to continue serving on the HLC. There are currently no applications on file to fill the vacancy created by Lorelei Costa's departure.

**MOTION:** Mayor Bennett moved to reappointment Tony DiBernardo and Richard Perkins as members of the Historic Landmarks Commission. The motion was seconded by Councilman Conners. The motion passed unanimously (5-0).

Mayor pro tem Morey and Councilman Connors both inquired as to future appointments to fill the vacancy created by Lorelei Costa's resignation due to eligibility.

Deputy Town Manager/Planning Director Wes Haskett stated the Town is currently seeking applicants.

#### **Resolution 2020-12-01-CSDM Award Funding**

Town Manager Ogburn reported in October, the Town received \$1,408,247.19 in grant funding from the N.C. Department of Environmental Quality's Division of Water Resources (DWR). The award from the Coastal Storm Damage Mitigation Fund will help fund the Town's beach nourishment project. As part of the grant award process, the Town needs some additional steps to receive the funding. In order for the State to move forward with executing the contract and disperse funding, the Town will need to submit a resolution from the Council regarding the funding, a copy of the Town's Conflict of Interest Policy, an Appropriation Request form and a letter requesting the funds.

The Town's present Conflict of Interest Policy is predicated upon Federal funding. The policy will need to be amended to capture State law.

**MOTION:** Mayor Bennett moved to approve the conflict of interest statement. The motion was seconded by Mayor pro tem Morey. The motion passed unanimously (5-0).

**MOTION:** Mayor Bennett moved to approve Resolution 2020-12-01 CSDM Award Funding and letter requesting funds, as presented. The motion was seconded by Councilman Holland. The motion passed unanimously (5-0).

#### **2021 Council Meeting Schedule – Resolution 2020-12-02**

Councilman Neal requested to move the April 6<sup>th</sup> meeting one week out to accommodate a scheduling conflict.

**MOTION:** Mayor Bennett moved to approve the 2021 Council meeting schedule-Resolution 2020-12-02 with an April amended meeting date of April 13, 2021. The motion was seconded by Mayor pro tem Morey. The motion passed unanimously (5-0).

Councilman Holland confirmed the workshop meetings are not being canceled and will be held the third Tuesday of the month, as needed.

#### **Consideration of Street Project – Wood Duck Court Asphalt Overlay**

The Wood Duck Ct. road improvement project was brought to the Streets Committee with an estimated cost and explanation of why it was important to consider. The committee chose to forward it directly to Council, rather than make a decision on it. The request is to direct the Town Manager to use funds of \$18,430 to make necessary repairs/improvements to Wood Duck Ct.

Councilman Connors stated the street does not consist of many homes but there is storm drainage issues and a true need for repairs.

Councilman Neal stated the streets committee had overwhelming support for the project utilizing the remaining money already budgeted for streets this year.

Councilman Holland stated there has been two requests from homeowners on that street to address the improvements needed.

Mayor pro tem Morey's understanding is there has been more recent activity on that street, a house under construction with contractor trucks coming and going. This is the original street that has never been repaired or improved and this additional impact has made the street worse than it was before. Ms. Morey asked if the contractors were to be held liable. The Town needs to be vigilant with contractors and others that are abusing the roads.

Councilman Conners stated the road could have been not quite up to standards to begin with and the narrowness of the road doesn't help. The Town does require a surety bond from all contractors.

Deputy Town Manager/Planning Director Wes Haskett confirmed that there are contractors working on a house on that street. The contractor has fixed landscaping issues caused by the trucks but did not have the ability to make additional repairs to the road that, as Council said, was not quite adequate to begin with.

**MOTION:** Mayor Bennett moved to direct the Town Manager to use \$18,430 to make necessary repairs/improvements to Wood Duck Ct. The motion was seconded by Councilman Neal. The motion passed unanimously (5-0).

#### **Consideration of Paving Study**

Councilman Neal requested a moment to discuss a paving study, a tool to construct upon for the Town Manager to develop a 10 plus year plan, as well as financial planning. All of Council agreed to address the item at this time.

Councilman Neal stated the Town of Southern Shores had a paving study previously (ITRE Report) and it would behoove the Town to move forward with a new study. The study would be good for 5-8 years. He admitted the Streets Committee was not entirely comfortable with the idea and got the impression they most likely thought the expense of the study would need to come from the annual street improvement budget allocation. Councilman Neal strongly supported the idea of a paving study. He stated with the study, the Streets Committee can then weigh in on additional improvements, such as sidewalks. The study would give the Town Manager and Streets Committee a base to work with.

Mayor pro tem Morey stated historically citizen input has been a great value in the street priority list. She was initially not sold on the pavement study but with the explanation of providing a base to start, and keeping citizen input, she would support the study.

Town Manager Ogburn stated pavement studies are worth the expense. Street improvement is Southern Shores is the largest capital expense, and we are not doing it in an efficient way. He estimated the pavement study to cost approximately \$30,000 and from there a 10-year plan could be developed.

Mayor Bennett stated the residents of this Town know the streets better than anyone. He agrees the study would provide a base for the committee to work with.

Councilman Conners supports the study but wanted to make sure the analysis did not weigh heavily on how many homes are on a particular street. He stated the study will remove any politics from decision making, providing unbiased facts of street conditions and priorities.

**MOTION:** Councilman Neal moved to direct the Town Manager to issue an RFQ for a street paving study for the Town of Southern Shores. The motion was seconded by Councilman Holland. The motion passed unanimously (5-0).

Councilman Conners inquired if the RFQ would come to Council for approval, or just the request for qualifications submissions once received.

Council agreed the Town Manager was capable of creating and advertising the RFQ and Council would consider the submissions once received.

**PUBLIC COMMENT**

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

**COUNCIL COMMENTS**

Councilman Neal welcomed the new Town staff members and wished everyone a Merry Christmas.

Councilman Conners did the same, including a thank you to Mayor Bennett for recognizing Warren Davis.

Councilman Holland reported Holy Redeemer Catholic Church will be hosting a blood drive from 12-6 p.m. Wednesday, December 2<sup>nd</sup>. He also provided a brief update on the Tourism Board; occupancy being up 6% for the year, but meals are still 22% off for the calendar year. The Throwdown Surf Benefit raised \$33,000, which was donated to the Community Foundation.

**ADJOURN**

Hearing no other business, Mayor Bennett called for a motion to adjourn.

**MOTION:** Councilman Holland moved to adjourn the meeting. The motion was seconded by Councilman Neal. The motion passed unanimously (5-0). The time was 7:10 pm.

ATTEST:

Respectfully submitted,

\_\_\_\_\_  
Thomas G. Bennett, Mayor

\_\_\_\_\_  
Sheila Kane, Town Clerk