

Southern Shores Town Council
Town of Southern Shores, North Carolina

Regular Meeting
November 17, 2004
9:00 a.m.-Pitts Center

MINUTES

The Southern Shores Town Council met on November 17, 2004, at the Pitts Center.

The following members were present:

Mayor Hal Denny

Council Members: Dan Shields, Jodi Hess, David Sanders, and Brian McDonald

Carl Classen, Town Manager

Carrie Gordin, Town Clerk

Mayor Denny called the meeting to order at 9:00 a.m. and led the Pledge of Allegiance

Mayor Denny asked that in the moment of silence following Veteran's Day that all honor our veteran's everyday for protecting us and preserving our freedom.

Carrie Gordin, Town clerk swore in Bonnie Swain as the Town's Tax Collector and Finance Technician.

Approval of Agenda

Mayor Denny moved to amend the agenda to hear the Vegetation Committee report (item 3) before the Planning Board report (item 2) and to approve the agenda as amended. Council Member Shields seconded. The motion passed with Mayor Denny, Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Members absent.

Approval of Minutes

Mayor Denny moved to approve the minutes for the October 5, 2004 Council meeting as presented. Ms. Gordin stated the October 19, 2004 minutes have been delayed for approval. Council Member Hess seconded. The motion passed with Mayor Denny, Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Members absent.

Public Comment

Hearing no comments from the public, Mayor Denny continued with the agenda.

Reports

Vegetation Advisory Committee

Jack Sheehan, Chairman_of the Vegetation Advisory Committee, submitted the third report since 2001 to Council for consideration. He stated that there are three parts to the current_report: 1) measures taken since 2001, 2) effort to analyze a study taken by Elizabeth City State University, 3) recommendations by the committee. Mr. Sheehan stated that the committee is recommending Council consider adopting an ordinance and included nine items for their consideration. The report is on file at Town Hall.

Mayor Denny thanked the committee and moved to review the report at the annual Council retreat. Hearing no objection, so ordered.

Planning Board

Chairman Groff presented Planning Board Meeting recap of November 15, 2004.

Organization: Chairman Groff called the meeting to order at 7:32 PM. Vice Chairman Russell and Planning Board members Walter, Peckens, and Kowalski, as well as Alternate McDanel, were present. Also present were Council member Shields, Town Clerk Gordin, Enforcement Administrator Hejdok; Republic Properties' representative (Jim) Evans; Northern Outer Banks Associates' representative N. Blinken; Mr. Heimsath of Heimsath Architects and Tess Judge, (All Saints Episcopal Church); C. Aebel and D. White, (East Carolina Bank) and a large contingent of parishioners from All Saints Episcopal Church.

Subsequent to approval of the agenda, the Board tabled action on the Board's September and October minutes which were omitted from the information packets submitted for Board consideration.

Chairman Groff, during opening remarks, suggested the Board keep two points in mind as they deliberate the issues brought before them. More specifically, he pointed out that the purpose of the Board is to serve the citizens of Southern Shores and that the Board must clearly articulate its rationale for its decisions as well as ensuring those decisions have basis in existing law.

East Carolina Bank Site Plan Application: Subsequent to deliberations, the Planning Board recommended Council approve the East Carolina Bank site plan application dated 10/21/2004 conditioned upon provision of receipt of a signed ingress and egress easement agreement with Market Place.

Right Turn Lane, Juniper Trail: Relative to this area, the Planning Board recommended Council direct the Town Manager to pursue with appropriate authorities and property owners, the addition of a right turn lane on Juniper Trail at its intersection with US 158.

Proposed Amending Zoning Ordinances: The Planning Board then revisited two Board proposed zoning ordinance amendments contained in ordinance No. 2004-10-01, specifically the language that: Would remove single family dwellings, two family (duplexes) dwelling, multi-family dwellings, large home dwellings, accessory buildings, and PUDs as permitted uses in commercial zones. Clarified minimum lot sizes of 20,000 square feet of contiguous land.

The Planning Board remained steadfast in its position that (1) above should be enacted as recommended to Council.

Regarding (2), the Board felt the proposed language could prevent lot owners from building on property purchased years ago and did not accomplish the desired intent. It was therefore concluded the language should be revised and submitted for reconsideration of the Board and Council.

All Saints Episcopal Church: The Board heard a detailed discussion of a master plan prepared by Heimsath Architects for the All Saints Episcopal Church, (Pintail Trail). Following a brief question and answer period, the Board recommended that Council review the All Saints Episcopal Church's Master Plan but take no action until the Church submits site plan applications in implementation of the Master Plan. (Master plan to be presented to the Council at its December meeting.)

The Cove at Southern Shores: Jim Evans, Republic Properties Corporation, seeking preliminary comments from the Board, presented information regarding the firm's proposed development of "The Cove at Southern Shores". The Cove's preliminary design proposes a three floor, "L" shaped, 36 unit condominiums on approximately 5.3 acres of land just west of Southern Shores landing. Each unit would provide approximately 1800 to 2000 square feet of living space, (including three bedrooms), and be similar in design to the Sanderling. Unit prices are expected to be in the range of \$425,000 - \$450,000. Modular construction with completion by the summer of 2006 is anticipated.

In response to a question, Mr. Evans stated that Republic was a contract purchaser of the property owned by Northern Outer Banks Associates and would fully execute the contract upon receipt of an approved site plan application and building permit.

Board deliberations revealed concerns regarding the presence of children near a busy highway and under high voltage power lines. Noise and fumes from US 158 could also present problems suggesting construction of sound barriers in the future. Regardless, there was some feeling that a condominium of the type proposed might be the best use for the land.

Perhaps the greatest problem with the preliminary plan for The Cove was the lack of provision for fire equipment access to the rear of the structure.

Stormwater Management Policy Advisory Committee - Members include Jay Russell, George Kowalski, Dan Shields, Carl Classen and Mike Hejduk. To date, the Committee has met three times, will next meet on December 1, and is involved in gathering and discussing data designed to define problems in the Town and determine methods for managing stormwater. They are aware of and are working with the Dare County stormwater management group.

Long Range Planning Advisory Committee - This Committee, Chaired by Joe Walter, has eight permanent members. In addition to collecting data, the Committee notes that the CAMA Sketch Land Use Plan is due for updating. With this in mind, the LRP Committee is considering recommending distribution of a questionnaire that would serve both the needs of CAMA and the LRP. Questions for the LRP would focus on who are we and who/what do we want to become. The Committee will then address problems anticipated in reaching goals and finally, solutions to those problems.

Future Meeting(s) - Due to its proximity to Christmas, the December 20th meeting of the Board has been cancelled. The Board will meet on its regularly scheduled dates of January 17th and February 21, despite the fact that they are holidays.

Recommended action items for Council:

1. Approve sections of Ordinance 2004-10-01
 - a. Deletion of high density housing from commercial zones
 - b. Deferral of consideration of clarifying language pertaining to lot sizes of 20,000 sq. ft. of contiguous land.
2. Approve East Carolina Bank Site Plan Application conditioned upon receipt of an easement agreement with Market Place.
3. Direct the Town Manager to pursue the addition of a right turn lane on Juniper Trail and US Hwy. 158.
4. Review the master plan for All Saints Episcopal Church.

Discussion was held regarding the originally drafted ordinance 2004-10-01 that addressed, as part, the removal of residential building in the commercial zone. It was explained, that at the November 3 Council meeting, Council agreed to pull all references to that ordinance except for the part relating to school facilities and computation of required space. Council will hold a joint meeting with the Planning Board to further discuss these zoning issues. Mayor Denny stated that the public hearing for draft ordinance 2004-10-01 is on today's agenda regarding school facilities and computation of required space.

Discussion was held regarding the East Carolina Bank site plan submittal and Council will consider the revised site plan at the December 7, 2004 Council meeting.

Chairman Groff asked if Council would consider receiving an oral report from the Planning Board at the mid-month Council meeting since it follows the morning of the Planning Board meeting and present a written recap for the evening Council meeting. Mayor Denny stated that Council will be discussing meeting procedures later in the meeting.

Mid-Currituck Sound Bridge Campaign Update

John Wander gave a brief history of the Build the Bridge/Preserve Our Roads (BBPR) Organization and reviewed the lack of progress from NCDOT on the plan to build the Mid-Currituck Sound Bridge. He stated that it appears construction could not start before the year 2011. The BBPR are considering hiring a lobbyist, Mr. Mannina, to apply for the grant money that would be used for the study of the feasibility of a public/private financed bridge. Mr. Wander stated that he is asking the Town of Southern Shores, Town of Duck, Duck Business Alliance, and other groups/individuals to consider paying a portion of the lobbyist's fees to move this project ahead. He stated that the cost is estimated at \$5,000 a month on a month to month contract, and that each donor-will have a representative on a committee that will work with Mr. Mannina.

After discussion, Council Member Shields moved to approve an expenditure of no more than \$1,000 a month for a period of no longer than six months to aid in the expenses of hiring Mr. Mannia. Council Member McDonald seconded. The motion passed with Mayor Denny, Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Members absent.

Old Business

Ordinance#2004-10-01-Allowable School height and lot coverage, Computation of required space

Mr. Classen stated that the public hearing on draft Ordinance No. 2004-10-01 Amending the Zoning Ordinance Relating to Lot Coverage and School Facility Height was held on November 3, 2004. Based upon comments from that hearing, he is recommending revisions deleting proposed language in Section 4.04 regarding easements.

Following discussion, Council Member Hess moved to adopt Ordinance #2004-10-01 as amended per the Town Manager's recommendation. Council Member Shields seconded. The motion passed with Mayor Denny, Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Members absent.

Ordinance No. 2004-10-01, as approved, reads as follows:

Ordinance No. 2004-10-01

**AN ORDINANCE OF THE
SOUTHERN SHORES TOWN COUNCIL RELATING TO
AMENDING THE ZONING ORDINANCE RELATING TO LOT COVERAGE
AND SCHOOL FACILITY HEIGHT**

Dare County, North Carolina

Be It Ordained by the Southern Shores Town Council as follows:

Article I: Purpose

The purpose of this Ordinance is to amend the Zoning Ordinance of Southern Shores, Dare County, North Carolina, which was originally adopted by the Town Council on July 7, 1981 and subsequently amended.

Article II. Construction

For purposes of this Ordinance, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Language of the adopted Town Code shall be shown in italics (*italics*).

**Article III. Amend Section 4.04, Southern Shores Zoning Ordinance –
Computation of Required Space**

Section 4.04 of the Southern Shores Town Zoning Ordinance is hereby amended to read as follows:

No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking or

loading space similarly required for any other building except as specifically allowed by this Ordinance.

All lots created shall have all of the minimum square footage contiguous to all other minimum square footage within the same lot. No street or road right-of-way, body of water, may separate one area of a lot from another area of the same lot. No recombination of two or more lots shall create a lot where the minimum square footage is not contiguous to all other minimum square footage.

Article IV. School Height Regulations Amended

Section One. Section 7.04D (R-1 Low Density Residential) is hereby amended to read as follows:

D. Dimensional Requirements for R-1 Low Density Residential Districts

- 1. *Minimum lot size*
 - a. *For all uses other than Country Club 20,000 square feet*
 - b. *Country Club 150 acres*
- 2. *Minimum lot width 100 feet (measured at building setback line)*
- 3. *Minimum front yard (setback) 25 feet*
- 4. *Minimum side yard (setback) 15 feet; an additional 5-foot side yard adjacent to the street is required for a corner lot. Fifteen (15) feet for swimming pools.*
- 5. *Minimum rear yard (setback) 25 feet*
- 6. *Maximum allowable lot coverage 30%, except Town-owned facilities and fire stations; 85% for Town-owned facilities and fire stations; and 40% for school facilities* In the case of an oceanfront lot, only that area landward of the first line of stable natural vegetation (as defined by CAMA) shall be used for calculating lot coverage.
- 7. *Height:*

For uses other than country club and school facilities:

<i>HEIGHT, TOP PLATE;</i>	<i>26 feet</i>
<i>HEIGHT, MAXIMUM</i>	<i>35 feet</i>

b. For country club use – principal building only:

<i>HEIGHT, TOP PLATE;</i>	<i>56 feet</i>
<i>HEIGHT, MAXIMUM</i>	<i>65 feet</i>

c. For school facilities

<i>HEIGHT, TOP PLATE;</i>	<i>45 feet</i>
<i>HEIGHT, MAXIMUM</i>	<i>55 feet</i>

- 8. Minimum living space for residential uses 1,000 square feet of enclosed living space.

Article V. Severability

If any words, phrases, language, section or other portion of this Ordinance is held invalid by a court of competent jurisdiction, then all remaining words, phrases, language, section or other portion of this Ordinance shall remain in full force and effect.

Article VI: Effective Date

This Ordinance is effective immediately upon adoption.

Adopted this the __ day of _____ 2004.

Mayor Hal Denny

ATTEST:

Carrie Gordin, Town Clerk

S E A L

Approved as to form:

Ike McRee, Town Attorney

Date Introduced: 10/05/2004

Date Revised: 10/19/2004

Dates of Publication: October 14 and October 21, 2004-Coastland Times

Date(s) of Public Hearing(s): November 3, 2004

Conditional Use Hearing - Kitty Hawk Elementary School Reconstruction Site Plan. (LDA 2004-08-01) - Continuation

Mr. Classen stated that, at the November 3, 2004 Council meeting, acting Town attorney, Tom White expressed concern about the procedures used to conduct the conditional use hearing on the Kitty Hawk Elementary School Conditional Use Application (LDA2004-08-01), so Mayor Denny continued the hearing to the November 17 meeting. Based upon Mr. White’s suggestion, Mr. Classen submitted Findings of Fact for the conditional use permit application.

Mayor Denny reconvened the public hearing.

The Town clerk swore in David Oaksmith, Chairman of the Dare County Board of Education, Jim Winebarger, Dare County Schools Maintenance Supervisor, John Delucia, Albemarle Engineering, engineer for the project, Mike Morway also with Albemarle Engineering, and Jim Groff, Town Planning Board Chairman. Mike Hejduk, Town Code Enforcement Administrator also presented information.

Hearing no object from the Council or the applicant, Mayor Denny entered the Findings of Fact into the hearing record.

Mayor Denny called upon Mike Hejduk, who reviewed the site plan and issues associated with the application. Further, he reviewed the Planning Board's recommendations, changes to the site plan submitted by the applicant in response to the Planning Board recommendation, and further issues remaining following submission of the revised site plan. Mayor Denny gave those sworn the opportunity to ask Mr. Hejduk questions, but none were asked.

John Delucia reviewed the revised site plan and stated that the construction bid package should be ready for issue send out by early March of 2005. Mayor Denny gave those sworn the opportunity to ask Mr. Delucia questions, but none were asked. Council then asked a number of questions, including questions about propane tanks and lighting.

Mr. Delucia stated that the LP gas tank is to be removed and that pad can be used for the recycling container and that the security lighting on the building would consist of door packs and there would be no more than 20 feet of light spillage from them.

Council Member Hess moved to approve the Findings of Fact for conditional use permit application LDA2004-08-01 – Kitty Hawk Elementary School Renovation as amended and recited above. Council Member McDonald seconded the motion. The motion passed with Council Members Hess, McDonald, Sanders and Shields and Mayor Denny voting aye, no council member voting nay, and no council member absent or not voting.

Council Member Shields moved to approve conditional use permit application LDA2004-08-01 – Kitty Hawk Elementary School Renovation with conditions as amended and set forth below. Council Member Hess seconded the motion. The motion passed with Council Members Hess, McDonald, Sanders and Shields and Mayor Denny voting aye, no council member voting nay, and no council member absent or not voting.

The conditions, as approved in the motion by Council Shields to approve the conditional use read as follows:

- A. That the Code Enforcement Administrator is hereby directed to amend subsection 18.N. of these findings of fact to include all documents within the applicant's file and other applicable items; and,
- B. That the applicant must strictly abide by all requirements of the Zoning Ordinance of Southern Shores, North Carolina, and must also strictly comply with all other local, state, and federal ordinances, laws, rules and regulations

- as one or more ordinances, laws, rules and regulations may apply to this development; and,
- C. No building permit shall be issued until written evidence satisfactory to the Code Enforcement Administrator is submitted to the Town in accordance with Section 10.04 B4, Southern Shores Zoning Ordinance; and,
 - D. Lights may be added to the south ball field upon approval by the Code Enforcement Administrator if such lights shall be of a type and erected in such a way as to meet national standards, are shielded and have no glare or off-site spillage, and if the existing large trees remain in place so as to decrease the off-site visual impact of the ball field lights; and,
 - E. For purposes of this application and this application alone, the phrase “Building Inspector” found in Section 10.04 B8, Southern Shores Zoning Ordinance, shall be the Code Enforcement Administrator as appointed by the Town Manager; and,
 - F. Existing outside basketball courts shall be replaced and shown on the site plan on a north parking lot at a location as approved by the Code Enforcement Administrator. The new outside basketball courts shall be installed on or before twelve (12) months following issuance of certificate of occupancy.
 - G. Subject to approval by the Code Enforcement Administrator, an area for one or more recycling receptacles shall be shown on the site plan.
 - H. Subject to approval by the Code Enforcement Administrator, any security lighting installed on the school structure must be in accordance with existing Town law and policy except that security lighting must not shine more than twenty (20) feet from the school building.
 - I. All construction parking, equipment and mobilization shall, to the extent not provided for elsewhere outside the Town of Southern Shores, shall be located on the existing northern end of the property but not located on the existing ball field. There shall be no off-site parking for construction workers or equipment, school employees, or parents unless provided for elsewhere outside the Town of Southern Shores.
 - J. The applicant agrees to work with and support the Town in seeking the underground installation of overhead utility lines presently on or adjacent to the school property, if adequate resources can be secured.
 - K. Notwithstanding the provisions of Section 10.02 B, Southern Shores Zoning Ordinance, approval of this conditional use application shall be null and void if:
 - a. No building permit relating to structures shown in the October 26 KHES Site Plan be applied for and received on or before November 30, 2005, or if
 - b. No demolition permit be applied for and received relating to demolition of structures shown in the October 26 KHES Site Plan on or before November 30, 2006.

Due to the length of the items on the agenda, Council Member Hess moved at 12:00 p.m. to recess the meeting until 7:00 p.m. on November 17, 2004 in the Pitts Center. Mayor Denny seconded. The motion passed with Mayor Denny, Council Members Hess,

Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Members absent.

Mayor Denny called the recessed Council meeting to order at 7:00 p.m.

The following members were present:

Mayor Hal Denny

Council Members: Dan Shields, Jodi Hess, and David Sanders, and Brian McDonald

Carl Classen, Town Manager

Carrie Gordin, Town Clerk

Mr. Classen submitted revised copy of the Findings of Fact for the Kitty Hawk Elementary School. He requested that Council submit any corrections to him as soon as possible so that he can submit to Jim Winebarger, Dare County Maintenance Supervisor.

Ordinance #2004-10-03-Animals Running at Large

Mayor Denny reviewed Ordinance No. 2004-10-03 Relating to Animal Control and would like to have further discussion about the language of dogs being brought into Town by contractors and subcontractors.

Council Member Hess submitted language amending and clarifying subsection (5) relating to dogs on work sites.

Mr. Classen stated that there is some concern on the enforcement of the ordinance. Chief Pledger stated that it is a problem to identify the ownership of a dog on a property to cite if there is a violation.

Council Member Hess moved to adopt Ordinance No. 2004-10-03 Relating to Animal Control but to amend and clarify subsection (5) relating to dogs on work sites. Council Member Sanders seconded. The motion passed with Mayor Denny, Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Members absent.

Hearing no objection, the Mayor directed that letters be sent to contractors advising them of the ordinance change.

As approved, Ordinance No 2004-10-03 Relating to Animal Control reads as follows:

**AN ORDINANCE OF THE
SOUTHERN SHORES TOWN COUNCIL RELATING TO
ANIMAL CONTROL**

Dare County, North Carolina

Be It Ordained by the Southern Shores Town Council as follows:

Article I: Purpose

The purpose of this Ordinance is to amend the Zoning Ordinance of Southern Shores, Dare County, North Carolina, which was originally adopted by the Town Council on July 7, 1981 and subsequently amended.

Article II. Construction

For purposes of this Ordinance, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Language of the adopted Town Code shall be shown in italics (*italics*).

Article III. Amend Section 6-91, Southern Shores Town Code – Mandatory Removal of Feces.

Section 6-91 of the Southern Shores Town Code is hereby amended to read as follows:

Each and every person, owner, keeper or custodian of any dog shall immediately remove all feces deposited by the dog they are accompanying ~~on the ocean beaches~~. The removal of feces shall be accomplished by depositing such feces in a sanitary container. Burying feces in the sand or depositing in any body of water is prohibited and constitutes a violation of this chapter.

Article IV. Amend Section 6-90, Southern Shores Town Code – Animals running at large.

Section 6-90(a) of the Southern Shores Town Code is hereby amended to read as follows by adding subsection (5):

(a) It shall be unlawful for the owner or custodian of any dog or other animal, other than an ordinary domesticated house cat, to fail to keep the same from running at large within the town. For the purposes of this chapter, an animal, other than an ordinary domesticated house cat, shall be deemed "running at large" when it is not restrained as specified below:

(1) When the animal is located upon the premises of the owner or custodian, it must not be able to enter upon public property or the premises of another person. Any animal off the premises of the owner or custodian shall be restrained by a leash, cord, or chain not exceeding ten (10) feet in length, held by a person who is physically able to control the animal.

(2) For the purposes of this chapter, "premises of the owner or custodian" shall be defined as the residence of the owner or custodian, including the attached property surrounding the residence that is owned or leased by such owner or custodian but not including any common area, park, or recreational property jointly owned or leased

by the members of a property owners' or tenants' association unless such association desires to include it's property by resolution of it's governing board.

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

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

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

Article V. Severability

If any words, phrases, language, section or other portion of this Ordinance is held invalid by a court of competent jurisdiction, then all remaining words, phrases, language, section or other portion of this Ordinance shall remain in full force and effect.

Article VI: Effective Date

This Ordinance is effective immediately upon adoption.

Adopted this the __ day of _____ 2004.

Mayor Hal Denny

ATTEST:

Carrie Gordin, Town Clerk

S E A L

Approved as to form:

Ike McRee, Town Attorney

Date Introduced: 10/05/2004

Council Member Hess moved to adopt Ordinance No. 2004-10-03 Relating to Animal Control to include amended language (5) any animal brought onto property and not contained or restrained in a vehicle where the custodian of the animal is performing work for pay or under contract on the property. Council Member Sanders seconded.

The motion passed with Mayor Denny, Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Members absent.

Council recommended that letters be sent to contractors advising them of the ordinance change.

Solicitations on Election Day

Mr. Classen presented a request from the owners of Meridan 42 Restaurant asking permission to solicit petition signatures in support of liquor-by-the drink during Election Day at Town Hall even though that issue was not on the ballot that day. Due to traffic and public safety concerns in the small Town Hall parking lot, Mr. Classen recommends the following policy language be considered:

The Town of Southern Shores urges all citizens to vote and to take an active interest in the election of people and the causes on the ballot. The Town is also deeply concerned with the safety of people who come to Town Hall to vote and the ability for people to conduct business at Town Hall on Election Day. Given this, people supporting or opposing a candidate or measure on the ballot that day may advocate their position in the Town Parking Lot at locations as determined by the Town Manager and as otherwise allowed by law. Any person found to be disruptive of the elections process, impeding the peaceful flow of business with the Town, or causing a safety hazard shall leave the Town Hall premises immediately upon oral notice from the Town Manager.

Council Member Sanders moved to approve the policy language to limit solicitation on Town Hall premises during Election Day(s) as presented by Mr. Classen. Mayor Denny seconded. The motion passed with Mayor Denny, Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Members absent.

Dune Grass Planting

Mr. Classen submitted two quotes to Council for consideration for the planting of dune grass. The Council discussed the differences in the bids, taking note of the more experience of the bidders, the number of plants each bidder proposed to plant, the amount and type of fertilizer that would be applied, and the length of time each bidder would take to complete the project.

After discussion, Council Member Sanders moved to award the project to Coinjock Farms, whose bid was up to \$35,500 to plant 4.5 miles of oceanfront. Mayor Denny seconded. The motion passed with Mayor Denny, Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Members absent.

Mr. Classen stated that the Town has received \$19,714 from Hurricane Isabel grant money to be applied toward this project.

Southern Shores Surf Rescue Contract

Mr. Classen presented a draft contract with Southern Shores Surf Rescue. He stated that this contract, which was drafted by the Town Attorney, is based upon the contract Surf Rescue, LLC already has in place with the Town of Duck. He stated that the CY2005 expense in the contract is \$120,000 and the Town had budgeted \$145,200 for FY2005-06. He stated that the contract is pending approval by Surf Rescue LLC, but it contains all provisions orally agreed upon by Mirek Dabrowski and the Town Manager.

Upon discussion, Council decided that some minor language changes were needed. Hearing no objection, Mayor Denny order the matter be laid over until the December 7 Council meeting.

Dare County Tourism Board Appointment

Mayor Denny stated that his term on the Dare County Tourism Board would expire in December 2005, and that the Tourism Board is requesting two names be submitted for nomination as a replacement. Mayor Denny stated that he would like to submit his name and Council Member Shields agreed to have his name submitted, also.

Mayor Denny moved to submit the names of Council Member Shields and himself for appointment to the Tourism Board. Council Member Hess seconded. Mayor Denny explained that only one person would be appointed by the Dare County Commissioners to the Tourism Board. The motion passed with Mayor Denny, Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Members absent.

Trashcan Rollback Law

Discussion was held regarding the decade-old Town law that stipulates that trash and recycle cans must be pulled back from the street within 24 hours following collection.

Mayor Denny expressed his concerns on the impact that the law had on the property owners.

Council Member Sanders stated his concern regarding the law and that the issue of the removal of the cans presents a paradox. It is difficult to enforce this, in that renters check in and out at a different time from when the trash/recycle cans are picked up. He stated when the third garbage pick up was eliminated and the requirement to have extra cans at rental properties has compounded the issues. He stated that it may cost as much in staff time to enforce this as it would to just hire someone to roll the cans back.

Council Member Hess stated that she feels it is the property owner's responsibility to comply with the law. She stated that she had asked previously that Council be advised on how the law would be enforced.

David Watson and Mike Stone from Southern Shores Realty presented a plan to Council in which the Realty would hire staff at a cost of \$100,000 a year to provide the service of removing cans from the street for their rental properties. They stated it would be a no tolerance plan and that all their rental property cans would be pulled back from the street after every pick up. Mr. Watson stated that it would be less costly if the Town would provide the service.

Mayor Denny stated that when the property owners were informed that the Town is preparing to enforce the trashcan law, Council received many emails and calls. He stated from those contacts, Council agreed to place a six-month moratorium on citing those who were in violation and staff should take this moratorium time to educate the people.

Mr. Watson stated that Southern Shores Realty has always provided information to their clients on Town issues in an efficient and timely manner and will continue to do so.

Mr. Classen stated that initially, no actual citations were administered. He stated staff will be forwarding information to property owners and beginning in February staff will begin to canvas the Town to compile a warning list of violators upon finding those who have three violations, a citation would be sent with a fine administered.

Project Updates

Mr. Classen provided a list of continuing projects for Council's review.

After discussion and hearing no objection, Mayor Denny directed staff to submit the RFQ for the NC12 Stormwater Plan (jointly with NCDOT, and the Towns of Duck and Southern Shores) for Council review at the December 7, 2004 Council meeting as well as the plans for the short term drainage issues.

Mike Hejduk stated that the Town recently had a Community Ratings System (CRS) Audit and the auditor acknowledged that the Town does not have a stormwater management plan.

Upon discussion by Council and hearing no objection, Mayor Denny directed the Town Manager to continue work on the short-term drainage projects and to also proceed with the long-term Town stormwater management plan.

New Business

Appointment of Board of Adjustment

Mayor Denny stated that due to the resignation of Brian McDonald from the Board of Adjustment so that he could fulfill his Council appointment and the expiration of some member's terms, he moved to re-appoint Al Smith and Frans Koeleveld for 3-year terms

each and to appoint Peter McOrmond from alternate to member for a 3-year term. Council Member Hess seconded. The motion passed with Mayor Denny, Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Members absent.

Council Member's Agenda

Council Members did not raise any additional issues for discussion.

Mayor's Agenda

Mayor Denny expressed his concern on the late distribution of materials for Council before Council meetings. He stated that Council needs the information in a more timely manner to address the issues properly.

After Council discussion and hearing no objection, Mayor Denny ordered that Town Manager would review issues for the agenda with the Mayor on Wednesday prior to a regular Tuesday Council meeting and that the Council books with all available information need to be ready the Friday before the Council meeting by 5:00 p.m.

Mayor Denny stated that in the past Council held what is called the workshop meeting, where no actions were taken. He would like to review this type of meeting as a retreat item.

Discussion was held on possible dates for the annual Council retreat. January 28, 2005 is a the date set for a joint meeting with the Planning Board to discuss land use issues with Prof. Owens from the Institute of Government.

Town Manager's Agenda

Mr. Classen reviewed several issues with Council.

Mr. Classen requests Council approval on two items:

- (1) That the Town hire an Administrative Support Assistant (Grade 11; Hiring Rate - \$25,180) who would provide clerical support to the Department, take over site plan and conditional use permit applications duties from the Town Clerk, take over Planning Board and Board of Adjustment minute-drafting duties from the Town clerk, and take over the clerical and research work of the two part time employees; and,
- (2) The replacement of the Police Departments current OSSI Software with a similar software package from Southern Software. He explained that the OSSI software is still functional, but the annual maintenance costs have reached \$5,400 and staff has become very dissatisfied with the customer service. Further, OSSI was recently sold and its North Carolina focus may diminish. Southern Software, which is now used by Manteo and Duck is a good alternative and is headquartered in Southern Pines, NC. The Southern

Software package costs \$35,995, which includes all installation, conversion of existing OSSI data, training and first-year maintenance. Of the total cost, \$14,250 (40%) would be covered by a State grant that has already been awarded to the Town. He stated that to use the State grant (which was originally received to replace a server that was severely damaged by lightning last summer and was replaced through insurance), the Town had to match it with at least \$4,750 in local funds.

Cost of Software	\$35,995
Less: State Grant	-14,250
Less: Local Match	<u>- 4,750</u>
Balance Remaining	\$16,995

He stated that another positive aspect of Southern Software is that their annual maintenance fee is only \$2,900, which Town staff has negotiated to be locked in at that rate for four (4) years beyond the initial year of maintenance, which is included in the purchase cost above and the Town could “lease” the remaining \$16,995, but the leasing company is charging 11.9% interest. He recommends that Council authorize the Southern Software Police-Pak purchase and stated that he would submit an appropriate budget amendment at the necessary time.

Mayor Denny moved to authorize the Manager to hire an Administrative Support Assistant at Salary Grade 11 for the Code Enforcement Department and to provide with appropriate office facilities. Council Member Shields seconded. The motion passed with Mayor Denny, Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Members absent.

Council Member Hess moved to approve the purchase of the Southern Software package for the Police Department. Council Member Sanders seconded. The motion passed with Mayor Denny, Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Members absent.

Mr. Classen stated that Council would need, at some time, to address amending the Town Code regarding motorized vehicles called “segway’s” being used on the Town’s multiuse paths. He stated that a bill has been introduced in the NC legislature which would allow them to operate on multiuse paths.

Public Comment

Mike Stone of Southern Shores Realty thanked Council for the time and consideration they gave to the trash can rollback issue. He stated that Southern Shores Realty has always had a good relationship with the Town and wants that to continue.

Adjourn

Hearing no other business Mayor Denny moved to adjourn the meeting at 10:10 p.m. Council Member Hess seconded. The motion passed with Mayor Denny, Council Members Hess, Shields, Sanders, and McDonald voting aye; no Council Member voting no; and no Council Members absent.

ATTEST:

Respectfully submitted:

Mayor Denny

Carrie Gordin, Town Clerk