



**Town of Southern Shores  
Council Meeting  
March 4, 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 Tuesday, March 4, 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:** Mayor Pro Tem Hess moved to amend the agenda to include a closed session. 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- February 4, 2014

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

**RECOGNITION-APPRECIATION CERTIFICATE**

Council Member Leo Holland

Mayor Bennett, on behalf of Council and Staff, recognized Leo Holland for his many years of service on the Board of Adjustment.

Advanced Law Enforcement Certificates

Chief David Kole and Mayor Bennett recognized three Southern Shores Officers for obtaining Advanced Law Enforcement Certificates. The officers honored were Corporal Darrell T. Brickhouse, Senior Police Officer/Investigator Matthew W Cooke, and Senior Officer Tracy M. Mann. These three law enforcement officers have recently been issued Advanced Law Enforcement Certificates by the North Carolina Criminal Justice Standards Commission. These officers met the Commission's strict requirements of a combination of education, training, and law enforcement experience. In order to reach this accreditation, an officer must obtain a baccalaureate degree from an accredited college or university, must have at least six (6) years of full time, sworn law enforcement experience, and must accumulate at least 24 points of training equating to a minimum of 480 hours.

## STAFF REPORTS

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

- Permitting and Inspections for February, 2014
- AT&T Wireless Tower-All required permits have been issued. Construction to begin August, 2014 (subject to change.)

[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:

Chief Harvey presented his monthly report.

## REPORTS FROM TOWN BOARDS

Planning Board Chair Sam Williams reported on the following:

ZTA-14-01 Board of Adjustment- Amendment of the Town Zoning Ordinance regarding the following: Chapter 36, Article XII.

In October, 2013, new legislation adopted by the North Carolina General Assembly which applies to the Board of Adjustment went into effect. The new legislation mandates local changes regarding voting, decisions, hearing notices, appeals, and variances. The Town Zoning Ordinance must be amended in order to comply with the recently adopted legislation.

In addition to the required legislative changes, Town Staff is also proposing to amend the current makeup of the Board of Adjustment. Currently, the Town's Board of Adjustment is comprised of five regular members, three alternates, and one ETJ member. The Board has not met to consider new business since November 20, 2008. As a result, Town Staff is proposing that Council consolidate the Board of Adjustment's duties with the Town Planning Board's in this ZTA.

A survey of other local government planning jurisdictions with populations under 5,000, asking if their Planning Board also served as the Board of Adjustment, produced 18 results. Out of the 18 results, 11 of the jurisdictions have assigned the duties of the Board of Adjustment to the Planning Board.

## RECOMMENDATION

The Town Planning Board unanimously (5-0) recommended approval of the application at the February 18, 2014 meeting. Town Staff recommends approval of the application and that the application is consistent with the Town's currently adopted Land Use Plan.

ZTA-14-02 Amendment of the Town Zoning Ordinance regarding the following Sections: 36-175, Wireless Telecommunications Sites and Towers; 36-202, RS-1, Single-family District; 36-205, Low-density Residential District; 36-206, Government and Institutional District; and 36-207, C General Commercial District.

In October, 2013, new legislation adopted by the North Carolina General Assembly regarding wireless facilities went into effect setting standards regarding the expedited review of collocations and minor modifications requests. The Town Zoning Ordinance must be amended in order to be consistent with the recently adopted legislation, and the proposed ZTA proposes the Town's current Wireless Facilities Ordinance be consistent with new legislation.

## RECOMMENDATION

The Town Planning Board unanimously (4-0) recommended approval of the application at the February 18, 2014 meeting. Town Staff recommends approval of the proposed amendment and the recommended finding of consistency with the Town's currently adopted Land Use Plan.

MOTION: Upon hearing the reports Council directed the Clerk to schedule a Public Hearing for both ZTA-14-01 and ZTA-14-02. Council Member Holland moved to conduct the Public Hearing on April 1, 2014 at the regularly scheduled Council meeting. The motion was seconded by Mayor Pro tem Hess. The motion passed unanimously (5-0).

## GENERAL PUBLIC COMMENT

### Lori Williams 109 Pudding Pan

On Thursday, March 6 at 7:00 pm in the meeting room at the Kill Devil Hills Town Hall, the League of Women Voters has scheduled Willo Kelly (Government Affairs Director for the Outer Banks Board of Realtors and the Outer Banks Home Builders Association) to present an update on the flood insurance issue. This is a follow up to the January program she did on flood insurance and home owners insurance. The public is invited.

## OLD BUSINESS

### Reports on completion of Phase II Canal Dredging Project

Town Manager Peter Rascoe reported the maintenance dredging of all 7.5 miles of publically-owned navigable canals within the Town of Southern Shores is now approaching completion. All canals have been dredged to depths ranging from 4 to 5 feet and the town is just waiting on confirmation from the bottom depth surveys. Once the surveys are received the silt fencing will be removed so boat traffic can resume.

Public Works Director Rachel Patrick and Town Engineer Joe Anlauf reported on the work completed by the dredging contractor Salmons Dredging Inc., stating they should be commended for the efficient and professional manner in which they carried out this project. As of February 23, 2014 final dredging has been completed, final depth surveys are being done and transfer sites cleanup will be performed.

Town Manager Peter Rascoe covered some historical facts about the canals.

- The original developer dredged the canals from 1956-1976.
- The depths at that time were between 5-6 feet.
- The first discussion located on record was a Council discussion in 1991 about what to do with the canals even though they were still owned by the two homeowners association both of which had obtained title from the developer.
- In 2003 the canal bottoms were transferred to the Town from homeowners associations and that's when Council discussions on dredging began in earnest.
- In 2005 the Council officially adopted canal dredging as a project.
- Nine (9) years later the project is complete.

### Reports on upcoming remaining street projects for FY 2013-2014

Public Works Director Rachel Patrick stated there are six (6) major road projects to be completed of which Barnhill Contracting has been awarded three (3) and RPC has been awarded two (2) and one project has yet to be bid.

- North Dune Loop-drainage repair section that has been washed out.
- North Woodland Drive-creating a cul de sac and rebuilding a portion of the road.
- Sea Oats Lane/Hillcrest intersection-rebuilding the intersection.
- Duck Woods Drive-road reconstruction from house #55 to #80.
- Mistletoe Lane- rebuild of entire road and add cul de sac.

- Ocean View Loop-rebuild of both cul de sacs. Bids for this project to be opened March 18, 2014

## **NEW BUSINESS**

### 2014-2015 Annual budget for the Government Education Access Channels Committee

MOTION: Mayor Pro Tem Hess moved to approve the Government Education Access Channels Committee budget as presented. The motion was seconded by Council Member Sanders. The motion passed unanimously (5-0).

[Clerk's Note: A copy of the 2014-2015 Government Education Access Channels Committee Budget is hereby attached as Exhibit B]

### Interlocal Agreement recommended by the Government Education Access Channels Committee that contains amendments to update the language of the document and clarify the role of elected officials and employees appearing on the access channels.

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

[Clerk's Note: A copy of the Interlocal Agreement is hereby attached as Exhibit C]

## **OTHER ITEMS**

### Town Manager's report

The Town Manager addressed several issues:

- Council will not have a March workshop meeting due to Council Members attending the Inlet and Waterways Conference at Jennette's Pier on March 17-18.
- April 15 will be the budget/retreat workshop meeting.
- The Manager will present his proposed budget on Wednesday, May 7, 2014 for Council consideration.
- The finance committee has met and will meet for a second time prior to the budget workshop meeting in April.
- The capital improvement committee's final tabulation will be included in the workshop meeting.
- At the April 1 Council meeting the Finance Officer and Manager will propose a change to the Purchasing and Bid Policy.
- Destination Dare's next segment will highlight the new flagpole at Town Hall as well as the Veterans' garden that has been prepared in honor of our five armed services.

### Town Attorney:

None

### Mayor's comments:

The Mayor stated he would like to remind the public that the Manager and Council are available for all topics and questions. Please do not hesitate to ask them directly.

### Council Members' comments:

Council Member Sanders expressed how elated he was to see the dredging project come to an end. He also stated, in regard to the last Council meeting, it appeared that the residents and property owners are not aware of the many venues the Town offers to inform and communicate with the public. The Town offers the following:

- Bi-Weekly Newsletter
- Town Facebook page
- Legal Notices
- Town Website
- All Council meeting are videoed and placed on YouTube and Dare County Gov-Ed Channel, as well as the Town's website

(Clerk's note: The Town also maintains a Twitter account.)

He also stated it was disappointing to realize some members of the public who speak out do not understand either the form of government or the function of government within the community. He asked that anyone suggest any avenue that has not been touched as a means of communication. Council Member Sanders would like to see a segment for Destination Dare explaining the role of our government for this community. Southern Shores has a very diverse population of people coming from many different areas where things are done differently in each area.

Council Member Holland and Mayor Pro Tem Hess both expressed how good it was to see the dredging project completed and Salmon Dredging Inc. did a wonderful job and was very professional.

**CLOSED SESSION**

**MOTION:** Mayor Bennett moved to go into closed session pursuant to North Carolina General Statute §143- 318.11(a)]

Section (3): to consult with the attorney retained by the Town in a manner preserving the attorney-client privilege and;

Section (6): to consider a personnel matter regarding an individual public officer or employee;

The motion was seconded by Mayor Pro Tem Hess. The motion passed unanimously (5-0).

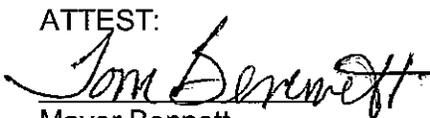
**OPEN SESSION**

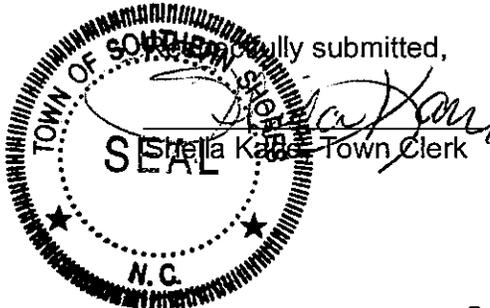
**MOTION:** Upon returning to open session Council Member Lawhon moved to approve budget amendment number nine (9). The motion was seconded by Council Member Sanders. The motion passed unanimously.

[Clerk's Note: A copy of Budget Amendment #9 is hereby attached as Exhibit D]

**ADJOURN**

**MOTION:** Mayor Bennett moved to adjourn. The motion was seconded by Council Member Holland. The motion passed unanimously. The time was 6:39 p.m.

ATTEST:  
  
 Mayor Bennett



**3-4-14 TC Report**

**1. Permitting and Inspections for February, 2014**

- 4 Zoning Permits were issued.
- 25 building permits were issued: 3 additions, 2 remodels and 20 others.
- 93 building inspections were conducted
- 10 single-family dwellings are currently under construction
- Total amount of fees collected in February was  
\$4,143.50

**2. AT&T Wireless Tower**

- All required permits have been issued. Construction to begin in August, 2014 (subject to change).

**Government Education Access Channels Committee  
Proposed 2014-2015 Budget**

**INCOME**

Member Fees	\$10,000.00
NC Video Disbursement	\$311,390.31
Interest Income	\$1,700.00
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<b>TOTAL INCOME</b>	<b>\$323,090.31</b>
<b>APPROPRIATED FUND BALANCE</b>	<b>\$375,777.21</b>

**EXPENDITURES**

Employee	(\$63,717.52)
Emergency Management Contingency	(\$2,500.00)
Channel Manager	(\$110,000.00)
Travel & Training	(\$20,000.00)
Contractual Services	(\$120,000.00)
PT Salary (Internships)	(\$2,000.00)
Professional membership	(\$1,000.00)
Supplies	(\$4,500.00)
Miscellaneous	(\$500.00)
Office Computer Lease	(\$500.00)
Channel Production	(\$75,000.00)
GAC Suppl. Budget Contingency	(\$20,000.00)
Streaming Video	(\$18,000.00)
Equipment - Repair, Replacement, Purchase	(\$7,000.00)
Fiber Service	(\$8,400.00)
Music audio library	(\$5,000.00)
Videography Training Program	(\$10,000.00)
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<b>EXPENDITURES</b>	<b>(\$468,117.52)</b>

<b>CAPITAL IMPROVEMENT PLAN</b>	(\$105,750.00)
	<hr/>
	(\$105,750.00)

LPDI 1 - Coastal Studies Institute	(\$10,000.00)
LPDI 2 - College of The Albemarle	(\$10,000.00)
LPDI 3 - Dare County Government	(\$10,000.00)
LPDI 4 - Dare County Schools	(\$10,000.00)
LPDI 5 - Duck	(\$10,000.00)
LPDI 6 - Kill Devil Hills	(\$10,000.00)
LPDI 7 - Kitty Hawk	(\$10,000.00)
LPDI 8 - Manteo	(\$10,000.00)
LPDI 9 - Nags Head	(\$10,000.00)
LPDI 10 - Southern Shores	(\$10,000.00)
LPDI 11 - Programming	(\$25,000.00)
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<b>TOTAL LPDI</b>	<b>(\$125,000.00)</b>
<b>TOTAL EXPENDITURES</b>	<b>(\$698,867.52)</b>

# GEAC Committee 2014-15

The Full-Time Employee Line Item addresses the total cost of the current full-time staff member for the GEAC Committee. Under the Interlocal Agreement, the staff member is designated as a Dare County Employee.

## Government-Education Access Channels Administrative Specialist

Gross Annual Salary		\$36,684.96	Reflects base salary
Sick Leave Pay		\$1,693.15	Gross daily salary x 12 dpy
Accrued Annual Leave	7.5		Hours per month
Annual Leave Pay		\$1,693.15	Gross daily salary x accrd leave
Holidays		\$1,693.15	12 paid holidays
FICA		\$2,806.40	Gross annual salary x 7.65%
Retirement		\$2,593.63	Gross annual salary x 7.07%
Medical Insurance		\$16,252.08	<u>Employer contribution per year</u>
Life Insurance		\$101.00	Employer contribution per year
<b>F/T Salary &amp; Benefits</b>		<b>\$63,517.52</b>	
Internship FICA		\$200.00	
<b>Total Salary/Benefits</b>		<b>\$63,717.52</b>	

**Government Education Access Channels Committee  
Capital Improvement Plan  
for 2014 - 2015**

**Equipment**

1	Tricaster 460	\$20,000.00	
2	24" Dell Monitors	\$600.00	
	cables for camera connections	\$2,500.00	
4 sets	Teradeck wireless encoders	\$10,000.00	
1	Mobile rack mount case	\$1,500.00	
2	rackmount audio boxes	\$2,500.00	
1	Quadcopter & camera	\$2,500.00	
1	Green screen & supplies	\$500.00	
1	DSLR still camera	\$3,500.00	
	Lenses & accessories	\$500.00	
2	Go-Pros & accessories	\$1,500.00	
1	Blue Yeti microphone	\$200.00	
1	Kessler crane rev. head	\$3,200.00	
1 set	Eartech headsets	\$2,000.00	
1	Glidecam vest	\$1,500.00	
2	monopods	\$600.00	
3	manfrotto tripods	\$3,900.00	
1	Canon C100 style camera	\$10,000.00	
2	PMW 200 cameras		
	& equipment	\$20,000.00	
			\$87,000.00
<b>Infrastructure &amp; Processing</b>			
1	Mac Pro		
	& 8 Tb Raid Drive		
	& 2 monitors	\$7,000.00	
1	Mac Pro		
	& 8 Tb Raid Drive		
	& 1 monitor	\$6,000.00	
set	Equipment shelving	\$3,000.00	
			\$16,000.00
<b>Software</b>			
1	Adobe software	\$2,000.00	
2	Pluralize	\$100.00	
2	Final Cut Pro X	\$650.00	
			\$2,750.00
<b>Total Recommended</b>			<b>\$105,750.00</b>

INTERLOCAL SHARED USE AGREEMENT AMONG  
THE TOWNS OF NAGS HEAD, MANTEO, KILL DEVIL HILLS,  
SOUTHERN SHORES, KITTY HAWK, DUCK; THE  
COUNTY OF DARE; THE DARE COUNTY BOARD OF EDUCATION; COLLEGE OF THE  
ALBEMARLE; AND UNC COASTAL STUDIES INSTITUTE  
REGARDING THE GOVERNMENT AND EDUCATION  
ACCESS CHANNELS

THIS INTERLOCAL AGREEMENT is made and entered into by The Towns of Nags Head, Manteo, Kill Devil Hills, Southern Shores, Kitty Hawk, Duck, North Carolina Municipal Corporations, (the "Municipalities"); The County of Dare (the "County") by and through their Boards of Commissioners; the Dare County Board of Education ("BOE"); College of The Albemarle ("COA"); and UNC Coastal Studies Institute ("CSI") effective the \_\_\_\_ day of \_\_\_\_\_, 2014, pursuant to Article 20, Part 1 of Chapter 160A of the North Carolina General Statutes:

W I T N E S S E T H:

THAT WHEREAS, the Towns of Nags Head, Manteo, and Kill Devil Hills heretofore by a document entitled "Agreement for Shared Use of Government Access Channel Provided by Falcon Cable TV" (the "Agreement") which became effective April 5, 1995, upon its approval by the Towns of Nags Head, Manteo, and Kill Devil Hills, created a Government Access Channel Committee to operate and oversee the government access channel to be operated on the cable TV system;

Thereafter in or about April 1997, the County became a Participating Entity upon its request of January 1997 which was approved by the Towns of Nags Head, Manteo, and Kill Devil Hills;

Thereafter in or about March 2002, the Town of Southern Shores became a Participating Entity upon its request of February 2002 which was approved by the Towns of Nags Head, Manteo, Kill Devil Hills and the County; and

Thereafter in or about October 2002, the Town of Kitty Hawk became a Participating Entity upon its request of August 2002 which was approved by the Towns of Nags Head, Manteo, Kill Devil Hills, Southern Shores and the County; and

Thereafter in or about September 2004, the Town of Duck became a Participating Entity upon its request of July 2004 which was approved by the Towns of Nags Head, Manteo, Kill Devil Hills, Southern Shores, Kitty Hawk and the County; and

Thereafter in or about December 2008, the Dare County Board of Education became a Participating Entity by approval of the Towns of Nags Head, Manteo, Kill Devil Hills, Southern Shores, Kitty Hawk, Duck and Dare County; and

Thereafter in or about June 2011, College of The Albemarle and UNC Coastal Studies Institute became Participating Entities by approval of the Dare County Board of Education and

the Towns of Nags Head, Manteo, Kill Devil Hills, Southern Shores, Kitty Hawk, Duck and Dare County; and

AND, WHEREAS Municipalities and County have operated and utilized the Government Access Channel (“Government Channel”) pursuant to the Agreement and BOE and non-members COA and CSI have operated and utilized the Education Access Channel (“Education Channel”), upon addition of COA and CSI as members, all have recognized the need to more particularly set out the rights, duties, obligations and responsibilities of the Participating Entities, to update the procedures used to allocate usage of the Government and Education Channels, and to define the operations of the Government-Education Access Channels Committee (the “Committee”);

NOW THEREFORE, Municipalities, County, BOE, COA & CSI in consideration of the mutual rights, duties, obligations and responsibilities hereinafter set out; each agrees with the others as follows:

Section 1. Definitions.

- (a) Governmental Access Channel (Government Channel). A channel dedicated by the cable system to present programs of interest to the community on a non-commercial basis.
- (b) Education Channel (Education Channel). A channel dedicated by the cable system to be used by educational institutions to present programs of educational interest to the community on a non-commercial basis.
- (c) Lottery. Any device, scheme, plan, promotion, contest, or other program and/or presentation which involves directly or indirectly the elements of prize, chance, and consideration or any such device, scheme, plan promotion, contest, or any other program and/or presentation which is, has been, or may be declared a lottery under applicable local, state, or federal law.
- (d) Obscene or Indecent Material. Any material in a program and/or presentation which would subject the producer or supplier thereof to prosecution under local, state, or federal law for the production or presentation of obscene or indecent material.
- (e) Governmental Unit. Any body politic and corporate under North Carolina law and any agency of the State of North Carolina or Federal Government that is not eligible to become a Participating Entity.
- (f) Participating Entity. Nags Head, Manteo, Kill Devil Hills, Southern Shores, Kitty Hawk, Duck, Dare County, the BOE, COA, and CSI.
- (g) Local Government Entity. Nags Head, Manteo, Kill Devil Hills, Southern Shores, Kitty Hawk, Duck, and Dare County.
- (h) Educational Entity. The BOE, COA, and CSI.
- (i) Cable TV Operator. Falcon Cable, its successor Charter Communications and any successors thereto,

## Section 2. Rights of Participating Entities.

- (a) Each Participating Local Government Entity shall be entitled to equal participation in the operation and use of the Government Channel.
- (b) Each Participating Educational Entity shall be entitled to equal participation in the operation and use of the Education Channel.
- (c) Each Participating Entity shall appoint one member as provided below (the "Member") to act as its representative on the governing board, which shall be named The Government-Education Access Channels Committee (the "Committee"), and each designated representative to the Committee shall be entitled to one vote on all matters to be decided by the Committee
- (d) In the event of disagreement by Participating Local Government Entities on the operation of the Government Channel, or by Participating Educational Entities on the operation of the Education Channel, the Committee shall resolve any such disputes or disagreements. All decisions of the Committee shall be final.
- (e) All such decisions of the Committee shall be determined by majority vote; provided however that the Committee shall not have the power or authority to impose or create any financial obligation of any kind for any Participating Entity without the express written consent of the Participating Entity, which consent shall be deemed given upon the Participating Entities' approval of the annual budget of the Committee.
- (f) The Cable Operator may participate in the meetings of the Committee upon its request approved by the Chairperson of the Committee, or at the invitation of the Committee, for the purpose of advising and assisting as needed. The Cable Operator shall not have any voting rights at such meeting.

## Section 3. The Government-Education Access Channels Committee (the "Committee").

- (a) From time to time, each Local Government Entity shall designate one of its elected officials to serve as its representative (the "Member") on the Committee and shall advise the other Participating Entities of the Member selected. From time to time, each Educational Entity shall designate a representative to serve as its representative on the Committee (the "Member") and shall advise the other Participating Entities of the member selected.
- (b) The meetings of the Committee shall be scheduled by the Committee but shall be held at least semiannually.
- (c) At the first meeting each calendar year, the Members of the Committee shall elect a Chairperson, who shall be responsible for convening and conducting meetings of the Committee, as well as conducting other actions of the Committee. No Member shall serve as Chairperson twice until all other members have either served as Chairperson or have declined to serve as Chairperson.

- (d) The Committee shall take such steps as it deems necessary and appropriate in order to fulfill its responsibilities and conduct its business, including election or appointment of any other officers or committees, designation of individuals or organizations to perform functions on its behalf, adoption of rules and policies for the conduct of the Committee and operation of the Government Channel and the Education Channel, or other similar actions.
- (e) Subject to the terms and conditions of this Shared Use Agreement, the Committee shall be responsible for supervising and directing the operations of the Government Channel and the Education Channel.

Section 4. Operation and Use of Government and Education Channels.

- (a) In accordance with the Franchise Agreement, the Cable TV Operator agreed to furnish the facilities and equipment for operation of the Government and Education Channels. The Cable TV Operator has agreed to provide space to house the equipment and to provide electricity and local telephone service. The Cable TV Operator has also agreed to provide normal maintenance of the equipment as well as technical and consulting assistance to the Committee in the operation of the Government and Education Channels.
- (b) The Participating Entities shall be responsible for furnishing all support needed for the operation of the Government and Education Channels, or other items necessary for the operation of the Government and Education Channels, which is not provided by the Cable TV Operator. Unless otherwise agreed in writing, all such expenses and obligations shall be shared equally by the Participating Entities and shall be administered in accordance with North Carolina law and in accordance with rules established by the committee in accordance with this Shared Use Agreement. In no event shall any Participating Entity have any financial obligation of any kind without its expressed consent, which consent shall be deemed given by the Participating Entities' approval of the annual budget of the Committee.
- (c) The Committee shall adopt a Standard Operating Procedure (SOP), which will conform and comply with this Agreement and set out guidelines for the channels' day-to-day operations.
- (d) The Committee will maintain complete records in accordance with North Carolina Public Records Law (Chapter 132 of the N. C. General Statutes). Copies of materials in the public file shall be available for reproduction upon request, providing the requesting party pays the cost of reproduction.
- (e) In the event of an activation of the Dare County Emergency Operations Center, all programming on the Government Channel and the Educational Channel may be preempted for emergency programming and information as may be deemed necessary by the Dare County Control Group or the Dare County Director of Emergency Operations.

## Section 5. Regulations.

- (a) The Government Channel and/or the Education Channel, respectively, may be available upon approval by the Committee for non-commercial use by Governmental Units who are not Local Government Entities and by educational institutions who are not Educational Entities, upon the filing of an appropriate request in accordance with Section 3 and consistent with the availability of the channel and staff at the time of and for the duration requested. The Committee, or its designated representative, reserves the right to pre-empt programs due to staffing constraints, and adjust these regulations when deemed necessary.
- (b) The presentation of advertising material designed to promote the sale of commercial products or services or the solicitation of funds (including advertising by or on behalf of legally qualified candidates for public office) by users authorized by the Committee is prohibited.
- (c) These channels shall not be used to present any obscene or indecent matter, or content deemed objectionable as judged by community standards.
- (d) These channels shall not be used to present any information, which directly or indirectly concerns a lottery as defined in Section 1c above.
- (e) These channels may not be used for political purposes.

## Section 6. Fiscal Procedures.

- (a) On or before the last day of February annually, the Committee shall submit to the governing boards of Participating Entities a recommended annual budget prepared pursuant to N.C.G.S. 160A-462, meeting all applicable requirements of the Local Government Finance Act and in accordance with the following:
  - 1. Proposed budget expenditures, including expenditures from the fund heretofore established (“Gov-Ed TV Fund”) for Government Channel and Education Channel and funded by the parties and by funds received from the State of North Carolina in lieu of franchise fees from the cable provider, shall only be made for and are limited to the acquisition, installation and maintenance of hardware, software and supplies used solely for broadcasting on the Government and Education Channels and for the archiving of broadcast materials and records. Expenditures may be made for production equipment, operating expenses, software, materials, salaries, costs or fees, or anything related to the production of broadcast materials. In addition, expenditures may be made for technological applications including, but not limited to, online streaming video of Government and Education Channel broadcasts. Any expenditures must be approved by the Committee and the governing boards of the Participating Entities, which approval shall be deemed given by the

Participating Entities' approval of the annual budget of the Committee. Notwithstanding the foregoing, Gov-Ed TV Fund revenue may be used to construct, equip, maintain and improve a broadcast studio for use by the Participating Communities. Notwithstanding the foregoing, no expenditures shall be made to pay any direct costs or expenses associated with the recording and/or broadcasting of the Council, Commissioner or Board meetings of any Participating Entity.

2. Committee, at its discretion, may establish a Local Programming Development Initiative ("LPDI") from Gov-Ed TV Fund to promote additional programming by Participating Entities on Government Channel and Education Channel. Committee or its designated representative(s) will establish LPDI process and criteria for Participating Entities.
3. The unexpended and unobligated surplus of the Gov-Ed TV Fund shall be the primary source of monies with which to fund the proposed budget expenditures. In the event the funds on hand (unexpended and unobligated surplus) are insufficient to meet the budget request, the proposed budget shall allocate the difference among the Participating Entities in the ratio of the usage time of the Channel by each during the next preceding completed fiscal year, i.e. the fiscal year immediately prior to the year in which the budget is being prepared excluding, however, usage of the bulletin board and scrolls from the computation of usage of the channel by the participating communities. Except, however, for any entity that did not use the Channels during the preceding fiscal year due to suspension or not having been a Participating Entity, the allocation for that entity shall be a fraction of the total funding request with no reduction by the amount of the unexpended and unobligated surplus in which the numerator is one (1) and the denominator is the number of participating entities anticipated for the new fiscal year.
4. Each of the Participating Entities shall consider the proposed Government-Education Access Channels Committee budget in its budget process. In the event any Participating Entity indicates its intent to deny, change, amend, reduce, increase or in any way alter the proposed budget, including its *pro rata* share of the funding request, the Committee shall attempt to reconcile the budget request with and among the Participating Entities.
5. Upon completion of attempts to reconcile the budget, the Committee shall submit an amended budget request to each of the Participating Entities by April 30 of each year. Failure or refusal of any Participating Entity to adopt and ratify the proposed amended budget request, including the requested contribution of funds, shall result in a suspension of that Entity's right to utilize the Channels during the fiscal year for which the budget is requested.
6. If any Participating Entity fails or refuses to adopt the amended budget request, the Committee shall prepare a second amended budget request that reallocates the funding request using the formula in paragraph 3 above among the Participating Entities that adopted the amended budget request. If any Participating Entity has adopted its own budget prior to the receipt of the

seconded amended budget request, that Entity shall process the request following its usual procedure for budget amendments.

7. A permanently withdrawn Entity pursuant to Section 10 of the Agreement shall not be entitled to any portion of the unobligated and unexpended funds remaining on deposit in the Gov-Ed TV Fund.
8. All funds received for use by the Committee in the operation of the Government Channel and the Education Channel shall be deposited in an Gov-Ed TV Fund account held and administered by Dare County solely for the purposes and upon the terms set forth in this agreement. Any Participating Entity shall have the right at any time to request a copy of the account, including a record of all receipts and expenditures.
9. All funds received by a Participating Entity from the State of North Carolina as a part of the franchise fee reimbursement program shall be deposited into the Gov-Ed TV Fund account set forth in Paragraph 8 above to be used solely for the purposes and upon the terms set forth in this agreement or as may be required by the State of North Carolina.
10. No employees shall be hired without the consent of the Committee and the Participating Entities' approval of the budget which includes the costs associated with such employee or employees. Applicants for any position to be hired shall be through the Dare County Human Resources Department and shall comply with all requirements thereof. The Dare County Manager shall hire the employee with the advice and consent of the Committee and shall not hire a person that both the Committee and the Manager have not approved. A subcommittee designated by the Committee shall be appointed to participate in the interviews and hiring process. In the event the Dare County Manager and the Committee cannot agree on the person to be hired, no person shall be hired. In the event that an employee is hired, the employee shall be an employee of Dare County. Dare County shall be reimbursed all costs and expenses associated with such employee or employees by the Committee. As an employee of Dare County such employees shall be governed by all rules of employment as from time to time may be established by Dare County, shall be supervised by Dare County as directed by the County Manager, and may be disciplined and/ or terminated by the Dare County Manager as provided in the Dare County employment policies in effect at the time of such discipline or termination.

#### Section 7. Content and Indemnification.

- (a) Content. The Participating Entities shall have complete responsibility for the content of the programming on the Government Channel and Education Channel. The programming shall comply with all applicable laws, rules and regulations of the FCC. The programming shall not contain any material which is libelous, slanderous, obscene, or otherwise unprotected by the United States Constitution, and will not, when transmitted by the Cable Operator, subject the cable Operator to any liability of

any kind or violate any legal requirement, or infringe upon or give rise to any adverse claim with respect to any right of any person or entity.

- (b) Indemnification. Each Participating Entity and/or any governmental or educational unit will at all times indemnify and hold harmless Committee and its members; all Government Channel and Educational Channel employees and volunteers; and other Participating Entities, their elected officials, employees, agenda and licensees from and against any and all claims, judgments, damages, losses, costs and expenses, including programming of the Government and Education Channels arising from their use of the Government and Education Channels.

#### Section 8. Programming

- (a) The Local Government Entities may use the Government Channel and the Educational Entities may use the Education Channel for any lawful, nonprofit purpose for the benefit of the citizens in this area, including distribution of educational, governmental, informational, or other public interest programming by units of government. No commercial activity, commercial advertising or other programming for which payment is made shall be permitted. It is further agreed that the Government Channel and the Education Channel cannot be used for political advertising, for programming supporting or opposing any candidate for office, or for other political programming or political purpose with the exception that each Participating Entity may use the Government Channel to air twice a candidate forum sponsored by the Participating Entity and held during the Participating Entity's election cycle. Notwithstanding the foregoing, elected officials and employees of the parties to this Agreement may appear on the Government and Education Channels in the performance of their duties in the normal course of business.
- (b) Programming shall be determined by the Committee, or its designated representative(s), in accordance with its rules, Standard Operating Procedures, and this Shared Use Agreement, and may include meetings of government boards and governmental units, and other governmental and educational programming from outside sources, including but not limited to The Open Public Events Network (OpenNet), the Department of Travel and Tourism, and other governmental and educational units.
- (c) The Government Channel and Education Channel programming will include the Bulletin Board as a regular feature, which may carry information:
  - (1) Government or Educational Events
  - (2) Scheduling announcements for Government or Education Channel
  - (3) Announcements by Participating Entities
  - (4) Announcements for other communities that become participants in this Shared Use Agreement.
  - (5) Announcements for other Governmental or Educational Units

## Section 9. Scheduling.

- (a) Each Local Governmental Entity shall be entitled to an equal share of the time available for programming on the Government Channel and the Committee shall establish rules and procedures for scheduling programming to guarantee equal opportunity and access for each Local Governmental Entity, which shall include a fair and equitable rotation of the most desirable time periods. Any disputes or conflicts regarding scheduling may be brought before the Committee by any Participating Entity for resolution. The decision of the Committee on such matters shall be final.
- (b) Each Educational Entity shall be entitled to an equal share of the time available for programming on the Educational Channel and the Committee shall establish rules and procedures for scheduling programming to guarantee equal opportunity and access for each Educational Entity, which shall include a fair and equitable rotation of the most desirable time periods. Any disputes or conflicts regarding scheduling may be brought before the Committee by any Participating Entity for resolution. The decision of the Committee on such matters shall be final.
- (c) The Committee, or its designated representative(s), shall have the power to establish a comprehensive general schedule for the Government Channel and Education Channel, specifying the time for Bulletin Board announcements, programming by the Participating Entities, programming from other governmental and educational units and the amounts of time to be allotted to each. The Committee, or its designated representative(s), shall be responsible for ensuring the maximum use of the Government Channel and Education Channel for their intended purposes and shall have the authority to make rules allowing unused time allotted to a Participating Entity to be used for other appropriate purposes. Any disputes or conflicts regarding scheduling may be brought before the Committee by any Participating Entity for resolution. The decision of the Committee on such matters shall be final.

## Section 10. Addition and Withdrawal of Participating Entities

Other Dare County incorporated towns or other educational institutions served by the Cable Operator may be permitted to become participants in this Shared Use Agreement on such terms and conditions as may be negotiated between the Participating Entities and the requesting party. At any time, any Participating Entity may withdraw and shall be relieved of any further obligations under this agreement; provided however that a withdrawing Participating Entity shall remain obligated in all respects for the period of its participation prior to the effective date of withdrawal and for the budgeted obligations of the Committee for the remainder of the fiscal year of withdrawal. In the event this Shared Use Agreement is terminated by all parties, any funds on deposit for operation of the Government and Education Channels shall be first used to pay all existing expenses and obligations, then to pay all obligated budget items. Upon payment of such sums, the remaining balance will revert to the Participating Entities equally. In the event that any party or parties (but not all parties) shall withdraw from the terms of this agreement, such withdrawing entity shall not be entitled to reimbursement or return of any funds and all such funds on deposit with the Committee shall be deemed forfeited to the Committee by

the withdrawing entity. Similarly, a withdrawing entity shall have no claim or right to any equipment or other assets of the Committee or any share thereof.

Section 11. Amendments, Modifications and Notices.

This Shared Use Agreement may be amended, modified or terminated at any time by affirmative vote equal to or greater than two thirds of the Participating Entities. Further, any party may withdraw from this agreement by the giving of a ninety (90) day notice, in writing, by the terminating party and addressed to the non-withdrawing parties. Said notice shall designate the effective date of withdrawal.

Section 12. Effective Date.

This Shared Use Agreement shall become effective on the latest date that all parties hereto ratify this agreement by a resolution of the governing board of each and the resolution is spread upon the minutes of each of said boards. Upon ratification, this agreement shall continue and be effective for ten (10) calendar years, expiring on the last day of the one hundred twenty first (121<sup>st</sup>) month following ratification unless extended by written agreement of the then participating governments.

IN TESTIMONY WHEREOF The Participating Entities have caused this instrument to be executed in their names and behalf by their Mayors, attested by their Clerks, and their corporate seal affixed hereto, all as the acts and deeds of the Municipalities pursuant to a resolution of their Boards of Commissioners adopted at duly assembled meetings thereof as indicated below; and The County of Dare has caused this instrument to be executed in its name and behalf by its Chairperson, attested by the Clerk to the Board and its seal affixed hereto, all as the act and deed of its Board of Commissioners, pursuant to a resolution adopted as indicated below, all effective the day and year of the latest ratification by a party hereto; The Dare County Board of Education has caused this instrument to be executed in its name and behalf by its Chairperson, attested by the Secretary to the Board and its seal affixed hereto, all as the act and deed of its Board, pursuant to a resolution adopted as indicated below, all effective the day and year of the latest ratification by a party hereto; College of The Albemarle has caused this instrument to be executed in its name and behalf by its Chairperson, attested by the Secretary to the Board and its seal affixed hereto, all as the act and deed of its Board, pursuant to a resolution adopted as indicated below, all effective the day and year of the latest ratification by a party hereto; and UNC Coastal Studies Institute has caused this instrument to be executed in its name and behalf by its President, and its seal affixed hereto, all as the act and deed of its institution, pursuant to a resolution adopted as indicated below, all effective the day and year of the latest ratification by a party hereto.

Adopted by the Town Council of the Town of Southern Shores, North Carolina, this the \_\_\_\_\_ day of \_\_\_\_\_, 2014

