

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
December 6, 2017**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 7:00 p.m. on Wednesday, December 6, 2017.

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

COUNCIL MEMBERS ABSENT: None.

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 Information Officer Denise Walsh; Public Relations Administrative Assistant Betsy Trimble; and Town Clerk Lori Ackerman.

OTHERS ABSENT: None.

Town Manager Layton called the meeting to order at 7:03 p.m. He asked former Mayor Pro Tempore Allan Beres to lead the Pledge of Allegiance. Town Manager Layton led the moment of silence.

SWEARING IN OF NEW COUNCIL MEMBERS

Town Manager Layton stated that the new Council members would be sworn in followed by the election of the Mayor and Mayor Pro Tempore. He turned the meeting over to Town Clerk Lori Ackerman.

Town Clerk Lori Ackerman was recognized to speak. Town Clerk Ackerman swore in each Council member one at a time.

ELECTION OF TOWN COUNCIL OFFICERS

Election of Mayor

Town Manager Layton opened the nominations for Mayor of Duck.

Mayor Pro Tempore Thibodeau moved to nominate Don Kingston as Mayor. Councilor Burdick seconded. Town Manager Layton asked for other nominations. There being no other nominations, Town Manager Layton closed the nominations. Town Manager Layton moved to re-appoint Don Kingston as Mayor.

Motion carried 5-0.

Town Manager Layton turned the meeting over to Mayor Kingston.

Election of Mayor Pro Tempore

Mayor Kingston opened the nominations for Mayor Pro Tempore of Duck. He moved to nominate Monica Thibodeau as Mayor Pro Tempore. Councilor Burdick seconded. Mayor Kingston asked for other nominations. There being none, he moved to elect Monica Thibodeau as Mayor Pro Tempore.

Motion carried 5-0.

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 was looking to expand his business and had recently purchased a Gator utility vehicle for it. He noted that he was in a Catch-22 in that the Gator was licensed, but was similar to a golf cart. He stated that in order to improve his business in the Town of Duck, he thought the Gator was safer than using a golf cart. He asked Council to look into adding language in the ordinance to allow Gators to be used on the streets in Duck.

Bob Armentrout of 131 Fawn Court was recognized to speak. Mr. Armentrout stated that he was the president of the Tuckahoe Homeowners Association. He stated that he was present to represent the Tuckahoe board in support of requests they made for having Tuckahoe added to the list of subdivisions for enforcement of parking regulations. He noted that his board submitted three requests for it to the Town for approval of including the subdivision in August, October and November. He added that all of the requests were with unanimous support of the board.

Bob Armentrout stated that there was some question at the last Council meeting where it was discussed whether or not their request was a legal request. He pointed out that his request was legal and their board was authorized to take actions like this by Article 6, Section 1 of their by-laws. He added that his board was authorized to manage the affairs of the Tuckahoe subdivision.

Bob Armentrout stated that their request that was submitted in August was refused to be heard or put on the Council agenda. He stated that it was suggested that they discuss the matter at their annual meeting because of some emails received in opposition to their request, which were subsequently discussed at their homeowners meeting. He noted that they had their annual meeting and afterward, they requested that Council put the matter on the agenda for approval. He pointed out that it was included in the November 1, 2017 Council agenda but was not acted upon because of a lack of a motion for it to be heard.

Bob Armentrout stated that after the October meeting, the board made a subsequent request that it be heard at Council's December 6, 2017 meeting, but it was not included in the agenda and he was not given a reason why. He stated that he was told informally that it would be discussed, adding that he received an email from Town Manager Layton that it would be on the January 3, 2018 meeting agenda.

Bob Armentrout explained that the reason the Tuckahoe board was asking for parking inclusion and enforcement by the Town was because they have two issues in Tuckahoe – one had to do with their prohibited on-street parking that was a provision of their covenants and the other was the provision of the Town that prohibits on-street parking. He stated that separately from that, they had an issue with the administration of their parking spaces and their four parking lots. He explained that the one that seems to have the most concern was at the beach but there were also concerns as to how Tuckahoe would administer those spaces, which was totally separate from the request they asked regarding assistance on the parking on the streets in the subdivision. He stated that, while there has been some discussion that maybe they should have an action plan, they were only asking for assistance with their no parking provision.

Bob Armentrout stated that, for months, their association has been working with the issue of administration of the parking spaces and there have been some things that have happened between the board and various entities of the homeowners in the community. He added that surveys were sent out asking for information on how to administer the parking spaces. He stated that they will be looking at how they provide information to rental companies and how that was handled, as well as how they handle their rental requests and what information they have regarding no parking on the streets in the Tuckahoe subdivision and how many cars are authorized to be in the parking spaces when the houses are rented. He stated that they were looking at how Tuckahoe overall issues parking passes within the community. He noted that that issue was totally separate from the reason for their request to the Town. He wanted Council to know that they were dealing with their own issue.

Bob Armentrout stated that the issue before Council that Tuckahoe asked for was to assist them in prohibiting parking on their streets. He stated that the reason was for safety, pedestrians, children, impeding and delaying first responders such as law enforcement, fire and ocean rescue. He added that there were private property concerns, impeding refuse collection, preventing community and lawn care service and impeding mail and delivery services. He pointed out that these were some real concerns that Tuckahoe had concerning the on-street parking.

Bob Armentrout stated that the Tuckahoe board went to the Town and asked for advice on how they could approach the issue of on-street parking. He stated that they were advised that it was a simple matter as 21 other communities have asked for assistance and were approved for it. He added that he was advised that all he had to do was send an email request and it would be approved. He stated that the Board took the information and submitted their request, but after they submitted it, they were told by Town Manager Layton that he had received emails that the matter had not been discussed with the

association. He stated that he was surprised by that since the Tuckahoe board unanimously approved the request that was forwarded to the Town. He added that the board manages the affairs of Tuckahoe so they thought it was an appropriate request and was surprised that it was questioned. He stated that they decided to air the matter at their homeowners meeting in October.

Bob Armentrout stated that they had an issue after they submitted their request and he had a discussion concerning some improper parking with Police Chief John Cueto. He stated that he appreciated Police Chief Cueto handling the issue. He stated that what was important about the meeting with Police Chief Cueto was the discussion of how the request was coming forward and was told that it was the right thing to do because self-enforcement was not a good way to handle things. He noted that they have had complaints with their community homeowners regarding self-enforcement and he thanked Police Chief Cueto for his advice.

Bob Armentrout stated that Tuckahoe had their annual meeting and discussed the issue with Town Manager Layton and Police Chief Cueto present for the meeting. He stated that he appreciated the way the issue was presented as they were there to seek enforcement and not to have tickets issued. He added that after the presentation, there was some concern about the issue, but no one offered any substantive objection as to how the protocol would be administered with enforcement. He reiterated that no one offered any objection. He stated that at the November 1, 2017 Council meeting, there were several homeowners who spoke in objection regarding the comments of what had transpired at the homeowner association meeting. He noted that some of the comments were that there was no vote on the covenants to make the request and that the covenants were not approved to do so. He explained that there was no requirement to do that, so it was incorrect information that Council was given.

Bob Armentrout stated that at the November 1, 2017 Council meeting, there was a suggestion that there was no legal request that was received. He stated that there was one that was provided to Council by the Tuckahoe board. He added that there were comments at the annual Tuckahoe meeting that a vote was asked for regarding the request to the Town. He noted that there was no vote at their meeting and it was suggested that they didn't have an action plan or the management company's involvement. He pointed out that the management company was involved, but there was no formal action plan.

Bob Armentrout stated that at Council's November 1, 2017 meeting, the Tuckahoe request did not pass because of a lack of a motion. He stated that Tuckahoe was no different than any other community. He stated that prohibiting on-street parking was a public safety issue and Tuckahoe was only asking for assistance with it. He stated that they have attempted self-enforcement, but it has been unsuccessful and the neighbors have complained about that process. He reiterated that Police Chief Cueto had told them it was not a good idea and that their approach should be that the Duck Police Department assist with it. He asked why Tuckahoe was being denied their request for basic law enforcement service. He added that it was approved for 21 other communities in Duck without any objection.

Bob Armentrout stated that he was disappointed at the November 1, 2017 Council meeting at the comments of Mayor Kingston. He stated that Mayor Kingston had stated that he would not support Tuckahoe and cited several reasons among them that there was no legal request presented. He noted that there was a legal request that was presented. He stated that Mayor Kingston had stated that there was no action plan from the association or community and that members had asked for a vote at the end of the meeting on the issue, which did not occur. He asked if an action plan was submitted by the 21 other communities when they submitted their requests.

Bob Armentrout stated that, regarding the suggestion for a vote at the annual meeting, it did not happen. He added that earlier in the week, he was advised by Town Manager Layton that he wanted to pose some other questions and criteria regarding the request prior to being heard by Council. He stated that he had a very lengthy discussion with Tuckahoe's attorney regarding the issue and it was suggested that Mayor Kingston, being a resident of Tuckahoe and speaking as a Council member in opposition of Tuckahoe's request, clearly imposed a conflict of interest. He added that the attorney suggested that Mayor Kingston recuse himself as a Council member from consideration of the matter. He added that if Mayor Kingston chose to provide consideration as a member of the community, that would be fine, but not as an official member of the Council. He asked that any future action that Council takes on the matter, that Mayor Kingston recuse himself from any further action on this as an official Council member. He thought that Town Attorney Robert Hobbs would concur with the request.

Bob Armentrout stated that Tuckahoe's attorney also suggested that the imposition requiring an action plan that was not imposed on the other communities for similar requests was arbitrary, capricious and highly discriminatory. He stated that their attorney suggested that he request Council amend the agenda and include Tuckahoe's request at this meeting and act on it. He wasn't sure it was necessary since it would be considered at Council's January 3, 2018 meeting. He added that if Council chose to consider it at this meeting, he would appreciate it.

Bob Armentrout stated that he was informed that no other requests that have been presented to Council have been disapproved. He hoped Council would consider Tuckahoe's request the same way that the others were considered. He stated that his attorney suggested that Tuckahoe submit a formal resolution at this meeting, asking Council to approve their request. He noted that, given the fact that Council will be hearing this at their January meeting, he didn't think it was necessary and would not plan to ask for approval. He urged all of Council to re-read the recent email that was received by one of the Tuckahoe board members as he outlined the stated issues of their request as well as a plethora of misinformation that was provided to Council at their November meeting. He thought it was worth it for Council to re-read it. He further urged Council to consider the advice of Police Chief Cueto that Tuckahoe's request for assistance from the Town was the right approach and not self-enforcement. He urged Council to approve their request at their January 3, 2018 meeting.

Sandy Whitman of 118 Tuckahoe Drive West was recognized to speak. Mr. Whitman thanked Council and Town Manager Layton for allowing additional beach grass planting to be done in the beach nourishment area.

Lou Ann Jewel of 109 Tuckahoe Drive East was recognized to speak. Ms. Jewel stated that the parking issues in the Tuckahoe subdivision were not new and she had written a letter to Town Manager Layton and Police Chief Cueto supporting the police addressing the issue of on-street parking. She stated that she was not sure why the request has taken so long and asked that Council approve the ordinance at their January 3, 2018 meeting.

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

SPECIAL PRESENTATIONS

Resolution 17-09, a Resolution of the Town Council of the Town of Duck, North Carolina, Honoring and Thanking Denise E. Walsh for her Service to the Town of Duck

Mayor Kingston stated that Denise Walsh, the Town's Director of Public Information, Marketing and Special Events, resigned her position to move to Rhode Island. He added that the resolution honored and thanked Ms. Walsh for her service to the Town.

Councilor Burdick moved to approve Resolution 17-09 as presented.

Motion carried 5-0.

Town Manager Layton went on to read Resolution 17-09 to Council and the audience. Mayor Kingston then presented Ms. Walsh with her framed resolution.

Employee Service Recognition Program Recipients

Mayor Kingston stated that in December 2011, Council had adopted an employee service recognition program that would acknowledge the service of employees of the Town at five year intervals by providing them with a certificate of recognition as well as a gift certificate at a Duck business of their choosing.

Mayor Kingston and Council went on to present Town Manager Layton with his 15- year service recognition certificate and \$150 gift certificate.

CONSENT AGENDA

Minutes from the November 1, 2017, Regular Meeting

Councilor Caviness moved to approve the Consent Agenda as presented.

Motion carried 5-0.

PUBLIC HEARINGS

Public Hearing/Discussion/Consideration of CUP 17-003, an Application for a Conditional Use Permit to Apply the Village Commercial Development Option to a Project involving the Renovation of the Existing Two-Bedroom Residence, Construction of a Two-Car Garage, and Construction of a Mixed-Use Building with Studio/Showroom, Office, and Two-Bedroom Apartment at 102 Scarborough Lane

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

Town Attorney Robert Hobbs was recognized to speak. Town Attorney Hobbs stated that the Council would be sitting as a quasi-judicial body for the public hearing, meaning that they will sit as a court and must make its decision based upon competent material and substantive evidence that will be presented during the course of the hearing. He stated that anyone wishing to give testimony would have to give it while under oath with the applicant afforded due process rights including the right to present evidence, examine and cross-examine witnesses. He asked that anyone wishing to testify come forward to be sworn in.

Town Clerk Ackerman proceeded to swear in the applicants and staff for the public hearing.

The following persons were sworn to provide testimony during the hearing: Joe Heard and Travis Costin.

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

Director of Community Development Joe Heard was recognized to speak. Director Heard stated that the proposed project involved the renovation of the existing two-bedroom residence, construction of a two-car garage, and construction of a mixed-use building with studio/showroom, office, and two-bedroom apartment at 102 Scarborough Lane. He stated that as part of the proposal, the applicant was requesting consideration of flexible development standards under the Village Commercial Development Option for many aspects of the development, including existing setbacks, parking setback, driveway separation and parking surface.

Director Heard stated that the property at 102 Scarborough Lane was a nonconforming parcel approximately 8,274 square feet in size and zoned Village Commercial. He stated that the property presently contained a two-bedroom residence only 578 square feet in size. He noted that the residence was a nonconforming use in a nonconforming location as it encroached into both the front and rear setbacks. He noted that a much larger property containing the Scarborough Lane Shoppes wraps around the applicant's property

on the east, north and west sides. He pointed out that this property was zoned Village Commercial and contained over 30,000 square feet of space in four retail buildings.

Director Heard stated that a technical review committee met with the applicant and his engineer to review the development proposal on October 31, 2017. He added that the Dare County Health and Water Departments were sent copies of the development proposal and asked to review and comment on the project. He noted that the applicant's engineer submitted revised site plans to address the comments received at the meeting as well as the subsequent Planning Board meeting.

Director Heard stated that the proposed uses include the existing two-bedroom residence and a proposed mixed-use building with studio/display area, office and two-bedroom apartment. He noted that the existing single-family residence was a legal, nonconforming use in the Village Commercial zoning district. He pointed out that since the residence was being renovated and not expanded, its use can continue on the property. He added that each of the buildings and the total square footage of the existing and proposed buildings was less than the maximum size standard of 5,000 square feet in the V-C District.

Director Heard stated that, due to the narrow depth of the property, the existing residence encroaches into both the front and rear setbacks. He noted that it was a legal, nonconforming situation that could be maintained as the residence was not being expanded; however, the applicant was proposing to expand the footprint with a kitchen addition and porches along most of the east and west sides of the existing residence that will encroach into the front and rear setbacks. He stated that the applicant was seeking approval of reduced front and rear setbacks for the porches and kitchen addition under the Village Commercial Development Option. He added that the applicant was also proposing to construct a new, two-car garage near the northwest corner of the property that will encroach into the minimum rear setback and was seeking approval of a reduced rear setback for the garage. Additionally, the applicant was proposing to construct a new, mixed-use building near the northwest corner of the property that will encroach into the minimum rear setback and was seeking approval of a slightly reduced rear setback for the mixed-use building.

Director Heard stated that the property was approximately 8,278 square feet in size, which was much smaller than the minimum lot size of 20,000 square feet for the V-C District. He noted that the lot was a legal, nonconforming parcel that could be developed; however, the small size and dimensions make compliance with typical minimum setback and maximum lot coverage standards very challenging. He added that the buildings, parking areas and other improvements total 4,589 square feet of lot coverage, making the total amount of lot coverage 55.5% of the property. He pointed out that under this scenario, the proposed development complied with the maximum lot coverage requirement of 60% in the V-C zoning district.

Director Heard noted that the applicant removed two gravel parking spaces from the lot coverage calculations as those spaces will be dedicated for residential use. He explained

that the Town's standards for lot coverage include a statement that reads: "...for single-family dwellings, gravel over a sand base or plastic grid reinforced gravel pavement system shall be excluded from the calculation of lot coverage." He stated that if included in the lot coverage calculations, these spaces will bring the total amount of lot coverage to 4,913 square feet, which was still under the maximum lot coverage for the site. He added that the Planning Board considered the proposal and decided that it was reasonable to consider the gravel parking spaces under the residential standard.

Director Heard stated that the property currently has dirt/gravel driveways on both the eastern and western sides of the residence. He added that both of the driveways were approximately 17-18 feet in width and were separated by a distance of 62 feet. He stated that the applicant was proposing to maintain two entrances into the property via a driveway to the west of the existing residence accessing parking for the residence and business as well as via a short driveway directly in front of the proposed mixed-use building serving the parking for the apartment and business. He noted that both proposed access drives were 20 feet in width and the total width of the driveways was 40 feet, which complies with the Town's maximum width standards; however, the design standards for access include a requirement that new driveways be separated by a distance of at least 80 feet from existing drives. He pointed out that the proposed access drives were only 55 feet apart and the applicant was seeking relief from the minimum driveway separation standard under the Village Commercial Development Option.

Director Heard stated that parking spaces 1-5 could be accessed via the western driveway and the drive aisle serving those spaces was 19 feet in width, which was relatively narrow, but still functional for vehicles using the lot. He explained that this aisle width complied with the Town's minimum standard which stated: "...for dead-end drive aisles containing less than six parking spaces, the width of the drive aisle can be reduced to 18 feet. Otherwise the Town's minimum drive aisle width is 20 feet." He pointed out that parking spaces 5-7 were stacked parallel to Scarborough Lane and noted that parking space 6 could not be accessed without stacking as well as being potentially blocked in by other vehicles. He added that parking spaces 6 and 7 were proposed for residential use where the stacking would not pose much of a concern. He stated that, with the additional gravel parking being proposed, the site was designed to contain a total of eight parking spaces, which met the minimum parking requirements.

Director Heard stated that the Planning Board determined that a loading zone was not needed to serve the proposed business activities. He added that while there will be times that loading and unloading will occur in the mixed-use building, the Board noted that there was enough distance that typical vehicles could back straight up to the garage doors without encroaching into the road.

Director Heard stated that when evaluating the proposed development for compliance with the intent and objectives of the Village Commercial Development Option, staff found some pros and cons with the proposed design, as follows:

PROS:

- The mixed uses are consistent with the Town’s plan and vision for Duck Village.
- The existing, historic cottage is being renovated, preserving the character and physical piece of the community’s history.
- The proposed mixed-use building is relatively modest in scale at only 2,754 square feet in size and two stories in height.
- Both buildings are located in close proximity to the front of the property and would be easily accessible to pedestrians.
- The residential parking garage is set back further than the adjoining residence, shielding it from view to some degree and making it seem like the secondary structure that it is.

CONS:

- The design and orientation of the new garage and mixed-use building are not particularly pedestrian-friendly. Four garage doors directly face the street as one passes by the property.
- While understanding that the site is tight and locations for parking are limited, the row of four parking spaces paralleling the front property line emphasizes the vehicles and is not inviting to pedestrians.
- Many existing, mature trees will be removed to accommodate the development.

Director Heard stated that as part of its recommendation, the Planning Board found that the proposed development and requested conditional use permit was consistent with the type of uses allowed in a Village Commercial Area. He added that as part of its recommendation, the Planning Board determined that the redevelopment proposal at 102 Scarborough Lane was consistent with the intent and recommendations of the Town’s CAMA Land Use Plan. He stated that at their public meeting on November 8, 2017, the Planning Board vote 4-1 to recommend approval of the conditional use permit to redevelop the property at 102 Scarborough Lane under the Village Commercial Development Option by renovating the existing two-bedroom residence, constructing a two-car garage, and constructing a mixed-use building with studio/showroom, office and two-bedroom apartment, subject to the following conditions:

1. The applicant must obtain a land disturbance permit from the Community Development Department prior to engaging in any fill or grading activity on site.
2. A site lighting plan must be submitted and approved by the Community Development Department to ensure compliance with the Town’s lighting standards.
3. A landscaping plan must be submitted and approved by the Community Development Department and necessary plantings installed prior to issuance of a Certificate of Occupancy.
4. Signs must be reviewed and approved under a separate permit by the Community Development Department.
5. The buildings must be constructed in substantial conformance with the elevation drawings and floor plans submitted with the CUP application, as

prepared by Costin Creations, Inc., and dated September 29, 2017, with a revised front elevation dated November 21, 2017.

6. The applicant must submit the final site plan and site plan review fees as provided for in the Town's adopted fee schedule concurrent with final engineer-stamped site plan drawings, as may be revised through the approval and condition process, with all required information referenced in the CUP conditions, prior to issuance of a building permit for the project.
7. This conditional use permit will expire in 18 months from the date of approval, unless construction of the proposed development has commenced.
8. Relocate the residential garage five feet toward the front.
9. Eliminate one of the three parking spaces on the western side of the parking area and relocate the two remaining spaces to accommodate the garage moving forward and a small grass area at the front of the property.
10. Relabel parking spaces 6 and 7 as residential parking spaces.
11. Convert the westernmost garage door on the mixed-use building to French doors.
12. Eliminate the loading zone.

Town Attorney Hobbs asked Council if they had questions.

Councilor Burdick stated that the only concern he had was that since the applicant was in the construction business, he wondered where the equipment would be stored. Director Heard stated that there wasn't a lot of room for the equipment. He added that the applicant could address the question.

Town Attorney Hobbs asked the applicant to make a presentation.

Travis Costin of 109 Jaycrest Road was recognized to speak. Mr. Costin stated that he designed two garage doors and they would be used for storage of his equipment. Councilor Burdick stated that he wasn't sure what equipment Mr. Costin would have, but understood that the building would be used as a display area as opposed to a storage area for the equipment. Travis Costin stated that he was trying to use the garage doors on the east side of the building for storage of supplies. He added that the mixed-use building was 1,400 square feet and he wanted to have that as the showroom. Councilor Burdick hoped that the property would not be littered with items. Travis Costin stated that he understood.

Town Attorney Hobbs asked Council if they had questions for the applicant. There were none.

Town Attorney Hobbs asked if any of the sworn witnesses wished to give a presentation or comment on the application. There were none.

Town Attorney Hobbs asked if anyone wished to address the application.

Mayor Pro Tempore Thibodeau asked Director Heard to address how the issues from the Planning Board were resolved. Director Heard stated that the Planning Board, in evaluating the proposal and talking with the applicant were comfortable with the overall plan concept, but there were a few things they wanted tweaked to make it better and minimize any impacts on the adjoining properties.

There being no one else wishing to speak, Town Attorney Hobbs closed the evidentiary portion of the public hearing and turned the meeting back over to Mayor Kingston. He reminded Council that a vote of the majority – three Council members – would be needed to approve the application. He added that if Council adopted the approval, they would need to include specific findings and conditions.

Councilor Burdick felt it was a very good plan for a small property. Mayor Pro Tempore Thibodeau agreed.

Mayor Pro Tempore Thibodeau moved to approve CUP 17-003 as presented, citing the proposed permit and conditions.

Motion carried 5-0.

Public Hearing/Discussion/Consideration of Ordinance 17-13, an Ordinance to Amend Subsection 156.058 of the Zoning Ordinance by Clarifying the Approval Process for Stealth Antennas and Updating Standards for Small Wireless Facilities Consistent with Recent State Legislation

Mayor Kingston turned the meeting over to Town Attorney Hobbs.

Town Attorney Hobbs stated that the public hearing was open. He asked Director Heard to give a presentation.

Director Heard stated at that its public hearing on October 11, 2017, the Planning Board voted 4-1 to recommend approval of a proposed text amendment to clarify the use of an administrative approval process for stealth antennas. He added that at the same meeting, the Planning Board voted unanimously to recommend approval of a proposed text amendment adding development criteria and an approval process for small wireless facilities consistent with recent State legislation. He noted that staff was also recommending approval.

Town Attorney Hobbs asked Council if they had any questions for Director Heard.

Councilor Caviness asked if there will be a lot of land disruption taking place to put up the antennas. Director Heard stated that they were in more urban areas and mounted directly on poles with a small box. He added that it was a very small area of disturbance.

Councilor Burdick stated that he was lost in the logic of needing a conditional use permit for small wireless antennas in residential areas, but not for stealth antennas. Director

Heard stated that it was the Planning Board's recommendation. He added that the small wireless was a subset to a great degree of a stealth antenna, so it would be appropriate for Council to consider stealth antennas as a conditional use in the same RS-1 or RS-2 districts if they chose to do so. Councilor Burdick thought it would be more logical if the Town was trying to make sure that the residential areas have some say in what was happening.

Mayor Pro Tempore Thibodeau clarified that Councilor Burdick felt the logic was that stealth antennas were smaller. Councilor Burdick disagreed. Director Heard stated that stealth antennas could potentially be a larger installation. Councilor Burdick agreed, adding that it was a problem. He thought if Council wanted to protect the residential areas, it should be consistent with the RS-1 and RS-2 districts. Councilor Caviness pointed out that RS-1 and RS-2 were residential districts. Councilor Burdick agreed. He stated that the draft ordinance would require a conditional use permit, but not for stealth antennas and they could be bigger than the small wireless antennas.

Director Heard stated that Town Attorney Hobbs had recommended some minor changes to the draft ordinance earlier in the day. Town Attorney Hobbs reviewed his changes with Council and the audience.

Mayor Pro Tempore Thibodeau clarified that the CUP process versus administrative approval was an extra couple of months in practical cases. Director Heard stated she was correct, adding that it was about a month and a half.

Town Attorney Hobbs asked if any members of the Planning Board wished to address the proposal. There were none.

Town Attorney Hobbs asked if any members of the public wished to address the proposal.

Steve Romine of Verizon Wireless was recognized to speak. Mr. Romine stated that Verizon was not an applicant and that the Town was looking at the ordinance on its own. He stated that he was present to support the ordinance. He added that Verizon was also in favor of the adoption of the State standards and looked forward to installing small antennas on small existing infrastructure within Duck to improve coverage.

Councilor Caviness asked if it required a lot of disturbance or clearing. Steve Romine stated that the small cell technology were predominately antennas co-located on existing utility structures. He noted that there was no ground service and anything on the ground, so there would not be any damage to landscaping or any trenching being completed.

Councilor Burdick thought Steve Romine's comments were accurate with regard to commercial areas. He stated that in the residential areas, everything was underground and installing poles would not be unobtrusive. Steve Romine stated that they could locate them onto existing buildings. Councilor Burdick stated that that was why he

proposed that they be via a conditional use permit to be sure that it gets done correctly in the residential areas.

Mayor Kingston asked Director Heard if the Town has been approached by any other carrier. Director Heard stated that only Verizon had approached the Town.

There being no one else wishing to speak, Town Attorney Hobbs closed the public hearing and turned the meeting back over to Mayor Kingston. He reminded Council that at least four votes would be needed to approve the ordinance on a first read.

Councilor Burdick moved to adopt Ordinance 17-13 as amended.

Motion carried 5-0.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

Discussion/Consideration of Resolution 17-10, a Resolution of the Town Council of the Town of Duck, North Carolina, Expressing Disappointment at the Repeal of the Dare County Plastic Bag Ban and Imploring Residents, Visitors, Businesses and Local Governments to Abide by the Spirit of the Ban and Voluntarily Refuse to Utilize Plastic Bags

Town Manager Layton stated that on October 4, 2017, the North Carolina General Assembly overrode the veto by Governor Roy Cooper of a bill that repealed the plastic shopping bag ban that has been in effect for Dare County since 2009. He stated that Council has supported the plastic bag ban since it was enacted. He noted that the resolution in front of Council affirms their support and indicates their disappointment of the repeal. He noted that currently, there were preliminary discussions of efforts to address the ban at the local level, specifically in Kill Devil Hills. He added that the resolution would show support for those efforts.

Councilor Burdick thought it was a well written resolution. Mayor Pro Tempore Thibodeau agreed.

Councilor Burdick moved to adopt Resolution 17-10 as presented.

Motion carried 5-0.

Discussion/Consideration of Authorizing a Public Hearing on Ordinance 17-15, an Ordinance to Amend Subsection 156.037(C) of the Zoning Ordinance to Allow the Construction of Sills and Groins, Use of Riprap, and Fill in Wetland Areas to Prevent Shoreline Erosion and Re-establish Wetlands in the Ocean and Sound Overlay (OSO) Zoning District

Director Heard stated that at their November 8, 2017 meeting, the Planning Board voted unanimously to recommend approval of the proposed text amendment updating the

Town's Zoning Ordinance to allow the features necessary to establish living shorelines and encourage wetland restoration within the Ocean and Sound Overlay District. He added that the proposed ordinance would allow the construction of sills and groins, use of riprap, and fill in wetland areas to prevent shoreline erosion as well as re-establish wetlands in the Currituck Sound. He noted that the ordinance would be heard at Council's January 3, 2018 meeting, if authorized.

Mayor Pro Tempore Thibodeau asked if in terms of administering the actual construction of a living shoreline or wetland restoration, it would have a two-layer approach with both CAMA and the Town. Director Heard stated that it would, adding that any work in the sound would require a CAMA permit. Mayor Pro Tempore Thibodeau clarified that it would be a CAMA Minor permit. Director Heard stated that it would not be through the Town, it would be through CAMA in Elizabeth City.

Councilor Burdick stated that he was still ruminating on the administrative versus CUP. He pointed out that there was a line in the Land Use Plan that stated: "...the importance of having natural storm protection features..." He stated that when he read it, he felt it meant using natural materials and not plastics. He reiterated that it was in the Town's Land Use Plan, but it did not carry over into the proposed ordinance. He thought there needed to be some way to encourage it. Director Heard agreed, adding that he could add the proposed language to the draft ordinance. Councilor Burdick thought it would be good.

Councilor Britt thought it was a great proposal.

Councilor Caviness moved to schedule a public hearing for Ordinance 17-15 at Council's January 3, 2018 meeting as presented.

Motion carried 5-0.

NEW BUSINESS

Discussion/Consideration of the Appointment of Council Members to Serve on/as the Following:

Government Access Channel Committee

Mayor Kingston stated that an appointment would need to be made for the Government Access Committee.

Mayor Pro Tempore Thibodeau stated that she would like to continue serving.

Mayor Kingston moved to appoint Mayor Pro Tempore Thibodeau to serve on the Government Access Channel Committee.

Motion carried 5-0.

Planning Board – Council Liaison

Mayor Kingston asked for volunteers or nominations for the Council Liaison for the Planning Board.

Councilor Burdick stated that he would like to continue serving unless another Council member was interested. Councilor Britt stated that he would like to serve on it.

Mayor Kingston moved to appoint Councilor Britt to serve as the Council Liaison for the Planning Board.

Motion carried 5-0.

Shoreline Management Committee

Mayor Kingston noted that the Shoreline Management Committee was pretty much defunct. He added that he has been serving on the committee and it has turned over to a mayor/manager meeting with beach nourishment. He stated that he would like to continue to serve on the committee if Dare County continues it.

Mayor Kingston moved to appoint himself to continue serving on the Shoreline Management Committee.

Motion carried 5-0.

Transportation Advisory Committee

Mayor Kingston asked for volunteers or nominations for the Transportation Advisory Committee.

Councilor Burdick stated that he would like to serve on the committee.

Mayor Kingston moved to appoint Councilor Burdick to serve on the Transportation Advisory Committee.

Motion carried 5-0.

Check Signatory – Two Council Members

Mayor Kingston noted that the check signatory was traditionally the Mayor and Mayor Pro Tempore. He suggested that he and Mayor Pro Tempore Thibodeau be the signatories.

Mayor Kingston nominated himself and Mayor Pro Tempore Thibodeau to continue as the check signatories for the Town.

Motion carried 5-0.

Discussion/Consideration of 2018 Council Meeting Date Schedule

Mayor Kingston stated that the draft 2018 Council meeting date schedule was before Council, adding that the July meeting would be held on Thursday, July 5, 2018. He pointed out that the Town holiday party would be held on Friday, January 26, 2018 and the Annual Retreat would be held on Wednesday, February 21 and Thursday, February 22, 2018.

Mayor Kingston moved to adopt the schedule as presented.

Motion carried 5-0.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Town Attorney Hobbs stated he had no report.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Update on Departmental Activities

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

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

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

Public Relations Administrative Assistant Betsy Trimble was recognized to speak. Public Relations Administrative Assistant Trimble gave a brief overview of the past month's activities to Council and the audience.

Update on Beach Nourishment Project

Town Manager Layton stated that the beach profile surveys have been completed, not just for the nourishment area, but for the entire Town. He stated that in a month or two, he should have the data so staff can continue to monitor what goes on in Town on the ocean side.

Update on Director of Public Information, Marketing and Special Events Position

Town Manager Layton stated that on Tuesday, December 5, 2017, he interviewed two individuals and two more will be interviewed on Thursday, December 7, 2017. He hoped that at the end of the process, he will have a candidate who he will begin discussions with for the position. He added that, depending on how it went, there may be one more round of interviews, but he was very confident that he would be able to hire someone from the four candidates. He hoped to report back to Council on January 3, 2018, with who he has hired for the position.

Financial Statement for November FY 2018

Town Manager Layton reviewed the financial statements, beach activities and beach nourishment reports with Council and the audience.

MAYOR'S AGENDA

Mayor Kingston congratulated Town Manager Layton on his 15-year employment anniversary. He thanked Director Walsh and wished her well. He stated that he would be attending his mayor's meeting on December 19, 2017. He noted that the new mayors of the Town of Nags Head and Town of Manteo would be joining them and looked forward to meeting them. He stated that he would be attending the DCBA's annual meeting on December 9, 2017 and giving an update on the Town. He stated that he would be attending the OBX Leadership meeting on December 13, 2017 to present an outlook on the Town of Duck's Vision, what has been accomplished and what will be happening in the future. He congratulated Councilor Caviness and Fire Chief Black on the Turkey Trot and thanked the Fire Department for including Council in their annual party.

COUNCIL MEMBERS' AGENDA

Mayor Pro Tempore Thibodeau reiterated her appreciation for Mayor Kingston continuing to be mayor for the Town. She added that the amazing staff makes Council's job much easier. She stated that she was looking forward to the Tuckahoe discussion at Council's January 3, 2018 meeting. She added that she was sure that Town Attorney Hobbs would direct Council on what would stand as the rationale for any recusals. She felt that no one could recuse themselves on this issue, but looked forward to Town Attorney Hobbs' guidance. She thanked the audience for attending Council meetings each month.

Councilor Burdick congratulated Council on their re-election; Councilor Caviness and Fire Chief Black for the Turkey Trot; Councilor Britt on his time with the Fire Department; and Town Manager Layton on his 15-year employment anniversary. He wished Director Walsh well in her future endeavors.

Councilor Caviness gave a short review of the recent Turkey Trot to Council and the audience.

Councilor Britt congratulated Council on their re-election.

OTHER BUSINESS

Additional Public Comments

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


Mayor Kingston noted that the next meeting will be the Regular meeting on Wednesday, January 3, 2018 at 7:00 p.m.

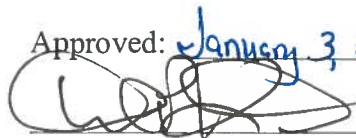
ADJOURNMENT

Councilor Britt moved to adjourn the meeting.

Motion carried 5-0.

The time was 9:24 p.m.


Lori A. Ackerman, Town Clerk

Approved: January 3, 2018

Don Kingston, Mayor

