



# Town of Southern Shores

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[www.southernshores-nc.gov](http://www.southernshores-nc.gov)

Council Meeting  
November 15, 2011  
8:00 a.m.-Pitts Center

Corrected

The following Council Members were present: Mayor Hal Denny, Mayor pro tem Jodi Hess, Council Members Jim Pfizenmayer and Kevin Stroud. Council Member George Kowalski absent. Also present: Town Manager Peter Rascoe, Town Attorney Ben Gallop and Town Clerk Carrie Gordin.

Mayor Denny called the meeting to order, led the Pledge of Allegiance and held a Moment of Silence for our men and women in the armed forces serving around the world.

## APPROVAL OF AGENDA

Mayor pro tem Hess moved to approve the agenda as presented. Council Member Stroud seconded. The motion passed with Mayor Denny and Council Members Hess, Pfizenmayer and Stroud voting aye.

## APPROVAL OF MINUTES – November 1, 2011

Mayor pro tem Hess moved to approve the November 1, 2011 minutes as presented. Council Member Pfizenmayer seconded. The motion passed with Mayor Denny and Council Members Hess, Pfizenmayer and Stroud voting aye.

## CONSENT AGENDA-None

## PUBLIC COMMENT-None

## OLD BUSINESS

### Report on Current Physical Status of Town-Owned Canals

The Town Manager stated he asked Tom Bennett, the Canal Dredging Project Manager, to make a presentation on the current physical conditions of the Town-owned canals and to address specifically three issues:

- (1) the current depths of the 2009-2010 maintenance-dredged canals, and the depths of all other canals which have not yet been maintenance-dredged
- (2) the current state of canal-front shorelines, including those which are protected and those which have no protection
- (3) the current state of existing overhanging and underlying vegetation which threaten navigation in the canals.

Tom Bennett provided a Power Point presentation addressing these issues. He noted there are seven miles of Town-owned canals of which two and a half miles have been dredged with the completion of Phase I of the maintenance dredging project. He noted there are three thousand and sixty-one properties in Town with four hundred and eighty-three of those properties riparian to canals. Seventy-three percent of the

canal properties have some type of shoreline stabilization. Twenty-seven percent of the canal properties are without stabilization. The majority of these properties consist of undeveloped or homeowners' association-owned properties. Canal stabilization can consist of bulkhead, rip-rap or vegetated buffering. The most vulnerable shorelines are those in high boat traffic areas with no stabilization or those with major hardwood or evergreen trees closer than fifteen feet to the shoreline.

Council held some discussion but no actions were taken.

[Clerk's Note: A copy of the Power Point presentation can be found on the Town's website].

#### Report on Possible Protective Measures for Canal Shorelines

The Town Manager stated as the second part of the presentation he asked Ben Gallop, the Town Attorney, to address Council on his legal opinion on the following questions which have been posed to him as a result of queries to staff from one or more Council members:

- (1) Does the Town of Southern Shores have legal authority to require a canal-front property owner to bulkhead his or her canal-front shoreline as a condition of an issued building permit for a certain threshold amount of improvements?
- (2) Does the Town of Southern Shores have legal authority to require a canal-front property owner to bulkhead his or her canal-front shoreline as a condition of a Town- issued "Lot Disturbance" permit issued pursuant to Town Code Sec. 36-171?
- (3) What, if any, constitutional and enforcement issues might the Town of Southern Shores face in attempting to force existing canal-front property owners to bulkhead their canal-front shorelines via a Town adopted ordinance – even when no improvements are proposed?

The Town Attorney provided a broad overview of the legal issues associated with the questions posed by the Town Manager. He also broadly discussed various risks associated with the use of current ordinance provisions and the adoption and enforcement of potential future ordinance provisions.

The Town Attorney advised that the Town's current Code of Ordinances addressed that issue through a nuisance abatement process and that nuisance abatement is inherently fact determinative and must be considered on a case-by-case basis.

Mayor Denny asked if anything could be done regarding "nuisance" trees along the canals.

The Town Attorney stated to prove that a leaning tree is a nuisance may be hard to prove from a litigation perspective.

The Town Manager stated to engage staff to abate over-hanging tree limbs on the canals for every tree would require additional town staff and would be a financial challenge.

Council held some discussion but no actions were taken.

**NEW BUSINESS**-None

OTHER ITEMS

Town Manager

The Town Manager reported on several issues:

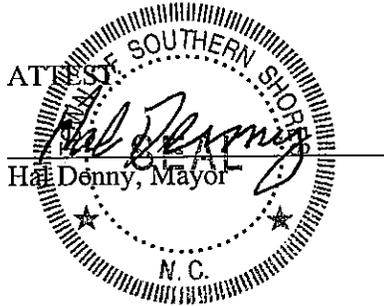
- The Capital Improvement Plan Committee (CIP) has met and established a meeting schedule.
- Debris on the beach- Staff is aware and is watching what happens with the debris.
- New "Welcome" Sign has been installed. Lights and landscaping are forth coming.
- Staff is discussing proposed additional Town parking and additional life guard stand at E. Dogwood or other alternative sites.

Mayor-None

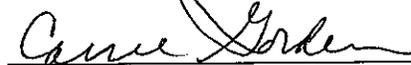
Council

Council Member Pfizenmayer stated he would like to see a walking path provided on East Dogwood Trail.

Hearing no other business Mayor pro tem Hess moved to adjourn the meeting at 9:35 a.m. Council Member Pfizenmayer seconded. The motion passed with Mayor Denny and Council Members Hess, Pfizenmayer and Stroud voting aye.



Respectfully submitted:

  
Carrie Gordin, Town Clerk