



**Town of Southern Shores  
Council Meeting  
January 7, 2014**

The Town of Southern Shores Council met in the Pitts Center located at 5375 N. Virginia Dare Trail at 5:30 p.m. on Wednesday, January 7, 2014.

**COUNCIL PRESENT:** Mayor Tom Bennett, Mayor Pro Tem Jodi Hess, Council Members David Sanders, Larry Lawhon and Leo Holland.

**COUNCIL ABSENT:** None

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

**CALL TO ORDER / PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE**

Mayor Bennett called the meeting to order at 5:30 p.m., led the Pledge of Allegiance, and held a Moment of Silence.

**AMENDMENTS / APPROVAL OF AGENDA**

**MOTION:** Council Member Holland moved to approve the agenda as presented. The motion was seconded by Council Member Sanders. The motion passed unanimously (5-0).

**CONSENT AGENDA**

The Consent Agenda consisted of the following item:

- Approval of Minutes-December 3, 2013

**MOTION:** Mayor Pro Tem Hess moved to approve the December 3, 2013 minutes as presented. The motion was seconded by Council Member Holland. The motion passed unanimously (5-0).

**STAFF REPORTS**

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

- Permitting and Inspections for December, 2013
- Comprehensive Bicycle and Pedestrian Plan

The first Steering Committee meeting was held on December 20<sup>th</sup>. The next Steering Committee meeting will be held in February.

- AT&T Wireless Stealth Tower at Triangle Park. The building permit application has been submitted and is near issuance.

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

Police Department:

Chief Kole presented his monthly report.

Southern Shores Volunteer Fire Department:

In absence of the Fire Chief, Town Manager Peter Rascoe presented the monthly report.

**REPORTS FROM TOWN BOARDS**

None

**GENERAL PUBLIC COMMENT**

Sam Williams 109 Pudding Pan

Mr. Williams commented on the Council's agenda consideration of a potential request for an amendment to grant the Town condemnation authorities in the case of a future beach nourishment project. He asked that Council cover specifics.

Lori Williams 109 Pudding Pan

The League of Women Voters is sponsoring a program on flood insurance at the Kill Devil Hills Town Hall January 9 at 7:00 p.m.

**OLD BUSINESS**

None

**NEW BUSINESS**

Southern Shores Volunteer Fire Department Pension and Local Relief Fund Appointment

MOTION: Council Member Sanders moved to reappoint Carlos Mercado to the SSVFD Local Relief and Pension Fund for a one-year term expiring December 31, 2014. The motion was seconded by Council Member Holland. The motion passed unanimously (5-0).

Discussion of Potential Amendment to Session Law 2001-36

It was previously brought to the attention of Council during calendar year 2013 that the Town does not have the same condemnation authority for beach nourishment projects that as other coastal towns and counties do, including the Towns of Nags Head, Kill Devil Hills, and Kitty Hawk, and Dare County.

As then discussed with the Council, the Town Manager subsequently approached the legislative delegation for Dare County about seeking local legislation that would grant this authority. The Town Manager stated the purpose of the current agenda item is for Council to decide if it would like to consider requesting such legislation in a future public meeting, and if so to then adopt a resolution formally requesting the legislation. The Town Manager explained that such a requesting resolution would need to indicate that there is no controversy among Council members concerning the request, and that it would be needed by the legislative delegation by March 1 for the upcoming May short session of the General Assembly.

The Town Manager stated the Town Attorney had prepared a resolution and the proposed amendments to the general statutes for Council consideration to be deferred to next month if they decide to hold such a public meeting.

MOTION: Following explanation by the Town Attorney and Council discussion, Council Member Sanders moved to hold a public meeting on February 4, 2014 during the regularly scheduled Council meeting. The motion was seconded by Council Member Lawhon. The motion passed unanimously (5-0).

### Consideration of State Mandated Code Changes

The Town Planner stated there were some legislative changes made this past year that require changes to the Town Code, including a wireless zoning text amendment and amendments pertaining to the Board of Adjustment and quasi-judicial procedures. Staff has also recommended changes to the Town Code dealing with organization and make-up of the Board of Adjustment. All items require Planning Board review and recommendation, and a subsequent Council public hearing before Council takes any action on the recommended changes.

**ACTION:** Following discussion Mayor Bennett instructed that all items be submitted to the Planning Board for review and provide Council with a recommendation at the March 4, 2014 meeting.

### Consideration of Recommendation to Establish a Litigation Committee

Mayor Bennett explained that he is an individual party to a claim being currently litigated against the Town, which is the purpose of this agenda item. He recused himself from this particular agenda item to avoid a conflict of interest.

**MOTION:** Council Member Sanders moved to excuse Mayor Bennett from agenda item VII. D. Recommendation to Establish a Litigation Committee. The motion was seconded by Council Member Holland. The motion passed unanimously (5-0).

**MOTION:** After brief explanation by the Town Attorney and Council discussion, Council Member Holland moved to approve Resolution 2014-01-01 as corrected. The motion was seconded by Council Member Lawhon. The motion passed unanimously (5-0).

[Clerk's Note: A copy of the Resolution 2014-01-01 Designation of a Litigation Committee is hereby attached as Exhibit B].

## **OTHER ITEMS**

### Town Manager's report

The Town Manager addressed several issues:

- December 21<sup>st</sup> Festivus 5k and 10k run in Town consisted of about 250 runners. Money was raised for the Children's Museum and food was donated to the Beach Food Pantry.
- Beach Stabilization program is on its way with grass planting now and sea oats and fertilization scheduled for a later date.
- New Flag Pole at Town Hall with money donated from Fletcher Family Trust.
- The Capital Improvement Planning (CIP) Committee will meet tomorrow January 8 to discuss projects for next fiscal year.
- The February 21<sup>st</sup> workshop meeting will be held at the SSVFD at 9:00 a.m. and is open to the public.
- The finance committee will be meeting January 29<sup>th</sup> to review the quarterly financials.
- The dredging project is on schedule and is currently on the long canal between Duck Woods Drive and Poteskeet Trail. The contractor will be moving to the Spindrift Canal in approximately ten (10) days.

### Town Attorney:

None

### Mayor's comments:

Mayor Bennett stated how fortunate the Town is to have such a professional dredging contractor, very responsible, good equipment, and good people.

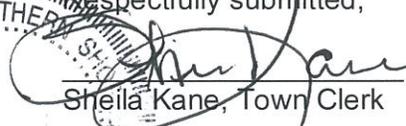
Council Members' comments:  
None

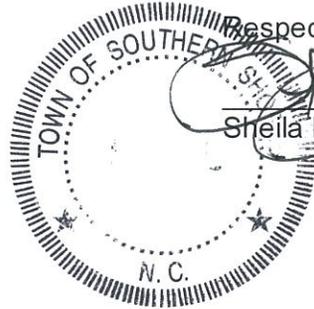
**ADJOURN**

**MOTION:** Council Member Lawhon moved to adjourn. The motion was seconded by Council Member Holland. The motion passed unanimously. The time was 6:41 p.m.

ATTEST:

  
\_\_\_\_\_  
Mayor Bennett

Respectfully submitted,  
  
\_\_\_\_\_  
Sheila Kane, Town Clerk



## 1-7-14 TC Report

### **1. Permitting and Inspections for December, 2013**

-9 Zoning Permits were issued. 26 building permits were issued: 1 new single-family dwelling, 4 additions/alterations, 2 remodels and 19 others.

-73 building inspections were conducted (50 job sites). 13 single-family dwellings are currently under construction.

-Total amount of fees collected in December was \$6,328.04

### **2. Comprehensive Bicycle and Pedestrian Plan**

-The first Steering Committee meeting was held on December 20<sup>th</sup> and goals and target areas were identified. The next Steering Committee meeting will be held in February.

### **3. AT&T Wireless Stealth Tower at Triangle Park**

-Building permit app. submitted, near issuance.

# Town of Southern Shores

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## RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA DESIGNATING A LITIGATION COMMITTEE FOR SPECIFIC LITIGATION

**Resolution #2014-01-01**

**WHEREAS**, the Town of Southern Shores (the “Town”) pursuant to its inherent authority may create and appoint its members to committees and may delegate its duties, powers, authority and rights to such committees; and

**WHEREAS**, pursuant to N.C.G.S. § 160A-75 members of the Town Council should be excused from voting on matters considering the member’s own financial interests; and

**WHEREAS**, the Town is a party defendant to a lawsuit entitled Sampson Contracting, Inc. v. Town of Southern Shores, et al. having Dare County file No. 13-CVS-25 (the “Lawsuit”); and

**WHEREAS**, prior to taking office, Mayor Thomas Bennett was named and now remains a named individual party defendant in the Lawsuit and the outcome of the Lawsuit has the potential to affect Mayor Bennett’s personal financial interests; and

**WHEREAS**, the Town finds that it is in the best interest of the Town and Mayor Bennett and in the interest of the public's health, safety, morals and general welfare: (i) that the Town Council excuses Mayor Bennett from further consideration of the Lawsuit and any matters related thereto, arising therefrom or otherwise arising out of the operative facts and circumstances giving rise to the Lawsuit (collectively the “Litigation”); and (ii) that the Town Council creates a litigation committee for the Litigation having all of the powers, duties, authority and rights of the Town Council and made up of the members of the Town Council excluding Mayor Bennett.

**NOW, THEREFORE BE IT RESOLVED**, that: (1) the Town Council hereby excuses Mayor Thomas Bennett from consideration of any and all matters related to the Litigation; and (2) the Town Council hereby creates a litigation committee for the Litigation (the “Sampson Litigation Committee”). The Sampson Litigation Committee shall be vested with all of the powers, duties, authority and rights of the entire Town Council with regard to the Litigation. Such powers shall include, but not be limited to the authority to manage the Litigation, the authority to enter closed sessions to consult with and give direction to the Town’s attorneys regarding the Litigation, the authority to negotiate and enter into settlements or other agreements arising out of the Litigation and the authority to appropriate funds for the purposes of the Litigation. The members of the Sampson Litigation Committee shall be the existing Town Council members excluding Mayor Thomas Bennett and any successors to their offices during the existence of the Litigation Committee. The Litigation Committee shall continue in perpetuity until a majority vote of the Town

Council abolishes the Litigation Committee, until Mayor Bennett has been succeeded in office or until the Litigation has been completed including all appeals and the expiration of all statutes of limitation and repose.

Adopted this 7<sup>th</sup> day of January, 2014.

\_\_\_\_\_  
Jodi Hess, Mayor Pro Tem

ATTEST:

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

APPROVED AS TO FORM:

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

Date adopted:

1/7/2014

Motion to adopt by Councilmember Holland

Motion seconded by Councilmember Lawhon

Vote: 5 AYES 0 NAYS (Mayor Thomas Bennett excused)