

**TOWN OF DUCK  
TOWN COUNCIL  
REGULAR MEETING  
January 5, 2022**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 6:00 p.m. on Wednesday, January 5, 2022.

**COUNCIL MEMBERS PRESENT:** Mayor Pro Tempore Monica Thibodeau; Councilor Sandy Whitman; Councilor Rob Mooney; and Councilor Tony Schiano.

**COUNCIL MEMBERS ABSENT:** Mayor Don Kingston.

**OTHERS PRESENT:** Town Manager Drew Havens, Director of Community Development Joseph Heard; Police Chief Jeffrey Ackerman; Fire Chief Donna Black; Deputy Fire Chief Clarence Batschelet; Town Attorney Robert Hobbs; Public Information and Events Director Christian Legner; Finance and Human Resources Administrator Jessica Barnes; Community Planner James Gould; and Town Clerk Lori Ackerman.

**OTHERS ABSENT:** None.

Mayor Pro Tempore Thibodeau called the meeting to order at 6:00 p.m.

Mayor Pro Tempore Thibodeau asked Councilor Rob Mooney to lead the Pledge of Allegiance. Mayor Pro Tempore Thibodeau led the moment of silence. She noted that Mayor Kingston was excused from the meeting.

**SWEARING IN OF TOWN COUNCIL MEMBER**

Mayor Pro Tempore Thibodeau stated that Councilor Rob Mooney would be sworn in. She turned the meeting over to Town Clerk Lori Ackerman.

Town Clerk Lori Ackerman was recognized to speak. Town Clerk Ackerman swore in Councilor Mooney.

**PUBLIC COMMENTS**

Mayor Pro Tempore Thibodeau opened the floor for public comments. She noted that comments will be limited to three minutes as there was now a timer for the time limit. She added that the public could email public comments, but they must be received by 4:00 p.m. on the day of the Council meeting. She noted that written comments must also be limited to three minutes when read aloud.

Wes Stepp of Red Sky Café and NC Coast Restaurant was recognized to speak. Mr. Stepp thanked the Town for all that has been done so far with regard to the pandemic. He

hoped that Council would agree to continue with the help that has been given through the year. He reiterated that he appreciated Council's help.

Carol Clapper of 122 Nor'Banks Drive was recognized to speak. Ms. Clapper wondered if anyone had addressed the problem of rats in the community. Mayor Pro Tempore Thibodeau stated that she wasn't aware and explained that Council does not respond to public comments. She asked Ms. Clapper to continue with her comment. Ms. Clapper stated that there was a rat problem, and it was getting worse. She stated that people were calling pest control companies; however, the problem was that people did not live in Duck year-round and were not aware of the issue. She noted that it was a serious problem, adding that she has spoken to people that lived a few blocks away from her home and they have the same rat problem. She thought someone needed to look into the problem. She stated that midges were another problem, but she wasn't sure if anything could be done about that.

Charlotte Gilmore of 125 Windsurfer Court was recognized to speak. Ms. Gilmore stated that she has owned her home almost 25 years and the last year the rat problem has been really bad. She stated that over the summer she was sitting outside, and a rat ran up to her. She added that it is becoming a real problem, to the point that she doesn't put her trash out until the day trash gets picked up. She noted that most people in Town live in a rental community, and she was tired of the trash cans overflowing constantly as she felt it contributed to the rat problem. She stated that she wasn't sure what to do about the rats and has called a pest control company, but the rats keep coming back. She pointed out that her home backs up to the Army Corps of Engineer property and thought the rats could be coming from there, adding that she also has a problem with coyotes that come from the property. She wasn't sure what could be done with regard to the coyotes, adding that she was concerned about them being on the street in the evenings.

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

### **CONSENT AGENDA**

**Minutes from the November 3, 2021, Regular Meeting; Minutes from the November 17, 2021, Mid-Month Meeting; Minutes from the December 1, 2021, Regular Meeting; Resolution 22-01, a Resolution of the Town Council of the Town of Duck, Authorizing a Micro-Purchasing Threshold for Procurement Using Federal Funds**

Councilor Schiano moved to approve the consent agenda as presented.

Motion carried 4-0.

### **OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS**

**Discussion/Consideration of Extending Temporary Accommodations for Regulations During a Declared Emergency**

Director of Community Development Joe Heard was recognized to speak. Director Heard stated that in October, 2021, the Council considered an extension of the temporary accommodations for businesses that was originally adopted on May 20, 2020, which allowed businesses to use tents, outdoor dining, outdoor displays as well as directional signage. He stated that, initially, the State was under orders from Governor Roy Cooper that limited the capacity of businesses to operate within their walls. He noted that it was very important for the Council to look at the businesses and adopt something to allow them to continue to operate in some significant capacity.

Director Heard stated that on October 6, 2021, the Council decided to adopt a minor extension through January 16, 2022 in order to find out more about some of the concerns and how the businesses were using the provisions over the past year and a half, in order to help Council make an educated decision as they consider a longer extension at this meeting. He noted that copies of the survey were distributed to Council that went out to the businesses in Duck as well as the public comment that was heard by Wes Stepp earlier in the meeting. He noted that Mr. Stepp was one of the individuals that had made specific requests earlier.

Director Heard stated that he wanted to summarize the survey and suggested that Council discuss whether or not they wanted to approve an extension, and if so, the length of the extension. He explained that Council would be recommending to Mayor Kingston if they wished to approve an extension, adding that Mayor Kingston was the one that authorizes Town Manager Havens to put forth a temporary extension. He noted that Council would not be voting on this, but Mayor Kingston wanted to seek Council's advice in considering the extension.

Director Heard explained that the survey had several questions with one being the types of things that the businesses have used. He stated that tents, outdoor dining, outdoor displays, and directional signage were all used by different respondents. He stated that the second question was how the temporary accommodations have affected business operations. He stated that some of the responses included the ability to better accommodate customers, creating a safe space for customers, and increased revenues as a result of the accommodation. He stated that the next question was to describe any issues the business was currently facing. He stated that the responses were maintaining staff and creating a safe space for customers. He stated that the next question was if the accommodation was extended, how long it should last with respondents stating five months and 12 months. He stated that the question relating to the reasons for the length of the extension had one response being that COVID-19 is still around which was cause for a great deal of uncertainty in 2022 regarding the impacts and what additional measures local governments would take. He pointed out that this would be a way to deal with that uncertainty. He added that having something adopted for that period will allow local businesses to plan better if they know what the rules were as well as continuing to make customers feel more comfortable with their experience of shopping and dining in Duck. He stated that it was also noted that outdoor activities have increased vitality through the Town.

Councilor Schiano stated that he was surprised that none of the restaurants were on the survey. He asked if they responded or if they were not asked. Director Heard stated that the survey did go to the restaurants but none of them responded. He pointed out that the survey went out to 127 businesses, which was every business and shopping center owner in Duck. He stated that he could not explain why they didn't respond.

Mayor Pro Tempore Thibodeau thought that the holiday season may have been the reason for the lack of responses. Director Heard thought that could be the reason, adding that another reason could be that the restaurant employees have been working long, hard hours for most of the year and this is the one time of the year that many of them are able to close. He reminded Council that most of Duck's restaurants are closed as they take a break and, in many cases, it's an extended break. He thought that they may not have had the opportunity to provide input.

Councilor Whitman stated that he did not have a problem with extending the accommodation but suggested that staff follow up with the businesses to make sure they are adhering to the guidelines. He noted that some restaurants are exceeding their allowed capacity. He asked if anyone visits the restaurants to make sure that they aren't exceeding their capacity. He agreed with Councilor Schiano's comment about the restaurants not responding to the survey.

Mayor Pro Tempore Thibodeau pointed out that the Waterfront Shops had responded, noting that the Blue Point Restaurant is in that shopping center. She clarified that Councilor Whitman was in favor of the extension as long as it could be revisited in the future. Councilor Whitman disagreed, explaining that the Town needed to check on the restaurants to make sure they were following the rules so they would not exceed their allowed capacities. Mayor Pro Tempore Thibodeau asked if Councilor Whitman thought there was a problem. Councilor Whitman thought there was.

Councilor Mooney wasn't sure what could be done about people's apathetic approach to things. He thought the Town needed to make a better effort to connect with people, especially with this issue. He pointed out that the restaurants would receive the biggest benefit from the accommodations, adding that he didn't think it was unreasonable to contact a business or property owner if they don't respond to the survey. He stated that there needed to be a way to receive more input from the business community. He thought Director Heard and Public Information and Events Director Christian Legner could work on it to figure out a method to obtain a better response from people. He reiterated that apathy could not be cured since it seemed to be a national affliction, but Council and Town staff needed to do better than just receiving eight responses to a survey that went to 127 people. He stated that he was in favor of extending the accommodations for 12 months. He thought Town staff could work on a way to make the accommodations permanent for businesses. He added that it's been almost two years that the accommodations have been in effect for the public and if it's no longer an option, people will be disappointed.

Mayor Pro Tempore Thibodeau pointed out that capacity of a restaurant was a Health Department restriction. She stated that in terms of follow up, she thought a reminder on a survey would be helpful as opposed to one or two follow ups. She stated that it was disappointing to see 14 responses to the survey, although a few responded on behalf of the entire shopping center. She pointed out that she did not fill out the survey as she was busy and missed the deadline, adding that she owns a business that has nothing to do with outdoor dining. She stated that what she liked about the survey was that Council did see responses from a variety of businesses and all seemed in favor of extending the accommodations. She agreed with Councilor Mooney that it didn't make sense to extend the accommodations for five months, adding that she was in favor of extending it for 12 months. She wasn't sure about the enforcement recommendation since she has not heard a lot of issues with it, but she thought it should be revisited. She wasn't sure how much of a problem it has been for people but agreed with Councilor Mooney's comment that people were getting used to the idea of outdoor dining. She stated that she was in favor of recommending the extension of the accommodations. She asked if the order in Council's packet extended it through October 15, 2022. Director Heard stated that the order would be amended to extend it through December 31, 2022.

Councilor Mooney reiterated that there needed to be a better way to communicate with people, adding that if this was an important issue, extra effort was needed to obtain feedback. Mayor Pro Tempore Thibodeau thought it could be something that could be discussed at Council's January 19, 2022 mid-month meeting. Councilor Mooney agreed.

Councilor Schiano stated that he was in favor of extending the accommodations for a full year. He noted that he has not seen anything that was disruptive or unsightly. He thought Town staff will need to keep an eye on things to make sure things do not get out of control. He reiterated that, currently, things seem to be appropriate and helpful to the situation.

Councilor Mooney moved to recommend to the mayor that the temporary accommodations be extended to December 31, 2022 and to have Town staff look into making it a permanent situation.

Motion carried 4-0.

## **NEW BUSINESS**

### **Discussion/Consideration of Ordinance 22-02, a Capital Project Ordinance, for the Town of Duck, North Carolina**

Town Manager Drew Havens was recognized to speak. Town Manager Havens stated that in order to properly account for revenues and expenditures specific to the beach renourishment project, it was best practice to adopt a Capital Project Ordinance. He explained that the ordinance acts similar to the annual budget ordinance to show specific revenues and expenditures. He pointed out that it was especially important given the debt

issued and grant monies coming to the Town specific to the project and the need to report these separately from the Town's general finances.

Mayor Pro Tempore Thibodeau thought it made sense to have the ordinance, adding that it was a great summary of the expenses that the Town would be undertaking. She pointed out that the outline was really easy to read, and the public can see what the numbers were. She clarified that the issuance cost was the issuance of the bond. Town Manager Havens stated she was correct, noting that the cost of issuance will exceed the budgeted amount. Mayor Pro Tempore Thibodeau asked if the ordinance was accurately reflecting what the Town would be paying. Town Manager Havens stated that it did not, explaining that the figures in the ordinance were all of the projected costs with the actual costs coming in a little higher.

Mayor Pro Tempore Thibodeau clarified that Council would see a budget to actual on the ordinance. Town Manager Havens stated she was correct. Mayor Pro Tempore Thibodeau asked if the proceeds from the Special Obligation Bonds would be new, moving forward or if it would include past MSD revenue. Town Manager Havens explained that they were two different items, adding that the MSD revenue and the revenue that comes from sales taxes that is restricted to beach nourishment, which goes into the Town's beach nourishment fund. He stated that that was where the Town puts that revenue and the expenditures that come out of it are transferred within the budget to pay for the debt service. He noted that in the Fiscal 2022 budget, Council did not budget for the beach nourishment project since it was known that a Capital Project budget would be done separately. He added that the MSD revenue does not become part of this project as the revenue for this project were the grants, Dare County's contribution and the bond proceeds, which was how the project was funded.

Mayor Pro Tempore Thibodeau stated that she stood behind the idea of separating out the ordinance the Town has. She thought that, moving forward, it would be great to do for any large project such as another beach nourishment project in five years. Town Manager Havens stated that the general statutes require a municipality to do it this way as it has to be accounted for in the regular budget or via a separate capital project budget.

Councilor Schiano asked if the ordinance was equivalent to an off-balance sheet of accounting items in the sense that it does not flow through the budget. Town Manager Havens stated he was correct. Councilor Schiano asked if Council approved the ordinance, it meant that all capital projects would have to be done this way. He further asked if Council was approving it for this capital project. Town Manager Havens stated that it was only for this one.

Mayor Pro Tempore Thibodeau clarified that it was kept out of the original budget. Town Manager Havens stated she was correct.

Councilor Whitman moved to approve Ordinance 22-02 as presented.

Motion carried 4-0.

**ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY**

Town Attorney Hobbs stated that he had nothing to report.

**ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER**

**Departmental Updates**

Director Heard gave an overview of the past month's permit activities to Council and the audience.

Community Planner James Gould was recognized to speak. Community Planner Gould gave an overview of the bicycle/pedestrian counter project and a breakdown of the Town's businesses by type in the Village Commercial District to Council and the audience.

Deputy Fire Chief Clarence Batschelet was recognized to speak. Deputy Fire Chief Batschelet gave a brief overview of the past month's fire activities to Council and the audience.

Police Jeffrey Ackerman was recognized to speak. Police Chief Ackerman gave a brief overview of the past month's police activities to Council and the audience.

Public Information and Events Director Christian Legner was recognized to speak. Director Legner gave a brief overview of activities to Council and the audience.

**December FY 2022 Financial Presentation**

Finance and Human Resources Administrator Jessica Barnes was recognized to speak. Administrator Barnes gave a short presentation on the December Fiscal Year 2022 financials to Council and the audience.

**MAYOR'S AGENDA**

Mayor Pro Tempore Thibodeau stated that since Mayor Kingston was absent, there was no report.

**COUNCIL MEMBER'S AGENDA**

Mayor Pro Tempore Thibodeau hoped that everyone had a nice holiday, adding that she was looking forward to 2022. She stated that she was looking forward to the January 19, 2022 mid-month meeting.

Councilor Mooney stated he had nothing to report.

Councilor Whitman wished everyone a Happy New Year. He reminded Council and the audience that the beach planting will be held on January 6, 2022 at 2:00 p.m. at the south end of the Four Seasons subdivision.

Councilor Schiano stated he had nothing to report.

**OTHER BUSINESS**

**Additional Public Comments**

Mayor Pro Tempore Thibodeau opened the floor for public comments. There being no one wishing to comment, she closed the time for public comments.

Mayor Pro Tempore Thibodeau noted that the next meeting would be the Mid-Month Meeting on Wednesday, January 19, 2022, at 1:00 p.m.

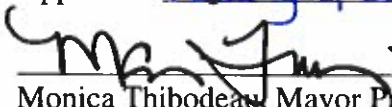
**ADJOURNMENT**

Mayor Pro Tempore Thibodeau moved to adjourn the meeting.

Motion carried 4-0.

The time was 7:35 p.m.

  
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Lori A. Ackerman, Town Clerk

Approved: February 2, 2022  
  
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Monica Thibodeau, Mayor Pro Tempore

