



Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

www.southernshores-nc.gov

SEPTEMBER 6, 2016 COUNCIL MEETING-5:30 P.M.-PITTS CENTER

1. Opening

- A. Call Meeting to Order (all citizens interested in offering Public Comment are reminded to sign up.)
- B. Pledge of Allegiance
- C. Moment of Silence
- D. Amendments/Approval to Agenda
- E. Consent Agenda **(TAB 1)**
 - i. Approval of Minutes - August 2, 2016
 - ii. Budget Amendment #3 (Revenue from surplus of police equipment & donation)

2. Employee Recognition

- A. Lieutenant Jon Slegel-15 Years of Service

3. Staff Reports

- A. Town Planner
 - i. Monthly Report
 - ii. Update on Town Code Draft Assessment preparation - Chad Meadows, CodeWright
- B. Police Chief
 - I. Monthly Report
 - II. Law Enforcement appreciation
- C. Fire Chief, Southern Shores Volunteer Fire Department

4. Board and Committee Reports (Recommendations)

- A. Council Planning Committee **(TAB 2)**
 - i. Report of August 8th meeting
- B. Council Public Safety Committee **(TAB 3)**
 - i. Report of August 22nd meeting (includes Committee Recommendations)

5. Old Business

- A. Report/Recommendation on Council's Historic Landmarks Designation program Initiative - Town Manager **4**
- B. Consideration of Draft Resolution Amending Council Rules of Procedure Section 13 - Request of Council **5**

6. New Business

- A. Consideration of Draft Resolution Incorporating a Veterans Preference Policy into Employment Policy of the Town of Southern Shores - Request of Dare County Veterans Advisory Council (refer to Town Manager) **6**
- B. Discussion - Potential Town Liability for Placement of Street Traffic Devices - Councilman McDonald Request

7. General Public Comment (Limit: 3 minutes per speaker.)

8. Other Business

- A. Town Manager's Report
- B. Mayor's Comments & Responses
- C. Council Member's Comments & Responses
- D. Town Attorney's Report

9. Adjourn

SEPTEMBER 6, 2016

TAB 1



**Town of Southern Shores
Regular Council Meeting
August 2, 2016**

The Town of Southern Shores Council met in the Pitts Center located at 5375 N. Virginia Dare Trail at 5:30 p.m. on Tuesday, August 2, 2016.

COUNCIL MEMBERS PRESENT: Mayor Bennett, Mayor Pro Tem Fred Newberry, Council Members Leo Holland, Chris Nason and Gary McDonald.

COUNCIL MEMBERS ABSENT: None

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

Mayor Pro Tem Newberry requested to amend the agenda to include two potential items under New Business. Mayor Bennett stated that each new agenda item he is requesting should be presented and voted on separately.

MOTION: Mayor Pro Tem Newberry moved to amend the agenda to include under New Business his discussion of an amendment to the Council Rules of Procedure regarding the agenda. The motion was seconded by Council Member McDonald. The motion passed 3-2 with Mayor Pro Tem Newberry, Council Member Nason, and Council Member McDonald voting YES; Mayor Bennett and Council Member Holland voting NO.

MOTION: Mayor Pro Tem Newberry then moved to amend the agenda to include under New Business his discussion requesting the Town Manager to provide a monthly report of proposed state laws that could potentially impact the residents and citizens of Southern Shores. The motion was seconded by Council Member Nason. The motion passed 3-2 with Mayor Pro Tem Newberry, Council Member Nason, and Council Member McDonald voting YES; Mayor Bennett and Council Member Holland voting NO.

MOTION: Council Member McDonald moved to approve the agenda as amended. The motion was seconded by Council Member Holland. The motion passed unanimously (5-0).

CONSENT AGENDA

The consent agenda consisted of the following items:

- Approval of Minutes-July 5, 2016
- Resolution opposing the rate increase requested by Dominion North Carolina

MOTION: Council Member Holland moved to approve the consent agenda. The motion was seconded by Council Member Nason. The motion passed unanimously (5-0).

107 weekly, or even monthly basis what the legislature is doing until they are finished. He stated,
108 however, you can track what has been adopted.

109
110 Town Attorney Gallop asked if this would be direction passed on to him to actively monitor
111 and report? If so and from a budgeting basis, it would change what he currently does for the
112 Town. For him to actively keep up and track daily, weekly and monthly legislation is different
113 than what is currently being provided. It depends on the Council's goal.

114
115 The Town Manager stated it was already his responsibility to report to the Council on
116 emerging initiatives and issues brought to his attention that would affect the citizens of
117 Southern Shores.

118
119 **MOTION:** Mayor Pro Tem Newberry moved to have the Town Manager report to Council
120 on a regular basis any legislative actions that would affect the Town of Southern Shores. The
121 motion was seconded by Council Member McDonald. The motion passed unanimously (5-0).

122 123 124 **GENERAL PUBLIC COMMENT**

125 Mayor Bennett called for public comment and the following citizens offered comment with
126 topic(s) as indicated:

- 127 - Norm St. Laurent, 63 Hickory Trail - Would like to thank Chief Kole and his fellow officers
128 for the wonderful job that they do.
- 129 - Joe Van Gieson, 228 N. Dogwood - Would like Council to report on status of closed
130 session minutes.

131 [Clerk's Note: A copy of the public comment signup sheet is hereby attached].

132 133 **OTHER BUSINESS**

134 Town Manager's report

135 The Town Manager addressed several matters:

- 136 - The Council's Historic Landmark initiative is progressing and another
137 meeting with citizens is scheduled. A report and possible recommendation
138 will be given to Council at the September 6th Council meeting.
- 139 - The draft assessment from CodeWright will be transmitted to each Council
140 member individually during the day on September 6th. As of now, Mr.
141 Meadows reports he will be unable to attend the Council meeting that
142 evening but will deliver the draft assessment that day. It will be placed on
143 the website for review by the public, and CodeWright will encourage public
144 input on the draft. The draft assessment will not consist of any actual
145 proposed text changes to the Code of Ordinances.
- 146 - The storm water remediation project at NC12 and East Dogwood is in the
147 design phase. The property at the intersection's south east quadrant has
148 now been acquired by the Town, and the grading work of the interior of the
149 lot will go out for bid.
- 150 - The structure on Town property at #7 Skyline Drive is scheduled for
151 demolition at the end of the week.
- 152 - The capital street improvement projects that Council authorized for the
153 fiscal year are well under way and now in the design phase. These
154 projects are Yaupon Trail, Osprey Lane, Wild Swan Lane and parts of
155 Juniper Trail.
- 156 - Due to several citizen complaints, a temporary traffic device has been
157 installed on East Dogwood Trail beside the stop at the Hickory Trail
158 intersection. Staff will look at whether this particular device beside the stop
159 sign may help ease the traffic making a left turn onto Hickory Trail. The
160 location will be assessed to see if any existing Town signage needs to be

216 provided some really good information that he had not had before and it was appreciated.
217 He stated Chief Limbacher's most critical need now is volunteers.

218
219 Mayor Pro Tem Newberry also stated that the Gov-Ed Access Channel grant money is
220 once again available. Since the Town used it to update equipment this past year it would
221 be nice to use grant money to produce some videos for YouTube promoting Southern
222 Shores in whatever light is appropriate.

223
224 Council Member Holland stated he has met with the Fire Chief as well and it is a very
225 enlightening experience. The work that goes into keeping up with federal regulations and
226 getting ISO certified is tremendous. The Fire Department is made up of true professionals.

227
228 Council Member Holland also stated he is the Town's representative on the Tourism Board
229 and that they did not have a meeting in July but he will report back on the August meeting
230 next Council meeting.

231
232 Council Member McDonald responded to Mr. Van Gieson's request about closed session
233 minutes. He stated that at the last meeting Council did approve and release closed session
234 minutes, excluding personnel issues, during the closed session. There was no citizens
235 present when Council came back into open session.

236
237 Town Attorney Gallop stated at the last meeting Council approved being part of an amicus
238 brief involving the Town of Emerald Isle and public usage of the beaches throughout the
239 state. Attorney Gallop stated he prepared the brief for Southern Shores, Kitty Hawk, Duck,
240 Kill Devil Hills, Nags Head, Dare County, Currituck County, Hyde County and the NC
241 Beach Buggy Association. He stated all the attorneys representing the local governments
242 signed on except for Hyde and Dare County. A motion and a brief were filed with the
243 Supreme Court and the motion had been accepted. This means that the brief will be
244 accepted in the Supreme Court's analysis whenever it decides to make a decision. Town
245 Attorney Gallop stated there were also other amicus briefs filed for all the remaining
246 oceanfront towns, counties and several agencies in the state. A press release on this can
247 be found on the Town of Emerald Isle's website.

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249

250 **ADJOURN**

251 **MOTION:** Council Member Holland moved to adjourn. The motion was seconded by
252 Mayor Bennett. The motion passed unanimously (5-0). The time was 6:50 pm.

253
254

255 **ATTEST:**

Respectfully submitted,

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257

258 _____
Thomas G. Bennett, Mayor

259 _____
Sheila Kane, Town Clerk

260
261



SEPTEMBER 6, 2016

TAB 2

Town of Southern Shores Council Planning Committee Meeting (Bennett, Newberry)
10:00 AM August 8, 2016
Town Hall Conference Room

Attending:

Committee Members: Tom Bennett, Mayor

Staff: Wes Haskett, Town Planner; Rachel Patrick, Public Works Director

Attending Public: Leo Holland, Council Member

Absent:

Committee Member: Fred Newberry, Mayor Pro Tem

Mayor Bennett called the meeting to order at 10:03 a.m.

Wes Haskett explained that Ken Wilson, P.E., Coastal Planning and Engineering of N.C. had recently contacted the Town Manager suggesting that the Town consider authorizing a beach profile analysis to be performed for the north and south portions of the Town's beach during the same time as the surveying work for parts of the Duck, Kitty Hawk, and Kill Devil Hills beach nourishment project. By doing the survey work at that time, it would be a cost savings for the Town. The most recent data consists of beach profile surveys of the southern 15,000 feet of the Town in 2004, 2005, and 2006 conducted by the U.S. Army Corps. of Engineers Field Research Facility in Duck. A new profile survey would consist of about 13,000 feet located between the southern portion of the Duck nourishment area and the northern portion of the Kitty Hawk nourishment area at a cost of just under \$35,000. Mr. Wilson has offered to present this information to the Town Council and discuss with them some of the first steps he would recommend to establish a shoreline monitoring program.

Mayor Bennett stated that it would be a good time to have this work done considering the timing of the Duck, Kitty Hawk, and Kill Devil Hills nourishment project and by doing so, the Town would be getting ahead of potential problems. Rachel Patrick agreed and stated that it would be an advantage for the Town to have this data to observe changes. Mayor Bennett stated that he will recommend to the full Council at the September 6, 2016 meeting that Council request Ken Wilson, P.E., Coastal Planning and Engineering of N.C. to give a presentation at the October 4, 2016 Council meeting to present the project details and the possibility of establishing a shoreline monitoring program.

Mayor Bennett explained that he and Chief Ed Limbacher, Southern Shores Volunteer Fire Department had discussed the need for making improvements to the South Dogwood Trail fire station. Chief Limbacher has hired the services of a consultant to perform a needs assessment for the facility to see how they should move forward. One possibility is to build a new facility which could potentially involve having to relocate the Town's Public Works facility. Rachel Patrick stated that the East Dogwood Trail fire station property location could work for Public Works, but the existing building on the site would not be suitable for their needs.

Wes Haskett motioned to adjourn the meeting. Rachel Patrick seconded the motion. The meeting adjourned at 10:30 a.m.

SEPTEMBER 6, 2016

TAB 3

Town of Southern Shores Council Public Safety Committee Meeting (Bennett, McDonald)
10:00 a.m. August 22, 2016
Town Hall Conference Room

Attending:

Committee Members: Mayor Tom Bennett and Councilman Gary McDonald

Citizen Representative: Steve Hotchkiss

Town Staff: Town Manager Peter Rascoe; Police Chief David Kole; Fire Chief Ed Limbacher;
Surf Rescue Director Mirek Dabrowski; Town Planner Wes Haskett

Public: Council Member Leo Holland; Pat Regan, volunteer for SSVFD

Mayor Bennett called the meeting to Order at 10:00 a.m.

➤ Chief of Police Kole was recognized to present the first item on the meeting agenda, being his recommendations and reasonings regarding the existence, placement, and removal of traffic control devices including regulatory signage and calming devices. (A copy of Chief Kole's recommendation memorandum, along with copies of citizens' prior comments regarding Hickory Trail traffic including its prior street rebuild and width, is attached to these minutes.) Each recommendation listed was presented by Chief Kole with his reasonings, and discussed by the committee members and staff. Citizen representative Steve Hotchkiss stated concern about NC Highway 12's speed limit of 45 mph being too fast in the summer months, and the need for enhancements to the state highway's crosswalks. A fourth location for stop sign removal was recommended by Mayor Bennett, being the east-west stop signs on Hickory Trail at its intersection with Hillcrest Drive. The Town Manager commented to the committee that Chief Kole's recommendations for stop sign removals and speed limit change would require Council action for amendment to the official traffic map in accordance with the Town Code. He also commented that the Chief's recommendations for adding more no-parking signs in certain no-parking areas, and adding more speed limit signs in established speed zones are matters that the Public Works Department will work with the Police Department on. The Town Manager also commented to the committee that the Chief's concerns and recommendations about crosswalks and speed limit on NC Highway 12 were appropriate for Council action to direct a dialogue between the Town and the NCDOT Board member for District One and the NCDOT District One Engineer, if the Council so chooses.

After further discussion by the committee, the two members of the committee reached consensus on the following committee action:

1. Recommend Council approve removal of
 - (a) Two (2) east-west stop signs on East Dogwood Trail at its intersection with Hickory Trail. (Adjacent traffic calming device will have been removed September 6, 2016);
 - (b) Two (2) north-south stop signs on South Dogwood Trail at its intersection with private Mallard Cove Loop.
 - (c) Two (2) east-west stop signs on Chicahauk Trail at its eastern intersection with Clam Shell Trail.
 - (d) Two (2) east-west stop signs on Hickory Trail at its intersection with Hillcrest Drive.
2. Recommend Council authorize increasing the speed limit on Circle Drive from 15 mph to 25 mph.

3. Recommend Council authorize a meeting between the Town and the NCDOT District One Board Member and the NCDOT Division One Engineer to discuss safety enhancements for pedestrian crosswalks along NC Highway 12, and to discuss NCDOT possibly lowering the speed limit on NC Highway 12 in Southern Shores from 45 mph to 35 mph during the summer season only.

Fire Chief Limbacher was recognized for an update on the SSVFD's planning efforts to obtain an updated facility. (A copy of Chief Limbacher's update report is attached to these minutes.) He explained that the SSVFD has now engaged an architectural firm to conduct a needs assessment which will take 60 to 90 days to complete. He also explained that he has searched extensively for siting alternatives in Southern Shores and concluded a new expanded facility on the same location, along with possible additional combined adjacent real property currently owned by the Town, is the only feasible option. The Town Manager concurred that the SSVFD's East Dogwood Trail station property has a large enough footprint for a Public Works building, but the existing brick building would need to be removed and a new building sited appropriately for Public Works operations. (Property record cards with assessed values are included in Chief Limbacher's update report.) Chief Limbacher and Pat Regan explained to the committee that financing options are currently being studied by them. The Fire Chief also commented that he expects the SSVFD will be ready to make a formal proposal to the Town Council regarding a new facility at either the November or December Council meetings.

The Town Manager commented to the committee on two matters regarding the Town's possible involvement in a new facility for the SSVFD. He urged the committee members and members of Council to look at the assessed values of the properties that might be considered for a possible land swap between the Town and the SSVFD for the project. And he reported to the committee members that most likely, any financing obtained by the SSVFD for a new facility would require involvement by the Town at least serving as a loan guarantor.

Committee member Mayor Bennett commented that the SSVFD's current relationship with the Town is a contractual one, rather than any current Town ownership involvement.

Committee member Councilman McDonald stated that due to low interest rates, this is an opportune time to seek financing by loan for such a facility, and also stated it might be appropriate for the Town to begin designating reserve funds for such a capital project as this.

Pat Regan, on behalf of the SSVFD stated any investment by the Town for a new replacement facility for the SSVFD would be wise due to the Fire Department being better able to do its job for Town citizens and property owners, ultimately keeping the annual operating costs for the Town low.

The Town Manager and the Fire Chief also both commented it is the goal of both entities in this process to retain the presence of the Dare Emergency Medical Services station in the Town of Southern Shores. Currently the northern Dare EMS station is housed as a tenant in the SSVFD's East Dogwood Trail station.

The Town Manager was recognized to present a staff discussion before the committee on staff's current enforcement protocol for the Council's adopted Code Section 34-55(b)(2). For the past five years staff has placed a warning tags on non-compliant unattended personal articles left on the beach after 5:00 p.m. If the articles then remain unattended and are not subsequently removed

after another day, they are removed by Town staff (lifeguards, SSPD Community Resource Officer, or Public Works staff), held for several days and then disposed of in accordance with the Code Section. The Town Manager and staff answered questions for the committee members and engaged in discussion about the current protocol and proposed protocol for staff enforcement.

The Surf Rescue Director Dabrowski stated this protocol with warning tags has been followed for five years now, and he feels the necessity of the tags is no longer viable. His beach clearing operations have reached a point where most beachgoers in Southern Shores are compliant, with the necessity to tag and remove very few personal articles on a weekly basis. He stated his job could be performed more efficiently without him having to continue tagging non-compliant personal articles before subsequent removal.

The Town Planner concurred that the tag protocol was instituted by staff five years ago as an educational tool for the public, and that the enforcement initiative has been successful in that very few complaints are now received about personal articles left unattended on the beach in Southern Shores.

Police Chief Kole stated the existing signage notifying the existence of this Code section needs to be enhanced at each beach access. He stated many complainants state unawareness of the prohibition.

Committee member Councilman McDonald stated that any change in protocol should be noticed as best as possible to the beach going public through all available media.

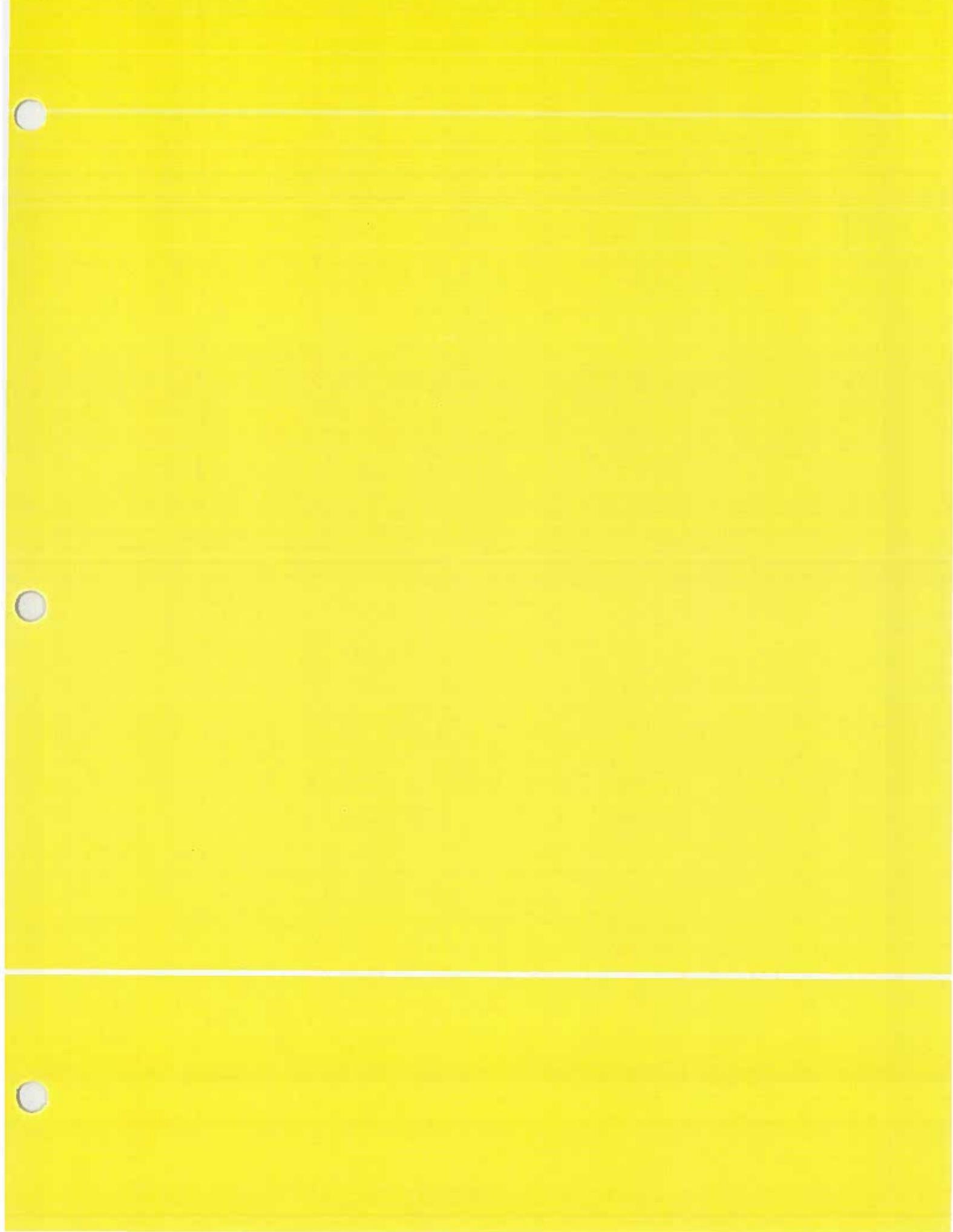
Based on the discussion, the Town Manager stated media postings, announcements, and notices would go out in Spring 2017 to rental property management firms and civic and homeowners associations in Southern Shores informing that the Town's current Code Section (Sec. 34-55(b)(2)) would now be enforced without staff-issued warning tags. Town staff would also analyze the current signage at the beach accesses.

➤ Committee member Mayor Bennett reported to the committee, staff, and attending public that he had been recently encouraged by Representative Tine personally and by Senator Cook's office regarding possible State funds that might be received by the Town to offset its own appropriation for the storm water remediation project at the area of the intersection of NC Highway 12 and East Dogwood Trail. He is also hopeful of a completion of the project by Thanksgiving 2016. The Town Manager reported that the Town Engineer is currently drafting project plans, and staff hopes to put the project out for bid immediately upon completion of those plans.

➤ The Mayor called for public comment.

Councilman Leo Holland (attending the meeting as a member of the public) commented he recommends the committee consider removal of stop signs at Clam Shell Trail. The Police Chief confirmed that those two signs are in his recommendation and are included in the set of four stop signs the committee members have reached consensus in recommending to the full Council for removal.

There being no further business before the committee, the meeting was adjourned by committee member Mayor Bennett at 11:45 a.m.



SOUTHERN SHORES POLICE DEPARTMENT

Public Safety Committee 8/22/2016

Recommendations:

- Current
- ❖ Future

Stop Signs – Removal

- E. Dogwood @ Hickory both sides – will allow smoother flow of traffic, eliminate backup on summer weekends– remove Traffic calming device.
- S. Dogwood @ Mallard Cove – allow smooth flow of traffic, not enough traffic from Mallard Cove to justify stop sign, this was an unwarranted placement to discourage cut-thru traffic over 10 years ago. (right of way brush cut back for clear line of sight)
- Clamshell (east end) @ Chicahauk – low traffic volume to justify
- ❖ Eagles Nest @ Trinitie/Juniper
- ❖ Gravey Pond @ Trinitie

No Parking Signs -Add

- Across from 228A Ocean Bld.
- All Avenues – throughout town

Speed Limit – Circle Drive Increase from 15mph to 25mph -be consistent with majority of town streets

Speed Limit Signs 25MPH – additional signage:

- Trinitie -near 40 & 70 block (southbound) 50 & 80/90 block (northbound)
- Sea Oats – between Soundview & Kingfisher(southbound), near 290, 230 block (southbound) and 300 block (northbound).
- Wax Myrtle – 170, 230, 280 and 320 block (southbound), 160,180,220 (northbound)
- S. Dogwood – 140 block (northbound), 170 block (southbound)
- E. Dogwood – 30 block (eastbound)
- Chicahauk – 100 block (eastbound)

Crosswalks:

- NC12 across from Triangle Park – dangerous, remove it or demand NCDOT place flashing crosswalk signs on it.
- NC12 just south of Triangle Park/split – same as above....
- NC12 All crosswalks should have activated flashing lights installed by NCDOT
- Pelican Watch Assoc. request, unsafe and PD against this. NCDOT Sidewalk to crosswalk near Handi Hugo

Hickory – Pedestrian & Speed Issues

- Speed data was collected in 2008, results showed 65% travel avg. speed 23.5 MPH, 34%- avg. speed 27 MPH, 1% - 30.5 MPH See minutes – Speeding not an issue See A. Sjoersma – letter against reduction.
- 2008 Full rebuild – request to widen to 22' – complaints of no place to walk etc. Requested additional 4' shoulder for walking lane – council voted 4 to 1 against it, after 5 residents voiced their concerns and were against it. See minutes



Town of Southern Shores

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Town of Southern Shores

Council Meeting

January 20, 2009

8:00 A.M.-Pitts Center

Minutes

The Southern Shores Town Council met on January 20, 2009 at the Pitts Center.

The following Council Members were present: Mayor Don Smith, Brian McDonald, Jodi Hess, Kevin Stroud and Jim Pfizenmayer.

Also present were: Charles Read, Town Manager, Carrie Gordin, Town Clerk and Tom White, presiding Town Attorney in Ben Gallop's absence.

Mayor Smith called the meeting to order at 8:00 a.m., led the Pledge of Allegiance and held a moment of silence for Bill Christie and Father Joseph Klaus, residents, the Inauguration of our President Elect and our troops serving around the world.

APPROVAL OF AGENDA

Mayor Smith moved to approve the agenda as presented. Council Member Pfizenmayer seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, and Stroud and Pfizenmayer voting aye; no council member voting no and no Council Member absent.

PUBLIC COMMENT

Ron Barbaro, 51 Hickory Trail, addressed Council regarding the Hickory Trail Road Improvement Project. He asked Council to keep certain things in mind when developing the project. He asked they use the maximum distance between the edge of the road and private property, construct the road so that it has minimum storm water runoff, not to cut anymore trees down than necessary and not to straighten the road. He stated Public Works recently brushed the road and it looks like it has been widened. He requested the road be no more than eighteen feet wide and if a path is considered it should not just be on one side of the road. He asked if the Town is required to do an environment access study since Powell Bill funds are being used.

Mayor Smith told Mr. Barbaro that this section of the agenda is to hear from the public and that Council does not make comments.

Ellen Barbaro, 51 Hickory Trail, stated she is against widening Hickory to twenty-two feet. She stated the road does need to have some improvements but Council should listen to the residents.

Yvonne Sternberg, 57 Hickory Trail, stated she moved here because it was a quiet residential area. She opposes any widening of the road beyond eighteen feet. She doesn't want to see a white line designation for pedestrians. She has seen where it is in other places in town and drivers cross over the line, it is not

beneficial. She stated speeders are still an issue. She has written to the town before regarding speeders and it appears Council is ignoring these requests.

Norm St. Laurent, 63 Hickory Trail, stated he echoes the previous speakers. He agrees speeders are a problem and he stated he has never seen a police officer issue a ticket on Hickory. He stated pedestrian paths cause accidents. He stated his wife had an accident on another path here and still is in pain. He asked Council to not create something that is going to cause another accident and he requested the speed limit be enforced. He stated a letter was presented to Council, signed by 14 residents, requesting the speed limit be lowered.

Etta Lanuti, 54 Hickory Trail, stated she moved to a quiet area with woods on one side and the ocean on the other side but the quiet is changing. She stated she counted ninety-five cars in one hour between 8-9 a.m. She requested not too widen the road. She asked Council to consider using an adjusted traffic schedule for the weekend with no left turns, reduce speed limit to fifteen mph. She stated we are a neighborhood not a short cut through. She stated we are a democracy not a republic and she is disappointed at this time.

Barbara Walters, 60 Hickory Trail, stated she has lived here 31 years and Southern Shores is a unique and beautiful place but we are in danger of losing it. She stated Southern Shores is becoming the new outer banks. She stated if you want street lights and sidewalks go somewhere else. She stated we aren't going to stop cut-through traffic but don't widen the road, it will cause drivers to go faster.

Dee Fulgham-Lewis, 62 Hickory Trail stated safety is the most important aspect. She stated it is dangerous to go to the mailbox. She agrees with widening the road to eighteen feet with limited impact. She supports a speed limit reduction to fifteen mph. She stated Hickory is not welcome portal to the northern beaches. She stated economic aspects should be considered and to have a path will increase the cost of the project. She does not support a path. She asked Council to listen to the people, act on our behalf not against us.

APPROVAL OF MINUTES-None

CONSENT AGENDA-None

REPORTS -None

OLD BUSINESS

Southern Shores Volunteer Fire Department Draft Contract

Mayor Smith read from a prepared statement. Thanks to all for your emails and phone calls on this matter. Let me take this opportunity to correct some misunderstandings regarding the contract proposal with the Southern Shores Volunteer Fire Department.

Sparked by the failing economy, Council wished to speak directly with the Volunteer Fire Department Board to discuss how badly the economy is impacting the Town of Southern Shores and all OBX communities and why the Town of Southern Shores cannot support their huge budget increase.

SSVFD BUDGET DEMAND: Citing fixed costs including the purchase of 2 new fire trucks, The SSVFD is requesting a huge budget increase. Demanding such an increase when other contracted services and the Town's own Departments will be tightening their belts is unfair, unreasonable, and unsound.

WHY – Chief Harvey reported that the SSVFD has ordered 2 new fire trucks at a cost of ONE-MILLION DOLLARS.

DEBT – Chief Harvey reports that the SSVFD has financed the ONE-MILLION DOLLAR cost of the 2 new trucks and plans to pass this cost to the Town at a rate of about \$130K per year for ten years. This obligation was taken by the SSVFD without consulting the Town or receiving approval of the Town's Governing Body. I would ask the SSVFD Board if they have consulted the County and gained the approval of the Dare County Governing Board as this matter pertains to the fire service contract for Martin's Point.

TOSS DEBT – The Town of Southern Shores does not have any long-term debt! When Council unanimously adopted the CIP they stated clearly that TOSS was going to pay-as-we-go and NOT take on any long-term debt. At the same Council Meeting, it was reported that the economists at the UNC School of Government advise that due to the current economic crisis municipalities should NOT incur long-term debt.

HISTORY – During the last 3 years, the formerly all volunteer Southern Shores Fire Department has amassed huge debt and new expenses. In 2005 the SSVFD purchased a new engine at a cost of about a HALF-MILLION DOLLARS, in 2008 the SSVFD purchased a rehab vehicle for another ONE HUNDRED THOUSAND DOLLARS. During 2008 rumors surfaced that the SSVFD was going to begin paying their Chief a SEVENTY THOUSAND DOLLAR salary. In June 2008 after months of denial, the Town Council was advised at a meeting to adopt the budget that "a (SSVFD) contract with the Chief had been signed" and that in essence it was too late for the Town to do anything about it. Throughout 2008, the SSVFD, namely Chief Harvey, Deputy Chief Shrader, and Board President Kowalski stated that the SSVFD is a totally separate entity and that the Town had no right to question their annual budget demand, they then blocked several Council attempts to see the "full" SSVFD Budget and told Council publicly, that "it is none of your business". Well it is our business – in fact it is our sworn duty and fiduciary obligation to be the "watch dog" of the Town's finances.

ECONOMIC CONSIDERATIONS – for a year I have been alerting Council and Citizens to the economic recession warning that it will likely worsen. Throughout the Presidential campaign Americans focused on the economy. The President said this is the worst economy since the great depression and that it is going to get worse before it gets better. Press Secretary Rob Gibbs said "I think the American people understand, as the president does, that this economy is likely to get worse before it gets better and I think the American people and the president understand also that it's certainly going to get far worse unless or until we act immediately," .

REVENUE PROJECTIONS – the Town of Southern Shores is likely to receive less shared revenue this year directly attributable to the declining economy. Tourism is down! The *Virginian Pilot* reported "...Beach reservations are sagging by as much as 15 percent for this coming summer." Accordingly we will see a decline in associated revenue based on the reduced collection of Occupancy Tax and Gas Tax (Powell Bill money) and other tourism related taxes.

CONTRACT – The Town met with the SSVFD this past Saturday and Sunday in continuing good faith negotiations and desires a 5-year contract for basic fire protection services and is offering the SSVFD a modest cost of living increase. Council is aware of citizen concerns and will not take any action that will be detrimental to fire insurance rates or fire protection service.

Council Member Hess stated she agrees with the Mayor's economic response but she stated the Town Manager and the Town Attorney were to be negotiating the terms of the contract and the last she heard that was what was happening. She understands negotiations on the assets are a problem but she doesn't like the way things are going. She stated she is not on the fire department side she is not on anyone's side. She stated the current contract is \$291,000 and the requested contract was \$350,000 and there has been an increase in fuel and insurance costs. She agreed that the fire department should not buy high cost equipment without Council's knowledge. She stated she would like to see a flat fee five-year contract but negotiations are still needed. She stated giving the fire department a week to respond is unreasonable and to say we will go somewhere else, where would we go and at what costs.

She stated she is tired of the attitude, the advisory board didn't work and she asked why can't the Council and the fire department sit down and discuss this.

Council Member Stroud stated he served on the advisory board for several months and a five-year draft contract with an annual increase of 2% or a fixed amount was to be discussed. He stated he doesn't support the county collecting the taxes for the fire department. He stated he doesn't think requesting a week for a response from the fire department is unreasonable. He stated the draft contract for their review covers the same issues addressed before and they should be able to review it and return to Council with their changes.

Mayor Smith stated this has gone on too long and the Town may be forced to go in another direction. He stated with the retreat coming up where Council will be discussing the budget this needs to be acted on quickly.

Council Member Hess stated she opposes the presentation of this contract.

Council Member Pfizenmayer stated the same arguments have been on-going. He stated he supports a five-year contract and the fire department needs to review the draft contract and bring back their concerns.

Council Member Stroud stated the Town Attorney asked for direction from Council on what they would like to see in the contract and this is what we have.

Council Member McDonald stated the Town has six months to get a contract approved. He stated no one could have imagined economically what has happened over the last year. He stated a \$300,000 contract is fair. He stated there may need to be changes for compensation and capital expenses over the years in the contract.

He stated last year the town departments cut their budgets by ten percent and the fire department got what they wanted. He stated this draft contract doesn't cover everything he would like to see in it but it is a good beginning. He would like to see the fire department look at the contract today and come back today with comments.

Mayor Smith recommended presenting the draft fire department contract to the fire department board and ask them to respond within a week for Council to discuss at the February 3 Council meeting. He stated by putting it off it will never get done. He supports this draft contract.

Council Member McDonald stated there are more issues to consider than just money.

Mayor Smith moved to present the current draft contract to the Fire Department Board and to include a letter stating they should respond within one week. Council member Stroud seconded. The motion passed with Mayor Smith and Council Members McDonald, and Stroud and Pfizenmayer voting aye; Council Member Hess voting no and no Council Member absent.

Hickory Trail Road Rebuild Project (CIP)

Mayor Smith thanked the residents for their comments on the road project. He stated the Town Engineer provided six options for consideration. He stated he had asked about the feasibility of a walking path to be included in the project. He stated from the six options three options have been presented for Council consideration. He stated the roads rebuild with an eighteen foot wide road and no path with some straightening of some areas to keep the street in the middle of a sixty foot right-of-way seems most agreeable.

Council Member Stroud stated he does not support reducing the speed limit to 15 mph as requested by the residents.

Council Member McDonald stated Council has heard the citizen's comments.

The Town Manager stated there will be the need to take down some trees for the improvements.

Chief Kole stated there is a safety issue and it is not a right to be allowed to walk on the roads. You walk at your own risk. There may be a consideration at a later time for a natural path but that would need to be discussed as a budget outlay.

Council Member Hess stated making a decision is a dilemma for Council. She stated we value your comments and the total safety of those using the road. She stated some Beech Tree residents requested not to have anything done to their portion of the road and then six months later they wanted the road done. She stated the Traffic Committee has looked at all of this.

Mayor Smith moved Council approve the option stating the payment width to be no more than eighteen feet with no shared-use path. Council Member Pfizenmayer second. The motion passed with Mayor Smith and Council Members McDonald, and Stroud and Pfizenmayer voting aye; Council Member Hess voting no and no Council Member absent.

Planning Advisory Group (PAG)

The Town Manager stated in looking out for efficiency he is asking for citizen, staff and Council input on upcoming projects. He stated the CIP Task Force was a great success and with a town of volunteers he has asked the Planning Board for help. He asked Nancy Wendt to address Council on this issue.

Ms. Wendt provided a Power Point presentation identifying the group's goals. The members of the group are Nancy Wendt, Sam Williams, Mike Florez and Bill Gleason all members of the Planning Board.

She stated the Town Attorney has looked at the duties and responsibilities of the Planning Board and the Code Enforcement Administrator has looked at the proposal and they support the initiative presented.

She stated the Town's Land Use Plan (LUP) was submitted to the state by the Planner-in-Charge without final Town input and it was sent back with eighty-six items to be corrected.

Council Member Hess stated if there are problems with the LUP it should go back to the LUP Steering Committee who spent two years on the project not another group inside the Planning Board. She stated she has attended most of the Planning Board meetings and she doesn't remember this being brought up before now. She doesn't know if this group is needed and she is concerned if the Planning Board should be doing this.

Mayor Smith stated he supports the group and thanked them for volunteering. He recommends the group move ahead with town staff support.

Following the presentation the PAG asked Council to support the Planning Board appointing the Planning Advisory Group. The PAG will prepare a Statement of Work addressing the urgent planning issues. The PAG will address the approach/actions/timetables as follows: by limiting the scope of CAMA LUP and do outreach. Engage the community in a visioning process, discover and document common ground use words, pictures, maps and examples. Create "Comprehensive Planning" consistency criteria / tool. Assess Long Range Plans, complete and integrate missing elements and implement CIP / budgeting principles and processes.

Mayor Smith moved to approve the Planning Advisory Group going to the Planning Board to request their appointment. Council Member McDonald seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, and Stroud and Pfizenmayer voting aye; no council member voting no and no Council Member absent.

ms. wendt stated they will develop a Statement of Work (SOW) and timetable to present to Council.

Council Member Pfizenmayer stated he doesn't want to see the group become a stumbling block and not be able to continue or complete the work.

Ms. Wendt stated language can be included in the SOW if the group is not working it will be dissolved. Any recommendations will be given to Council with staff data analysis.

[Clerk's Note: A copy of the Planning Advisory Group's Power Point Presentation can be found on the Town's website or a hard copy is available at Town Hall].

NEW BUSINESS-None

OTHER ITEMS

Manager

The Town Manager requested Council go into closed session following regular business for a personnel issue.

He stated he received an email from Joe Anlauf, Town Engineer, and it was reported the crack pouring and asphalt rejuvenation project on Kingfisher Trail, Loop, Court and Soundview Trail have been completed and were inspected on January 15, 2009 showing the installation has been done properly in accordance with industry standards. He stated the product has a three year warranty period and the product will be monitored over this time period to measure its value as a potential means to extend the life expectancy on other existing roads.

Police Chief Kole requested Council approve participation with the five municipalities in a grant application which will cost the town no more than seven hundred dollars to acquire funding for a software program Netmotion, Mobility XE, which will correct an unsatisfactory level of wireless broadband service within the five Dare County municipalities. Chief Kole stated there is money in the department budget for this. Council agreed.

Attorney-None

Mayor-None

Council -None

Mayor Smith called for a five-minute recess before continuing with the agenda.

GENERAL PUBLIC COMMENT

David Sanders, 158 Beech Tree Trail, thanked the PAG for an excellent presentation on an organized decision making process. He then commented on the distribution of the fire department contract stating the process has taken over a year and there still is no progress yet. He stated being on Council and now a citizen and watching from the other side a video tape would be good. It appears Council doesn't have it together. He stated the process of discussion today shows discord and misunderstandings with some demands and some negotiations. He stated the concerns are the fire department budget and what happens to the assets if the fire department is dissolved. He asked Council to look at the level of service and asked do we need to reduce the service due to meet financial needs or make service fit to the money. He stated the purchase of new fire trucks were presented to Council in 2004/05. He stated the Town purchased a fire truck for the fire department and it was a mistake and caused problems and now Mayor Smith is upset with the purchase of new fire trucks. He stated a \$300,000-500,000 outlay should be considered a long term purchase. He stated it took five years for the fire department to get an insurance rating of a class five.

...the rates have almost doubled but his insurance has increased more just because where he lives. He requests Council make an educated vote when the negotiations are complete and accept the responsibility of their vote, come good or bad. He stated the operation and performance of the fire department has not been discredited. All the fire department volunteers need to feel they are trusted. Poor morale equals poor performance. He asked if a cost benefit analysis has been done on the fire department. He stated at one time it was said for every \$100 spent on the fire department saved the taxpayer \$300 on developed property.

George Kowalski, 135 Duck Woods Drive, Chairman of the Fire Department Board, stated he has had no contact with anyone from the Town since October in a meeting held with the Fire Advisory Board. He stated there have been no negotiations and he came here to receive a contract. He stated the Board has not developed a budget yet. He stated the Board is willing to sit down with Council.

Etta Lanuti, 54 Hickory Trail, addressed previous comments regarding lowering the speed limit to 15 mph on Hickory Trail. She stated she feels the residents should be allowed to set the speed limit on their street. She stated she was asking that no left turn signs be posted for weekends only. She thinks drivers should respect others on the road and look out for each other that is the way it is suppose to be.

Fire Chief Harvey, 270 Sea Oats Trail, stated he agrees with George (Kowalski). He stated he met one time with the Town Manager and explained the fire department's position on issues and no suggestions or discussion came from the manager. He stated he asked the manager two questions regarding the budget and was given no answers. He stated if it was said tonight that he had met with the Town's Attorney that was not a true statement. He stated he met with the manager the first part of the year and he was asked about the fire department budget and Chief Harvey told him budget numbers were not available the budget has not been submitted. Chief Harvey suggested the manager look at last year's fire department budget and the debt service on the new trucks. He stated this process has been on-going for three years with this Council, the previous council and the Fire Advisory Board and it was explained why two trucks are needed. He stated discussion had started before the current economic downfall. He stated as a tax payer himself he is distressed. He stated the fire department looked into financing equipment and are utilizing that option. He stated the fire department held a public hearing on the purchase of equipment and no public showed up. He stated the fire department does want to sit down with Council. He attends staff meetings and most all Council meetings.

Norm St. Laurent, 63 Hickory Trail, addressed Police Chief Kole and Council by asking that the speed limit on Hickory Trail be enforced. He stated he has never seen an officer give a ticket on Hickory. He thanked Council for their efforts and asked they get things moving. He stated the PAG gave an excellent presentation. He stated the fire department does a great job. He asked that Council use some of the points from the PAG to work with the fire department to come to a resolve.

Mayor Smith moved to go into closed session in accordance to NCGS 143.318.11 (a) (3) and (6). Council Member McDonald seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, and Stroud and Pfizenmayer voting aye; no council member voting no and no Council Member absent.

Mayor Smith moved to return to open session no action taken hearing no other business he moved to adjourn the meeting at 12:40 p.m. Council Member Hess seconded. The motion passed with Mayor Smith and Council Members McDonald, Hess, and Stroud and Pfizenmayer voting aye; no council member voting no and no Council Member absent.

ATTEST:

Respectfully submitted:

Don Smith, Mayor

Carrie Gordin, Town Clerk

Mr. Charles B. Read, Jr.
Town Manager
Town of Southern Shores
5375 N. Virginia Dare Trail
Southern Shores, NC 27949

Nov. 20, 2008

Dear Mr. Read:

I reside full-time at 69 Hickory Trail in Southern Shores and oppose the recommendation by some of my neighbors, whose petition I declined to sign, that the speed limit on the street be lowered from 25 mph to 15 mph. I do not see this action as an effective, much less reasonable, approach to addressing perceived safety issues presented by roadway traffic, and, in fact, believe it would engender new problems (expenditures related to law enforcement; significant resident inconvenience) that trouble me more. I respectfully request that you not submit a speed limit-lowering ordinance to the town council, as you suggested in your letter of Nov. 5, 2008.

I have lived in the woods of Southern Shores for 17 years, the past 10 years as a homeowner at 69 Hickory Trail, which is near the intersection of Hickory and E. Dogwood trails. Not only do I reside at this address, but I work out of my home, so I have occasion to observe road conditions every day, throughout the day, during every season of the year. There is no question that the volume of traffic on Hickory Trail during the summertime weekends is very heavy and annoying for us residents, as arriving and departing vacationers travel to and from the northern beaches. From Monday through Friday, however, the traffic is not a nuisance, except during the morning and afternoon "rush hours" of cut-through local traffic. This traffic—which is year-round, consists of all manner of vehicle, including construction trucks and school buses, and starts around 6 a.m. (vacationers are not such early birds)—generates a lot of noise.

Frankly, I am more concerned about the traffic noise on Hickory Trail than I am about safety hazards posed by traffic volume and speed. I know of no instances when collisions between vehicles or between a vehicle and a pedestrian or between a vehicle and a bicyclist have occurred on the stretch of road in question. When speeding occurs on Hickory Trail, it tends to be isolated local drivers doing it. The same seems to be true on North, South, and East Dogwood trails, which I drive and walk on a regular basis. Although I have observed police officers monitoring vehicle speeds on East and North Dogwood trails, I have never seen them monitoring vehicle speeds on Hickory Trail. Certainly this should be done, and the traffic flow studied for months, before a drastic speed-limit change such as the one my neighbors suggest is proposed to the town council. (Police do monitor the three-way stop at Hickory Trail and E. Dogwood Trail, but their presence has not appreciably altered driver behavior. I see numerous drivers run these stop signs every day.)

If my neighbors are truly concerned about safeguarding public safety on Hickory Trail, rather than simply in discouraging cut-through traffic, I would suggest they consider the strategic placement of mirrors on both sides of the road around its (slight) curves and/or the posting of signs indicating when the road narrows and blind spots occur. Lowering the speed limit to a 15-mph crawl is little more than an ill-conceived "quick fix" to traffic volume. I do not believe that the undue burden that a ridiculously low speed limit would place upon Hickory Trail residents and local law enforcement officers would be offset by any real benefit, in terms of public safety or welfare, or neighborhood quality of life.

Thank you.

Best regards,
Ann G. Sjoerdsma
69 Hickory Trail
Southern Shores, NC 27949
255-0179 (ph.)
255-1619 (fax)
256-0413 (cell)

Motor Vehicle Laws of North Carolina

§ 20-174. Crossing at other than crosswalks; walking along highway.

Statute text

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

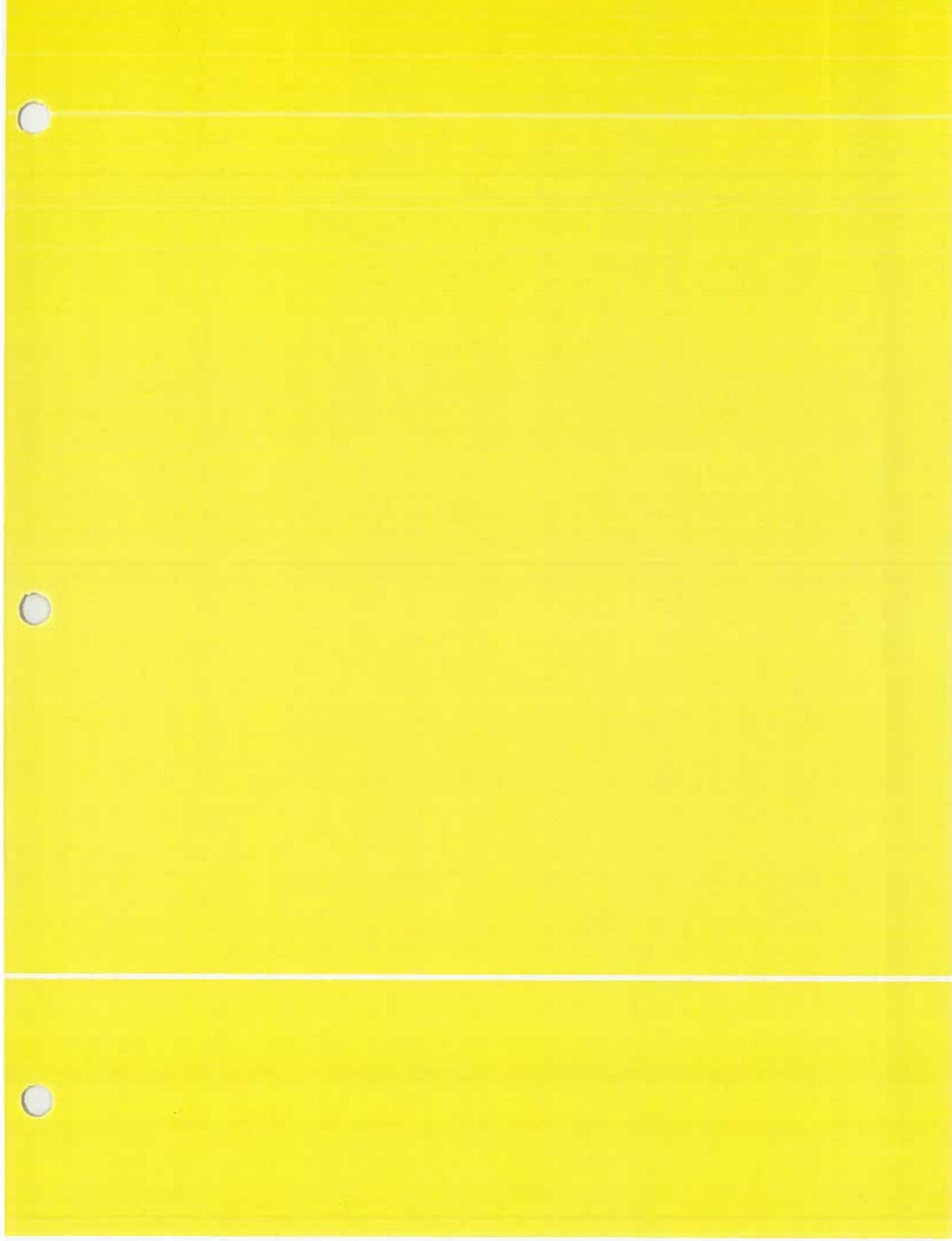
(c) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

(d) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway. Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the extreme left of the roadway or its shoulder facing traffic which may approach from the opposite direction. Such pedestrian shall yield the right-of-way to approaching traffic.

(e) Notwithstanding the provisions of this section, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway, and shall give warning by sounding the horn when necessary, and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

History

(1937, c. 407, s. 135; 1973, c. 1330, s. 33.)



Southern Shores Volunteer Fire Department

Facilities Planning Update

8/22/16



Update

- Launched digital communication announcing Needs Assessment
 - TOSS monthly email updates
 - SSVFD Facebook page
- Hired Stewart-Cooper-Newell Architecture to complete Needs Assessment
 - Focused on Public Safety Buildings / Completed over 100 Fire Stations, many coastal
 - Built Kitty Hawk station several years ago with great results
 - Assessment will take 60-90 days to complete
- Started to assess financing options
 - Traditional bank loan
 - USDA loan
- Plan to have full proposal to TOSS Town Council by end of November

TOSS and SSVFD (FSRE) Land Swap Proposal

As of 8/22/16

	Address	Owner	Parcel #	Building and Misc Value	Land Value	Total Value	Lot Sq. Ft	Disposition
Fire Headquarters	15 South Dogwood Trail	Fire Services Real Estate	022519012	\$ 596,800	\$ 123,100	\$ 719,900	30,000	Keep
East Station	28 East Dogwood Trail	Fire Services Real Estate	022110000	\$ 340,000	\$ 296,100	\$ 636,100	27,000	Swap
Public Works Lot	27 Pintail Trail	Town of Southern Shores	022519011	\$ 88,200	\$ 123,100	\$ 211,300	30,000	Swap

Search by Parcel Number Results

- [PARCEL DATA SHEET](#)
- [BUILDING PHOTOS](#)
- [TAX BILL](#)
- [TAX CERTIFICATION](#)

Parcel: 022519011
PIN: 986718404285
Location: 27 PINTAIL TRL
District: [20] SOUTHERN SHORES
Subdiv: [0000] SUBDIVISION - NONE
Lot-Block-Sect: LOT: BLK: SEC:
Multiple Lots: ACROSS FROM KITTY HAWK
 ELEM. SCHOOL
Living Units: 0
Plat-Cab-Slide: PL: C SL: 1E
Status: EXEMPT

Owner: TOWN OF SOUTHERN SHORES
Owner:
Address: 5375 N VA DARE TRI.
 SOUTHERN SHORES NC 27949
Ownership: PRIMARY - 100%
Nature of Ownership:
Deed Date: 04/01/1986
Bk/Pg: 0452/0409
PUSE: [9700] TOWN OF SOUTHERN SHORES

Billing Values		Next Year Values*	
Land:	123,100	Land:	123,100
Building:	82,100	Building:	82,100
Misc:	<u>6,100</u>	Misc:	<u>6,100</u>
Total:	211,300	Total:	211,300

***** END OF RECORD *****
 (data file last updated on 8/5/2016)
 *Next year values on file as of 8/5/2016

Dare County Government
 954 Marshall C Collins Dr
 PO Box 1000 Manteo NC 27954
 Phone: 252.475.5000

TOSS Public Works
 30,000 sq ft.

Search by Parcel Number Results

- [PARCEL DATA SHEET](#)
- [BUILDING PHOTOS](#)
- [TAX BILL](#)
- [TAX CERTIFICATION](#)

Parcel: 022519012
PIN: 986718406372
Location: 15 S DOGWOOD TRL
District: [20] SOUTHERN SHORES
Subdiv: [0000] SUBDIVISION - NONE
Lot-Block-Sect: LOT: BLK: SEC:
Multiple Lots: -
Living Units: 0
Plat-Cab-Slide: PL: C SL: 1E
Status: EXEMPT

Owner: FIRE SERVICE REAL ESTATE, INC
Owner:
Address: 15 S DOGWOOD TRL

 KIPPY HAWK NC 27949
Ownership: PRIMARY - 100%
Nature of Ownership:
Deed Date: 01/30/2009
Bk/Pg: 1790/0153
PUSE: [9810] FIRE / COMMUNITY / CIVIC

Billing Values		Next Year Values*	
Land:	123,100	Land:	123,100
Building:	566,900	Building:	566,900
Misc:	<u>29,900</u>	Misc:	<u>29,900</u>
Total:	719,900	Total:	719,900

***** END OF RECORD *****

(data file last updated on 8/5/2016)

*Next year values on file as of 8/5/2016

Dare County Government
 954 Marshall C Collins Dr
 PO Box 1000 Manteo NC 27954
 Phone: 252-475-5000

Fire Headquarters
 Lot size: 30,000 sq. ft.

Search by Parcel Number Results

- [PARCEL DATA SHEET](#)
- [BUILDING PHOTOS](#)
- [TAX BILL](#)
- [TAX CERTIFICATION](#)

Parcel: 022110000

PIN: 986819516864

Location: 28 E DOGWOOD TRL

District: [20] SOUTHERN SHORES

Subdiv: [S493] SO/SH AMENDED PLAT B SEC 3
REV

Lot-Block-Sect: LOT: 23-25 & PT 22 BLK: 33
SEC: 3

Multiple Lots: -

Living Units: 0

Plat-Cab-Slide: PL: 2 SL: 142

Status: EXEMPT

Owner: FIRE SERVICE REAL ESTATE, INC

Owner:

Address: 15 S DOGWOOD TRL

KITTY HAWK NC 27949

Ownership: PRIMARY - 100%

Nature of Ownership: SOL

Deed Date: 01/30/2009

Bk/Pg: 1790/0153

PUSE: [9810] FIRE / COMMUNITY / CIVIC

Billing Values		Next Year Values*	
Land:	296.100	Land:	296.100
Building:	324.700	Building:	324.700
Misc:	<u>15.300</u>	Misc:	<u>15.300</u>
Total:	636.100	Total:	636.100

***** END OF RECORD *****

(data file last updated on 8/5/2016)

*Next year values on file as of 8/5/2016

Dare County Government
954 Marshall C Collins Dr
PO Box 1000 Manteo NC 27954
Phone: 252.475.5000

East Station

Lot size . 27,000 sq. ft.



Sec. 34-53. Swimming prohibited during dangerous conditions.

(a) It is recognized that during certain periods of time, as a result of a combination of environmental conditions, dangerous riptides and undercurrents occur in the ocean surf making ocean conditions unsafe for swimmers. The town manager is authorized, when the manager shall make a determination that conditions are unsafe for swimmers in the Atlantic Ocean, to prohibit all swimming in the Atlantic Ocean until such time as they shall determine that the unsafe conditions have abated. During such periods in which swimming is prohibited and after notice is given to the public by announcement on the local radio station and by the posting of signs on the public accesses to the Atlantic Ocean, swimming in the Atlantic Ocean shall be unlawful. The town manager and chief of police shall make the determination of whether or not ocean conditions are safe based upon observations of the effects of winds, tides, storm conditions and other environmental conditions affecting the surf in the Atlantic Ocean. They shall also take into consideration weather reports of existing storms in the Atlantic Ocean and the proximity of those storms to the beaches of the town, and the effect thereof.

(b) The term "swimming," as used in this section, is defined to mean and include any entry into the water of the Atlantic Ocean whether or not assisted by a raft, float, or other aid or device commonly used, but shall not include any entry assisted by a surfboard as defined in this section. The term "surfboard," as used in this section, shall be defined as a fiberglass and foam combination, at least five feet in length, having a minimum of one fin and used in conjunction with a leash.

(c) The owner of any residential dwelling (including, but not limited to, condominiums, townhouses, time shares and cottages) offered for rent within the town limits shall post and prominently display a notice setting forth the prohibitions in subsections (a) and (b) of this section, and it shall be a violation of this section for the owner to fail or refuse to post the notice and display it prominently within each rental unit or dwelling offered for rent.

(Code 1988, § 10-15; Ord. of 10-2-1990, pt. II; Ord. of 7-6-1999, pt. I)

Sec. 34-54. Prohibition of motorized vessels on Duck Woods Pond.

No person shall operate a boat of any type, jet ski or other vehicle, which vessel contains an internal combustion engine, over, upon or underneath the waters of Duck Woods Pond. This prohibition includes all water vessels which may have an internal combustion auxiliary engine.

(Code 1988, § 10-16; Ord. of 10-2-1990, pt. II)

Sec. 34-55. Beach and dune management.

(a) *Definitions.* The following definitions shall apply to all portions of the Town Code relating to the public beaches, primary dunes and frontal dunes within the town:

- (1) *Adverse impact* means anything that would destroy, harm, impair, diminish, or degrade the value or integrity of a sand dune for storm protection or wildlife habitat.

- (2) *Beach* means the lands consisting of unconsolidated soil materials that extend for a distance of 100 yards east of the mean low water mark into the Atlantic Ocean landward to a point where either the growth of stable natural vegetation occurs or a distinct change in slope or elevation alters the configuration, whichever is farther landward.
- (3) *Dune system, frontal dune* is the first mound of sand located landward of the beach having sufficient vegetation, height, continuity, and configuration to offer protective value.
- (4) *Dune system, primary dune* is the first mounds of sand located landward of the beach having an elevation equal to the mean flood level for the area plus six feet. The primary dune extends landward to the lowest elevation in the depression behind the same mound of sand.
- (5) *Dune walkover access, improved* is a raised walkway constructed for the purpose of providing access to the beach from points landward of the dune system.
- (6) *Dune walkover access, unimproved* is a sand walkway or path used for the purposes of providing pedestrian access to the beach which is located in an area where there is no escarpment present between the dune structure and the beach.
- (7) *Escarpment* is the vertical drop or steep slope in the beach profile separating two comparatively level or more gentle sloping surfaces caused from high tide or storm tide erosion. Escarpments for the purposes of this chapter shall only be determined to exist in areas where the height and slope of the escarpment would preclude reasonable pedestrian access to the beach without causing an adverse impact to the dune structure.
- (8) *Tent* is portable shelter supported by a framework of multiple poles.

(b) *Beach and dune protection.* The following activities shall be considered unlawful on the beach, as defined in section 34-55:

- (1) Erection of a tent, cabana, or umbrella which, in the opinion of public safety personnel:
 - a. Prevents or disrupts the passage of emergency or ocean rescue vehicles; or
 - b. Hampers the ability to provide adequate ocean rescue service by obstructing the line of sight to the water from lifeguard stands or other surveillance areas.
- (2) Leaving unattended personal articles on the beach between the hours of 5:00 p.m. and 7:00 a.m. These items may include, but shall not be limited to, volleyball nets, badminton nets, poles, tents, chairs, cabanas, sunshades, horseshoe stakes, croquet courses, umbrellas or any other personal property items. Unattended personal articles left on the beach between 5:00 p.m. and 7:00 a.m. are subject to removal and disposal;
- (3) Substantially altering the contour or shape of the flat beach area by excessive digging or mounding of sand that:
 - a. In the opinion of public safety personnel, such alteration presents a present, dangerous condition; or

2017

- b. Is left unattended for any period of time without restoring the beach to its original condition.
- (c) The following activities shall be considered unlawful within the dune system:
 - (1) Walking or traversing on the dunes outside of an improved or unimproved dune walkover access as defined in section 34-55(a);
 - (2) Degrading, disturbing, or compromising the integrity of the dune structure. These prohibited activities include, but shall not be limited to:
 - a. Digging, shelling, mining, or mechanical alteration of the dune topography;
 - b. Playing, sliding, climbing, or rappelling on the frontal or primary dune or the dune escarpment; and
 - c. Discharging water into the dune where it will cause significant scouring or erosion or otherwise affect the integrity of the dune.
 - (3) Development activities without a valid building permit, health department approval, or CAMA authorization;
 - (4) Littering.
- (d) *Exemptions.* This section shall not apply to the following activities:
 - (1) Development activities authorized or permitted by the town, the county department of environmental health, or CAMA;
 - (2) Dune or property maintenance activities including planting or fertilization of vegetation, sand fence installation, minor dune repairs, and removal of litter or debris;
 - (3) Federal, state, and local officials engaged in official regulatory activities; and;
 - (4) Persons engaged in research, conservation, or extension activities as authorized by the town manager.

(Ord. No. 2010-04-01, pt. I, 4-20-2010; Ord. No. 2012-01-02, art. III, pt. I, 1-3-2012)

Secs. 34-56—34-74. Reserved.

ARTICLE IV. COASTAL AREA MANAGEMENT*

Sec. 34-75. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

AEC means area of environmental concern.

CAMA means the Coastal Area Management Act of 1974, as amended.

CRC means the state coastal resources commission.

***State law reference**—Coastal Area Management Act, G.S. 113A-100 et seq.

Report and Recommendation to Council Regarding a Plan to
Establish a Historic Landmarks Designation Program
September 6, 2016

Established as a beach resort in 1946, most of Southern Shores' first beach cottages were built and maintained as distinctive "flat top" cottages built on concrete slab with walls of concrete block. With little or no vertical vegetation existing on the oceanfront area at the time, the open windows of these low lying dwellings caught sufficient ocean and land breezes to cool their occupants during the summer months. Today, along with other original cottages in Southern Shores, at least 34 flat top cottages and several other non-flat top yet potentially historically significant cottages still exist. Southern Shores loses approximately 2 original and historically significant cottages a year to demolition to make way for larger contemporary structures.

At its April 5th meeting, the Southern Shores Town Council authorized the Town Manager and his staff to develop a plan for the Council to consider incentivizing the owners of the remaining historic properties in Southern Shores to preserve the external features of their historic structures. Staff conferred with Town citizens involved in a public tour of these structures and also conferred with the Planning Staff of the Town of Kill Devil Hills which administers a historic landmarks designation program in that jurisdiction. (A copy of the Town of Kill Devil Hills' creating ordinance and a copy of a property designation ordinance are both attached.*) A working inventory of 44 total structures in Southern Shores was developed by staff for notifications.

At the May 3rd Council meeting, staff presented a plan to Council for continued evaluation of such a program (attached). Council authorized staff to continue notifying the owners of potential eligible properties and gauge interest. Staff subsequently notified potential property owners, and held a meeting on July 26th with interested property owners and officials of the State Historic Preservation Office. From that meeting and from subsequent conferences with property owners, owners of 26 potentially eligible properties (from the original potential 44) remain interested in their properties being designated as historic landmarks. 23 of those 26 are original flat top cottages, and 3 are non-flat tops but considered historically significant cottages.

Benefits to owners of designated historic landmarks:

- By state statute, an owner of a property designated as a historic landmark shall receive a deferral of fifty (50%) of property taxes owed (County and Town), with the deferred taxes for a period of three years being due and payable if the landmark property becomes disqualified from the program by an event other than fire or natural disaster.
- The National Flood Insurance Program (NFIP) gives special consideration to the unique value of designated historic structures. Provided such structures retain their designations, the Town would not have to require them to be brought into compliance with the "fifty percent rule" if they are substantially improved or have been substantially damaged. However, structures that are completely destroyed must be built in accordance with current regulations.

Based on the high level of interest, staff recommends Council consider the following actions:

1. Authorize the Town Manager and the Town Attorney to develop a draft ordinance creating a Southern Shores Historic Landmarks Commission in accordance with North Carolina General Statute § 160A-400.7 for presentation at Council's October 4th meeting. In accordance with the North Carolina General Statutes and if created, the Commission would be charged with duties and responsibilities cited in the enabling legislation, including (1) adopting rules of procedure and guidelines for designating historic landmarks, (2) adopting guidelines for altering, restoring, moving or demolishing historic landmarks, (3) undertaking a formal inventory of historic properties to be forwarded to the North Carolina State Historic Preservation Office for its review and concurrence, and (4) proposing draft ordinances designating one or more of the properties in the inventory as historic landmarks. The draft ordinance shall also include the following requirements: (a) No property shall be designated a historic landmark except by application executed by all current record property owners; (b) No interior features of any structure shall be subject to regulation; (c) No colors of any exterior feature of a designated historic landmark shall be subject to regulation.
2. Schedule a Public Hearing for October 4th to receive public comment on the possible creation of a Historic Landmarks Commission by proposed ordinance.
3. In the event of establishment of a Historic Landmarks Designation Program, authorize a budget amendment for the current fiscal year of \$5,000 for the Town Planning Department, for the purpose of covering any costs of initial program establishment, including costs of professional writing for development of historical and architectural assessments for initial applications to be considered by the North Carolina State Historic Preservation Office for comment to the Southern Shores Town Council.

* A catalogue of historic landmarks designated by the Town of Kill Devil Hills may be viewed online at <http://www.kdhnc.com/DocumentCenter/View/7498> .



SEPTEMBER 6, 2016

TAB 4

A Plan for the Town of Southern Shores Town Council to Explore the
Possibility of Establishing a Historic Landmark Designation Program

May 2, 2016

Established as a beach resort in 1946, most of Southern Shores' first beach cottages were built and maintained as distinctive "flat top" cottages built on concrete slab with walls of concrete block. With little or no vertical vegetation existing on the oceanfront area at the time, the open windows of these low lying dwellings caught sufficient ocean and land breezes to cool their occupants during the summer months. Today, along with other original cottages in Southern Shores, 34 flat top and 3 other potentially historically significant cottages still exist. Southern shores loses approximately 2 flat top cottages a year to demolition to make way for larger contemporary structures.

At its April 5 meeting, the Southern Shores Town Council authorized the Town Manager and his staff to develop a plan for the Council to consider incentivizing the owners of the remaining historic properties in Southern Shores to preserve the external features of their historic structures. Staff has since conferred with Town citizens involved in a public tour of these structures and has conferred with the Planning Staff of the Town of Kill Devil Hills which administers a similar program in that jurisdiction.

As a result of these conferences and a review of the North Carolina General Statutes authorizing the creation of such a program, Town staff recommends the following plan of action for the Council to authorize the staff to implement:

1. May 2, 2016 – Authorize Town staff to notify by official letter, each property owner of record for every known potential historic property in the Town, informing of (a) Council's consideration of a possible Historic Landmark Designation Program, (b) the fact that the program would be voluntary, (c) the program's incentive benefits to the owners, and (d) the opportunity to meet with staff to learn particulars of the program. The letters would invite a response.
2. May 2 – August 2, 2016 – Town staff to hold meetings with any property owners who have indicated an interest in the program.
3. August 2, 2016 – Town staff to report to Town Council on results of property owner notifications, meetings with interested property owners, and the number of property owners who have indicated a commitment to participate in such a program.
4. August 2, 2016 - forward – Based on property owner interest, Town Council could consider action to establish a Southern Shores Historic Preservation Commission, pursuant to North Carolina General Statute 160A-400.7, consisting of at least three legal residents of the Town and for terms of at least four years, who have a demonstrated special interest. As a part of the duties and responsibilities authorized by North Carolina General Statutes 160A-400.6, - 400.7, and -400.8, the Commission would be charged with undertaking a formal inventory of historic properties within the Town of Southern Shores, forwarding the inventory to the North Carolina Department of Natural and Cultural Resources for its review and concurrence, and proposing a draft ordinance designating one or more of the properties in the inventory as historic landmarks. The Commission may be assisted by volunteers, and volunteer advisory boards and committees. Adoption of any ordinance designating a historic landmark would be subject to a required public hearing. The Town Council, in its discretion, could hold a public hearing on any aspect of its plan to establish a Landmark Designation Program.





Coates' Canons Blog: Historic Preservation Commission Basics

By Adam Lovelady

Article: <http://canons.sog.unc.edu/?p=7335>

This entry was posted on September 27, 2013 and is filed under Board Structure & Procedures, Land Use & Code Enforcement

"The historical heritage of our State is one of our most valued and important assets," and our cities and counties are authorized to safeguard that heritage and promote the use and conservation of North Carolina's historic landmarks and districts (G.S. 160A-400.1). Before the local government designates a historic district or landmark, though, it first must create a historic preservation commission to manage that effort. This blog considers the organization and authority of the local historic preservation commission, including an overview of standards and procedures for certificates of appropriateness.

Organization and Authority

A standard preservation commission must have at least three members with terms of no more than four years. Members must reside within the zoning jurisdiction of the local government (including extraterritorial jurisdiction for municipalities). A majority of members must have "demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields." This is one of the few instances where the statutes specify expertise for local government board members. When needed, the commission may appoint advisory bodies and committees.

Alternatively, the governing board may choose a different structure for the commission. A local government may establish separate preservation commissions for districts and landmarks, may designate the planning commission or community appearance commission as the preservation commission, or may establish a joint commission with a city (or cities) and county. When the planning commission or community appearance commission serves as the preservation commission, it must still include at least three members with the demonstrated experience in related fields.

The governing board may authorize a preservation commission to carry out any of the following activities within the local government's zoning jurisdiction:

- i) Inventory historic and significant properties
- ii) Recommend historic designations (and revocations) for districts and landmarks
- iii) Negotiate for, acquire and sell property to promote preservation
- iv) Restore and operate historic properties
- v) Conduct educational programs
- vi) Cooperate and contract with State, federal, and local governments
- vii) Recommend preservation elements of the local comprehensive plan
- viii) Review and act on certificates of appropriateness

Certificates of Appropriateness

After a historic district or landmark is established, a landowner may not alter the exterior portions of historic properties



without obtaining a *certificate of appropriateness* (COA) from the preservation commission. Indeed, building permits and related development permits are withheld until the developer obtains a COA. The State has assigned the critical role of COA decision-making to the local preservation commission.

COAs are required for any erection, alteration, restoration, move, or demolition of an exterior feature of a structure. Structures include buildings, masonry walls, fences, light fixtures, steps and pavement, and other appurtenant features. Above ground utilities and outdoor advertising signs require a COA as well. Exterior features are defined to include, among other things, architectural style, size and scale of buildings, and types and styles of doors and windows. The local governing board, in its discretion, may define exterior features also to include historic signs, color, and significant landscape, archaeological, and natural features of the area.

Generally, COAs are not required for changes to the interior features of a building. COAs are not required for ordinary maintenance or repair that does not change the material or appearance, nor for changes required for public safety and certified by the building inspector. For minor works, the local government may authorize an administrative official to approve COAs pursuant to detailed standards (only the preservation commission may deny a COA, however).

COAs do not regulate use. The owner of property in a historic district may make any use of her property that is not otherwise prohibited by law.

Before a preservation commission may issue or deny any COA, the commission must adopt both (1) principles and guidelines for construction and alterations (design guidelines) and (2) rules of procedure. Those design guidelines and procedures reflect the local architecture and politics, but they must align with the state-established legal framework.

COA Standards. A certificate of appropriateness is just what the name denotes—it affirms that the proposed project is appropriate for the historic district or landmark. Indeed, the law states that a preservation commission may not deny a certificate except to prevent a project "which would be incongruous with the special character of the landmark or district." §160A-400.9(a).

It is worth emphasizing that congruence is based on the district as a whole, not just neighboring properties or relatively uncommon feature within the district. Commissions must determine congruence based on a contextual standard derived "from the total physical environment of the Historic District." *A-S-P Associates v. City of Raleigh*, 298 N.C. 207 at 222 (1979). The commission may not cherry pick certain properties or features of the district to determine congruity.

The required local design guidelines serve as the general standard for determining congruence. The design guidelines should establish the defining features of the district or landmark, and the commission looks to those guidelines to make its findings of fact regarding congruence. The commission is looking for general compatibility with the guidelines (not necessarily exact conformity). While the congruity standard is general and fairly loose, it is not an invitation for commission members to redesign projects according to the member's personal style. For more on the role of district guidelines, see this blog by Richard Ducker.

COA (Quasi-Judicial) Procedures. When a preservation commission reviews an application for a certificate of appropriateness, it is applying a standard that involves judgment and discretion, so it is a quasi-judicial decision. As such, certain rules apply. The local ordinance and the commission's required rules of procedure should follow the statutory framework and the judicial rulings for quasi-judicial decisions.

The commission must provide notice, as reasonably required by local ordinance or procedures, to owners of property likely to be materially affected by the certificate of appropriateness. Although, it is not formally required, a good guide for notice is the newly codified notice for other quasi-judicial hearings: posted notice on the site and mailed notice to adjoining property owners, between 10 and 25 days before the meeting. S.L. 2013-126.



In order to ensure parties' due process rights, members of the commission must not have fixed opinions about the application prior to the hearing; close family, business, or associational relationships with an affected party, or a financial interest in the outcome. Members of the commission may view the premises and seek advice of the NC Division of Archives and History or other experts, but that evidence and advice should be discussed and reflected in the record. Any ex parte communication (communicating with a party outside of the hearing) should be avoided, and disclosed at the hearing if it occurs.

The commission must act upon applications for COAs within a reasonable time, not more than 180 days from the date of the application. A COA for relocation or demolition of a historic property may be delayed up to 365 days—depending on the circumstances—for the commission to negotiate for preservation of the building or site.

The commission must hold an evidentiary hearing so that parties have a right to be heard in a contested case. The statute allows that the commission *may* hold a public hearing (for comments from the general public, not just the parties) when deemed necessary. For more on the distinction between an *evidentiary hearing* and a *public hearing* see this blog by Frayda Bluestein. Regardless of the type of hearing, all meetings of the preservation commission are subject to the NC Open Meetings Law.

During the evidentiary hearing, the commission hears evidence and sworn testimony from the parties. The record should include competent, material and substantial evidence that the proposed project meets the established standard—it is congruent with the district. The commission should provide a written decision, including a determination of any contested facts, to the applicant, property owner, and interested parties that have requested the decision. The commission may apply reasonable conditions to a COA to bring the project in compliance with the standards. An aggrieved party may appeal a commission decision on a COA to the Board of Adjustment. For more on quasi-judicial procedures, see these blogs by David Owens on testimony, opinions, and ex parte evidence.

Conclusion

The state has charged local historic preservation commissions with an important task—to safeguard, promote, and conserve our historical heritage. To that end, those commissions are authorized to research historic sites and districts, plan for preservation, and even acquire property for preservation. Moreover, the state has authorized preservation commissions to ensure the appropriateness of new development in the many historic properties and districts around the state, following the legal procedures and guidelines provided in state and local laws.

Links

- www.ncleg.net/gascripts/Statutes/StatutesTOC.pl?Chapter=0160A
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_160A/GS_160A-400.9.html
- www.ncleg.net/Sessions/2013/Bills/House/PDF/H276v6.pdf

Part 3C. Historic Districts and Landmarks.

§ 160A-400.1. Legislative findings.

The historical heritage of our State is one of our most valued and important assets. The conservation and preservation of historic districts and landmarks stabilize and increase property values in their areas and strengthen the overall economy of the State. This Part authorizes cities and counties of the State within their respective zoning jurisdictions and by means of listing, regulation, and acquisition:

- (1) To safeguard the heritage of the city or county by preserving any district or landmark therein that embodies important elements of its culture, history, architectural history, or prehistory; and
- (2) To promote the use and conservation of such district or landmark for the education, pleasure and enrichment of the residents of the city or county and the State as a whole. (1989, c. 706, s. 2.)

§ 160A-400.5. Designation of landmarks; adoption of an ordinance; criteria for designation.

Upon complying with G.S. 160A-400.6, the governing board may adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks. No property shall be recommended for designation as a historic landmark unless it is deemed and found by the preservation commission to be of special significance in terms of its historical, prehistorical, architectural, or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

The ordinance shall describe each property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural, or prehistorical value, including the land area of the property so designated, and any other information the governing board deems necessary. For each building, structure, site, area, or object so designated as a historic landmark, the ordinance shall require that the waiting period set forth in this Part be observed prior to its demolition. For each designated landmark, the ordinance may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If the owner objects, the sign shall be placed on a nearby public right-of-way. (1989, c. 706, s. 2.)

§ 160A-400.6. Required landmark designation procedures.

As a guide for the identification and evaluation of landmarks, the commission shall undertake, at the earliest possible time and consistent with the resources available to it, an inventory of properties of historical, architectural, prehistorical, and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Office of Archives and History. No ordinance designating a historic building, structure, site, area or object as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by a preservation commission or the governing board of a municipality, until all of the following procedural steps have been taken:

- (1) The preservation commission shall (i) prepare and adopt rules of procedure, and (ii) prepare and adopt principles and guidelines, not inconsistent with this Part, for altering, restoring, moving, or demolishing properties designated as landmarks.
- (2) The preservation commission shall make or cause to be made an investigation and report on the historic, architectural, prehistorical, educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. Such investigation or report shall be forwarded to the Office of Archives and History, North Carolina Department of Natural and Cultural Resources.
- (3) The Department of Natural and Cultural Resources, acting through the State Historic Preservation Officer shall either upon request of the department or at the initiative of the preservation commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark pursuant to this Part. Any comments shall be provided in writing. If the Department does not submit its comments or recommendation in connection with any designation within 30 days following receipt by the Department of the investigation and report of the commission, the commission and any city or county governing board shall be relieved of any responsibility to consider such comments.
- (4) The preservation commission and the governing board shall hold a joint public hearing or separate public hearings on the proposed ordinance. Reasonable notice of the time and place thereof shall be given. All meetings of the commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, Chapter 143, Article 33C.
- (5) Following the joint public hearing or separate public hearings, the governing board may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.
- (6) Upon adoption of the ordinance, the owners and occupants of each designated landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and all amendments thereto shall be filed by the preservation commission in the office of the register of deeds of the county in which the landmark or landmarks are located. In the case of any landmark property lying within the zoning jurisdiction of a city, a second copy of the ordinance and all amendments thereto shall be kept on file in the office of the city or town clerk and be made available for public inspection at any reasonable time. A third copy of the ordinance and all amendments thereto shall be given to the city or county building inspector. The fact that a building, structure, site, area or object has been designated a landmark shall be clearly indicated on

all tax maps maintained by the county or city for such period as the designation remains in effect.

- (7) Upon the adoption of the landmarks ordinance or any amendment thereto, it shall be the duty of the preservation commission to give notice thereof to the tax supervisor of the county in which the property is located. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes. (1989, c. 706, s. 2; 2002-159, s. 35(m); 2012-18, s. 1.24; 2015-241, s. 14.30(s).)

§ 160A-400.7. Historic Preservation Commission.

Before it may designate one or more landmarks or historic districts, a municipality shall establish or designate a historic preservation commission. The municipal governing board shall determine the number of the members of the commission, which shall be at least three, and the length of their terms, which shall be no greater than four years. A majority of the members of such a commission shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. All the members shall reside within the territorial jurisdiction of the municipality as established pursuant to G.S. 160A-360. The commission may appoint advisory bodies and committees as appropriate.

In lieu of establishing a historic preservation commission, a municipality may designate as its historic preservation commission, (i) a separate historic districts commission or a separate historic landmarks commission established pursuant to this Part to deal only with historic districts or landmarks respectively, (ii) a planning board established pursuant to this Article, or (iii) a community appearance commission established pursuant to Part 7 of this Article. In order for a commission or board other than the preservation commission to be designated, at least three of its members shall have demonstrated special interest, experience, or education in history, architecture, or related fields. At the discretion of the municipality the ordinance may also provide that the preservation commission may exercise within a historic district any or all of the powers of a planning board or a community appearance commission.

A county and one or more cities in the county may establish or designate a joint preservation commission. If a joint commission is established or designated, the county and cities involved shall determine the residence requirements of members of the joint preservation commission. (1989, c. 706, s. 2; 2005-418, s. 12.)

§ 160A-400.8. Powers of the Historic Preservation Commission.

A preservation commission established pursuant to this Part may, within the zoning jurisdiction of the municipality:

- (1) Undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance;
- (2) Recommend to the municipal governing board areas to be designated by ordinance as "Historic Districts"; and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "Landmarks";
- (3) Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property;
- (4) Restore, preserve and operate historic properties;
- (5) Recommend to the governing board that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause;
- (6) Conduct an educational program with respect to historic properties and districts within its jurisdiction;
- (7) Cooperate with the State, federal, and local governments in pursuance of the purposes of this Part. The governing board or the commission when authorized by the governing board may contract with the State, or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with State or federal law;
- (8) Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the commission may enter any private building or structure without the express consent of the owner or occupant thereof;
- (9) Prepare and recommend the official adoption of a preservation element as part of the municipality's comprehensive plan;
- (10) Review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alteration or demolition of designated landmarks, pursuant to this Part; and
- (11) Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate. (1989, c. 706, s. 2.)

§ 160A-400.9. Certificate of appropriateness required.

(a) From and after the designation of a landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on such landmark or within such district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the preservation commission. The municipality shall require such a certificate to be issued by the commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Part. A certificate of appropriateness shall be required whether or not a building or other permit is required.

For purposes of this Part, "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size, and location of all such signs. Such "exterior features" may, in the discretion of the local governing board, include historic signs, color, and significant landscape, archaeological, and natural features of the area.

Except as provided in (b) below, the commission shall have no jurisdiction over interior arrangement and shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features in the district which would be incongruous with the special character of the landmark or district.

(b) Notwithstanding subsection (a) of this section, jurisdiction of the commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned landmarks; and of privately owned historic landmarks for which consent for interior review has been given by the owner. Said consent of an owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the office of the register of deeds of the county in which the property is located and indexed according to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior.

(c) Prior to any action to enforce a landmark or historic district ordinance, the commission shall (i) prepare and adopt rules of procedure, and (ii) prepare and adopt principles and guidelines not inconsistent with this Part for new construction, alterations, additions, moving and demolition. The ordinance may provide, subject to prior adoption by the preservation commission of detailed standards, for the review and approval by an administrative official of applications for a certificate of appropriateness or of minor works as defined by ordinance; provided, however, that no application for a certificate of appropriateness may be denied without formal action by the preservation commission.

Prior to issuance or denial of a certificate of appropriateness the commission shall take such steps as may be reasonably required in the ordinance and/or rules of procedure to inform the owners of any property likely to be materially affected by the application, and shall give the applicant and such owners an opportunity to be heard. In cases where the commission deems it necessary, it may hold a public hearing concerning the application. All meetings of the commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, Chapter 143, Article 33C.

(d) All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time, not to exceed 180 days from the date the application for a certificate of appropriateness is filed, as defined by the ordinance or the commission's rules of procedure. As part of its review procedure, the commission may view the premises and seek the advice of the Division of Archives and History or such other expert advice as it may deem necessary under the circumstances.

(e) An appeal may be taken to the Board of Adjustment from the commission's action in granting or denying any certificate, which appeals (i) may be taken by any aggrieved party, (ii) shall be taken within times prescribed by the preservation commission by general rule, and (iii) shall be in the nature of certiorari. Any appeal from the Board of Adjustment's decision in any such case shall be heard by the superior court of the county in which the municipality is located.

(f) All of the provisions of this Part are hereby made applicable to construction, alteration, moving and demolition by the State of North Carolina, its political subdivisions, agencies and instrumentalities, provided however they shall not apply to interiors of buildings or structures owned by the State of North Carolina. The State and its agencies shall have a right of appeal to the North Carolina Historical Commission or any successor agency assuming its responsibilities under G.S. 121-12(a) from any decision of a local preservation commission. The commission shall render its decision within 30 days from the date that the notice of appeal by the State is received by it. The current edition of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be the sole principles and guidelines used in reviewing applications of the State for certificates of appropriateness. The decision of the commission shall be final and binding upon both the State and the preservation commission. (1989, c. 706, s. 2.)

§ 105-278. Historic properties.

(a) Real property designated as a historic property by a local ordinance adopted pursuant to former G.S. 160A-399.4 or designated as a historic landmark by a local ordinance adopted pursuant to G.S. 160A-400.5 is designated a special class of property under authority of Article V, Sec. 2(2) of the North Carolina Constitution. Property so classified shall be taxed uniformly as a class in each local taxing unit on the basis of fifty percent (50%) of the true value of the property as determined pursuant to G.S. 105-285 and 105-286, or 105-287.

(b) The difference between the taxes due on the basis of fifty percent (50%) of the true value of the property and the taxes that would have been payable in the absence of the classification provided for in subsection (a) shall be a lien on the property of the taxpayer as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit or units as deferred taxes. The deferred taxes for the preceding three fiscal years are due and payable in accordance with G.S. 105-277.1F when the property loses the benefit of this classification as a result of a disqualifying event. A disqualifying event occurs when there is a change in an ordinance designating a historic property or a change in the property, other than by fire or other natural disaster, that causes the property's historical significance to be lost or substantially impaired. In addition to the provisions in G.S. 105-277.1F, no deferred taxes are due and all liens arising under this subsection are extinguished when the property's historical significance is lost or substantially impaired due to fire or other natural disaster. (1977, c. 869, s. 2; 1981, c. 501; 1989, c. 706, s. 3.1; 2005-435, s. 38; 2006-162, s. 28; 2008-35, s. 2.5; 2010-95, s. 17.)



HISTORIC LANDMARKS COMMISSION

§ 31.40 ESTABLISHED; MEMBERSHIP; TERMS.

(A) There is hereby established a Kill Devil Hills Historic Landmarks Commission ("Commission") under the authority of Chapter 160A, Article 19, Part 3C of the North Carolina General Statutes.

(B) The Commission shall consist of five members appointed by the Board of Commissioners. All members shall reside within the planning and zoning jurisdiction of Kill Devil Hills. A majority of the members of the Commission shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields. The Commission may appoint advisory bodies and committees as appropriate.

(C) Members of the Commission shall serve terms of three years. Terms shall be staggered.
(Ord. 04-05, passed 4-12-04; Am. Ord. 14-23, passed 1-12-15)

§ 31.41 POWERS AND DUTIES.

(A) The powers of the Historic Landmarks Commission are as follows:

(1) Undertake an inventory of properties of historical, prehistoric, architectural and/or cultural significance.

(2) Recommend to the Board of Commissioners individual structures, buildings, sites, areas or objects to be designated by ordinance as "Landmarks".

(3) Recommend to the Board of Commissioners that designation of any building, structure, site, area or object as a landmark, be revoked or removed for cause.

(4) Review and act upon proposals for the alteration or demolition of designated landmarks.

(5) Conduct an educational program with respect to historic landmarks within its jurisdiction.

(6) Cooperate with the state, federal and local government in pursuance of the purpose of this subchapter; to offer or request assistance, aid, guidance or advice concerning matters under its purview or mutual interest. The Board of Commissioners, or the Commission when authorized by the Board of Commissioners, may contract with the State or the United States, or any agency of either, or with any other organization provided the terms are not inconsistent with state or federal law.

(7) Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the

Commission may enter any private building or structure without express consent of the owner or occupant thereof.

(8) Prepare and recommend the official adoption of a preservation element as part of the Town of Kill Devil Hills comprehensive plan.

(9) Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to any such properties designated as landmarks; to hold, manage, preserve, restore and improve the same; and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property.

(10) Restore, preserve and operate historic properties.

(11) Negotiate at any time with the owner of a building, structure, site, area or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate.

(B) Prior to any official action the Commission shall adopt rules of procedure governing its meetings and the conduct of official business and bylaws governing the appointment of members, terms of office, the election of officers and related matters. A public record shall be kept of the Commission's resolutions, proceedings and actions. The Commission shall also prepare and adopt principles and guidelines for altering, restoring, moving, or demolishing properties designated as landmarks.

(Ord. 04-05, passed 4-12-04)

§ 31.42 HISTORIC LANDMARK DESIGNATION PROCEDURE.

(A) Upon complying with the required landmark designation procedures set forth herein, the Board of Commissioners may adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks. No property shall be recommended for designation as a landmark unless it is deemed and found by the Commission to be of special significance in terms of its historical, prehistoric, design, setting, workmanship, materials, feeling and/or association.

(B) The ordinance shall describe each property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural or prehistoric value, including the land area of the property so designated, and any other information the governing board deems necessary. For each building, structure, site, area or object so designated as a landmark, the ordinance shall require that the waiting period set forth in this subchapter be observed prior to its demolition. A suitable sign for each property designated as a landmark may be placed on the property at the owner's consent; otherwise the sign may be placed on a nearby public right-of-way.

(C) No property shall be designated as a landmark until the following steps have been taken:

(1) As a guide for the identification and evaluation of landmarks, the Commission shall, at the earliest possible time and consistent with the resources available to it, undertake an inventory of properties of historical, architectural, prehistoric and cultural significance with Kill Devil Hills.

(2) The Commission shall make or cause to be made an investigation and report on the historic, architectural, prehistoric, educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. Such report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.

(3) The Department of Cultural Resources, acting through the State Historic Preservation Officer, or his or her designee, shall either upon request of the Department or at the initiative of the Commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark. All comments will be provided in writing. If the Department does not submit its comments to the Commission within 30 days following receipt by the Department of the report, the Commission and the Board of Commissioners shall be relieved of any responsibility to consider such comments.

(4) The Commission and the Board of Commissioners shall hold a joint public hearing (or separate public hearings) on the proposed ordinance. Reasonable notice of the time and place thereof shall be given.

(5) Following the public hearing(s) the Board of Commissioners may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

(6) Upon adoption of the ordinance the owners and occupants of each landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and all amendments thereto shall be filed by the Commission in the office of the Register of Deeds of Dare County. Each landmark shall be indexed according to the name of the owner of the property in the grantor and grantee indexes in the Register of Deeds office and the Commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and all amendments thereto shall be kept on file in the office of the Kill Devil Hills Town Clerk and be made available for public inspection at any reasonable time. A third copy of the ordinance and all amendments thereto shall be given to the building inspector. The fact that a building, structure, site, area or object has been designated a building, structure, site, area or object has been designated a landmark shall be clearly indicated on all tax maps maintained by Dare County for such period as the designation remains in effect.

(7) Upon the adoption of the landmark ordinance or any amendments thereto, it is the duty of the Commission to give notice thereof to the tax supervisor of Dare County. The tax supervisor in appraising it for tax purposes shall consider the designation and any recorded restrictions upon the property limiting its use for preservation purposes.

(Ord. 04-05, passed 4-12-04)

§ 31.43 CERTIFICATE OF APPROPRIATENESS.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

EXTERIOR FEATURES. Includes the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. **EXTERIOR FEATURES** may also include

historic signs, color and significant landscape, archaeological and natural features of the area. In the case of outdoor advertising signs, **EXTERIOR FEATURES** shall be construed to mean the style, material, size and location of all such signs.

(B) *Certificate of Appropriateness required.*

(1) From and after the designation of a landmark, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor any above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on such landmark until after an application for a Certificate of Appropriateness as to exterior features has been submitted to and approved by the Commission. Such a certificate is required to be issued by the Commission prior to the issuance of a building permit or other permit granted for the purpose of construction, altering, moving, or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this subchapter. A Certificate of Appropriateness shall be required whether or not a building or other permit is required.

(2) The State of North Carolina (including its agencies, political subdivisions and instrumentalities), the Town of Kill Devil Hills, and all public utilities shall be required to obtain a Certificate of Appropriateness for construction, alteration, moving or demolition of designated landmarks.

(C) *Application for Certificate of Appropriateness.*

(1) Applications for a Certificate of Appropriateness shall be obtained from the Planning and Inspection Department and when completed, filed with the Zoning Administrator. The application shall be filed two weeks prior to the next regularly scheduled meeting of the Commission. Each application shall be accompanied by sketches, drawings, photographs, specifications, descriptions and other information of sufficient detail to clearly show the proposed exterior alterations, additions, changes or new construction. The names and mailing addresses of property owners filing and/or subject to the application and the addresses of the property within 100 feet on all sides of the property that is the subject of the application must also be filed. No application that does not include the aforementioned information will be accepted.

(2) It shall be the policy of the Commission, in regard to applications involving new construction or extensive alterations and/or additions to existing structures, that a subcommittee of the Commission shall be available to meet with persons involved in planned or pending applications in order to advise them informally at an early stage in the development process concerning the Commission's guideline, the nature of the area where the proposed project will take place, and other relevant factors. The members of the subcommittee, collectively and individually, shall refrain from any indication of approval or disapproval. Advice or opinions given by a member of the subcommittee at such informal meeting shall not be considered official or binding upon the Commission.

(D) *Action on application.* The Zoning Administrator shall notify, by certified mail, not less than one week prior to the meeting at which the matter is to be heard, the owners of the property within 100 feet on all sides of the subject property. Application for a Certificate of Appropriateness shall be acted upon within 90 days after filing, otherwise the application shall be deemed approved and a certificate shall be issued. An extension of time may be granted by mutual consent of the Commission and the applicant. As part of the review procedures the Commission may view the premises and seek advice, as it may deem necessary under the

circumstances. The Commission may hold a public hearing on any application when deemed necessary. The action on an application shall be approval, approval with conditions or denial and the decision of the Commission must be supported by specific findings of fact indicating the extent to which the application is or is not congruous with each special character of the landmark.

(E) *Hearing on application; jurisdiction; appeal.*

(1) Prior to the issuance or denial of a Certificate of Appropriateness the applicant or other property owner(s) likely to be materially affected by the application shall be given an opportunity to be heard. All meetings of the Commission shall be open to the public in accordance with the North Carolina Open Meetings Laws, G.S. Ch. 143, Art. 33C.

(2) (a) The Commission shall have no jurisdiction over interior arrangement, except as provided below, and shall take no action under this ordinance except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, outdoor advertising signs or other significant features which would be incongruous with the special character of the landmark.

(b) The jurisdiction of the Commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned landmarks; and of privately owned landmarks for which consent for interior review has been given by the owners. Such consent of an owner for interior review shall bind future owners and/or successors in title; provided such consent has been filed in the Register of Deeds office and indexed according to the name of the owner of the property in the grantor and grantee indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the Commission's jurisdiction over the interior.

(3) (a) In any action granting or denying a Certificate of Appropriateness, an appeal by an aggrieved party may be taken to the Board of Adjustment.

(b) Written notice of the intent to appeal must be sent to the Commission, post marked within 30 days following the decision. Appeals shall be in the nature of certioraris. Appeals of decisions of the Board of Adjustment shall be heard by the Superior Court of Dare County.

(c) The State of North Carolina shall have a right of appeal to the North Carolina Historical Commission, which shall render its decision with 30 days from the date that the notice of appeal by the state is received by the Historical Commission. The decision of the Historical Commission shall be final and binding upon both the state and the Commission.

(Ord. 04-05, passed 4-12-04)

§ 31.44 ADMINISTRATIVE APPROVAL OF MINOR WORKS.

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

MINOR WORKS. Those exterior changes that do not involve substantial alterations, additions or removals that could impair the integrity of the property. **MINOR WORKS** shall be limited to those listed in the Commission's "Design Guidelines".

(B) Notwithstanding § 31.43(D), (Action on Certificates of Appropriateness), upon receipt of a completed application the Zoning Administrator may issue a Certificate of Appropriateness for a minor works.

(C) No application may be denied without formal action of the Commission. All minor works applications approved by the Zoning Administrator shall be forwarded to the Commission in time for the next scheduled meeting.

(Ord. 04-05, passed 4-12-04)

§ 31.45 REVIEW CRITERIA.

(A) No Certificate of Appropriateness shall be granted unless the Commission finds that the application complies with the principles and guidelines adopted by the Commission for review changes. It is the intent of these regulations to insure insofar as possible that construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features of landmarks shall be congruous with the special character of the landmark.

(B) In addition to the principles and guidelines, the following features or elements of design shall be considered in reviewing applications for Certificates of Appropriateness:

- (1) Lot coverage, defined as the percentage of the lot area covered by primary structures;
- (2) Setbacks, defined as the distances from the lot lines to the building;
- (3) Building height;
- (4) Spacing of buildings, defined as the distances between adjacent buildings;
- (5) Proportion, shape, positioning, location, pattern, sizes and style of all elements of fenestration and entry doors;
- (6) Surface materials and textures;
- (7) Roof shapes, forms and materials;
- (8) Use of regional or local architectural traditions;
- (9) General form and proportion of buildings and structures, and the relationship of additions to the main structure;
- (10) Expression of architectural detailing;
- (11) Orientation of the building to the street;
- (12) Scale, determined by the size of the units of construction and architectural details in relation to the human scale and also by the relationship of the building, as to adjoining open space and nearby buildings and structures; maintenance of pedestrian scale;
- (13) Proportion of width to height of the total building facade;
- (14) Archaeological sites and resources associated with standing structures;

- (15) Effect of trees and other landscape elements;
- (16) Major landscaping which would impact archaeological sites;
- (17) Style, material, size and location of all outdoor advertising signs;
- (18) Appurtenant features and fixtures, such as lighting;
- (19) Structural condition and soundness;
- (20) Walls - Physical ingredients, such as brick, stone or wood walls, wrought iron fences, evergreen landscape masses or combination of these;
- (21) Color;
- (22) Ground cover or paving;
- (23) Significant landscaping, archaeological and natural features.

(C) The Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" shall be the sole principles and guidelines used in reviewing applications of the State of North Carolina for Certificates of Appropriateness.

(Ord. 04-05, passed 4-12-04)

§ 31.46 CERTAIN CHANGES NOT PROHIBITED.

Nothing in this subchapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of a landmark which does not involve a change in design, material, or outer appearance thereof; the ordinary maintenance or repair of streets, sidewalks, pavement markings, street signs or traffic signs; the construction, reconstruction, alteration, restoration or demolition of any such features which the building inspector shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent either maintenance, or in the event of an emergency, the immediate restoration of any existing above ground utility structure without approval by the Commission.

(Ord. 04-05, passed 4-12-04)

§ 31.47 ENFORCEMENT AND REMEDIES.

(A) Compliance with the terms of the Certificate of Appropriateness shall be enforced by the Zoning Administrator. Failure to comply with the certificate issued shall be a violation of the Zoning Code and subject to established procedures and penalties for such violations.

(B) In case a building, structure, site, area or object designated as a landmark is about to be demolished, whether a result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed except in compliance with this subchapter, the Board of Commissioners, the Commission or other party aggrieved by such action may institute any appropriate action or proceeding to prevent such unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violations, or to prevent any illegal act or conduct with respect to such a building or structure.

(Ord. 04-05, passed 4-12-04)

§ 31.48 DELAY IN DEMOLITION OF LANDMARKS.

(A) (1) An application for a Certificate of Appropriateness authorizing the demolition, removal, or destruction of a designated landmark may not be denied except as provided in division (C) below. However, the effective date of such a certificate may be delayed for up to 365 days from the date of approval. The period of delay shall be reduced by the Commission if it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the delay. During the delay period the Commission shall negotiate with the owner in an effort to find a means of preserving the building, structure or site.

(2) If the Commission has voted to recommend the designation of a landmark, and the final designation has not been made by the Board of Commissioners, the demolition or destruction of any building, structure or site on the property of the designated landmark may be delayed by the Commission for up to 180 days or until the Board of Commissioners takes final action on the designation, whichever occurs first.

(B) The Board of Commissioners may enact an ordinance to prevent the demolition by neglect of any designated landmark. Such ordinance shall provide appropriate safeguards to protect property owners from undue hardship.

(C) An application for a Certificate of Appropriateness authorizing the demolition of a building, structure or site determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

(Ord. 04-05, passed 4-12-04)

700019985



Recorded: 12/16/2015 12:05:41 PM
BY: Claudia Harrington
Vanzolla McMurrin, Register of Deeds
Dare County, NC

Return to:
Town of Kill Devil Hills
Attn: Meredith Guns
PO Box 1719
Kill Devil Hills, NC 27948

Fee Amt: \$26.00

NC Excise Tax: \$0.00

ORDINANCE NO. 15-10

AN ORDINANCE DESIGNATING PROPERTY KNOWN AS YOUNG/CROARKIN COTTAGE AND LOCATED AT 201 RANDOM STREET AS A LOCAL HISTORIC LANDMARK

WHEREAS, pre-requisites to the adoption of this ordinance as prescribed in Part 3C, Article 19, Chapter 160A of the North Carolina General Statutes have been met; and

WHEREAS, the Kill Devil Hills Board of Commissioners has taken full consideration of all statements and information presented at the public hearing on December 14, 2015 and considered the recommendations of the North Carolina Department of Cultural Resources on the question of designating the property known as Young/Croarkin Cottage located at 201 Random Street as a local historic landmark; and

WHEREAS, Young/Croarkin Cottage is located in the Virginia Dare Shores Subdivision which was the first subdivision in the Town developed by Frank Stick; and

WHEREAS, the Young/Croarkin Cottage was built and marketed by Robert Young who was the first developer to market and price for the middleclass offering financing; and,

WHEREAS, the structure known as Young/Croarkin Cottage is of historic, architectural, and cultural significance in that it embodies the distinctive architectural characteristics the low cost flattop; and

WHEREAS, in the 1950's and 1960's over one hundred flat top structures were constructed and sold by Robert Young and C.A. "Sug" York; and,

WHEREAS, Young/Croarkin Cottage was constructed in 1954 by Robert Young. The First owner Vernon J. Cassell and wife, Reba Mae Cassell were from Newport News, VA. Who bought the house from Mr. Young; and,

WHEREAS, Young/Croarkin Cottage was owned by Luther Kiger of Richmond, Va. from 1970 to 2006. He bought the property and house for \$7,000 and provides much of the history and relationship with the developer Robert Young; and,

WHEREAS, Young/Croarkin Cottage maintains its original integrity of design, setting, workmanship, feeling, and association on both the exterior architecture and interior finishes; and,

WHEREAS, Young/Croarkin Cottage maintains its original architectural appearance with concrete block exterior, a porch and flat top roof; and,

WHEREAS, Young/Croarkin Cottage survived the Ash Wednesday Storm of 1962 with little damage, other than water in the structure that was swept out, as well as multiple other hurricanes and nor'easters that caused major damage to surrounding structure; and

WHEREAS, Young/Croarkin Cottage was built as a summer rental home; and,

WHEREAS, Young/Croarkin Cottage has had no additions since its construction, there have been minor upgrades including window replacements in late 1980's and a portion of the clock all on the porch was removed due to damage; and

WHEREAS, the Young/Croarkin Cottage is a good example of this type of architecture built in the time period, maintaining the traditional colors for this type of dwelling as well as the enclosed porch and flat roof synonymous with Avalon Beach flat tops; and,

WHEREAS, the location of Young/Croarkin Cottage in Virginia Dare Shores is connected to the history of the structure;

NOW, THEREFORE, BE IT ORDAINED BY THE KILL DEVIL HILLS BOARD OF COMMISSIONERS THAT:

1. All of the property located at 201 RANDOM STREET in the Town of Kill Devil Hills is hereby designated as a local historic landmark pursuant to Part 3C, Article 19, Chapter 160A of the North Carolina General Statutes. The property is presently owned by B.J. McCandless and is identified on Dare County Tax Maps as Pin No. 988517119578 and is further described on Exhibit A attached hereto and made a part hereof.
2. The significant features of the building located on said property may not be demolished, materially altered, restored, or removed, nor any new structure built upon the lot without a Certificate of Appropriateness being issued by the Kill Devil Hills Historic Landmarks Commission. Any application for the demolition of this building shall require the waiting period set forth in Part 3C of Article 19 of Chapter 160A.

For purposes of this designation, "significant features" shall be understood to include:

- a. The exterior of the building
 - b. The grounds
3. Nothing in this ordinance shall be construed to prevent the ordinary maintenance or repair of any architectural feature in or on the said building and property that

does not involve a change in design, material or outer appearance, nor to prevent the construction, reconstruction, alteration, restoration, demolition or removal of any such feature when a Kill Devil Hills Building Inspector or similar official certifies to the Kill Devil Hills Historic Landmarks Commission that such action is required for the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent the property owner from making any use of this property not prohibited by other statutes, ordinances or regulations.

4. A suitable sign or plaque shall be posted indicating the property has been designated as a local historic landmark and containing any other appropriate information. If the owner consents, the sign or plaque shall be placed upon the building or property. If the owner objects, the sign or plaque shall be placed in the nearby public right-of-way.

5. The owner and occupants of the building known as "Young/Croarkin Cottage" shall be given notice of this ordinance as required by applicable law and copies of this ordinance shall be filed and indexed in the offices of the Town Clerk, Dare County Register of Deeds, the Town's Building Inspector and Dare County Tax Department as required by applicable law.

Read, approved, and adopted this 14th day of December, 2015.

Harriet B. Banner
Deputy Town Clerk

Steve F. Davis
Mayor

Approved as to form:

Steve Applegate
Town Attorney



NORTH CAROLINA
DARE COUNTY

I, the undersigned Notary Public do hereby certify that Harriet Banner personally appeared before me and acknowledged that she is the Deputy Town Clerk for the Town of Kill Devil Hills and that by authority duly given and as the act of the Town of Kill Devil Hills, the foregoing instrument was signed in its name by its Mayor, and attested by her as its Deputy Town Clerk. Witness my hand and official stamp or seal, this 14th day of DEC, 2015.

My commission expires 6/1/2020

Donna E. White
Notary Public

SEAL

DARE COUNTY

Exhibit "A"

All those certain lots or parcels of land known as, designated and being Lots 17 and 18, of Block 2, of the subdivision known as Virginia Dare Shores, "said plat being made by T. R. Pettit, Registered Engineer, dated July 1953, duly of record in Map Book 1, page 33 pf the Public Registry of Dare County, North Carolina. The property hereinabove described was acquired by Grantor by instrument recorded in Book 1261 page 254. A map showing the above described property is recorded in Plat Book 1 page 33.

SEPTEMBER 6, 2016

TAB 5



Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

info@southernshores-nc.gov

www.southernshores-nc.gov

7
8 **RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHERN SHORES,**
9 **NORTH CAROLINA AMENDING THE TOWN COUNCIL'S RULES OF PROCEDURE**
10 **(Resolution #2016-xx-xx)**

11
12 **WHEREAS**, the Town Council desires to modify the procedure for release of proposed
13 meeting agendas and agenda packets contained with the Town of Southern Shores Rules
14 of Procedure for Town Council (the "Rules of Procedure").

15
16 **NOW, THEREFORE BE IT RESOLVED**, as follows:

17
18 1. **Section 13. Agenda generally.** of the Rules of Procedure is hereby amended as
19 follows:

20
21 (a) The Town Clerk shall prepare a proposed agenda for each meeting. The Mayor
22 shall approve the proposed agenda before it is ~~advertised~~ made available to
23 Council members and the public. The Town Clerk shall make a diligent effort to
24 make the proposed agenda available to Council members and the public,
25 including electronically to the extent possible, at least five (5) business days
26 before the meeting to which the proposed agenda applies. A request to have an
27 item of business placed on the proposed agenda must be received at least ten (10)
28 business days before the meeting. Any Council member, the Town Manager and
29 the Town Attorney may, by a timely request, have an item placed on the proposed
30 agenda.

31
32 (b) The Town Clerk shall make a diligent effort to make the agenda package
33 available to each Council member and to the public, including electronically to
34 the extent possible, no more than two (2) business days following date of
35 proposed agenda release. The agenda package shall include, for each item of
36 business placed on it, as much background information on the subject as is
37 available and feasible to reproduce at the time of the release of the agenda
38 package. A copy of all proposed ordinances shall be ~~attached to~~ included within
39 the agenda package. ~~Each Council member shall receive a copy of the proposed~~
40 ~~agenda and the agenda package. Copies shall also be available for public~~
41 ~~inspection.~~

42
43 (c) The Council may, by majority vote, add items to or subtract items from the
44 proposed agenda.

SEPTEMBER 6, 2016

TAB 6

August 29, 2016

To: Town Council

From: Town Manager

Re: Dare County Veterans Advisory Council Request

On the recommendation of the Dare County Veterans Advisory Council, the Dare County Board of Commissioners recently adopted a policy establishing a Veterans preference in all the County's employment events effective July 18, 2016. Subsequent to the Dare County Board of Commissioners' action, the Vice Chairman of the Veterans Advisory Council, Jack Leonard, approached all the Dare County municipalities' Town Managers requesting they request their respective governing bodies to also consider adopting such a policy. I conferred with the County Manager who confirmed that the Board of Commissioners did take its action on the recommendation of its Veterans Advisory Council.

After consultation with the Town Attorney, a draft Veterans preference policy for the Town of Southern Shores is attached for the Council's consideration.



Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

www.southernshores-nc.gov

Resolution Incorporating a Veterans Preference Policy into the Employment Policy of the Town of Southern Shores

WHEREAS, it is the desire of the Town Council of the Town of Southern Shores that Veterans of the armed services of the United States, in appreciation for their service to the Country, State, County, and Town, and in recognition of the time and advantage lost toward pursuit of a civilian career, should be granted preference in employment for positions subject to this policy within every Department; and

WHEREAS it is the intent of the Town Council to adopt and incorporate into this policy those same definitions of terms cited in subsection (b) of Section 15, Article 1. of Chapter 128 of the North Carolina General Statutes, "§ 128-15. *Employment preference for veterans and their spouses or surviving spouses.*" [NCGS 128-15 (b)].

WHEREAS it is the intent of the Town Council of the Town of Southern Shores, for initial employment and other employment events including subsequent hirings, promotions, reassignments, and horizontal transfers; and after applying the preference to an eligible Veteran who is a candidate from outside the Town structure, the eligible Veteran shall be hired when overall qualifications are substantially equal to nonveterans or non-eligible Veterans in the most qualified applicant pool; Substantially equal qualifications occur when Town hiring staff cannot make a reasonable determination that the qualifications held by one or more applicants are significantly better suited for the position than the qualifications held by another applicant.

NOW THEREFORE the following policies are directed to be incorporated into the employment policy of the Town of Southern Shores

1. The definitions cited in North Carolina General Statute 128-15 (b) are incorporated into the hiring policy of the Town of Southern Shores;
2. Eligible Veterans, as defined in NCGS 128-15 (b) (3) , shall be granted preference for initial employment and other employment events including subsequent hirings, promotions, reassignments, and horizontal transfers;
3. A qualified, eligible Veteran shall be given preference over other applicants in the applicant pool who are nonveterans or non-eligible Veterans and whose overall qualifications are substantially equal to or otherwise not better than those of the Veteran. Substantially equal qualifications occur when Town hiring staff cannot make a reasonable determination that the qualifications held by one or more applicants are significantly better suited for the position than the qualifications held by another applicant.

This the 6th day of September, 2016.

Tom Bennett, Mayor

Attest: Town Clerk

§ 128-15. Employment preference for veterans and their spouses or surviving spouses.

(a) It shall be the policy of the State of North Carolina that, in appreciation for their service to this State and this country during a period of war, and in recognition of the time and advantage lost toward the pursuit of a civilian career, veterans shall be granted preference in employment with every State department, agency, and institution.

(b) As used in this section:

- (1) "A period of war" includes World War I (April 16, 1917, through November 11, 1918), World War II (December 7, 1941, through December 31, 1946), the Korean Conflict (June 27, 1950, through January 31, 1955), the period of time between January 31, 1955, and the end of the hostilities in Vietnam (May 7, 1975), or any other campaign, expedition, or engagement for which a campaign badge or medal is authorized by the United States Department of Defense.
- (2) "Veteran" means a person who served in the Armed Forces of the United States on active duty, for reasons other than training, and has been discharged under other than dishonorable conditions.
- (3) "Eligible veteran" means:
 - a. A veteran who served during a period of war; or
 - b. The spouse of a disabled veteran; or
 - c. The surviving spouse or dependent of a veteran who dies on active duty during a period of war either directly or indirectly as the result of such service; or
 - d. A veteran who suffered a disabling injury for service-related reasons during peacetime; or
 - e. The spouse of a veteran described in subdivision d. of this subsection; or
 - f. The surviving spouse or dependent of a person who served in the Armed Forces of the United States on active duty, for reasons other than training, who dies for service-related reasons during peacetime.

(c) Hereafter, in all evaluations of applicants for positions with this State or any of its departments, institutions or agencies, a preference shall be awarded to all eligible veterans who are citizens of the State and who served the State or the United States honorably in the military forces of this State or of the United States during a period of war. This preference applies to initial employment with the State and extends to other employment events including subsequent hirings, promotions, reassignments, and horizontal transfers.

(d) The provisions of this section shall be subject to the provisions of Article 1 of Chapter 165 of the General Statutes, and Parts 13 and 19 of Article 9 of Chapter 143B of the General Statutes. (1939, c. 8; 1953, c. 1332; 1967, c. 536; 1987 (Reg. Sess., 1988), c. 1064, s. 2; 2007-286, s. 1; 2011-183, s. 96.)