

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
January 21, 2015**

The Town Council for the Town of Duck convened at the Duck Meeting Hall at 1:00 p.m. on Wednesday, January 21, 2015.

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

COUNCIL MEMBERS ABSENT: Councilor Chuck Burdick.

OTHERS PRESENT: Town Manager Christopher Layton; Police First Sergeant Jeffrey Ackerman; Police Sergeant Melissa Clark; Fire Chief Donna Black; Town Attorney Robert Hobbs; Administrative Assistant Bethany Morr; and Town Clerk Lori Kopec.

OTHERS ABSENT: Director of Community Development Joseph Heard and Public Information Officer Denise Walsh.

Mayor Kingston called the meeting to order at 1:04 p.m. He asked First Sergeant Jeffrey Ackerman to lead the Pledge of Allegiance. Mayor Kingston led the moment of silence.

PUBLIC COMMENTS

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

CONSENT AGENDA

Minutes from the December 3, 2014, Regular Meeting

Councilor Britt moved to approve the Consent Agenda as presented.

Motion carried 4-0.

OLD BUSINESS

Discussion/Consideration of Authorizing the Town Manager to Execute an Agreement for Professional Services between VHB Engineering of NC, P.C. and the Town of Duck, North Carolina, for Engineering Design of Pedestrian Improvements

Town Manager Layton stated that at Council's December 3, 2014 meeting, the contract was discussed at length. He stated that the contract in front of Council was to perform the engineering for the Village as part of the Comprehensive Pedestrian Study. He noted that the original contract did not include the entire Village and the desire of Council was to include the entire Village in the project, which increased the cost by approximately \$40,000. He stated that the contract specified that the Town had \$100,000 set aside for the current year, which would get the Town through the rest of the fiscal year and then the second phase of the project would cost \$169,700. He added that it would conclude the engineering portion of the project and would be authorized subject to appropriation by the Council and Notice to Proceed. He explained that it would allow the Town

to spread the project over two fiscal years. He stated that he felt confident that the project would be completed in that timeframe. He stated that Chris Dewitt was present to review the project with Council and the audience.

Chris Dewitt of VHB Engineering of NC, P.C. was recognized to speak. He stated that the contract was to perform engineering design of the improvements that were included in the Comprehensive Pedestrian Plan for the area of the Village center from just south of Aqua Restaurant to just north of Sunset Grill Restaurant. He noted that the entire stretch would involve final engineering design plans to conceptual and construction of the improvements. He stated that it included new sidewalks, converting the shoulder to a formal bike lane, improving the crosswalks and installing new crosswalks, installing refuge islands and median islands, pedestrian level lighting at the crosswalks, signage and paved markings.

Chris Dewitt stated that the first fiscal year effort would be focusing on data collection items and setting VHB to go into the design. He noted that a large part of it would consist of utility locating and was an extremely important part of the project. He added that they will need to know if there would be potential conflicts that would require VHB designing and/or constructing around the utilities. He stated that another big part was topographic boundary surveying of the physical features and locating all of the landscape beds and signs that will affect the design of the pedestrian improvements.

Chris Dewitt stated that geotechnical work would be completed to get a base plan and base data which would allow VHB to start on the design work in the summer. He stated that there were no major changes to the contract from Council's December 3, 2014 meeting; only re-scoping to extend the project to include the area by Sunset Grill. He noted that as a separate project, he was talking to Town staff about potentially looking at a modified road safety audit approach to look at the Duck trail north and south of the Village. He added that the intersections within the study area would be covered by the work under the contract. He stated that they wanted to look at what it may take to look at the intersections north and south of the Village to recommend some improvements to fix some of the safety issues at those intersections.

Town Manager Layton stated that as part of the Comprehensive Pedestrian Plan, there was a piece that spoke of looking at the intersections from a sight distance perspective and a signage perspective. He stated that originally he was going to have staff work on it but thought it may be labor intensive. He noted that it would include the pavement markings that were part of the plan that would be put at the intersections, which could have some impact on whether or not the Town could do something this year or next year as part of the CIP budget. He stated that simulations would not be done in the intersections that had a proposed pedestrian island, but there would be one intersection with a model simulation as to what the impacts would be on traffic in that area. He added that it was to help look at the impacts of the islands and make sure the benefits were worth the cost.

Mayor Pro Tempore Thibodeau stated that she was glad that the scope of the project was going to be extended. She asked if Chris Dewitt was comfortable with the fact that the subcontractors would be finding what needed to be found regarding the utilities. Chris Dewitt stated that he was, adding that the subcontractors were used to working in this type of environment and knew what they were looking for. Mayor Pro Tempore Thibodeau asked what Chris Dewitt anticipated would not be completed for the extension. She asked if there was anything that would not be done that would be done on the other side of the road. Chris Dewitt stated that it would be the one side of the road. He added that it was the same project but just extended.

Town Manager Layton noted that the Town was required to get the utility locating service out before a project starts. He added that with the Stan White project and South Snow Geese project, the marks changed and was another reason why the subcontractors had to come out to make sure the utilities were located where they should be. He stated that with the South Snow Geese project, some fiber optic lines had to be moved to allow the improvements to be completed.

Councilor Caviness asked if something was discovered that was deemed an outlier, VHB would come back before Council if it was considered an impact. Chris Dewitt stated that he would come back, especially if it was a construction issue or a construction cost factor.

Mayor Pro Tempore Thibodeau asked if part of the scope of work was to meet with the property owners. Chris Dewitt stated that it would.

Mayor Kingston asked if the Town would be planning to communicate with the property owners along Duck Road with respect to the activity that would be occurring. Town Manager Layton stated that once the survey work gets started, staff would get information out and as the project progresses, there will be communication to get the word out. Mayor Kingston asked if there will be actual markers put down for the surveying and marking. Chris Dewitt stated that it was primarily to get the mapping complete. He added that he would have to look at the scope to see what type of markers the subcontractors would be setting out.

Town Manager Layton stated that one of the deliverables with the project will be an updated cost analysis. He stated that he was dealing with the original estimates with regard to the CIP and that would likely fluctuate through the course of the study.

Mayor Kingston moved to authorize the Town Manager to execute the agreement with VHB Engineering for the engineering design of pedestrian improvements as presented.

Motion carried 4-0.

NEW BUSINESS

Presentation of FY 2014 Audit

Lisa Murphy from Johnson, Burgess, Mizelle and Straub was recognized to speak. Ms. Murphy went on to give an overview of the Town's Financial Statements for the year ended June 30, 2014 to Council and the audience.

Mayor Kingston thanked Lisa Murphy for her presentation.

Discussion/Consideration of the Development of a Policy related to Remote Participation in Town of Duck Board and Commission Meetings

Town Manager Layton stated that as technology continues to develop, tools such as Skype have made remote meetings possible. He stated that the Town has on occasion received requests from board or commission members to participate in a meeting remotely. He noted that this was a rare occurrence and most recently, it occurred with a Planning Board member who was required to be out of Town for a scheduled meeting. He explained that there was no universal agreement in North Carolina on a policy either to allow or not allow remote meetings. He stated that the UNC School of Government cautions against allowing remote participation until the NC Legislature or courts provide guidance. He added that the School of Government advises that, if remote

participation is allowed, that it only be allowed if it does effect a quorum, where matters only relate to discussion or when a remote participant's vote is not a deciding one. He asked Council if they wanted staff to develop a policy or have as the Town's stated policy that remote participation was not allowed. He stated that he would not recommend developing a policy.

Town Attorney Robert Hobbs was recognized to speak. Town Attorney Hobbs stated that he would not recommend allowing remote participation.

Mayor Kingston stated that he did not feel the need to enact a policy at this time. Mayor Pro Tempore Thibodeau, Councilor Britt and Councilor Caviness agreed.

Mayor Kingston moved that Council not implement a policy for remote participation.

Town Attorney Hobbs clarified that the motion included Council and any appointed board and committees.

Mayor Kingston amended his motion and moved that Council not implement a policy for remote participation for all boards, committees and Council of the Town.

Motion carried 4-0.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Town Attorney Hobbs stated he had nothing to report.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Update on Departmental Activities

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.

Police First Sergeant Jeffrey Ackerman and Sergeant Melissa Clark were recognized to speak. Police First Sergeant Ackerman and Sergeant Clark gave a brief overview of the past month's police activities to Council and the audience.

Town Manager Layton stated that Director Heard and Public Information Officer Walsh were not present for the meeting, so there would be no report on their activities.

Project Update on Beach Nourishment Project

Town Manager Layton stated that the letter in Council's packet was from December. He noted that CP&E was able to get in the finalized biological assessment and essential fish habitat reports to the federal and state agencies. He added that it started the one year window that they have to review those reports. He stated that the one year window meant a push for the Town to have its final permit by January 2016 in order to get the project moving. He stated that he would have another update at Council's February 4, 2015 meeting.

Town Manager Layton pointed out that the notice that was to be mailed to the property owners was in Council's packets regarding the proposed MSD's along with the report. He stated that staff was on track to have them mailed out next week. He noted that approximately 930 copies would

be mailed to the property owners in that area. He added that the ad for the public hearing would be in the local newspapers in mid-February.

Council Retreat

Town Manager Layton reminded Council that the date for the Council Retreat was February 18-19, 2015. He stated that he would be putting the agenda together and thought it may not be as frenzied as the Retreats have been in previous years. He stated that if Council had specific items they wanted included on the agenda, to get them to him as soon as possible.

Police Chief Search

Town Manager Layton stated that former Police Chief Phillip Ferguson resigned recently and staff has started the search for his replacement. He presented Council with a copy of the advertisement for the position, adding that the closing date would be March 16, 2015. He thought he would be receiving a lot of applications for the position. He added that he does not speak to potential applicants prior to the interviews because it takes up a lot of his time and gives candidates an unfair advantage. He stated that he was still determining how to approach sorting out the resumes and setting up the interviews, adding that he would keep Council informed of the progress.

Financial Statements for the Month of December for FY 2015

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

MAYOR'S AGENDA

Mayor Kingston stated that he met with the other mayors and chairman for their monthly meeting. He stated that they discussed the policing issue at U.S. 158 and Highway 12, which the Town agreed to participate. He added that the Town of Kitty Hawk was taking the lead on it and have asked the Towns of Kill Devil Hills and Nags Head to participate as well. He reminded Council that the policing would occur on Saturdays and Sundays during the 10 weeks of the summer because the intersection gets blocked for extended periods of time.

Mayor Kingston stated that he and the mayors discussed beach nourishment from the standpoint of where the towns are. He noted that the Town of Kitty Hawk was about 30 days ahead of Duck in that they have already sent out their letters and were receiving both positive and negative comments. He stated that their public hearing would be held in early February even though they have not made a decision yet on the project because they will be basing the decision on the feedback they receive from the letters that were sent out. He stated that the Town of Kill Devil Hills and Duck were basically on the same schedule and looking for public hearings in early March. He stated that Dare County was still working on their project down south.

Mayor Kingston stated that the Shoreline Commission had come up. He stated that the question was whether or not the Shoreline Commission was needed. He noted that he's been on the Commission for a few years and they only had one meeting. He added that the meetings were superseded by the mayor/manager meetings that are held each month. He stated that the Shoreline Management has reached the end of its useful life as a commission and since the towns and County have moved ahead on beach nourishment related to shorelines, the Commission has become defunct. He stated that all of the towns agreed with the County that the Commission should be dissolved. He asked Council if they had any comments about it or if they were fine

with dissolving the Commission. He thought the towns and County would continue to move forward with the mayor/manager meetings because discussions would now entail beach nourishment and replenishment of beach nourishment.

Mayor Pro Tempore Thibodeau asked if the Town of Manteo and Hatteras were being excluded from the meetings. She asked if the conversation was dominated to the point that the Town of Manteo would not have any interest. She further asked if the Shoreline Commission was dissolved, it would suggest that all decisions on spending of the money would rest with the Dare County Commissioners. Mayor Kingston stated that each town, including a representative from the Town of Manteo attends the meetings. He added that two representatives attend from Dare County. He thought it was the Chairman and one of the new commissioners. He stated that the County was recommending whether or not the Shoreline Commission was needed. He stated that the Town of Manteo was not a big participant and wasn't sure if they used Shoreline funds.

Mayor Pro Tempore Thibodeau stated that the discussions about shoreline have gone to the mayors meeting. She asked if there was good participation from the Town of Manteo even though they were not interested in the discussion. Mayor Kingston thought the manager attended the manager/mayor meeting. He stated that with regard to the funding, the Commission would make the recommendations and the Board of Commissioners were the ones making the final determination for the spending. He noted that the Shoreline Commission was not really a decision making group, but set policies in place, made recommendations to the Board of Commissioners and the Board made the final decisions. Mayor Pro Tempore Thibodeau asked if he was comfortable with that. Mayor Kingston stated that he was.

Councilor Britt asked if Mayor Kingston felt strongly that there doesn't need to be a recommendation for the group to be in place. Mayor Kingston stated that he did.

Mayor Kingston stated that since there weren't any negative feelings on the Shoreline Commission, he would let the Commissioners know that the Town of Duck was in support of eliminating the Shoreline Commission.

Mayor Kingston stated that he was looking forward to the upcoming holiday party on January 30, 2015.

COUNCIL MEMBERS' AGENDA

Mayor Pro Tempore Thibodeau stated that she was looking forward to the new year and appreciated everything that has been done in Town.

Councilor Caviness gave an update on the recent Tourism Bureau meeting to Council and the audience. She stated that there would be an event held at the event site in Nags Head in May that would coincide with the annual Tourism Bureau event. She stated that she would provide more details as she learns more.

Councilor Britt stated that he could not attend the RPO meeting due to a conflict. He went on to give an update on the Merchants Association meeting to Council and the audience.

OTHER BUSINESS

Additional Public Comments

Mayor Kingston asked the public for comments.

Joe Blakaitis of 115 Sandpiper Cove was recognized to speak. Mr. Blakaitis stated that Sam Taylor had recently suffered a stroke over the holidays. He wanted to let Council know that he was home and thought Mr. Taylor would enjoy hearing from everyone.

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

Mayor Kingston noted that the next meeting would be on Wednesday, February 4, 2015 at 7:00 p.m.

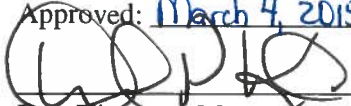
ADJOURNMENT

Councilor Caviness moved to adjourn the meeting.

Motion carried 4-0.

The time was 2:42 p.m.


Lori A. Kopec, Town Clerk

Approved: March 4, 2015

Don Kingston, Mayor

