

**TOWN OF DUCK**  
**MUNICIPAL PROPERTY MASTER PLAN ADVISORY COMMITTEE MEETING**  
**July 15, 2014**

The Municipal Property Master Plan Advisory Committee for the Town of Duck convened at the Duck Municipal Offices at 3:00 p.m. on Tuesday, July 15, 2014.

**MEMBERS PRESENT:** Chairman Paul Keller; Avery Harrison; Tim McKeithan; Charlie Pratt; and Ben Vorndran.

**MEMBERS ABSENT:** None.

**OTHERS PRESENT:** Town Manager Christopher Layton; Public Information Officer Denise Walsh; Fire Chief Donna Black; Police First Sergeant Jeff Ackerman; and Town Clerk Lori Kopec.

**OTHERS ABSENT:** Police Chief Phillip Ferguson.

Chairman Keller called the meeting to order at 3:07 p.m.

**APPROVAL OF JUNE 10, 2014 MINUTES**

Ben Vorndran had a correction to Page 3 of the minutes.

Tim McKeithan moved to approve the June 10, 2014 minutes as amended. Avery Harrison seconded.

Motion approved 5-0.

**DISCUSSION OF USAGE POLICIES RELATED TO OUTDOOR FACILITIES**

Chairman Keller suggested that the Committee discuss the draft ordinance. He asked the Committee for their comments.

Ben Vorndran asked if in Section O, it would be advisable to have children supervised. He asked if it was assumed that children would be supervised in all parts of the park. Fire Chief Black noted that the definition of Park included all places. Ben Vorndran clarified that there were signs up in the park that tell people to walk their bicycles. He noted that Section T states that bicycles were prohibited on the boardwalk. Town Manager Layton stated that the use of bicycles was prohibited.

Chairman Keller noted that the draft ordinance was undated. He asked if it would be dated once Mayor Kingston signed it. Town Manager Layton stated that it would.

Town Manager Layton stated that the crux of the draft ordinance was Section N. He added that that was where the Committee's discussion had gone in order to amend the rules as far as the events were concerned. He noted that the rest of the draft ordinance was basically a housekeeping matter. He pointed out that Section N got at the use of the other facilities by saying that the Town would consider requests for special events in writing on forms provided by the Town. He stated that the date had been changed from May 1<sup>st</sup> to May 30<sup>th</sup> as it seemed like a reasonable timeframe and added that it was open to the general public, was free of charge, was

deemed to be for the good of the community, sponsored by or benefitted non-profit organizations, and/or was in partnership with the Town. He explained that the partnership with the Town refers to whether it was a commercial venture or something that was not associated with a non-profit, as it would be an event that the Town would probably want to partner with. He stated that he could not foresee an instance of a for-profit organization coming in to do an event in Town that the Town would not be in partnership.

Tim McKeithan noted that the language in Section N read: "...is still deemed to be for the good of the community..." He suggested leaving out language regarding if an event was not for non-profit and have it read: "...is deemed to be for the good of the community and is in partnership with the Town..." He asked if that was how the language would be read in Section N. Town Manager Layton thought the intent of the language was that if a not for profit organization came in and wanted to hold an event that the Town didn't sponsor, it could still be considered, but if a for-profit organization came in, he would want the organization to partner with the Town. He noted that the language was a bit awkward. Tim McKeithan stated that it made sense, but wanted clarification. Fire Chief Black thought it best to leave the language as it was written to allow for wiggle room. Town Manager Layton agreed and suggested striking the word "or" from the language.

Public Information Officer Walsh stated that if the Town wished to have a for-profit group hold an event; Section N would be where it would be intended. Fire Chief Black agreed. Chairman Keller thought the Town would want that control. Town Manager Layton agreed.

Charlie Pratt moved to send the draft ordinance forward to the Town Council for their approval. Tim McKeithan seconded.

Motion carried 5-0.

Town Manager Layton stated that staff worked on the Rules of Use for Special Events, with the rules alone intended to mirror the draft ordinance that was just voted on by the Committee. He stated that the application process outlined what staff was looking for specifically and helped to give people an idea of what the Town was referring to when they fill out the application. He stated that they were not designed to be a separate set of rules but to be in coordination with them. He noted that the rules were the official document and the document before the Committee was one that Town staff would give to the event coordinator. Avery Harrison clarified that it was more specific. Town Manager Layton stated she was correct. He stated that it had exactly what staff was looking for in an application.

Tim McKeithan asked if a Town Park Special Events Permit Application would be required regardless of the size of the event. Town Manager Layton stated that it would not necessarily be required. Tim McKeithan clarified that Town staff had the right to require the application from anyone that wanted to hold an event. Town Manager Layton stated he was correct. He stated that it gave him some flexibility for certain events, such as the Easter egg hunt held by the Duck United Methodist Church. He added that he would ask for documentation in an email form and if it was a small enough event, he would probably request a letter or something in writing that he could respond. He stated that that would be the form he would be asking for. He noted that the application form in front of the Committee was designed for larger events, which may never occur, such as a festival. He stated that larger events would require fees, which staff wanted to be high to cut out those that were not serious about putting on an event.

Chairman Keller noted that Page 2 had the application fee listed as \$15.00 and should be \$25.00. Town Manager Layton stated that he would correct it. Chairman Keller asked if the new forms would be approved by the Town Council. Town Manager Layton stated that it would be since there were fees associated. He thought the Committee should discuss the fees.

Ben Vorndran pointed out that Page 1 referenced Chapter 95 of the Town's ordinances, but thought it should be Chapter 93. Town Manager Layton stated he was correct.

Tim McKeithan noted that under Application Process, it talked of a security plan. He wondered if the Town was opening a can of worms regarding supplemental lighting and temporary light towers that may be required for outdoor special events. He pointed out that in other sections it stated that all events would have to end by dark. He thought it should be left out of the rules and if someone had a convincing reason and the Town wanted to partner with them, it could be considered. Town Manager Layton stated that he would remove the language. Ben Vorndran thought it referred to stage lighting. Public Information Officer Walsh stated that there were stage lights but thought the language should be removed.

Chairman Keller noted that General Rules of Use #5 stated that alcoholic beverages may not be sold on the Town's park facilities. He asked what would happen if an event coordinator wanted to rent a beer truck, pay for it themselves and give it out to people at the event. Ben Vorndran noted that the use of alcohol was prohibited at the park. Chairman Keller asked what would happen if the event coordinator wanted to bring in a keg instead. Town Manager Layton stated that he wasn't sure the Town would allow kegs. He added that the Town's policy was that people could bring alcohol in and if they behaved, it wouldn't be an issue. He stated that if someone brought in a keg, it may be over the top. He wondered if it was any different than if someone brought in a cooler of beer and handed them out. He thought if a person brought in a cooler and was with a small group of friends, that was one thing, but if someone brought in a large keg and was handing out beer for one hundred people, that was different way of distributing it.

Chairman Keller noted that if an event coordinator brought in a keg, it would be easy for underage kids to have access to it. Town Manager Layton agreed. He thought the Town's general policy was always that the sale of alcohol is prohibited on park grounds, especially at events as it causes a different level of liability for the Town.

Public Information Officer Walsh asked if the language should read: "...may not be sold, served or distributed..." Town Manager Layton suggested that it read: "...sold or distributed..." Public Information Officer Walsh noted that it wasn't saying that consuming alcohol was prohibited. Fire Chief Black asked if Town Manager Layton could make an exception with the rule. Town Manager Layton stated that he could.

Charlie Pratt asked for an explanation of the general fee schedule. Public Information Officer Walsh stated that the application fee was a \$25.00 non-refundable fee. She stated that the deposit was \$200.00 and could be refunded after the event once Town staff determined that the facilities were fine. She stated that if it was a Town event, there would be no fee; if it was an event where the Town was a major sponsor, the fee would be \$275.00. She thought if the Town was a major sponsor, the fee may be waived. She thought the Committee could discuss if this fee should be included or if the fee should be less. She stated that the Duck/Outer Banks based not for profit fee was \$275.00 and the Out of Town not for profit fee was \$1,050.00. She thought the Committee could discuss what the fees would do, such as helping with the clean up and the additional demand on Public Safety. She noted that off-duty police officers may be hired and wasn't sure if

the \$30.00/hour fee was enough. Police First Sergeant Ackerman noted that the officers charge \$35.00/hour.

Public Information Officer Walsh stated that the Town wanted people to be serious about the events, adding that there was a \$200.00 deposit. Avery Harrison asked how the Out of Town not for profit fee was achieved. Public Information Officer Walsh stated that it was based on a fee for the City of Greenville.

Ben Vorndran asked if the \$200.00 deposit would cover any damages an event would incur. Town Manager Layton stated that staff has not had any damages to the property to date that they could base it on. Public Information Officer Walsh thought it helped to provide the level of seriousness in that the event coordinator would be able to provide the \$200.00 deposit. She thought if the damage was less than \$200.00, the Town would return the remainder to the event coordinator. Ben Vorndran thought if someone damaged the stage of the amphitheater, it would probably cost more than \$200.00 to repair. Public Information Officer Walsh thought it was a matter of how much people would be willing to put down for a deposit.

Town Manager Layton stated that if there was a group that wanted to use the amphitheater and caused \$1,500.00 worth of damage, the Town would try to recover that cost from the group. He added that the \$200.00 deposit guaranteed that the Town would get that back if there were damages. Fire Chief Black suggested having a line in the policy stating that the applicant would be subject to repairs. Avery Harrison thought it was a good idea.

Public Information Officer Walsh stated that the Committee may want to consider a lower fee for an event where the Town was a major sponsor. Town Manager Layton suggested that in Section 3 regarding the return of the deposit, adding language to read as: "...if damage exceeds the amount of the deposit, the event sponsors are responsible for the cost of any additional repairs..." Chairman Keller asked if it was likely that the not for profits would be insured for the event. Town Manager Layton stated that they would have to be insured. Avery Harrison agreed.

Tim McKeithan asked if the liability insurance would cover the damages. Town Manager Layton stated that it would be up to the event sponsor. He added that they may have a policy that would pay on it. He guessed that it was general liability if someone gets hurt and not damage to property, so it would depend on what policy they had. He stated that the Town was not going to require a sponsor to have property insurance. Tim McKeithan clarified that the clause was similar to what rental companies have. Town Manager Layton agreed.

Charlie Pratt stated that he was not clear on the General Fee Schedule with regard to Duck/Outer Banks based not for profit and the Out of Town not for profit. He felt it wasn't clear when reading it and wondered if the Town Council and applicants would understand what they meant. He wondered if it could be rewritten or clarified. Avery Harrison suggested adding "Dare County" to the language. Public Information Officer Walsh thought the Committee could look at adding different levels. She thought there could be a Duck based not for profit. Town Manager Layton asked if one existed. Public Information Officer Walsh thought the Duck Merchants Association and the DCBA were considered ones. Charlie Pratt clarified that they put on Duck based events. Public Information Officer Walsh thought a second level could be a Duck based not for profit organization. She added that there could be a Dare County not for profit that would be located within Dare County. Chairman Keller thought it was a good idea.

Town Manager Layton noted that the Out of Town not for profit was more for those that were out of state. Public Information Officer Walsh thought it was more for those that were outside of

Dare County. Avery Harrison pointed out that the North Carolina Beach Buggy Association was based in Virginia and was a good example of an Out of Town not for profit.

Tim McKeithan thought an Out of Town not for profit meant an entity outside of Dare County. Chairman Keller thought it was a good point. Town Manager Layton agreed, adding that that was what staff was referring to with regard to Out of Town.

Avery Harrison suggested changing “not for profit” to “non-profit”. Chairman Keller stated that there was a difference between the two terms. Public Information Officer Walsh thought she originally had non-profit and thought the Facility Use application had not for profit. Fire Chief Black pointed out that non-profits are usually a 501C-3 entity. Town Manager Layton suggested leaving the not for profit language in the form.

Fire Chief Black asked about the fee for an event where the Town was a major sponsor. Town Manager Layton stated that he was thinking that there would not be a fee, but the Town would require a deposit. Public Information Officer Walsh agreed. Fire Chief Black stated that since the deposit would be required, would the line even be needed on the form. Town Manager Layton stated that if it were a Town event only, no deposit would be needed. Public Information Officer Walsh suggested the following language: “...no fee for a Town event...” Fire Chief Black thought it was for an outside group coming in and didn’t feel the language needed to be added. Public Information Officer Walsh suggested the following language: “...event where the Town is a major sponsor, no fee would be needed...” Town Manager Layton was happy with the language.

Fire Chief Black clarified that there would be an application fee, a deposit and an event fee. Town Manager Layton suggested that it be called a facility use fee. Public Information Officer Walsh thought there could be a separate section that would be entitled “Facility Use Fee” and would include the fees.

Public Information Officer Walsh asked the Committee if they liked having a Duck-based not for profit organization, a Dare County not for profit organization and an Outside of Dare/Currituck not for profit organization. Avery Harrison suggested that the last one be called “Non-Dare/Currituck based organization”. Fire Chief Black suggested that it be called “Other”. Town Manager Layton suggested a Duck-based not for profit, an Outer Banks based not for profit and a Non Outer Banks based not for profit. Chairman Keller liked Town Manager Layton’s suggestion.

Public Information Officer Walsh clarified that the fees would be as follows: Duck based not for profit would be \$150.00; Outer Banks not for profit would be \$500.00; and beyond that \$1,000.00. Town Manager Layton thought it had a nice synergy. Fire Chief Black suggested doubling the fee for the Duck based not for profit. Public Information Officer Walsh clarified that the fee would be \$300.00. Tim McKeithan asked for the fees to be repeated. Public Information Officer Walsh stated that the fees would be: \$150.00 for the Duck based not for profit; \$300.00 or \$500.00 for the Outer Banks not for profit. Avery Harrison thought \$300.00 would make more sense and felt that \$500.00 was too much. Charlie Pratt agreed. Ben Vorndran thought it was more of a rental fee. Public Information Officer Walsh reminded the Committee that there was also a deposit in addition to the fee. Tim McKeithan thought \$300.00 was less onerous.

Town Manager Layton reminded the Committee that they needed to look at it as events and not individual pieces. He stated that someone could rent the green, the amphitheater or the picnic

shelter individually or as a whole and the fees would be the same since it was about an event and not the individual facilities. Avery Harrison thought the fees should be higher for Duck as well. Town Manager Layton stated that it could be broken out depending on the actual facilities that were being used. He thought it could be done on an event by event basis while meeting the same goals. He felt that having an event in the amphitheater while a different one was held in the green was pretty slim.

Ben Vorndran clarified that an event could be held on the boardwalk, amphitheater, gazebo or picnic shelter. Town Manager Layton stated that the boardwalk would not figure into it. Ben Vorndran clarified that the fees would cover the use of all of the facilities. Town Manager Layton stated that it would apply if the event required it, adding that the sponsor would have to specify it in the application. Ben Vorndran asked if it was in the application. Public Information Officer Walsh stated that it was. Fire Chief Black suggested that the fees be: \$250.00, \$500.00 and \$1,050.00. Town Manager Layton stated that the Committee had decided at their last meeting that they didn't want to have a plethora of events that weren't in partnership with the Town. He added that if it was in partnership with the Town, there weren't any fees assessed. Tim McKeithan clarified that the latest proposal for the fees was \$250.00, \$500.00 and \$1,000.00. Town Manager Layton stated that it was \$1,050.00.

Chairman Keller asked if male and female port-o-johns were needed if an event had 100 people in attendance. Public Information Officer Walsh stated that it was two toilets for every 100 people. She added that the Town had its own public restrooms. Town Manager Layton thought it was a building code standard for events. Public Information Officer Walsh thought the Town could request an event sponsor to bring in additional portable restrooms beyond what the Town had. Fire Chief Black thought it would simplify things.

Town Manager Layton stated that the Committee needed to come to a solution on the fee schedule. He suggested that the following language be added to Special Events Staff: "...during application process, if applicable..."

Tim McKeithan asked what the Committee decided with regards to an event where the Town was a major sponsor. Town Manager Layton stated that there would not be a fee, but a deposit would be required.

Charlie Pratt asked if the Committee should go line by line on the fees and vote on them. Fire Chief Black asked if the Committee was good with the fees they discussed. Public Information Officer Walsh stated that the application fee would be \$25.00. Ben Vorndran felt the fee should be higher. Town Manager Layton noted that it was a review fee and felt it was a reasonable application fee. Public Information Officer Walsh stated that the deposit would be \$200.00. She stated that the facility use fees would be as follows: Event where Town is a major sponsor – no fee or deposit. Town Manager Layton suggested changing it to Event Use Fee. Fire Chief Black thought there should be no fee for an event where the Town is a major sponsor. Public Information Officer Walsh asked if it should be clarified. Town Manager Layton stated that when people see No Fee, they may think it would include not having to provide a deposit. Public Information Officer Walsh suggested it be No Event Use Fee.

Public Information Officer Walsh stated that the fees would be as follows: Duck based not for profit: \$250.00; Outer Banks based not for profit: \$500.00; and Non-Outer Banks not for profit: \$1,050.00; and \$35.00/hour for Off Duty Duck Police Officer.

Charlie Pratt asked if the Committee should vote on the fees. Chairman Keller stated that he would like to see a final policy before the Committee votes on it. He asked if another meeting would be necessary or if the Committee could vote via email. He thought another meeting was in order. Town Manager Layton agreed, adding that it would be good for the Committee to review the changes since they were significant.

Tim McKeithan asked if the Special Events Staff – fees associated during application process was open-ended. Public Information Officer Walsh thought it applied to staff that was required to be on site. She also thought it could apply to an event that the Town did not sponsor, but should be one where there should be staff present. She stated that this would be addressed with the event coordinator during the application process. Tim McKeithan stated that since there was a set fee for the other things, he thought there should be a dollar value on Special Events Staff if they were required to be at the event. Public Information Officer Walsh thought it would depend on who it was, such as the people that would run the sound at the event. Avery Harrison thought it could be addressed on a case by case basis. Town Manager Layton agreed, adding that it could be difficult. Tim McKeithan asked if the people that work the sound come through the Town of Duck. Public Information Officer Walsh thought it may not. Town Manager Layton added that the event coordinator may request using the Town's sound people.

Fire Chief Black stated that she liked that the fee was open-ended. She suggested the following revision: "Special Event Staff...staffing and applicable fees assessed during application process." Tim McKeithan stated that he liked the suggested language.

Chairman Keller asked if the Committee should review the Town Park Special Events Permit Application. Town Manager Layton stated that it was up to the Committee. Chairman Keller felt that the application should be reviewed. Tim McKeithan noted that there were changes to it based on the Committee's discussions. Town Manager Layton stated that staff could bring back a revised application at the next meeting. Chairman Keller thought it was a good idea. He added that if the Committee members had questions about the form, they should bring them forward. Tim McKeithan stated that the bottom of Page 1 had the following language: "...may be added to the event..." He noted that tents were not authorized and thought the light towers should be removed from the form. Public Information Officer Walsh stated that tents were put up on the Town green for events. She added that even though people could not set up tents, the Town puts them up for special events. She thought tents would be allowed. Town Manager Layton agreed. Public Information Officer Walsh thought light towers could be stricken from the form. Town Manager Layton suggested removing scaffolding from the form as well.

Avery Harrison asked if fencing should be stricken from the form. Public Information Officer Walsh thought it was good to keep that in so Town staff would know what the event coordinator would be using. Fire Chief Black stated that the way the application was written, it didn't have to have everything on it that Town staff may ask for. Public Information Officer Walsh agreed and added that it was for staff to understand what the coordinator wanted to do and determine whether they should be allowed or not. She added that "scaffolding" could be stricken from the form.

Ben Vorndran asked if the fee was good from January to January or only a one-time event. Town Manager Layton stated that it was for a one-time event. He didn't think it needed to be clarified on the application. Public Information Officer Walsh asked if it should be added in the rules.

Tim McKeithan noted that in the ordinance that amended the general regulations, Section 93.05(X) talked of tents and umbrellas being prohibited in the park. He asked if it applied only to

individuals. Town Manager Layton stated that it did. He added that if an event coordinator noted that a tent was needed for the sound person, it would be acceptable.

Avery Harrison asked if the number of vehicles and trailers should be indicated on the application. Public Information Officer Walsh thought it could be added. Fire Chief Black thought that once staff reviews the application, it could be clarified.

Fire Chief Black asked if the portable restrooms were still applicable on the application. Public Information Officer Walsh stated that it was. Town Manager Layton stated that if the event was big enough, the Town would require them.

Chairman Keller asked if anyone has had an issue with any of the fees with the Facility Use Policy. Town Manager Layton stated that there have not been any issues.

Public Information Officer Walsh stated that she wasn't sure how to address if an event coordinator was going to use vendors that were outside of Duck. She explained that it would be restaurants from outside of Duck. She wondered how businesses in Duck would respond to that. She added that there wasn't anything in the Town's rules, but ideally the Town did not want to have vendors that were outside of Duck as it could hurt the Duck businesses. Town Manager Layton noted that the Black Pelican Restaurant wanted to sponsor Movies on the Green, but staff declined because there were plenty of restaurants in Duck that could sponsor the event.

Ben Vorndran asked if a business outside of Duck wanted to give the Town money, it would be acceptable. Public Information Officer Walsh stated that she had contacted some businesses in Duck and was able to get some support. Fire Chief Black asked if it would fall under the pretense that it would be deemed good for the community. Public Information Officer Walsh thought it would. Ben Vorndran thought if someone wanted to donate money to the community, it would be fine. Public Information Officer Walsh thought it could be done on a case by case basis. Town Manager Layton agreed, adding that staff would want to make sure that the event coordinators were doing their due diligence with working with the Duck businesses. He thought from a public relations standpoint, the Town needed to go through the test first. He stated that it was a little easier if it were an event outside of Duck that wanted to sponsor an event, such as a cell phone company. He stated that staff would not have a problem with banks sponsoring events as long as PNC Bank declined first.

Ben Vorndran thought an email could be sent to the restaurants in Duck to let them know that the Town was looking to accept sponsorships for events and if they decline, there should not be an issue with having an outside restaurant sponsoring the event. Fire Chief Black disagreed because there were other restaurants in Duck that could sponsor the events. She felt that the Town should not be involved. Public Information Officer Walsh agreed. Fire Chief Black felt that if a Duck restaurant did not want to sponsor an event, the option to choose a restaurant outside of Duck should not be given. Ben Vorndran clarified that if a company outside of Duck wanted to give money to promote the Town, staff should decline. Fire Chief Black stated that it would pertain to an event. Town Manager Layton stated that, from his perspective, it was politically untenable to adopt the position that the Town would not take the money from where it came from as opposed to taking the position of encouraging people to leave Duck to go to a restaurant outside of Duck.

Public Information Officer Walsh pointed out that the one holding the event would be receiving the proceeds from the event and not the Town. Town Manager Layton stated that the general public would not know this. Public Information Officer Walsh stated that people would think that



the Town would be receiving the sponsorship from the outside business and it would look bad. She stated that events on the Town green should be well thought out.

Ben Vorndran stated that as a business owner in Duck, if a restaurant outside of Duck wanted to donate money, he would want to donate more money than the outside business. He thought it would help bring in more money for an event to make it bigger and better. Chairman Keller reminded the Committee that the business owners in Duck do a lot for the Town in various ways. Public Information Officer Walsh agreed.

Avery Harrison asked if the window for the dates should be May 31 instead of May 30. Public Information Officer Walsh stated she was correct.

Charlie Pratt hoped that the Town receives a lot of applications for special events. Ben Vorndran agreed. Charlie Pratt thought the Committee could review the application after a year to see if any revisions would be needed. He hoped that there would be events between November 1 and May 31. Ben Vorndran agreed.

Town Manager Layton stated that he would bring back the application and rules that were part of the application to the Committee at their next meeting.

It was *consensus* of the Committee to hold their next meeting on Thursday, August 14, 2014 at 11:00 a.m.

#### ADJOURNMENT

There being no further discussion, Tim McKeithan moved to adjourn the meeting. Charlie Pratt seconded.

Motion carried 5-0.

The time was 4:28 p.m.

  
Lori Kopec, Town Clerk

