

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
October 7, 2020**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 7:00 p.m. on Wednesday, October 7, 2020.

COUNCIL MEMBERS PRESENT: Mayor Don Kingston; Mayor Pro Tempore Monica Thibodeau; Councilor Nancy Caviness; Councilor Sandy Whitman; and Councilor Rob Mooney.

COUNCIL MEMBERS ABSENT: None.

OTHERS PRESENT: Interim Town Manager Joseph Heard; Police Chief Jeffrey Ackerman; Fire Chief Donna Black; Town Attorney Robert Hobbs; Attorney John Leidy; Director of Marketing and Special Events Christian Legner; Public Relations Administrative Assistant Betsy Trimble; Assistant to the Town Manager Alyson Flynn; Deputy Town Clerk Kristiana Nickens; and Town Clerk Lori Ackerman.

OTHERS ABSENT: None.

Mayor Kingston called the meeting to order at 7:00 p.m. He asked Deputy Town Clerk Kay Nickens to lead the Pledge of Allegiance. Mayor Kingston led the moment of silence.

Mayor Kingston thanked everyone that was viewing the meeting remotely and to ensure an orderly meeting, he asked the audience to follow the guidelines for those that wished to submit comments during the Public Comment period. He noted that if the comments were submitted via email it would be read into the record and if comments were submitted for a later comment, it could be done through the question and answer function in Zoom and would be read into the record. He stated that the meeting recording would be available on the Town's YouTube channel as soon as possible after the meeting.

PUBLIC COMMENTS

Mayor Kingston opened the floor for public comments.

Assistant to the Town Manager Alyson Flynn was recognized to speak. Assistant Flynn stated that one public comment had come in from Jeffrey Beaulieu of 105 Skimmer Way, which read as follows: "Good evening Council, I am aware that the Town of Duck has reviewed the storm damage done to our Duck beaches in September. In the Southern Association of Sanderling, we were left with damage from boardwalk 1 to boardwalk 3. I have been in contact with Sandy Cross and Joe Heard and if I'm accurate, I don't believe anything other than planting is scheduled. For the area I noted, it doesn't seem that plantings will help as the ledge created is as much as five feet in depth. Please advise on

your position given this situation. The Town has my photo of the section of concern. Thank you.”

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

CONSENT AGENDA

Minutes from the August 5, 2020, Regular Meeting; Minutes from the August 26, 2020, Special Meeting; Minutes from the September 2, 2020, Regular Meeting

Councilor Whitman moved to approve the consent agenda as presented.

Motion carried 5-0 via roll call.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

Discussion/Consideration of Living Shoreline/Pedestrian Improvements/NC Highway 12 Elevation Grants/Projects in North Duck Village

Interim Town Manager Joe Heard was recognized to speak. Interim Town Manager Heard stated that VHB had completed the studies, engineering, design, and documentation for submission to the State and federal environmental permitting agencies for the North Duck Village Living Shoreline and Phase IV Pedestrian Improvements. He stated that the Community Development Department has obtained easements from all adjoining property owners to construct the living shoreline and allow for its repair and maintenance in the future; however, the Town has recently been advised that inclusion of the living shoreline, sidewalk, and highway elevation projects in a single BRIC grant application will significantly enhance the Town’s chances of earning a substantial grant – up to \$600,000 – for the NC Highway 12 elevation project. He added that the inclusion of these projects in the BRIC grant application will require deferral of the projects’ construction to Fiscal Year 2021-2022.

Interim Town Manager Heard pointed out that staff was prepared to submit an application for BRIC funding to design and construct the elevated section of roadway on NC 12 and were also proposing a contract with VHB to identify the scope of work for that project and prepare a conceptual plan as part of that application process. He noted that the Town would not be asking for money to engineer and design everything all the way through the project as that would come later; but the Town would need to prepare a set of plans to really identify the scope of the project and what it would entail that could be submitted with the grant application. He noted that the grant application deadline was January 29, 2021 and also had a deadline of Friday, October 9, 2020 for the Town to submit a letter of intent outlining the project. He added that the letter was drafted in case Council wished to move forward.

Christopher Dewitt of VHB was recognized to speak. Mr. Dewitt stated that this was an exciting opportunity to bring some additional funding and develop a comprehensive resiliency project that does all three elements – the living shoreline, the bicycle pedestrian improvements, and elevating the roadway. Mr. Dewitt explained that with regard to the shoreline and sidewalk projects, his firm has the design package and permitting package ready to go, adding that they were just about ready to submit the permit for the shoreline package when the funding opportunity came up. He stated that at Council’s Retreat earlier this year when it was discussed, the issue with elevating the roadway came up and that was the long-term resiliency solution to do in conjunction with the other two projects, but funding wasn’t available at the time. He stated that his firm designed the revetment piece of the living shoreline at an elevation that would allow the road to be raised in the future.

Chris Dewitt stated that they got to the point where they were going to submit the permit to finalize the plans and suddenly there was new funding that became available. He stated that everyone wondered how to proceed with this in a comprehensive way and make it an integrated resiliency project. He stated that the letter of intent was due on Friday, October 9, 2020, explaining that the letter of intent gets submitted to the State Hazard Mitigation Office and the State completes an initial screening and then they forward a package to FEMA to the federal agency. He added the initial screening was at the State level, who puts everything together and submits a North Carolina package to FEMA.

Chris Dewitt stated that his firm will know, in theory, whether the State intends to forward the project on, by October 23, 2020, which was a quick turnaround from the letter of intent to the State noting whether or not the project was viable that they would want to include it in their package and if so, the Town could proceed with the complete grant application.

Chris Dewitt stated that as they started discussing scoping the work out with the Town and assisting with the conceptual and preliminary plans as well as the full grant application as well as developing cost estimates with the grant, they put in a call to the State Hazard Mitigation Office, which was the initial level of screening at the State and they would be doing the initial screening and review. He stated that people from his firm had attended some training as Town staff has done, that the State Hazard Mitigation Office has put on for this new grant program, and called this individual just to see what kind of guidance they could give since his firm has never written a grant like this one previously. He stated that they asked for priorities, how his firm could best structure a project like this to meet the needs of the program and strengthen their application. He noted that during the course of the conversation, his firm described the big picture and everything that was going on with the shoreline, the pedestrian improvements, and with the potential to elevate the roadway.

Chris Dewitt stated that the first thing the officer did was open the Town’s Hazard Mitigation Action Plan to see if those items were in it and if they could check off that box, which they were. He stated that they discussed how things may score and how it

may fare in a competitive grant environment and the officer told him that one of the best things to do was to package the three projects as one comprehensive resiliency project. He stated that from a BRIC application perspective, they would be treated as one project with three separate elements. He pointed out that because those elements were listed individually in the Hazard Mitigation Action Plan, those boxes get checked and it would be scored better. He added that it could show additional partners and, particularly funding partners, if the Town kept the other elements in that were already funded with other agencies.

Chris Dewitt stated that the officer's advice was very clear in that he suggested that the Town keep those three elements together, call it a single resiliency project, and submit a letter of intent. He stated that it could be done but noted that to the officer that there was a permit application for the living shoreline piece that was ready to be submitted and the Town has funding so they want to begin construction during the off-season if the permitting could be done. He stated that the officer understood, but told him that the minute the permitting was advanced to start construction on one of the project elements, it comes off the table from the BRIC application perspective and could not be considered in the same way as it would if all three were together as one.

Chris Dewitt stated that the officer's very strong advice in terms of making the application stronger was to defer action on the shoreline for now and try to package all of it in a single project, move forward with the letter of intent and hope to receive good news on that on October 23, 2020 and then proceed with the grant application by moving all three project elements together. He added that the officer understood the Town wanting to move forward with part of the project due to the funding that was place, but he made it clear that if it was done, it would make the application weaker and more difficult to score in a highly positive way.

Mayor Kingston asked Chris Dewitt if he had any figures with regard to the cost of raising the road. He noted that the limit on the BRIC grant would be \$600,000. Chris Dewitt stated that the BRIC grant has two paths – one was a State funded project for smaller projects that go up to \$600,000 and the other was a federal path that could fund multiple millions of dollars per project. He stated that there was not necessarily a \$600,000 cap on the project. He added that if the State decided to forward this as part of their federal projects, they could ask for a higher amount if the Town needed it. He noted that because VHB has not designed the road yet, it was difficult to say what the project would cost, but he was trying to put some very preliminary numbers in the letter of intent. He stated that his firm was coming up with a roadway project that was in the \$800,000 range, so it was likely not to be a great deal more than that because of the BRIC grant.

Mayor Pro Tempore Thibodeau asked how high the road would be raised. She clarified that if the Town waited until it saw if it qualified after submitting the letter of intent and held off on the living shoreline project, the Town would be at risk of losing the Fish and Wildlife grant. Chris Dewitt thought the Town would not lose it as he thought there could be an extension. Interim Town Manager Heard stated that for both the Dare County Tourism Board and the National Fish and Wildlife Foundation, the Town would have to

submit formally for an extension. He understood that with the Dare County Tourism Board, it would be a matter of course and there would not be any issues. He added that with the National Fish and Wildlife Foundation, it was a little more complicated, but they didn't anticipate any issues as far as the Town having a request of that nature. He added that it was a more formal process and he didn't anticipate an issue with losing the grant in either case as the Town could get an extension.

Chris Dewitt stated that in terms of the road elevation, it was somewhat difficult to answer. He stated that in general terms, between Resort Realty and Sunset Grille the roadway elevation in that section varies from a low of 2.5 feet to a high of approximately five feet. He stated that when they did the design for the living shoreline, thinking that the road may be elevated in the future, they set the crest of the road revetment at five feet. He thought that was roughly what the new intended elevation may be. He pointed out that it would not all be at five feet as there would be some areas that are higher and other areas lower in order to accommodate for drainage. He added that the entire section would not be at five feet, but at the low point, the roadway would be elevated at least a couple of feet and at the end of each section, tie it into the existing grades.

Mayor Kingston pointed out that from the standpoint of timelines, October 29, 2020 made sense to see whether or not the Town could pass through the State. He asked what the timeline was for Federal with regard to decisions. Chris Dewitt stated that he hoped that the State would give him good news by October 23, 2020. He explained that the State has to submit the package to the Feds by the end of January 2021 and a final decision from the Feds would be likely sometime over the summer of 2021.

Interim Town Manager Heard pointed out that even though the State has to submit all projects by January 29, 2021, the Town's deadline for submittal of the package was mid-December. Chris Dewitt stated that once it's submitted to the State in December, they will send it to the Federal office in January and then it would be the July timeframe before a final decision is made. He added that assuming the three projects were all funded and moved forward as a single construction project, it would be about a year.

Mayor Kingston clarified that the decision needed from Council was to delay and wait until the Town receives the approval or denial from the State. Interim Town Manager Heard agreed, adding that there were two action items in front of Council – the authorization to apply for a BRIC grant which would include the submission of a letter of intent, a contract with VHB for the scope, description and design, and submission of the grant application in the two month period that was discussed. He stated that the second action item was if Council wished to consider the deferral of the Living Shoreline Phase IV Sidewalk Projects so that they could be included in the BRIC application. He thought it would make the Town's application much stronger in the eyes of the people that were reviewing it.

Mayor Kingston thought the final decision could wait until the Town receives the approval from the State. Interim Town Manager Heard stated he was correct. He explained that if the Town doesn't receive a positive response on October 23, 2020, then

the Town would not proceed with the other aspects of the application. He added that the Town was seeking to get approval for that should it come back positive because further work would be needed for the next Council meeting on November 4, 2020. He stated that Town staff was looking for authorization in order to continue to move it forward if the project does well and would be recommended forward by the State.

Councilor Mooney asked if the Town completes the application process and it goes to the Feds and then the Town does not receive the approval, it would mean the Town wouldn't receive approval from the State. Interim Town Manager Heard stated that they were two different packages of money. He explained that the projects that go to the Federal level were larger than \$800,000 and if the total was larger than the \$800,000, it would have to go to the Federal level if the Town was requesting an amount greater than \$600,000. He added that the State package was limited to that so if the cost was more, it would have to go to the Federal level.

Mayor Kingston clarified that looking at the two projects, the Town was at a total cost of approximately \$800,000. Chris Dewitt stated he was correct, adding that the total project would be well over \$1 million. He thought the State saw the project going on the Federal path. Interim Town Manager Heard stated that the cost of the two projects that were ready for permitting was over \$1.2 million. He stated that the additional cost of the road elevation would be added in.

Mayor Pro Tempore Thibodeau clarified that Interim Town Manager Heard thought this was a good way to go. She stated that she didn't see any downside to it other than the delay in the projects that were already in process. She stated that, assuming the funding would be there, the Town didn't have a lot to lose other than the time it took to go through the process. Interim Town Manager Heard stated that it would be different if the feedback he was receiving was that it was a marginal project that would be very competitive as it would be approached differently. He stated that with the feedback he has received regarding the strength of the project, with all of the elements included, he believed it might be a good step for the Town to take to receive more funding.

Mayor Pro Tempore Thibodeau pointed out that it was a highly visible section that a lot of people were interested in as it was a vital roadway. She thought it made sense for the Town to try to do the best it could with it.

Mayor Pro Tempore Thibodeau moved to authorize the Interim Town Manager to proceed with a letter of intent and contract with VHB as well as submitting a full application when the time comes.

Motion carried 5-0 via roll call.

Councilor Caviness moved to authorize the Interim Town Manager to defer the Living Shoreline project and Phase IV of the Pedestrian Plan if the letter of intent does not work in the Town's favor.

Interim Town Manager Heard noted that staff was asking to defer so that those projects could be included in the BRIC grant.

Councilor Caviness amended her motion.

Motion carried 5-0 via roll call.

NEW BUSINESS

Discussion/Consideration of the Appointments to the Town of Duck Grievance Panel

Interim Town Manager Heard stated that the terms of the members of the Town of Duck Grievance Panel expired on January 5, 2019 and that it was necessary to either reappoint the current members or appoint other members. He stated that all of the current members of the panel except Allan Beres had indicated a desire to remain in their positions. He noted that because Mr. Beres had declined from being reappointed, it was necessary for Council to appoint a new member. He stated that staff advertised the opening and received one application for the open Alternate position from Claudia Kozinetz. He reminded Council that both Allan Beres and Ed Sadler were Alternates for the Panel and that since some time has passed with the expiration of the Panel's terms, he was suggesting that the terms begin immediately and expire on November 1, 2022.

Mayor Kingston stated that he wished to deal with the reappointment of the four existing members first and then the new appointment after. He asked Council if they wanted to deal with each individual or deal with a slate of the four people – three members and one alternate. Councilor Caviness and Councilor Whitman stated that they were in favor of dealing with the slate. Mayor Pro Tempore Thibodeau stated that she was in favor of the slate as well.

Councilor Mooney asked where the opening was advertised. Director of Marketing and Special Events Christian Legner was recognized to speak. Director Legner stated that it was advertised in the Town's weekly e-news for several weeks, was advertised on social media and on the Town's website. Councilor Mooney stated that he did not remember seeing the advertisement. He thought Council should start over from the beginning and advertise the position again since only one application was received, which was insufficient. He thought the process should start over again because everyone that was on the panel's term had expired. He thought five new individuals should be appointed.

Mayor Pro Tempore Thibodeau clarified that Councilor Mooney wanted to appoint five new individuals. Councilor Mooney stated she was correct. Mayor Pro Tempore Thibodeau asked why five new individuals should be appointed. Councilor Mooney stated that the current members' terms have expired for more than six months, and no one was doing anything. He thought it was time to have new people on the panel. He reiterated that he did not think the advertisement was sufficient based on the fact that only one person responded. Mayor Pro Tempore Thibodeau thought Councilor Mooney

was referencing two separate points. Councilor Mooney disagreed. He stated that the decision was being made before Council had any discussion on whether or not to ask these people if they wanted to be reappointed. He pointed out that it would have to be something that Council would make the decision on. Mayor Pro Tempore Thibodeau thought that was what Council was currently discussing. Councilor Mooney stated that staff reached out to the people whose terms had expired, asking if they wished to continue, without any discussion from Council. He thought it was Council's decision to make and not staff's.

Interim Town Manager Heard stated that the individuals were asked if they wished to be nominated again and were not told they would be reappointed as it was the decision of Council. He added that they expressed an interest in being re-nominated to the position. He noted that there were five applicants for the panel and Council was being asked to consider appointing them. Councilor Mooney pointed out that there were five applicants but only one new individual. He stated that his point was that he didn't think they were separate issues because there was only one respondent for the open Alternate position. He thought with the level of interest of things going on in Town, Council needed to be more diligent about that and get it out there to people so that they have an opportunity to see the ad and express an interest in it.

Mayor Pro Tempore Thibodeau wondered how much more Town staff could have advertised the opening. She stated that she did not look for the advertisement. She wasn't sure how the advertisement could go out any further. Councilor Whitman noted that he did see the advertisement in the Town's weekly newsletter a number of times. Mayor Kingston thought the normal advertising was via emails and newsletters. Mayor Pro Tempore Thibodeau agreed, adding she wasn't sure how else it could be done.

Councilor Mooney stated that it seemed to him that based on the fact that there was only one person that responded, Town staff did not do a good job of advertising it. Councilor Whitman pointed out that it was the same way that Town staff advertised Planning Board or Board of Adjustment openings. Councilor Mooney stated that the Grievance Panel wasn't in effect for the past few years.

Mayor Pro Tempore Thibodeau asked if the Town ever used the Grievance Panel since it was instituted in 2013. Town Clerk Lori Ackerman was recognized to speak. Town Clerk Ackerman stated that the Panel never met. Mayor Pro Tempore Thibodeau noted that it wasn't a very active committee, but only if someone uses it.

Mayor Kingston stated that there were five people that were interested with four that want to continue to serve. He explained that Council generally asks those that are already on a board or committee first and then Council decides if they want them to continue to serve. He added that new individuals are also sought when people decide they no longer want to serve. He thought Council was going through the same process they go through with other boards and committees and thought the advertisement was done adequately. He noted that if people were active in Town and reading their emails or viewing the website, then they would see what was advertised with the Town.

Councilor Mooney thought it was a mistake that the Town made in the past that Council could try to correct. He stated that asking people that have already served for a period of time was wrong. He thought change was good and what the Town needed. He thought Council needed to change a lot of things and these were the kinds of things that, although appear small and unimportant at the moment because it has never been used in the entirety of its existence, didn't mean that it was not important at some point. He stated that there needed to be some people that were viable with this. He noted that he did not know the individuals on the panel except for Ed Sadler. He stated that he wasn't picking on anyone in particular because he didn't know them, but thought it was time for Council to start changing the thought that everything should remain the same and let the same people continue to serve as it was a mistake. He thought Council may have learned that but wasn't sure.

Mayor Kingston thought the first discussion was that there were three members and one alternate that wished to continue to serve. He stated that they have been contacted, which is what was done in all situations where people were serving on boards or committees. He stated that the question was if Council wanted to deal with that slate with respect to reappointing them and then deal with the new position or go back to square one and start over. He thought it was advertised, adding that it was a pretty inactive board, which could be good or bad. He added that the expiration had passed, but the board needed to be reactivated.

Councilor Whitman asked when an application was received, it stays active as long as the position could come open again. Town Clerk Ackerman stated he was correct. Councilor Whitman clarified that the application was signed, and Town staff keeps it. Town Clerk Ackerman stated he was correct.

Interim Town Manager Heard explained that if Town staff had someone who put in an application for the Planning Board, they would go back to that applicant to ask if they were still interested in serving. He added that if someone applied before and an opening came up a year later, Town staff would ask them if they were still interested in being considered for that position as well as asking if their information on the application needed to be updated.

Councilor Mooney asked if the application has check boxes for what an individual was interested in. Interim Town Manager Heard stated that there was. Councilor Mooney asked if there was a box for the Grievance Panel. Town Clerk Ackerman stated that there was.

Mayor Pro Tempore Thibodeau understood that the Grievance Panel was a very stagnant committee as it has never been used since Council developed it several years ago. She stated that as she was reading over the grievance procedures, she wondered when the appropriate time and who the appropriate board would be to give the policy a good review and a fresh evaluation. She asked if it was something that the Grievance Panel would be tasked with in conjunction with other Human Resources activities. She further

asked that since it was not spelled out in the policy, that it could be something that Panel members could evaluation. Member Whitman thought that Council could ask the Grievance Panel to look at it like what they do with the Planning Board.

Attorney John Leidy was recognized to speak. Attorney Leidy stated that it was usually determined by the governing board. He explained that the exact scope of the mission in charge of a body like that, was not required by statute and not formed by statute but formed by action of the board itself. He added that, ordinarily, Council would have the ability to give them a charge of that nature. He noted that he has seen it accomplished in different ways in different places. He stated that one municipality in the region had theirs designed to operate almost like a personnel committee, which was not a great idea and did not last very long. He stated that in other places, there have been times when they have been asked to help develop a policy, but it was not the typical function of a grievance panel. He stated that it was typically formed for the purpose of hearing grievances filed by employees, so it was only activated or called to action when a grievance is filed. He added that it would be up to Council to decide whether they wanted to expand their mission or give them any special charge, which would not be inappropriate.

Interim Town Manager Heard stated that Town staff had initiated a process of beginning an overview of the Town's personnel policies. He stated that the department heads have already completed identifying things that need attention or need to be corrected. He added that there would also be some legal things that will need to be done since the policies have not been updated in a long time. He noted that there was case law and legislation passed that will need to be updated in the Town's personnel policies. He stated that the grievance procedures was part of that document and will undergo a thorough review as part of the document. He noted that some of the members that were seeking appointment to the Grievance Panel have expressed an interest in working with that as they have a background in human resource related positions and could bring something to the table. He stated Town staff welcomed their involvement in reviewing and looking at the grievance policy. He noted that there would be a legal framework as Town staff could not just do anything and there were very specific things with the way the Town would need for that panel to operate. He stated that the panel may have some good ideas that could be incorporated into that procedure.

Mayor Pro Tempore Thibodeau thought it was great that the process was starting organically from the staff and department heads. She hoped that the Town would get some outside expertise. Interim Town Manager Heard stated that Council should see a contract at their November 4, 2020 meeting. Mayor Pro Tempore Thibodeau stated that she was comfortable with the direction things were going.

Mayor Kingston reminded Council that there were three members and an alternate that wish to be reappointed to the Grievance Panel.

Councilor Whitman moved to reappoint Howard Neren, Tom O'Brien, and Karen Power as full members and Ed Sadler as the alternate for a term to expire November 1, 2022.

Motion carried 4-1 via roll call with Member Mooney dissenting.

Claudia Kozinetz of 100 Beachcomber Court was recognized to speak. Ms. Kozinetz introduced herself and gave a background on herself. She noted that she read the advertisement several times in the Town's e-newsletter and wished to serve on the Grievance Panel.

Councilor Caviness moved to appoint Claudia Kozinetz as an alternate on the Grievance Panel for a term to expire on November 1, 2022.

Motion carried 5-0 via roll call.

Discussion/Consideration of the Appointment to the Dare County Tourism Board

Interim Town Manager Heard stated that Chuck Burdick's term as the Town's representative to the Dare County Tourism Board will expire on December 31, 2020. He stated that the Dare County Board of Commissioners was requesting the names of three individuals to be nominated for this position by the Town Council. He noted that Mr. Burdick was not eligible for reappointment since he was no longer on Council.

Mayor Kingston explained that generally what happens when someone is no longer an elected official, they step down; however, Chuck Burdick still wanted to serve. He stated that it has always been a member of the Town Council representing the Town on the Tourism Board. He asked for nominations.

Mayor Pro Tempore Thibodeau stated that she was interested in serving again. Councilor Caviness stated that she was interested in serving again. Councilor Mooney stated that he was interested in serving.

Mayor Kingston moved to nominate Mayor Pro Tempore Monica Thibodeau, Councilor Nancy Caviness and Councilor Rob Mooney.

Motion carried 5-0 via roll call.

Discussion/Consideration of Community Planner Position

Interim Town Manager Heard stated that he was proposing to create a new full-time position entitled Community Planner to fulfill several important needs on the Town staff. He stated that the position will offer mapping and research services that will assist the Community Development Department as well as other departments, the Town Council, and Town boards. He noted that the position was proposed to be slotted at Pay Grade 7 in the Town's Pay Plan with a salary range of \$43,694 to \$71,030.

Interim Town Manager Heard stated that with the adoption of the Duck Comprehensive & Land Use Plan as well as the Outer Banks Hazard Mitigation Plan, the Town faces the

responsibility and expectation of implementing many of the recommendations in those plans. He stated that many of the tasks could be completed over the course of time, but the Town's leadership has traditionally been a firm believer in the principle of not allowing plans to gather dust on the shelf. He added that with potential funding sources now available, the Town has an opportunity to achieve many of the important recommendations of the plans. He stated that the Town's focus on creating a safer, more resilient community will benefit by having the Community Planner to facilitate many of the recommended tasks and ensure that the community issues were addressed in a timely manner.

Interim Town Manager Heard explained that in the Town's efforts to build a more adaptable and resilient staff, the Community Planner would work directly with the Director of Community Development and the Permit Coordinator. He noted that the Community Planner will assist the Community Development Department with permitting, inspections, research, reports, and public presentations as well as being expected to have or obtain certification as a certified Floodplain Manager and CAMA Local Permit Officer and serving as the backup to the Permit Coordinator. He stated that the Community Planner would also assist with site plan review, planning, and special projects under the Director of Community Development. He added that with proper training, experience, and professional development, the individual could fill in for the Director of Community Development and would eventually be a strong candidate to serve as the Department Director.

Interim Town Manager Heard stated that with computer mapping and research skills, the Community Planner position will provide support to all departments within the Town and Town Council with issues such as providing fire hydrant/water line mapping for the Fire Department, street right-of-way mapping and information for the Police Department, as well as conducting pedestrian/bicycle, parking, or other studies for Town Council and the Planning Board.

Interim Town Manager Heard stated that if approved, the prorated salary for Fiscal Year 2020-2021 would be approximately \$37,270 and with fringe benefits, the total cost for the position would be \$51,806. He noted that as the Community Planner would be using the existing Community Development vehicle, there would be no additional equipment costs associated with the position. He added that in future budget years, the annual costs would begin at \$67,489.

Interim Town Manager Heard stated that Town Attorney Hobbs had given guidance, adding that Council was asked to consider the following action: adding the Community Planner and Senior Planner positions to the Town's position classification plan and compensation plan. He added that if Council wanted staff to conduct a hiring process for the Community Planner position in the future, then the additional steps needed will be as follows: (1) approve a budget amendment to fund the new Community Planner position and (2) authorize the Interim Town Manager to fill the new position.

Interim Town Manager Heard noted that Council was also requested to update the position classification plan and compensation plan for the Deputy Town Clerk/Permit Technician position.

Mayor Pro Tempore Thibodeau clarified that a budget amendment would be required to fill the position. Interim Town Manager Heard stated she was correct as well as requiring authorization for him to seek to fill the position.

Mayor Kingston asked what the net cost would be. He noted that an intern has been in place. He added that there were some numbers with regard to the budget impacts. He asked if the budget impact of \$37,000 took into account the loss of the intern. Interim Town Manager Heard stated that the \$37,270 was the salary. He added that the Town was not budgeted to carry the intern position any further, so there wasn't a budgeted amount that would reduce the fiscal impact of the \$37,270 as it would be new money that would be part of the budget amendment. Mayor Kingston clarified that there was no intent to eliminate that expense moving forward if the intern had stayed on. Interim Town Manager Heard stated he would have had to discuss it with Council as there would have been impacts.

Mayor Kingston asked what the impact on the workload was with the intern in place. Interim Town Manager Heard stated that it has been extremely helpful to have the extra set of competent hands with someone that has been able to work on a variety of different projects, even taking on more responsibility from a permitting standpoint, which were things he did not have to worry about with his role as Interim Town Manager. He stated that it has been very helpful up to this point to have that extra person there. He noted that what staff has been seeing with regard to the implementation of these plans that have been adopted, was that this was the main reason for looking at this new position since there was a need for someone to help work with that.

Interim Town Manager Heard stated that Town staff has been able to accomplish significant projects over the last six months with the help of the intern as well as other Town staff. He pointed out that the Vulnerability Assessment, the Hazard Mitigation Plan, the Comprehensive Land Use Plan, and adopting the new flood maps as well as the CRS program were substantial projects that the intern position had offered great assistance with and Town staff would not have been able to do them as quickly or effectively as the product would not have been as good as it was without the intern. He noted that the Town was now past all of those projects so now it was shifting from a planned development stage to an implementation stage and the need may not be there as much as it has been over the past six months. He stated that he still saw a need for the position going forward.

Mayor Kingston thought the Town Council should move ahead with establishing the positions and pay grades as it should be done. He stated that he would like to see a deeper analysis on where the Town financials were as the Town was already three months into the new fiscal year and it has been a crazy year from the standpoint of income and expenses. He stated that he didn't feel comfortable doing too much of a

budget adjustment as he didn't think there was enough history for this year behind the Town to see if there would be exposure or if there would be some excess. He stated that he would like for Council to take another look at this in 30-60 days. He thought the positions should be established and Council could react if a good candidate comes along, but he wanted Council to look a little deeper with respect to the financial impact.

Mayor Pro Tempore Thibodeau stated that she was excited when she read the job description and understood the idea of having two positions. She thought with regard to implementation of all of the plans, community members were interested in seeing them. She thought with this position, she was seeing a real community outreach and getting into a lot of liaison with the community. She added that there was work to be done and how deep that position goes was something that needed to be thought about. She stated that there was a community of a lot of residential, private streets and private neighborhoods with some private and public roads and they were looking to the Town for guidance and expertise. She stated that there was a line there, but the Town was also a resource to the individual private communities. She stated that she sees this position as a really nice outreach for the residential communities and getting ahead of environmental concerns as well as getting a focus on the Town's resiliency and vulnerability.

Mayor Pro Tempore Thibodeau stated that she didn't disagree with Mayor Kingston's comments in that the position wasn't urgent and adding the positions into the list of Town positions was a good idea. She stated that she could see tabling the issue for a few months since there was so much on Council's plate with regard to hiring a new Town Manager. She noted that the Interim Town Manager would be very qualified to interview and select a candidate for the Community Planner position. She stated that she would like Council to consider adding an Assistant Town Manager position to the list. She stated that it seemed that an Assistant Town Manager position seemed to be one that a lot of other towns have and asked Council to think about it.

Councilor Whitman asked what the workload would be for Interim Town Manager Heard and Permit Coordinator Sandy Cross. Interim Town Manager Heard stated that the intern was very helpful to both of them and helped them to get through some significant efforts. He stated that the CRS process has been closed out and staff was now shifting back into more of a normal flow of things for the office. He stated that in the short-term, there was a period of months coming up where he hoped to have a Town Manager in place, and he/she would be dealing with certain types of issues that he was currently dealing with. He stated that if Council wished not to consider approving the positions as far as funding, it would move it into the time period for the new Town Manager to be able to take a look at staffing, evaluate what was in place and what the needs were and how they should fit together. He added that if Council wished to defer, it would put these positions into the same consideration of other positions that they may see since both Public Safety departments have needs that they will be looking at and these positions could be evaluated by Council at the same time as those.

Councilor Caviness stated that she appreciated the comments as there was a lot to be said with regard to the new Town Manager coming onboard and what that will mean in terms

of organizational structure. She thought the budget pieces were an unknown. She stated that she was excited about the two positions as it was a great opportunity and was smart to have the positions for longevity of Town staff. She stated that in terms of acting on it right now, she thought it was prudent to wait.

Councilor Mooney thought Council should defer on the positions for now except for the Assistant Town Manager position as he felt it was a good idea since the Town already had an Assistant to the Town Manager in place.

Mayor Kingston suggested Council approve what was in front of them and bring back at the next meeting the Assistant Town Manager position so staff could gather information from the NC League of Municipalities and other towns. He thought it was premature to do anything at this meeting. Mayor Pro Tempore Thibodeau agreed. Interim Town Manager Heard agreed, adding that staff would need to develop a job description and pay range for the position.

Mayor Pro Tempore Thibodeau moved to add the Deputy Town Clerk/Permit Technician, Community Planner and Senior Planner positions to the Pay Plan and job classification.

Motion carried 4-1 via roll call with Councilor Mooney dissenting.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Town Attorney Hobbs stated that he did not have anything to report.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Departmental Updates

Interim Town Manager Heard gave a brief overview of the past month's permit activities to Council and the audience.

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

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

Update on Beach Nourishment/Maintenance

Ken Willson from Coastal Protection Engineering of North Carolina, Inc. was recognized to speak. Mr. Willson stated that every year, his company goes out and completes a beach profile survey, taking that data and putting it through a number of different analyses to come up with some updates on volumetric changes and trends happening not only in the project area but also throughout the entire Town. He explained that the purpose of that was to update the data and look at new trends to see how the trends have changed over time, adding that the survey provides a pre-storm condition in the event that a summer hurricane would come up and impact the Town such as what happened with Hurricane Dorian. He stated that his company uses that pre-storm survey every summer and then comes back to survey it after the storm in order to put together a report on how much volume was lost due to the storm.

Ken Willson stated that the survey also helps his firm determine, moving forward, how the project is performing as well as quantifying how much additional volume will be required when it comes time for renourishment. He stated that over the course of three years, since the project was built in October 2017, they were starting to see some trends with one being the erosion rates they were seeing that they measured over the last three years in the project area were a bit higher than what was originally anticipated. He noted that it could happen for a number of different reasons such as differences in the estimated diffusion losses that occur to a beach project over time. He added that in the management plan for the maintenance of the beach nourishment project, his firm estimated that every five years, Duck would need a volume of sand on the beach project that would equate to approximately 30 cubic yards per linear foot of the beach project. He pointed out that the beach project was about 8,000 feet long and 30 cubic yards per every foot of linear length of that project was out on the beach.

Ken Willson stated that the figure was based on past erosion rates, data that they had and shoreline change data that they had prior to the beach being constructed, as well as some analytical evaluations using time-tested formulas on how the sand diffused along the project and spread out over time. He stated that there were different construction considerations for the 2022 project and came up with a ballpark number of 30 cubic yards of linear feet, which was supposed to hold the line for the background erosion that occurs every year in a five-year interval while the project was in place before the next renourishment.

Ken Willson stated that it worked out in that it would be assumed that the Town would be losing approximately six cubic yards per linear foot per year. He added that they were finding that after three years that they were looking at rates that were closer to 12 cubic yards of linear foot per year, which was almost twice as much volume change as what was originally programmed into that design. He stated that it was fairly typical that over time one would see these erosion rates as it wasn't a linear trend when looking at the cumulative volume changes over time. He noted that there was a figure in the report that showed a cumulative change in volume over time, adding that it was hard to see the overall trend on the figure because over the last year a survey was completed after Hurricane Dorian had impacted the project in 2019. He stated that what they see over time with these projects was that the first year there was a higher rate and over time it

temper. He pointed out that it was possible that they were looking at 12 cubic yards per linear foot after three years and hopefully by the fifth year, the rate would come down a little bit. He stated that they were anticipating that it will be greater than the 30 cubic yards per linear foot that they had originally programmed in.

Ken Willson explained that all beach nourishment projects were an exercise in adaptive management and there were a lot of well-known projects in the southern part of the state that have been around for 30, 40, or 50 years that the first time they were built, they did not go in perfectly with no issues and Mother Nature behaves herself. He stated that the designers use the best technology and the best science available to predict as much as possible, they build the project and then monitor it, and every time additional sand needs to be put on the beach, it was an opportunity to improve the project. He added that that was what his firm was focused on currently and as part of the contract that they have with the Town for the design and permitting of the 2022 project, in collaboration with the Towns of Southern Shores, Kitty Hawk and Kill Devil Hills, to develop more of a numerical model for the offshore area, looking at waves and currents, water levels, and morphological changes that occur with sand over time. He stated that they were in the process of calibrating that model and once it's up and running, it should allow his firm to look at a number of different alternatives, mainly looking at different fill densities and different fill configurations of how they could slow down some of that erosion that was occurring as well as better gauging the amount of material that needed to be put out on the beach so that at the end of the five-year cycle, there will be still be all of the designed protection in place.

Ken Willson noted that in the conclusion section of the report, Council should plan on putting additional material on the beach above and beyond the estimated volumes and costs that were in the beach maintenance plan. He stated that with regard to Hurricane Dorian, his firm has gone through and completed all of the analysis and submitted the initial design reports to FEMA for their consideration. He stated that they have been able to verify that approximately 170,000 cubic yards of material was lost due to that storm and was eligible for FEMA reimbursement. He noted that it was close to \$3 million to put the additional 170,800 cubic yards of sand back on the beach. He added that if all goes well, the sand and the cost to put the sand on the beach would be covered by FEMA public assistance. He recommended that the Town put the extra 170,800 cubic yards of material out on the beach. He hoped that it would be covered by FEMA, adding that he would continue to update Council as they move along with the numerical modeling study as well as when they receive the updated results next year.

Mayor Kingston stated that he had met with some of the other mayors earlier in the day and they were discussing 2022. He asked if there was a preliminary timeline available between financing and permitting. Ken Willson stated that he would be attending a meeting on October 8, 2020 and would have a schedule available for that. He added that his firm was on schedule in terms of submitting permits and were looking at submitting the permits around Christmas so that they have the permits in hand by mid-summer 2021 and bidding the project out to have the bids in hand by August 2021 and to go to construction in May or June 2022.

Mayor Pro Tempore Thibodeau asked if there was any concern regarding the integrity of the project based on the double level of erosion rate. She understood that Ken Willson was thinking about ways to change the profile or change the project a little and improve on the way that the sand was put on the beach. Ken Willson stated that by 2022 he wanted the Town to be much better off than they were when the project was built in 2017. He stated that in the way that the volumes were trending, there should be volume in excess of where it was in 2017. He added that it looked like there would be less volume than what they anticipated when they go to renourish in 2022. He stated that some of the challenges that they knew they would be faced with this project was the length of the project in that it was almost seven miles long with the Towns of Southern Shores, Kitty Hawk and Kill Devil Hills. He stated that Duck's was just a 1.5 mile stretch of beach north of the Corp of Engineers Research Facility and they knew of the issues with not being able to construct the taper the way they would ideally like to do it. He stated that the conditions out there were a challenge to design a project in such a short length, but in looking north and south, they continue to look at the monitoring data and it appears to show that the beaches are in good condition. He hoped that through the modeling analysis they will be able to come up with some ideas on how to minimize the erosion.

Mayor Kingston thanked Ken Willson for his update.

Financial Statement for the Month of September for FY 2021

Assistant Flynn reviewed the financial statements with Council and the audience.

MAYOR'S AGENDA

Update on Developmental Associates/Town Manager Recruitment

Mayor Kingston stated that he wanted to give an update on the Town Manager search. He stated that on September 16, 2020, the Council selected Developmental Associates for the Town Manager search and Stephen Straus was advised on September 17, 2020. He stated that he notified the other search firms of Council's selection and thanked them for their participation in the RFP process. He noted that he executed a contract with Developmental Associates and a kick-off meeting was held on September 23, 2020 with a discussion on key challenges for the new Town Manager; expectations, competencies, qualifications and experiences; the search process timeline; and a public survey for input of the Town Manager expectations and considerations. He stated that the ad and candidate profile have been finalized after review by Council and Town staff, with input from the public survey. He noted that the Town supplied photographs for the ad.

Mayor Kingston stated that the invoice for the ad placements was received at a cost of \$925 and was broken down with \$100 advertising through the NC League of Municipalities, \$600 advertising through the ICMA, and \$225 advertising through the NCACC. He added that during October, Developmental Associates would be conducting

targeted recruitment for the leading candidates and that the next activity for the Town Council will be on November 4, 2020 with a closed session for the initial screening and selection of applicants/resumes.

Mayor Kingston stated that the COVID-19 meetings with the chairman and mayors continue every other Wednesday morning. He noted that there wasn't a lot of activity to discuss except for changes from the State. He added that Dare County's numbers have been around 500 with half being non-residents which was pretty outstanding and shows that Dare County is a safe place. He stated that for the first time since February, the mayors had a face to face meeting in Southern Shores to discuss a few different topics. He stated that he has a NC League of Municipalities Executive Committee meeting on October 12, 2020.

COUNCIL MEMBER'S AGENDA

Mayor Pro Tempore Thibodeau gave a short update on the Government Access Channel meeting that she had attended earlier in the day to Council and the audience.

Councilor Mooney stated that he had no report.

Councilor Whitman thanked Town staff for the weekly Duck sweep that's being done in Town.

Councilor Caviness encouraged everyone to get out and vote, wear a mask and get a flu shot.

OTHER BUSINESS

Additional Public Comments

Mayor Kingston opened the floor for public comments.

Director Legner stated that no additional public comments had come in.

There being no comments, Mayor Kingston closed the time for public comments.

CLOSED SESSION

Mayor Pro Tempore Thibodeau moved to enter closed session pursuant to North Carolina General Statute 143-318.11(a)(3) and (6) in order to confer with the Town Attorney regarding a matter within the attorney/client privilege and to preserve that privilege and to discuss a confidential personnel matter in accordance with North Carolina General Statute 160A-168, including but not limited to considering the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee.

Motion carried 5-0 via roll call.

The time was 10:16 p.m.

Upon return from closed session, Attorney Leidy stated that Council conferred with the attorney to discuss some personnel matters, but no action was needed.


Mayor Kingston noted that the next meeting would be the Regular Meeting on Wednesday, November 4, 2020 at 7:00 p.m. unless a mid-month meeting was needed. He noted that there would be a closed session on November 4, 2020 at 4:00 p.m. for an update from Developmental Associates on the Town Manager search.

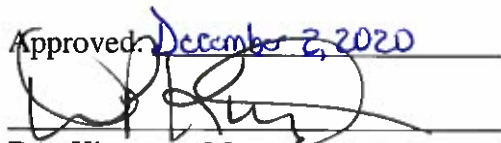
ADJOURNMENT

Councilor Caviness moved to adjourn the meeting.

Motion carried 5-0.

The time was 11:32 p.m.


Lori A. Ackerman, Town Clerk

Approved: December 2, 2020

Don Kingston, Mayor

