



# Town of Southern Shores

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

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

[www.southernshores-nc.gov](http://www.southernshores-nc.gov)

Council Meeting

April 3, 2012

7:00 p.m.-Pitts Center

The following Council Members were present: Mayor Hal Denny, Mayor pro tem Jodi Hess, Council Members George Kowalski, David Sanders and Larry Lawhon. Also present: 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. led the Pledge of Allegiance and held a moment of silence for Margaret Rendine, long time resident of 32 years.

Mayor pro tem Hess moved to approve the agenda as presented. Council Member Sanders seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

## **APPROVAL OF MINUTES**-March 6, 2012 and March 20, 2012

Council Member Sanders noted a spelling error on page four. Mayor pro tem Hess moved to approve the March 6, 2012 minutes as amended. Council Member Lawhon seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

Council Member Sanders moved to approve the March 20, 2012 minutes as presented. Council Member Lawhon seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

## **CONSENT AGENDA**

### **Dare County Tax Pickups and Releases**

Mayor pro tem Hess moved to approve the Consent agenda as presented. Council Member Sanders seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

[Clerk's Note: A copy of the Dare County Tax Pickups and Releases are hereby attached as Exhibit A].

## **STAFF REPORTS**

### **Town Planner**

Wes Haskett, Town Planner, presented the monthly report.

[Clerk's Note: A copy of the March Planner's report is hereby attached as Exhibit B].

### **Police Department**

Chief Kole presented the monthly report.

### **Southern Shores Volunteer Fire Department-None**

## **REPORTS FROM BOARDS, COMMITTEES, AND ASSOCIATIONS**

### **Town Planning Board**

Sam Williams, Chairman, stated regarding the upcoming public hearings tonight for consideration the Planning Board recommends approval of the proposed draft zoning amendments. He stated regarding the Wind Energy Facilities (ZTA-12-02) ordinance a change was made to not require a manufacturer certification requirement. He stated Planning Board recommended approval of a storm water ordinance and upon review Town staff presented a different draft storm water ordinance for Council consideration. Council requested that the Planning Board and Town Staff draft a one-page document which outlined the differences in their recommendations and reach an agreement on one recommended draft ordinance which is presented to Council ZTA-12-03. Planning Board found both ordinances to be consistent with the current Town's Land Use Plan.

[Clerk's Note: A copy of the Planning Board report is hereby attached as Exhibit C].

### **Southern Shores Civic Association**

Larry Gallek reported a meeting was held with local realty property management representatives to encourage rental property owners to join the association. Town staff provided a presentation on trash removal, parking issues and private property being placed on the beach over night. Membership renewal is on-going. The upcoming General Membership meeting on Monday, April 9 will have a master gardener as a speaker.

### **Chicahauk Property Owner's Association-None**

## **PUBLIC HEARINGS-None**

### **Zoning Text Amendment ZTA-12-02 Amending Section 36-176, Wind Energy Facilities**

Mayor Denny opened the public hearing and called for public comment: hearing none he closed the public hearing.

Mayor pro tem Hess moved to approve ZTA-12-02 and recognize in the process it is consistent with the Town's currently adopted Land Use Plan and reasonable for the purposes as stated in the ordinance. Council Member Sanders seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

[Clerk's Note: A copy of ZTA-12-02 Amending Section 36-176, Wind Energy Facilities and Staff Report are hereby attached as Exhibit D].

### **Zoning Text Amendment ZTA-12-03 Stormwater Ordinance**

Mayor Denny stated Council requested Planning Board and Town staff to submit a unified ordinance.

Mayor Denny opened the public hearing and called for public comment: hearing none he closed the public hearing.

Council Member Sanders moved to approved ZTA-12-03 and that it is consistent with the currently adopted Land Use Plan and reasonable for the purposes as stated in the ordinance. Council Member Lawhon seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

[Clerk's Note: A copy of ZTA 12-12-03 Stormwater Ordinance and Staff Report are hereby attached as Exhibit E].

## **GENERAL PUBLIC COMMENT-None**

## OLD BUSINESS

### Consideration Amending Town Code to Allow Dogs on Beach-May-Sept.

Mayor Denny asked the Town Manager to report the results from a survey of the subscribers of the Town's Broadcast email list asking to allow dogs on the beach during the summer months.

The Town Manager reported 1093 votes were received with 731 supporting to allowing dogs on Southern Shores public beaches between May 15-September 15 before 9:00 a.m. and after 6:00 p.m. subject to existing rules, and 362 voters did not support.

Council Member Sanders moved that Council amend the Town Code allow dogs on Southern Shores public beaches between May 15-September 15 before 9:00 a.m. and after 6:00 p.m. subject to existing rules as presented. Council Member Lawhon seconded.

Council Member Kowalski suggested amending the text to include the term "service dogs" are allowed and remove the reference to handicapped person.

Council Member Lawhon stated he is in favor of the change.

Mayor Denny and Mayor pro tem Hess both stated they do not support the change.

Discussion was held and Council Member Sanders moved to amend his original motion to change the language to include Council Member Kowalski's suggestion of changing the wording of "service dogs". Council Member Lawhon seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

Mayor Denny then called for a vote on the original motion as amended to allow dogs on Southern Shores public beaches between May 15-September 15 before 9:00 a.m. and after 6:00 p.m. subject to existing rules as amended. The motion passed with Council Members Kowalski, Sanders and Lawhon voting aye. Mayor Denny and Mayor pro tem Hess voting no.

The Town Attorney reminded Council of the necessity of a second reading due to 4/5s vote being needed to pass on the first reading. By Council consensus the second reading will be placed on the April 17 agenda.

[Clerk's Note: A copy of draft ordinance is hereby attached as Exhibit F].

### Recommendation of Firm for the Tall Pine Bridge Project

The Town Manager stated the Municipal Bridge Replacement Program is a federally funded grant program. He stated of the seventeen firms submitting proposals, he recommends the firm of Kimley-Horn and Associates.

Mayor Denny moved to authorize the Town Manager to negotiate with Kimley-Horn and Associates with respect to the planning and engineering of the Tall Pine Bridge replacement. Mayor pro tem Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

### Resolution 2012-04-01 Cape Hatteras Seashore (HR 4094) Beach Access

The Town Manager stated as directed by Council at a previous meeting staff has prepared this resolution in support of Congressman Jones' HR 4094 in allowing vehicles access onto the Cape Hatteras Seashore Recreation Area.

Mayor Denny moved to approve Resolution 2012-04-01 as presented. Council Member Kowalski seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

[Clerk's Note: A copy of Resolution 2012-04-01 Cape Hatteras Seashore (HR 4094) Beach Access is hereby attached as Exhibit G].

## **NEW BUSINESS**

### **Budget Amendment #16**

The Town Manager recommends Council approval of the budget amendment for increased fuel cost for the police department for the remaining budget year in the amount of \$12,000.

Mayor pro tem Hess moved to approve Budget Amendment #16 as presented. Council Member Sanders seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

[Clerk's Note: A copy of Budget Amendment #16 is hereby attached as Exhibit H].

### **Resolution 2012-04-02-Annual Municipal Clerk's Week**

Mayor Denny moved to approve Resolution 2012-04-02 as presented. Council Member Lawhon seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

[Clerk's Note: A copy of Resolution 2012-04-02 is hereby attached as Exhibit I].

## **OTHER ITEMS**

### **Town Manager**

The Town Manager addressed several issues:

- CAMA issued the canal maintenance dredging permit for Phase 2. Financing options will be discussed at the April 17 Council meeting as part of the FY 2012-13 budget discussions.
- RPC Contracting for the Chicahawk Trail Street Improvement will begin soon.
- The Chicahawk Trail Street Improvement Project being under budget allows for funding for street repairs at Widgeon Court. Engineering reports on the bids will be presented at the May 1 Council meeting with a budget amendment needed if Council approves.
- Dare County Health Department is allowing temporary sales of roadside seafood. Southern Shores does not allow for this type of retail.
- The solar panel lighting is now working at the Town's Welcome sign. Landscaping still needs to be completed
- Town solicited RFP's for recycling services and received three proposals. Tidewater Fiber's contract expires in September. Discussion will be held at the April 17 council meeting. A copy of the draft budget with line items will be presented to Council on April 16. Financing of Phase 2 of the canal dredging project will be discussed also.
- Quarterly financial reports will be provided by email.
- Life Guard Supervisor reported to the Town Manager that his senior staff is already working and this year he has a rookie group to be trained in May.

### **Town Attorney**

The Town Attorney provided information to Council on fees as applicable to the approved special legislation enacted for the Town in preparation for canal dredging assessment. He explained the legal distinction between property taxes which may be levied in a municipal service district-in contrast to special assessments which may be imposed by the Town under the authority given by the special legislation. He also explained that special assessments are not "property taxes", which could be considered in the annual ad valorem tax levy distribution formula used by the county and other municipalities in Dare County.

Mayor

Mayor Denny stated the Children & Youth Partnership for Dare County has asked Council to consider Resolution 2012-04-03 Child Abuse Prevention Month.

Mayor pro tem Hess moved to approved Resolution 2012-04-03 as presented. Council Member Sanders seconded.

[Clerk's Note: A copy of Resolution 2012-04-03 is hereby attached as Exhibit J].

Council

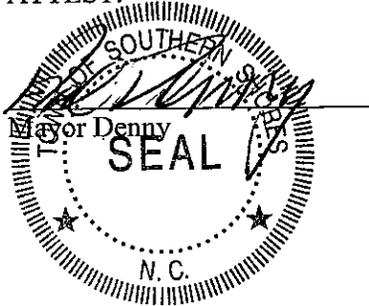
Council Member Lawhon stated as the Town's representative to the Rural Planning Organization (RPO) he attended a transportation committee meeting. He announced NCDOT will begin resurfacing Hwy. 158 beginning at Barco to the Wright Memorial Bridge in May through the summer. Construction will not be done on the weekends.

Council Members Sanders stated he is glad to hear Dare County is spraying early for mosquitoes.

Council Member Kowalski commended staff, especially Sheila Kane, on the Town's Broadcast Email and how it looks.

Hearing no other business Mayor pro tem Hess moved to adjourn the meeting at 8:35 p.m. Mayor Denny seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

ATTEST:



Respectfully submitted:

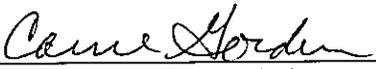
  
Carrie Gordin, Town Clerk

Exhibit A

**TOWN OF SOUTHERN  
SHORES  
TAX DEPARTMENT**

**4/3/2012**

<b><u>PICKUPS</u></b>		<b><u>RELEASES</u></b>	
Jan. Real	\$11.33	December Vehicles	\$90.79
		January Vehicles	\$26.46
		February Vehicles	\$100.06
<b><u>TOTAL</u></b>	<b>\$11.33</b>		<b>\$217.31</b>

Exhibit B

**4-3-12 TC Report  
Town Planner  
Month of March**

**1. Land Use Plan Update**

-The State has responded to our latest responses to their comments and has provided 8 additional comments. The Town Manager and I feel that the comments are minor and do not require further review from the Planning Board and Town Council. We will respond to the comments and hopefully will receive notice to proceed with holding a Public Hearing and submit the adopted Resolution and Plan to the Coastal Resources Commission to certify at their August 29<sup>th</sup> meeting.

**2. Permitting and Inspections for March, 2012**

- 3 Zoning Permits were issued.
- 22 building permits were issued: 0 new single-family dwelling, 2 additions, 0 remodels, and 20 others.
- 49 Dare County building inspections were conducted (20 job sites).
- Total amount of fees collected in March was \$2,950.00.

Exhibit C

**Planning Board Meeting  
March 19, 2012  
7:00 p.m., Pitts Center**

**MEETING MINUTES**

**I. CALL TO ORDER:**

Chairperson Sam Williams called the meeting to order at 7:00 pm. Planning Board Members Bill Gleason, Jay Russell, Sam Williams, alternate member Elizabeth Morey, alternate member Gray Berryman, and Town Planner Wes Haskett were present. Planning Board members Mike Florez, Bob Palombo and ETJ Representative Ed Overton were absent with excuse and alternate members Gray Berryman and Elizabeth Morey served as voting members in their absence.

**II. PLEDGE OF ALLEGIANCE:**

Chairperson Sam Williams led the Pledge of Allegiance.

**III. APPROVAL OF AGENDA:**

Bill Gleason motioned to approve the agenda. Jay Russell seconded the motion. The motion passed unanimously (5-0).

**IV. APPROVAL OF MINUTES:**

Elizabeth Morey motioned to approve the minutes of the February 21, 2012 Planning Board Meeting. Bill Gleason seconded the motion. The motion passed unanimously.

**V. PUBLIC COMMENT:**

None

**VI. OLD BUSINESS:**

**A. ZTA-12-02: Wind Energy Facilities Zoning Text Amendment Application (Land Use Plan Consistency Statement)**

Chairperson Williams stated that at the last Planning Board meeting, the Board voted to recommend approval of the amendment of the current Wind Energy Facilities Ordinance and did not vote on the Land Use Plan consistency which is required in the Town Zoning Ordinance and the North Carolina General Statutes. With respect to the consistency statement itself, a recent court case has made it clear that a description of why the Board feels that a proposed amendment is consistent must be included in the motion.

Wes Haskett stated that Town Staff recommends that the application is consistent with the Town's currently adopted Land Use Plan. The amendment clarifies existing requirements in the Town Zoning Ordinance established to ensure the public's health, safety, and welfare.

Bill Gleason motioned to recommend to the Town Council that the application is consistent with the Town's currently adopted Land Use Plan. The amendment clarifies existing requirements in the Town Zoning Ordinance established to ensure the public's health, safety, and welfare. Gray Berryman seconded the motion. The motion passed unanimously.

**B. Draft Stormwater Management Ordinance**

Chairperson Williams stated that at its joint meeting with the Planning Board on February 15, 2012, the Town Council discussed the draft Stormwater Ordinance as submitted by the Planning Board and alternate recommendations from Town Staff. As a result, the Town Council requested that the Planning Board and Town Staff draft a one-page document which outlines the differences in their recommendations and reach an agreement on one recommended draft ordinance. A chart which outlines the differences in the previous recommendations was distributed prior to the meeting which the Board reviewed and amended.

In addition to the chart that outlines the differences in their recommended amendments to the draft ordinance, the Board and Town Staff developed another draft amendment. Discussion of this draft included the following:

Chairperson Williams asked if the 1.5 inch rain event included a time limit.

Wes Haskett stated that the Universal Model Stormwater Ordinance for North Carolina does not include a time limit.

Jay Russell stated that he also confirmed that a time limit is not required.

Chairperson Williams asked if lines 1 and 2 on page 2 were consistent with item (3) on page 2 with respect to an increased discharge of stormwater onto adjacent property.

Gray Berryman stated that he agrees with the proposed language and thinks that the current Administration will enforce it. However, that statement could mean that the ordinance applies if only two drops of water hits the ground and the solution to that would be to only require compliance for the new development and not the entire lot.

Bill Gleason stated that making a man-made change is the trigger.

Chairperson Williams stated that the trigger would require the stormwater to be retained on site and that it could be difficult to measure an increase.

Bill Gleason motioned to recommend approval of the proposed language to the Town Council and amending lines 1 and 2 of page 2 by deleting "an increased" and inserting "the". Gray Berryman seconded the motion.

Gray Berryman stated that he agrees with the trigger and asked if the ordinance should apply to naturally flowing profiles.

Jay Russell stated that the sandy soils in Town can soak up to 20 inches of rain and that naturally flowing profiles would be addressed when considering Best Management Practices (BMP's).

Gray Berryman stated that we would run into unintended consequences if we require that this ordinance applies to water that hits the grass on a developed lot.

Jay Russell asked Wes Haskett if he had received complaints from property owners or contractors when they are required to install BMP's.

Wes Haskett stated no.

Chairperson Williams stated that the proposed language, combined with the current Town policy of addressing stormwater impacts related to streets, gives the Town authority to address stormwater impacts and called for a vote. The motion passed unanimously.

Chairperson Williams motioned to recommend to the Town Council that the proposed amendment is consistent with the Town's currently adopted Land Use Plan. The proposed amendment strengthens the existing requirements in the Town Zoning Ordinance established to ensure the public's health, safety, and welfare. Bill Gleason seconded the motion. The motion passed unanimously.

(Note: After the Planning Board meeting it was discovered that there was an inconsistency in the approved chart which notes the differences in the Board's and Town Staff's initial draft amendments and agreement on the joint draft amendment. The inconsistency was corrected and approved by email by the Board and Town Staff. The corrected chart is attached.)

### C. Planning Board Rules of Procedure

Chairperson Williams stated that at the last meeting, the Board reviewed and discussed a proposed chart which reflects the Planning process as agreed upon by the Town Council and asked if any further revisions to the chart were needed. Chairperson Williams motioned to approve the revised chart. Gray Berryman seconded the motion. The motion passed unanimously. Chairperson Williams stated that since the Planning Board has an adopted chart, at the next meeting, the Board will discuss where to place it within the Rules of Procedure.

#### VII. NEW BUSINESS:

None

#### VIII. PUBLIC COMMENT:

None

#### IX. PLANNING BOARD MEMBER COMMENTS:

Jay Russell stated that he was not able to attend the last Planning Board meeting and he was surprised that the Board voted to remove the manufacturer certifications from the Wind Energy Facilities Ordinance. He feels that the certifications were a safeguard that would have prevented the first Wind Energy Facility application from being approved.

#### X. ANNOUNCEMENTS:

Chairperson Williams noted that the next Planning Board meeting will be held on April 16, 2012.

Wes Haskett stated that the Public Hearing for the Wind Energy Facilities ZTA has been set for April 3, 2012.

#### XI. ADJOURNMENT:

Bill Gleason motioned to adjourn. Elizabeth Morey seconded the motion. The motion passed unanimously and the meeting adjourned at 8:03 p.m.

### Exhibit D

#### STAFF REPORT

**To:** Southern Shores Town Council  
**Date:** March 29, 2012  
**Case:** ZTA-12-02  
**Prepared By:** Wes Haskett, Town Planner/Code Enforcement Officer

#### GENERAL INFORMATION

**Applicant:** Town Staff

**Requested Action:** Amendment of the Town Zoning Ordinance regarding the following Section: 36-176.

#### ANALYSIS

Currently, Section 36-176, Wind Energy Facilities requires documentation signed and sealed by the manufacturer and a North Carolina registered engineer that the WGF can withstand sustained winds of at least 130 mph. This means that a single manufacturer is responsible for certifying that

the entire WGF meets the 130 mph requirement. In the event that there are multiple manufacturers involved, it would be impossible or difficult to obtain a manufacturer's certification of a product they do not produce.

At the February 7, 2012 Town Council meeting, Council requested that Town Staff draft a Zoning Text Amendment of the manufacturer's certification requirement which included language that required a certification from the manufacturer(s) of the WGF. At the February 21, 2012 Planning Board meeting, the Board recommended approval of language that would delete the requirement for documentation from the manufacturer that the WGF can withstand sustained winds of at least 130 mph and keep the existing requirement for documentation signed and sealed by a North Carolina registered engineer that the WGF can withstand sustained winds of at least 130 miles per hour.

**RECOMMENDATION**

The Planning Board unanimously (6-0) recommended approval of the proposed amendment and that it is consistent with the Town's currently adopted Land Use Plan. Town Staff recommends approval of the proposed amendment and that the application is consistent with the Town's currently adopted Land Use Plan. The amendment clarifies existing requirements in the Town Zoning Ordinance established to ensure the public's health, safety, and welfare.

ZTA -12-02

**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 Town Council for the Town of Southern Shores (the "Town Council") finds that adoption of this ordinance amendment will help to protect and control water quality in the Town; and

**WHEREAS**, the Town Council finds that it is in the interest of the public's health, safety, morals and general welfare that the Town's 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 Zoning Ordinance.**

**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 36-171 be amended as follows:

**Sec. 36-176. Wind energy facilities.**

(e) *Application requirements.*

- (1) An application shall not be deemed complete until all of the following required items have been submitted:
- a. A narrative describing the proposed wind generation facility, including an overview of the project;
  - b. The proposed total rated capacity of the wind generation facility;
  - c. Documentation signed and sealed by ~~the manufacturer~~ and a North Carolina registered engineer that the wind generation facility can withstand sustained winds of at least 130 miles per hour;
  - d. The proposed representative type and height of the wind turbine to be constructed; including its generating capacity, dimensions, and respective manufacturers, and a description of ancillary facilities;
  - e. A site plan showing the location of all structures and properties, demonstrating compliance with the applicable setback requirements;
  - f. Certification of compliance with applicable local, state, and federal regulations;
  - g. Other relevant information as may be reasonably requested by the Town of Southern Shores to ensure compliance with the requirements of this section;
  - h. Signature of the applicant.
- (2) Throughout the permit process, the applicant shall promptly notify the town of any proposed changes to the information contained in the permit application that would alter the project.
- (3) Changes to the approved application that do not materially alter the initial site plan may be approved administratively.
- (4) The town council may place reasonable conditions on the issuance of a conditional use permit pursuant to this section regarding public safety, land use, or zoning issues, including, but not limited to, aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.

**ARTICLE IV. 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, the Zoning Ordinance or the Town Code of the Town of Southern Shores, North Carolina which shall remain in full force and effect.

**ARTICLE V. Effective Date.**

This ordinance shall be in full force and effect from and after the \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Hal Denny, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

Approved as to form:

\_\_\_\_\_  
Town Attorney

Date: \_\_\_/\_\_\_/\_\_\_  
Vote: \_\_\_ Ayes \_\_\_ Nayes

**STAFF REPORT**

**To:** Southern Shores Planning Board  
**Date:** March 27, 2012  
**Case:** ZTA-12-03  
**Prepared By:** Wes Haskett, Town Planner/Code Enforcement Officer

**GENERAL INFORMATION**

**Applicant:** Town Staff

**Requested Action:** Amendment of the Town Zoning Ordinance regarding the following Section: 36-171.

**ANALYSIS**

The proposed amendment is a request to amend Section 36-171, Lot Disturbance to establish requirements for Stormwater Management. The proposed amendment would expand the current Lot Disturbance Permit requirements to include that no grading, filling, or other alteration of the topography or elevation of any unimproved lot, or demolition and clearing of improved property, nor any manmade change to any improved real estate resulting in the discharge of stormwater onto adjacent property and requiring a building permit, shall be undertaken prior to the issuance of a Lot Disturbance-Stormwater Management Permit by the Zoning Administrator.

In addition, the proposed amendment requires that the application and accompanying survey shall be sufficiently detailed for the Zoning Administrator to confirm that following construction of the proposed improvements, the property will retain all stormwater generated by a 1.5 inch rain event and will not adversely affect any stormwater management system previously constructed by the Town. The burden shall be on the applicant to make such a showing, and the Zoning Administrator, in his discretion, may request reasonable additional information to make a decision on the application. The Zoning Administrator would be authorized to include requirements in the permit which minimize the disturbance or damage of any adjacent lots or land, including any reasonable conditions meeting current best management practices for retaining all stormwater generated by a 1.5 inch rain event.

***RECOMMENDATION***

Town Staff recommends approval of the proposed amendment and that the application is consistent with the Town's currently adopted Land Use Plan. The proposed amendment strengthens existing requirements in the Town Zoning Ordinance established to ensure the public's health, safety, and welfare.

**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 Town may adopt and enforce stormwater control ordinances to protect and control water quality pursuant to North Carolina General Statutes § 160A-459; and

**WHEREAS**, the Town Council for the Town of Southern Shores (the "Town Council") finds that adoption of this ordinance amendment will help to protect and control water quality in the Town; and

**WHEREAS**, the Town Council finds that it is in the interest of the public's health, safety, morals and general welfare that the Town's 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 Zoning Ordinance.**

**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 36-171 be amended as follows:

**Sec. 36-171. Lot disturbance and Stormwater Management.**

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, nor any manmade change to any improved real estate resulting in the discharge of stormwater onto adjacent property and requiring a building permit, shall be undertaken prior to the issuance of a lot disturbance-stormwater management permit by the zoning administrator.

(1) All applications for lot disturbance and stormwater management 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 or development activity which is proposed for the lot. The application and accompanying survey shall be sufficiently detailed for the zoning

administrator to confirm that following construction of the proposed improvements the property will retain all stormwater generated by a 1.5 inch rain event and will not adversely affect any stormwater management system previously constructed by the Town. The burden shall be on the applicant to make such a showing, and the zoning administrator, in his discretion, may request reasonable additional information to make a decision on the application.

(2) Upon inspection, the 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 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 zoning administrator is hereby authorized to include requirements in the permit which minimize the disturbance or damage of any adjacent lots or land, including any reasonable conditions meeting current best management practices for retaining all stormwater generated by a 1.5 inch rain event.

#### **ARTICLE IV. 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, the Zoning Ordinance or the Town Code of the Town of Southern Shores, North Carolina which shall remain in full force and effect.

#### **ARTICLE V. Effective Date.**

This ordinance shall be in full force and effect from and after the \_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Hal Denny, Mayor

ATTEST:

Date: \_\_\_/\_\_\_/\_\_\_

Vote: \_\_\_ Ayes \_\_\_ Nayes

\_\_\_\_\_  
Town Clerk

Approved as to form:

\_\_\_\_\_  
Town Attorney

Exhibit F

#### **Sec. 4-25. Animals running at large.**

(a) It shall be unlawful for the owner or custodian of any dog or other animal, other than an ordinary domesticated house cat, to fail to keep the same from running at large within the town. For the purposes of this article, an animal, other than an ordinary domesticated

house cat, shall be deemed "running at large" when it is not restrained as specified in subsections (a)(1) through (5) of this section.

(1) When the animal is located upon the premises of the owner or custodian, it must not be able to enter upon public property or the premises of another person. Any animal off the premises of the owner or custodian shall be restrained by a leash, cord, or chain not exceeding ten feet in length, held by a person who is physically able to control the animal.

(2) For the purposes of this article, the term "premises of the owner or custodian" shall be defined as the residence of the owner or custodian, including the attached property surrounding the residence, that is owned or leased by such owner or custodian, but not including any common area, park, or recreational property jointly owned or leased by the members of a property owners' or tenants' association, unless such association desires to include its property by resolution of its governing board.

(3) No animal shall be deemed to be running at large when the animal is upon the premises of the owner or custodian and when the animal is contained on or restricted to such premises by any means, including verbal commands.

(4) Any animal enclosed within the automobile or other vehicle of its owner or custodian shall be deemed to be upon the owner's or custodian's premises.

(5) Any animal brought onto property and not contained or restrained in a vehicle where the custodian of the animal is performing work for pay or under contract on the property.

(b) ~~Notwithstanding anything to the contrary in subsection (a) of this section, no animal, excluding ordinary domesticated house cats, shall be allowed on the ocean beaches of the town from between May 15 through and September 15 of each year regardless of whether the animal is under control of its owner or custodian. During this period such animals are banned from the ocean beaches in the town. no dog shall be permitted on the ocean beaches of the Town between the hours of 9:00 a.m. and 6:00 p.m. unless being used to aid a handicapped person. At all other times, no dogs shall be permitted on the ocean beaches of the town except upon a leash having a stretched length of no more than ten feet and held by a person who is physically capable of handling the dog. Further the person accompanying the dog must possess on his person a scooping device with which to remove feces in accordance with section 4-27. For the purpose of this subsection the term "ocean beach" shall mean and be defined as all beach land beginning at the first line of stable, natural vegetation, the toe of the slope of the frontal dune, or the storm trash line, whichever is most apparent to ordinary observation, and located the most oceanward of the three, and extend to and include the waters and bottoms of the Atlantic Ocean extending eastward 100 yards from the shoreline. In defining the term "ocean beaches," such term shall be interpreted consistently with G.S. 77-20(d) and (e).~~

(c) There is exempted from subsection (b) of this section any dog which is accompanied by its owner or custodian while on any part of the ocean beach which is owned or leased by that dog's owner or custodian, and no further eastward than the mean high water mark of the Atlantic Ocean. Provided further, that the dog must be on a leash having a stretched length of no more than ten feet and held by a person who is physically capable of handling the dog. Further the person accompanying the dog must possess on his person a scooping device with which to remove feces in accordance with section 4-27.

(d) It shall be unlawful for any dog or cat owner to fail to provide his dog or cat with a collar or harness to which a current year's rabies vaccination and identification tag are securely attached. A collar or harness, with attached current year's rabies vaccination and identification tag, must be worn at all times except when the dog or cat is confined on the owner's premises or during the time the animals are performing at an event or show sanctioned and supervised by a recognized organization. It shall be unlawful for any person to allow any dog or cat to wear a current year's rabies vaccination and identification tag issued for another dog or cat.

(e) It shall be unlawful for any dog owner to allow his dog to chase, snap at, show aggressive threatening behavior, or attack pedestrians, bicyclists or vehicles, or for any cat owner to allow his cat to urinate on, scratch, or otherwise damage personal property not belonging to the owner, or to allow either his dog or cat to conduct itself so as to be a public nuisance. Dogs declared potentially dangerous by the county health director will be confined in accordance with directives issued by the county health director as authorized by G.S. 67-4.1.

Exhibit G

Resolution 2012-04-01

**Resolution in Support of H.R. 4094  
introduced in the 112<sup>th</sup> Congress 2d Session February 28, 2012**

Whereas, Town of Southern Shores recognizes the Cape Hatteras National Seashore Recreational Area as a pristine treasure of the National Park Service (NPS) which includes a wide variety of shore birds and wildlife; and

Whereas, Town of Southern Shores further recognizes the NPS's dual mandate of balancing tourism and resource protection within the Cape Hatteras National Seashore Recreational Area; and

Whereas, hundreds of thousands of United States citizens vacation each year on the Outer Banks of North Carolina and visit to enjoy the history, culture, cuisine, and beaches; and

Whereas, the Outer Banks of North Carolina, and specifically Hatteras and Ocracoke Islands, are world famous for surf fishing, boating, surf boarding, kite boarding, windsurfing, ocean kayaking, sunbathing, shelling, and other beach activities; and

Whereas, the areas now being recommended for complete closure from pedestrian and vehicular access due to shorebird breeding habitat and pre-nesting areas deny all access to some of the world's most productive surf fishing areas within the Cape Hatteras National Seashore Recreational Area; and

Whereas, as a result of a Consent Decree filed April 30, 2008 in the United States District Court for the Eastern District of North Carolina, the NPS is charged with annually developing a final Off-Road Vehicle (ORV)

Management Plan and issuing a special and final regulation for closure of areas of the Cape Hatteras National Seashore Recreational Area; and

Whereas, closure of beaches in the Cape Hatters National Seashore Recreational Area circumvents the NPS's responsibility of balancing tourism and resource protection; and

Whereas, the Town of Southern Shores recognizes Dare County, NC's dependence on tourism as its #1 industry, providing the economic substance for it's citizenry, and that Dare County is one of the few 'Donor' counties out of 100 North Carolina counties, in that the proceeds of its tourism industry produces net-revenue for the State of North Carolina; and

Whereas, the Town of Southern Shores acknowledges the economic devastation Dare County will suffer if the beaches of the Cape Hatteras National Seashore Recreational Area are closed to pedestrian and vehicular access.

Therefore, Be it Resolved, that the Southern Shores Town Council supports the passage of H. R. 4094 (introduced in the 112th Congress 2d Session February 28, 2012) proposing the "Preserving Access to Cape Hatteras National Seashore Recreational Act" which if enacted would reinstate management of beach access in accordance with the June 13, 2007 "Interim Protected Species Management Strategy/Environmental Assessment" issued by the NPS, and would prevent additional restrictions on access to the seashore and provide access corridors to the greatest extent possible.

Adopted this 3<sup>rd</sup> day of April, 2012

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

Exhibit H

**Town of Southern Shores  
Budget Amendment Number # 16**

<b>Police Increases</b>			<b>Police Decreases</b>		
<u>Account Number</u>	<u>Description</u>	<u>Amount</u>	<u>Account Number</u>	<u>Description</u>	<u>Amount</u>
40-39909	<b>Revenues</b> Undesignated FB	\$7,500.00	51-50121	Contingency	\$4,500.00
51-50126	<b>Expenditures</b> Vehicle Operations	\$12,000.00			

Explanation: Increased cost of fuel

Recommended By:

\_\_\_\_\_  
J. Peter Rascoe, III, Town Manager

Approved By:

\_\_\_\_\_  
Hal Denny, Mayor

\_\_\_\_\_  
Date

**Proclamation**

2012-04-02

**Municipal Clerks Week  
April 29-May 5, 2012**

Whereas, The Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world, and

Whereas, The Office of the Municipal Clerk is the oldest among public servants, and

Whereas, The Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and

Whereas, Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all.

Whereas, The Municipal Clerk serves as the information center on functions of local government and community.

Whereas, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, province, county and international professional organizations.

Whereas, It is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk.

Now, Therefore, I, Hal Denny, Mayor of the Town of Southern Shores, do recognize the week of April 29-May 5, 2012, as Municipal Clerks Week, and further extend appreciation to our Municipal Clerks, Carrie Gordin and Sheila Kang, Deputy Clerk and Hereto all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

Dated this 3<sup>rd</sup> day of April, 2012

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Mayor

Attest: \_\_\_\_\_

**Child Abuse Prevention Month, April 2012 Proclamation**

Whereas, children are vital to our state's future success, prosperity and quality of life as well as being our most vulnerable assets;

Whereas, all children deserve to have the safe, stable, nurturing homes and communities they need to foster their healthy growth and development;

Whereas, child abuse and neglect is a community responsibility affecting both the current and future quality of life of a community;

Whereas, communities that provide parents with the social support, knowledge of parenting and child development and concrete resources they need to cope with stress and nurture their children ensure all children grow to their full potential;

Whereas, effective child abuse prevention strategies succeed because of partnerships created among citizens, human service agencies, schools, faith communities, health care providers, civic organizations, law enforcement agencies, and the business community;

Therefore, we, the Town of Southern Shores, do hereby proclaim April as Child Abuse Prevention Month and call upon all citizens, community agencies, faith groups, medical facilities, elected leaders and businesses to increase their participation in our efforts to support families, thereby preventing child abuse and strengthening the communities in which we live.

\_\_\_\_\_  
Hal Denny, Mayor

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Clerk