

**TOWN OF DUCK  
TOWN COUNCIL  
REGULAR MEETING  
February 3, 2010**

The Town Council for the Town of Duck convened at the Duck Municipal Offices at 7:00 p.m. on Wednesday, February 3, 2010.

**COUNCIL MEMBERS PRESENT:** Mayor Dave Wessel; Mayor Pro Tempore Don Kingston; Councilor Neil Morrison; Councilor Monica Thibodeau; and Councilor Chuck Burdick.

**COUNCIL MEMBERS ABSENT:** None.

**OTHERS PRESENT:** Town Manager Christopher Layton; Director of Community Development Andy Garman; Police Chief Phillip Ferguson; Fire Chief Donna Black; Building Inspector Cory Tate; Town Attorney Robert Hobbs; and Town Clerk Lori Kopec.

**OTHERS ABSENT:** None.

Mayor Wessel called the meeting to order at 7:00 p.m. Mayor Wessel asked Fire Chief Black to lead the Pledge of Allegiance. Mayor Wessel led the moment of silence.

**PUBLIC COMMENTS**

Mayor Wessel opened the floor for public comments. He asked that any comments regarding the public hearing be held off.

Nancy Birindelli of the League of Women Voters was recognized to speak. Ms. Birindelli handed out the 2010 Citizen Guides to Council. She thanked Council for their generous contribution to the League.

John Jenkins of 104 Dune Road was recognized to speak. Mr. Jenkins stated that he wanted the tree and vegetation ordinance to be a preventative type one with no cost for tree removal. He added that he would like Council to approve the columbarium ordinance. He stated that he voted for several of the Council members, hoping they would exercise fiscal restraint. He hoped that Council would work to reduce and control costs with regard to the budget.

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

**APPROVAL OF MINUTES**

Mayor Wessel opened the approval of minutes from the January 13, 2010 regular meeting. Mayor Wessel directed Council to review the minutes from the January 13, 2010 regular meeting for changes.

Councilor Thibodeau had a change to Page 3 of the minutes. Mayor Wessel had a change to Page 5 of the minutes.

Councilor Burdick moved to approve the January 13, 2010 minutes as amended.

Motion carried 5-0.

## **PUBLIC HEARINGS**

### **Public Hearing/Discussion/Consideration on Ordinance 10-01, an Ordinance to Impose a Temporary Moratorium on the Issuance of Building Permits for the Construction of Wind Turbines on Parcels of Land in the Town of Duck for which no Approvals for Building Permits have been Granted or Accepted by the Town under the Applicable Provisions of the Town Code**

Director Garman stated that the Council had considered a recommendation by the Planning Board that would impose a temporary moratorium on the construction of wind turbines within the Town for a period of ninety (90) days. He stated that the purpose of the moratorium was to provide the Planning Board and Council with adequate time to review and consider an ordinance to regulate wind turbines as an appropriate use in Town. He added that the Council and Planning Board had a discussion at the Council Retreat where Council provided the Planning Board with direction to begin drafting an ordinance. He stated that the Planning Board would consider options for the ordinance at their February 10, 2010 meeting.

Mayor Wessel opened the public hearing.

Bart Smith of 106 Sailfish Court was recognized to speak. Mr. Smith felt the moratorium was a good move. He stated that he liked the word “temporary” for the moratorium. He stated that there were a lot of people excited about the issue and knew of one gentleman that installed a vertical wind turbine in Southern Shores. He added that this gentleman had been instrumental in working with the Town of Southern Shores concerning the development of their ordinance. He thought it could be of interest to Duck and encouraged staff to contact Southern Shores.

John Jenkins stated that wind turbines had proved to be economically unfeasible due to the sonic vibrations on the houses. He stated he was not in favor of wind turbines but was in favor of solar energy. He recommended that Council impose a six (6) month moratorium.

There being no one else wishing to speak, Mayor Wessel closed the public hearing.

Mayor Wessel opened the discussion to Council.

Mayor Pro Tempore Kingston thought the temporary moratorium was a good alternative and felt that Council should move ahead with it. Councilor Thibodeau agreed with Mayor Pro Tempore Kingston’s comments.

Councilor Morrison agreed with Mayor Pro Tempore Kingston and Councilor Thibodeau. He thought a ninety (90) day moratorium was appropriate.

Mayor Wessel noted that when Council discussed the issue earlier, the Planning Board was comfortable with a ninety (90) day moratorium.

Councilor Burdick clarified that the schedule needed to be incorporated into the ordinance. Town Attorney Hobbs stated it was already in the proposed ordinance. Mayor Wessel noted that the proposed moratorium would be in effect until 7:00 p.m. on May 5, 2010. Councilor Burdick stated he was fine with the moratorium.

Councilor Thibodeau moved to approve Ordinance 10-01 as presented.

Motion carried 5-0.

## **OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS**

### **Discussion Related to the Construction of the Town Hall – Meeting Hall**

Mayor Wessel stated that he had requested each Council Member provide Town Manager Layton with questions related to the construction of the Town Hall – Meeting Hall for discussion. He stated that there were several questions and Town Manager Layton would review them with Council and the audience.

Town Manager Layton stated that there were five (5) specific questions that he received. He went on to review the questions that dealt with cost estimates for the new Town Hall, operating costs of the present Town Administrative Office space, current size and capacity of the existing Council chambers and the estimated construction cost associated with the existing building versus the proposed one. He reviewed the answers with Council and the audience. He noted that Councilor Burdick had posed the question regarding moving the Community Development staff and receptionist to the first floor of the new Town Hall and would have him discuss the issue.

Town Manager Layton noted that staff had applied for the renewable energy grant for approximately \$200,000 which would reduce the anticipated debt service cost. He stated that waiting to construct a meeting hall would save construction costs associated with it but one of the concerns was that the cost of building would not stay as low as it presently exists. He stated that it was an issue of opportunity in that if the Town decided to hold off building the meeting hall, the extra cost could be larger in the future.

Town Manager Layton stated that interest rates may go up if construction is phased. He added that when the park property was purchased, the interest rate was approximately at 4%. He stated that the quotes he had received to date were in the 4.5% to 4.6% range and thought the rates would go up as time went on. He stated that there was always the option of paying cash for constructing the meeting hall, but it would take a sizable chunk out of the Town's Fund Balance. He added that if it was financed, it would be an issue of saving money now versus spending it later. He stated that there would have to be some re-designing done with the mechanical systems and while it won't cause the Town to lose money, it will cause it to pay more in the future because the mechanical system will have to be designed for the full project.

Town Manager Layton stated that with regard to phasing the construction, it would not be desirable to put everything in place only to have to tear it up again. He stated that the location of the meeting hall and the way the construction would be staged would make it so that things would have to be torn up to build it in the future. He noted that the septic system would have to be constructed to meet the full design, which would be hard to do if the project was completed in phases.

Mayor Pro Tempore Kingston asked what benefits would be seen from the LEED certification and would it affect the grant. Town Manager Layton stated that it could have an effect on the grant. He stated that what staff was proposing for the construction was within the range, but if renewable energy pieces were significantly added, it would cause the price to go up slightly. He noted that if the Town does not complete the full project, it will have an impact on the grant that was submitted and could result in not obtaining any funds for renewable energy.

Town Manager Layton handed out a sheet that referenced the square footage of the Town Hall and Meeting Halls for each of the municipalities on the Outer Banks. He also reviewed other properties that the Town had investigated with regard to having space for a Town Hall. The properties that were looked at that did not meet the needs of the Town were – Nags Head Hammocks building, Barrier Island building, O.C. Fulcher building, Resort Quest building, Aqua-S building, property near the Waterfront Shops that were currently wetlands and the Army Corps of Engineers property.

Councilor Burdick thought Council should consider the alternative of having the Planning, Zoning and Building departments as well as the receptionist on the first floor of the building. He stated that his reason for wanting the change was from a security standpoint as having a completely open building was not wise. He stated that his other reason was that the Planning Department had primary contact with the public and felt it was appropriate for the public to have immediate access to that department. He thought the real issue was the space in the building. He stated that only half the space would be used as office areas and conference rooms. He thought having a 2,000 square foot Council chambers was way too large compared to what presently exists. He wondered if the Town really needed the Meeting Hall and what the real need was with regard to how much meeting space would be needed. He thought there would be a tremendous amount of meeting space. He wondered if there could be a way to have an adequate Council meeting room on the first floor of the Town Hall building and eliminate the Meeting Hall altogether. He thought it would fit in the Town Hall and asked what the Town should be spending for buildings not only for the operation of them but financing of it. He thought going from \$5,000 per month to \$27,000 per month in operating costs along with adding a receptionist would be worth the cost.

Councilor Burdick asked if optimum use of the space in the Town Hall building could be made to negate the need for the second building or minor modifications could be made to negate the need for the second building. He noted that there would be advantages to cutting out the Meeting Hall in that it would reduce operating costs and future maintenance. He stated that it could be placed differently so it was less intrusive on the park, which was a concern to a number of people he had spoken to. He stated that he had spoken to Town Manager Layton about the issues and it was brought up that a second Council meeting would be a possibility to discuss the issue. He stated that he would like Council to address the issue of what the basic needs were, what Council really wanted to do that was appropriate and what wishes Council had that could be removed. He thought if a list was drawn up, Council could have an open discussion to understand if they want to continue down the path it has been going or scale back. He stated that by eliminating the Meeting Hall building, it would negate a future tax increase. He stated that he was trying to look at the issue from a financial standpoint, a fiscal responsibility standpoint as well as supporting the project so that it met the needs of the Town. He proposed holding a mid month meeting to discuss the issues and, if possible, include the citizens in the discussion.

Mayor Pro Tempore Kingston thought staff had been through multiple iterations of the Town Hall building. He asked if there was a concept that just had a single building. Town Manager Layton stated there was. Mayor Pro Tempore Kingston asked what the discussion was regarding a single building. Councilor Morrison stated that there was an initial design with the Council chambers on the first floor. Town Manager Layton stated that Council was told the building was ungainly and ugly.

Councilor Burdick stated he was not proposing a change to the architectural design of the building. He stated that it appeared that people were satisfied with the current design; he was headed more in the direction on the use of the structure.

Mayor Wessel noted that Council had talked about this issue for three or four (3 or 4) years on what should be included in the building. He added that the Town had public meetings where input was received by the public on what should be included, what shouldn't be included as well as features and benefits. He stated that there were several iterations of the building, discussions on the number of conference rooms, how large the meeting space and foyer should be and the number of restrooms. He stated that there were a lot of discussions regarding the objectives of what should be built. He thought it may be easy to take the list and convert it into a list such as what Councilor Burdick was asking for to see what other things Council considered as wants versus needs. Town Manager Layton thought the list could be easy to draw up. He thought it was important to note that a lot of thought had gone into the Town Hall to get where it was presently. He stated that the biggest issues that were discussed was a desire for legitimate public meeting space for homeowner association meetings and having space to accommodate the Jazz Festival performers. He added that another issue was that there was a fear that the Town would have one (1) building and then would add more piece meal at the park. He stated that there was a real effort to try to balance any future growth within the Town.

Councilor Thibodeau thought it would make sense to have a consensus by Council on what they envisioned the meeting space to be. She thought all of Council needed to be on the same page in terms of a vision. She suggested that Council discuss the uses for the public space. She added that she envisioned the Meeting Hall as an extension of the park. She stated that Town Manager Layton and staff spent a lot of time with the architect to discuss the flow of the office portion of the building and having everyone on the same floor. She stated that she appreciated Councilor Burdick's comments regarding having a citizen walking into the building and being greeted by someone, but the security issue had been discussed at past meetings.

Councilor Burdick stated what was bothering him was the impression a person would get when they walk into the building and there wasn't anyone there but a lot of space. He added that people will ask themselves why the building was constructed. He stated that it didn't go together to have space that will only be used occasionally. He stated that if Council moves forward with having the Meeting Hall, the citizens will think they have "lost it" when they see it and they would question why the Town spent so much money on empty space. He added that if the Meeting Hall was needed, Council should find ways to make it usable and serve a real need and function to the Town. He wondered what the vision was.

Councilor Morrison pointed out that Council and staff had been working on the issue for a very long time. He stated that the foyer area was much larger but had been reduced in size. He stated that Council had discussed having the space for art exhibits and such and that it would be inviting. He stated that when Council finally settled on the concepts, they felt it was a reasonable plan. He appreciated Councilor Burdick's comments and was not opposed to a mid month meeting.

Mayor Wessel stated that he had a discussion with Town Manager Layton and noted that no matter what Council discussed with regard to a Town Hall building, it would upset someone. He stated that some would say not to build anything at all, others would say that Duck needed to control its own destiny by owning a building as long as it was small enough to provide the basic services, while others would say that the building should not be too small since the population of Duck will increase and demand for services would increase. He stated that he was in favor of a mid month meeting, as he felt that Council needed to be comfortable with their decision. He thought Council should set a date for a mid month meeting, advertise and let the public know that their input was welcome, with the first agenda item being whether or not the Town should build a

Town Hall. He added that if there were specific proposals for alternative sites, they should be brought forward for Council's consideration. He stated that if Council was in favor of building a Town Hall, they should look at what would be absolutely needed and what potential uses Council saw for the Meeting Hall in order to decide if the second building was needed.

Councilor Burdick stated that he did not want to change the outside look of the building. He added that people have bought into that look, but thought Council could revisit it. He suggested that if there were alternative sites to be considered, that Town Manager Layton provide Council with a list of them to help them with their thinking process.

Mayor Wessel thought another meeting in February would be beneficial. He suggested using the March 3, 2010 meeting to make any final decisions with regard to the Town Hall.

Councilor Burdick suggested that Council revisit where it should go after they finish the February mid month meeting. He thought if there was more work to be done; it would be difficult to have everything ready for a decision at the March 3, 2010 meeting. He suggested that an item on the February mid month meeting be whether Council was ready to go to the March meeting with a final decision.

Town Manager Layton clarified that one of the questions Council asked was whether the Town Hall should be built or not. Mayor Wessel stated it would be what to build or what property to go after.

Councilor Burdick asked Council if they had consensus as to whether or not to build a Town Hall. He thought they did. Councilors Thibodeau and Morrison thought they did. Councilor Thibodeau didn't think there were any Council members that didn't think the Town Hall should be built. Mayor Pro Tempore Kingston thought a determination should be made at this meeting and then a mid month meeting to get into the details.

Councilor Burdick moved to adopt a resolution to go ahead and build a Town Hall and associated facilities that may be required pending the outcome of the definition at their upcoming meeting. Councilor Thibodeau clarified that Councilor Burdick made a motion to adopt a resolution. Mayor Wessel stated that he had.

Councilor Morrison thought a decision should be made to build, to go ahead with it and meet at the February mid month meeting to discuss details. Councilor Thibodeau agreed with Councilor Morrison. She stated that she wanted input from the public before the mid month meeting.

Mayor Wessel stated that he had two (2) requests – consider an alternative site as per the DCBA, but noted that he did not have any details of the alternative site and if an alternative site was considered and available within the next week, to have all the details for it. Councilor Morrison asked if the DCBA had any specifics with regard to an alternative site. Mayor Wessel stated that one was mentioned to him, but he wasn't sure he could publically state where it was.

Councilor Morrison noted that the Town had looked at many alternative sites over the past few years with each one deemed unsatisfactory to the Town's needs. He added that when the Herron Restaurant property became available, Council decided to purchase the property specifically to build a Town Hall on it. He stated that he did not know how Council could now begin to consider purchasing another piece of property, especially if a tax increase would be involved.

Mayor Wessel agreed but thought the only way to move forward with an alternative site would be if it were cheaper than the current property. Councilor Thibodeau noted that the Town would not sell the property. Mayor Wessel stated that he did not have enough details on the proposed alternatives from the DCBA to know if it would save the Town money. He stated that he would hate not to consider it if it would save money.

Councilor Burdick stated that there was a good consensus to move forward, but thought that the alternatives be considered first at the mid month meeting. Mayor Wessel agreed.

Town Attorney Hobbs noted that with the acquisition of real property, Council could go into Closed Session to discuss terms and identify the property. Town Manager Layton noted that the Town was not ready to look at terms at this time. He stated that one of the alternatives that the DCBA suggested was one that the Town had looked at in the past.

Councilor Burdick stated he had no problem listening to what some of the alternatives would be, but didn't want to spend another three (3) months chasing an alternative when there was already a concrete proposal to move forward. Councilor Morrison agreed and added that it should not be a site that was already considered and rejected. He thought it would be a waste of time to look at it again. Councilor Burdick suggested that the DCBA have a copy of the list of what was considered.

Steve Alterman of 100 Ocean Crest Way was recognized to speak. Mr. Alterman stated that the DCBA's concern was whether Council had considered alternatives and why they were rejected. He stated that he wasn't sure the DCBA had a stance on the issue. Mayor Wessel agreed but added that he wanted to keep alternatives as the first item on the mid month agenda.

Town Manager Layton noted that a motion was still on the floor. Councilor Burdick stated that he would table his motion and use it at the next meeting if it needed to be revisited.

Mayor Pro Tempore Kingston thought the Town already invested \$1.2 million dollars with the express plan of putting a Town Hall on the property. He added that if the Town doesn't use it for that purpose, then it bought a very expensive parking lot for the park. He couldn't believe Council would be able to come up with alternative sites in two (2) weeks. He agreed with Councilor Morrison's comments; he thought the discussion was if a Town Hall would be built at what scope and cost. He thought considering alternative sites would be taking a step backwards.

Councilor Thibodeau asked how much detail could be provided on the alternative sites that were considered. Town Manager Layton stated he could have a list by the next meeting. He pointed out that the Herron Restaurant property was purchased before any of the alternatives came up. He stated that when the property came up, the Town was working with Richard Herron, Jr. on obtaining an option to purchase the property upon his death. He stated that when Mr. Herron suddenly passed away, the Town had to act sooner than expected. He stated that the property was always desirable for building a Town Hall.

Town Manager Layton stated that Nags Head Hammocks was considered but the cost was \$2.5 million dollars just to purchase the building and would have required significant engineering work to retrofit it into a code compliant space. He stated that Aqua-S was an option, but was almost \$2 million dollars just to purchase before the Town could look at retro-fitting it. He stated that Jim Braithwaite had discussed building something but the size was unknown and would have to be built on wetlands. He stated that when the O.C. Fulcher building was discussed, it was offered as a limited five (5) year lease. He stated that Resort Quest came and went quickly since

it wasn't an adequate site nor were they interested in selling the property to the Town. He stated that Barrier Island was the last alternative considered, but at the time it was being offered as a potential leased space while keeping the current businesses on the first floor. He added that the renovations to bring the building up to code would have been too expensive to retro-fit the space.

Town Manager Layton noted that one of the issues Council brought up was the future need of the Meeting Hall space. He stated that the majority of it would have to be completed by a Council policy as to the extent if the Town wanted to open it up for public events such as weddings. He stated that on the first floor of the Administrative Building, it appeared that there was empty space, but pointed out that a quarter of the building was going to be dedicated to public restrooms and another portion was the elevator, stairwell and mechanical/electrical room. He added that everything else would be fit around them. He cautioned Council that these areas will always be in the building. He asked for direction from Council if they wanted him to have the architect redraw the first floor. Councilor Thibodeau didn't think the architect needed to redraw the first floor as it was very clear. Town Attorney Hobbs suggested having Barry Moss present at the mid month meeting. Councilor Burdick stated he would be happy to provide Mr. Moss with his layout of the first floor that he drew.

Mayor Wessel stated that he was skeptical that there were other alternatives that would meet the Town's needs. He thought it was time to vote on Councilor Burdick's motion.

Mayor Pro Tempore Kingston asked who would bring forward the alternative sites to Council. Mayor Wessel stated he was not sure. Councilor Morrison asked why Council was delaying the process by considering alternatives. Councilor Thibodeau suggested that if there was an alternative site, that it be brought up at the mid month meeting. Mayor Wessel stated that if Council voted yes to the motion on the table, it would put an end to considering alternative sites, but a no vote would mean that there would need to be alternative details at the mid month meeting.

Councilor Burdick tabled his motion to the next meeting. He suggested that the first subject at the mid month meeting be whether someone wanted to present an alternative for Council's consideration and if it looked appropriate, put the motion back on the table. Mayor Wessel stated it would be his preference.

Mayor Pro Tempore Kingston thought it was confusing that Council was not directing Town Manager Layton to look at anything after the Town already looked at alternatives. He wondered who would come forward in the next two (2) weeks with an alternative. Councilor Burdick thought the DCBA needed to come forward with an alternative. Mayor Wessel reiterated that he was skeptical anyone would come forward with an alternative, but he was open if they did. Councilor Morrison asked Mayor Wessel if he had knowledge of anyone in particular that would come forward with a good alternative. Mayor Wessel stated that he did not.

Steve Alterman stated that the DCBA did not have any alternative sites. He stated that the question of the DCBA was if alternatives had been considered. He thought Town Manager Layton was very clear on it. He added that if Council was waiting for the DCBA to come to them with an alternative site with detailed plans, it wouldn't happen.

Lynne Alterman of 100 Ocean Crest Way was recognized to speak. Ms. Alterman stated that she was not clear on how an alternative site could be brought to the meeting for a decision. Councilor Morrison stated that at some point, Council needed to put an end to the discussion.

Mayor Pro Tempore Kingston asked if staff should advertise that serious alternative sites would be presented at the mid month meeting. He asked how Council could get people to come forward with a serious alternative. Councilor Burdick thought it was good question. He pointed out that Mayor Wessel wanted to have all the stakeholders on board when the vote is taken. He stated that if there was anyone that had a site, they needed to bring the information to Town Manager Layton immediately so he could forward it to Council. Mayor Wessel stated that he wouldn't put the burden on Town Manager Layton, but on anyone with a viable alternative.

Mayor Pro Tempore Kingston noted that Council had a long discussion on the issue at the Retreat, they just had another long discussion, and he wondered why Council was wasting their time talking about alternative sites. Councilor Morrison agreed with Mayor Pro Tempore Kingston's comments.

Councilor Burdick moved to go ahead and build a Town Hall and associated facilities that may be required pending the outcome of the definition at their upcoming meeting.

Motion carried 5-0.

**Discussion/Consideration of Authorizing the Mayor to Execute Easement Agreements related to the Soundside Boardwalk Project**

Town Manager Layton stated that Council had at their places an easement amendment to the Duck United Methodist Church. He stated that the alignment changed so the exhibit had to be changed with regard to the Nags Head Hammocks property. He stated that the last two (2) easements for the northern section of the boardwalk – the lease with the Duck United Methodist Church and an easement with Saltaire Homeowner Association – came through. He stated that when the soundside boardwalk will be constructed, it would be from the Wings property north to the Waterfront Shops. He added that the Town still needed to obtain easement agreements from the Outer Banks Surf Shop and the former Resort Quest office.

Councilor Morrison moved to authorize the Mayor to execute the easement agreement for the Saltaire Homeowner Association and the lease with the Duck United Methodist Church related to the soundside boardwalk project.

Motion carried 5-0.

**Discussion/Consideration of Authorizing the Following Items for Public Hearings as Recommended by the Planning Board**

**Ordinance 10-02, an Ordinance Amending the Zoning Ordinance of the Town of Duck regarding the Replacement of Signs**

Director Garman stated that the issue was brought forward by Council on November 4, 2009 and was in response to an enforcement issue the Town had last year. He stated that the non-conforming section of the ordinance with regard to signs states that once a sign is damaged or deteriorated beyond a certain point, it would have to become conforming with the current code. He stated that it had to be more than fifty percent (50%) of its appraised value, which was difficult for business owners and staff. He stated that after conducting some research, he noted that a lot of zoning ordinances throughout the State of North Carolina look at some form of replacement value. He stated that staff thought by changing the ordinance it would make things easier to enforce. He stated that the Planning Board discussed the issue at length and voted

unanimously to have a restrictive approach with regard to non-conforming signs. He stated that the language was with regard to percentage of replacement or appraised value of a sign. He stated that the ordinance would read if a sign was damaged or had visible damage, it would be considered non-conforming.

Mayor Pro Tempore Kingston asked what the rationale was for signs that have damaged electrical components. He asked if the entire sign would have to be replaced if the light shorts out and the junction box needed to be replaced. Director Garman stated that the Planning Board decided that any damage, including electrical damage, would require conformity. He noted that there weren't many non-conforming signs left in Town. Mayor Pro Tempore Kingston thought that a simple fix would require replacing an entire sign.

Joe Blakaitis of 115 Sandpiper Cove was recognized to speak. Mr. Blakaitis stated that the Board thought it was a way to bring the signs into conformance since the Town was getting resistance.

Councilor Thibodeau moved to authorize a public hearing at Council's regular meeting on March 3, 2010 for Ordinance 10-02.

Motion carried 5-0.

**Ordinance 10-03, an Ordinance Amending the Zoning Ordinance of the Town of Duck to Include Specific Penalties for Tree and Vegetation Management Ordinance Violations**

Director Garman stated that the Planning Board was recommending two (2) new penalties to address deficiencies in the current ordinance. He stated that the first would include a specific fine for removing a tree for which a tree removal permit was required. He added that the second would apply to situations where clearing of vegetation occurred on developed lots. He stated that a system had been developed that directly related to the amount of the fine and mitigation requirements to the canopy coverage requirements established in the vegetation planting guidelines. He stated that the Planning Board voted unanimously to recommend the ordinance and added that it would be consistent with the Town's CAMA Land Use Plan.

Mayor Pro Tempore Kingston moved to authorize a public hearing at Council's regular meeting on March 3, 2010 for Ordinance 10-03.

Motion carried 5-0.

**Ordinance 10-04, an Ordinance Amending the Zoning Ordinance of the Town of Duck to add a "Columbarium" as an Accessory Use to Churches in the Village Commercial Zoning District**

Director Garman stated that the application was submitted by the Duck United Methodist Church, who was in the preliminary planning stages to add a columbarium structure to their property. He stated that the Town Code did not recognize these facilities as a permitted use. He stated that the Church has applied to add a definition for "columbarium" to the Town Code as well as adding it as a permitted accessory use to churches in the Village Commercial District. He stated that the Planning Board recommended approval.

Councilor Burdick moved to authorize a public hearing at Council's regular meeting on March 3, 2010 for Ordinance 10-04.

Motion carried 5-0.

## **NEW BUSINESS**

### **Discussion/Consideration of FY 2011 Budget Adoption Schedule**

Town Manager Layton stated that the schedule was a timeline for Council and was the same strategy that has been used in previous years. He stated that he would be issuing budget requests to the department heads on February 8, 2010. In March he expected to have their requests back by the 15<sup>th</sup> and would work on revenue estimates. He stated that he would submit his proposed budget to Council on Wednesday, April 21, 2010 and work sessions would then be scheduled. He noted that the public hearing was typically held at the first meeting in June, anticipating that this year's would be on June 2, 2010.

Councilor Burdick asked if Council needed to set any premises that Town Manager Layton should look at so it would give him the opportunity to address issues instead of putting a budget in front of Council where they would have to figure out where to go next. Town Manager Layton stated that if Council wanted to do something ahead of time, it was fine, but noted that it had not been necessary in the past. He stated that if Councilor Burdick felt it was necessary, he could give him his objectives. He suggested that if Councilor Burdick wanted Council to give him a set of approved objectives, another meeting should be held to establish as such.

Councilor Burdick thought it would be easier on Council if they had a vision of their expectations and key premises ahead of time rather than having Town Manager Layton complete double work. He thought it would help Town Manager Layton. Councilor Thibodeau asked Councilor Burdick if he was suggesting broad items. Councilor Burdick stated that he would like Town Manager Layton to consider a flat budget for services, but that it depended on which way Council wanted to go. He added that Town Manager Layton would be using a certain premise for inflation and for increases, and thought that Council would want to look at that as well as being shown other information. Town Manager Layton noted that until the budget was submitted to Council, it was his responsibility to make the premises and judgment calls. He added that if Council did not agree with him at that point, then the time to make changes would be after the budget had been presented. He stated that he would not develop two (2) budgets, but would base it on his established role as Finance Officer for the Town. He reiterated that if Councilor Burdick disagreed with his premises, the time to discuss it would be at the budget work session.

Mayor Wessel stated that he had always been comfortable with the way the budget planning was completed in the past. Councilor Burdick asked how the budget planning process worked. Mayor Wessel explained the budget process to Councilor Burdick. Councilor Thibodeau noted that there was a lot of detail in the budget. She stated that she was comfortable with the process. She suggested that Councilor Burdick have a consult with Town Manager Layton if he had specific areas that he wanted looked at.

Councilor Burdick stated that his principal concern was that over the next five (5) years, the Town maintain a budget that would not require a tax increase. He added that it was the starting point for him. He wondered what the required premises were to do that and added that he wasn't sure. He stated that Town Manager Layton had the detailed knowledge to do it, but noted that Council agreed they wanted to see a budget that headed in the right direction and doesn't include a tax increase. He stated that if Town Manager Layton had a proposal for an increase, it should be brought to Council. Town Manager Layton assured Councilor Burdick that he would not be

submitting a budget that included a tax increase. Councilor Burdick stated that he did not indicate that Town Manager Layton was going to submit one with an increase. Town Manager Layton stated that he understood Council's desire to have a sustainable budget over a five (5) year period and noted that he tried to relay that at his presentation at the Council Retreat. He stated that as far as cutting specific items, they were designed to be discussed once the budget was presented.

Councilor Burdick stated that he was talking about basic premises. He wondered if Council was in agreement that they did not want to see a budget with a tax increase. Mayor Pro Tempore Kingston thought Town Manager Layton should proceed ahead with the schedule he presented to Council.

Councilor Morrison moved to approve the proposed budget adoption schedule as presented.

Motion carried 5-0.

### **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**

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.

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

Councilor Burdick noted that Currituck County had moved to reduce or eliminate building permit fees in order to stir up construction. He asked if there had been any consideration given for the Town to do the same. Town Manager Layton stated that staff had not considered it. Councilor Burdick thought if the Town did it, it would provide some stimulus for the economy. He didn't know if Council should consider it. Mayor Wessel agreed with Town Manager Layton's comments and didn't think Council should be considering it.

#### **Update on NC 12/Tuckahoe/South Duck Stormwater Project**

Town Manager Layton stated that staff had a good meeting with NCDOT and the utility companies regarding the project. He expected significant activity to start within the next two (2) weeks. He stated by mid March, all the utilities will have been relocated, making it possible for the Storm Tek chambers to be installed on the west side of Duck Road. He noted that all activity will cease around May 14, 2010 with the anticipated project completion in the early Fall. He stated that a press release would be going out as well as an article in the newsletter to let the public know.

#### **Update on Duck Trail Stormwater Project at Sound Sea Village/Caffey's Inlet**

Town Manager Layton stated that he expected to have the plans by Council's mid month meeting. He stated that after receiving the plans, he will be able to get bids out to have things in place before the season starts. He stated that, depending on what amount the bids come in, would determine if he will need to bring them to Council for approval.

### **Financial Statement for the Month of January for FY 2010**

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

### **MAYOR'S AGENDA**

Mayor Wessel that he received a request from the DCBA Board that Council consider naming one member as a communication liaison with the DCBA. Mayor Pro Tempore Kingston thought it was a good idea. He asked that in return, a member of the DCBA attend Council meetings every month. Councilor Burdick thought the DCBA could provide Council with valuable input and would be helpful to have that communication. Councilor Thibodeau agreed with Mayor Pro Tempore Kingston's comments and noted that she used to be the liaison on the DCBA.

Mayor Wessel asked who would want to serve as the liaison. Mayor Pro Tempore Kingston stated that he would like to serve. Councilor Burdick stated that he would also be willing to serve.

Mayor Wessel moved to nominate Mayor Pro Tempore Kingston as the communication liaison for the DCBA.

Motion carried 5-0.

### **COUNCIL MEMBERS' AGENDA**

Councilor Burdick congratulated Councilor Thibodeau for her Tourism Board appointment. He stated that he was looking at the local newspaper recently and saw an article regarding the Bonner bridge. He added that Warren Judge was unhappy in the article and couldn't believe that Mr. Judge was more concerned about the Bonner bridge and not the Mid Currituck bridge. He thought Council needed to reply to the article since traffic heading to and from Corolla was a safety issue for the Town. He stated that the Mid Currituck bridge had a high degree of importance for the Town. He wasn't sure how to reply to the article.

Mayor Pro Tempore Kingston stated that he had attended the NCDOT meeting and the bridges were discussed. He stated that the Bonner bridge decision had been delayed until June, 2010 as they were looking at a shorter parallel option. He added that they also discussed the toll option for the bridge. He stated that the Mid Currituck bridge was on track. He thought there wasn't an issue with the Mid Currituck bridge. Town Manager Layton stated that the reason the Mid Currituck bridge was on track was because it will be a toll bridge. He stated that his impression was that Warren Judge understood the frustration. Councilor Burdick stated that it wasn't his point. He stated that the way it was written in the paper, it was showing that the Mid Currituck bridge was only to take care of visitors to Corolla while not thinking about issues with other municipalities. He thought the comment that Warren Judge made was wrong. Mayor Pro Tempore Kingston stated that he and Town Manager Layton did not get that impression at the meeting as the big issue was the Bonner bridge. Councilor Burdick stated that he understood but noted that Warren Judge was basically saying that Duck and Southern Shores didn't count and

that the bridge was for Corolla. He thought the two (2) towns did count. Mayor Wessel thought the article was based on how the reporter saw things as opposed to what Warren Judge said. Councilor Thibodeau didn't think it was wise to correct Warren Judge with regard to the article. She thought Council could privately bring it up the next time they see Mr. Judge. Councilor Burdick thought some type of contact would be helpful for the Town in the future.

Mayor Pro Tempore Kingston thanked Town Manager Layton and his staff for the good job at the Council Retreat.

Councilor Morrison thought Warren Judge had been misquoted in the newspaper article. He noted that the Town needed to maintain good relations with Mr. Judge. He thanked the Police and Fire Departments for a job well done with regard to an incident he had at his home recently.

Councilor Thibodeau stated that she was appointed to the Dare County Tourism Bureau and was excited to represent Duck. She thanked Mayor Pro Tempore Kingston for his report on the NCDOT meeting. She asked that a huge outreach be completed before the March 3, 2010 public hearing on non-conforming signs.

**OTHER BUSINESS**

Mayor Wessel stated that the next meeting would be the mid month meeting on Wednesday, February 17, 2010 at 1:00 p.m. with the agenda restricted to Town Hall discussions.

**ADJOURNMENT**

Councilor Morrison moved to adjourn the meeting.

Motion carried 5-0.

The time was 9:49 p.m.

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/s/ Lori A. Kopec, Town Clerk

Approved: March 3, 2010\_\_\_\_\_

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/s/ Dave Wessel, Mayor