

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
June 2, 2010**

The Town Council for the Town of Duck convened at the Duck Municipal Offices at 7:00 p.m. on Wednesday, June 2, 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; Town Attorney Robert Hobbs; Public Relations Coordinator Kathy McCullough-Testa; and Town Clerk Lori Kopec.

OTHERS ABSENT: None.

Mayor Wessel called the meeting to order at 7:01 p.m. Mayor Wessel asked Fire Captain Jared Smith to lead the Pledge of Allegiance. Mayor Wessel led the moment of silence.

INTRODUCTION OF 2010 OCEAN RESCUE STAFF

Mirek Dabrowski, Director of Ocean Rescue, was recognized to speak. Mr. Dabrowski introduced each member of Ocean Rescue to Council and the audience.

Mayor Wessel and Council thanked the lifeguards for everything they do to keep people safe on the beach.

Police Chief Phillip Ferguson was recognized to speak. Police Chief Ferguson introduced Officer Jason Rigler to Council and the audience. Mayor Wessel and Council welcomed Officer Rigler to the Town.

PUBLIC COMMENTS

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

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

APPROVAL OF MINUTES

Mayor Wessel opened the approval of minutes from the May 5, 2010 regular meeting. Mayor Wessel directed Council to review the minutes from the May 5, 2010 regular meeting for changes.

Councilor Burdick had a change to Page 3 of the minutes.

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

Councilor Morrison had a change to Page 11 of the minutes.

Town Attorney Hobbs had a change and correction to Page 1 of the minutes.

Councilor Thibodeau moved to approve the May 5, 2010 minutes as amended.

Motion carried 5-0.

Mayor Wessel directed Council to review the minutes from the May 19, 2010 mid month meeting for changes.

Councilor Burdick had changes to Pages 5 and 15 of the minutes.

Councilor Thibodeau had changes to Pages 5, 7 and 12 of the minutes.

Councilor Morrison had an addition to Page 3 of the minutes.

Mayor Wessel had a correction to Page 11 of the minutes.

Mayor Pro Tempore Kingston had a change to Page 3 of the minutes.

Town Attorney Hobbs had a correction to Page 1 of the minutes.

Councilor Burdick moved to approve the May 19, 2010 minutes as amended.

Motion carried 5-0.

PUBLIC HEARINGS

Public Hearing/Discussion/Consideration of Conditional Use Permit, 10-001, Submitted by Mr. and Mrs. Joseph and Lisa Goetschius, to Permit a Formula Business (The Flip Flop Shop) as Defined in Town Code Section 156.061 to be Located at 1171 Duck Road, within Suite D-6 of the Scarborough Lane Shoppes

Mayor Wessel turned the meeting over to Town Attorney Hobbs.

Town Attorney Hobbs was recognized to speak. Town Attorney Hobbs stated that the Council would be sitting as a quasi-judicial body for the public hearing, meaning that they will sit as a court and must make its decision based upon competent material and substantive evidence that will be presented during the course of the hearing. He stated that anyone wishing to give testimony would have to give it while under oath with the applicant afforded due process rights including the right to present evidence, examine and cross-examine witnesses. He asked that anyone wishing to testify come forward to be sworn in.

Town Clerk Kopec proceeded to swear in the applicants and staff for the public hearing. Town Attorney Hobbs opened the evidentiary portion of the hearing. He stated that Director Garman would give an overview.

Director Garman stated that the application was to put in a flip flop shop at the Scarborough Lane Shopping Center and it had met all the objective criteria in the Town's ordinance for operating a formula business. He added that it was very similar to The Fudgery Conditional Permit that was

issued in the past. He stated that staff felt that given the circumstances and situation of the application, it would be feasible for Council to make the required findings of fact. He stated that the Planning Board considered the application at their May 12, 2010 meeting and voted unanimously to recommend Council approve the Conditional Use Permit.

Town Attorney Hobbs asked Joe and Lisa Goetschius to make a presentation. Joe Goetschius stated that he did not have anything to present and was looking forward to opening their business in the Town of Duck.

Town Attorney Hobbs asked Council if they had any questions for the applicants.

Mayor Wessel asked if the proposed store would be considered the Nags Head store as shown on their website. Joe Goetschius stated that it would be. Lisa Goetschius stated that their website would be corrected to show it as the Flip Flop Shop of Duck. Mayor Wessel stated that the Flip Flop Shop's website stated that the franchisees were actively involved in the community. He stated that hoped that the Goetschius' would consider becoming a member of the Duck Community and Business Alliance. Mr. Goetschius stated that they would.

Councilor Thibodeau asked if the previous store, the Teddy Bear Factory, was a franchise that existed before the ordinance went into effect. Director Garman stated that she was correct.

Town Attorney Hobbs asked Director Garman and Joe Goetschius if they had any further comments. There being none, he closed the evidentiary portion of the hearing and turned the hearing back over to Mayor Wessel.

Councilor Burdick moved to accept the application. Town Attorney Hobbs explained that the motion should include language that Council would make the proposed findings of fact and accept the proposed findings from Director Garman. He suggested that the motion be stated as: "move to adopt the findings and to approve the permit with the proposed conditions that were set forth in the proposal from Director Garman."

Councilor Burdick restated his motion with the language that Town Attorney Hobbs suggested.

Motion carried 5-0.

Public Hearing/Discussion/Consideration of the Proposed FY 2011 Budget

Mayor Wessel stated that Town Manager Layton had introduced the Proposed FY 2011 Budget for Council to consider at their May 5, 2010 meeting, with a work session on May 19, 2010. He stated that Town Manager Layton had put in Council's packets a memorandum responding to questions that were discussed at the work session. He stated that the budget ordinance would adopt the budget as presented, adding that Council may adopt the ordinance after the public hearing, make changes to it based on public input or schedule another work session.

Mayor Wessel opened the public hearing.

Nancy Caviness of 113 Scarborough Lane was recognized to speak. Ms. Caviness stated that she was co-owner of Advice 5¢ Bed and Breakfast, race director for the annual Advice 5¢ Turkey Trot, an 11 year member of the Duck Volunteer Fire Department where she administrates the Fire Department's t-shirt shop sales to the general public, and managed 4 distinct Facebook pages all directly tied to the Town of Duck. She stated that she wanted to share her information as a way

to illustrate a diversity of stakeholders with whom she currently interacts. She stated that she supported the proposed budget, which she felt would enable the Town to pursue its goals as well as continuing to provide excellent services to residents, out-of-town property owners and visitors. She stated that among the people she interacts with, she had not heard a single objection to the proposed budget.

There being no further comments, Mayor Wessel closed the public hearing.

Mayor Wessel opened the floor to Council for discussion.

Mayor Wessel stated that he had asked each Council member to bring any proposals or amendments to the budget to discuss and then decide on whether to adopt the budget as a whole or have another work session at the Council's mid month meeting on June 16, 2010.

Councilor Thibodeau thanked Town Manager Layton for his responses to the budget questions that Council had at their May 19, 2010 meeting. She felt they were helpful and answered the questions that Council had posed to him and Police Chief Ferguson. She stated that she was interested in the other Council member's comments, but did not have any questions.

Councilor Morrison agreed with Councilor Thibodeau's comments. He thought Town Manager Layton had presented an excellent proposed budget and was prepared to support it as presented.

Mayor Wessel stated that he wanted to discuss Personnel. He passed out a chart to Council and stated that he wanted to make a motion that would not be meant to cast criticism on any Town staff member. He added that the Town had a wonderful, dedicated and hard-working staff that has done a lot to make the Town what it is today. He referenced the chart he passed out and wanted to note that the chart showed what the personnel costs have been within the last 5 years – increasing by 8, 12, 14, 9 and 10%. He stated that he wanted to address that issue in that as the number of employees have increased, so have the salaries, fringe benefits, medical costs and retirement benefits.

Mayor Wessel thought the Town had historically granted generous pay increases, which explained the salary growth on his chart. He reiterated that he was not criticizing any staff member, especially Public Relations Coordinator Kathy McCullough-Testa as she was the proposed "new" employee for the Town. He wondered if this was the time to be adding new staff to the budget which created an ongoing expense item. He stated that as a part-time events coordinator, Public Relations Coordinator Testa was a valuable contributor to the Town, both with visitors and residents.

Mayor Wessel stated that he wanted to turn his thoughts to the Public Relations Coordinator position and not Public Relations Coordinator Testa as his discussion was focusing on job positions. He stated that he had looked at the salaries of the Town staff members that had a position of Director, Coordinator or Chief and when he took the average of those salaries, it seemed a good place to start pegging the full-time Events/PR Coordinator position. He added that his thinking went from not funding the position at this time to funding it at a slightly lower level than what was proposed in the budget. He proposed reducing the salary by \$7,500 to put it at \$69,000, which would make the position equitable with the other positions. He thought it was prudent to trim a little growth in the budget by reducing the salary. He asked Council for their reaction to his proposal.

Councilor Thibodeau asked if Mayor Wessel was looking at the Pay Plan chart in the proposed budget to obtain his reference point for the salary reduction. Mayor Wessel stated that he had looked at the actual salaries from past years. Town Manager Layton noted that Mayor Wessel had looked at the Employee Cost sheet in the proposed budget as opposed to the Pay Plan.

Councilor Burdick wondered if the Town wanted the Public Relations Coordinator position and if so, what the Town would receive for that position. He assumed that by Public Relations Coordinator Testa becoming a full-time employee, the position would not only be the Events Coordinator but also supporting the IT requirements. He asked if that was correct. Town Manager Layton stated it was. Councilor Burdick stated that if it were the case, he assumed the Town could show that it would generate reasonable savings in the IT line item and improve effectiveness of the Town management and Council as it would more than pay for the additional cost. He stated that he was in agreement with it, but wanted an analysis as to what the Town receives for the commitment of the position going from part-time to full-time. He asked that Town Manager Layton provide Council with the analysis. He reiterated that he was supportive of the position but felt that with the escalating salaries, the Town needed to make sure it was on a sound basis for the addition. He stated that he looked at the events portion of the position that was already in place and Council knew what they received for that, but for the IT position, he thought there needed to be a view of what it will entail or what the plan would be for it.

Mayor Pro Tempore Kingston thought the question was how to establish the salary base and if any other comparable positions were looked at. Town Manager Layton stated that the base salary was taking Public Relations Coordinator Testa's current base salary and extending it to 40 hours. He added that her original base salary was based on a market survey at the time of comparable positions. Mayor Pro Tempore Kingston asked Town Manager Layton if he had accounted for the fact that Public Relations Coordinator Testa was not receiving fringe benefits from the Town and that he had added it into her hourly rate. Town Manager Layton stated that he did not.

Councilor Burdick stated that with the numbers he saw, Public Relations Coordinator Testa's salary seemed out of line with comparable positions that the Town had. Town Manager Layton disagreed with Councilor Burdick's comment.

Councilor Thibodeau asked if the work the Town was receiving for the position on a part-time basis had more than part-time work being completed. Town Manager Layton felt that Public Relations Coordinator Testa had been taken advantage of for a few years. He stated that the reality was, contrary to what people want to believe, the events do not happen out of thin air. He added that there were important parts of establishing the Town's brand and what makes Duck competitive, with a tremendous amount of work going into them. He stated that there were also ancillary items that went along with that on the public relations side, which were the press releases, newsletters, the Town website and Town brochures. He added that the position also included the emergency communications aspect, where the position would assist with the hurricane and disaster communications to the outside world.

Town Manager Layton stated that Public Relations Coordinator Testa had transitioned to the IT side over the last year since she had the technical skills. He noted that she was not a programmer and was not installing any software, but helped the Town focus on how it could better and more efficiently provide the level of computer service technology that is needed. He stated that she was a go-between for him and the consultants that actually perform the technical work, which was very valuable. He stated that he would be happy to quantify to Council everything that she does for the Town. He stated that the position was a morphed position that was unique to what the Town does and was tailor-made to her. He stated that what he requires her to do for the Town

puts her on a department head level. He added that he would not quibble over a few thousand dollars, nor would he argue what her position was worth. He noted that it was unusual for a Council to step in and specifically pull out one position and decide what the salary should be, but added that it was the requisite of a council to do so.

Councilor Burdick stated that the reason he was asking about the IT position was with the Town Hall project and all the changes that would occur, he wondered if it was to be done effectively, that that was the reason he was looking at if the position was worth establishing. He asked what was expected to be done with the position to implement the Town Hall project in an effective manner so everyone benefits. Town Manager Layton stated that it was already happening as Public Relations Coordinator Testa would be responsible for working with the consultants to make sure things run smoothly. He added, while things were presently in the planning process, she has been working directly with him and the architects to plan for the technology so that once staff moves into the Town Hall, there would be no issues.

Councilor Burdick thought the question he had asked was what Town Manager Layton's IT vision was for the next year as the project moved forward so Council could understand what the position to be established would be expected to do. Town Manager Layton stated that he was not sure that he did not already answer the question. Town Manager Layton suggested Councilor Burdick take what he had said personally and that would be what the position would need to do and what would need to happen over the next year.

Mayor Wessel stated that he wanted to bring the discussion back to one about budgetary issues as opposed to the person in the position. He noted that it was unusual for a council to pick a particular position and discuss the salary, but added that it was a like a CIP item and was the one new salary item that was in the budget. He stated that a request for an Events/PR position to be funded had little to do with IT, etc. He recognized that everyone that works for the Town did things that were not part of their job description, but if they were filling a position for a PR/Events Coordinator, it would be equitable to fund the position at the mid-point at the salary the Town was paying staff that was of equal importance. He added that otherwise, the other staff should have the right to request a pay increase to get up to a new bar that would be set, which would add potential costs to the future. He stated that he would be hard pressed to say to any employee that was being paid less than this position, that their length of service with the Town was not as well appreciated as this one. He thought it was in Council's purview to draw some equity in the overall personnel costs and draw the line on personnel costs in a small way.

Councilor Thibodeau noted that the Events Coordinator position in the Pay Plan fell under Salary Grade 11. She asked if the position, when left as PR/Events Coordinator, would be exceeding the maximum salary for the position unless the IT component was added and the salary would be split between two departments. She asked if the IT component was being added into the PR position. Town Manager Layton stated that it was. He noted that the position was specific for Public Relations Coordinator Testa due to the IT component. He added that if he was just hiring a PR/Special Events Coordinator, he would be looking for someone in Grade 11.

Councilor Thibodeau understood Mayor Wessel's position. She added that the Town had grown in the past eight years, but there would be a leveling off. She stated that she felt comfortable with allowing a hybrid position. She stated that she has seen the vision that Public Relations Coordinator Testa has brought to the Town and thought there was a combination of excitement and capability that was launching the Town into new areas. She thought the Town was lucky to have her on staff. She stated that she would support the position as it stood.

Mayor Pro Tempore Kingston agreed with Mayor Wessel that Council had to take the person out of the position. He added that Council was adding a position that was not defined by the Town. He thought the onus was on Town Manager Layton that if he wanted to add the position, it needed to be defined. He thought Councilor Thibodeau made some good points but it sounded like the position needed to be defined better. He didn't think Council was at that position to add the new position. He reiterated that Council had to take the person out of the position. Councilor Burdick stated that Council was looking at the skill set.

Councilor Morrison agreed with Councilor Thibodeau's comments. He stated that in the four years he served as Mayor, he had worked with Public Relations Coordinator Testa closely on many occasions and that she was the face of Duck. He stated that in many occasions between Duck, the community and the press, she has always done an extraordinary job and he was highly impressed. He added that she was an excellent employee and believed that Town Manager Layton should have the authority to place people in positions with salaries that he believed were necessary within his staff. He stated that he supported the salary that was proposed in the budget.

Mayor Wessel stated that he would make a general motion so Council could move forward with it that the Town create the position at a reduced recommended budget and put it into the Pay Plan as appropriate. He moved to set the starting salary at \$69,000 and direct the Town Manager to create a job description that included the benefits to the Town for all of the expected duties of that position.

Mayor Pro Tempore Kingston clarified that Mayor Wessel supported the salary level for that position, but if the position was enhanced, it would need to be looked at again. Mayor Wessel stated that that would be a different position. He added that if the Town was hiring a PR and Events Coordinator, if the current incumbent were to leave, the Town would hire a PR and Events Coordinator and start funding that position just like the Pay Plan sets a starting range for the Police Officers if a new one is hired. He noted that the proposal in the budget was to have a PR/Events Coordinator and he wanted to vote to approve the position, funded as he suggested and then look a job description in the future.

Councilor Thibodeau asked if, hypothetically, at some point Council was presented with a satisfactory job description for the IT portion of the position, a budget amendment would be needed for the salary increase if it was acceptable. Mayor Wessel stated she was correct. Councilor Thibodeau stated that she was trying to get the mechanism of how it would be changed as it would have to be a budget amendment. Mayor Wessel stated that he would suggest that Council would deal with it the same as they would if they turned the Director of Community Development into a Senior Director and however that process would take place.

Town Attorney Hobbs noted that the motion was just to approve the position and not the entire budget. Mayor Wessel stated he was correct, but added that it was to have the budget amended to include the change. Town Attorney Hobbs pointed out that the motion did not state as such. Mayor Wessel stated that it was what he meant. Town Attorney Hobbs asked if the motion was to adopt the budget ordinance but amend it based on the position change. Mayor Wessel stated that his motion was to make an amendment to the proposed budget ordinance that would fund the position at \$69,000 for 2010-2011 as opposed to the \$76,468 that was requested. He added that it would change the line item in the budget. Town Attorney Hobbs stated that by making the motion, he was moving to approve the entire budget. Mayor Wessel disagreed and stated that he was suggesting that the one line item would be changed. Town Manager Layton stated that it was one of the items that would have to be decided so he could re-do the ordinance so it would reflect the changes and then Council would have a new document. Town Attorney Hobbs stated that

Council could defer the action until the June 16, 2010 meeting. He stated that Council needed to adopt a budget ordinance where all the numbers were complete. Mayor Wessel agreed and reiterated that he was not proposing Council adopt the budget ordinance yet, but make the one modification. Town Manager Layton clarified that Mayor Wessel was trying to get a vote so this would be one of the changes made, but not approving the ordinance itself. Mayor Wessel stated he was correct.

Councilor Burdick asked if Council could do that. Town Attorney Hobbs stated that it was more of a consensus of a proposal for what the final budget ordinance would be and how it would read. He added that it would not have any effect until the budget ordinance was adopted as amended. Councilor Burdick asked how Council could take a line item that they had consensus on and ask Town Manager Layton to revise the proposed budget. Town Attorney Hobbs thought the motion was being interpreted as one that would direct Town Manager Layton to make the change to the proposed budget before it was adopted.

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

Mayor Pro Tempore Kingston stated that he had several items that he wished to discuss. He stated that the intern salaries were presently at \$11,218. He added that if Council were to assume that one of the positions would become full-time, he believed there should be a trade off on one of the interns working year-round. He proposed reducing the salary to the same level as it presently was or cap it at \$12,000. He noted that the interns were useful, but it wasn't understood what would take the balance of the PR/Events Coordinator's time. He stated that he would like to pull the intern salaries back to the level of the 2010 budget instead of the proposed \$18,000.

Councilor Morrison asked what the reason was for the intern salary increase. Town Manager Layton stated that there were significant benefits to keeping an intern year-round. He added that the intern would help with the Jazz Festival and pre-planning for other events. He stated that the proposed salary was to reflect that. Mayor Pro Tempore Kingston stated that there should be a trade off somewhere if the PR/Events Coordinator were to go full-time. He thought it made sense.

Councilor Thibodeau explained that the events cost the Town, after sponsorships, around \$30,000. She stated that when it was discussed last year, she felt it was a very good value. She thought it did not include the cost of the interns, adding that the interns were used pretty exclusively for the events. She asked if that was correct. Town Manager Layton stated that she was correct. Councilor Thibodeau thought one could infer that the cost of the events may be as high as \$40,000 with the cost of the interns. She thought it was an extremely good value as the Town was getting a great benefit from it. She stated that Mayor Pro Tempore Kingston was going back to the question of micro-managing what Town Manager Layton does with his staff and balancing that against not spending too much money as the next step would be for the intern position to become full-time. She added that if that was the case, the job description and justification was appropriate.

Mayor Wessel stated that his thought was that the salary would be doubling from one year and then tripling in a two-year period. He thought it seemed excessive to capping the current salary. He added that it was a personnel cost. He stated that he could support the change in salary. Councilor Burdick thought it was reasonable.

Councilor Morrison clarified that the interns worked through the Jazz Festival in 2009. Town Manager Layton stated he was correct, but only 1 intern did. He stated that he continued to keep

Intern Courtney Straub on staff to help with all the pre-planning in the off season. He added that all of the materials for the events typically go to print in early January. He stated that all of the production occurs as soon as the Jazz Festival is over as well as starting the process of creating and coordinating all of the events for the summer. He stated that Ms. Straub was on staff to help with those items.

Councilor Thibodeau asked if Courtney Straub worked approximately 20 hours a week. Town Manager Layton stated that it was less. Mayor Pro Tempore Kingston pointed out that at the same time; Public Relations Coordinator Testa was not working full-time.

Public Relations Coordinator Testa was recognized to speak. She stated that if one looked at her hours, she was working full-time but not getting paid for it. She stated that there was a balance with regard to brochures and IT projects being done in the off season. She noted that she planned the Council Retreat as well as the annual holiday party. She added that all of the website changes and updates, calls for volunteers and contracts happen in the off season to get ready for the following year. She stated that by November of each year, the entire summer season for the following year is already booked up. She explained that there was other behind the scene tasks that were being completed.

Mayor Pro Tempore Kingston stated that Council was looking at a budget issue, the increase in head count, the increase in salaries and the increase in intern salaries. He added that Council was looking at a sizeable increase, noting that the personnel costs were escalating and wondering if they were just expanding the work based upon additional staff. He thought things needed to slow down and have the Town work within its means. He reiterated that if hours were being added, there should be tradeoffs from the interns' salaries.

Mayor Wessel clarified that Mayor Pro Tempore Kingston was not suggesting eliminating the increases but putting a cap on them. Mayor Pro Tempore Kingston agreed. Councilor Burdick agreed with Mayor Pro Tempore Kingston's proposal.

Mayor Pro Tempore Kingston moved to cap the intern salaries for Fiscal Year 2011 at \$12,000.

Councilor Thibodeau stated that she understood Mayor Pro Tempore Kingston's point as it was estimated that the intern salaries were jumping from \$11,200 to \$18,000, but suggested splitting the difference and have the salaries set at \$14,000 - \$15,000 in order to have more productivity.

Councilor Thibodeau moved to amend Mayor Pro Tempore Kingston's motion for the salary cap for the interns to \$15,000.

Motion failed 2-3 with Mayor Wessel, Mayor Pro Tempore Kingston and Councilor Burdick dissenting.

Original motion carried 3-2 with Councilors Morrison and Thibodeau dissenting.

Mayor Pro Tempore Kingston stated he wanted to discuss the 3.5% merit increase for staff. He thought that the economy was tenuous. He added that there was a very conservative revenue forecast. He stated that adding staff, personnel costs continuing to escalate and many of the other towns and Dare County not having any increases in staff salaries. He thought the cost of living was not 3.5% as there were people on Social Security who are on a fixed amount. He thought that by being fiscally responsible, the 3.5% should be set at 1.5%. He noted that the forecast for

the next four years was not very positive. He stated that he wanted the merit increase taken down to 1.5% or a 2% max.

Mayor Pro Tempore Kingston moved to have the staff merit increases be decreased from 3.5% to 1.5%.

Councilor Burdick stated that he supported Mayor Pro Tempore Kingston's motion. He added that the Town was going into a debt and the economy would be worse in 2013. He believed after the revaluation was completed, other towns would be raising taxes again. He stated that Duck would be faced with a further loss of revenues. He thought Mayor Pro Tempore Kingston was being generous in adding the 1.5% increase at this time given the scenario that Duck would not be seeing any growth over the next few years. He stated that it would be unlikely that tourism would grow like it had in past years. He noted that the forecast was showing that it would go back to the 2006 level and felt it wasn't a realistic assessment. He stated that he strongly supported Mayor Pro Tempore Kingston's motion, but wondered if staff should not receive any salary increase given that Social Security did not have any increases. He stated that his reasoning was not because the Town did not have great employees who have done outstanding work, but the realism of the times when it comes to fiscal responsibility. He reiterated that he would support the 1.5% salary increase but that it would not be easy even having that increase.

Councilor Thibodeau thought the increase limit was at 4% last year and not every employee received the 4%. Town Manager Layton stated that she was correct. Councilor Thibodeau thought there was discussion last year about cost of living versus merit and the whole idea of merit was to give staff an incentive. She didn't think it was a given that any figure would reach it based on what has happened in the past and the whole idea of what a merit increase was. She agreed that it was tough times and a lot of other municipalities have not proposed any increases. She argued that some of that was due to not having the planning that Duck had done in terms of keeping up with expenses. She noted that Duck was still in the growth phase and that there would be a leveling off and recognized there would be lean years coming in the future. She stated that the question for her was if it could be done in the year that the funds were available while not setting a precedent. She added by going down to 3% from 4% would be showing that trend. She thought 1.5% was too low and could live with a 3% increase for staff.

Councilor Morrison explained that Duck was successful because of the quality of employees hired and retained. He stated that he did not want to lose employees because of the cuts. He thought most people were too pessimistic about the future economy on the Outer Banks. He stated that his wife works in retail and tells him that every day that they are doing better than last year. He noted that there weren't any parking places tonight because of the people that come to Duck. He thought Council was being overly pessimistic and to offer employees a 1.5% increase was too small. He thought it should be 2.5% - 3%. He added that to go down to 1.5% was too big of a cut. He feared that the Town would lose some very valuable personnel.

Mayor Wessel stated that he would support the 1.5% increase. He guessed the rationale he had was that he was still looking at the future and where the line needed to be drawn. He thought the lines should be drawn now. He added that some of the towns near Duck were discussing no pay increases, 401(k) matches going away, furloughs and raising taxes. He stated that he would rather draw the line on salary increases now than have to reduce staff. He stated that while 1.5% seemed a little "scroogeous", it was still an increase. He stated that he would feel bad telling an employee 2 years from now that the Town couldn't afford them. He stated that he would rather be more conservative.

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

Town Manager Layton wanted to make it clear that contrary to what had been said, Duck has a real merit system and not everyone gets Carte Blanche with whatever is put in the budget. He stated that the staff evaluations were very arduous, very good and he didn't want anyone to think that if the Town had allowed the 3.5% that everyone would receive that. He stated that it was wrong. Councilor Burdick stated that it was good. Town Manager Layton agreed.

Mayor Pro Tempore Kingston stated that he wanted to discuss the Police tactical rifles as he had a problem with them. He wanted to know why the Police needed 10 rifles. He added that they did not have them in the past and thought now was not the year to be buying them, or if they were to be bought, only a couple should be purchased and left at the Police Station. He thought outfitting the entire Police force with tactical rifles was something that the Town not fund.

Police Chief Ferguson was recognized to speak. He disagreed with Mayor Pro Tempore Kingston's comments. He stated that any emergency or tactical piece of equipment that should be kept at the station was not one that should be purchased in the first place, adding that the weapon would be useless at the station. He stated that it has to be with the officer in that there could be a response to a call that would require them to need the weapon. He stated that police officers depend on weapons for their lives and the lives of others and to have one person responsible for the weapon and not have it passed around would expand the life of the weapon in the way it was kept and the functionality. He stated that there were a number of reasons for the rifles with an example of the Los Angeles Police Department kept at bay by 2 suspects that fired over 1,100 rounds after a bank robbery went bad in 1997. He added that in December 2009 a deputy was killed in Martin County, North Carolina by an SKS assault rifle, which out-gunned the officer's handgun.

Police Chief Ferguson noted that the Police handgun was no match for rifles in an active shooter situation. He added that in most active shooter situations, the suspects were usually armed with several weapons, i.e. 1 or 2 handguns, a shotgun and some type of assault rifle. He stated that for an officer to address a threat like that without a rifle was foolish. He stated that the public expects the Police to address those threats immediately and not wait for back up with an active shooter, which was the reason for his request for the rifles. He stated that he believed in them and they were the proper tool needed.

Mayor Pro Tempore Kingston asked if the request for rifles ever came up in the past. Police Chief Ferguson stated that his predecessor had purchased rifles that were traded in since they were not effective. Councilor Burdick asked how many of those rifles the department had. Police Chief Ferguson thought there were 5 at the time, but they were not patrol rifles and did not address the threats he discussed.

Councilor Thibodeau asked where the rifles were stored in the vehicle. Police Chief Ferguson stated that they were stored in the gun lock of the vehicle or locked in the trunk.

Councilor Morrison asked how many rifles were being requested. Police Chief Ferguson stated that he was requesting 10 which would give the Police a spare.

Mayor Wessel asked if the rifle request was in the CIP. Town Manager Layton stated that the individual cost did not rise above \$5,000 so they would not be capitalized. He added that they would be listed in Capital Outlay Under \$5,000.

Councilor Burdick stated that he knew Police Chief Ferguson was trying to do the best for the Town, but it seemed to him that 10 rifles were more than what was needed at this time. He thought having every officer with every capability to do everything was crazy. He added that Police Chief Ferguson needed to be selective. He thought there were some items that were an absolute must and some that Council could reach an accommodation on that would be sufficient for emergency purposes while at the same time, not over-spending. He stated that Police Chief Ferguson needed to find some way around rather than buying one rifle for each officer.

Councilor Thibodeau pointed out that the discussions over the last few minutes had, on a whole, showed that Council was micro-managing. She thought that Police Chief Ferguson was a person who Council trusted and was professional. She added that none of Council was equipped to make guesses on a request like this. She cautioned Council to give respect to him and Town Manager Layton with regard to their decisions. She added that if Council did not want to spend the money, she didn't think Council should presume that they were being frivolous. She thought Council should respect them and respectfully choose to disagree with spending the money, but not questioning the validity of the request, particularly when it comes to this level that she personally didn't feel that she had the expertise on. She stated that she didn't think any Council could assume that they did as well. She asked Council to keep her comments in mind as they proceed and felt that, although Council was trying to be financially responsible, she didn't want to start micro-managing or picking apart a department head in a way that would indicate that they may be being frivolous or not thinking things through.

Councilor Morrison agreed with Councilor Thibodeau's comments. He stated that he had total confidence in Town Manager Layton, Police Chief Ferguson, Fire Chief Black and other department heads. He added that the Town has excellent employees who know a lot more about what is needed to perform their duties to keep the Town of Duck running the way it has been in the past. He stated that they know a lot more than Council does and to micro-manage and question every line item and expenditure after expenditure was not something Council needed to be doing.

Mayor Wessel stated that he had all the faith in the world with Police Chief Ferguson and all of the other employees doing the best they could with the resources that Council provides them to run the Town. He stated that the question in his mind was whether Council was micro-managing or being fiscally responsible by questioning line items that seem to be excessive in terms of a growing budget beyond what Council had hoped it to be. He thought he would rather be accused of being a micro-manager than being negligent of his duties to look at financial responsibility that was the Council's job. He stated that he would support a proposal that Council reduce total expenditures in the Police Department by some number and leave it to Police Chief Ferguson to figure where it would come from, if that was something Council could do. He added that if it wasn't, then, as much as he did not want to micro-manage, he would be comfortable with directing Police Chief Ferguson's attention to this line item and decide if the Town could defer purchasing the rifles this coming fiscal year. Mayor Wessel asked for a formal motion. Mayor Pro Tempore Kingston agreed with Mayor Wessel's comments, adding that Council was trying to be fiscally responsible.

Mayor Pro Tempore Kingston moved to take \$7,000 out of the Police Department's bottom line and let Police Chief Ferguson deal with it in respect to a trade off.

Councilor Thibodeau asked what the Capital Outlay of \$133,000 was for that was budgeted for and spent \$86,000 for FY 2010. Town Manager Layton stated that it was the replacement police vehicles. Councilor Thibodeau asked if the Police Department were finished with replacement

vehicles. Town Manager Layton stated that they weren't and that it included the debt service on the vehicles. Councilor Thibodeau noted that the estimate was for \$86,000. Town Manager Layton stated that he would have to pull the information and bring it back. Councilor Thibodeau noted that the budget item was being brought down by almost \$85,000. She guessed it would be around 9-10% from the previous year.

Mayor Wessel asked Mayor Pro Tempore Kingston to restate his motion. Mayor Pro Tempore Kingston stated that his motion was to take \$7,000 out of the Police Department's bottom line and let Police Chief Ferguson deal with it in respect to a trade off.

Councilor Thibodeau clarified that it would bring the total budget to \$808,563. Mayor Pro Tempore Kingston stated she was correct. Mayor Wessel pointed out that it was less than a 1% reduction.

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

Councilor Burdick stated that he wanted to discuss Police overtime. He stated that the Police Department was running about 7% overtime. He stated that from his operating experience, if a company goes over 3%, there tends to be people that work too much and get tired while some people end up with too much overtime. He added that it wasn't a good condition to operate in. He stated that he did not have a problem with the officers working overtime when it involved Town functions, but had a problem with officers working overtime to service other towns.

Police Chief Ferguson stated that the Police Department does an hour for hour trade with the other towns. He added that they provide 2 officers for the annual marathon which is approximately 20 hours. He stated that the Southern Shores Police Department provides Duck with 2 officers for the 4th of July parade, the Advice 5¢ Turkey Trot and Jazz Festival. He stated that sometimes it was an even trade but most of the time the Duck Police Department comes out ahead. He stated that there may be 20, 30 or 40 hours a year going out in officers helping with special events in other towns, but if it was 40 hours, it was a lot and not common.

Councilor Burdick stated that he thought 7% was an excessive amount of overtime based on his personal operating experience. He stated that he would like Police Chief Ferguson set a goal for overtime and that it be part of his monthly updates to Council. He pointed out that when overtime spikes, it meant there was a problem, which would lead to other items that would need attention. He stated that the budget had 7% in it but wanted it to have a goal of 3.5%.

Police Chief Ferguson stated that he would be able to obtain that goal if he had the staff that the surrounding Police Department's had. He added that that was where the overtime came from, adding that the Sergeants pick up a lot of duties and perform a lot of activities in Town that other Police Departments do not do, such as animal control. He stated that he didn't want to give Council the impression that the overtime was due to an officer being out of town as it seemed to have been brought to their attention. Councilor Burdick stated that he wasn't questioning it at all, but was questioning what the Town was managing on an overtime level that was reasonable. Police Chief Ferguson stated that what he was managing now was reasonable for what the Police Department did. Councilor Burdick stated that the overtime appeared to be high. He added that he would like to see it at a more reasonable level than 7% as it was very expensive. Police Chief Ferguson noted that it was a lot less expensive than hiring another officer. Councilor Burdick stated that there was a break point and the Town needed to be careful since he had encountered the same problem. He stated that he wanted to leave the discussion on overtime but would come back to it later in the year to see how the Police Department was doing.

Councilor Burdick stated that Town Manager Layton was kind enough to get all the information on landscaping. He stated that it was an issue he heard a lot about that was not positive. He stated that on the positive side, it looked nice but the negative side was how much the Town was spending. He stated that he was astounded at the cost and had no clue it was so much. He stated that out of \$525,000 that was budgeted, only \$90,000 was spent. He added that \$115,000 was budgeted for the coming year. He assumed that some of it would fall into some project that Council would not see. Town Manager Layton stated that the figures were recurring costs that were normal. Councilor Burdick thought it was excessive to spend \$115,000 on these items. He added that the Duck Trail needed to be maintained as it was critical, but plantings were expensive. Town Manager Layton noted that it cost the Town \$12,000 for the plantings. He added that the majority of the costs were mowing and basic maintenance that the Town was under contract to have done until 2012. He stated that the mowing was done at the Town Park and the Duck Trail. He noted that maintenance of the Trail, including weeding and blowing, needed to occur, adding that the majority of what was spent was related to those items and not flowers or mulch. He stated that he didn't want there to be an impression that the Town was spending \$100,000 on flowers.

Councilor Burdick stated that the Town was spending between \$20,500 on flowers and mulch. Town Manager Layton argued that it was a reasonable cost. Councilor Burdick stated that he questioned whether it was reasonable and it was as long as the Town kept planting seasonal flowers, but if there could be a way to do the landscaping in perennials, he thought a significant dent could be made in the cost.

Councilor Burdick moved to have at least a 10% reduction in the budget to force the Town into finding more economic ways to flower the Town.

Councilor Thibodeau asked Town Manager Layton if he had a conversation where he said that the anticipated landscaping for the new property was included in this budget. Town Manager Layton stated that he did not. He stated that the capital costs for new plantings that would be put in would be part of the project cost of the Town Hall. He thought the maintenance itself would be negligible as far as the increase in cost. He added that there would not be a tremendous amount of mowing when there would be pervious areas put in. He stated that he did not expect there to be too much of an additional cost.

Councilor Burdick stated that, year-to-date, the cost was \$90,000 and Town Manager Layton was requesting \$115,000. He added that it was an additional \$25,000. Town Manager Layton disagreed and noted that there was still another month of costs associated with it. He stated that the flowers were cheaper this year than what was budgeted for. Councilor Burdick suggested that the cost be capped at \$100,000 as it seemed like a reasonable level that could be maintained.

Mayor Wessel asked if the costs were found in the budget. Town Manager Layton stated they were. He added that they were listed under Parks and Streets and Highways line items. He explained that everything except utilities was included in Temporary Help Services, which was approximately \$55,000 a piece under Parks and Streets and Highways.

Mayor Wessel clarified that Councilor Burdick was proposing that regardless of where the line items were, the total expenditure should be capped at \$15,000. Councilor Burdick agreed. He added that it was still above where the Town was for this year. Town Manager Layton agreed, adding that it was year-to-date.

Councilor Thibodeau asked if the Powell Bill was to be used exclusively for this kind of work. Town Manager Layton explained that it had to be used for maintenance of the Duck Trail. He added that there has never been a problem justifying spending the money on the maintenance of the Trail.

Mayor Wessel recapped Councilor Burdick's motion – to find approximately \$15,000 in landscaping budget reductions within the proposed budget. Councilor Burdick stated that he was correct. Mayor Wessel confirmed that it would take the cost from \$90,000 to \$100,000 from one year to another. Councilor Thibodeau noted that the Town was presently at \$90,000. Town Manager Layton agreed and added that it was year-to-date. Mayor Wessel agreed and stated that next year would be equal to where the Town will end up this year and was not decreasing the cost, just reducing the increase. He stated that he could support that.

Councilor Thibodeau clarified that the Town would have approximately \$30,000 for flowers and mulch as it could not be taken from maintenance since it was a contracted amount. She further clarified that \$84,000 was a fixed cost so the difference would have to come out of flowers and mulch. Town Manager Layton stated that if Council wanted to reduce the cost by \$15,000, it was clear to him what the desired effect was. He added that he could implement it. Councilor Thibodeau asked what the desired effect was. Town Manager Layton stated that it was to reduce it by \$15,000 between the 2 items unless Council wanted to split. Councilor Burdick stated that he did not want to say where the reduction should come but stated that there was a total, reduce it by \$15,000 and have Town Manager Layton manage it.

Councilor Thibodeau understood Councilor Burdick's comment, but asked if it would specifically come out of flowers and mulch. She added that the other figures were fixed. Town Manager Layton clarified that the trail and park maintenance were billed in every year to cover unanticipated costs so there was a little built in over the base contract cost. He added that some years it is spent and others it is not. He stated that there was flexibility there and he would not want to reduce all of the flexibility because of unknown costs that may occur.

Councilor Burdick thought the upcoming rebuilding of the trail would be a benefit since it was not finished. Town Manager Layton stated that he wasn't following Councilor Burdick's comment. Councilor Burdick stated that it would help Town Manager Layton since it would reduce the maintenance costs and other work that may happen. He thought there might be a benefit to the budget. Town Manager Layton stated that it could, but the mowing and maintenance would still have to occur.

Motion carried 4-1 with Councilor Morrison dissenting.

Councilor Burdick stated that he wanted to discuss revenue estimates versus the budget. He stated that he was concerned with some of the revenues in the budget, such as fees. He stated that it appeared that the Town would be well above this year and it was questionable if it would even work. He stated that it appeared to him that the Sales Tax would be .5% instead of 1% per year. He stated that the Transfer Tax looked really high, probably double. He pointed out that the building permits were over \$100,000 which seemed to be a very optimistic number. He stated that he knew that Town Manager Layton had made the reductions in the budget to reflect an increase in taxes by the other municipalities. Town Manager Layton agreed and added that it would not take effect until 2012 and not this year. Councilor Burdick stated that if the Town moved forward with it, he felt like the Town would be \$150,000 optimistic between revenues and expenditures per year. He added that it represented approximately 3.5% of the budget. He noted that Council had identified \$50,000 in potential improvements to the budget. He felt that,

between revenues and expenses, there needed to find a way to offset the 3.5%. He believed that Council needed to charge Town Manager Layton with that objective and let him look at the budget and propose to Council where the improvements could come from for the differences. He thought it was a reasonable level to be sure that Council was comfortable with the proposed budget or some in between that could be made before the budget ordinance is approved.

Councilor Burdick moved to asked Town Manager Layton to present Council with a scenario that shows at 3% reduction in the total budget.

Councilor Burdick stated that it would carry through for 5 years, just like when one makes a personnel reduction. He thought it would help Council with their perspective for coming 2-3 years. He thought it would give Council a good base so that Duck can continue to be in excellent financial condition. He stated that that part of the package was that the Fund Balance was at 50% and previously Council wanted to work towards a reserve of 75%. He stated that the way the Town was headed, there was no way to get to the 75% unless something changed. He thought the major changes could be an improvement in expenditures or increase taxes, which Council did not want to do. He thought it behooved Council to take another look at it. He explained that he did not want to be the one to show where the changes were needed since it was Town Manager Layton's job to do so. He thought Town Manager Layton could recommend to Council where he could make improvements as well as the impact of those improvements so Council could make a logical decision on whether it was worth doing. He went on to restate his motion.

Councilor Morrison stated that Town Manager Layton had come up with a budget for the past 7-8 years that has worked out fine, his figures and estimates have been right on target and the Town has not gotten into any kind of financial trouble. He asked why Councilor Burdick thought this time would be different. He further asked why he thought Town Manager Layton's estimates were off base this time. Councilor Burdick stated that he did not say they were off base, he said that he thought that because of the time and what has been happening, things were not like they have been. He added that he could go back and look from 2004 – 2007 and see how good things were when there weren't issues. He stated that Council had increased taxes two years ago in anticipation of the Town Hall project which put the Town ahead. He stated that now the economy was penalizing Duck and the other towns. He stated that Duck was suffering because of the impact on the other municipalities. He stated that Councilor Morrison knew about it more than he did, but added that he reads the newspapers and listens to the radio with everyone struggling to keep their head above water without significant tax increases. He stated that it would cost the Town approximately \$80,000 per year. He stated that he was trying to face the reality that financial hardships would be affecting Duck and was not suggesting that Town Manager Layton was doing poor planning. He thought Town Manager Layton had provided excellent information, but it was a question of how the Town wanted to use the information. He stated that it was a question of perspective and that he was concerned about the future perspective since it was not real bright for other municipalities. He noted that Mayor Wessel had mentioned earlier in the meeting that it was better to take early preventative action rather than face more drastic issues later. He stated that he was not proposing that Council adopt the 3%, but was asking that Town Manager Layton come back with opportunities and the impacts of them so Council could decide if they wanted to move forward.

Councilor Thibodeau agreed that the Fund Balance was not at the level that Council wanted it to be. She stated that, historically, the Town has a lot going for it. She added that the Town was young and incorporated a short time ago, it did not have "baggage" that older towns had. She stated that in the short amount of time, Duck has done some amazing things with very little cost to the taxpayers. She stated that the Town has seen tax increases, some more than others, but a

lot was due to the revaluation. She thought the average taxpayer in Duck has seen an amazing benefit since incorporation in terms of services and quality of life for everyone. She thought that Council could agree that Duck would feel what the neighboring towns do. She stated that the next few years would be a tight turn, but noted that John Summers had pointed out that the Town would have no debt for the park. She stated that she took the longer view in that there was debt service to pay off in the next few years and then the Town would be in excellent shape to build the Fund Balance where Council wanted it.

Councilor Thibodeau stated that she did not want to dip into the Fund Balance, but also did not want to lose level of service. She did not think Councilor Burdick was trying to do anything personal and thought he and the rest of Council could appreciate the level of detail and analysis that went into the budget. She thought it was Council's job to scrutinize it, but did not think it should be pushed back to the level that the 3% cost should be completed because Councilor Burdick's prediction did not match Town Manager Layton's. She stated that Council could not begin to predict what would happen in the next 2 years. She stated that she wanted to be conservative but at the same time she appreciated that Councilor Burdick wanted to know what the impact would be. She felt that Town Manager Layton had already considered it and maybe in future budget presentations, he could show Council what he decided to remove from the budget even though she felt that he had already done that.

Mayor Wessel thought he was ok with the 3% because it would equate to \$143,284. He stated that by the time Council reduced the Police Department, salaries, pay increases and landscaping costs, he thought the 3% was exceeded. He thought Council would not be voting on the budget ordinance at this meeting but have another meeting where Council could see the changes Town Manager Layton would be making. He stated that if his math was correct, Council had already passed the 3% total reduction from the proposed budget. He added that if it was not there, it was close enough that Town Manager Layton would be able to find it. He stated that he would support the 3% after Town Manager Layton had a chance to think through the other changes Council made and have him come back at another meeting with what it would take to get there.

Mayor Pro Tempore Kingston agreed with Councilor Burdick's comments but did not agree with the 3% level. He thought it was too high. He thought he would like the percentage changed from 3% to 1.5%. He reiterated that 3% was too high and thought Council accomplished from the cuts made, pretty much what they wanted to do. He stated that while he agreed with the concept, he did not agree with the 3%.

Mayor Wessel asked if Mayor Pro Tempore Kingston wanted to make an amendment to the motion. Mayor Pro Tempore Kingston stated that he did.

Councilor Burdick stated that the 3% was not too high, but an opportunity for Council to receive feedback and it was up to Council to decide whether they would be happy with 1.5%. He added that it gave Council some perspective on what it would mean to go beyond it. He stated that it didn't mean it would be implemented, but asking Town Manager Layton to bring back information so Council had a better understanding of what it would mean. Town Manager Layton asked if he came back and stated that 3% could be easily cut from the budget, that it wouldn't be adopted. Councilor Burdick disagreed, but he wanted Town Manager Layton to tell Council what it would mean if he did do it. Town Manager Layton stated that he wasn't sure about his opinion at this point.

Mayor Pro Tempore Kingston stated that Council could disagree on revenues, but noted that Town Manager Layton was conservative which was why he felt that 3% was too high. Councilor

Burdick thought the Town would not be gaining anything by going with 1.5% as there would not be any other input from Town Manager Layton, which was the reason behind the 3%.

Mayor Pro Tempore Kingston moved to amend Councilor Burdick's motion to have Council consensus on 1.5% reduction in the total budget, including the changes that were made.

Amended motion failed 1-4 with Mayor Wessel, Councilors Morrison, Thibodeau and Burdick dissenting.

Original motion failed 2-3 with Mayor Pro Tempore Kingston, Councilors Morrison and Thibodeau dissenting.

Town Manager Layton noted that Council had cut out a certain amount of the budget. He added that if the concern was that he had not been conservative enough on the revenue side, rather than adding the difference to the Fund Balance, he could adjust the revenues to achieve a balanced budget, which would accomplish Councilor Burdick's goal. Councilor Burdick thought it was a good idea.

Councilor Thibodeau asked for an explanation of Town Manager Layton's comment. Town Manager Layton stated that Council had cut out a certain amount of money but the revenue side was not adjusted, just the expenditure side. He stated that the difference would either go into the anticipated Fund Balance or he could adjust revenues to reflect it and make the revenue side more conservative. He stated that he had been very clear about the fact that some of the projections he felt more confident with than others. He stated that it would afford him the opportunity to adjust the items he was less confident about. He added that he would be happy to do it and bring it back to Council at their mid-month meeting. Councilor Burdick thought it sounded reasonable as it would get Council in the direction it wanted to go.

Town Manager Layton stated that he would come back to the mid month meeting with the adjustments, explain the effect of the adjustments and prepare it for adoption of the budget while explaining how the budget got to that point. He stated that he intended to bring back a budget ordinance that will implement the suggested changes with the anticipation that it would be adopted.

Town Attorney Hobbs noted that if Council wasn't ready to adopt the budget at their mid month meeting, they would need to schedule a special meeting before June 30, 2010 to adopt the budget.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

Update on Ground Mounted Sign Amortization Enforcement

Director Garman stated that staff has begun the process of enforcing the amortization of sign regulations. He stated that the staff memorandum outlined what had been completed to date, which was that staff inventoried all free-standing signs for businesses in the community as well as for the subdivision signs. He stated that staff had prepared letters to send to the business owners informing them what the Town's plans were. He added that a generic copy of the letter was in Council's packets. He stated that staff's approach was that, although the enforcement date was July 7, 2010, the business owners would have an additional 6 months to come into compliance. He stated that, technically, on July 7, 2010, a notice of violation would be sent out which would tell them that they have 6 months to develop a plan to come into compliance before any further enforcement action would take place.

Director Garman thought it was a pretty flexible approach and has been well received by most businesses. He stated that staff had contacted every business by telephone and have set up meetings with several businesses of what was expected. He stated that most people were interested in the VIP grants, so it was expected that staff would receive applications for them in the coming year. He stated that most of the signs had relatively minor issues that would need to be dealt with.

Director Garman stated that the majority of the signs needed to have their lighting corrected while in other areas, the sign would need to be trimmed. Town Manager Layton asked where the 2 most serious places were located. Director Garman stated that they were Wings and Barrier Island Station as the signs were too high and did not meet any of the Town's standards and would probably have to be replaced.

Councilor Burdick asked Director Garman if he was dealing with people in Barrier Island Kitty Hawk. Director Garman stated that he was dealing with a new management company – SPM Management. He added that he had left messages with the property manager and spoke to another person. Councilor Burdick stated that the reason for his question was that there were 2 signs at Barrier Island Station and thought the office plaza was separate from the other one. He added that the office plaza was administered by Barrier Island Kitty Hawk while the whole complex was administered by SPM Management. He wasn't sure if SPM Management covered the office plaza. Director Garman stated that he would make sure that both signs would be covered when he speaks to SPM Management.

Mayor Pro Tempore Kingston asked about the grant funds. Town Manager Layton stated that the Town has a Village Improvement Grant Program and was located in the Governing Body line item with \$8,000 currently in it.

Mayor Wessel understood that this year's funds have already been spent. Town Manager Layton stated that he was correct.

Councilor Morrison asked for a status of the Sunset Grill sign. Director Garman stated that it had come down. He added that they took the large sign down and constructed a basket weave in front of the mechanical units and have framed up some new signs that they received permits for.

Mayor Wessel noted that the application for the VIP grants were available on the Town's website. Director Garman stated that a copy of the application was included in the letters that were sent to the business owners. Mayor Wessel clarified that the decision making body was Allen Lehew. Town Manager Layton added that it also included Lisa Mann and George Grinnan who made up the Community Improvement Committee. Director Garman explained that Public Relations Coordinator Testa works with the Committee to funnel the applications through and make recommendations to them.

Director Garman stated that there were approximately 5-6 subdivision signs that were out of compliance and staff would be sending letters out and follow up with a telephone call. He added that the subdivisions would be offered the same options as the business owners.

NEW BUSINESS

Discussion/Consideration of Resolution No. 10-04, a Resolution of the Town Council of the Town of Duck, North Carolina, Establishing a Code of Ethics

Town Manager Layton stated that during their 2009 session, the North Carolina General Assembly adopted Session Law 2009-043 requiring all governing bodies of cities, counties, local boards of education and similar bodies to adopt a code of ethics no later than January 1, 2011. He added that University of North Carolina School of Government had developed a model code of ethics to be used by governing bodies as a template for development of their code of ethics. He stated that Resolution 10-04 used the model ordinance developed by the School of Government. He noted that in the resolution were optional sections; one related to seeking additional legal and ethical education and one that would establish a formal censure procedure to address members of Council who may not adhere to the Code of Ethics that Council could include in the resolution. He explained that the Towns of Kitty Hawk and Manteo have adopted a Code of Ethics that did not include the censure language.

Councilor Burdick stated that he did not have a problem with the first optional section but did not like the censure language. Town Attorney Hobbs read the discussion from the model code book dealing with the censure provisions to Council and the audience. Councilor Burdick stated that he still did not like the censure language.

Mayor Wessel asked if the source of the model ordinance was the Council of governments. Town Manager Layton stated it was from UNC School of Government. Mayor Wessel asked if they were the source of the optional language. Town Manager Layton stated that they were.

Councilor Thibodeau moved to approve Resolution 10-04, including the first optional language but not the section on censure procedures.

Councilor Thibodeau thought there were instructional items in the optional language but thought it would be appropriate for a new Council member to have it in an introductory package to show them what would be expected.

Mayor Pro Tempore Kingston clarified that the resolution would not include Section 6 which talked of censure procedures. Councilor Thibodeau stated that he was correct.

Motion carried 5-0.

Discussion/Consideration of Ordinance 10-07, an Ordinance Amending Title VII: Traffic Code, Chapter 72: Parking Schedules, Section I General Parking Regulations, of the Town of Duck Code of Ordinances

Town Manager Layton stated that staff was recently made aware of an omission in the Town of Duck's *Code of Ordinances* related to the list of public roads on which parking regulations could be enforced. He stated that a homeowner brought to staff's attention that State Road 1293, Seabreeze Drive, was inadvertently left off the list provided in Title VII: Traffic Code, Chapter 72: Parking Schedules, Schedule 1. He added that Ordinance 10-07 would correct the omission.

Mayor Pro Tempore Kingston moved to adopt Ordinance 10-07 as presented.

Motion carried 5-0.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Town Attorney Hobbs had nothing to report.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Update on Departmental Activities

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.

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.

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

Update on Town Hall Construction

Town Manager Layton stated that the architects and engineers were working very hard to get the plans ready to discuss with Council at their next meeting. He stated that he did not have a whole lot to report on the project at this point. He added that everything was still on target and some of the issues related to site distance and other engineering issues were turning out to be non-issues.

Financial Statement for the Month of May for FY 2010

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

MAYOR'S AGENDA

Mayor Wessel had nothing to report.

COUNCIL MEMBERS' AGENDA

Councilor Thibodeau had nothing to report.

Councilor Morrison had nothing to report.

Mayor Pro Tempore Kingston noted that the comments to the Turnpike Authority for the Mid-Currituck Bridge were due by June 7, 2010.

Councilor Burdick had nothing to report.

OTHER BUSINESS

Mayor Wessel stated that the next meeting would be the mid month meeting on Wednesday, June 16, 2010 at 1:00 p.m.

ADJOURNMENT

Councilor Thibodeau moved to adjourn the meeting.

Motion carried 5-0.

The time was 10:03p.m.

/s/ Lori A. Kopec, Town Clerk

Approved: July 7, 2010

/s/ Dave Wessel, Mayor