

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
December 2, 2009**

The Town Council for the Town of Duck convened at the Duck Municipal Offices at 7:00 p.m. on Wednesday, December 2, 2009.

COUNCIL MEMBERS PRESENT: Mayor Neil Morrison; Mayor Pro Tempore Monica Thibodeau; Councilor Nancy Caviness; Councilor Bart Smith; and Councilor Dave Wessel.

Council Members ABSENT: None.

OTHERS PRESENT: Councilor-elect Don Kingston; Councilor-elect Chuck Burdick; Town Manager Christopher J. Layton; Director of Community Development Andy Garman; Police Chief Phillip Ferguson; Fire Chief Donna Black; Town Attorney Robert Hobbs; and Town Clerk Lori Kopec.

OTHERS ABSENT: None.

Mayor Morrison called the meeting to order at 7:00 p.m. Mayor Morrison asked Councilor Caviness to lead the Pledge of Allegiance. Mayor Morrison led the moment of silence.

Mayor Morrison noted that at Council's last meeting, in Closed Session the Council had discussed Town Manager Layton's contract, but had failed to make a motion to approve it.

Mayor Morrison moved to approve Town Manager Layton's contract with the changes highlighted as well as the four percent (4%) salary increase and \$3,000 bonus.

Motion carried 5-0.

SWEARING IN OF NEW COUNCIL MEMBERS

Mayor Morrison stated that the new Council members would be sworn in followed by the election of the Mayor and Mayor Pro Tempore. He noted that he was not a candidate for either position. He added that he had served as a Council member since 2002 and as Mayor since 2005. He thanked Town Manager Layton, Town staff and his fellow Council members for their support and added that he was proud of the Town's accomplishments. He stated that he would continue to serve as a Council member for the next two (2) years and turned the meeting over to Town Manager Layton.

Town Manager Christopher Layton was recognized to speak. Town Manager Layton stated that the new Council members would need to be sworn in and turned the meeting over to Town Clerk Kopec.

Town Clerk Lori Kopec was recognized to speak. She swore in each Council member one at a time.

ELECTION OF TOWN COUNCIL OFFICERS

Election of Mayor

Town Clerk Kopec opened the nominations for Mayor of Duck. Councilor Kingston moved to nominate Dave Wessel as Mayor. Town Clerk Kopec asked for other nominations. There being no other nominations, Town Clerk Kopec closed the nominations. Town Clerk Kopec moved to elect Dave Wessel as Mayor.

Motion carried 5-0.

Town Clerk Kopec turned the meeting over to Mayor Wessel.

Election of Mayor Pro Tempore

Mayor Wessel opened the nominations for Mayor Pro Tempore of Duck. Councilor Burdick moved to nominate Don Kingston as Mayor Pro Tempore. Councilor Morrison moved to nominate Monica Thibodeau as Mayor Pro Tempore. Mayor Wessel asked for other nominations. There being none, he moved to elect Don Kingston as Mayor Pro Tempore.

Motion carried 3-2 with Councilors Morrison and Thibodeau dissenting.

Mayor Wessel moved to elect Monica Thibodeau as Mayor Pro Tempore.

Motion failed 2-3 with Mayor Wessel, Councilors Kingston and Burdick dissenting.

Mayor Wessel noted that Councilor Kingston was elected as Mayor Pro Tempore.

Mayor Wessel thanked Council for bestowing the honor of Mayor upon him and thanked the voters for entrusting him and Council with their support in the past election. He stated that Council will do their best to serve the Town well.

SPECIAL PRESENTATION

Mayor Wessel stated he would like to move up the introduction of Lee Nettles up on the agenda. It was *consensus* of Council to do so.

Introduction of Mr. Lee Nettles, Managing Director, Outer Banks Visitors Bureau

Lee Nettles of the Outer Banks Visitors Bureau was recognized to speak. Mr. Nettles gave a short history on his work background to Council and the audience.

Discussion/Consideration of Resolution #09-10, a Resolution of the Town Council of the Town of Duck, North Carolina, Honoring and Thanking Nancy Caviness for her Service to the Town of Duck

Mayor Wessel invited Council to share any personal comments regarding Nancy Caviness.

Councilor Morrison stated that it had been a pleasure working with Nancy Caviness. He added that she was an outstanding Council member. He thought she was one of the top citizens of the Town and Council appreciated everything she had done.

Councilor Thibodeau echoed Councilor Morrison's comments. She stated that Nancy Caviness was the one that got her involved in wanting to be on Council. She stated that she appreciated all the time they spent working together and hoped to continue doing so.

Mayor Pro Tempore Kingston thanked Nancy Caviness for her service to the Town. He stated that she had done an outstanding job.

Councilor Burdick congratulated Nancy Caviness for her service to the Town. He stated that Council appreciated everything she had accomplished and hoped she would continue to participate.

Mayor Wessel stated that he had always admired Nancy Caviness' dedication to the Town and her focus on the long term strategic vision. He invited Councilor Morrison to read the resolution to Council and the audience.

Councilor Morrison read Resolution 09-10 to Council and the audience. He then moved to adopt Resolution #09-10, a Resolution of the Town Council of the Town of Duck, North Carolina, Honoring and Thanking Nancy Caviness for her Service to the Town of Duck as presented.

Motion adopted 5-0.

Mayor Wessel presented Ms. Caviness with a plaque in commemoration of her service to the Town.

Discussion/Consideration of Resolution #09-11, a Resolution of the Town Council of the Town of Duck, North Carolina, Honoring and Thanking Bart Smith for his Service to the Town of Duck

Councilor Thibodeau read Resolution 09-11 to Council and the audience. She then moved to adopt Resolution #09-11, a Resolution of the Town Council of the Town of Duck, North Carolina, Honoring and Thanking Bart Smith for his Service to the Town of Duck as presented.

Mayor Wessel invited Council to share any personal comments regarding Bart Smith.

Councilor Morrison stated that he had enjoyed working with Bart Smith and that he was an excellent Council member. He added that he was an asset to the Town and hoped he would one day return to Council.

Councilor Thibodeau stated that it had been great working with Bart Smith. She stated that she appreciated his perspective and being a long-time advocate for the Town. She thought the Town had a lot to be thankful for with regard to his service.

Mayor Pro Tempore Kingston stated that he had known Bart Smith for several years. He congratulated and thanked him for his years of service to the Town.

Councilor Burdick congratulated Bart Smith for his service to the Town.

Mayor Wessel thanked Bart Smith for his service to the Town. He stated that he found his thoughtful, analytic approach to issues were in-depth and sincere.

Motion adopted 5-0.

Mayor Wessel presented Mr. Smith with a plaque in commemoration of his service to the Town.

PUBLIC COMMENTS

Mayor Wessel opened the floor for public comments.

Allan Beres of 146 Dune Road was recognized to speak. Mr. Beres stated that there were so many people present at the meeting that were involved in the development of the Town and incorporation. He recognized Paul Keller, Gene Schwarz, Polly Wessel, Nancy Caviness, Denver Lindley, Jr. and Bart Smith as those that helped to lead the incorporation of the Town. He thanked everyone for serving on the Council. He wished the new Council the best and asked that they keep their focus on the vision of the Town and how they will get there in the next few years.

Gene Schwarz of 103 Quail Way was recognized to speak. Mr. Schwarz stated that he and Nancy Caviness were on the Incorporation Committee and that they had experienced real highs and low lows. He added that they counted houses and trash cans so they could pass it on to the first trash collector. He thought things were done right in the first few years. He stated that they had attended a conference and the speaker talked of an ideal incorporation. He added that Ms. Caviness realized the speaker was talking about the Town of Duck and how everything was done by the books and correctly. He stated that before Bart Smith ran for Council, he had encouraged him to run. He thought what the first Council did was to lay the groundwork and now the new Council had the ball. He stated that he expected the new Council to keep things moving and thanked them for their service.

Paul Keller of 125 Wiroans Court was recognized to speak. Mr. Keller thought as a community, Duck was blessed to have Bart Smith and Nancy Caviness to have worked so hard and to be the heart and soul of everything that was accomplished. He stated that the Town had a wonderful Land Use Plan that was better than any other community. He thought the Town was blessed to have people that wanted to put in hours and hours of time to the Town.

Nancy Caviness of 113 Scarborough Lane was recognized to speak. Ms. Caviness gave a short overview of the results from the 14th Annual Turkey Trot. She thanked members of the Town, Police Department, Fire Department and Surf Rescue for their help in making it a success.

There being no one else wishing to speak, Mayor Wessel closed the time for public comments.

Mayor Wessel recognized Police Chief Phillip Ferguson. Police Chief Ferguson stated that Officers Becky Terry and Tracy Mann had recently completed the General Instructor's training at the North Carolina Academy of Justice. He then presented them with certificates and ribbons for their accomplishments.

Police Chief Ferguson introduced Officer Ben Lobdell to Council and the audience as the newest Police Officer in Duck. Mayor Wessel and Council welcomed Officer Lobdell to the Town.

APPROVAL OF MINUTES

Mayor Wessel opened the approval of minutes from the November 4, 2009 regular meeting. Mayor Wessel directed Council to review the minutes from the November 4, 2009 regular meeting for changes.

Councilor Thibodeau moved to approve the November 4, 2009 minutes as presented.

Motion carried 5-0.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

Presentation on Renewable Energy and Energy Efficiency Policy by Mr. Paul Quinlan, Director of Economic Research and Development, North Carolina Sustainable Energy Association – Joint Presentation with the Town of Duck Planning Board

Director Garman stated that the process of discussing renewable energy and energy efficiency was a response to questions from people that wanted to install wind turbines on private property. He stated that other towns and Currituck County have adopted ordinances relative to wind turbines. He stated that the Planning Board had discussed the issue and asked the Council to refer the item back to them for a more formal discussion. He stated that on August 6, 2009 Council referred the issue to the Planning Board. He stated that both boards agreed that something like a wind turbine ordinance would need quite a bit of public input so they agreed to develop a strategy to gain that input by mailing out a survey to all property owners. He stated that the survey results were reviewed by the Planning Board and Council and there had been discussions on LEED certification for the Town Hall building. He stated that part of the strategy for public input was to have a joint discussion with Council and the Planning Board regarding renewable energy and wind turbines, which was what he hoped to accomplish at this meeting. He stated that Paul Quinlan of the North Carolina Sustainable Energy Association would give a short presentation on renewable energy.

Paul Quinlan of the North Carolina Sustainable Energy Association was recognized to speak. Mr. Quinlan went on to give a short presentation on site specific renewable energy planning, technologies – both existing and future – solar, wind, geothermal, what could be expected on a small-scale for residential or commercial properties, LEED certifications, incentives, programs, grants as well as standards for public buildings and green/energy efficient construction.

Willo Kelly of the Outer Banks Homebuilders Association was recognized to speak. Ms. Kelly asked if Mr. Quinlan was familiar with the Outer Banks Ocean Energy Corporation. Paul Quinlan stated that the Outer Banks Ocean Energy Corporation was located in Pinehurst, North Carolina and was interested in energy development federal-wise, which would be further out in the ocean.

John Wander of 119 Sandcastle Court was recognized to speak. Mr. Wander asked if there was any improvement in photo-voltaic versus wind energy. Paul Quinlan stated that solar energy was coming down very quickly.

Connie Fricker of 105 Carrol Drive was recognized to speak. Ms. Fricker asked if there was any consideration of migration of birds with regard to the pilot projects. Paul Quinlan stated that the pilot projects were due to the state and environmental policy act. He stated that the way the project would be approached would be for them to look for good resources as well as transmission and then sizes of lots with environmental assessments.

Ron Forlano of 1378 Duck Road was recognized to speak. Mr. Forlano stated that the Planning Board had completed some preliminary work on studying the alternative energy program, holding approximately three to four (3-4) meetings and attended lectures. He stated that, depending on what lecture was attended, the issue of shadow flicker and noise was one of no issue at all to one

that was a great issue. He asked how it should be addressed from a Planning Board standpoint. Paul Quinlan stated that at the utility scale level, there were a lot of ordinances specific to the issues. He stated that the shadow flicker was a larger issue.

Mayor Wessel thanked Paul Quinlan for his presentation.

Discussion/Consideration of Resolution No. 09-12, a Resolution of the Town Council of the Town of Duck, North Carolina, Waiving Certain Fees Associated with Building Permits for the Repair of Damage Related to Tropical Storm Ida

Mayor Wessel noted that Resolution 09-12 was one to waive building permit fees for the repair of damaged community and private beach walkovers.

Councilor Thibodeau moved to adopted Resolution 09-12 as presented.

Councilor Burdick asked why the fee waiver was only through December 31, 2009. Town Manager Layton stated that staff was trying to limit the timeframe, but did not require the work to be completed by December 31, 2009.

Councilor Thibodeau asked if there was some sort of communication that was sent out to homeowners regarding the fee waiver. Town Manager Layton stated that Permit Coordinator Sandy Cady had been in contact with the affected property owners.

Motion carried 5-0.

Director Garman gave a short presentation on what staff had assessed as far as storm damage from Tropical Storm Ida to Council and the audience. Town Manager Layton gave a short overview of the storm debris removal process to Council and the audience.

NEW BUSINESS

Discussion/Consideration of Appointment to the Town of Duck Planning Board

Mayor Wessel stated that Mayor Pro Tempore Kingston was elected to serve on the Town Council and therefore it was necessary for the Council to appoint a Duck property owner to serve in Mayor Pro Tempore Kingston's unexpired term on the Planning Board. He stated that the Town received an application from Randy Gilbreath expressing an interest in serving. He noted that the term would expire on May 1, 2010.

Mayor Wessel opened the floor for nominations.

Councilor Thibodeau nominated Randy Gilbreath for the position. There being no other nominations, Mayor Wessel closed the nominations.

Motion carried 5-0.

Discussion/Consideration of the Appointment of Council Members to Serve on/as the Following: Government Access Channel Committee; Shoreline Management Committee; Planning Board – Council Liaison; Check Signatory – two Council Members

Mayor Wessel stated that appointments would need to be made for the Government Access Committee, the Shoreline Management Committee, the Council Liaison for the Planning Board and two (2) Council members would need to be designated as check signatories.

Mayor Wessel asked for volunteers or nominations for the Government Access Committee.

Mayor Pro Tempore Kingston asked what the position entailed. Bart Smith stated that it was a group of individuals from each municipality as well as a representative of the school board, along with employees from Dare County that handle the information for the access channels. He stated that the committee was very straight forward and noted that each municipality contributes funds for the operation of the channels. He stated that the committee is charged with making sure what happens on the channels goes along with the rules and regulations of the channels as set forth by Dare County and the participating municipalities.

Mayor Pro Tempore Kingston volunteered for the position.

Mayor Wessel asked for volunteers or nominations for the Shoreline Management Committee.

Councilor Morrison stated that he has served on the Committee for the past few years. He stated that there was a representative from each town and two (2) from Dare County. He stated that the Committee has excellent funds that are divided up annually to install sand fencing and do beach planting. He stated that he would be happy to continue serving on the Committee.

Mayor Wessel stated that the Council Liaison position for the Planning Board was one that he had served on. He stated that it entailed attending the Planning Board meeting as well as attending special seminars and workshops that were held on Planning Board related issues. He nominated Councilor Burdick for the position. Councilor Burdick stated that he would be happy to serve.

Councilor Thibodeau stated that she was not sure of the benefit of having a liaison for the Planning Board. She noted that other Planning Board liaisons have reported back to Council after the meeting with what had happened.

Denver Lindley, Jr. of 1470 Duck Road was recognized to speak. Mr. Lindley stated that he had served as the Council Liaison with the chief function being to get in touch with each Board member after the Council meeting to make sure they knew what had been discussed as well as answering any questions they may have had. Mayor Wessel stated that when he served as the liaison, he didn't see that as the biggest function since the minutes were reviewed. He stated that while all of Council could attend the Planning Board meetings, it was important to have a Council Liaison who would attend on a regular basis in case any questions arose.

Councilor Thibodeau noted that the Planning Board meetings had a fairly open format and asked if Mayor Wessel felt like he was on the Planning Board as far as participating in the meetings. Mayor Wessel stated that he felt welcome to make comments and offer suggestions.

Jon Britt of 1308 Duck Road was recognized to speak. Mr. Britt stated that having a liaison was nice so they could explain something that may have been misunderstood. He felt it was important to have a Council Liaison.

Joe Blakaitis of 115 Sandpiper Cove was recognized to speak. Mr. Blakaitis stated that he valued having a member of the Council at the Planning Board meetings as the liaison takes back information to Council after the meetings.

Councilor Morrison asked Ron Forlano and John Fricker if he agreed that a Council Liaison was needed on the Planning Board. Ron Forlano stated that he thought one was needed. He thought it was good to have someone there to listen to the debates. John Fricker agreed with Mr. Forlano's comments.

Councilor Burdick stated that he would like to serve as the Council Liaison.

Mayor Wessel clarified that the check signatory was traditionally the Mayor. Town Manager Layton stated that it was typically the Mayor and Mayor Pro Tempore. He stated that one of the keys to being a signatory was availability. Mayor Wessel thought that between Mayor Pro Tempore Kingston and himself, availability would not be an issue.

Mayor Wessel move to appoint Mayor Pro Tempore Kingston to the Government Access Channel Committee; Councilor Morrison to the Shoreline Management Committee; Councilor Burdick as the Council Liaison for the Planning Board; and Mayor Pro Tempore Kingston and himself as the check signatories.

Motion carried 5-0.

Discussion/Consideration of Nomination for the Coastal Resources Commission

Mayor Wessel stated that the Town of Duck was notified by Governor Beverly Perdue, requesting nominations to serve on the Coastal Resources Commission, with the nomination for an individual who was connected to or had experience with wildlife or sports fishing. He stated that Dare County had requested that the Town of Duck support the nomination of Ben "Jamin" Simmons, Jr. to fill the vacancy.

Councilor Morrison moved to support the nomination of Ben "Jamin" Simmons, Jr. to the Wildlife/Sports Fishing vacancy on the Coastal Resources Commission.

Motion carried 5-0.

Discussion of Council Retreat

Mayor Wessel stated that the Council Retreat was traditionally held in January or February of each year at the Sanderling Inn. He stated that the Retreat was used to update Council on projects, budget and other issues as well as establishing a set of work goals for the upcoming calendar and fiscal years. He added that Council typically sets the dates for the Retreat to coincide with the January mid month meeting, which would be January 20, 2010, however Town Manager Layton will be out of town on January 21 and 22, 2010, so if Council wished to maintain the January 20, 2010 date for the Retreat, it would be necessary to schedule the date to begin on January 19, 2010 or pick another date.

Mayor Pro Tempore Kingston, Councilor Thibodeau and Councilor Morrison stated they did not have a problem with the Retreat being held on January 19 and 20, 2010. Mayor Wessel stated he would like to have the Retreat held on January 18 and 19, 2010. Councilor Burdick stated that January 18, 2010 would be a problem for him. He asked if January 18th was Martin Luther King Day. Councilor Burdick stated that if it was a federal holiday, he would not have a problem having the Retreat on the 18th. He asked if it was a government holiday. Town Manager Layton stated that it was not for the Town of Duck. Councilor Burdick stated that if it wasn't a

government holiday, he would have a problem with the 18th. He asked if January 18, 2010 was a federal holiday. Town Manager Layton stated that it was, but was not one that the Town closed for. Councilor Burdick stated he wasn't sure if the post office would be closed that day. Councilor Morrison pointed out that the post office was usually closed for federal holidays. Councilor Burdick agreed and stated that if it was a federal holiday, he could attend the Retreat.

Mayor Wessel asked Council if January 18 and 19, 2010 could be used for the Retreat if January 18th was a federal holiday. Councilor Burdick stated he was fine with it. Mayor Wessel suggested January 19 and 20, 2010 if the 18th was not a federal holiday.

Fire Chief Donna Black confirmed that January 18, 2010 was a federal holiday. Councilor Burdick stated that he still needed to confirm that it was a federal holiday.

It was *consensus* of Council to hold the Retreat on January 18 and 19, 2010 at the Sanderling Inn.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Town Attorney Hobbs stated he had nothing to report.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Update on Departmental Activities

Town Manager Layton gave a brief overview of the past month's permit activities to Council and the audience.

Police Chief Phillip Ferguson was recognized to speak. Police Chief Ferguson gave a brief overview of the past month's activities to Council and the audience.

Fire Chief Donna Black was recognized to speak. Fire Chief Black gave a brief overview of the past month's activities to Council and the audience.

Update on Pedestrian/Bicycle Safety Audit

Town Manager Layton stated that as part of the budget process, funding was provided for the Town to conduct a safety audit of the Duck Trail. He stated that the Town had entered into a contract with VHB to conduct the audit on December 8 and 9, 2009. He stated that on December 8, 2009 at 2:00 p.m., there would be a community input session and encouraged the public to attend. He added that on December 9, 2009, staff and VHB would be walking the Trail and discussing any issues.

Update on NC 12/Tuckahoe/South Duck Stormwater Improvements

Town Manager Layton stated that there were some utility location issues since the last meeting, which has resulted in a slight delay. He stated that the work on the utility location has been completed and staff will be meeting with NCDOT and the contractors on Friday, December 4, 2009 to figure out where to go next. He stated that it was discovered that there was only one significant power line which may cause some delays. He stated that the other utility issues were minor and would not be an issue to resolve.

Update on Essentials of Municipal Government Class

Town Manager Layton stated that the General Assembly was requiring that Council have two (2) hours of ethics training during their term. He stated that the easiest way to achieve the training would be to attend the Essentials of Municipal Government class. He stated that the class would be held at the Hilton Garden Inn in Kitty Hawk on March 3-4, 2010 and Town Clerk Kopec would register each Council member for it.

Financial Statement for the Month of November 2009

Town Manager Layton reviewed the financial statements with Council and the audience.

MAYOR'S AGENDA

Mayor Wessel stated that he had a planned trip to New Zealand in January and would miss the January 6, 2010 meeting. He suggested reversing the Planning Board meeting with the Council meeting so that the Planning Board would meet on January 6, 2010 and the Council would meet on January 13, 2010. He stated that if that didn't work, he would just skip the meeting and Mayor Pro Tempore Kingston would run the meeting.

It was *consensus* of the Council to switch the meeting with the Planning Board so that the Planning Board will meet on January 6, 2010 and Council would meet on January 13, 2010.

Mayor Wessel thanked Councilor Burdick for spotting the procedural error in the November minutes and bringing it to the attention of Town Attorney Hobbs so it could be dealt with right away. He stated that he appreciated Councilor Burdick's attention to detail in reading the minutes.

COUNCIL MEMBERS' AGENDA

Councilor Thibodeau thanked the public for their support during the election and during her difficult personal time. She stated that she enjoying being the Mayor Pro Tempore for the past few years and looked forward to stepping up into more of a leadership role in the future if the opportunity presented itself.

Councilor Morrison stated he had nothing to report.

Mayor Pro Tempore Kingston thanked the public for their support in the election. He stated that he looked forward to serving the Town in the next two (2) years. He asked when Retreat agenda items would be finalized. Town Manager Layton stated that anything Council wished to have added to the agenda could be emailed to him and he would review them with Mayor Wessel.

Councilor Burdick thanked the voters for their support. He hoped in the next two (2) years he could accomplish what the voters had wanted and continue with the great progress that has been made by the previous Councils.

OTHER BUSINESS

Mayor Wessel stated that the next meeting would be the regular meeting on Wednesday, January 13, 2010 at 7:00 p.m.

ADJOURNMENT

Mayor Wessel moved to adjourn the meeting.

Motion carried 5-0.

The time was 9:18 p.m.

/s/ Lori A. Kopec, Town Clerk

Approved: January 13, 2010

/s/ Dave Wessel, Mayor