



Town of Southern Shores

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Council Meeting
December 1, 2009
7:00 p.m.-Pitts Center

The Southern Shores Town Council met on December 1, 2009 at the Pitts Center.

The following Council Members were present: Mayor pro tem Brian McDonald, Jodi Hess, Kevin Stroud, Jim Pfizenmayer. Mayor Smith absent.

Also present were: Charlie Read, Town Manager, Ben Gallop, Town Attorney and Carrie Gordin, Town Clerk.

Mayor pro tem McDonald called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance. He held a moment of silence for our service men over seas protecting our rights and the family members lost in the last month.

APPROVAL OF AGENDA

Council Member Hess moved to amend the agenda by placing an additional item under IV. Organizational Meeting to discuss future Council meeting schedule. Council Member Pfizenmayer seconded. The motion passed with Mayor pro tem McDonald, Hess, Stroud and Pfizenmayer voting aye; no Council Member voting no and Mayor Smith absent.

APPROVAL OF MINUTES-October 27, 2009

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

RECOGNITION OF OUTGOING COUNCIL MEMBERS

Mayor pro tem McDonald addressed the audience by saying "I would like to begin by thanking the current members of our Town Council for their commitment to community service. This can be a thankless task at times. As you may imagine, it's not possible to make the necessary decisions that benefit the majority of our citizens and please everyone at the same time. Even so, I've enjoyed serving on our Town Council.

We've dealt with quite a few important items during my time here working for you. We're currently in the middle of working on several important issues and I'd like to wish my colleagues the best of luck in completing what we've started.

I'd like to thank all the volunteers that have donated countless hours in an effort to help improve our Town. While a lot of them may also agree that it feels like a thankless task at times; I want to let them know that I truly appreciate their service and understand the sacrifices they've made to get the job done.

I'd also like to thank our wonderful Town employees that do an amazing job with such a small staff. Without them our job as your Council Members would take three times as much time as it does. I want to wish them all, the best of luck in the future.

I want to thank the citizens of Southern Shores for the support you have given me over the last five years. It has truly been an honor working on your behalf.

Finally I want to congratulate Mr. Denny and Mr. Kowalski on their elections and I wish them nothing but success. I agree with our newly elected Council Members that we have many capital improvements that will need to be made around Town in the coming years.

I hope they'll be able to work with the existing Council and Planning Board Members to develop a payment plan that costs the individual tax payers the least amount possible to accomplish the infrastructure repairs and upgrades that are needed".

"Thank you; and I wish you all a Merry Christmas and a Happy New Year"!

The Town Manager expressed appreciation from the Town by presenting to out-going Mayor Smith and out-going Mayor pro tem McDonald a framed Town Seal for their four years of service.

OATHS OF OFFICE-Mayor and Council Member

The Town Clerk swore in Hal Denny as Mayor and George Kowalski as Council Member.

Mayor Denny remarked he had no inaugural speech prepared but he extended a heartfelt thanks to many who worked on his behalf and to all the voters and that he is humbled by the level of support shown and to all who are present tonight. He thinks the message is loud and clear that the Town government should take a different direction and he is looking forward to working with Council on this. He looks forward to working with what he feels is the most dedicated group of volunteers on boards, committees, civic associations etc. and working together we can move forward. He stated he learned over the last month there are challenges to face in addition to our neglected infrastructure, reduction in state funding for our canal dredge project as well our needs on the updated emergency communication system and services provided will be a challenge over the next four years but with everyone's help we can do the job and return the Town to its' position of pre-eminence on the Outer Banks. He also thanked Brian McDonald and Don Smith for their dedicated services and efforts over the past four years.

ORGANIZATIONAL MEETING

Election of Mayor pro tem

Mayor Denny asked for any nominations for Mayor pro tem hearing none he nominated Council Member Hess. Council Member Kowalski seconded. Hearing no additional nominations he called for the vote. The motion passed with Mayor Denny, Hess, Stroud, Pfizenmayer and Kowalski voting aye; no Council Member voting no and no Council Member absent.

Schedule of Council meetings

Council Member Hess requested Council establish the annual retreat date and to consider changing the second monthly Council from the fourth Tuesday to the third Tuesday. She stated it would help staff in preparing for upcoming meetings for them to have time to gather information for Council's books.

Mayor Denny asked her to put her request in motion form.

Council Member Hess moved to amend the Council workshop meeting to be held on the third Tuesday instead of the fourth Tuesday of the month. Council Member Kowalski seconded.

The motion passed with Mayor Denny, Hess, Stroud, Pfizenmayer and Kowalski voting aye; no Council Member voting no and no Council Member absent.

Mayor Denny stated he wants to hold the annual retreat as soon as possible in January with a three-day retreat with the third day optional.

Following discussion Council agreed to set the retreat date for January 20-22, 2010. The new date for workshop would be held on January 19 and Council will discuss later if that meeting is needed.

PRESENTATION-Employee Years of Service-Bonnie Swain

Mayor Denny stated he was part of the Town government five years ago when Bonnie (Swain) was interviewed and they felt competent they had a jewel and after one day on the job they knew it. He stated she has continued to be more valuable to the Town and we appreciate her skills and dedication and glad she is with the Town. He read and presented her with a Certificate of Appreciation, a five-year plaque and a five-year Town pin.

GENERAL PUBLIC COMMENT

Peter Bruck, 15 Soundview Trail, suggested regarding the proposed wireless ordinance that no action be taken until the most recent proposal is posted on the Town's website and is reviewed and commented by the residents of Southern Shores, it is important to hear the public comments and they are vital to your decision making process.

Ed Cowell, 134 Beech Tree Trail, congratulated the new mayor and new Council Member and thanked the other Council Members for their service to the Town. He stated he has always been proud to say the Town is a Town of volunteers and he is one of them. He asked Council to consider returning to a volunteer status and vote their compensation be placed in the road fund.

CONSENT AGENDA

Budget Amendment FY 2009-2010 #5

Council Member Hess moved to approve Budget Amendment FY 2009-2010 #5 as presented. Council Member Pfizenmayer seconded. The motion passed with Mayor Denny, Council Members Hess, Stroud, Pfizenmayer and Kowalski voting aye; no Council Member voting no and no Council Member absent.

[Clerk's Note: A copy of Budget Amendment FY 2009-2010 #5 is hereby attached as Exhibit A].

PUBLIC HEARING -Preliminary Subdivision site plan at 109 Osprey Lane

The Town Attorney reviewed the procedure for the hearing. The Town Clerk swore in Alvin Rountree, Town Code Enforcement Administrator and Doug Styons, applicant representative.

The Town Attorney opened the public hearing.

Mr. Styons stated he has prepared a preliminary subdivision plat that has been submitted to Council. He stated he is asking Council to approve to divide one lot from an existing four acre lot to satisfy the will of a deceased Mother.

The Town Attorney asked Council if they have any questions of the applicant. None.

The Town Code Enforcement Administrator had no question of the applicant.

Mayor Denny asked if the remainder three acres could be subdivided. The Town Code Enforcement Administrator said it could if there was a new owner but there is only a limited amount of non-flood plain land on the property.

Hearing no further question the Town Attorney closed the public hearing.

Council Member Hess asked does Council need to approve a final plat. The Town Attorney stated yes but normally there are things to do to between the preliminary and final but in this case they only need to put in the water tap and a public hearing will be needed for the final plat approval.

Mayor Denny moved to approve the preliminary subdivision site plan located at 109 Osprey Lane. Council Member Hess seconded. The motion passed with Mayor Denny, Council Members Hess, Stroud, Pfizenmayer and Kowalski voting aye; no Council Member voting no and no Council Member absent.

REPORTS

Planning Board-Planning Board Recap November 16, 2009 and Planning Advisory Group (PAG) Recap

Nancy Wendt, Planning Board Chairman, congratulated Mayor Denny and Council Member Kowalski and she stated she is looking forward to working with them. She stated there is one action for Council consideration addressing the proposed wireless ordinance (LDA-1009-08-01). She stated there have been a number of changes made to the original draft due to comments received from Town staff, the Town attorney, public comment and Council. She stated the Town Attorney prepared the amended draft. The items for Council consideration is as follows:

1. The Planning Board recommends that the Council delete Chapter 36 Section 36-175 c. 2.iii (see draft ordinance page 8 lines 4 through 10) that stipulate up to (3) wireless support structures per parcel of property:

“Notwithstanding subsections (i) and (ii), up to three (3) wireless support structures may be located on the same parcel of property if each structure otherwise meets the requirements of section 36-175, and if a professional engineer registered in North Carolina certifies that the collapse of any wireless support structure will not cause any other wireless support structure on the parcel to collapse outside its permitted fall zone setbacks.”

The Planning Board’s reasoning on this recommendation is as follows.

- a. Wireless services and wireless facilities are and will continue to be part of the public communications infrastructure in the same way that land line telephone services are part of it.
- b. Wireless facilities need to be permitted within the search ring even though they are incompatible with the aesthetic character of the residential districts that comprise the search ring.
- c. Southern Shores needs to regulate the placement and number of wireless facilities in order to uphold existing land use policies and minimize the impact of these facilities on the character of the Town and its residential neighborhoods.
- d. Adequate linkage between existing wireless facilities in Duck and Southern Shores can be accomplished without placing more than one wireless support structure on any one parcel of land.
- e. If the proposed ordinance is ever shown to be too restrictive to permit reasonable build out of wireless infrastructure, a zoning text amendment may be requested.

- f. If the proposed ordinance is ever shown to be contrary to federal or state laws that prevent municipalities from enacting ordinance that prohibits or has the effect of prohibiting wireless infrastructure build out “the Council may in its sole discretion vary, modify or disregard any such requirement in a manner which complies with the relevant law.” (See page 13 lines 45 through 52 of the proposed ordinance.)
2. The Planning Board recommends that the Council direct Town Staff to evaluate and recommend an amount of liability insurance that will adequately cover any damages caused by the malfunction or collapse of a wireless structure. Amend the liability coverage requirement based on the staff’s recommendation before voting on the proposed ordinance.
 - a. Mike Stone questioned whether or not \$1 million of liability coverage is adequate.
 - b. The Planning Board agrees that additional input on the appropriate amount of coverage is warranted.
 3. The Planning Board recommends that the Council direct the Town Planner to prepare inspection and maintenance requirements covering the useful life of wireless facilities and support structures from construction through de-commissioning and removal and to recommend whether or not to incorporate these requirements into the wireless ordinance.
 - a. The question of public safety for all occupied buildings not just occupied dwelling units was raised by Rob Hawk.
 - b. Mike Stone offered his experiences with the rapid rate at which antenna structures located on the water tower deteriorate due to the corrosive salt air and the everyday stresses of exposure to the coastal environment.
 - c. The Planning Board believes that it would be useful to re-examine whether this item should be addressed through code enforcement procedures (the original approach) or to incorporate inspection and maintenance requirements into the ordinance.
 4. Delay the Town Council vote on this ordinance for thirty days to give the community and the property owners and adjacent property owners of physically possible sites time to comment on the site maps that have just been made public.
 - a. George Kowalski recommended that the community be given time to comment on the physically possible sites.
 - b. Even though the Town has no voice in site selection or negotiations (except where the Town is the property owner) and the Town is required to maintain a level playing field among all carriers and property owners, the opportunity for public comment regarding the newly published site information is warranted.

Chairman Wendt addressed two recommendations for Council consideration from the November 16, 2009 PAG meeting:

1. The Planning Board / Planning Advisory Group unanimously recommend that Town Council cancel any further updates of the ITRE report and rely exclusively on the pavement evaluations completed by the Roads Evaluation Committee for information about the surface condition of Town maintained roadways.
2. The Planning Board / Planning Advisory Group unanimously recommend that Town Council designate a point person for correcting the CAMA LUP maps.

[Clerk’s Note: A copy of the Planning Board Recap, November 16, 2009 and Planning Advisory Group, October 29, 200 and November 16, 2009].

Southern Shores Volunteer Fire Department-None

Police Department

Chief Kole presented two reports-October and November

Southern Shores Civic Association (SSCA)

Dan Shields, President, reported following the nor'easter an inventory of the crossovers has been done and there is quite a bit of work to be done and he will be calling on volunteers as well as professional help. He stated the SSCA is working with the Town on the canal dredging project.

Chicahauk Property Owners Association-None

Canal Maintenance Dredging Project

Tom Bennett, Project Manager, welcomed the new Council Members. He stated since his last report (November 4, 2009) the Town awarded the dredge contract to Sampson Contracting, Inc. on November 13 and we received the Submerged Aquatic Vegetation plan permit. We needed to modify our application to use the new hydrocyclonic method and we are meeting with the permitting agencies tomorrow in Washington, NC and we are hopeful they will support this. The agencies are interested in this new method but the final decision will rest with the Division of Water Quality. He stated the Town is asking the state for supplemental grant funds.

Council Member Pfizenmayer asked if it is feasible that Phase 1 will be completed in the time constraint now December to March. The Project Manager is hopeful that it will and we can ask for an extension.

Mayor Denny asked if dredging can be done in a hard freeze. The Project Manager said he was told yes.

Council Member Hess stated when the state instructed the Town to re-apply for the grant she has prepared an updated resolution from the previous resolution and presents to Council tonight for approval. She read the resolution and stated a letter would be prepared also.

Council Member Hess moved to approve Resolution 2009-12-01 as presented. Council Member Stroud seconded. The motion passed with Mayor Denny, Council Members Hess, Stroud, Pfizenmayer and Kowalski voting aye; no Council Member voting no and no Council Member absent.

Council Member Hess stated we have a lease agreement for the Stone property for a spoil site and she moved that Council authorize the Mayor to sign a letter to terminate that lease provided everything goes the way we want tomorrow (moving ahead with the alternate method). The Town Attorney suggested she amend her motion to strike "everything goes the way we want tomorrow" so not to limit the time frame but allow a time frame from now to the next Council meeting. Council Member Hess moved to amend the motion by saying the letter be sent on the condition that we get the approval to move ahead with the alternate method. Council Member Pfizenmayer seconded. The motion passed with Mayor Denny, Council Members Hess, Stroud, Pfizenmayer and Kowalski voting aye; no Council Member voting no and no Council Member absent.

[Clerk's Note: A copy of Resolution 2009-12-01 is hereby attached as Exhibit B].

OLD BUSINESS

Proposed Wireless Ordinance LDA2009-08-01(Amended)

Mayor Denny stated Council has reviewed the proposed ordinance and the Planning Board has recommended approval with four conditions. Mayor Denny reviewed the four conditions as presented under the November 16, 2009 Planning Report of these minutes.

Mayor Denny suggested addressing each condition separately and asked for Council input.

Council Member Kowalski moved to approve condition #1 presented by the Planning Board. Council Member Hess seconded. The motion passed with Mayor Denny, Council Members Hess, Stroud, Pfizenmayer and Kowalski voting aye; no Council Member voting no and no Council Member absent.

Condition #2 addresses general liability insurance. The Town Manager reported to increase the Town's liability from two million to five million would cost an additional \$1700 a year and he would recommend we increase it.

The Town Attorney stated there may be some confusion and the modified ordinance would require the wireless provider to increase their liability insurance and you are discussing the Town's liability insurance.

Mayor Denny stated he is talking about both (contractor and Town) being increased from a million dollars.

The Town Attorney stated if the Town has a tower on its property it should have whatever they feel is an appropriate amount of insurance but it will have immunity for negligence beyond that and they can increase if necessary. He stated Council should decide the amount of liability required for the carrier. He stated it is not necessary for Council to have their liability stated in the ordinance if the tower is placed on Town property since the Town would be leasing the property and that would be handled in the lease. He stated if Council would want that all carriers require specified amount of liability that would be put in the ordinance or it can be addressed as a conditional use.

Council Member Hess stated the ordinance could read a million dollars but the Town could require more through the conditional use process as to be determined for a specific site but if five million is placed in the ordinance then that is what is required. The Town Attorney stated that is correct.

Mayor Denny moved to amend subsection "J", page 12 to increase the general liability from one million to five million at no cost to the Town. Council Member Hess seconded. The motion passed with Mayor Denny, Council Members Hess, Stroud, Pfizenmayer and Kowalski voting aye; no Council Member voting no and no Council Member absent.

Condition #3 addresses prepare inspection and maintenance requirements etc. The Town Planner first congratulated Mayor Denny and Council Member Kowalski. He stated he looked at other municipalities requirements regarding inspections and maintenance schedule for towers and co-locations and found nothing other than sites meet state building code. He stated there are other requirements and standards that can be looked at from the Telecommunication Industry Association (TIA) and the Electronic Industry Alliance (EIA) and document 222-G as well as an annual review which would help protect the public health safety and welfare in respect to wireless facilities. He read an annual review process as provided from another ordinance as follows:

Review of Wireless Facilities

R. Annual Review

1. Annual Review Required

The County on an annual basis shall review all WTA and WTSS. An application for annual renewal must be submitted to the County no later than ninety (90) days prior to the date of last renewal or the date of the original certificate of occupancy. Structures will be re-permitted for the next three hundred sixty-five (365) days following review by the inspections office, the Planning Board.

2. Application for Renewal

The checklist of requirements for renewal of Wireless Telecommunications Antennae and Wireless Telecommunication Support Structures is listed below:

- (a) Renewal application fee.
- (b) Complete renewal application form.
- (c) Letter of continued insurance coverage for minimal general liability.
- (d) Letter from the inspections department that the WTSS or WTA has remained in compliance with ordinance since the later of the last renewal or the certificate of occupancy.
- (e) Engineers letter stating that the WTSS or WTA had remained in compliance with all federal, state, and ordinance requirements for structural integrity, and for radio frequency exposure requirements.
- (f) Letter from the owner(s) that the WTSS or WTA has remained in compliance with all FCC, FAA, and NEPA requirements since the later of either the last renewal or the certificate of occupancy.
- (g) Letter from the owner(s) that they intend to maintain full financial responsibility for the WTSS or WTA for the entire renewal period.

He stated changes could be made to this document as needed.

Council Member Hess asked what problems may arise with enforcing the annual review. The Town Planner stated it would require staff to work together with the Code Enforcement and Building Inspection Departments to make sure there are no violations of State Building Code.

Council Member Kowalski stated should we not know what the required standards (TIA, EIA) are we are asking a carrier to build to. The Town Planner agreed and he would see about getting copies of the standards. He would recommend the language be included in the ordinance.

The Town Attorney recommended the maintenance requirement language be addressed generally to allow some flexibility and then in the conditional use process adjustments could be made as needed.

Chairman Wendt stated the AIA/EIA standards can be found on the website and the Planning Board/Wireless Committee incorporated by reference in the ordinance that any carrier coming to the Town with an application must comply with these standards. She stated to include these standards or to get actual copies of these standards will incur a cost.

The Town Planner stated the standards are around \$450 per copy. The Finance Officer stated a budget amendment would need to be approved by Council and there is money in the department budget.

The Town Attorney stated in the ordinance it allows for a consultant and that person could be versed in the wireless standards and the ordinance could be modified to allow that person to be responsible for the annual review process. He suggested including the consultant fee as part of carrier's fee.

Condition #4-Planning Board requests Council delay the vote on this ordinance for thirty days to give the community and the property owners and adjacent property owners of physically possible sites time to comment on the site maps that have just been made public.

Mayor Denny stated since more changes to the ordinance have been addressed the ordinance will come before Council anyway.

Council Member Stroud suggested Council considered mailing a certified letter to the property owners adjacent to the possible sites of the tower locations site map to make them aware. He is concerned that there would be some homeowners who do not get the broadcast email and who would not even know that this ordinance is a consideration.

Larry Lawhon, Wireless Chairman, stated this would be premature and unnecessary since there is no permit application submitted. He stated we don't know what site a carrier would be interested in and if a permit is submitted only those property owners at a particular site would be affected.

The Town Attorney stated as part of the Conditional Use process it could be required that adjacent property owners be notified of the application this ordinance currently does not address this.

He stated a public hearing has been held but with the amount of changes to the proposed ordinance he would recommend holding another public hearing.

Mayor Denny asked how much feedback have we received from the public. He was told there has been no public comment from the community.

Chairman Wendt stated she understands Council wanting to let property owners know what is going on but she feels in the cover letter sent as Council Member Stroud recommends it should communicate we don't have a permit application at this time. She stated we may end up with an ordinance that carriers find so onerous that they would chose not to put a wireless facility here at all. She stated to send information to property owners that they are adjacent to a physical tower site may stir up something that need not be addressed at this time. She stated the Town has no voice in where a tower is located the carrier comes to the Town with their request.

Council Member Stroud stated he feels the property owners need to be made aware that this process is on-going and they are adjacent to physical tower sites. He agrees with holding another public hearing but also to send the information letter. He stated we may find out that people are not in favor of a 195' tower on a site and we don't have to include tall towers in the ordinance.

Council Member Stroud favors the 1:1 ratio for the fall zone not the 1/3 setback as is in the ordinance. He stated he has a real problem with tall towers being placed 200 yards from the ocean which is what this ordinance could allow.

Council Member Hess stated there are so many factors to consider when approving a site and the 1/3 setback provides flexibility. She is concerned if we receive 10 out of 50 comments back saying we don't want towers; we can't do that we are suppose to look at what is best for the whole community.

Chairman Lawhon stated notification was sent to interested parties including all property owners but not to adjacent property and no feedback has been received.

Merrie Smith, Executive Assistant, stated the proposed ordinance is on the Town's website. She sated she could put the site map on the website.

Council Member Kowalski recommended putting the information on the website with a link to all the documents.

Mayor Denny stated we will continue to publicize this issue through the Broadcast email and on the Town website.

Mayor Denny summarized the changes to the proposed ordinance which would include the absence of the provision that up to three wireless support structures may be co-located; proposed language on the amount of liability insurance that must be carried by the owners and the planner will incorporate the new language regarding inspection and maintenance requirements and annual inspection.

Mayor Denny moved to hold a public hearing on January 5 on the proposed amended ordinance. Council Hess seconded. The motion passed with Mayor Denny, Council Members Hess, Stroud, Pfizenmayer and Kowalski voting aye; no Council Member voting no and no Council Member absent.

Local Firemen's Relief Fund Appointment

Mayor Denny stated this item was on last month's agenda to fill the vacancy on this Board left by Al Smith's resignation. He stated there was some confusion on the matter and he was disappointed in the way it was presented so this is brought back to Council.

He moved to appoint Ray Sharpe to fill the vacancy for a two-year term beginning January 1, 2010 and Mr. Sharpe is willing to be on the Board. Council Member Hess second. The motion passed with Mayor Denny, Council Members Hess, Stroud, and Kowalski voting aye; Council Member Pfizenmayer voting no and no Council Member absent.

NEW BUSINESS-None

OTHER ITEMS

Town Manager

The Town Manager announced his three-year appointment to the Outer Banks (OBX) Hospital Development Council which is the fund raising arm of the OBX Hospital Board of Directors.

He announced Tidewater Fibre recycling schedule has been changed from Monday, January 4 to Saturday January 2, 2010.

Town Attorney

The Town Attorney congratulated Mayor Denny and Council Member Kowalski and stated he is looking forward to working with the new Council.

Mayor-None

Council

Council Member Kowalski thanked everyone for voting for him and for the nice turnout at the meeting and everyone continued to stay through the meeting he would request their attendance of meetings continue as long as he is on Council.

Council Member Hess thanked Council for nominating her Mayor pro tem and she is looking forward to working with Council.

Discussion was held regarding if the public hearing for the subdivision plat would be held on the January agenda. Chairman Wendt stated the Planning Board meeting was cancelled and no items were presented within the 30-day lead time to the meeting. She stated if a quorum can be gathered for the December 21 meeting it could be considered.

PUBLIC COMMENT

Jim Conners, 83 Duck Woods Drive, congratulated Mayor Denny and Council Member Kowalski on their recent election. He stated over the years he has heard Council thank and praise volunteers in a wide range of capacities but one group was never thanked. He stated the committee was formed by Council and thousand of hours went into this volunteer effort and there may be some disagreement over the premise, the Vegetation Committee and he would ask this Council to publicly thank this committee.

Hearing no other business Council Member Kowalski moved to adjourn the meeting at 9:10 p.m. The motion passed with Mayor Denny, Council Members Hess, Stroud, Pfizenmayer and Kowalski voting aye; no Council Member voting no and no Council Member absent.

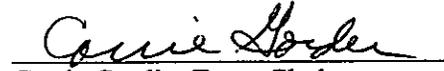
ATTEST:

Respectfully submitted:



Hal Denny, Mayor





Carrie Gordin, Town Clerk

**A RESOLUTION OF THE SOUTHERN SHORES TOWN COUNCIL
RELATING TO RE-DREDGING THE SOUTHERN SHORES CANAL SYSTEM
AND THE MAIN CHANNEL TO CURRITUCK SOUND,
A REGIONAL WATER DEVELOPMENT PROJECT**

WHEREAS, the Southern Shores Town Council desires to sponsor a regional water resource development project that encompasses the re-dredging of the 7+ miles of canals within the Town of Southern Shores and the navigation channel from the canal system into Currituck Sound;

NOW, THEREFORE, BE IT RESOLVED THAT:

- 1) The Town of Southern Shores Town Council requests the State of North Carolina to provide supplemental financial assistance to the Town of Southern Shores for Phase I (2009-10 dredging season) in the amount of \$400,000, or 50% of the increased project cost, whichever is greater.
- 2) The Southern Shores Town Council assumes full obligation for payment of the balance of project costs;
- 3) The Southern Shores Town Council will obtain all necessary State and Federal permits;
- 4) The Southern Shores Town Council will comply with all applicable laws governing the award of contracts and the expenditure of public funds by local governments;
- 5) The Southern Shores Town Council will supervise construction of the project to assure compliance with permit conditions and to assure safe and proper construction according to approved plans and specifications;
- 6) The Southern Shores Town Council will obtain suitable spoil disposal areas as needed and all other easements or rights-of-way that may be necessary for the construction and operation of the project without cost or obligation to the State;
- 7) The Southern Shores Town Council will assure that the project is open for use by the public on an equal basis;
- 8) To the extent authorized by law, the Southern Shores Town Council will hold the State harmless from any damages that may result from the construction, operation and maintenance of the project;
- 9) The Southern Shores Town Council accepts responsibility for the operation and maintenance of the completed project.

Adopted by the Southern Shores Town Council this 1st day of December 2009.

T O W N S E A L

Hal Denny, Mayor

ATTEST:

Carrie Gordin, Town Clerk