



# Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

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

DECEMBER 1, 2020

COUNCIL MEETING-5:30 P.M.-PITTS CENTER

## 1. Opening

- A. Call Meeting to Order
- B. Pledge of Allegiance
- C. Moment of Silence
- D. Amendments to / Approval of Agenda
- E. Consent Agenda
  - o Council Meeting Minutes – October 20, 2020 Workshop **EMAILED**

## 2. Presentation

- A. Tribute to Warren Davis
- B. Employee Recognition-Forest Hood, 5 Years of Service
- C. New Employee Recognition-Marcey Baum, Permit Officer & Kevin Clark, Building Inspector/ Code Enforcement Officer
- D. SSPD Recognition-Dare County Motorcycle Toy Run-Terry Gray

## 3. Staff Reports

- A. Deputy Town Manager/Planning Director
- B. Police Chief
- C. Fire Chief, Southern Shores Volunteer Fire Department
- D. Town Manager's Report
- E. Town Attorney's Report

## 4. General Public Comment (Limit: 3 minutes per speaker.)

## 5. Old Business

- A. Beach Nourishment **TAB 1**
  - o MSD Boundaries

## 6. New Business

- A. Southern Shores Volunteer Fire Department for appointment of a Southern Shores citizen as a Trustee to the Southern Shores Fire District Firefighters' Relief Fund Board of Trustees. **TAB 2**
- B. Historic Landmarks Commission Appointments **TAB 3**
- C. Resolution 2020-12-01-CSDM Award Funding **TAB 4**
- D. 2021 Council Meeting Schedule – Proposed Resolution 2020-12-02 **TAB 5**
- E. Consideration of Street Project – Wood Duck Court Asphalt Overlay **TAB 6**

## 7. General Public Comment (Limit: 3 minutes per speaker.)

## 8. Other Business

- A. Mayor's Comments & Responses
- B. Council Member's Comments & Responses

## 9. Adjourn



## **Agenda Item Summary Sheet**

**Date:** December 1, 2020

**Item #:** 5- A

**Item Title:** Discussion of Beach Nourishment MSD Boundaries

**Item Summary:** Staff will present to Town Council the process of establishing one or more Municipal Service Districts to generate revenue to fund the 2022 beach nourishment project.

At this time, with funding from the Dare County Beach Nourishment Occupancy Fund uncertain, the presentation will focus mostly on establishing the district boundaries with less emphasis on potential tax rates for each of the districts until funding becomes more clear. The districts can be established first and the tax rate applied later with the adoption of the annual operating budget.

In January of this year, DEC Associates presented to Town Council the typical process for funding beach nourishment projects to date in Dare County. The assumption being that funding from occupancy tax for beach nourishment would pay half of the cost of each project. The funding models assume that the other half would come from the equivalent of 7.82 cents of each town's tax levy with the remaining portion negotiated with the County to be paid out of the occupancy tax for beach nourishment. The terms of the County contribution will need to be clarified in an Inter-local Agreement that the County and Town approve.

Current planning calls for property tax to be levied through a town wide tax so that all properties within the Town contribute, coupled with one or more Municipal Service Districts. The size and makeup of these Municipal Service Districts are what the Town Council is being asked to consider now.

The options presented here are with the assumption that the Town will need to generate \$1,224,775 per year for 5 years to pay its portion of a ~\$16 million-dollar project. Its staff's opinion that regardless of the County funding, the boundaries will remain the same unless the project is greatly altered.

**Staff Recommendation:** Staff recommends that Town Council consider options for drawing the boundary lines for each district.

In January of 2021, the Council will need to direct staff to prepare a report which initiates the process. The timeline that has been drafted for this process has the final adoption of the districts in April of 2021. There is approximately one month of excess time built into the calendar. The tax rates for the municipal services districts will go into effect July 1, 2021. The Dare County Tax Collector has requested that our districts be established no later than May 4, 2021 so that they can prepare for collection of the new tax.

**Requested Action:** There is no action at this time that Town Council needs to take. However, staff appreciates any feedback and discussion to generate a consensus among Council members to establish the districts.

**Attachments:** Power Point Presentation  
North Carolina General Statute for Municipal Service Districts

# BEACH NOURISHMENT MSD CREATION

Town of Southern Shores

December 1, 2020

# REVIEW OF PROCESS FOR CREATING MUNICIPAL SERVICE DISTRICTS

Link to the NCGS establishing Municipal Service Districts - [Municipal Service Districts](#)

Report – Before the public hearing, the Town Council shall prepare a report containing:

- (1) A map of the proposed district(s), showing its proposed boundaries;
- (2) A statement showing that the proposed district meets the standards set out in G.S. 160A-537 (a); and
- (3) A plan for providing in the district one or more of the services listed in G.S. 160A-536.

# Example of Notice of MSD Report



**Town of Southern Shores**  
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**Beach Nourishment Project Report  
Establishment of XX Municipal Service Districts  
For Beach Erosion Control and Flood and Hurricane Protection Works  
In Accordance with GS 160A-535 – 160A-544**

- 1) Attached map identifies \_\_\_ proposed Municipal Service Districts  
District 1 – “address to address”  
District 2 – “address to address”  
  
Establishment of municipal service districts allows for an additional levy of property tax rates with a higher rate for those in Districts receiving more sand
- 2) Statement indicating that services are needed in the districts to a demonstrably greater extent than the rest of the Town:  
  
The Town is committed to beach nourishment to maintain a wide recreation beach strand, to protect structures of historic significance, to maintain a tax and economic base, and to protect infrastructure including facilities for public recreational access. In order to maintain the aesthetic and environmental value of the beach strand, the Town Council for the Town of Southern Shores has determined that the creation of \_\_\_ municipal service districts for erosion control and hurricane protection works will be for the benefit of those properties located within the service district boundaries.  
  
The two proposed districts are in need of projects and programs (meeting the standards of G.S. 160A537(a)) to a demonstrably greater extent than the remainder of the town in order to meet the needs and goals set forth above.
- 3) Plan for providing proposed services in the Municipal Service Districts:  
  
The Project entails the dredging and placement of up to \_\_\_ million cubic yards of sand placed on 4 miles of Southern Shores beach. The placed sand will be planted with beach grass and include the placement of sand fencing.



DRAFT

## REVIEW OF PROCESS FOR CREATING MUNICIPAL SERVICE DISTRICTS

- The notice shall be published at least once, not less than one week, before the date of the hearing
- Notice is also mailed at least four weeks before the date of the hearing to all owners of property in the proposed district.
- Owners may request exclusion from the district by submitting a written request to the Council no later than five days after the public hearing. Council may exclude the property after making a finding that it is not in need of the service.
- Ordinance must be adopted by a majority vote of the Council at two separate meetings.

# BEACH NOURISHMENT MSD CREATION

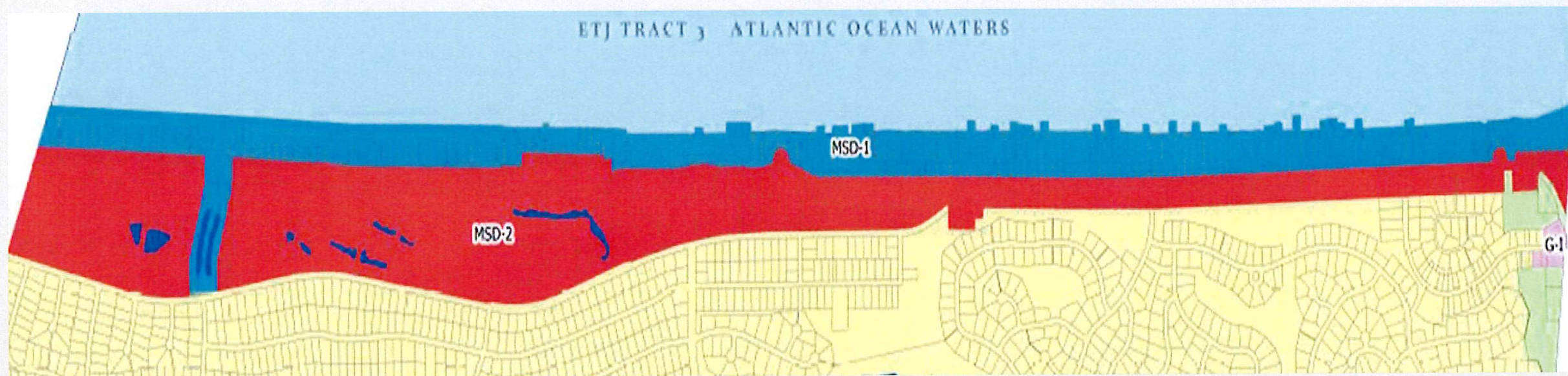
## Review of process for creating municipal service districts

### *Timeline (hypothetical)*

- December 1, 2020 - discuss MSD boundaries
- January 2021 – Ken Willson with CPE presents update on project design
  - Council potentially directs staff to prepare the report
- Report is prepared and filed with the Town Clerk by mid-January, notices are mailed to all owners within the proposed district by end of January.
- February 2021 - Publish Public Hearing Notice
- March 2021 – Public Hearing is held; Council may take first vote to establish MSD
- April 2021 – Council takes 2<sup>nd</sup> vote to establish MSD; ordinance passes
- May 2021 – Dare County requested as last date for establishment of MSD(s)
- Effective Date – July 1, 2021



# EXAMPLE: OPTION 1



MSD 1 pays MSD 2 rate as well  
MSD 2 pays one rate

# EXAMPLE OPTION 2



The area shaded in orange would be removed from MSD 2

MSD 1 pays MSD 2 rate as well  
MSD 2 pays one rate

<b>Town of Southern Shores</b>																					
<b>Beach Nourishment Projects - Issuance April 2022</b>						Term:	5 years				<b>Project Costs</b>										
						Interest Rate:	3.50%				Permitting/Design	\$ 435,000									
<b>Estimated Numbers (1-14-20 from Engineers)</b>											Construction	\$ 13,783,000									
											Soft/Monitoring	\$ 506,100									
											Contingency	\$ 1,472,400									
											<b>Total:</b>	<b>\$ 16,196,500</b>									
						<b>Town Project - 2022</b>															
	\$ 8,148,250																				
	Principal	Interest	Debt Service		County Contributed	Town Contributed															
2022																					
2023	\$ 1,629,650	\$ 285,189	\$ 1,914,839		\$ 690,064	\$ 1,224,775															
2024	\$ 1,629,650	\$ 228,151	\$ 1,857,801		\$ 633,026	\$ 1,224,775															
2025	\$ 1,629,650	\$ 171,113	\$ 1,800,763		\$ 575,989	\$ 1,224,775															
2026	\$ 1,629,650	\$ 114,076	\$ 1,743,726		\$ 518,951	\$ 1,224,775															
2027	\$ 1,629,650	\$ 57,038	\$ 1,686,688		\$ 461,913	\$ 1,224,775															
2028																					
Totals:	\$ 8,148,250	\$ 855,566	\$ 9,003,816		\$ 2,879,943	\$ 6,123,873															
											Southern Shores - FY20 Valuation										
											Penny	7.82¢ Generates									
											\$ 156,621	\$ 1,224,775									

Article 23.

Municipal Service Districts.

**§ 160A-535. Title; effective date.**

This Article may be cited as "The Municipal Service District Act of 1973," and is enacted pursuant to Article V, Sec. 2(4) of the Constitution of North Carolina, effective July 1, 1973. (1973, c. 655, s. 1.)

**§ 160A-536. Purposes for which districts may be established.**

(a) **Purposes.** – The city council of any city may define any number of service districts in order to finance, provide, or maintain for the districts one or more of the following services, facilities, or functions in addition to or to a greater extent than those financed, provided or maintained for the entire city:

- (1) Beach erosion control and flood and hurricane protection works.
- (1a) **(For applicability see note)** Any service, facility, or function which the municipality may by law provide in the city, and including but not limited to placement of utility wiring underground, placement of period street lighting, placement of specially designed street signs and street furniture, landscaping, specialized street and sidewalk paving, and other appropriate improvements to the rights-of-way that generally preserve the character of an historic district; provided that this subdivision only applies to a service district which, at the time of its creation, had the same boundaries as an historic district created under Part 3A of Article 19 of this Chapter.
- (2) Downtown revitalization projects.
- (2a) Urban area revitalization projects.
- (2b) Transit-oriented development projects.
- (3) Drainage projects.
- (3a) Sewage collection and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems.
- (3b) **(For applicability see note)** Lighting at interstate highway interchange ramps.
- (4) Off-street parking facilities.
- (5) Watershed improvement projects, including but not limited to watershed improvement projects as defined in General Statutes Chapter 139; drainage projects, including but not limited to the drainage projects provided for by General Statutes Chapter 156; and water resources development projects, including but not limited to the federal water resources development projects provided for by General Statutes Chapter 143, Article 21.
- (6) Conversion of private residential streets to public streets as provided in subsection (e) of this section.

(b) **Downtown Revitalization Defined.** – As used in this section "downtown revitalization projects" are improvements, services, functions, promotions, and developmental activities intended to further the public health, safety, welfare, convenience, and economic well-being of the central city or downtown area. Exercise of the authority granted by this Article to undertake downtown revitalization projects financed by a service district do not prejudice a city's authority to undertake urban renewal projects in the same

area. Examples of downtown revitalization projects include by way of illustration but not limitation all of the following:

- (1) Improvements to water mains, sanitary sewer mains, storm sewer mains, electric power distribution lines, gas mains, street lighting, streets and sidewalks, including rights-of-way and easements.
- (2) Construction of pedestrian malls, bicycle paths, overhead pedestrian walkways, sidewalk canopies, and parking facilities both on-street and off-street.
- (3) Construction of public buildings, restrooms, docks, visitor centers, and tourism facilities.
- (4) Improvements to relieve traffic congestion in the central city and improve pedestrian and vehicular access to it.
- (5) Improvements to reduce the incidence of crime in the central city.
- (6) Providing city services or functions in addition to or to a greater extent than those provided or maintained for the entire city.
- (7) Sponsoring festivals and markets in the downtown area, promoting business investment in the downtown area, helping to coordinate public and private actions in the downtown area, and developing and issuing publications on the downtown area.

(c) Urban Area Revitalization Defined. – As used in this section, the term "urban area revitalization projects" includes the provision within an urban area of any service or facility that may be provided in a downtown area as a downtown revitalization project under subdivision (a)(2) and subsection (b) of this section. As used in this section, the term "urban area" means an area that (i) is located within a city and (ii) meets one or more of the following conditions:

- (1) It is the central business district of the city.
- (2) It consists primarily of existing or redeveloping concentrations of industrial, retail, wholesale, office, or significant employment-generating uses, or any combination of these uses.
- (3) It is located in or along a major transportation corridor and does not include any residential parcels that are not, at their closest point, within 150 feet of the major transportation corridor right-of-way or any nonresidentially zoned parcels that are not, at their closest point, within 1,500 feet of the major transportation corridor right-of-way.
- (4) It has as its center and focus a major concentration of public or institutional uses, such as airports, seaports, colleges or universities, hospitals and health care facilities, or governmental facilities.

(c1) Transit-Oriented Development Defined. – As used in this section, the term "transit-oriented development" includes the provision within a public transit area of any service or facility listed in this subsection. A public transit area is an area within a one-fourth mile radius of any passenger stop or station located on a mass transit line. A mass transit line is a rail line along which a public transportation service operates or a busway or guideway dedicated to public transportation service. A busway is not a mass transit line if a majority of its length is also generally open to passenger cars and other private vehicles more than two days a week.

The following services and facilities are included in the definition of "transit-oriented development" if they are provided within a transit area:

- (1) Any service or facility that may be provided in a downtown area as a downtown revitalization project under subdivision (a)(2) and subsection (b) of this section.
- (2) Passenger stops and stations on a mass transit line.
- (3) Parking facilities and structures associated with passenger stops and stations on a mass transit line.
- (4) Any other service or facility, whether public or public-private, that the city may by law provide or participate in within the city, including retail, residential, and commercial facilities.

(d) Contracts. – A city may provide services, facilities, functions, or promotional and developmental activities in a service district with its own forces, through a contract with another governmental agency, through a contract with a private agency, or by any combination thereof. Any contracts entered into pursuant to this subsection shall comply with all of the following criteria:

- (1) The contract shall specify the purposes for which city moneys are to be used for that service district.
- (2) The contract shall require an appropriate accounting for those moneys at the end of each fiscal year or other appropriate period. For contracts entered into on or after June 1, 2016, the appropriate accounting shall include the name, location, purpose, and amount paid to any person or persons with whom the private agency contracted to perform or complete any purpose for which the city moneys were used for that service district.

(d1) Additional Requirements for Certain Contracts. – In addition to the requirements of subsection (d) of this section, if the city enters into a contract with a private agency for a service district under subdivision (a)(1a), (2), or (2a) of this section, the city shall comply with all of the following:

- (1) The city shall solicit input from the residents and property owners as to the needs of the service district prior to entering into the contract.
- (2) Prior to entering into, or the renewal of, any contract under this section, the city shall use a bid process to determine which private agency is best suited to achieve the needs of the service district. The city shall determine criteria for selection of the private agency and shall select a private agency in accordance with those criteria. If the city determines that a multiyear contract with a private agency is in the best interest of the city and the service district, the city may enter into a multiyear contract not to exceed five years in length.
- (3) The city shall hold a public hearing prior to entering into the contract, which shall be noticed by publication in a newspaper of general circulation, for at least two successive weeks prior to the public hearing, in the service district.
- (4) The city shall require the private agency to report annually to the city, by presentation in a city council meeting and in written report, regarding the needs of the service district, completed projects, and pending projects. Prior to the annual report, the private agency shall seek input of the property owners and residents of the service district regarding needs for the upcoming year.

- (5) The contract shall specify the scope of services to be provided by the private agency. Any changes to the scope of services shall be approved by the city council.

(e) **Converting Private Residential Streets to Public Streets.** – A city may establish a municipal service district for the purpose of converting private residential streets to public streets if the conditions of this subsection are met. The property tax levied in a municipal service district created for this purpose may be used only to pay the costs related to the transfer of ownership of the streets, evaluation of the condition of the private streets, and the design and construction costs related to improving the private streets to meet public street standards as approved by the governing board. Notwithstanding G.S. 160A-542, the property tax rate in a district created for this purpose may not be in excess of thirty percent (30%) of the ad valorem tax rate in effect in the city in the fiscal year prior to the establishment of the district. After the private streets have been upgraded to meet public street standards and all costs have been recovered from the tax in the district, no further tax may be levied in the district, and the city council must abolish the municipal service district as provided by G.S. 160A-541.

Notwithstanding G.S. 160A-299, if a city abandons the streets and associated rights-of-way acquired pursuant to this subsection, the street-related common elements must be returned to the owners' association from which the city acquired them in a manner that makes the owners' association's holdings in common elements as they were prior to the establishment of the municipal service district.

For a city to create a municipal service district for the purpose of converting private residential streets to public streets, all of the following conditions must be met:

- (1) The private residential road must be nongated.
- (2) The city must receive a petition signed by at least sixty percent (60%) of the lot owners of the owners' association requesting the city to establish a municipal service district for the purpose of paying the costs related to converting private residential streets to public streets. The executive board of an owners' association for which the city has received a petition under this subsection may transfer street-related common elements to the city, notwithstanding the provisions of either the North Carolina Planned Community Act in Chapter 47F of the General Statutes or the North Carolina Condominium Act in Chapter 47C of the General Statutes, or related articles of declaration, deed covenants, or any other similar document recorded with the Register of Deeds.
- (3) The city must agree to accept the converted streets for perpetual public maintenance.
- (4) The city must meet one of the following requirements:
  - a. Located primarily in a county that has a population of 750,000 or more according to the most recent decennial federal census, and also located in an adjacent county with a population of 250,000 or more according to the most recent decennial federal census.
  - b. Located primarily in a county with a population of 250,000 or more according to the most recent decennial federal census, and also located in an adjacent county with a population of 750,000 or more according to the most recent decennial federal census. (1973, c. 655, s. 1; 1977,

c. 775, ss. 1, 2; 1979, c. 595, s. 2; 1985, c. 580; 1987, c. 621, s. 1; 1999-224, s. 1; 1999-388, s. 1; 2004-151, s. 1; 2004-203, s. 5(m); 2009-385, s. 1; 2011-72, ss. 1, 2; 2011-322, s. 1; 2012-79, s. 1.11; 2015-241, s. 15.16B(a); 2016-8, s. 1; 2017-102, s. 31.1.)

**§ 160A-537. Definition of service districts.**

(a) **Standards.** – The city council of any city may by ordinance define a service district upon finding that a proposed district is in need of one or more of the services, facilities, or functions listed in G.S. 160A-536 to a demonstrably greater extent than the remainder of the city.

(a1) **Petition to Define District.** – The city council may also by ordinance define a service district if a petition submitted by a majority of the owners of real property in a defined area of the city establishes that the area is in need of one or more of the services, facilities, or functions listed in G.S. 160A-536 to a demonstrably greater extent than the remainder of the city. The petition shall contain the names, addresses, and signatures of the real property owners within the proposed district, describe the proposed district boundaries, and state in detail the services, facilities, or functions listed in G.S. 160A-536 which would serve as the basis for establishing the proposed district. The city council may establish a policy to hear all petitions submitted under this subsection at regular intervals, but no less than once per year.

(b) **Report.** – Before the public hearing required by subsection (c), the city council shall cause to be prepared a report containing:

- (1) A map of the proposed district, showing its proposed boundaries;
- (2) A statement showing that the proposed district meets the standards set out in subsection (a); and
- (3) A plan for providing in the district one or more of the services listed in G.S. 160A-536.

The report shall be available for public inspection in the office of the city clerk for at least four weeks before the date of the public hearing.

(c) **Hearing and Notice.** – The city council shall hold a public hearing before adopting any ordinance defining a new service district under this section. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall include a map of the proposed district and a statement that the report required by subsection (b) is available for public inspection in the office of the city clerk. The notice shall be published at least once not less than one week before the date of the hearing. In addition, it shall be mailed at least four weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the proposed district. The person designated by the council to mail the notice shall certify to the council that the mailing has been completed and his certificate is conclusive in the absence of fraud.

(c1) **Exclusion From District.** – An owner of a tract or parcel of land located within the proposed district may, at the public hearing or no later than five days after the date of the public hearing required by subsection (c) of this section, submit a written request to the



city council for the exclusion of the tract or parcel from the proposed district. The owner shall specify the tract or parcel, state with particularity the reasons why the tract or parcel is not in need of the services, facilities, or functions of the proposed district to a demonstrably greater extent than the remainder of the city, and provide any other additional information the owner deems relevant. If the city council finds that the tract or parcel is not in need of the services, facilities, or functions of the proposed district to a demonstrably greater extent than the remainder of the city, the city council may exclude the tract or parcel from the proposed district.

(d) **Effective Date.** – Except as otherwise provided in this subsection, the ordinance defining a service district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the city council. If the governing body in the ordinance states that general obligation bonds or special obligation bonds are anticipated to be authorized for the project, it may make the ordinance effective immediately upon its adoption or as otherwise provided in the ordinance. However, no ad valorem tax may be levied for a partial fiscal year.

(e) Repealed by Session Laws 2016-8, s. 2, effective June 1, 2016.

(f) **Passage of Ordinance.** – No ordinance defining a service district as provided for in this section shall be finally adopted until it has been passed at two meetings of the city council by majority vote of the voting members present, and no service district shall be defined except by ordinance. (1973, c. 655, s. 1; 1981, c. 53, s. 1; c. 733, s. 1; 2006-162, s. 25; 2012-156, s. 4; 2016-8, s. 2.)

### **§ 160A-538. Extension of service districts.**

(a) **Standards.** – The city council may by ordinance annex territory to any service district upon finding that:

- (1) The area to be annexed is contiguous to the district, with at least one eighth of the area's aggregate external boundary coincident with the existing boundary of the district;
- (2) That the area to be annexed requires the services of the district.

(b) **Annexation by Petition.** – The city council may also by ordinance extend by annexation the boundaries of any service district when one hundred percent (100%) of the real property owners of the area to be annexed have petitioned the council for annexation to the service district.

(c) **Report.** – Before the public hearing required by subsection (d), the council shall cause to be prepared a report containing:

- (1) A map of the service district and the adjacent territory, showing the present and proposed boundaries of the district;
- (2) A statement showing that the area to be annexed meets the standards and requirements of subsections (a) or (b); and
- (3) A plan for extending services to the area to be annexed.

The report shall be available for public inspection in the office of the city clerk for at least two weeks before the date of the public hearing.

(d) Hearing and Notice. – The council shall hold a public hearing before adopting any ordinance extending the boundaries of a service district. Notice of the hearing shall state the date, hour and place of the hearing and its subject, and shall include a statement that the report required by subsection (c) is available for inspection in the office of the city clerk. The notice shall be published at least once not less than one week before the date of the hearing. In addition, the notice shall be mailed at least four weeks before the date of the hearing to the owners as shown by the county tax records as of the preceding January 1 of all property located within the area to be annexed. The notice may be mailed by any class of U.S. mail which is fully prepaid. The person designated by the council to mail the notice shall certify to the council that the mailing has been completed, and his certificate shall be conclusive in the absence of fraud.

(e) Effective Date. – The ordinance extending the boundaries of the district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the council.

(e1) Passage of Ordinance. – No ordinance annexing territory to a service district as provided for in this section shall be finally adopted until it has been passed at two meetings of the city council by majority vote of the voting members present, and no territory shall be annexed to a service district except by ordinance.

(f) Historic District Boundaries Extension. – A service district which at the time of its creation had the same boundaries as an historic district created under Part 3A of Article 19 of this Chapter may only have its boundaries extended to include territory which has been added to the historic district. (1973, c. 655, s. 1; 1981, c. 53, s. 2; 1987, c. 621, s. 2; 2016-8, s. 3.)

### **§ 160A-538.1. Reduction of service districts.**

(a) Reduction by City Council. – Upon finding that there is no longer a need to include within a particular service district any certain tract or parcel of land, the city council may by ordinance redefine a service district by removing therefrom any tract or parcel of land which it has determined need no longer be included in said district. The city council shall hold a public hearing before adopting an ordinance removing any tract or parcel of land from a district. Notice of the hearing shall state the date, hour and place of the hearing, and its subject, and shall be published at least once not less than one week before the date of the hearing.

(a1) Request for Reduction by Owner. – A property owner may submit a written request to the city council to remove the owner's tract or parcel of land from a service district. The owner shall specify the tract or parcel, state with particularity the reasons why the tract or parcel is not in need of the services, facilities, or functions of the proposed district to a demonstrably greater extent than the remainder of the city, and provide any other additional information the owner deems relevant. Upon receipt of the request, the city council shall hold a public hearing as required by subsection (a) of this section. If the city council finds that the tract or parcel is not in need of the services, facilities, or functions of the district to a demonstrably greater extent than the remainder of the city, the city

council may, by ordinance, redefine the service district by removing therefrom the tract or parcel.

(b) Effective Date. – The removal of any tract or parcel of land from any service district shall take effect at the end of a fiscal year following passage of the ordinance, as determined by the city council.

(b1) Passage of Ordinance. – No ordinance reducing a service district as provided for in this section shall be finally adopted until it has been passed at two meetings of the city council by majority vote of the voting members present, and no service district shall be reduced except by ordinance.

(c) Historic District Boundaries Reduction. – A service district which at the time of its creation had the same boundaries as an historic district created under Part 3A of Article 19 of this Chapter may only have its boundaries reduced to exclude territory which has been removed from the historic district. (1977, c. 775, s. 3; 1987, c. 621, s. 3; 2016-8, s. 4.)

#### **§ 160A-539. Consolidation of service districts.**

(a) The city council may by ordinance consolidate two or more service districts upon finding that:

- (1) The districts are contiguous or are in a continuous boundary; and
- (2) The services provided in each of the districts are substantially the same; or
- (3) If the services provided are lower for one of the districts, there is a need to increase those services for that district to the level of that enjoyed by the other districts.

(b) Report. – Before the public hearing required by subsection (c), the city council shall cause to be prepared a report containing:

- (1) A map of the districts to be consolidated;
- (2) A statement showing the proposed consolidation meets the standards of subsection (a); and
- (3) If necessary, a plan for increasing the services for one or more of the districts so that they are substantially the same throughout the consolidated district.

The report shall be available in the office of the city clerk for at least two weeks before the public hearing.

(c) Hearing and Notice. – The city council shall hold a public hearing before adopting any ordinance consolidating service districts. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall include a statement that the report required by subsection (b) is available for inspection in the office of the city clerk. The notice shall be published at least once not less than one week before the date of the hearing. In addition, the notice shall be mailed at least four weeks before the hearing to the owners as shown by the county tax records as of the preceding January 1 of all property located within the consolidated district. The notice may be mailed by any class of U.S. mail which is fully prepaid. The person designated by the council to mail the notice shall certify to the council that the mailing has been completed, and his certificate shall be conclusive in the absence of fraud.

(d) **Effective Date.** – The consolidation of service districts shall take effect at the beginning of a fiscal year commencing after passage of the ordinance of consolidation, as determined by the council.

(e) **Passage of Ordinance.** – No ordinance consolidating two or more service districts as provided for in subsection (a) of this section shall be finally adopted until it has been passed at two meetings of the city council by majority vote of the voting members present, and no service districts shall be consolidated except by ordinance. (1973, c. 655, s. 1; 1981, c. 53, s. 2; 2016-8, s. 5.)

**§ 160A-540. Required provision or maintenance of services.**

(a) **New District.** – When a city defines a new service district, it shall provide, maintain, or let contracts for the services for which the residents of the district are being taxed within a reasonable time, not to exceed one year, after the effective date of the definition of the district.

(b) **Extended District.** – When a city annexes territory for a service district, it shall provide, maintain, or let contracts for the services provided or maintained throughout the district to the residents of the area annexed to the district within a reasonable time, not to exceed one year, after the effective date of the annexation.

(c) **Consolidated District.** – When a city consolidates two or more service districts, one of which has had provided or maintained a lower level of services, it shall increase the services within that district (or let contracts therefor) to a level comparable to those provided or maintained elsewhere in the consolidated district within a reasonable time, not to exceed one year, after the effective date of the consolidation. (1973, c. 655, s. 1.)

**§ 160A-541. Abolition of service districts.**

Upon finding that there is no longer a need for a particular service district, the city council may by ordinance abolish that district. The council shall hold a public hearing before adopting an ordinance abolishing a district. Notice of the hearing shall state the date, hour and place of the hearing, and its subject, and shall be published at least once not less than one week before the date of the hearing. The abolition of any service district shall take effect at the end of a fiscal year following passage of the ordinance, as determined by the council. (1973, c. 655, s. 1; 2016-8, s. 6.)

**§ 160A-542. Taxes authorized; rate limitation.**

(a) A city may levy property taxes within defined service districts in addition to those levied throughout the city, in order to finance, provide or maintain for the district services provided therein in addition to or to a greater extent than those financed, provided or maintained for the entire city. In addition, a city may allocate to a service district any other revenues whose use is not otherwise restricted by law.

(b) Property subject to taxation in a newly established district or in an area annexed to an existing district is that subject to taxation by the city as of the preceding January 1.

(c) Property taxes may not be levied within any district established pursuant to this Article in excess of a rate on each one hundred dollar (\$100.00) value of property subject

to taxation which, when added to the rate levied city wide for purposes subject to the rate limitation, would exceed the rate limitation established in G.S. 160A-209(d), unless that portion of the rate in excess of this limitation is submitted to and approved by a majority of the qualified voters residing within the district. Any referendum held pursuant to this subsection shall be held and conducted as provided in G.S. 160A-209.

(d) In setting the tax rate, the city council shall consider the current needs, as well as the long-range plans and goals for the service district. The city council shall set the tax rate so that there is no accumulation of excess funds beyond that necessary to meet current needs, fund long-range plans and goals, and maintain a reasonable fund balance. Moneys collected shall be used only for meeting the needs of the service district, as those needs are determined by the city council.

(e) This Article does not impair the authority of a city to levy special assessments pursuant to Article 10 of this Chapter for works authorized by G.S. 160A-491, and may be used in addition to that authority. (1973, c. 655, s. 1; 2015-241, s. 15.16B(b).)

**§ 160A-543. Bonds authorized.**

A city may incur debt under general law to finance services, facilities or functions provided within a service district. If a proposed general obligation bond issue is required by law to be submitted to and approved by the voters of the city, and if the proceeds of the proposed bond issue are to be used in connection with a service that is or, if the bond issue is approved, will be provided only for one or more service districts or at a higher level in service districts than city wide, the proposed bond issue must be approved concurrently by a majority of those voting throughout the entire city and by a majority of the total of those voting in all of the affected or to be affected service districts. (1973, c. 655, s. 1; 2004-151, s. 4.)

**§ 160A-544. Exclusion of personal property of public service corporations.**

There shall be excluded from any service district and the provisions of this Article shall not apply to the personal property of any public service corporation as defined in G.S. 160A-243(c); provided that this section shall not apply to any service district in existence on January 1, 1977. (1977, c. 775, s. 4.)

**§§ 160A-545 through 160A-549. Reserved for future codification purposes.**





## **Agenda Item Summary Sheet**

**Date: 12/1/2020**

**Item #: 6A**

**Item Title:** FIRE DEPARTMENT RELIEF FUND APPOINTMENT

**Item Summary:** FIRE DEPARTMENT RELIEF FUND APPOINTMENT- MONIQUE MIMS

The Fire Department Relief Fund is a board of five members, two of which are appointed by the Town Council. The Fire Chief serves as a tiebreaker vote only.

Monique Mims from 207 Sea Oats Lane is the recommendation from the Southern Shores Volunteer Fire Department for appointment of a Southern Shores citizen as a Trustee to the Southern Shores Fire District Firefighters' Relief Fund Board of Trustees. The Fire District Firefighters' Relief Fund is governed by state statutes of Article 84 of Chapter 58.

**Requested Action:** Motion to appoint Monique Mims to a two-year term on the Southern Shores Firefighters' Relief Board of Trustees.

**Attachments:** NCGS Chapter 58, Article 84- Local Firefighters Relief Fund

Article 84.

Local Firefighters' Relief Funds.

§ 58-84-1: Repealed by Session Laws 2006-196, s. 6, effective January 1, 2008, and applicable to proceeds credited to the Department of Insurance on or after that date.

§ 58-84-5. **Definitions.**

The following definitions apply in Articles 84, 85, 85A, 87, and 88 of this Chapter:

- (1) City. – A fire district.
- (2) Clerk. – The clerk of a fire district or, if there is no clerk, the person so designated by the governing body of the fire district.
- (3) Fire district. – Any political subdivision of the State or federally recognized Native American tribe within the State that meets all of the following conditions:
  - a. It has an organized fire department under the control of its governing body.
  - b. Its fire department has apparatus and equipment that is in serviceable condition for fire duty and is valued at one thousand dollars (\$1,000) or more.
  - c. It is rated and certified by the Commissioner.
  - d. Its response area has been approved by the local municipal government or, if there is no local municipal government, by the local board of county commissioners.
- (3a) Firefighter. – Any person who meets all of the following requirements:
  - a. Is a volunteer, employee, contractor, or member of a rated and certified fire department, or employee of a County Fire Marshal's Office whose sole duty is to act as fire marshal, deputy fire marshal, assistant fire marshal, or firefighter of the county.
  - b. Performs work or training connected with fire protection, fire prevention, fire control, fire education, fire inspection, fire investigation, rescue, Emergency Medical Services, special operations, or performs the statutory duties and responsibilities of the fire chief as set forth in G.S. 160A-292.
  - c. Performs work or training at the direction of the fire chief.
  - d. Is included on the certified roster submitted to the North Carolina State Firefighters' Association pursuant to G.S. 58-86-25.
- (4) Town. – A fire district. (1951, c. 1032, s. 1; 1995 (Reg. Sess., 1996), c. 747, s. 5; 2014-64, s. 1(a); 2015-88, s. 1; 2016-51, ss. 1, 6.)

§§ 58-84-10 through 58-84-20: Repealed by Session Laws 1995 (Regular Session, 1996), c. 747, s. 6.

§ 58-84-25. **Disbursement of funds by Insurance Commissioner.**

(a) Distribution. – The Insurance Commissioner shall deduct the sum of three percent (3%) from the tax proceeds credited to the Department pursuant to G.S. 105-228.5(d)(3) and pay the



same over to the treasurer of the North Carolina State Firefighters' Association for administrative purposes. The Insurance Commissioner shall deduct the sum of two percent (2%) from the tax proceeds and retain the same in the budget of the Department of Insurance for the purpose of administering the disbursement of funds by the board of trustees in accordance with the provisions of G.S. 58-84-35. The Insurance Commissioner shall, pursuant to G.S. 58-84-50, credit the amount forfeited by nonmember fire districts to the North Carolina State Firefighters' Association. The Insurance Commissioner shall distribute the remaining tax proceeds to the treasurer of each fire district as provided in subsections (b) and (c) of this section.

(b) Allocation to Counties. – The Insurance Commissioner shall allocate to each county an amount of tax proceeds based upon the amount allocated to it in the previous year. If the amount allocable in the current year is less than the amount allocated in the previous year, then the Commissioner shall reduce the amount allocated to each county. The amount of the reduction is equal to the difference in the amount allocated in the previous year and the amount allocable in the current year multiplied by a fraction, the numerator of which is the population of the county and the denominator of which is the population of the State. If the amount allocable in the current year is greater than the amount allocated in the previous year, then the Commissioner shall increase the amount allocated to each county. The amount of the increase is equal to the excess proceeds multiplied by a fraction, the numerator of which is the population of the county and the denominator of which is the population of the State.

(c) Distribution to Fire Districts. – Once the Insurance Commissioner has allocated the tax proceeds to a county under subsection (b) of this section, the Commissioner shall distribute those allocations directly to the fire districts in that county. The Commissioner shall distribute the allocations by electronic funds transfer, unless a fire district's account cannot accept electronic funds transfers, in which case the Commissioner shall distribute the district's allocation by paper check. The amount distributed to each fire district is equal to the total amount allocated to the county multiplied by a fraction, the numerator of which is the tax value of the property located in the fire district and the denominator of which is the tax value of all property located in any fire district in that county. A county shall provide the Commissioner with the tax value of property located in each fire district in that county by February 1 of each year. If a county does not submit information that the Commissioner needs to make a distribution by the date the information is due, the Commissioner shall distribute the allocation based on the most recent information the Commissioner has.

(c1) Certain Amounts Redistributed. – Notwithstanding subsection (c) of this section, the Insurance Commissioner shall not distribute funds to a fire district whose local relief fund's balance exceeds the amount provided under G.S. 58-84-33(a). Instead, the Commissioner shall, using the methodology provided in subsections (b) and (c) of this section, distribute those funds to the fire districts whose local relief funds' balances do not exceed the amount provided under G.S. 58-84-33(a). If all of a county's fire districts' local relief funds' balances exceed the amount provided under G.S. 58-84-33(a), then the Commissioner shall reallocate the amount the county would have received to the counties with fire districts that do not exceed the amount provided under G.S. 58-84-33(a).

(d) Administration. – These funds shall be held by the treasurer of a fire district as a separate and distinct fund. The fire district shall immediately pay the funds to the treasurer of the local board of trustees upon the treasurer's election and qualification, for the use of the board of trustees of the local Firefighters' Relief Fund in each fire district to be used by it for the purposes provided in G.S. 58-84-35. (1907, c. 831, s. 5; C.S., s. 6067; 1925, c. 41; 1985 (Reg. Sess., 1986),

c. 1014, s. 168; 1989, c. 485, s. 63; 1995 (Reg. Sess., 1996), c. 747, s. 7; 2006-196, s. 7; 2007-250, s. 2; 2012-45, s. 1; 2013-360, s. 20.2(c); 2014-64, ss. 1(a), (c); 2016-51, ss. 2, 6.)

**§ 58-84-30. Trustees appointed; organization.**

For each county, town or city complying with and deriving benefits from the provisions of this Article, there shall be appointed a local board of trustees, known as the trustees of the local Firefighters' Relief Fund, to be composed of five members, two of whom shall be elected by the members of the local fire department who are qualified as beneficiaries of such fund, two of whom shall be elected by the mayor and board of aldermen or other local governing body, and one of whom shall be named by the Commissioner of Insurance. Their selection and term of office shall be as follows:

- (1) The members of the fire department shall hold an election to elect two representatives to the board to serve at the pleasure of the members of the department. The elected representatives may serve until their resignation or until the department holds an election to replace them. Board members elected pursuant to this subdivision shall be either (i) residents of the fire district or (ii) active or retired members of the fire department.
- (2) The mayor and board of aldermen or other local governing body shall appoint two representatives to the board to serve at the pleasure of the governing body. Board members appointed pursuant to this subdivision shall be residents of the fire district.
- (3) The Commissioner of Insurance shall appoint one representative to serve as trustee who shall serve at the pleasure of the Commissioner. The member appointed pursuant to this subdivision shall be either (i) a resident of the fire district or (ii) an active or retired member of the fire department.

All of the above trustees shall hold office for their elected or appointed time, or until their successors are elected or appointed, and shall serve without pay for their services. They shall immediately after election and appointment organize by electing from their members a chairman and a secretary and treasurer, which two last positions may be held by the same person. The treasurer of said board of trustees shall give a good and sufficient surety bond in a sum equal to the amount of moneys in his hand, to be approved by the Commissioner of Insurance. The cost of this bond may be deducted by the Insurance Commissioner from the receipts collected pursuant to G.S. 58-84-10 before distribution is made to local relief funds. If the chief or chiefs of the local fire departments are not named on the board of trustees as above provided, then they shall serve as ex officio members without privilege of voting on matters before the board. (1907, c. 831, s. 6; C.S., s. 6068; 1925, c. 41; 1945, c. 74, s. 1; 1947, c. 720; 1949, c. 1054; 1973, c. 1365; 1985, c. 666, s. 64; 1987, c. 174, ss. 1, 5; 2007-246, s. 3; 2012-45, s. 2; 2014-64, s. 1(a); 2016-51, s. 3.)

**§ 58-84-32. Prudent management of funds.**

Local boards of trustees shall manage local relief funds as prudent trustees of the funds, subject to Chapter 36E of the General Statutes. (2014-64, s. 1(a).)

**§ 58-84-33. Maximum fund balances.**

(a) The balance of a local fire department's Firefighters' Relief Fund for a given year shall not exceed the product of multiplying the number of members on the department's roster as of January 1 for that year by the sum of two thousand five hundred dollars (\$2,500).

(b) The North Carolina State Firefighters' Association shall annually calculate and notify each local department of its relief fund's maximum allowable balance.

(c) A local fire department whose relief fund balance, at the time of annual distribution by the Insurance Commissioner, exceeds the amount allowable under subsection (a) of this section shall not be entitled to receive a distribution for that year, and the Commissioner shall redistribute the funds that the department would have received, as provided under G.S. 58-84-25(c1).

(d) A board of trustees of a local Firefighters' Relief Fund may, with the authorization of and under guidelines provided by the North Carolina State Firefighters' Association, dedicate a portion of the local Firefighters' Relief Fund towards providing supplemental retirement. Notwithstanding subsection (a) of this section, if such dedicated amounts are used solely for supplemental retirement within the guidelines provided by the North Carolina State Firefighters' Association, then such dedicated amounts shall not count towards the maximum allowable balance under subsection (a) of this section. (2014-64, s. 1(d); 2016-51, ss. 4, 6.)

#### **§ 58-84-35. Disbursement of funds by trustees.**

(a) The board of trustees shall have entire control of the funds derived from the provisions of this Article, and shall disburse the funds only for the following purposes:

- (1) To safeguard any firefighter in active service from financial loss, occasioned by sickness contracted or injury received while in the performance of his duties as a firefighter.
- (2) To provide a reasonable support for those actually dependent upon the services of any firefighter who may lose his life in the fire service of his town, city, or State, either by accident or from disease contracted or injury received by reason of such service. The amount is to be determined according to the earning capacity of the deceased.
- (2a) To provide assistance, upon approval by the Executive Director of the North Carolina State Firefighters' Association, to a destitute member firefighter who has served or is serving honorably with a certified fire department. The determination of destitute shall be based on the inability of the firefighters, through no fault of their own, to provide basic provisions to themselves or their families. Such basic provisions include, but are not limited to, assistance with housing, vehicle or commuting expenses, food, clothing, utilities, medical care, and funeral expenses.
- (3) Repealed by Session Laws 1985, c. 666, s. 61.
- (4) To provide for the payment of any firefighter's assessment in the Firemen's Fraternal Insurance Fund of the State of North Carolina if the board of trustees finds as a fact that said firefighter is unable to pay the said assessment by reason of disability.
- (5) To provide for benefits of (i) supplemental retirement, including payment of firefighters' monthly assessments for the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund, (ii) workers compensation, including the payment of premiums to the Workers' Compensation Fund established under G.S. 58-87-10, and (iii) other insurance and pension protection for firefighters

otherwise qualifying for benefits from the Firefighters' Relief Fund as set forth in Article 85 of this Chapter.

- (6) To provide for educational benefits to firefighters and their dependents who otherwise qualify for benefits from the Firefighters' Relief Fund as set forth in Article 85 of this Chapter.
- (7) To provide for annual physicals that are required for firefighter positions by the Department of Labor or are recommended by the National Fire Protection Association.
- (8) To cover necessary management and investment costs that are reasonable and appropriate in relation to the assets, purpose, and financial security of the local Firefighters' Relief Fund.

(b) Notwithstanding any other provisions of law, no expenditures shall be made pursuant to subdivision (5), (6), or (7) of subsection (a) of this section unless the North Carolina State Firefighters' Association has certified that such expenditures will not render the Fund financially unsound for the purposes of providing the benefits set forth in subdivisions (1), (2), and (4) of subsection (a) of this section. If, for any reason, funds made available for subdivision (5), (6), or (7) shall be insufficient to pay in full any benefits, the benefits pursuant to subdivisions (5) and (6) shall be reduced pro rata for as long as the amount of insufficient funds exists, after first eliminating the benefits pursuant to subdivision (7). No claim shall accrue with respect to any amount by which a benefit under subdivisions (5) and (6) shall have been reduced.

(c) As used in subsection (b) of this section, the term "financially unsound" means that a local fund could not sustain a requested expenditure or could not make similar payments for five years without the local fund's balance falling below the greater of the following:

- (1) Five hundred dollars (\$500.00) multiplied by the number of eligible firefighters in the local department.
- (2) Twenty thousand dollars (\$20,000).

(d) A local board of trustees shall not be restricted to making disbursements solely from the interest earned on the local board's relief fund. (1907, c. 831, s. 6; 1919, c. 180; C.S., s. 6069; Ex. Sess. 1921, c. 55; 1923, c. 22; 1925, c. 41; 1945, c. 74, s. 2; 1985, c. 666, s. 61; 1987, c. 174, ss. 2, 3; 1997-456, s. 27; 2007-246, s. 4; 2008-187, s. 13; 2014-64, s. 1(a); 2016-51, ss. 5, 6; 2017-99, s. 1.)

#### **§ 58-84-40. Trustees to keep account and file certified reports.**

(a) Each local board of trustees shall keep a correct account of all moneys received and disbursed by them. On a form prescribed by the North Carolina State Firefighters' Association, each local board shall certify by October 31 of each year the following to the Association: the balance of the local fund, proof of sufficient bonding, a full and detailed accounting of the previous year's expenditures, and a full accounting of membership qualifications. Such certification shall be made concurrently with the local unit's statement of Fire Readiness. The accounting of the previous year's expenditures shall include the amounts spent on each of the purposes listed in G.S. 58-84-35(a), including the number of firefighters that received benefits for each of the purposes.

(b) In turn, the North Carolina State Firefighters' Association shall certify to the Department of Insurance by January 1 of each year on a form prescribed by the Department, the following:

- (1) The local units that have complied with the requirements of subsection (a) of this section.
- (2) A listing of the members of each of the local units.
- (3) The fund balances for each of the local units' relief funds.
- (4) Any departments that have exceeded the maximum balance provided under G.S. 58-84-33(a).
- (5) Details on the disbursements from local relief funds, including how much was disbursed for each allowable purpose and how many members received disbursements for those purposes, on both a unit-by-unit basis and total basis.
- (6) Information on any improper disbursements.
- (7) A listing of current members of the local board of trustees appointed pursuant to G.S. 58-84-30, including the chairman and treasurer of the board.

(c) In the event that any board of trustees in any of the towns and cities benefited by this Article shall neglect or fail to perform their duties, or shall willfully misappropriate the funds entrusted in their care by obligating or disbursing such funds for any purpose other than those set forth in G.S. 58-84-35, then the Insurance Commissioner shall withhold any and all further payments to such board of trustees, or their successors, until the matter has been fully investigated by an official of the North Carolina State Firefighters' Association, and adjusted to the satisfaction of the Insurance Commissioner.

(d) In the event that any local relief fund provided for in this Article becomes impaired, then the Statewide Firefighters' Relief Fund may in the discretion of its board of trustees assist the local unit administering the fund in providing for relief to injured firefighters and their dependents or survivors; provided, however, that any funds so provided to such impaired units shall be repaid in full at the statutory rate of interest from future local unit receipts if the impairment resulted from violations of this Article. (1907, c. 831, s. 7; C.S., s. 6070; 1925, c. 41; 1985, c. 666, s. 63; 2007-246, s. 5; 2014-64, s. 1(a); 2016-51, s. 6; 2017-99, s. 2(a).)

**§ 58-84-41. Commissioner of Insurance to maintain database of reports; fire department identification numbers.**

(a) Working with the North Carolina State Firefighters' Association, the Commissioner of Insurance shall develop and maintain a database of the information reported under G.S. 58-84-40(b) and the certifications filed under G.S. 58-84-46.

(b) The Commissioner of Insurance shall issue to each fire department within the State a unique fire department identification number (FDID) that shall be used by the Commissioner and the North Carolina State Firefighters' Association to coordinate database records and reports. (2014-64, s. 1(a); 2016-51, s. 6; 2017-99, s. 2(b).)

**§ 58-84-45: Repealed by Session Laws 2000-67, s. 26.21(a).**

**§ 58-84-46. Certification to Commissioner.**

On or before October 31 of each year, the fire chief of each city or county that has a local board of trustees under G.S. 58-84-30 shall file a certificate of eligibility with the North Carolina State Firefighters' Association on a form prescribed by the Association. If the certificate is not filed with the Association on or before January 31 in the ensuing year:

- (1) The Local Firefighters' Relief Fund for that fire department shall forfeit the payment next due to be paid to the Fund's board of trustees, if the fire chief fails to file the certificate required by this section.
- (2) The Association shall inform the Commissioner of the local Firefighters' Relief Funds that have not filed the certificate required by this section, and the Commissioner shall pay over that amount otherwise due to those local Funds to the treasurer of the North Carolina State Firefighters' Association.
- (3) That amount shall constitute a part of the Statewide Firefighters' Relief Fund. (2000-67, s. 26.21(b); 2001-421, s. 3; 2007-246, s. 6; 2014-64, s. 1(a); 2016-51, s. 6; 2017-99, s. 3.)

**§ 58-84-50. Fire departments to be members of North Carolina State Firefighters' Association.**

For the purpose of supervision and as a guaranty that provisions of this Article shall be honestly administered in a businesslike manner, it is provided that every department enjoying the benefits of this law shall be a member of the North Carolina State Firefighters' Association and comply with its constitution and bylaws. If the fire department of any city, town or village shall fail to comply with the constitution and bylaws of said Association, said city, town or village shall forfeit its right to the next annual payment due from the funds mentioned in this Article, and the Commissioner of Insurance shall pay over said amount to the treasurer of the North Carolina State Firefighters' Association and same shall constitute a part of the Statewide Firefighters' Relief Fund. (1907, c. 831, s. 9; 1919, c. 180; C.S., s. 6072; 1925, c. 41; c. 309, s. 2; 1965, c. 624; 2007-246, s. 7; 2014-64, s. 1(a); 2016-51, s. 6.)

**§ 58-84-52. Benefits available to individual firefighters whose departments are not members of the North Carolina State Firefighters' Association.**

(a) Individual firefighters whose departments are not members of the North Carolina State Firefighters' Association shall be covered under the line of duty coverage offered by the Association.

(b) Benefits under this section shall be paid from the funds that are forfeited from local departments to the Statewide Firefighters' Relief Fund. (2014-64, s. 1(a); 2016-51, s. 6.)

**§ 58-84-55. No discrimination on account of race.**

The local boards of trustees of the local Firefighters' Relief Funds shall make no discrimination based upon race in the payment of benefits. (1907, c. 831, s. 10; C.S., s. 6073; 1985, c. 666, s. 62; 2007-246, s. 8; 2014-64, s. 1(a).)

**§ 58-84-60. Immunity.**

A person serving on a local board of trustees of a local Firefighters' Relief Fund shall be immune individually from civil liability for monetary damages, except to the extent covered by insurance, for any act or failure to act arising out of this service, except where the person:

- (1) Was not acting within the scope of that person's official duties;
- (2) Was not acting in good faith;

- (3) Committed gross negligence or willful or wanton misconduct that resulted in the damages or injury;
- (4) Derived an improper personal financial benefit, either directly or indirectly, from the transaction; or
- (5) Incurred the liability from the operation of a motor vehicle. (2007-54, s. 1; 2007-246, s. 8.1; 2014-64, s. 1(a).)

**§ 58-84-65. Repeal of certain local laws inconsistent with this Article.**

The following provisions contained within any local act enacted or amended prior to January 1, 2014, are hereby repealed:

- (1) Any redirection, at the time of receipt, of funds directed to a fire district under G.S. 58-84-25(c) to a fund other than a local relief fund.
- (2) Any restriction that would be inconsistent with G.S. 58-84-35(d).
- (3) Any transfer of interest earned on a local relief fund from the local relief fund to another fund.
- (4) Any transfer of funds from a local relief fund to a supplemental retirement fund based on the local relief fund exceeding a certain amount.
- (5) Any allowable expenditures that are not within the scope of the list provided in G.S. 58-84-35(a).
- (6) Any variation from the certification requirement under G.S. 58-84-35(b). (2014-64, s. 1(a).)







**Agenda Item Summary Sheet**

**Date: 11-20-2020**

**Item #: 6B**

**Item Title:** Historic Landmarks Commission Appointments

**Item Summary:** The two-year terms for Historic Landmarks Commission (HLC) members Lorelei Costa, Tony DiBernardo, and Richard Perkins will expire on December 11, 2020. HLC member Lorelei Costa has notified Town Staff that she will soon no longer reside in Southern Shores and therefore will no longer be eligible to serve on the HLC. HLC members Tony DiBernardo and Richard Perkins have both indicated that they would like to continue serving on the HLC. There are currently no applications on file to fill the vacancy created by Lorelei Costa's departure.

**Staff Recommendation:** Reappointment of Tony DiBernardo and Richard Perkins as members of the HLC.

**Requested Action:** Motion to appoint Tony DiBernardo and Richard Perkins as member of the HLC with terms that are valid until December 1, 2022.

**Attachments:** HLC Terms Spreadsheet

Submitted by: Wes Haskett







## **Agenda Item Summary Sheet**

**Date:** December 1, 2020

**Item #:** 6 - C

**Item Title:** Resolution 2020-12-01-CSDM Award Funding

**Item Summary:** In October, the Town received \$1,408,247.19 in grant funding from the N.C. Department of Environmental Quality's Division of Water Resources (DWR). The award from the Coastal Storm Damage Mitigation Fund will help fund the Town's beach nourishment project. As part of the grant award process, there are some additional steps the Town needs to take to receive the funding. In order for the State to move forward with executing the contract and disperse funding, the Town will need to submit a resolution from the Council regarding the funding, a copy of the Town's Conflict of Interest Policy, an Appropriation Request form and a letter requesting the funds.

The Town's present Conflict of Interest Policy is predicated upon Federal funding. The policy will need to be amended to capture State law.

**Staff Recommendation:** Approval of attached documents

**Requested Action:** First, a motion to approve the attached amended Conflict of Interest Policy. Then, a motion to approve the resolution titled Water Resources Grant, and the attached Appropriations Request with accompanying letter requesting funding.

**Attachments:** Resolution 2020-12-01-CSDM Award Funding  
Appropriation Request Form  
Letter Requesting Funds  
Amended Conflict of Interest Policy



# Town of Southern Shores

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Phone 252-261-2394 / Fax 252-255-0876

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

## COASTAL STORM DAMAGE MITIGATION FUND-AWARD FUNDING Resolution 2020-12-01

WHEREAS, the Town of Southern Shores Council desires to sponsor, the Town of Southern Shores 2022 Beach Nourishment Project.

NOW, THEREFORE, BE IT RESOLVED THAT:

- 1) The Council requests the State of North Carolina to provide financial assistance to the Town of Southern Shores in the amount of \$1,408,247.19 of project construction cost, whichever is the lesser amount;
- 2) The Council assumes full obligation for payment of the balance of project costs;
- 3) The Council will obtain all necessary State and Federal permits;
- 4) The Council will comply with all applicable laws governing the award of contracts and the expenditure of public funds by local governments.
- 5) The Council will supervise construction of the project to assure compliance with permit conditions and to assure safe and proper construction according to approved plans and specifications;
- 6) The Council will obtain appropriate easements, rights-of-way or suitable dredge material disposal areas that may be necessary for the construction and operation of the project without cost or obligation to the State.;
- 7) The Council will ensure that the project is open for use by the public on an equal basis with limited restrictions (if on public property);
- 8) The Council will hold the State harmless from any damages that may result from the construction, operation and maintenance of the project;
- 9) The Council accepts responsibility for the operation and maintenance of the completed project.

Adopted by the Town of Southern Shores Council this 1<sup>st</sup> day of December 2020.

\_\_\_\_\_  
Sheila Kane, Town Clerk

\_\_\_\_\_  
Tom Bennett, Mayor

REQUEST FOR PAYMENT OF APPROPRIATION(S) FROM NORTH CAROLINA GENERAL FUND

(SEE LETTER ENCLOSED)

2018-2019 Allocation: \$

Purpose:

Part A. TO BE COMPLETED BY ALL RECIPIENTS

1. Contact's Name: \_\_\_\_\_ Telephone: \_\_\_\_\_
  2. Contact's Position in Organization: \_\_\_\_\_
  3. Federal Identification Number \_\_\_\_\_
  4. Kind of Organization: Corporation \_\_\_\_\_ Trust \_\_\_\_\_ Partnership \_\_\_\_\_ Government \_\_\_\_\_  
Unincorporated Association \_\_\_\_\_ Other \_\_\_\_\_
  5. Match Required (Circle One): Yes/No On a \_\_\_\_\_ to \_\_\_\_\_ basis.  
If matching is required, is cash match in hand? Yes \_\_\_\_\_ No \_\_\_\_\_
- If the required match is not in hand, by what date and from what source does the organization expect to have the cash match?
6. Fiscal Year of Non-State Entity (e.g. year ending June 30, December 31, other) \_\_\_\_\_

=====  
Part B. TO BE COMPLETED BY ALL NON-GOVERNMENTAL RECIPIENTS

1. Please enclose the following:
  - a. Articles of Incorporation and by-laws, trust indenture, partnership agreement, etc.
  - b. List of Board of Directors/Trustees.
  - c. Policy addressing conflicts of interest.
  - d. Sworn Statement of no overdue tax debts.

=====  
Part C. TO BE COMPLETED BY ALL RECIPIENTS. FORM MUST BE NOTARIZED

\_\_\_\_\_  
Signature of individual making request

\_\_\_\_\_  
Notary Public (official seal)

\_\_\_\_\_  
Date Notarized



## Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

[info@southernshores-nc.gov](mailto:info@southernshores-nc.gov)

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

November 23, 2020

Kevin Hart  
Division of Water Resources  
North Carolina Department of Environmental Quality  
1617 Mail Service Center  
Raleigh, NC 27699

Dear Mr. Hart:

The Town of Southern Shores was pleased to learn that \$1,408,247.19 in financial assistance for the Town of Southern Shores Beach Management Project has been tentatively approved by the State of North Carolina. These funds will be used for costs associated with a beach nourishment project to mitigate coastal storm damage to our beach. Our Town Council adopted Resolution 2020-12-01-CSDM Award Funding on December 1, 2020 and we respectfully request these funds. Enclosed you will find a copy of the Resolution, our Conflict Policy, and appropriation request form.

Please contact our Town Manager, Cliff Ogburn, at (252) 261-2394 or [cogburn@southernshores-nc.gov](mailto:cogburn@southernshores-nc.gov) should you have any questions or require additional information. Thank you considering our request.

Sincerely,

Thomas G. Bennett  
Mayor  
Town of Southern Shores



## TOWN OF SOUTHERN SHORES PURCHASING AND BID REQUIREMENTS POLICY

### **Conflict of Interest Defined:**

A conflict of interest is defined as an actual or perceived interest by an Employee or Council Member in an action that results in, or has the appearance of resulting in, personal, organizational, or professional gain. A conflict of interest occurs when an Employee or Council Member has a direct or fiduciary interest in another relationship with the Town of Southern Shores. The definition of conflict of interest includes any bias or the appearance of bias in a decision-making process that would reflect a dual role played by an Employee or Council Member of the Town of Southern Shores. An example, for instance, might involve a person who is an Employee and a Council Member, or a person who is an employee and who hires family members as consultants.

### **Employee Responsibilities:**

It is in the interest of the Town, individual staff, and Council Members to strengthen trust and confidence in each other, to expedite resolution of problems, to mitigate the effect and to minimize organizational and individual stress that can be caused by a conflict of interest.

Employees are to avoid any conflict of interest, even the appearance of a conflict of interest. This organization serves the community as a whole rather than only serving a special interest group. The appearance of a conflict of interest can cause embarrassment to the organization and jeopardize the credibility of the organization. Any conflict of interest, potential conflict of interest or the appearance of a conflict of interest is to be reported to your supervisor immediately. Employees are to maintain independence and objectivity with clients, the community, and organization. Employees are called to maintain a sense of fairness, civility, ethics, and personal integrity even though law, regulation, or custom does not require them.

### **Acceptance of Gifts:**

Employees, members of employee's immediate family, and members of the Council are prohibited from accepting gifts, money or gratuities from the following:

- a. Persons receiving benefits or services from the organization;
- b. Any person or organization performing or seeking to perform services under contract with the organization;



c. Persons who are otherwise in a position to benefit from the actions of any employee of the Town.

Employees may, with the prior written approval of their supervisor, receive honoraria for lectures and other such activities while on personal days, compensatory time, annual leave, or leave without pay. If the employee is acting in any official capacity, honoraria received by an employee in connection with activities relating to employment with the Town are to be paid to the Town.

**Conflict of Interest As applied to Federal Law**

In accordance with Federal Law 2C.F.R. 200.318, officers, employees, agents of the Town, as well as the Town's subrecipients, spouses, immediate family members, partners, and current or soon-to-be employers are prohibited from receiving a real or apparent financial or other interest or personal tangible benefit from the contract. Conflict of interest violations include loss of federal funds, disciplinary action, and/or other remedies for noncompliance listed at Federal Law C.F.R. 200.338.

Updated 1/28/08  
Revised 7/6/10  
Revised 1/22/13  
Revised 10/1/13  
Revised 4/1/14  
Revised 1/9/18  
Revised 6/5/18





**Town of Southern Shores**  
5375 N. Virginia Dare Trail, Southern Shores, NC 27949  
Phone 252-261-2394 / Fax 252-255-0876  
www.southernshores-nc.gov

Resolution 2020-12-02

**COUNCIL MEETING SCHEDULE 2021**  
[NCGS §160A-71 and §143-318.12; Section 6. Rules of Procedure of Town Council]

**WHEREAS**, the Town Council of Southern Shores hereby resolves to notice and implement the following meeting schedule for calendar year 2021, and;

**WHEREAS**, all Regular and Special Meetings of the Council are scheduled to be held in the Kern P. Pitts Center of the Town Hall complex at the address above.

**BE IT RESOLVED** that the monthly Regular Meetings of the Town of Southern Shores Town Council will take place on the dates and times as follows:

- Tuesday, January 5, 2021, 5:30 p.m.
- Tuesday, February 2, 2021, 5:30 p.m.
- Tuesday, March 2, 2021 5:30 p.m.
- Tuesday, April 6, 2021, 5:30 p.m.
- Tuesday, May 4, 2021, 5:30 p.m.
- Tuesday, June 1, 2021, 5:30 p.m.
- Tuesday, July 6, 2021, 5:30 p.m.
- Tuesday, August 3, 2021, 5:30 p.m.
- Tuesday, September 7, 2021, 5:30 p.m.
- Tuesday, October 5, 2021, 5:30 p.m.
- Wednesday, November 3, 2021, 5:30 p.m.
- Tuesday, December 7, 2021, 5:30 p.m.

**BE IT RESOLVED** that Workshop Meetings of the Town of Southern Shores Town Council will take place as needed on the third Tuesday of each month at 9:00 a.m.

**BE IT FURTHER RESOLVED** that pursuant to North Carolina General Statute §143-318.10, each “official meeting” of the Council shall be open to the public regardless of whether such meeting is a “regular”, “special”, or “emergency” meeting, and regardless of whether any meeting is described informally as a “retreat”, “forum”, “session” or “workshop”; and pursuant to North Carolina General Statute §143-318.11, the Council may hold a “closed session” and exclude the public only when such closed session is required by law as enumerated in the referenced statute.

**BE IT FURTHER RESOLVED** that to process routine actions in an expeditious manner, a consent agenda will be utilized and administered as part of Council’s regular meeting agenda.

**BE IT FURTHER RESOLVED**, allowance of public comment will be placed on the agenda for each Regular Meeting of the Council, pursuant to NCGS §160A-81.1 and consistent with Section 15 of the Rules of Procedure of Town Council, for any citizen to address the Council on any matter not noticed on

the agenda for a public hearing; as the meeting presiding officer, the Mayor is authorized to establish Rules for any public comment period.

Adopted this 1st day of December 2020

S E A L

\_\_\_\_\_  
Thomas G. Bennett, Mayor

ATTEST:

\_\_\_\_\_  
Sheila Kane, Town Clerk





License # 34430

P.O. Box 333, Kitty Hawk, NC 27949

**252-261-3336**

Fax: 252-491-2176

October 30, 2020

**ATTACHMENT A**

TO: Town of Southern Shores  
C/O: Joseph Anlauf  
RE: Wood Duck Court Asphalt Overlay

RPC Contracting hereby submits a proposal for the following work on the above project for the town of Southern Shores, NC. The pricing is based on quantities provided to RPC from Joseph Anlauf with Anlauf Engineering, PLLS (Attached Exhibit).

**Wood Duck Court Asphalt Overlay**

Excavate inside of cul-de-sac radius to install 8" of ABC stone  
Fine grade ABC stone  
Sweep and tack existing asphalt  
Provide and install 2" of SF9.5A asphalt or 2018 NCDOT S9.5B

**TOTAL:**

**\$18,430.00**

*Note: Please see attached exhibit for work area and quantities.*

**EXCLUSIONS:** These prices do not include any fees, subcontract bond cost, permits, testing, surveying, removal or disposal of existing utilities, demolition, demolition removal, asphalt or concrete removal, chain link or ornamental fencing, pavement markings, tree protection fence, undercutting, back fill for undercutting, landscaping, or sod, site related electrical work, power poles and lines, conduits, light poles or bases; irrigation systems, controls, night hours of work, adjustment or replacement of existing utilities, any work involved with contaminated soils, any demolition work, temporary seeding, or any work beyond scope listed above.

*Note: RPC is not required to meet any specific compaction percentages because of unknown sub grade conditions.*

*Note: RPC is not responsible for drainage because of unknown drainage patterns on site.*

*Note: RPC is not responsible for existing landscaping or residential improvements affected by this scope of work.*

All prices are valid for acceptance within 30 days from the date of this proposal. Thank you for the opportunity to perform this work and please feel free to give me a call if you have any questions regarding this information.

Sincerely,

Mike Gravatt

RPC CONTRACTING

252-489-6547 CELL

252-261-3336 WORK

[mikeg@rpccontracting.com](mailto:mikeg@rpccontracting.com)



License # 34430

P.O. Box 333, Kitty Hawk, NC 27949

**252-261-3336**

Fax: 252-491-2176

**ACCEPTANCE OF PROPOSAL:**

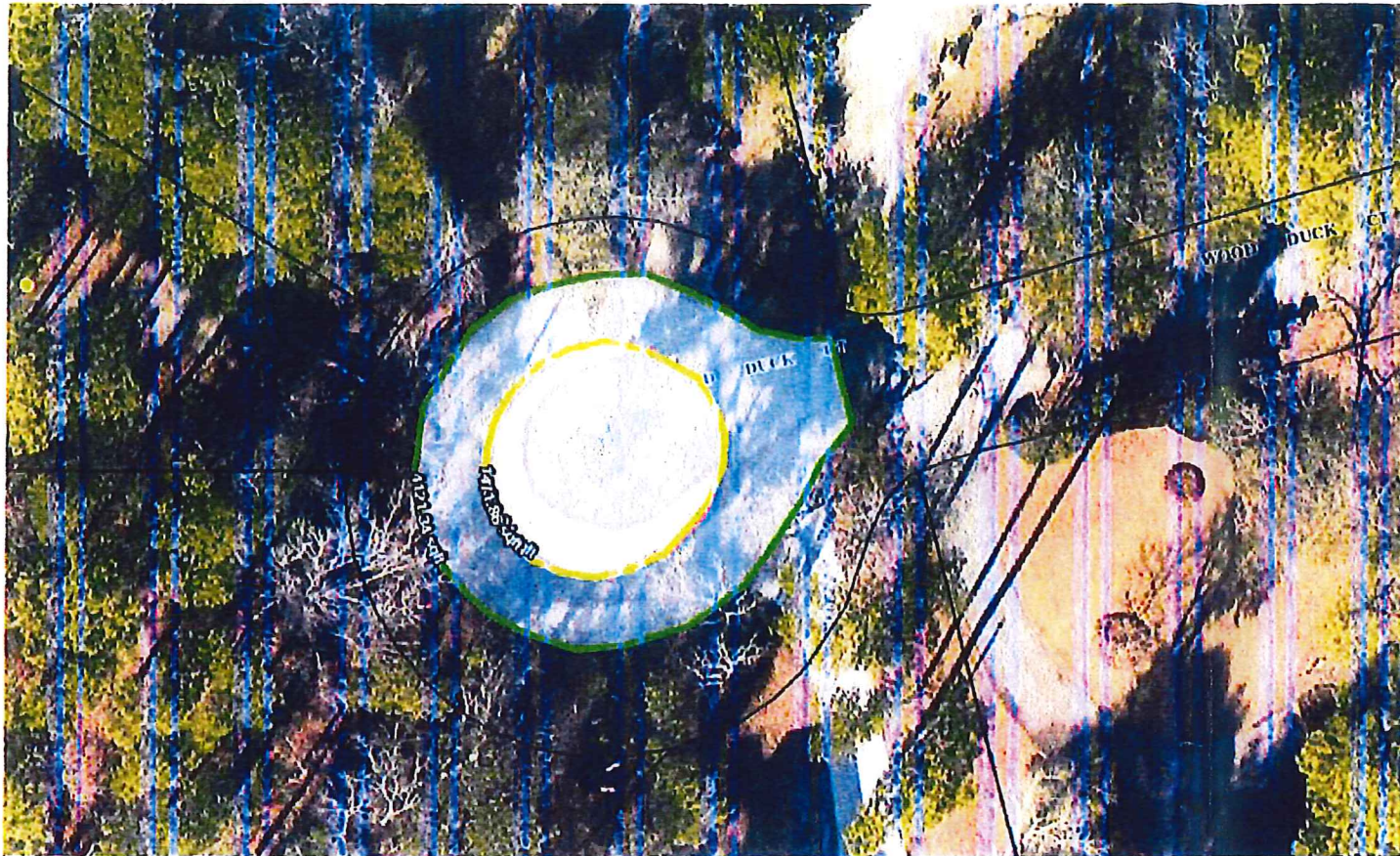
Parties, hereto, agree that payment shall be made based upon completion of work outlined under Scope of Services, and shall not be conditioned upon an event, such as securing a permit, or other event. The above price and scope of work is acceptable and hereby accepted. Signing party hereby agrees to pay RPC Contracting for their services upon receipt of bill when work is completed. Any questions regarding billed amounts must be addressed in writing within 5 days of bill date or invoice will be deemed approved. Terms are payment upon receipt of bill. A finance charges of 1.5% per month plus all costs of collection, including attorney's fee will be added to all balances past due beyond 20 days.

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name & Title: \_\_\_\_\_

WOOD DUCK CT. - SOUTHERN SHORES, NC

GREEN POLYGON = 4121.34 SQ FT. = 458 yd<sup>2</sup>  
YELLOW POLYGON = 1471.86 SQ FT. = 164 yd<sup>2</sup>  
PINK POLYGON = 558.24 SQ FT. = 62 yd<sup>2</sup>



$$\text{ABC (8")} = 0.44 \text{ tons/yd}^2 \times 62 \text{ yd}^2 = \boxed{28 \text{ tons ABC}}$$

$$\text{ASPHALT (2" OVERLY)} = 0.116 \text{ tons/yd}^2$$

$$458 \text{ yd}^2 - 164 \text{ yd}^2 + 62 \text{ yd}^2 = \underline{356 \text{ yd}^2}$$

$$356 \text{ yd}^2 \times 0.116 \text{ tons/yd}^2 = \boxed{42 \text{ tons SF 9.5A ASPHALT}}$$