



Town of Southern Shores
Council Meeting
November 7, 2012

The Town of Southern Shores Council met in the Pitts Center located at 5375 N. Virginia Dare Trail at 7:00 p.m. on Wednesday, November 7, 2012

COUNCIL PRESENT: Mayor Hal Denny, Mayor pro tem Jodi Hess, Council Members George Kowalski, David Sanders and Larry Lawhon.

COUNCIL ABSENT: None

OTHERS PRESENT: Town Manager Peter Rascoe, Town Attorney Ben Gallop and Deputy Clerk Sheila Kane.

CALL TO ORDER / PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE

Mayor Denny called the meeting to order at 7:00 p.m., led the Pledge of Allegiance, and held a Moment of Silence.

APPROVAL OF AGENDA

MOTION: Mayor pro tem Jodi Hess moved to approve the agenda as presented. The motion was seconded by Council Member Sanders which passed unanimously.

INTRODUCTION OF POLICE OFFICERS

Chief David Kole introduced two new Police Officers, Chris MacDonald and George Farrow.

PRESENTATION- OUTER BANKS PUBLIC SAFETY AUXILIARY AWARD

Becca Cooke, on behalf of the Outer Banks Public Safety Auxiliary presented the outstanding Officer Award to Officer McKeever. The Outer Banks Public Safety Auxiliary was established in honor of Officer Earl Murray in an attempt to bring the public safety personnel community closer together. The auxiliary, by means of yearly fundraisers, provides a scholarship fund and Christmas fund.

APPROVAL OF MINUTES

MOTION: Mayor pro tem Hess moved to approve the October 16, 2012 minutes as presented. The motion was seconded by Council Member Lawhon which passed unanimously.

CONSENT AGENDA

The Consent Agenda consisted of the following item:

-Dare County Tax Pickups and Releases

MOTION: Mayor pro tem Hess moved to approve the consent agenda. The motion was seconded by Council Member Lawhon which passed unanimously.

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

QUARTERLY FINANCIAL REPORTS

Town Finance Officer, Bonnie Swain, presented the first quarter financial reports which show the Town on track for the year.

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

STAFF REPORTS

Town Planner: Town Planner, Wes Haskett, presented his monthly report containing the following:

- Permitting and Inspections for October, 2012

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

Police Department: Chief Kole presented his monthly report.

Southern Shores Volunteer Fire Department: No report

REPORTS FROM BOARDS, COMMITTEES, AND ASSOCIATIONS

Town Planning Board No report.

Southern Shores Civic Association

Ross Mitchell, Southern Shores Civic Association President, reported on Hurricane Sandy damage to SSCA property.

Chicahawk Property Owner's Association

Leo Holland reported on the CPOA's storm damage due to Hurricane Sandy.

GENERAL PUBLIC COMMENT

None

OLD BUSINESS

Proposed Ordinance Amendment (ZTA-12-03) Outdoor Lighting, Chapter 36, Sec. 36-166

Town Planner, Wes Haskett, proposed amending provisions for clarification purposes which had also been previously discussed specifically with Council at its June 19th meeting. Council had directed staff to proceed with proposed clarifying amendments at that time. Subsequently, the Town Planning Board unanimously recommended approval

of staff's application for the amendments, and found them to be consistent with the Town's current Land Use Plan. Upon reviewing the recommended amendments and grammatical changes suggested by Council Member Kowalski, Mayor Denny set a Public Hearing date of December 4, 2012 at 7:00 p.m.

[Clerk's Note: A copy of ZTA-12-03 is hereby attached as Exhibit D].

Outer Banks Community Foundation Cemetery Fund Update

The Town Manager presented a review of the Cemetery Fund and the Town's Community Foundation Cemetery Perpetual Trust Fund. Mayor pro tem Hess stated she would like to see the cemetery's operational costs placed into the Town's annual budget. Council Member Kowalski stated he would like for the Town to seek divestment of the perpetual trust fund held by the Outer Banks Community Foundation. No action was taken.

Resolution 2012-11-01 Bicycle and Pedestrian Planning Grant

MOTION: Mayor pro tem Hess moved to approve Resolution 2012-11-01. The motion was seconded by Council Member Lawhon which passed unanimously.

[Clerk's Note: A copy of Resolution 2012-11-01 is hereby attached as Exhibit E].

NEW BUSINESS

Proposed Board of Adjustment Appointment-John Gualtieri

Motion: Mayor Denny moved to approve John Gualtieri as a Board of Adjustment Alternate. The motion was seconded by mayor pro tem Hess which passed unanimously.

OTHER ITEMS

Town Manager's report

The Town Manager addressed several issues:

- Damage to Town infrastructure by Hurricane Sandy was minimal.
- CAMA has opened a temporary office in the Pitts Center to serve Dare County residents looking to obtain permits for repairs and beach pushes.
- The Town will be having a removal contractor look at the volume of debris cleanup needed on the beaches.
- Street paving projects on Deerpath Lane, Spindrift Trail and Gravey Pond Lane are on schedule and will be completed by the December contract date.
- The consulting engineer will be presenting a revised budget for approved street improvement projects on Honeysuckle Lane and Duck Woods Drive at the December meeting.

Town Attorney: none

Mayor's comments: none

Council Members' comments: none

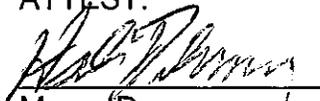
CLOSED SESSION

MOTION: Mayor Denny moved to enter into closed session pursuant to NCGS 143-318.11 (a)(3) to consult with the Town Attorney in a manner preserving the attorney/client privilege. The motion was seconded by Council Member Kowalski which passed unanimously.

ADJOURN

MOTION: Upon returning to open session mayor pro tem Hess moved to adjourn. The motion was seconded by Council Member Lawhon which passed unanimously. The time was 9:24 p.m.

ATTEST:



Mayor Denny

Respectfully submitted,



Sheila Kane, Deputy Clerk

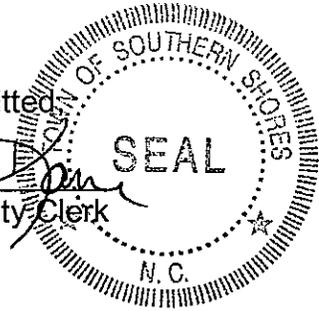


Exhibit A

TOWN OF SOUTHERN SHORES
TAX DEPARTMENT
11/6/2012

PICKUPS

September Real \$12,349.58

TOTAL **\$12,349.58**

RELEASES

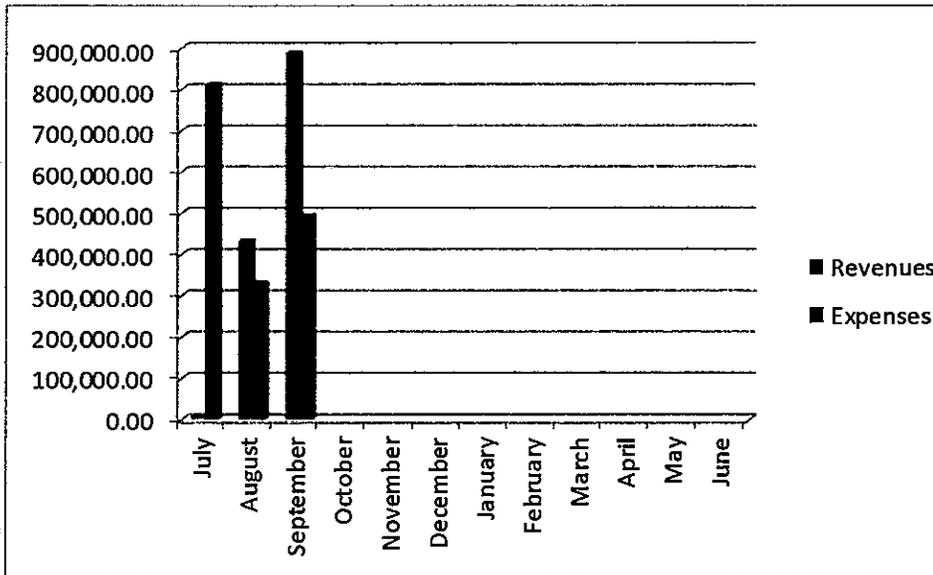
July vehicle \$27.00
August vehicle \$19.52
Sept. vehicle \$14.77
July Real \$46.88
August Real \$2.57

\$110.74

Exhibit B

GENERAL FUND

	Revenues	Expenses
FY 12-13		
July	9,160.19	811,196.18
August	434,150.23	330,368.47
September	888,374.58	493,616.55
October		
November		
December		
January		
February		
March		
April		
May		
June		
Total YTD	1,331,685.00	1,635,181.20



	Revenues		
	<u>Current Period</u>	<u>Prior Period</u>	<u>Difference</u>
July			
Ad Valorem	-	-	
Occupancy Tax	-	-	
Sales Tax	-	-	
Land Transfer Tax	-	-	
Building Permits & Fees	5,512.60	3,801.50	1,711.10
Other Revenues	3,647.59	4,912.59	-1,265.00
Total	9,160.19	8,714.09	446.10
August			
Ad Valorem	169,773.64	190,648.72	-20,875.08
Occupancy Tax	249,513.90	283,612.95	-34,099.05
Sales Tax	-	-	0.00
Land Transfer Tax	-	-	0.00
Building Permits & Fees	3,477.40	8,664.10	-5,186.70
Lease Proceeds	-	72,000.00	-72,000.00
Other Revenues	11,385.29	10,346.43	1,038.86
Total	434,150.23	565,272.20	131,121.97
September			
Ad Valorem	442,646.61	331,389.05	111,257.56
Occupancy Tax	197,421.68	229,421.78	-32,000.10
Sales Tax	95,504.33	90,330.88	5,173.45
Land Transfer Tax	-	-	0.00
Utilities & Franchise Tax	61,075.10	65,171.17	-4,096.07
Building Permits & Fees	12,214.00	4,751.40	7,462.60
Lease Proceeds	74,000.00	-	74,000.00
Insurance Proceeds	-	31,450.31	-31,450.31
Other Revenues	5,512.86	7,235.81	-1,722.95
Total	888,374.58	759,750.40	128,624.18
Grand Total YTD	1,331,685.00	1,333,736.69	-2,051.69

	<u>Current Period</u>	<u>Prior Period</u>	<u>Difference</u>
July			
Administration	101,354.08	94,451.62	6,902.46
Police	109,522.44	69,610.22	39,912.22
Sanitation	12,855.13	14,247.15	(1,392.02)
Fire Services	262,752.50	262,275.00	477.50
Ocean Rescue Services	25,416.67	24,666.67	750.00
Streets	75,813.00	2,108.84	73,704.16
Public Works	26,001.52	50,137.70	(24,136.18)
Code Enforcement	14,085.84	10,479.34	3,606.50
Total	627,801.18	527,976.54	99,824.64
August			
Administration	76,641.73	47,436.66	29,205.07
Police	90,161.43	128,175.05	-38,013.62
Sanitation	35,575.25	19,794.10	15,781.15
Fire Services	-	-	0.00
Ocean Rescue Services	25,416.67	24,666.66	750.01
Streets	52,158.81	1,350.11	50,808.70
Public Works	35,698.06	44,539.95	-8,841.89
Code Enforcement	14,716.52	15,999.07	-1,282.55
Total	330,368.47	281,961.60	48,406.87
September			
Administration	65,495.55	81,547.08	-16,051.53
Police	166,847.32	115,909.09	50,938.23
Sanitation	37,340.38	46,710.77	-9,370.39
Fire Services	-	-	0.00
Ocean Rescue Services	25,416.67	24,666.66	750.01
Streets	139,427.72	5,874.29	133,553.43
Public Works	43,352.30	77,231.42	-33,879.12
Code Enforcement	15,736.61	13,982.14	1,754.47
Total	493,616.55	365,921.45	127,695.10
Total YTD	1,451,786.20	1,175,859.59	275,926.61
Trans. To CRF	183,395.00	10,071.00	-
Grand Total YTD	1,635,181.20	1,185,930.59	275,926.61

Exhibit C

11-7-12 TC Report

Town Planner

Month of October

1. Permitting and Inspections for October, 2012

-3 Zoning Permits were issued.

-32 building permits were issued: 1 new single-family dwelling, 1 remodel, and 30 others.

-62 building inspections were conducted (38 job sites).

-Total amount of fees collected in October was \$5,712.60.

Exhibit D



Town of Southern Shores

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ZTA-12-03

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA**

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-381, the Town of Southern Shores (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land. Pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has adopted a comprehensive zoning ordinance (the “Town’s Zoning Ordinance”) and has codified the same as Chapter 36 of the Town’s Code of Ordinances (the “Town Code”); and

WHEREAS, pursuant to N.C.G.S. § 160A-174 the Town may also enact and amend ordinances that define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town; and

WHEREAS, the Town further finds that outdoor lighting standards are necessary to provide desirable levels of lighting for adequate visibility, safety and security without unreasonably interfering with the use and enjoyment of neighboring properties; and

WHEREAS, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public's health, safety, morals and general welfare for the Town to amend the Town’s Zoning Ordinance and Town Code of Ordinances as stated below.

ARTICLE II. Construction.

For purposes of this ordinance amendment, 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 an ellipses (“...”) 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 of the Town of Southern Shores, North Carolina, that the Town Code shall be amended as follows:

PART I. That Section 36-166 [Outdoor Lighting] be amended as follows:

Sec. 36-166. Outdoor lighting.

(a) *Intent.* Outdoor lighting standards are hereby established to provide desirable levels of lighting for adequate visibility, safety and security without unreasonably interfering with the use and enjoyment of neighboring properties. This section is designed to provide uniform distribution of light that minimizes light trespass and controls glare on and off the property. All outdoor lighting shall be planned, erected, altered and maintained in accordance with the following provisions.

(b) *Lighting prohibited.*

- (1) Light fixtures that imitate an official highway or traffic control light or sign are prohibited.
- (2) Light fixtures in the direct line of vision with any traffic control light or sign are prohibited.
- (3) Light fixtures that have a flashing or intermittent pattern of illumination are prohibited.
- (4) Privately owned light fixtures located in the public right-of-way are prohibited.
- (5) ~~Light fixtures that are a source of glare by their design, orientation or intensity are prohibited.~~
- (56) Searchlights are prohibited except when used by a federal, state or local authority.
- (67) Light fixtures that violate any law of the state relative to outdoor lighting are prohibited.
- (78) ~~General purpose area and sSports floodlights are prohibited except to illuminate building facades and permitted~~ outdoor recreational uses.
- (89) Illumination of the public beach and estuarine waters from uses that are not water dependent shall be prohibited.
- (910) Lighting of windsocks, fountains or flags is prohibited, excepting the United States flag, state flag, official flag of the town or permitted flag sign.
- (1011) ~~Unshielded open vertical light fixtures are prohibited.~~ Light fixtures directed towards the overhead sky are prohibited.

(c) *General provisions.*

- (1) ~~All light sources shall be designed, oriented or shielded so that light produced on-site shall be contained within the perimeter of the site.~~
- (12) Exterior lighting shall not provide in excess of one footcandle of light (forward or

back lighting) measured at the property line of any adjacent property.

- (23) All wiring for outdoor lighting not located on a building shall be placed underground.
- (34) Principal buildings shall be lighted for security at intensity no greater than permitted in the table in subsection (c)(8) of this section.
- (45) Floodlights shall not exceed 500 watts. When placed in a cluster the combined wattage shall not exceed the footcandle permitted in the table in subsection (c)(8) of this section.
- (56) Lighting fixtures shall be designed to withstand a minimum wind velocity of 130 miles per hour (three second gust).
- (67) Freestanding light fixtures within commercial parking lots shall not exceed 35 feet in height, measured from ground level or lowest surrounding ground elevation, and in all other areas, shall not exceed 18 feet in height, measured from ground level. For purposes of this article, "ground level" shall be interpreted to mean the original site elevation before any site work or fill material is added.
- (78) The following lighting intensity levels, measured at ground level in footcandles, shall be exempt from these restrictions. Permitted intensity levels may be approved by town council for reasonable cause.

Type of Outdoor Area or Use Permitted	Range of Average Footcandles Minimum--Maximum
<i>Parking Areas</i>	
Commercial parking lots	4.0--7
Industrial warehouses	0.5--1
<i>Building Exteriors</i>	
Loading platforms	10
Commercial entrances	5
Architectural	1
<i>Security</i>	
Commercial	1
Industrial	1
Walkways/roads	1
<i>Recreational</i>	
Baseball/football/soccer	25
Tennis/handball/volleyball	20
Basketball	10
Swimming pool	10
Playground	5

(d) *Site plan requirements.* The town shall require an outdoor lighting plan for review as part of the site plan review process for all uses other than one- and two-family dwelling units. Lighting plans submitted for review shall provide:

- (1) The rationale for the proposed lighting plan.
- (2) Evidence that a lower lighting level than that requested would not provide sufficient illumination.
- (3) Rationale for why the selected option was chosen for the particular site.
- (4) The stamp/seal, license number and signature of the design professional responsible for the plan. Design professional must be a professional engineer, architect or landscape architect licensed to practice in the state.

(e) *Light fixture (luminaire) specifications.* As part of the site plan submittal for all uses other than one-and two-family dwelling units, the design professional shall provide manufacturers technical specification sheets describing the fixtures to be used.

(f) *Measurements.*

- (1) Measurements are to be made in footcandles with a direct reading, portable light meter.
- (2) Unless otherwise specified, the meter sensor shall be mounted not more than six inches above ground level in a horizontal position to measure horizontal illumination. Vertical illumination shall be measured at a height of five feet with the sensor mounted not more than six inches from the wall surface and the meter sensor in the vertical position.

(g) *Inspection.* All outdoor lighting fixtures may be subject to annual inspection by the code enforcement officer to ensure compliance with the provisions of this article. When a fixture fails to comply, the code enforcement officer shall give written notice to the owner of the property on which the fixture is located stating that the fixture shall be brought into compliance, or removed at the owner's expense, within 30 days of receipt of the notice. The remedies set out in article XI of this chapter shall also apply to this section.

(Code 1988, § 11-6.04; Ord. No. 02-09-023, pt. I, 9-3-2002)

ARTICLE IV. Statement of Consistency with Comprehensive Plan and Reasonableness.

The Town's adoption of this ordinance amendment is consistent with the Town's adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that is applicable. For all of the above-stated reasons and any additional reasons supporting the Town's adoption of this ordinance amendment, the Town considers the adoption of this ordinance amendment to be reasonable and in the public interest.

ARTICLE V. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance

amendment nor the Zoning Ordinance or Town Code of the Town of Southern Shores, North Carolina which shall remain in full force and effect.

ARTICLE VI. Effective Date.

This ordinance amendment shall be in full force and effect from and after the ____ day of _____, 2012.

_____, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

Date adopted:

Motion to adopt by Councilmember:

Motion seconded by Councilmember:

Vote: __AYES__ NAYS

Exhibit E



**A RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF SOUTHERN SHORES
TO DEVELOP A COMPREHENSIVE BICYCLE
AND PEDESTRIAN PLAN**

Resolution 2012-10-01

Whereas, The NCDOT Division of Bicycle and Pedestrian Transportation and the Transportation Planning Branch have created an annual matching grant program – the Bicycle and Pedestrian Planning Grant Initiative – to encourage municipalities to develop comprehensive bicycle plans and pedestrian plans; and

Whereas, roads and pathways should always ensure the safe and efficient movement of pedestrians, vehicles and emergency equipment within, through and out of the Town of Southern Shores; and

Whereas, decisions on Town transportation infrastructure, public safety, and traffic control should always be made in compliance with the needs of the Town of Southern Shores and incorporate appropriate State and Federal transportation requirements; and

Whereas, the Town of Southern Shores is committed to ensuring an adequate system of roads, bridges and pathways to meet the transportation and pedestrian safety needs of the Town in a way that protects, preserves and where possible improves the environment and water quality in accordance with the Town Land Use Plan adopted on July 18, 2012; and

Whereas, the Town of Southern Shores is committed to developing and implementing a plan to extend, maintain and enhance a multi-purpose path network within the Town in accordance with the Town Land Use Plan adopted on July 18, 2012; and

NOW, THEREFORE, BE IT RESOLVED that the Town Council of The Town of Southern Shores, North Carolina, meeting on November 7, 2012, wishes to develop a Comprehensive Joint Bicycle and Pedestrian Plan.

Mayor Hal Denny

ATTEST:

Town Clerk



Town of Southern Shores
Closed Session
November 7, 2012

Those in attendance: Mayor Denny, Council Members Hess, Kowalski, Sanders and Lawhon.

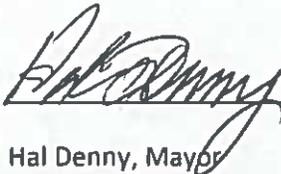
Also present: Town Manager Peter Rascoe, Town Attorney's Ben Gallop and Phillip Hornthal and Deputy Clerk Sheila Kane.

Mr. Hornthal gave an update on the latest mediation attempt regarding the Town's contract dispute with Sampson Contracting for the Town's completed Canal Dredging Maintenance Project Phase 1. Mr. Hornthal explained there is an opportunity for the parties to agree to take the matter to Dare County Superior Court and thereby join all other interested parties. He advised Council this would be more beneficial to the Town's position.

Following discussion Mayor Denny made a motion: "Recognizing that the statute of limitations defense could bar some of Sampson Contracting, Inc.'s ("Sampson") claims against the Town of Southern Shores ("Town") in Dare County Superior Court, I move that the Town authorize it's attorneys to waive its contractual rights to enforce arbitration with Sampson, so that all claims between Sampson and the Town, and any potential third parties, can be filed in Dare County Superior Court. This agreement would necessarily require the Town to waive some potential defenses arising under statutes of limitations which could bar claims already initiated in the arbitration proceeding." Council Member Lawhon seconded the motion. The motion passed unanimously.

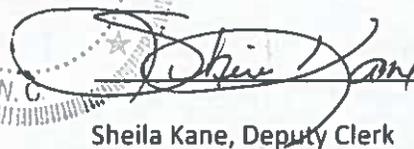
Council Member Kowalski moved to go out of closed session. Mayor pro tem Hess seconded. The motion passed unanimously.

ATTEST:


Hal Denny, Mayor



Respectfully submitted:


Sheila Kane, Deputy Clerk