

**TOWN OF DUCK  
TOWN COUNCIL  
REGULAR MEETING  
November 6, 2019**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 7:00 p.m. on Wednesday, November 6, 2019.

**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 Chief John Cueto; Fire Chief Donna Black; Director of Community Development Joseph Heard; Town Attorney Robert Hobbs; Public Relations Administrative Assistant Betsy Trimble; Director of Marketing and Special Events Christian Legner; and Town Clerk Lori Ackerman.

**OTHERS ABSENT:** None.

Mayor Kingston called the meeting to order at 7:03 p.m. He asked Councilor Jon Britt to lead the Pledge of Allegiance. Mayor Kingston led the moment of silence.

**PUBLIC COMMENTS**

Mayor Kingston opened the floor for public comments. He asked that any comments regarding the public hearings be held off.

Ben Vorndran of 104 Sea Hawk Drive West was recognized to speak. Mr. Vorndran stated that he noticed an agenda item that was dealing with penalties. He stated that he never received an answer with regard to someone receiving a penalty in court, as a lawyer would need to be paid to deal with it. He asked who paid for the litigation. He noted that the funding goes to the local schools and was curious if the cost would outweigh the good of the Town keeping the funds. He stated that there was an item on the agenda regarding gravel driveways and parking in commercial areas. He stated that some of the things required were missing from the ordinance. He noted that Duck Deli had rocks from the parking area ending up on Duck Road as well as the Osprey Landing Shops. He asked if crush and run or ABC Stone could be considered a surface that could be used. He noted that the ordinance only talked of gravel over sand or a gridlock system. He wondered if crush and run or ABC stone was comparable. He stated that with regard to the Duck Village Code that would be voted on later, it had a part in it about existing violations. He thought if the violation happened one time it would be fine, but if the violation happened twice, it should not be allowed.

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

Police Chief John Cueto was recognized to speak. Police Chief Cueto went on to present Police Officer Tammy Bybee and Police Officer Charles Edwards with the Chief's Lifesaving Award certificates.

### **CONSENT AGENDA**

#### **Minutes from the October 2, 2019, Regular Meeting and Resolution 19-06, a Resolution of the Town Council of the Town of Duck, North Carolina, Partnering with the U.S. Census Bureau and State of North Carolina**

Councilor Caviness moved to approve the consent agenda as presented.

Motion carried 4-0.

### **PUBLIC HEARINGS**

#### **Public Hearing/Discussion/Consideration of Ordinance 19-04, an Ordinance to Establish Review Standards for the Village Commercial Development Option as a Special Exception**

Mayor Kingston turned the meeting over to Town Attorney Robert Hobbs.

Town Attorney Robert Hobbs was recognized to speak. Town Attorney Hobbs stated that Director Heard would give an overview.

Director of Community Development Joe Heard was recognized to speak. Director Heard stated that the Planning Board was proposing a draft ordinance that would amend standards for approval of the Village Commercial Development Option as a special exception. He explained that the Village Commercial Development Option can grant relief from a variety of development standards for proposed development in the Village Commercial zoning district and standards include approval criteria, review guidelines, and limitations on the amount of relief granted.

Director Heard stated that the Planning Board was planning to change the Village Commercial Development Option from a conditional use to a special exception with the rationale being that it was relief from development standards such as setbacks, parking and building height. He stated that it made more sense and fit more naturally as a special exception.

Director Heard stated that under the current ordinance, the Town Council is given broad discretion in providing an applicant with reduction in requirements for parking, setbacks, and other development standards. He added that Council could presently grant any amount of relief to an applicant. He noted that the Planning Board had a discussion about it and chose to recommend placing certain limitations on how much could be granted as well as what things a special exception could grant. He stated that all of this was located

in the draft ordinance under Subsection B, which placed limitations on granting relief from setbacks to no more than 50% of the requirement. He added that the reduction in parking was limited in different ways as it depended on the size or scale of the proposal. He stated that building height could not have any relief granted. He pointed out that the Planning Board did not feel it was appropriate to use this as a tool to grant relief for existing violations.

Director Heard stated Subsection C outlined some of the findings that the Planning Board and Town Council would have to make in order to grant a Village Commercial Development Option application. He noted that it would be an area where Town Attorney Robert Hobbs would be looking at when Council is making their decision on it in the future to see if it met the criteria.

Director Heard stated that Subsection D spelled out some exceptions for small-scale projects. He stated that the Planning Board did not want this to be burdensome for someone that was proposing a new type of use or putting a small addition onto a building. He added that the Board had to put in some exceptions in the ordinance. He noted that they would not have to meet the guidelines, but Council would still have to make the same kind of findings in Subsection C but wouldn't have to deal with the guidelines.

Director Heard stated that the Planning Board considered adopting criteria that would have to be met for projects to evaluate how well a project would fit in Duck Village by looking at the characteristics of the location of the building, architecture and parking. He stated that the Planning Board strongly considered a point system for the criteria, but after stepping back, they reconsidered it and set it up as guidelines, so it wasn't as firm and had to have a certain number of things. He added that it would give Council more flexibility to think about whether the project was consistently what should be in the Village. He explained that the reason for the guidelines was that it was very helpful to everyone involved, especially the applicant, so that they know what Council was looking for.

Director Heard stated that at their meeting on September 11, 2019, the Planning Board voted unanimously to recommend approval of the proposed text amendment.

Town Attorney Hobbs asked if there were any comments from Council.

Mayor Pro Tempore Thibodeau stated that it was helpful to Council and Town staff to have some focus and requirements. She pointed out that Subsection B talked of limitations. She added that she was reading them as requirements or limitations; however, at the end of the discussion, Director Heard was talking about guidelines and the things that will help Council. She asked where the guidelines were located in the draft ordinance. Director Heard stated that they were located in Subsection E. Mayor Pro Tempore Thibodeau asked how they related to each other. Director Heard stated that the limitations were basically what an applicant could apply for. He explained that if an applicant was asking for a 100% setback relief, it could not be granted. He added that the

guidelines in Subsection E were descriptive in terms of advising an applicant that these are the things that the Town would be looking for.

Mayor Pro Tempore Thibodeau asked how those that have been grandfathered and didn't fit the limitations but wanted more would work. She added that they would be grandfathered in one respect but would be looking for something new. Director Heard stated that the Planning Board did a comprehensive job of addressing things. He reminded Council that this would not be for every project in the Village Commercial District, it would only be for those that need special relief to be accommodated. He added that it would not apply to most projects in the Village.

Director Heard stated that there were buildings that were constructed years ago, such as the one at the Loblolly Pines Shopping Center, with typical suburban architecture in terms of the layout. He stated that there were ways that the building did not comply with the Town's current standards. He noted that where it came up was where it related to changes of use. He added that the exceptions that the Planning Board put in the draft ordinance was not something that would trigger all of the requirements under Subsection B. He stated that if just a change in use was triggering it, the applicant would not have to meet all of the other criteria in the guidelines. He noted that even if it was a very small, modest addition, it would be exempt from it, but it would come into play for someone with a large addition. He stated that the intent of the draft ordinance was to have the property owner make some effort to bring their property a little closer to something that fits in the Village. He reiterated that the property owner would not have to meet all 12 guidelines but would have to meet enough that Council would feel comfortable that it was consistent with the guidelines. He didn't think there was any project that would meet all 12 guidelines.

Councilor Britt asked if someone came in and matched all of the criteria, but did nothing, the Town could legally turn the project down at that point. Town Attorney Hobbs clarified that Councilor Britt was stating that everything in Subsection B was already met. Councilor Britt stated that it was, but the applicant made no effort to meet it. He noted that it has come up before where the applicant did the best they could but the Town did not have any teeth to engage anything from Subsection E. He added that the process the Town went through with the points was extremely confusing and somewhat subjective. He agreed with it being removed from the draft ordinance but wondered if the Town has the right to tell an applicant that they would have to do some of the things, or they do not receive their special exception request. Town Attorney Hobbs thought Subsection E was totally discretionary with the Council. He noted that currently the way it was written, it was still within the discretion of Council and the guidelines had a different intent in that it gave Council some ability to review an application and check off different points but not as a requirement for approval. He added that if an applicant did not meet many of the guidelines, he thought Council was fully within its discretion to deny it.

Councilor Britt stated that an existing Conditional Use Permit may have been in place for many years and comes back for a modification and meet a lot of the criteria, but the minimum structure setback is now black and white and 50% is in effect. He asked if they

could not make the modification. He stated that he didn't want to tell an applicant that they could not expand or have the opportunity to expand and if the rules kick into those, when they initially received the permit where the setbacks were allowed and now the 50% rule was in place, it would prevent the applicant from doing the modification. Director Heard stated that if the setbacks were approved as part of it, it would not be a violation, but it would also not be conforming with the current ordinance. He reiterated that it would not be a violation that would prevent the applicant from applying for this for a different purpose.

Councilor Britt stated that he did not want the ordinance to prevent an applicant from making modifications. Town Attorney Hobbs stated that the minimum would still apply to the portion that was being proposed to change. He added that if it was by itself and if the change did not trigger one of the criteria, then the previously approved criteria would still be approved. Councilor Britt clarified that the previously approved exceptions were grandfathered. Town Attorney Hobbs stated that they were and if the applicant was to propose a change that would trigger one of the criteria – even if it was just one – it may be a reason to deny it because it did not meet the minimum. He thought if the applicant came in and all of the criteria were left unchanged but there was some other proposal that did not trigger the criteria, then Council would be within its rights to approve it. He explained that changes that were being proposed that would modify something that was set forth in the criteria would not be grandfathered.

Councilor Britt stated that it was not a significant change to deal with conditional use permits since the Town has specific rules for parking, setbacks and coverage. He stated that he did not want to take a permit that was working, and someone wanted to make a small change and continue to work but suddenly they could not. He stated that he was not receiving a clear answer that the existing Village Commercial Development Options were clearly protected. Director Heard stated that the existing approvals would still be valid. He explained that if the proposal involved something that would not comply with the criteria in the draft ordinance under Subsection B – which was changing – it would not give the applicant the right to go around it.

Town Manager Layton clarified that a nonconformity could not be expanded. Town Attorney Hobbs stated he was correct. Director Heard pointed out that it would not be allowed to be more nonconforming unless it was allowed as part of the criteria.

Mayor Pro Tempore Thibodeau noted that it would depend on what it was. Councilor Britt thought parking would be the big one. Mayor Pro Tempore Thibodeau stated that there was a lot of nonconformity that would not be able to be expanded upon with the Village Commercial Development Option. She stated that it was good to discuss as it was important for everyone to understand how it would work. She asked if someone was already in violation and they have not obtained approval, they could not come in and try to fix it with the Village Commercial Development Option. She noted that it has happened a couple of times in the past year. She asked what would happen. Director Heard stated that they would have to be out of violation before they could apply for it. Mayor Pro Tempore Thibodeau clarified that it was the intent. Director Heard stated that

it was, pointing out that the Planning Board specifically added it to the draft ordinance after discussing it.

Councilor Britt pointed out that not everyone commits violations intentionally. He added that sometimes people do it by accident, in a short season and they were trying to make money and things happen. He stated that he hated to see those people penalized and have to go through silly steps like rebuilding a wall or being delayed because of that. He thought it was suggested earlier that if they violated the rules once, it was okay to go through the Village Commercial Development Option, but if the rules were violated a second time, he understood it was wrong. He stated that it seemed harsh to him.

Mayor Kingston asked if it came up with the Planning Board. He further asked how they dealt with it. Director Heard stated that the Planning Board added that to the draft ordinance. He added that they specifically discussed it and felt that it was something that they did not want it seeing being used in that way.

Councilor Britt asked if a property could be given one exception to the rules. Director Heard stated that it would not happen. Councilor Britt asked if there was a way to have it done. Town Attorney Hobbs stated that there wasn't at this level. He thought Council would have to send the ordinance back to the Planning Board because it was a specific, substantive change.

Town Attorney Hobbs asked if there were any comments from members of the Planning Board. There were none.

Town Attorney Hobbs asked if anyone from the audience wished to address the proposed ordinance. There were none.

There being no one wishing to speak, Town Attorney Hobbs closed the public hearing and turned the meeting back over to Mayor Kingston. He noted that the Council was sitting as a legislative body on the proposal. He stated that there were two readings for the ordinance with Council approving it on the first read by four votes. He added that if it was not approved by four votes, it could be placed on the agenda for the next meeting for a second reading.

Councilor Britt stated that he was not happy with the absoluteness of B7 and would not be voting in favor of the ordinance unless it changes. He felt it was unnecessary and should be more lenient for someone who made an unintentional mistake. He stated that it seemed a little heavy-handed.

Mayor Pro Tempore Thibodeau agreed with Councilor Britt's comments. She agreed that the Town has seen some violations in the past year in several scales with some more egregious than others. She stated that her concern was if someone did not know they were in violation and could not apply for a Village Commercial Development Option to remedy their situation. She understood that the Village Commercial Development Option has given the Town a lot of character and further understood that it needed to be reigned

in a little by giving the applicant and the Planning Board something to work with, so it was not so subjective.

Mayor Kingston asked if a better course of action would be to send the draft ordinance back to the Planning Board and let them discuss the concern of B7. He added that there would be a full Council sitting in for the December and/or January meeting versus the four present for this meeting. Mayor Pro Tempore Thibodeau and Councilor Britt stated that they were in favor of sending it to the Planning Board.

Councilor Caviness stated that she did not have a problem with B7, adding that there have not been any objections raised by any member of the public, business, or developer. She stated that it was not a part of the ordinance that was causing her any concern. She added that if it was the will of the Council to send it back to the Planning Board, she was fine with it. Mayor Pro Tempore Thibodeau wondered how many people were really paying attention to it.

Mayor Kingston stated that his point was that the draft ordinance would not be passing on the first read at this meeting and in 30 days there would be a new Council seated. He thought it would be fair to that Council to let it go to the Planning Board for further discussion. Mayor Pro Tempore Thibodeau stated that she would be in favor of doing that.

Councilor Britt moved to send Ordinance 19-04 back to the Planning Board to address Section B(7) to loosen up the wording on the requested modification and allow one slap on the wrist.

Motion carried 4-0.

**Public Hearing/Discussion/Consideration of Ordinance 19-05, an Ordinance to Remove Criminal Sanctions and Penalties from the Land Use Provisions of the Town Code**

Mayor Kingston turned the meeting over to Town Attorney Robert Hobbs.

Town Attorney Hobbs stated that Director Heard would give an overview.

Director Heard stated that there were two ordinances that were related so he would like to cover it once with the understanding that Council would be considering two separate ordinances. He stated that Ordinance 19-05 recommends amendments to several development related ordinances under the purview of the Planning Board. He stated that Ordinance 19-06 recommends amendments to other chapters of the Town Code. He added that the intent of both ordinances was to amend the Town Code by eliminating references to criminal penalties and modifying penalties for all violations to become civil penalties.

Director Heard stated that the reason for two separate ordinances was because the Planning Board was required to make a recommendation to Council on the ordinances that they deal with. He added that the other ordinances come directly to Council and do not always go before the Planning Board. He stated that after reviewing the proposal for Ordinance 19-05 at their meeting on September 11, 2019, the Planning Board voted 3-1 to recommend approval of it. He noted that Ordinance 19-06 was coming directly to the Council without a recommendation from the Planning Board.

Town Attorney Hobbs stated that the staff report included a quotation from a memorandum that was provided to the Council in August 2018, in which Council has the option to charge either criminal or civil penalties, or both, on matters dealing with issues such as zoning violations. He pointed out that it was rare for criminal penalties to be charged for zoning violations, adding that he was not aware of any time that it has been done in the Town's history. He stated that the civil penalties seemed to be more common and were ones that the Town has better control over. He noted that criminal penalties, when they are collected, do not come to the Town, but civil penalties do. He stated that he was directed to provide a proposed ordinance dealing with the Code sections that deal with land use matters, which was draft Ordinance 19-05. He pointed out that there were additions and deletions that attempted to accomplish that goal.

Mayor Kingston pointed out that any civil penalties collected must be paid to the local school board. He asked if it should be criminal. Town Manager Layton thought Town Attorney Hobbs had misstated when he was talking about the penalties. Town Attorney Hobbs stated that it should be criminal and should be corrected in the draft ordinance.

Mayor Kingston asked what the dollar volume was for criminal penalties. Town Manager Layton stated that the Town has never collected any criminal or civil penalties. Mayor Pro Tempore Thibodeau pointed out that some people had expressed a concern that it was a way for the Town to receive extra money. She thought it was noted in the staff report that it may be helpful to use for attorney fees. Director Heard stated she was correct.

Town Attorney Hobbs asked if there were any comments from members of the Planning Board. There were none.

Town Attorney Hobbs asked if anyone from the audience wished to address the proposed ordinance. There were none.

There being no one wishing to speak, Town Attorney Hobbs closed the public hearing and turned the meeting back over to Mayor Kingston. He reminded Council that it would take four votes to adopt the ordinance on the first read. He added that if there were not four votes, it could come back at Council's December 4, 2019 meeting for a second reading.

Mayor Pro Tempore Thibodeau moved to adopt Ordinance 19-05 as presented.



Motion carried 4-0.

**Public Hearing/Discussion/Consideration of Ordinance 19-06, an Ordinance to Remove Criminal Sanctions and Penalties from Provisions of the Town Code not Pertaining to Land Use**

Town Attorney Hobbs noted that the staff report was the same for Ordinance 19-06 so the presentation by Director Heard would be equally applicable for this ordinance. He added that this ordinance did not need to go to the Planning Board because it did not deal with development planning matters. He noted that Council had another proposed ordinance related to firearms coming up later in the meeting. He stated that part of that ordinance deals with Section 130.02, which was proposed to be revised in the current draft Ordinance 19-06. He stated that it proposed that the criminal provisions be removed, and the civil penalty be added. He pointed out that the proposed ordinance later in the meeting was proposing to reverse that and put the criminal sanctions back in place, which was simply after further discussion and reflection as it seemed more appropriate to leave that in there.

Town Attorney Hobbs asked Council if they had any questions. There were none.

Town Attorney Hobbs asked if anyone from the audience wished to address the proposed ordinance. There were none.

Mayor Kingston asked what the financial impact annually would be for criminal penalties that would be changed to civil. Town Manager Layton stated that it was zero as the penalties typically went to the school board.

There being no one wishing to speak, Town Attorney Hobbs closed the public hearing and turned the meeting back over to Mayor Kingston. He reminded Council that it would take four votes to adopt the ordinance on the first read. He added that if there were not four votes, it could come back at Council's December 4, 2019 meeting for a second reading.

Councilor Caviness moved to adopt Ordinance 19-06 as presented.

Motion carried 4-0.

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

**Discussion/Consideration of Ordinance 19-08, an Ordinance Amending Subsections 130.02, 93.05, and 156.034 of the Town Code of the Town of Duck, North Carolina, to Conform those Provisions to State Laws Pertaining to Firearms**

Town Attorney Hobbs stated that since the last Council meeting, the Town received a communication from Andrew Stevens of Grass Roots North Carolina, suggesting that the Town should look at its firearms ordinance to determine or verify that it conformed with

state law. He stated that his firm determined that there were some deficiencies that needed to be addressed in order to ensure that the regulations under that code, especially Section 130.02, complied and was consistent with state law. He explained that since the time the firearms ordinance was initially put into place when the Town was incorporated, the State has enacted some statutes which have pre-empted much of the Town's regulation in this area dealing with firearms. He added that he and Town staff put together the proposed ordinance that accomplishes that goal and addresses all of the changes. He noted that there was a change under Violations in that it puts back into place the criminal sanction for violation of this particular ordinance.

Mayor Kingston asked if there was any disagreement with what Andrew Stevens had stated. Town Attorney Hobbs stated that Mr. Stevens wasn't entirely specific on what he wanted changed but was more concerned with concealed carry handguns. He stated that he did not have any concerns about making the changes Mr. Stevens had suggested. He added that he went through Chapter 14 thoroughly, which was the criminal code, which was where most of the provisions were located to ensure that the Town was only regulating those limited areas that the state allows the Town to regulate.

Mayor Pro Tempore Thibodeau asked if the ordinance was adopted, it would dovetail with the State. Town Attorney Hobbs stated she was correct.

Councilor Caviness asked if it was still within the Town's purview to prevent concealed weapons in the Town buildings, the park, and the fire department. Town Attorney Hobbs stated that instead of listing specific locations, under Section C of 130.02, it allows the posting on buildings owned, leased, licensed or occupied by the Town and their premises with a notice prohibiting the carrying of concealed handguns as per the statute. He reminded Council that they were only Town buildings. He stated that Section D had a similar provision that dealt with firearms themselves that were beyond the concealed carry handguns. He pointed out that they would be prohibited in buildings owned, leased or possessed by the Town on grounds or parking areas of those buildings or in public parks or recreation areas. He stated that Chapter 14 referenced Article 54B which was where the authority was coming from.

Town Attorney Hobbs stated that he sent an email to Andrew Stevens that included the proposed provisions and asked for comments, but never received a response.

Mayor Pro Tempore Thibodeau moved to approve Ordinance 19-08 as presented.

Motion carried 4-0.

**Discussion/Consideration of a Request for the Planning Board to Review Ordinance 19-09, an Ordinance Amending Subsection 156.034 of the Town Code of the Town of Duck, North Carolina, to Consolidate Provisions Relating to Firearms**

Town Attorney Hobbs stated that in order for the Town's regulations on firearms be brought into compliance with North Carolina General Statutes and consolidated into one section of the Town Code Section 156.034(B)(10)(f), it must be amended as follows:

“(f) Operations. No alcoholic beverages will be served or consumed on the premises of electronic gaming operations. If food or beverages (excluding alcoholic beverages) are served, the establishment must meet the requirements of the Dare County Department of Health.”

Town Attorney Hobbs noted that the following language would be removed from the ordinance: “Firearms are prohibited in establishments conducting electronic gaming operations.”

Town Attorney Hobbs pointed out that due to the nature of the amendment, it must be reviewed by the Planning Board prior to consideration by Town Council.

Mayor Pro Tempore Thibodeau moved to send the proposed ordinance to the Planning Board as presented.

Motion carried 4-0.

## **NEW BUSINESS**

### **Discussion/Consideration of Authorizing a Public Hearing on Ordinance 19-07, an Ordinance Amending Standards for Gravel Parking Surfaces on Commercial Properties**

Director Heard stated that while they were discussing related issues during their public meeting on June 12, 2019, the Planning Board questioned why gravel parking surfaces with greater permeability than asphalt/concrete surfaces were not given the same reduction in lot coverage offered to residential properties. He stated that at their public meeting on August 7, 2019, the Council authorized the Planning Board to work with Town staff to develop ordinance amendments that encourage greater use of pervious or semi-pervious parking surface materials on commercial properties.

Director Heard stated that after they considered the potential benefits, the Planning Board voted unanimously to recommend approval of the proposed text amendment excluding gravel parking on commercial properties from lot coverage calculations.

Councilor Britt moved to authorize a public hearing for Ordinance 19-07 at the Town Council's December 4, 2019 meeting as presented.

Motion carried 4-0.

### **Discussion/Consideration of Resolution 19-07, NC Department of Public Safety Disaster Assistance Agreement for Hurricane Dorian**

Town Manager Layton stated that in order to qualify for reimbursement of expenses for work that occurred during and in the aftermath of Hurricane Dorian in September 2019, the Town Council was required to adopt a resolution authorizing certain Town representatives to execute and file applications for state and Federal assistance. He pointed out that the draft resolution lists Town Manager Layton as the primary agent and Director Heard as the secondary agent.

Mayor Pro Tempore Thibodeau moved to adopt Resolution 19-07 as presented.

Motion carried 4-0.

**Discussion/Consideration of Authorizing the Town Manager to Execute a Contract with RPC Contracting, Inc. for Duck Trail Improvements in the Vicinity of Four Seasons Lane and Station Bay Drive, and Miscellaneous Improvements**

Town Manager Layton stated that as part of the Fiscal Year 2020 budget, funding was set aside for improvements to the Duck Trail, specifically at the intersection of Four Seasons Lane and NC 12. He stated that bids were received from five contractors for this work with RPC Contracting, Inc. being the low bidder. He noted that because the base bid for the project was \$57,360, there is sufficient funding remaining in the budget for additional Duck Trail improvements. He stated that staff was proposing that in addition to minor miscellaneous spot improvements, additional sections of the Duck Trail be repaired and replaced with concrete. He added that these improvements were from Four Seasons Lane south to Plover Drive and from Station Bay Drive south approximately 225 feet. He pointed out that the total cost for the improvements was \$106,890.

Councilor Caviness asked how far south the improvements would be from Station Bay Drive. Town Manager Layton stated that it was 225 feet.

Mayor Kingston asked if it made any changes to the sidewalk crossing at Four Seasons. Town Manager Layton stated that it would re-align it slightly. Mayor Kingston asked if RPC was planning to do this as a follow on to Phase III of the pedestrian plan. Town Manager Layton stated that it was bid as a separate contract as the Town was hoping to obtain more competitive pricing by separating it out, which was what happened.

Mayor Kingston moved to authorize the Town Manager to execute a contract with RPC Contracting, Inc. as presented.

Motion carried 4-0.

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

Town Attorney Hobbs stated that he had no report.

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

### **Update on Departmental Activities**

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

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

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

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

### **Update on the Environmental Assessment for the Public Safety Building**

Town Manager Layton stated that the consultants had contacted him earlier in the day letting him know that the Town received another round of comments for the environmental assessment that staff has to respond to. He noted that staff and VHB will be working on the responses.

### **Update on the Assistant to the Town Manager Position**

Town Manager Layton stated that the advertisement was out and approximately 25 individuals have submitted their applications. He stated that was a good mix so far with several that were piquing his interest. He stated that he was confident that he will find a great asset through the process.

### **Financial Statement for October of FY 2020**

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

## **MAYOR'S AGENDA**

Mayor Kingston stated that he has his Mayor's meeting on November 19, 2019 at Dare County. He stated that he has his League of Municipalities finance committee meeting near the end of the month. He stated that he has his League of Municipalities board meeting in early December. He thanked Town staff and volunteers for a great jazz festival. He stated that he committed the next mayor to attend the DCBA meeting on Saturday, December 7, 2019. He noted that he would put together the presentation for it. He stated that the next mayor would also need to participate in the OBX Leadership session on December 11, 2019 in Manteo.

Mayor Kingston stated that he attended the North Carolina Mayors Association meeting via video conference recently. He stated that he was looking forward to the Yuletide Festival. He thanked Councilors Burdick and Britt for their terms of service, adding that they would be missed. He congratulated Sandy Whitman and Rob Mooney on being elected to Council. He thanked Marc Murray and Ben Vorndran for participating in the election process.

### **COUNCIL MEMBER'S AGENDA**

Mayor Pro Tempore Thibodeau gave an update on the recent Government Access Channel meeting. She echoed Mayor Kingston's comments regarding the jazz festival. She thanked the citizens of Duck for re-electing her and the other members.

Councilor Caviness thanked everyone for voting, adding that she was thrilled to be re-elected. She pointed out that the January Council meeting was scheduled for January 1, 2020 and wanted to know when it would be scheduled. Town Manager Layton stated that Council will review the 2020 calendar at their December 4, 2019 meeting. He added that the recommendation would likely be to change the date by postponing it to the Mid-Month meeting or another date.

Councilor Britt congratulated Sandy Whitman and Rob Mooney on the election. He thanked everyone that supported him over the years that he was on Council as it has been an honor to serve the public.

### **OTHER BUSINESS**

#### **Additional Public Comments**

Mayor Kingston opened the floor for public comments.

Allan Beres of 146 Dune Road was recognized to speak. Mr. Beres asked if the date for the Council Retreat had been set. Town Manager Layton stated that it was typically held in the middle of February. Mayor Pro Tempore Thibodeau thought it would be held on February 19 and 20, 2020.

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


Mayor Kingston noted that the next meeting will be the Mid-Month Meeting on Wednesday, November 20, 2019 at 1:00 p.m.

### **ADJOURNMENT**

Councilor Britt moved to adjourn the meeting.

Motion carried 4-0.

The time was 9:05 p.m.



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Lori A. Ackerman, Town Clerk

Approved: \_\_\_\_\_  
  
Don Kingston, Mayor

