



Town of Southern Shores

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Council Minutes

January 4, 2011

7:00 p.m.-Pitts Center

The Southern Shores Town Council met on January 4, 2011 at the Pitts Center.

The following Council Members were present: Mayor Hal Denny, Council Members Jodi Hess, Jim Pfizenmayer, Kevin Stroud, and George Kowalski.

Also present were: Town Manager Peter Rascoe, Town Attorney Ben Gallop and Town Clerk Carrie Gordin.

Mayor Denny called the meeting to order at 7:00 p.m. He led the Pledge of Allegiance and held a moment of silence for all our men and women in uniform serving around the world.

APPROVAL OF AGENDA

Mayor Denny stated staff has requested an item be added to the Consent Agenda. He moved to amend the agenda by adding Item B. Resolution 2011-01-03 to the Consent Agenda and to approve the agenda as amended. Council Member Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Pfizenmayer, Stroud, and Kowalski voting aye.

SPECIAL RECOGNITION

Police Officer Darrell Brickhouse

Chief Kole stated under the Career Development Program officers are eligible for promotion if they meet certain criteria which he explained. He stated Officer Brickhouse has completed the requirements necessary to receive the promotion to Senior Patrol Officer. Chief Kole presented Officer Brickhouse with a pin and stated he is an exemplary officer.

Frans Koeleveld and Al Smith Board of Adjustment members

Mayor Denny stated Frans Koeleveld and Al Smith's terms on the Board of Adjustment have expired and they do not wish to be re-appointed. He read and presented each of them with a Certificate of Appreciation for their long standing volunteer service. Al Smith served on the Board for fourteen years and served as Vice Chairman and Frans Koeleveld served for twelve years and served as Chairman. He stated that except for Kern Pitts, Mr. Smith had volunteered his services on a single Board longer than anyone. He presented each with a Certificate of Appreciation which he read.

APPROVAL OF MINUTES-December 7, 2010

Council Member Hess moved to approve the minutes as presented. Council Member Kowalski seconded. The motion passed with Mayor Denny and Council Members Hess, Pfizenmayer, Stroud and Kowalski voting aye.

CONSENT AGENDA

Settlement Agreement/Release with Piedroba Dredging

Resolution 2011-01-03 Amending Previous Established Dredging Days and Times

Council Member Hess moved to approve the Consent Agenda as presented. Council Member Kowalski seconded. The motion passed with Mayor Denny and Council Members Hess, Pfizenmayer, Stroud and Kowalski voting aye.

Following adoption of the motion, Council Members Pfizenmayer and Stroud both asked why the adopted Settlement Agreement is needed.

The Town Attorney stated Piedroba Marine Construction, LLC requested a letter from the Town stating, as a subcontractor of Sampson Contracting, Inc., it had never been terminated by the Town, contrary to possible implicative statements made by an agent of the Town in a recent press article. He also stated Piedroba's request has nothing to do with the current dredging project. The Town Attorney also stated this approved agreement does not release Piedroba from any potential liabilities it may have from its contractor's previous performance default. He explained that the agreement releases the Town from any potential liability it may possibly have to Piedroba due to the statements made in the press prior to the agreement. By having adopted this agreement and providing the requested letter, the Town gets the potential liability release from Piedroba.

Council Member Stroud then stated he did not wish to approve the previously adopted agreement. He moved to reconsider the adoption of the Consent Agenda. The motion did not receive a second, motion failed.

[Clerk's Note: Copies of the presented Consent Agenda items are hereby attached as Exhibit A].

PUBLIC HEARING-Zoning Text Amendments to the Town Code (Draft ZTA 11-01)

Mayor Denny opened the Public Hearing on Zoning Text Amendments to the Town Code (Draft ZTA 11-01).

Upon receiving no public comments Mayor Denny closed the public hearing.

Mayor Denny stated the ordinance is necessary due to the reorganization of the Building Inspections and Code Enforcement Departments.

Council Member Pfizenmayer asked how the reorganized department is working.

The Town Manager explained due to the reduction in force as approved by Council, the department is now called Planning and Code Enforcement with no other positions added. The Town Planner will administer and enforce the Town Code, and will serve as the Zoning Administrator in which capacity he will review applications for zoning compliance and issue zoning permits. Actual building and fire inspections are now handled by Dare County through the joint agreement approved by Council.

Council Member Pfizenmayer stated his concern is about future canal maintenance and the upkeep of bulkheads and how they will be inspected.

The Town Planner explained the amendments presented are to clarify the duties of the Zoning Administrator, which were duties previously being performed by the Town's employed Building Inspector. When a zoning complaint is made, the Zoning Administrator will now investigate and take action if needed. The Building Inspector, by the agreement with Dare County may also be involved if the matter involves the Building Code.

The Planner stated Town staff recommends approval of draft amendment ZTA 11-01. Also at their December 20, 2010 meeting the Planning Board unanimously recommended the draft amendments of ZTA 11-01 with a statement finding the amendment to be consistent with the Town's currently adopted Town's Land Use Plan (LUP). He asked if Council moves to approve the draft amendments that it include a statement finding the draft amendments to be consistent with the Town's currently adopted LUP.

Hearing no other comments Mayor Denny moved to approve proposed amendment ZTA 11-01 with the statement finding that it is consistent with the Town's current Land Use Plan. Council Member Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Pfizenmayer, Stroud and Kowalski voting aye.

[Clerk's Note: A copy of draft amendment ZTA 11-01 and the Staff Report dated December 22, 2010 is hereby attached as Exhibit B].

STAFF REPORTS

Town Planner

Wes Haskett provided updates on several issues for the month of December:

1. Wind Generation Facilities Ordinance and White Paper

-The Wind Generation Facilities draft Ordinance and White Paper will be reviewed and discussed tomorrow night at the Planning Board's rescheduled regular Workshop Meeting held here in the Pitts Center at 7:00 p.m. The purpose of the review and discussion is to finalize the draft ordinance and white paper in order to present the information at a public educational meeting the Planning Board hopes to hold on February 7th. The official date and time of the educational workshop will be advertised in the Coastland Times, included in the Town's broadcast email, and posted on the Town's website and Facebook page.

2. Stormwater Management Ordinance

- Town Staff is currently preparing a draft stormwater ordinance which they hope to submit to the Planning Board for review in February. In December 2010, the Planning Board provided Town Staff with guidance and recommended that the Town's stormwater ordinance should include language that requires lot owners to maintain stormwater on their lots, sets limits based on significant rainfall events, focuses on lot disturbance permitting as the vehicle to address stormwater issues, and recommends Best Management Practices (BMP's) for new development. The proposed draft will include some information based on findings established in stormwater studies and reports previously conducted by the Town as well as other local jurisdictions' current/proposed stormwater requirements.

3. Mailed 4 Code Enforcement Violation Letters in December

- Two of the violations were for obstruction of the Town's right-of-way and violation of the Town's chipping policy. The other two violation letters were for the accumulation of rubbish, trash, or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the inhabitation

therein of rats, mice, or snakes or vermin of any kind, which is or may be dangerous or prejudicial to the public health.

4. Permitting and Inspections for December

He reviewed and approved 7 Development Plans for Town Code compliance in December. 25 building permits were issued: 1 new single-family dwelling, and 24 additions, demolitions, remodels, or others. 93 Dare County inspections were conducted with total fees collected in December: \$3,734.42.

Police Department

Chief Kole presented the monthly report. (Copies of the Police Department Crime Report can be found on the Town's website).

Southern Shores Volunteer Fire Department

Chief Harvey presented the monthly report.

REPORTS FROM BOARDS, COMMITTEES, AND ASSOCIATIONS

Town Planning Board

Sam Williams, Chairman, stated Mr. Haskett covered most issues. Chairman Williams reported the Planning Board hopes to have public workshop on the draft Wind Generation ordinance in February and brought to Council in the spring.

Council Member Kowalski asked what, if any, comments have been heard from the Towns of Duck and Kitty Hawk on Southern Shores' Land Use Plan. The Planner stated all comments go to the State and once received the State will provide the Town with all comments made including those from the adjacent towns.

Council Member Kowalski also inquired about the list of current projects and noted one was on signage for yard sales. The Planner stated Town staff is proposing to submit proposals to the Planning Board and Council on regulations for holding yard sales since the current ordinance does not address this.

Southern Shores Civic Association (SSCA)

Karen Kranda, President, reported the SSCA is in the process of membership renewal. The next General Meeting will be held on Monday, January 10 at 7:00 p.m. The SSCA is looking for an office administrator. Resumes can be submitted no later than 9:00 a.m. on Friday, January 7. AT&T has requested signage regulation information. Dominion Power is in the process of the removal of the electrical poles at the North Marina.

Chicahawk Property Owner's Association (CPOA)

Marianne Landrum reported the COPA needs eighty more approvals of the amended covenants before they can continue the process.

PROJECT REPORTS

Canal Dredging Project-Project Manager

Tom Bennett reported the contractor is completing Stage 1 of Phase 1 and hopefully will move quickly into Stage 2 by Wednesday or Thursday. The contractor requested extended working hours which Council previously approved in this meeting. The State's dredging moratorium ends on February 14, 2011 at midnight.

Council Member Stroud stated he has continually been concerned that the main channel will not get dredged before the moratorium ends. He asked when the decision is going to be made to request an extension. The Project Manager stated the contractor is making progress and that George Wood will contact the necessary agencies to request the extension when appropriate.

GENERAL PUBLIC COMMENT

Dave Bakken, 75 Wild Swan Lane, addressed Council by stating on November 3 Council approved a resolution implementing a reduction in force, from which he read several items. He stated Council approved an agreement with Dare County to provide building and fire inspections and is paying \$40 per hour and .50 a mile (from Manteo) to perform those duties. He stated the previous fire inspector was paid less than \$25 per hour and mileage paid from Town Hall. He stated this is \$15 more per hour with an additional mileage charge. He asked Mayor Denny to explain to the taxpayers how this saves money.

Ed Cowell, 135 Beechtree Trail, addressed Council on canal funding as discussed at the December 4 Council meeting. He does not support charging property owners who have already paid to bulkhead their property to pay for others. He stated the main purpose of the canals is for drainage. He asked who is to pay for SSCA and Town-owned properties to be bulk headed and who would be responsible for riparian rights. He asked whatever proposal Council agrees upon that it include a method that is tax deductible on Federal returns.

OLD BUSINESS

Special Legislation Act-Canal Maintenance-Resolution 2011-01-02

The Town Manager stated the proposed special legislation authorizing the Town to assess contiguous properties is a procedural matter. He stated if the authorizing legislation is adopted by the General Assembly, the Town Council would still have discretionary decision making authority over whether to actually assess or not in the future. If Council elects to move ahead with this request, an adopted resolution needs to be submitted to the General Assembly before January 25, otherwise it will be two years before Council can request it again.

The Town Attorney briefly discussed the proposal. He stated if Council decides to move ahead with the request and the legislature approves it by special legislation, this is a mechanism to allow Council to take an action to fund a canal maintenance project through a special assessment or district. He stated once the special legislation is passed, there are still many steps required by the Town in order to actually assess property.

Following Council discussion, Council Member Stroud moved to approve Resolution 2011-01-02 and the proposed session law as presented. Council Member Pfizenmayer seconded. The motion passed with Mayor Denny and Council Members Pfizenmayer, Stroud and Kowalski voting aye. Council Member Hess voting no.

[Clerk's Note: A copy of Resolution 2011-01-02 is hereby attached as Exhibit C].

NEW BUSINESS

Resolution 2011-01-01 NC Public Employee Governmental 457(b) Deferred Compensation Plan

The Town Manager stated staff recommends Council approve the resolution that provides for Town employees the opportunity to participate in a deferred compensation plan in addition to the Town's 401k plan. The plan, described as the 457(b) is made available under the provisions of the North Carolina General Statutes.

Mayor Denny moved to approve Resolution 2011-01-01 as presented. Council Member Hess seconded. The motion passed with Mayor Denny and Council Members Pfizenmayer, Stroud and Kowalski voting aye. Council Member Hess voting no.

[Clerk's Note: A copy of Resolution 2011-01-01 is hereby attached as Exhibit D].

OTHER ITEMS

Town Manager's Report

The Town Manager stated that, from his personal observation, Tom Bennett has been working non-stop through the holidays overseeing the dredging project and commended him.

He reported on several matters: the Finance Officer will present the second quarter financial report at the February 1 Council meeting; a budget meeting with department heads is scheduled on January 13; the initial budget planning workshop will be held on February 15; and the first stage of Phase One of the dredging project is a success. He is meeting with NCDOT representatives on the Trinitie Trail Bridge project the next day. He stated he is pleased with Dare County's performance of the building and fire inspections program and it is proving to be a cost savings program.

Council Member Kowalski asked about the status of the current practice of having to obtain multiple parking permit/stickers for parking in the various parking areas in Southern Shores. The Town Manager stated he has not had discussions regarding the necessity of multiple parking stickers for the multiple parking areas, but he will discuss with Chief Kole and the two associations which own parking areas in the Town.

Council Member Kowalski asked what has been discussed about an additional life guard stand as proposed. The Town Manager stated this will be discussed with Surf Rescue during budget planning.

Town Attorney's Report-None

Mayor

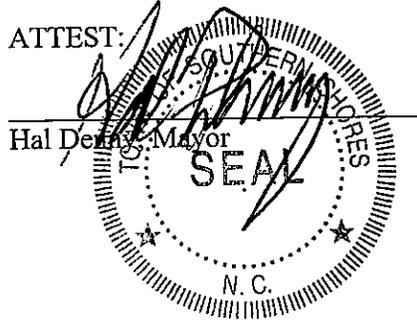
Mayor Denny announced that the Dare County Commissioners appointed Council Member Hess as the Town's representative to the Dare County Tourism Board.

Council Members-None

Mayor Denny moved to go into closed session to consider approval of closed session minutes pursuant to NCGS 143-318.11 (a) (1) and 143-318.10 (e). Council Member Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Pfizenmayer, Stroud and Kowalski voting aye.

Upon returning to open session and hearing no other business, Mayor Denny moved to adjourn at 9:25 p.m. Council Member Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Pfizenmayer, Stroud and Kowalski voting aye.

ATTEST:



Hal Denny, Mayor

Respectfully submitted:


Carrie Gordin, Town Clerk

SETTLEMENT AGREEMENT

This Agreement is entered into between Piedroba Marine Construction, LLC ("Piedroba"), a Florida limited liability company, and the Town of Southern Shores ("Southern Shores" or the "Town"), a North Carolina municipal corporation. It is effective December 10, 2010.

RECITALS

This agreement arises out of certain statements printed by or obtained by the press about Piedroba allegedly made by an independent contractor retained by Southern Shores as a project manager for Southern Shores's canal dredging project. Piedroba wants the Town to clarify or correct those statements. Without conceding that the individual made statements that were incorrect, the Town has agreed to make certain truthful statements requested by Piedroba in exchange for a release from liability associated with the aforementioned statements.

For the foregoing reasons and others, the parties to this agreement, for good and sufficient consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

1. *Letter of Clarification.* Southern Shores will provide Piedroba with a letter in substantially the form attached, authored by an authorized representative of the Town, written on the Town's letterhead, and addressed to whom it may concern.

2. *Release by Piedroba.* Immediately on the Town's delivery to Piedroba of the letter mentioned in the preceding paragraph, Piedroba, for itself, its agents, and its successors and assigns in interest and title, and the members, managers, shareholders, directors, officers, employees, assigns, attorneys, and insurers of each of them, releases the Town and its officials, employees, agents, independent contractors, assigns, attorneys, and insurers from any and all claims, demands, costs, liabilities, actions, and causes of action, arising out of information or statements provided to the press by Tom Bennett, the Town, or any alleged agent of the Town before the effective date of this agreement.



3. *Entire Agreement.* This agreement contains the entire understanding between the parties with respect to the subject matter and therefore supersedes all prior agreements, written or oral, with respect to that subject matter. There are no other agreements, written or oral, express or implied, between the parties to this agreement concerning its subject matter.

4. *Waivers and Amendments.* This agreement may only be amended, modified, superseded, canceled, renewed or extended, or the terms and conditions of the agreement waived, by a written instrument signed by the parties or, in the case of a waiver, by the party waiving compliance. No delay on the part of any party in exercising any right, power or privilege provided by this agreement shall operate as a waiver of that right, power, or privilege, nor shall any waiver on the part of any party of any right, power or privilege provided by this agreement, nor any single or partial exercise of any right, power or privilege provided by this agreement, preclude any other or further exercise of that right, power, or privilege or any other right, power or privilege under the agreement.

5. *Binding Effect.* This agreement binds and benefits the parties and their assignees and successors in interest.

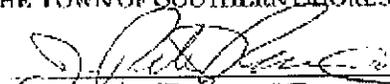
6. *Attorney's Fees.* If any action is filed to enforce any provision of this agreement, the prevailing party in such dispute as determined by the adjudicator shall be entitled to recover from the losing party all reasonable fees, costs, and expenses including, without limitation, reasonable fees and expenses of attorneys and accountants, including all fees, costs, and expenses of appeals. This provision shall also apply to any action brought by Piedroba against Southern Shores in response to which Southern Shores successfully raises the release contained in this document as a defense to Piedroba's claims.

7. *Counterparts.* This agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement. Counterparts and signatures transmitted by facsimile or electronic mail shall be valid and enforceable as originals.



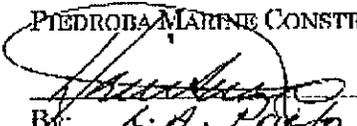
8. *Governing Law; Jurisdiction.* This agreement shall be interpreted, construed, and enforced according to the laws of the State of North Carolina, and each party submits himself or itself to the exclusive, personal jurisdiction of the courts situated in North Carolina for the purposes of the enforcement and interpretation of this agreement only. The parties acknowledge that neither has an adequate remedy in damages for breach of this agreement and that each party has a right to seek, and each party consents to, specific performance of the agreement as a remedy for its breach.

THE TOWN OF SOUTHERN SHORES


By: J. Peter Rascoe, III

Title: TOWN MANAGER

PIEDROBA MARINE CONSTRUCTION, LLC


By: L.A. Prieto y Munoz

Title: President



Town of Southern Shores

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January 11, 2011

To Whom It May Concern:

This will confirm that the Town of Southern Shores (North Carolina) did not fire, terminate, or suspend Piedroba Marine Construction, LLC from a dredging project.

Peter Rascoe
Town Manager

**RESOLUTION AMENDING PREVIOUS
ESTABLISHED DREDGING DAYS AND TIMES**

WHEREAS, the Town of Southern Shores has by Resolution 2009-12-02 enacted December 9, 2009 established days and times for current contracted and permitted dredging operations to be performed in its interior canals as dawn to dusk seven (7) days a week; and

WHEREAS, it has now become necessary for the Town of Southern Shores to authorize dredging operations to be performed in its interior canals twenty-four (24) hours a day seven (7) days a week in order to meet the dredging deadline of 11:59 PM February 14, 2011 established by State permit;

NOW THEREFORE BE IT RESOLVED, that pursuant to Town Code Section 22-3(c), the Town of Southern Shores does hereby amend the previous established time for dredging operations by establishing the following parameter for the Town's canal dredging contractor and any of its agents and subcontractors to perform dredging operations in the interior canals of the Town:

Canal dredging operations may be performed in the Town's interior canals twenty-four (24) hours a day seven days a week.

This parameter shall remain in effect for the dredging contractor to complete the canal dredging project currently under contract and permitted by the NC DENR Division of Coastal Management.

The previously established parameter of twenty-four (24) hours a day seven (7) days a week for dredging operations to be performed in the area of the Town from North Marina to Ginguite Creek Marker(s) #1 and #2 shall remain unchanged.

Adopted this the 4th day of January, 2011

SEAL

Hal Denny, Mayor

ATTEST:

Carrie Gordin, Town Clerk

Exhibit B

Ordinance 2011-01-01

**AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF THE TOWN OF SOUTHERN SHORES**

ARTICLE I. Purpose(s) and Authority.

WHEREAS, the Town of Southern Shores (the "Town") may enact and amend ordinances to protect the health, safety, and welfare of its citizens under North Carolina General Statutes § 160A-174; and

WHEREAS, the Town may enact and amend ordinances regulating the zoning and development of land within its jurisdiction under North Carolina General Statutes § 160A-381; and

WHEREAS, the purpose of this Ordinance is to amend the Town Code of Southern Shores, Dare County, North Carolina, which was originally adopted by the Town Council on October 2, 1979 and subsequently amended.

WHEREAS, the Town Council finds that it is in the interest of the public's health, safety, and general welfare that the Town Code and Town Zoning Ordinance be amended as stated below.

ARTICLE II. Construction.

For purposes of this Ordinance, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by a "... " shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of Chapter 6 of the Town Code of Southern Shores

Part I. That Chapter 6 Section 6-2 be amended as follows:

Sec. 6-2. Building inspection Planning and Code Enforcement Department established for Planning, Code Enforcement, and Permitting.

A ~~building inspection~~ department to administer planning, code enforcement, and permitting is hereby established in the town. The department:

- (1) Is charged with the responsibility of administering and enforcing the state building code and all pertinent state and local laws pertaining thereto. Any of the functions of this department may be provided internally or through any means allowed by G.S. 160A-413.
- (2) Shall have and exercise all powers as may be prescribed from time to time by the general statutes of the state and such powers as may be authorized by the council from time to time.
- (3) Shall be headed by an appropriate department head who shall be appointed by ~~and serve at the will of the council~~ Town Manager and who shall have such other duties as may be prescribed by the ~~council~~ Town Manager from time to time.

(Code 1988, § 7-67; Ord. No. 79-0008, § I, 8-7-1979)

State Law References: Responsibilities of inspection department, G.S. 160A-412.

ARTICLE IV. Amendment of Chapter 14 of the Town Code of Southern Shores.

NOW, THEREFORE, BE IT ORDAINED by the Town Council that the Town's Code of Ordinances shall be amended as follows:

PART I. That Chapter 14 Section 14-27 be amended as follows:

Definitions.

Fire inspector: ~~These~~ Individual(s) sworn by appointed by the Southern Shores Town ~~clerk~~ Manager who hold valid certificates issued by the North Carolina Code Officials Qualification Board.

PART II. That Chapter 14 Section 14-30 be amended as follows:

Fire official to enforce.

The Town Fire Inspector, as authorized by the Town Manager, shall be the officer charged with the administration and enforcement of the Fire Prevention Code. (Code 1988, § 4-24; Ord. No. 83-0035, § 2, 6-7-1983; Ord. of 12-1-1998, pt. I; Ord. No. 2009-09-01, Art. III, 9-1-2009)

ARTICLE V. Amendment of Chapter 22 of the Town Code of Southern Shores

NOW, THEREFORE, BE IT ORDAINED by the Town Council that the Town's Code of Ordinances shall be amended as follows:

Part I. That Chapter 22 Section 22-3, (b), (15) be amended as follows:

Sec. 22-3. Noises prohibited.

(b) The following acts, among others, are declared to be loud, disturbing noises, but such enumeration shall not be deemed to be exclusive:

(15) *Erection, demolition, etc. of buildings.* The erection (including excavation), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 8:00 p.m. on weekdays and Saturdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the ~~building inspector~~ code enforcement officer, which permit may be granted for a period not to exceed three days or less while the emergency continues, and which permit may be renewed for periods of three days or less while the emergency continues. If the ~~building inspector~~ code enforcement officer should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or excavation of streets and highways within the hours of 8:00 p.m. and 7:00 a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 8:00 p.m. and 7:00 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work.

ARTICLE VI. Amendment of Chapter 24 of the Town Code of Southern Shores

NOW, THEREFORE, BE IT ORDAINED by the Town Council that the Town's Code of Ordinances shall be amended as follows:

Part I. That Chapter 24 Section 24-58 be amended as follows:

Sec. 24-58. Map adopted.

The property numbering map entitled "Property Numbering Map, dated April 4, 1983, Southern Shores, North Carolina" as revised September 5, 2006, is hereby adopted as the official property numbering map of the town. All property numbers assigned to lots will be in accordance with this numbering map, and no other property numbering system shall be used or displayed in the town. The town manager or his designee shall update the map whenever changes are required. The property numbering map shall be kept on file in the office of the ~~building inspector~~ Planning and Code Enforcement Department.
(Code 1988, § 7-36; Ord. No. 86-0050, § 1, 4-1-1986; Ord. No. 06-08-01, art. III, 9-5-2006)

ARTICLE VII. Amendment of Chapter 34 of the Town Code of Southern Shores

NOW, THEREFORE, BE IT ORDAINED by the Town Council that the Town's Code of Ordinances shall be amended as follows:

PART I. That Chapter 34 Section 34-25, (2) be amended as follows:

Sec. 34-25. Same--Construction of improvements.

All improvements shall be constructed in compliance with the following:

- (2) No dock or piling shall protrude into the water more than four feet, measured perpendicular to the shore line. If a situation prevails where a narrow canal exists or an existing dock is opposite the proposed dock, both of which would affect the navigability of the adjacent waterway, then the ~~building inspector~~ zoning administrator will determine the distance that a dock/bulkhead may protrude in the water. Docks will be constructed parallel to the banks of the lagoon.

PART II. That Chapter 34 Section 34-26 be amended as follows:

Sec. 34-26. Same--Existing structures.

All docks, bulkheads and pilings existing on privately owned property on April 3, 1984, may be exempt from this chapter with approval of the ~~building inspector~~ zoning administrator. No owner shall permit these structures to fall into disrepair.
(Code 1988, § 10-8; Ord. No. 84-0037, art. V, § 1, 4-3-1984; Ord. of 10-2-1990, pt. I)

ARTICLE VIII. Amendment of Chapter 36 of the Town Code of Southern Shores.

NOW, THEREFORE, BE IT ORDAINED by the Town Council that the Town's Code of Ordinances shall be amended as follows:

PART I. That Chapter 36 Section 36-57 be amended as follows:

Definition of specific terms and words.

Zoning administrator: A person who is appointed by the Town Manager and is responsible for administering and enforcing this Chapter.

Zoning permit: ~~means a~~ A permit issued by the Zoning Administrator which authorizes the recipient to make use of property in accordance with the requirements established in this Chapter.

PART II. That Chapter 36 Section 36-96 be amended as follows:

Sec. 36-96. Vision clearance at intersections.

On a corner lot which abuts town- or state-maintained rights-of-way in any district, no planting, structure, fence, wall or other obstruction to vision more than three feet in height shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines, each of which is 25 feet distant from the point of intersection. On other rights-of-way, the proper setback for vision clearance shall be determined by the ~~building inspector~~ zoning administrator, but in no case shall the requirement exceed that previously stated.
(Code 1988, § 11-4.09)

PART III. That Chapter 36 Section 36-163, (1), h be amended as follows:

Sec. 36-163. Off-street parking requirements.

- h. Each application for a ~~building permit~~ zoning permit or ~~certificate of occupancy~~ submitted to the ~~building inspector~~ zoning administrator shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the ~~building inspector~~ zoning administrator to determine whether or not the requirements of this section are met. All required parking and drive areas shall be shown on the site plan application.

PART IV. That Chapter 36 Section 36-163 (2), a be amended as follows:

- a. *Curb bumpers.* The required front and side yards shall be set off from the parking area by a fixed curb approved by the ~~building inspector~~ zoning administrator, not less than six inches or more than two feet high.

PART V. That Chapter 36 Section 36-165, 3 be amended as follows:

Sec. 36-165. Regulations governing signs.

(3) *Sign permit required.* No sign shall hereafter be erected or attached to, suspended from, or supported on a building or structure, nor shall any existing sign or outdoor advertising structure be structurally altered, remodeled or relocated, until a sign permit for same has been issued by the ~~building inspector~~ zoning administrator. No permit is required for signs enumerated in subsection (8), (11) or (12) of this section or any sign not exceeding three square feet in area.

PART VI. That Chapter 36 Section 36-171 be amended as follows:

Sec. 36-171. Lot disturbance.

Subject to the requirements of G.S. 160A-417(b), if applicable, in all town zoning districts, including all areas within the extraterritorial jurisdiction, no grading, filling, or other alteration of the topography or elevation of any unimproved lot, or demolition and clearing of improved property, shall be undertaken prior to the issuance of a lot disturbance permit by the ~~building inspector~~ zoning administrator.

- (1) All applications for lot disturbance shall be accompanied by a survey and site plan of the proposed improvements prepared by a state licensed professional surveyor, engineer, architect or other person duly authorized by the state to prepare such plans showing the actual dimensions and shape of the lot, and showing the surveyed pre-disturbance ground elevation at the corners of the proposed structure referenced to mean sea level. The application shall also describe the disturbance activity which is proposed for the lot.
- (2) Upon inspection, the ~~building inspector~~ zoning administrator shall confirm that the survey detail submitted conforms generally to the pre-disturbance condition of the lot with respect to its elevations, and that the proposed disturbance activity will not create any hazards or disturb land or lots other than that owned by the applicant or his agent. The ~~building inspector~~ zoning administrator shall make such notation or comments on the permit as needed to further establish the pre-disturbance topography and elevation of the lot for later use in determining the permitted height of any structures subsequently constructed on said lot.
- (3) The ~~building inspector~~ zoning administrator is hereby authorized to include requirements in the permit which minimize the disturbance or damage of any adjacent lots or land.

(Code 1988, § 11-6.09; Ord. No. 2006-09-02, art. V(6.09), 11-28-2006)

PART VII. That Chapter 36 Section 36-264, (1), a be amended as follows:

Sec. 36-264. Development plan review procedure.

- a. On request by applicants, members of the planning board and the ~~building inspector~~ zoning administrator shall meet with applicants to review the original

application, including the developer's report, if submitted, and the sketch plan of the proposed planned unit development. The purpose of such pre-hearing conferences shall be to assist in bringing the report, if submitted, and the sketch plan as nearly as possible into conformity with these or other land development regulations applying in the case, and to define special variations from application of the regulations, which would otherwise apply, which seem justified in view of equivalent services of the public purposes of such regulations.

PART VIII. That Chapter 36 Section 36-296 be amended as follows:

Building inspector Administration and Enforcement.

The ~~building inspector designated by the town council~~ Town Manager, or his designee, shall administer and enforce this chapter and may be provided with the assistance of such other persons as the Town Council may direct. The ~~building inspector~~ Town Manager, or his designee, shall have all necessary authority to administer and enforce this zoning chapter, including the ordering, in writing, of the remedying of any condition found in violation of this chapter, and the bringing of legal action to ensure compliance with this chapter, including injunction, abatement, or other appropriate action or proceeding.

(Code 1988, § 11-10.01)

PART IX. That Chapter 36 Section 36-297 be amended as follows:

Building and Zoning permits required; time limitations for site plans and building permits.

(a) The following provisions pertaining to time limitations to obtain building and zoning permits, and to commence, continue and complete construction, shall apply in all cases in which site plan approval is required, unless otherwise provided for in section 36-304. Subsection (a)(4) of this section, pertaining to site plan extensions, shall not apply in instances where a landowner has been granted a vested right pursuant to section 36-304.

- (1) *Building and zoning permits required.* No building or other structure shall be erected, moved, added to, or structurally altered, without a permit issued by the building inspector and zoning administrator. No building or zoning permit shall be issued except in conformity with the provisions of this article. A zoning permit, if required, shall be issued by the zoning administrator prior to the issuance of a building permit. A fee for building permits and zoning permits is required which shall be in accordance with a regularly adopted fee schedule of the town.
- (2) *Time limitation to obtain building permit and zoning permit.* Upon final approval of a site plan by the town council, the building inspector and zoning administrator may issue a building permit and zoning permit within 180 days from the date of such approval, provided that all other requirements are met. If a building permit and zoning permit ~~is~~ are not issued within 180 days from the date of final approval of the site plan, the site plan expires and the applicant must submit a new site plan, conforming to the then current provisions of the zoning chapter and all

other applicable ordinances, for review by the planning board and town council and pay the applicable fees.

- (3) *Time limitation to commence and continue construction.* If the start of construction has not commenced within 180 days from the date of issuance of a building permit, the building permit, zoning permit and the approval of that site plan shall expire. If, after commencement, the work is discontinued for a period of 12 months, the building permit, zoning permit, and site plan shall immediately expire. No work authorized by any permit or site plan that has expired shall be performed until a new site plan has been approved and a new building permit and zoning permit have been issued and all applicable fees paid.
- (4) *Time limitation to complete construction.* If the work authorized by any building permit, issued in accordance with an approved site plan, is started but not prosecuted to completion within 18 months of the date of issuance of the building permit and zoning permit, the approval of that site plan shall expire and the building permit and zoning permit shall be revoked. At the time of expiration, all work shall cease, and shall be allowed to continue only after a new site plan has been reviewed and approved by the planning board and town council, and a new building permit and zoning permit issued and all applicable fees paid. The new site plan shall depict work in accordance with the then current provisions of the town zoning chapter and any further construction or use shall be in conformity with those regulations.

(b) As an alternative to subsections (a)(2), (3) and (4) of this section, a developer may, no sooner than 60 days and no later than 30 days prior to the date of expiration of a site plan, petition the town council and upon a subsequent finding by the town council that the delay in construction has been due to circumstances beyond the control of the developer, and that an extension of the approval of the site plan will not be detrimental to the health, safety and general public welfare, and will be in harmony with the spirit and intent of the town zoning ordinance, the town council may extend the approval of the site plan for up to 90 days. In the event the town council grants an extension to a site plan and the time limitation for the building permit and zoning permit has have expired pursuant to the G.S. 160A-418 and G.S. 160A-382, the applicant will be required to purchase a new building permit and zoning permit. If a site plan expires or the town council does not grant an extension, the applicant must submit a new site plan conforming to the then current provisions of the zoning ordinance and pay the applicable fees.
(Code 1988, § 11-10.02)

PART X. That Chapter 36 Section 36-299 be amended as follows:

Sec. 36-299. Application for building permits, zoning permits and site plan requirements.

- (a) *Single-family detached and duplex residences.*
 - (1) Applications for building permits and zoning permits shall be accompanied by duplicate site and/or building plans as required by the inspections office Planning and Code Enforcement Department to accurately describe the work proposed

drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The site plan shall also include the present owner's name; present and proposed lot coverage in square feet and as a percentage; the lot, block and section number of the parcel, flood zone per FEMA; required open yard zoning setback lines, and; applicable coastal development area of environmental concern (AEC) regulatory features and lines. Site plans and surveys shall bear the seal of a state licensed professional surveyor, engineer, architect or other person duly authorized by the state to prepare such plans. The application shall include such other information as lawfully may be required by the building inspector, zoning administrator, and other code enforcement staff, including existing or proposed building or alteration; existing or proposed uses of the building and land; and the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot and on nearby lots; elevations of finished floors; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this section. Applications for principal dwellings or accessory garages with associated driveways shall show the driveway as it extends from the front property line through the public or private right-of-way to the edge of the improved roadway.

- (2) One copy of the plans shall be returned to the applicant by the building inspector and zoning administrator, after ~~he~~ they shall have marked such copy "Reviewed for Code Compliance." A copy of the plans, similarly marked, shall be retained by the ~~building inspector~~ Planning and Code Enforcement Department.
 - (3) Permits issued pursuant to state requirements for work limited in scope to electrical, plumbing, gas, mechanical or fire protection shall not require the submission of site plans for activity within or attached to an existing structure. The construction of a pool, concrete driveway or bulkhead requires issuance of a building permit.
- (b) *All uses other than one- and two-family dwelling units.*
- (1) Site plans must be reviewed by the planning board and approved by the town council before a building permit and zoning permit for construction may be issued.
 - (2) Site plan requirements. Twelve copies of the site plan shall be submitted no later than 30 days prior to the planning board meeting at which the plan is to be reviewed. All plans shall be prepared, stamped and endorsed by a state registered engineer, surveyor or architect, or other person duly authorized by the state to prepare such plans. All plans shall contain at least the following information:
 - a. Property and ownership information.
 1. Present recorded owner and the map book reference of the site

property.

2. Owners, lot numbers or map book and page reference of all adjacent properties.
 3. Boundary of the entire lot by course and distance.
 4. Width of the existing rights-of-way.
 5. Nature or purpose, location and size of existing easements.
 6. Iron pins three-eighths of one inch in diameter and 36 inches in length, or concrete monuments shall be shown and installed at all lot corners, points of tangents, and any angle point along a given course of the lot.
 7. Plan drawn to at least one inch:100-foot scale showing north arrow.
 8. Zoning district of the site and all adjacent properties.
 9. Lot area by upland; by swamp, marsh and wetland; and the total area.
- b. Existing features information.
1. Streets showing the type and width of pavement, curbs and sidewalks.
 2. Topographic features of the lot and existing grades for the lot, streets, storm drainage, etc.
 3. All underground utilities and facilities.
 4. All existing buildings and structures.
 5. Wetlands as certified by the U.S. Army Corps of Engineers or their authorized agent.
 6. Flood zone, base flood elevation, and map reference, as determined by the latest FEMA flood insurance rate map, with the notation "flood zones subject to change by FEMA."
- c. Site improvements, show all proposed site improvements including, but not limited to:
1. Anticipated final appearance of the sides and rooflines of proposed structures shown on the site plan, plus a rendering showing the

anticipated front appearance of the structure relative to landscaping. Final appearance of all structures shall be determined at time of building permit application.

2. Proposed building type and material (i.e., steel, brick, concrete or wood frame), number of floors and dimensions.
3. Proposed lowest floor elevation.
4. Location and type of all sidewalks and curbs with the site.
5. Proposed method for treating wastewater, location of all wastewater collection and treatment facilities (including any applicable property to be reserved for possible future wastewater use), name of any regulatory agency that must approve wastewater system, name of and written approval for connection from any organization that will collect or dispose of wastewater.
6. Layout and number of parking stalls, driveway connections, and internal traffic plans.
7. Finished grades.
8. A tabulation of the total number of dwelling units of various types in the project and the overall project density in dwelling units per acre.
9. Rights-of-way improvements in accordance with the policy of the town council.
10. Storm drainage in accordance with the policy of the town council.
11. A tabulation of lot coverage by type of cover and overall project coverage and percent coverage.
12. Limits of land disturbing activity and the calculated area of land disturbance.
13. Proposed use under this chapter, pertaining to zoning.
14. Parking requirements and spaces provided.
15. Proposed signage and calculations.
16. Proposed water supply.
17. Proposed outdoor lighting.

18. Required and provided buffers, and proposed landscaping.
 19. Location of solid waste container, plus location of separate recycling container.
- d. All items on the site plan and all pertinent provisions of this chapter, pertaining to zoning, shall be addressed by the applicant before the site plan is presented for review by the planning board.
 - e. Dimensional requirements and development standards shall be in accordance with the district in which the development is to be located.
- (3) Water and wastewater treatment and disposal.
 - a. No proposed site plan shall be accepted by the town, as part of an application for approval or conditional approval by the planning board, without written tentative approval of the proposed sewage treatment and disposal facilities by the department of environmental health or the state department having jurisdiction.
 - b. No proposed site plan shall be accepted by the town, as part of an application for approval or conditional approval by the planning board, without written tentative approval of the proposed water distribution facilities by the water department or the state department having jurisdiction.
 - (4) The planning board may recommend approval, conditional approval or rejection of any proposed site plan. Upon completion of review, the planning board will transmit their recommendations to the town council. The town council may approve, approve with specific requirements or disapprove any site plan. A rejected site plan may be resubmitted, in accordance with this section, when redrafted to meet the specifications of this article and upon payment of a plan review fee.
 - (5) If, following town council's conditional or final approval, the owner or developer desires to make a change in any of the factors listed in subsection (b)(2)a, b, c, d or e of this section, the change must be reviewed by the planning board and approved by the town council.
 - (6) Prior to issuance of a building permit and zoning permit, evidence shall be presented to the town showing satisfaction of all appropriate state and federal permits, including but not limited to:
 - a. U.S. Army Corps of Engineers wetlands permit.
 - b. NCDOT driveway permit and/or encroachment application for work in a state right-of-way.

- c. State soil erosion and sedimentation control plan approval.
 - d. State stormwater plan approval.
 - e. State or town CAMA permit.
 - f. Receipts for payment of water connection fee, county regional water system.
 - g. Septic tank or other wastewater treatment approval by the department of environmental health or other appropriate permitting agencies.
- (7) Inspections of sites involving public rights-of-way and inspections of any on-site construction shall be made by the town.
- (8) After approval of a site plan by the town council, minor changes, which do not affect subsection (b)(2)a, b, c, d or e of this section, in the plan may be approved, in writing, by the ~~building inspector~~ zoning administrator, provided that the changes do not prevent the spirit and intent of a condition of approval from being met, or a provision or requirement of an article from being executed, except as provided in section 36-304.

(Code 1988, § 11-10.04; Ord. No. 04-03-01, art. II, § 1, 6-1-2004; Ord. No. 2006-07-04, art. III, 9-5-2006; Ord. No. 2006-09-02, art. VI, 11-28-2006)

PART XI. That Chapter 36 Section 36-302 be amended as follows:

Sec. 36-302. Violation.

If the building inspector or zoning administrator shall find that any of the provisions of this article are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or take any other action authorized by this article to ensure compliance with or to prevent violations of its provisions.

(Code 1988, § 11-10.07)

PART XII. That Chapter 36 Section 36-363 be amended as follows:

Sec. 36-363. Powers and duties of the board.

The board of adjustment, by a vote of four-fifths of its members, may reverse any order, requirement, decision or determination of the ~~building inspector~~ zoning administrator, or may decide in favor of the applicant, a matter upon which the board is required to pass under this article, or may grant a variance from the provisions of this article. Each decision of the board is subject to review by the superior court by proceedings in the nature of certiorari. The chairman

of the board of adjustment or any member temporarily acting as chairman may in his official capacity administer oaths to witnesses in any matter coming before the board.

(1) *Administrative review.*

- a. 1. The board of adjustment shall hear and decide appeals from and review any order, requirement, decision, or determination made by the ~~building inspector~~ zoning administrator. Any person aggrieved or any officer, department, board, or bureau of the town may take an appeal. Appeals shall be taken within 30 days by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal, specifying the grounds thereof.

PART XIII. That Chapter 36 Section 36-471 be amended as follows:

Sec. 36-471. Definitions.

Measurement line means the line from which the oceanfront setback, as described in section 36-473, is measured in the unvegetated beach area of the ocean hazard area. Procedures for determining the measurement line shall be adopted by the town for each area where such a line is designated. These procedures shall be available from the ~~building inspector~~ Planning and Code Enforcement Department.

PART XIV. That Chapter 36 Section 36-472, (b) be amended as follows:

Sec. 36-472. Hurricane and storm reconstruction and redevelopment.

(b) *Conditions for issuance of building permits.* Upon expiration or cancellation of the applicable building moratorium enacted in chapter 12, the following additional requirements, in addition to all applicable sections of this chapter and town Code, shall be met prior to issuance of a building permit.

- (1) *Destroyed structure.* The following additional requirements must be met prior to the issuance of any building permit for construction of a new structure:
 - a. A post-storm survey and/or site plan from a registered state surveyor, as applicable, of the lot and the proposed structure.
 - b. Site plan or survey approval as provided in article X of this chapter.
 - c. Verified location of CAMA setback boundaries.
 - d. On-site inspection of lot by the ~~building inspector~~ zoning administrator.
 - e. County water will be restorable at street frontage of lot.
 - f. Direct, uninterrupted, approved vehicular access to lot.

- g. Electrical service restorable to building site.
 - h. All debris removed from lot.
 - i. Septic improvements permit issued by the county environmental health department or the division of environmental health.
- (2) *Major damaged structure.* The following additional requirements must be met prior to issuance of a building permit for a major damaged structure:
- a. A post-storm survey and/or site plan, as applicable, of the lot and structure if there is a proposed increase in the footprint of the structure over the pre-storm structure. In addition, the following information shall be provided on the survey/site plan:
 - 1. CAMA setback boundary.
 - 2. The location of all property boundary lines.
 - 3. The possible existence of any nonconformities.
 - b. Site plan or survey approval as provided in article X of this chapter.
 - c. On-site inspection of lot by the ~~building inspector~~ zoning administrator, in addition to verification there will be no increase in any nonconformities, as regulated in article V of this chapter.
 - d. County water will be restorable at street frontage of lot.
 - e. Direct, uninterrupted, approved vehicular access to lot.
 - f. Electrical service restorable to building site.
 - g. All debris removed from lot.
 - h. Septic improvements permit issued by the county environmental health department or the division of environmental health, if required.
- (3) *Minor damaged structure.* The following additional requirements must be met prior to issuance of a building permit to repair a minor damaged structure:
- a. A post-storm survey and/or site plan, as applicable, of the lot and structure if there is a proposed increase in the footprint of the structure over the pre-storm structure. In addition, the location of all property boundary lines shall be provided on the survey/site plan.

- b. Site plan or survey approval as provided in article X of this chapter.
- c. On-site inspection of lot by the ~~building inspector~~ zoning administrator, in addition to verification that there will be no increase in any nonconformities, as regulated in article V of this chapter.
- d. Vehicular access to lot.
- e. All debris removed from lot.
- f. Septic improvements permit issued by the county environmental health department or the division of environmental health, if required.

PART XV. That Chapter 36 Article XIII be amended as follows:

ARTICLE XIII.

DUTIES OF ~~BUILDING INSPECTOR~~ ZONING ADMINISTRATOR, BOARD OF ADJUSTMENT, COURTS AND TOWN COUNCIL AS TO MATTERS OF APPEAL

ARTICLE IX. Severability.

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed. Should a court of competent jurisdiction declare this Ordinance or any part thereof to be invalid, such decision shall not affect the remaining provisions of this Ordinance nor the Zoning Ordinance of the Town of Southern Shores, North Carolina which shall remain in full force and effect.

ARTICLE X. Effective Date.

This ordinance shall be in full force and effect from and after the 4th day of January, 2011.

Mayor

ATTEST:

Town Clerk

Date: 01/04/2011

Vote: 5 Ayes 0 Nays

Approved as to form:

Town Attorney

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHERN SHORES,
NORTH CAROLINA REQUESTING THE NORTH CAROLINA GENERAL
ASSEMBLY TO CONSIDER ADOPTION OF CERTAIN LEGISLATION RELATING
TO THE FUNDING OF CANAL DREDGING AND MAINTENANCE AND
NAVIGATION PROJECTS WITHIN THE TOWN'S JURISDICTION**

WHEREAS, the Town of Southern Shores (the "Town") holds title to various canals and waterways within the Town's jurisdiction and desires to periodically take action to maintain those canals and waterways as well as other such waterways within its jurisdiction for the purpose of navigation and through the use of dredging and other means;

WHEREAS, the Town has limited sources of funding for the maintenance of its canals and desires to ensure that it has as many funding options available to it as possible to use for future canal maintenance and navigation projects;

WHEREAS, the Town finds that it is in the interest of the public's health, safety, morals and general welfare that the Town have the option in the future to impose a canal dredging and maintenance fee and/or to impose special assessments for navigation projects within its jurisdiction.

NOW, THEREFORE BE IT RESOLVED, the Town Council hereby respectfully requests that the North Carolina General Assembly consider and pass the attached proposed act entitled as follows:

**"ACT TO ALLOW FOR THE TOWN OF SOUTHERN SHORES TO IMPOSE A
CANAL DREDGING AND MAINTENANCE FEE AND TO ASSESS FOR
NAVIGATION PROJECTS"**

Adopted this 4th day of January, 2011.

S E A L

Hal Denny, Mayor

ATTEST:

Carrie Gordin, Town Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 20__

SESSION LAW 20__ - __
HOUSE BILL _____

AN ACT TO ALLOW FOR THE TOWN OF SOUTHERN SHORES TO IMPOSE A CANAL DREDGING AND MAINTENANCE FEE AND TO ASSESS FOR NAVIGATION PROJECTS

The General Assembly of North Carolina enacts:

SECTION 1. Sections 1 through 5 of S.L. 2004-104 read as rewritten:
“**SECTION 1.** Fee-Supported Canal Dredging and Maintenance District. – A municipality by resolution may create a fee-supported canal dredging and maintenance district for all properties that are contiguous to a canal within the corporate limits.

SECTION 2. Imposition of Annual Fees. – A municipality may impose annual fees for the dredging and maintenance of canals, both natural and concrete, within the corporate limits. The governing board shall establish the fees on or before July 1 each year.

SECTION 3. Fees. – The fees imposed by the municipality may not exceed the cost of providing for the dredging and maintenance of the canals within the municipality. The fees shall be imposed on owners of each dwelling unit or parcel of property that could or does benefit from water access through the canal system ~~on the island~~ within the municipality's corporate limits.

SECTION 4. Billing of Fees. – The municipality may include a fee imposed under this section on the property tax bill for each parcel of property lying within the municipal limits on which the fee is imposed. Said fee shall be collected in the same manner as provided for in the General Statutes for the collection of ad valorem taxes, and remedies available by statute for the collection of taxes shall apply to the collection of the canal dredging and maintenance fees.”

SECTION 2. Section 7 of S.L. 2004-104 as rewritten by Section 1 of S.L. 2005-47 and Section 1 of S.L. 2005-90 reads as rewritten:

“**SECTION 7.** This act applies only within the municipal boundaries of the Towns of Emerald Isle, Holden Beach, Southern Shores and Ocean Isle Beach.”

SECTION 3. Section 3 of S.L. 1985-725 reads as rewritten:

“**SECTION 3.** This act applies to the Town's of Sunset Beach and Southern Shores only.”

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the ____ day of _____, 20__.

President of the Senate

Speaker of the House of Representatives

**RESOLUTION REGARDING NORTH CAROLINA PUBLIC EMPLOYEE GOVERNMENTAL
457(b) DEFERRED COMPENSATION PLAN**

WHEREAS, the Town Council of the Town of Southern Shores wishes to provide a qualified defined contribution plan to the employees of Southern Shores and;

WHEREAS, the State of North Carolina has established the North Carolina Public Employee Deferred Compensation Plan, a qualified governmental Deferred Compensation Plan under Internal Revenue Code 457(b) for public employees of North Carolina.

THEREFORE BE IT RESOLVED that the Town Council of the Town of Southern Shores, North Carolina has adopted the North Carolina Public Employee Deferred Compensation Plan also known as "NC Deferred Comp" under the terms of the Plan Document and the Third-Party Administrator Agreement. All employees shall become eligible to defer compensation immediately.

ADOPTED this 4th day of January 2011.

Hal Denny, Mayor

ATTEST:

Carrie Gordin, Town Clerk