

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
June 4, 2014**

The Town Council for the Town of Duck convened at the Duck Meeting Hall at 7:00 p.m. on Wednesday, June 4, 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; Town Attorney Robert Hobbs; Public Information Officer Denise Walsh; and Town Clerk Lori Kopec.

OTHERS ABSENT: None.

Mayor Kingston called the meeting to order at 7:04 p.m. He asked Bob Mack to lead the Pledge of Allegiance. Mayor Kingston led the moment of silence.

PUBLIC COMMENTS

Mayor Kingston 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 Kingston closed the time for public comments.

SPECIAL PRESENTATIONS

Introduction of 2014 Lifeguards

Bob Mack, Supervisor of Ocean Rescue, was recognized to speak. Mr. Mack introduced each member of Ocean Rescue to Council and the audience.

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

CONSENT AGENDA

Minutes from the May 7, 2014, Regular Meeting; and Budget Amendments

Councilor Caviness moved to approve the Consent Agenda as presented.

Motion carried 5-0.

PUBLIC HEARINGS

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

Mayor Kingston turned the meeting over to Town Attorney Hobbs.

Town Attorney Hobbs was recognized to speak. Town Attorney Hobbs stated that the public hearing was open. He asked Director of Community Development Andy Garman to give a presentation on behalf of Town staff.

Director Garman stated that the Planning Board completed their review of Ordinance 14-02, a draft stormwater/low impact development ordinance. He stated that the ordinance was presented to Council at their Retreat and again at their May 7, 2014 meeting. He reminded Council that rather than write 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.

Director Garman noted that for residential projects, several LID-based performance requirements have been incorporated, such as the requirement that driveways be designed to limit the direct flow of stormwater runoff to streets and adjacent properties. He stated that a lot coverage incentive was provided to residential property owners who implement LID-based engineered stormwater plans. He stated that for commercial projects, a specific stormwater management requirement was included that mandated on-site retention of the first 1.5 inches of rainfall from a 24-hour design storm.

Director Garman explained that stormwater management plans must be prepared based on LID principles and the ordinance referenced and relied 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 re-development – that adds more than 1,000 square feet of new lot coverage. He stated that for both residential and commercial development, modifications were suggested for drive aisle and parking stall dimensions in order to limit the amount of impervious coverage required for sites.

Town Attorney Hobbs asked members of the Planning Board to address the application. Joe Blakaitis was recognized to speak. Mr. Blakaitis stated that he had no comments on the application.

Town Attorney Hobbs asked if any members of the public wished to make a presentation. Willo Kelly of the Outer Banks Homebuilders Association was recognized to speak. Ms. Kelly stated that Director Garman had given a presentation to the Homebuilders Association and they were very receptive of the ordinance. She thanked the Town, Director Garman and the Planning Board for allowing the Homebuilders Association to provide input on the ordinance.

There being no one else wishing to speak, Town Attorney Hobbs closed the public hearing and turned the meeting back over to Mayor Kingston. He noted that this ordinance had a higher burden based on the statute in that would require a unanimous vote of all members present.

Mayor Pro Tempore Thibodeau stated that she was comfortable with the amount of work that was completed on the ordinance and would support it.

Councilor Burdick stated that it was a nice step forward and would minimize the impacts for flooding.

Mayor Kingston agreed with Mayor Pro Tempore Thibodeau and Councilor Burdick's comments. He stated that he liked the incentive piece of the ordinance.

Mayor Kingston moved to adopt Ordinance 14-02 as presented.

Motion carried 5-0.

Public Hearing/Discussion/Consideration of CUP #14-002, a Conditional Use Permit Application by Craig Readman of Treehouse Coffee to Convert Units 3 and 4 of Building #3 at Scarborough Faire Shops from Retail Space to an Eating Establishment as Defined in Town Code Section 156.002

Mayor Kingston turned the meeting over to Town Attorney Hobbs.

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 Lori Kopec proceeded to swear in the applicants and staff for the public hearing.

The following persons were sworn to provide testimony during the hearing: Andy Garman and Craig Readman.

Town Attorney Hobbs opened the evidentiary portion of the hearing. He stated that Director Garman would give an overview.

Director Garman stated that Craig Readman of Treehouse Coffee was requesting a Conditional Use Permit to authorize an eating establishment in Units 3 and 4 of Building #3 in the Scarborough Faire Shopping Center. He noted that this space was formerly occupied by Culinary Duck. He stated that the business would be a counter service coffee shop and that the applicant was not proposing any indoor seating. He stated that the Planning Board reviewed the application at their May 14, 2014 meeting and voted unanimously to recommend approval. He added that Town staff was also recommending approval.

Town Attorney Hobbs asked Council if they had any questions.

Councilor Britt asked if there were other special conditions over what was in the draft Conditional Use Permit. Director Garman stated that there weren't, adding that some of the conditions were taken right from the ordinance for eating establishments.

Mayor Kingston asked if the reference to the outside dining area was the decks and benches near the store. Director Garman stated he was correct.

Mayor Pro Tempore Thibodeau noted that 12 seats were permitted with the parking allocation. She asked if the applicant decided to have indoor seating, they would have to go through another process again. Director Garman stated that it would be done administratively as long as the Fire Marshall approves of the floor plan.

Mayor Kingston stated that the permit referenced a condition regarding the men's and women's restrooms. He thought there was only one restroom at Scarborough Faire. Director Garman stated that the condition should be modified to have it state: "the proposed public restroom shall remain open..."

Town Attorney Hobbs asked Craig Readman to make a presentation. Craig Readman was recognized to speak. Mr. Readman stated that he did not have a presentation to make.

Town Attorney Hobbs asked Council if they had questions for Craig Readman. There were none.

There being no one else wishing to speak, Town Attorney Hobbs closed the evidentiary portion of the hearing and turned the hearing back over to Mayor Kingston.

Councilor Burdick moved to approve Conditional Use Permit 14-002 as amended.

Motion carried 5-0.

Public Hearing/Discussion/Consideration of Proposed FY 2015 Budget

Mayor Kingston turned the meeting over to Town Attorney Hobbs.

Town Attorney Hobbs stated that the public hearing was open. There being no one wishing to speak. Town Attorney Hobbs closed the evidentiary portion of the meeting.

Mayor Kingston moved to approve the proposed FY 2015 budget as presented.

Councilor Britt commended Town Manager Layton for his efforts on putting together a great budget. Mayor Pro Tempore Thibodeau agreed.

Motion carried 5-0.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

There was no Old Business to discuss.

NEW BUSINESS

Discussion/Consideration of Ordinance #14-03, an Ordinance Amending and Re-ordaining Ordinance 02-04, an Ordinance Defining State of Emergency and Providing for the Process for Protection of Lives and Property in the Event of a State of Emergency

Town Manager Layton stated that since the Town adopted its emergency management ordinances in 2002, there have been several minor changes to the enabling legislation found in the North Carolina General Statutes. He stated that the draft ordinance would incorporate the changes and noted that this was a housekeeping item.

Councilor Burdick asked Town Manager Layton if he was comfortable with the ordinance. Town Manager Layton stated that he was.

Mayor Pro Tempore Thibodeau noted that “intoxicating liquor” was changed to “alcoholic beverages” in some sections of the ordinance but not in the header of Section 4. She thought it should be changed for consistency. Town Attorney Hobbs agreed.

Councilor Caviness moved to adopt Ordinance 14-03 as amended.

Motion carried 5-0.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Town Attorney Hobbs stated that he continues to make progress with the work related to the beach nourishment project. He stated that they were working diligently on obtaining the easements and was told that twelve were done. He stated that he was looking at the two month timeframe to hopefully wrap things up and then proceed with distributing them to the Town.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Update on Departmental Activities

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

Fire Chief Donna Black was recognized to speak. Fire Chief Black gave a brief overview of the past month’s 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.

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 Town staff completed some updates to the website as far as the beach nourishment page, including updating the FAQ’s with what Council had approved at their mid-month meeting regarding the scope of work and the proposed limits with the preferred alternative.

Town Manager Layton stated that CP&E still has not been able to get the boat out for the sand search due to the weather. He added that they will be getting a bigger boat and have assured Town staff that they will be out early next week to begin work.

Town Manager Layton stated that he and Mayor Kingston have a meeting on June 19, 2014 to meet with the other towns and Dare County to provide updates on the beach nourishment project as well as discuss strategies. He stated that he would have another report on where that stands at Council’s July 2, 2014 meeting.

Financial Statements for the Month of May 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 on June 10, 2014. He stated that he and Town Manager Layton attended the Control Group meeting on May 29, 2014 and met Sandy Sanderson's replacement. He added that it was a good opportunity for three of the mayors to attend the meeting and discuss pre-planning for hurricane season. He stated that he would be attending a beach nourishment meeting on June 19, 2014 with Town Manager Layton with Dare County and the other towns. He noted that they would stay fairly silent with respect to the feasibility of the design. He stated that he would be attending a meeting with the DCBA on June 13, 2014 at 4:00 p.m.

COUNCIL MEMBERS' AGENDA

Mayor Pro Tempore Thibodeau gave a Visitors Bureau update to Council and the audience. She thanked Officer Joe Knight for his assistance on a recent call.

Councilor Burdick stated that he would be out of town until June 22, 2014.

Councilor Caviness had nothing to report.

Councilor Britt had nothing to report.

OTHER BUSINESS

Mayor Kingston stated that the next meeting would be the mid-month meeting on Wednesday, June 18, 2014 at 1:00 p.m.

ADJOURNMENT

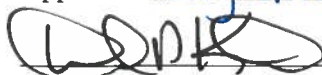
Councilor Britt moved to adjourn the meeting.

Motion carried 5-0.

The time was 8:39 p.m.



Lori A. Kopec, Town Clerk

Approved: July 2, 2014


Don Kingston, Mayor

