

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
May 7, 2014**

The Town Council for the Town of Duck convened at the Duck Meeting Hall at 7:00 p.m. on Wednesday, May 7, 2014.

COUNCIL MEMBERS PRESENT: Mayor Don Kingston; Mayor Pro Tempore Monica Thibodeau; Councilor Chuck Burdick; Councilor Nancy Caviness; and Councilor Jon Britt.

COUNCIL MEMBERS ABSENT: None.

OTHERS PRESENT: Town Manager Christopher Layton; Police Chief Phillip Ferguson; Fire Chief Donna Black; Director of Community Development Andy Garman; Attorney John Leidy; Public Information Officer Denise Walsh; and Town Clerk Lori Kopec.

OTHERS ABSENT: Town Attorney Robert Hobbs.

Mayor Kingston called the meeting to order at 7:06 p.m. He asked Councilor Britt to lead the Pledge of Allegiance. Mayor Kingston led the moment of silence.

Mayor Kingston noted that Town Attorney Robert Hobbs could not attend the meeting due to the unexpected death of his mother. He added that Attorney John Leidy would be sitting in for Town Attorney Hobbs.

PUBLIC COMMENTS

Mayor Kingston opened the floor for public comments.

Michael Stevens of 126 Seabreeze Drive was recognized to speak. Mr. Stevens stated that his subdivision – Sand Dollar Shores – has a serious sight distance problem. He asked Council to have the Town put up a temporary pedestrian/bicycle stop sign during the summer so there would not be any accidents. Mayor Kingston stated that Town staff would take the issue into consideration.

Police Chief Phillip Ferguson was recognized to speak. Police Chief Ferguson introduced new Police Officer Chuck Edwards to Council and the audience.

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

CONSENT AGENDA

Minutes from the March 5, 2014, Regular Meeting; Minutes from the April 2, 2014, Regular Meeting; and Minutes from the April 16, 2014, Mid-Month Meeting

Councilor Burdick moved to approve the Consent Agenda as presented.

Motion carried 5-0.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

Discussion/Consideration of Resolution No. 14-06, a Resolution of the Town Council of the Town of Duck, North Carolina, Establishing a Policy Related to Council Liaisons to, and Members of, Boards and Commissions

Town Manager Layton stated that the Council formed an ad-hoc committee previously, which consisted of him, Mayor Pro Tempore Thibodeau, Director of Community Development Andy Garman and Planning Board Vice Chair John Fricker, to develop a Town Council policy related to the liaisons to and members of boards and commissions. He stated that the committee finished its work and brought Resolution 14-06 forward for Council's consideration. Town Manager Layton went on to review the resolution with Council and the audience.

Mayor Pro Tempore Thibodeau stated that the committee had a few meetings and tried to come up with what they thought were fairly reasonable guidelines to give it structure.

Mayor Kingston clarified that under Section C1, it would be the Planning Board chairman that would make the distinction based upon the agenda with respect to participation and non-participation of the liaison. He thought there could be an agenda that would have both items directed from the Council as well as staff. He assumed it would be up to the Planning Board chairman to control the liaison's participation. Town Manager Layton stated that it would. He added that the committee discussed those cases where an agenda would have both items. He stated that the committee fell back to the general role of liaisons where it talked about the chairperson and the liaison establishing how it would work. He stated that they felt it was better to give more leeway than to try to come up with specific guidelines that may or may not work. He stated that they decided to see how it would work with the chairman and liaison and then determine if something needed to be done beyond that.

Councilor Caviness moved to approve Resolution 14-06 as presented.

Mayor Kingston felt that the resolution was very well written and thanked the committee for their work.

Motion carried 5-0.

Discussion/Consideration of Authorizing a Public Hearing on Ordinance #14-02, an Ordinance Amending the Zoning Ordinance of the Town of Duck, North Carolina, Regarding Low-Impact Development (LID)/Stormwater Management

Director of Community Development Andy Garman was recognized to speak. Director Garman stated that at their April 9, 2014 meeting, the Planning Board had recommended that Council schedule a public hearing on Ordinance 14-02, which was a draft ordinance regarding stormwater/low impact development. He noted that the draft ordinance was presented to the Council at its Retreat. He stated that, rather than writing a completely new section of the Town Code related to stormwater management, the Planning Board recommended incorporating language into several existing sections of the ordinance. He explained that for residential projects, several LID-based performance requirements have been incorporated, such as a requirement that driveways be designed to limit the direct flow of stormwater runoff to streets and adjacent properties. He added that a lot coverage incentive was provided to residential property owners who implement LID-based engineered stormwater plans.

Director Garman explained that for commercial projects, a new specific stormwater management requirement has been included which would mandate on-site retention of the first 1.5 inches of rainfall from a 24-hour design storm. He stated that stormwater management plans must be prepared based on LID principles and the ordinance references and relies on the North Carolina Stormwater Best Management Practices Manual to guide applicants on the design process. He noted that the Town's ordinance would require stormwater management plans for any new commercial projects, including redevelopment; that adds more than 1,000 square feet of new lot coverage.

Director Garman stated that for both residential and commercial developments, modifications have been suggested for drive aisle and parking stall dimensions to limit the amount of impervious coverage required for sites. He went on to give a short presentation on the ordinance to Council and the audience, noting that the Planning Board was requesting that Council schedule a public hearing on the proposed ordinance at a future meeting.

Mayor Pro Tempore Thibodeau asked if North Duck Watersports followed the same guidelines with regard to the concrete drive aisle to the building as well as pervious or gravel parking spaces. She asked if it fit with the nature of the recommendations in the ordinance. She asked if they were going along with idea of isolated stormwater areas as opposed to one big spot. Director Garman stated that the Town engineer met with the owner of North Duck Watersports on-site several times to discuss the space to do it and since it was such a low impact site to begin with, a lot of coverage would not need to be added. He added that it fit in with this ordinance.

Mayor Pro Tempore Thibodeau asked if looking at the residential requirements and getting them incentivized to do some low impact development and having stormwater management where they may not have had to do it before, if there was a general amount of money adding to the cost of development to get an engineer to do it. Director Garman stated that for residential sites, it was not required. He added that the only time it would have to be done was when there was more than a 5% lot coverage incentive. He stated that other than that, it would not require an engineer and staff could work with the contractor during the building permit process and look at the site beforehand to see whether or not it would meet the requirement.

Mayor Kingston asked if any consideration or discussion was given regarding lots on hills and if the developments were going to repave their streets, how it would be repaved and addressed the stormwater that would be flowing down the streets. Director Garman stated that the Planning Board did not address that with this ordinance. He wasn't sure if that would fall under the zoning ordinance or a public works ordinance.

Councilor Caviness asked if one of the reasons that lots on hills have stormwater issues was due to the way the driveway was engineered in that it pushes the water into the street. She asked if the new ordinance would eliminate that. Director Garman stated that the new ordinance would not allow water to funnel directly to the street from the driveway. He added that there would have to be some type of mechanism to capture the water. He stated that the simplest thing an owner could do was to put in some sort of a trench drain to capture the water and then have it drain into a swale.

Councilor Burdick thought the Planning Board took a good approach to the draft ordinance by building on what the State was doing in eliminating significant restatements as to how to do things as well as relying on the State for the future to be sure that the Town is always up to date on what the standards are and how they should be implemented. He thought the Planning Board took an excellent approach in adopting the State system as the foundation of the ordinance. He

noted that the issue of streets was not addressed in the ordinance and thought it was something that the Planning Board could address, separate from the draft ordinance. He pointed out that Duck had a lot of private streets that were not subject to the State doing any work. He thought the issue could be referred back to the Planning Board. He felt that if a homeowner decided to repave their lot, it should be covered as well. He recommended that it be sent to the Planning Board for discussion and consideration.

Councilor Britt echoed Councilor Burdick's comments regarding sending the paving and repaving item to the Planning Board. He thought if Council was going to take a position, it needed to keep going.

Mayor Pro Tempore Thibodeau moved to authorize a public hearing on Ordinance 14-02 at Council's June 4, 2014 meeting.

Motion carried 5-0.

Councilor Burdick moved to refer the issue of managing stormwater on streets, especially with regard to repaving, to the Planning Board.

Councilor Britt suggested including repaving of existing lots and parking lots.

Councilor Burdick amended his motion and moved to refer the issue of managing stormwater on streets, especially with regard to repaving, including repaving of existing lots and parking lots, to the Planning Board.

Motion carried 5-0.

NEW BUSINESS

Discussion/Consideration of Authorizing the Town Manager to Execute a Contract with the Government Education Access Channels Committee and Hoppman Audio Visual related to Audio-Visual Equipment for the Town of Duck Meeting Hall

Town Manager Layton stated that the Government Education Access Channels Committee has made available funding in the amount of \$20,000 to assist each town in Dare County with video production. He stated that the Town applied for and received the grant and intended to contract with Hoppman Audio Visual for the purchase and installation of two wall-mounted cameras, a video production suite and audience microphones. He noted that these items would allow for better capture of Town meetings, increased capabilities in terms of incorporating any presentations, graphics and other items into the videos, as well as more effective capture of audience audio. He stated that the contract with Hoppman Audio Visual, if approved, would be for \$29,303.78 as the grant would cover \$20,000 and the Town would transfer funds from Contingency to cover the balance.

Mayor Kingston asked if the editing capabilities eliminated after the fact editing. Town Manager Layton stated that it would.

Councilor Burdick stated that he had talked to a friend who understood the proposal and they said that from an equipment standpoint, it looked good. He pointed out that there was nothing in the proposal that stated the Town had the backup to handle the new equipment IT-wise as well as what help would be needed. He assumed that there would be additional costs for the IT

interfacing. Town Manager Layton stated that a good portion was incorporated into the contract with Hoppman Audio Visual. He stated that he was confident that the Town had the funds to handle the additional IT costs. Councilor Burdick pointed out that Hoppman Audio Visual had a 90 day warranty and his friend recommended a minimum one year warranty due to problems with cabling. He noted that the government mandates two year warranties. He wasn't sure how much the cost would be, but recommended looking into it and if the cost was reasonable, including it in the contract. Town Manager Layton stated that he could do that.

Mayor Pro Tempore Thibodeau stated that she was going to ask about the warranty and added that it was good to hear that an extended warranty was recommended. She stated that there was a point about releasing the code once the warranty expired within a 30 day period. She thought it was something that the Town should ask for regardless of when the warranty ended so staff had the back end stuff. Town Manager Layton agreed.

Councilor Burdick moved to approve the proposal with Hoppman Audio Visual as presented with an extended warranty to cost \$2,048.

Motion carried 5-0.

Mayor Pro Tempore Thibodeau moved to approve the grant application proposal as presented with the Government Education Access Channel in the amount of \$20,000.

Motion carried 5-0.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Attorney Leidy stated that he 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 fire activities to Council and the audience.

Director Garman gave a brief overview of the past month's permit activities to Council and the audience.

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

Public Information Officer Denise Walsh was recognized to speak. Public Information Officer Walsh gave a brief overview of the past month's activities to Council and the audience.

Project Update on Beach Nourishment Project

Town Manager Layton stated that Council had a letter from CP&E in front of them that gave an update on where they were with regard to the beach nourishment project. He stated that CP&E made significant progress with permitting and design; however, the weather has not cooperated in terms of the marine sand search borrow area. He stated that they still have not been able to get the boats out due to the weather as well as the issues with Oregon Inlet. He stated that they were

hoping that they can get out later in the week or the first of next week. He stated that they do not think it would cause a major issue in terms of timing or schedule because they feel that they can catch up.

Town Manager Layton stated that on May 21, 2014, at Council's mid-month meeting, Ken Willson from CP&E will be present to discuss the scope of the project and a few alternatives. He stated that the idea would be to make a decision on the length of the project and then obtain consensus on the alternatives. He noted that notices have been sent out to virtually everyone that would be interested in attending this meeting and thought it would be very well attended. He stated that after the discussion with Ken Willson, the budget work session would be held on May 21, 2014 and a discussion on the format of the Council agenda. He thought there would be an issue with the time and suggested that the agenda format be discussed at Council's June 18, 2014 meeting. It was *consensus* of Council to discuss the agenda format at their June 18th meeting.

Budget Amendments

Town Manager Layton stated that the budget amendment appropriated \$20,000 in grant funding from the Government Education Access Committee for audio-visual improvements in the Meeting Hall and transfer \$16,500 from Contingency into Finance and Public Buildings: Capital Outlay over \$5,000 to cover anticipated end-of-year costs associated with the audio-visual improvements.

Mayor Pro Tempore Thibodeau moved to approve the budget amendments as amended.

Motion carried 5-0.

Update on Federal Trademark Registration for the Town of Duck Seal

Town Manager Layton stated at Council's last meeting, there was a discussion regarding State copyright protection and whether the Town could have additional protection, i.e. Federal protection. He stated that he and Town Attorney Hobbs contacted Rob Monath, who completed some research and recommended that the Town file for a Federal trademark registration for the seal. He stated that he authorized it to move forward. He added that there was a chance that it may be rejected; however, he will know in a few months whether the application has been accepted. He stated that he expected it to be accepted, but there was a slight chance that they may say the seal could not be protected in that manner.

Councilor Burdick clarified that it was being done as a trademark. He added that the seal could be copyrighted. Town Manager Layton stated that he applied for copyright trademark protection.

Ethics Training – Wednesday, May 14, 2014, 10:00a.m.

Town Manager Layton reminded Council that ethics training was scheduled for Wednesday, May 14, 2014 at 10:00 a.m. in the second floor conference room.

Financial Statements for the Month of April for FY 2014

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

MAYOR'S AGENDA

Mayor Kingston stated that he would be attending his mayor's meeting the week of May 12, 2014. He stated that he attended the recent mix and mingle and everyone was enthusiastic about the Merchant's Association holding it. He stated that he attended the recent art reception for Cole Fagersten and thought her artwork was outstanding. He stated that the Shoreline Commission's meeting for the month of April was canceled.

COUNCIL MEMBERS' AGENDA

Mayor Pro Tempore Thibodeau thanked Public Information Officer Walsh for the new brochure and informational clings that replaced the magnets. She stated that she would be attending the tourism summit on May 8, 2014 and would be greeting Governor McCrory at the Bonner Bridge.

Councilor Burdick stated that he had nothing to report.

Councilor Britt gave a short update on the recent Merchant's Association meeting to Council and the audience.

Councilor Caviness – Overview of Crimeline, GEAC

Councilor Caviness stated that she was bringing forward a point of discussion that came up at the April 9, 2014 meeting of the Government Education Access Committee. She stated that the Committee discussed the inclusion of showing Crimeline slides on the Government Access Channel and the Committee was silent about it with no one really sharing any of their thoughts. She stated that she had her opinions as a citizen and a firefighter and realized that the discussion that would ensue needed to come back to Council so she could get a better idea on the Town's position when the issue comes up again. She noted that the agenda item was tabled and would come back before the Committee. She stated that she would like to speak with a proper position as to what the Town's thoughts were regarding the inclusion of the Crimeline slides. She thought the discussion would run the gamut from whether it was an appropriate venue for the slides and the impacts on tourism.

Mayor Kingston suggested that the Committee look at the charter to see if there were any conflicts with respect to what should be put on the channel's programming.

Mayor Pro Tempore Thibodeau stated that it was hard for her to understand how the Committee would fit the Crimeline slides in. She wondered if it would be a half hour of Crimeline slides or intermittent like commercials. She stated that her business tries to remind the public that they need to be careful so as to not leave valuables out where they may be taken. She stated that it was nice to get out to people that there is crime, but thought it was a little detailed for a transient population.

Councilor Burdick asked if there was a good feel as to who was watching the Government Access Education channels. Mayor Kingston thought it was equal between visitors and local residents. He thought the difficulty was scheduling when the slides would be broadcast. Councilor Burdick wasn't sure if there had been any good feedback on it. He thought it could be a cost and negative depending on how it's looked at. He thought the last thing visitors want to see is the Crimeline slides. He added that if the Committee was trying to use it to communicate with the visitors as well as residents, there may be a place for it at a designated time that local residents would know to look at it, but not intermixed with the routine programs that were broadcast. He stated that it scared him to know that there were Crimeline slides filtering every so often with what's going on

with the other towns on the Outer Banks. He added that he was uncomfortable with it until there was some good definition as to how it may be put on in a non-obtrusive manner.

Mayor Kingston stated that he was concerned about the legal issues as some of the information may not be up to date or accurate at times. He thought there could be some issues.

Councilor Britt stated that he did not see how the Crimeline slides fit in with the other information that is broadcast.

Mayor Kingston asked what the tone of the conversation was at the Committee meeting. Councilor Caviness stated that there was very little discussion about it and most of the members were silent. She stated that she had expressed a personal opinion about it, but qualified it by saying she was speaking personally about the issue. She thought the scenario was that the Committee would be okay showing the Crimeline slides if they were broadcast during the night when no one was watching. She told the Committee that, personally, she thought it should be broadcast at other times. She stated that the Committee suggested only airing the slides in the winter and she felt it should be broadcast in summer since there would be more people watching. She stated that no one could really speak for their town. Mayor Kingston asked who was pushing the issue. Councilor Caviness stated that it was on the agenda for consideration and no one was pushing it. She added that it went nowhere because people felt they couldn't speak about it.

Councilor Burdick asked if any background was given as to how it was handled in other towns and with other public access channels. Councilor Caviness stated that the conversation did not go anywhere and no specifics were given about how long it would run and when it would be scheduled. She stated that it was just brought forward and everyone agreed that it would be better for the Committee members to go back to their respective towns or organizations and get a feel for it and then come to the next meeting when it was on the agenda and discuss it then. She noted that Council had questions on checking the legality and chartering, as well as questions on scheduling and comments expressing that Council wasn't sure it was congruent with what the channel was doing.

Mayor Kingston stated that there has been a lot of investment on the towns and the channel over the years and there were videos that were of a preventative nature. He stated that the Crimeline slides did not seem to be in line with what the towns wanted to project through the channel. Councilor Burdick agreed.

OTHER BUSINESS

Mayor Kingston stated that the next meeting would be the mid-month meeting on Wednesday, May 21, 2014 at 1:00 p.m.

ADJOURNMENT

Councilor Britt moved to adjourn the meeting.

Motion carried 5-0.

The time was 8:59 p.m.


Lori A. Kopec, Town Clerk

Approved: June 4, 2014 _____



Don Kingston, Mayor

