



# 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

Corrected

August 21, 2012

9:00 a.m.-Pitts Center

The following Council Members were present: Mayor Denny, Mayor pro tem Jodi Hess, Council Members George Kowalski, David Sanders and Larry Lawhon. Also present: Town Manager Peter Rascoe, Finance Officer Bonnie Swain and Town Clerk Carrie Gordin.

Mayor Denny called the meeting to order, led the Pledge of Allegiance and held a moment of silence.

## **APPROVAL OF AGENDA**

Mayor Denny requested with Council's approval to add an additional period of Public Comment prior to agenda Item III. for those who wish to speak on the FY 2012-2013 Road Improvement Project #1 for Gravey Pond Lane, Deer Path Lane and a portion of Spindrift Trail.

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

## **APPROVAL OF MINUTES**-August 7, 2012

Mayor pro tem Hess moved to approve the August 7, 2012 minutes as presented. Council Member Lawhon seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

## **GENERAL PUBLIC COMMENT**

FY 2012-2013 Road Improvement Project #1 for Gravey Pond Lane, Deer Path Lane and a portion of Spindrift Trail.

Mayor Denny opened the floor for comment.

Caecilia Koeleveld, 72 Gravey Pond Lane, stated she supports the improvements to the street but does not support the cutting of the trees. She stated the letter she submitted to Council has now been published in the Coastland Times and that she has sought legal counsel. She asked if an Environmental Impact Study was done on the Gravey Pond street improvement project.

Burnham Gould, 71 Gravey Pond Lane, stated he supports the improvements but not the removal of the number of trees shown for the project. He read a letter he submitted to Council and requested that Council consider a second opinion on the number of trees that need to be removed for the project.

Helen van Laer, 39 Eagles Nest Lane, stated as a past member of the Town's former Vegetation Committee she feels trees are a financial asset not a detriment. She encouraged Council to reconsider the removal of trees in street improvement plan.

Hearing no other comments Mayor Denny closed the public comment.

Mayor Denny stated three years ago the tax rate was increased three cents for capital improvement projects. The streets need to be built to a specific standard that includes stormwater management.

The Mayor stated Council is considering the contractor bids today for this project.

The Town Manager stated extensive public notice has been given to the street residents regarding this project, and the project engineer personally met with residents to discuss the stormwater management plan. The Town received three written comments from property owners on Gravey Pond Lane and those were forwarded to the Council.

He stated FY2012-2013 Street Project #1 with the three streets was bid as a single project. He stated the bid amount received is over budget for this project but does not exceed the total amount budgeted for all streets. He recommends Council award the bid from RPC Contracting, Inc. as the lowest responsible bidder in the amount of \$525,800.00.

Council Member Kowalski stated there are 15 lots on Gravey Pond Lane and he personally talked with one of the three property owners who sent in letters. He spoke with one other resident who is in favor of the project. His conclusion is that four-fifths of the people want the project done.

Council Member Sanders an active member of the fire department stated it is very difficult to negotiate the fire truck on Gravey Pond Lane and the removal of the trees would be an asset for emergency vehicles.

Council Member Lawhon stated Council and the Planning Board worked with the Town's Transportation Committee and a proposed standard was accepted by Council for street improvements. He supports the engineering plans.

Mayor pro tem Hess stated the engineer did look at alternatives and this is his recommendation.

Mayor Denny stated an improved street is a plus to property value. He stated he does sympathize with those who are concerned about the tree removal. He stated he supports the engineering design.

Mayor Denny moved to accept the RPC Contracting, Inc. bid in the amount of \$525,800.00 and to authorize the Town Manager to execute the contract. Council Member Lawhon seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

### **CANAL MAINTENANCE DREDGING PROJECT FUNDING (PHASE 2)**

Mayor Denny stated the Town Manager and Tom Bennett, canal dredging project manager, provided information to Council on the projected costs for Phase 2 of the canal dredging project a few months ago with Council agreeing to discuss the options available for funding the project at a future workshop meeting.

The Town Manager then provided a Power Point presentation showing six model options as illustrations for possibly funding the project and reviewed the schedule for securing a loan and selecting a contractor.

Mayor Denny opened the floor for public comments.

Ed Cowell, 132 Beech Tree Trail, stated the canals have two functions: as an amenity and for drainage. He stated if an assessment is put into place it should be formulated so that the Town would get more of a share of the Dare County taxes on sales and occupancy.

Jim Keller, Southern Shores Civic Association (SSCA) representative, stated the SSCA is in favor of the completion of the canal dredging project but they are opposed to the concept of any exclusive assessment against canal front property owners.

[Clerk's Note: Mr. Keller's comments as read for the record attached as Exhibit A].

Tony Lombardi, 141 Poteskeet Trail, stated he supports the continuation of the project. He stated all Town property owners need to be a part of the funding for dredging as well as for the future maintenance of the canals.

Jim Gradeless, 52 Trinitie Trail, stated he supports all the previous comments. He stated if an assessment was applied then the canal-front property owners would be taxed multiple times. He does not support this.

Corey Taylor, Chichahauk Property Owner's Association representative, stated he supports the previous comments and the CPOA opposes any concept of a special assessment for canal front property owners.

John Leadmon, 83 Poteskeet Trail, stated he supports the previous comments and would add that discussion needs to be addressed on canal properties that are not bulkheaded that affect the canals.

Ron Domski, 16 3<sup>rd</sup> Avenue, stated the lagoons are filling in and that no maintenance has been given to them and the Town should not allow them to turn into swamps.

Gary Clark, 211 Sea Oats Trail, stated when he first bought his property 20 years ago he had an ocean view and now that the trees have grown he can't see the ocean. He doesn't think tax payers would like to be told they must pay so he could have an ocean view by removing the trees. He doesn't feel it is fair to ask everyone to pay for the canal maintenance.

Bill Caime, 19 3<sup>rd</sup> Avenue, stated regarding the presentation of a penny tax increase doesn't show what the yearly taxes is applied to a property owner. He stated canal erosion is due to the lack of bulkheading and not obeying the NO WAKE speed are problems.

Geri Sullivan, 31 10<sup>th</sup> Avenue, stated over the past few years taxes have continued to increase and it is a financial burden for some of the property owners. She requested Council consider the additional tax burden that will be placed on the property owners.

Ursula Bateman stated in response to Mr. Domski comments the lagoons are not Town property but are owned by the SSCA.

Don Barker, 13<sup>th</sup> Avenue, stated tourists don't come here for the canals and not all residents should pay for the canal dredging. He stated the Town of Nags Head only directly assessed ocean front properties for their beach nourishment program.

Hearing no other public comments Mayor Denny closed the public comment.

Mayor Denny opened the floor for Council comments.

Council Member Kowalski stated the canals need to be maintained; they are everyone's responsibility just like the roads and he supports the increase in the taxes to complete the project.

Council Member Lawhon stated in order for Council to be able to authorize a special assessment they needed to get NC legislative approval, which they did. He stated if the special assessment was authorized a property owner would possibly be assessed as much as three times. He stated he supports Model D as proposed by the Town Manager in which everyone pays.

Council Member Sanders stated the Town is a community of subdivisions with multiple authorities and he does not support the assessment of only canal property owners. He supports using Model D also. He stated this is the eighth year of trying to get the project completed with multiple Councils being involved and it is time for its completion.

Mayor pro tem Hess stated she has been involved with the project from the beginning, 10 years ago. Originally the canals belonged to the SSCA, not the Town. If the canals are not maintained property values will decrease. She supports the Town continuing to build a fund and improving the roads. There will always be other projects and planning is important. She stated the civic associations should discuss increasing their membership fees.

Mayor Denny stated the canals are an asset to the entire Town and he views the canals as the same as streets. He stated the Town should pay for the Phase 2 canal project from the General Fund using the two cent tax increase implemented this year which was to cover a small deficit and to fund infrastructure. He stated three years ago a three cent tax increase was approved for infrastructure.

Council Member Sanders moved to proceed with Phase 2 of the canal maintenance dredging project by utilizing Model Option D and that 100% of the funding be paid by the Town's General Fund. Mayor pro tem Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

Mayor Denny moved that Council direct the Town Manager to pursue financing options for Phase 2 of the canal maintenance dredging project. Council Member Lawhon seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

## **OTHER ITEMS**

### **Town Manager**

The Town Manager reported the contractor is ready to begin paving of the Chicahawk Trail Road Improvement project.

### **Council**

Council Member Kowalski stated he has visited the Town's beach several different times at several different places and he saw no violations with dogs being leashed.

Mayor pro tem Hess stated she attended a meeting in Duck regarding their erosion study and it was stated that Southern Shores is consistent and in good shape.

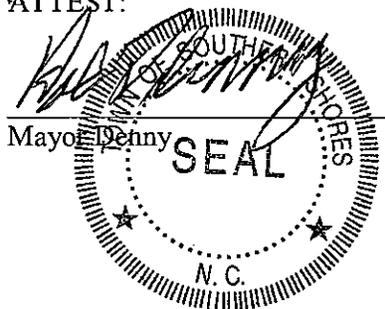
Hearing no other regular business Mayor Denny moved to go into closed session pursuant to NCGS 143-318.11(a) (6) consideration of personnel issues. Council Member Lawhon seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

Upon returning to open session Mayor Denny made a motion to authorize the addition of one more police officer to the Town's Police force. Council Member Kowalski seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

Mayor Denny moved, following the Town Manager's evaluation, to increase the Town Manager's salary to \$128,000.00 effective July 1, 2012. Mayor pro tem Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

Hearing no other business Mayor Denny moved to adjourn the meeting at 12:25 p.m. Council Member Kowalski seconded. The motion passed with Mayor Denny and Council Members Hess, Kowalski, Sanders and Lawhon voting aye.

ATTEST:



Respectfully submitted:

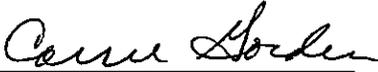
  
Carrie Gordin, Town Clerk

Exhibit A

SOUTHERN SHORES CANAL DREDGE

TALKING POINTS FOR 8-21 TOWN COUNCIL WORKSHOP

POSITION: (1) SSCA is in favor of completion of the canal dredge

(2) SSCA is opposed to the concept of any assessment against canal front  
Property owners

FACTORS DRIVING POSITION;

THE CANALS ARE A TOWN ASSET THAT SERVES TO BENEFIT ALL RESIDENTS AND GUESTS, NOT JUST FRONTAGE PROPERTY OWNERS, AND NOT JUST FOR RECREATIONAL PURPOSES, BUT ALSO AS AN IMPORTANT BASIN FOR STORM DRAINAGE. The Chicahawk Trail reconstruction is designed to, ultimately, feed storm water into the canals. Storm flooding impacts many streets throughout the town, not just canal front properties, and the canals serve as an important drainage outlet in these conditions. Everyone in town benefits and everyone should share in the responsibility for maintaining that system and that asset.

THE CONCEPT OF ASSESSMENT WOULD SET A DANGEROUS PRECEDENT FOR FUNDING OF FUTURE TOWN PROJECTS – I.E., ROAD CONSTRUCTION/REPAIR, BRIDGE REPLACEMENT AND REPAIR, DRAINAGE CONSTRUCTION ETC. – THEREBY EXPOSING OTHER SELECT GROUPS TO A FINANCIAL BURDEN. This encourages setting neighbor against neighbor over who pays for what. The fact that the State money is not available to help pay for Phase II canal dredging should not cause us to change our overall approach to public infrastructure projects.

Specific to the canal dredge project, should the Town Council choose any increase in the ad valorem tax rate, WE STRONGLY RECOMMEND THAT THE FUNDING BECOME EARMARKED AND CONSIDERED PERMANENT IN ORDER TO ESTABLISH A DEDICATED RESERVE FUND FOR ONGOING CANAL

MAINTENANCE BEYOND THE SEVEN YEAR FUNDING LIFE OF THIS PROPOSAL.

THE TOWN'S TAX REVENUE ALREADY BENEFITS FROM THE FACT THAT CANAL FRONT PROPERTIES CARRY A GENERALLY HIGHER TAX VALUATION BECAUSE OF THEIR PROPERTY LOCATION; AN ASSESSMENT CREATES A DOUBLE FINANCIAL BURDEN ON THESE PROPERTY OWNERS. Furthermore, an assessment of canal front property owners will likely create a significant negative impact to these property values. Conventional principles of valuation are based on the concept that value reflects all known variables. A direct assessment would introduce a new variable – a negative value variable in an already depressed real estate market. An assessment would require disclosure in any potential real estate transaction and this negative value factor would carry forward for the seven year period of this proposal. Non canal front property owners may also suffer negative property value impact from the precedent of using assessments for project funding.

OBSERVATIONS;

SHOULD THE TOWN COUNCIL CHOOSE TO FUND THE DREDGE PROJECT IN ANY WAY THROUGH THE AD VALOREM TAX RATE, WE DO NOT BELIEVE THE ASSUMPTION SHOULD BE MADE THAT THE TAX ADJUSTMENT NEEDS TO BE ENTIRELY INCREMENTAL TO THE EXISTING TAX BASE. Furthermore, the potential impacts as presented suggests a single borrowing and a single implementation of the funding options. We assume that borrowing, expenditure and funding needs would happen over the life of the project and not all on Day One. We believe all residents would benefit from preparation of a town financial model covering the next three to five years, including revenue projections, operating expense forecasts and anticipated ad valorem tax rates. We would expect that the town would look for every opportunity to ameliorate the impact of this new expense.

WE ARE CONFIDENT THAT THE TOWN HAS VETTED THESE PROPOSALS THROUGH THE TOWN ATTORNEY. Given the fixed window of time defined by the current permit, the Town Council should consider the option that creates the least likely possibility to draw legal challenge and, thereby, eat into the available time for implementation and/or expiration of the permit.

CLOSING: Thank Town Council for opportunity to give our input.