

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
February 3, 2016**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 7:00 p.m. on Wednesday, February 3, 2016.

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 Information Officer Denise Walsh; Administrative Assistant Bethany Conery; and Town Clerk Lori Ackerman.

OTHERS ABSENT: None.

Mayor Kingston called the meeting to order at 7:05 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.

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

CONSENT AGENDA

Minutes from the January 6, 2016, Regular Meeting

Councilor Caviness moved to approve the Consent Agenda as presented.

Motion carried 4-0.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

Presentation of FY 2015 Audit

Lisa Murphy from Johnson, Burgess, Mizelle and Straub was recognized to speak. Ms. Murphy went on to give an overview of the Town's Financial Statements for the year ended June 30, 2015 to Council and the audience.

Councilor Britt moved to accept the FY 2015 Audit as presented.

Motion carried 4-0.

Mayor Kingston thanked Lisa Murphy for her presentation.

Discussion/Consideration of Resolution 16-01, a Resolution of the Town of Duck, North Carolina, Directing the Application of the Local Government Commission for Approval of Special Obligation Bonds; Requesting Local Government Commission Approval of the Town's Special Obligation Bonds; and Certain Related Matters

Town Manager Layton stated that as part of the Town's Beach Nourishment Project, in cooperation with the Towns of Kitty Hawk and Kill Devil Hills, Special Obligation Bonds will be issued. He explained that Parker Poe Adams and Bernstein L.L.P. would be serving as each of the Towns' bond counsel for issues related to the issuance bonds at a fee of \$35,000. He stated that as part of Parker Poe's obligations as counsel, they, along with Carter and Associates would be assisting the Town in obtaining Local Government Commission approval of the project financing. He noted that Resolution 16-01 would serve as the preliminary findings resolution for the LGC and that it authorized the Town to submit an application to the LGC for the issuance of Special Obligation Bonds for the purpose of erosion control and flood protection works and named Parker Poe as bound counsel for the financing. He added that the resolution further authorized the Mayor, the Town Manager, the Town Attorney and the Town Clerk to take actions necessary to submit the application and take other actions necessary to further the issuance of the Special Obligation Bonds.

Mayor Kingston moved to approve Resolution 16-01 as presented.

Motion carried 4-0.

NEW BUSINESS

Discussion/Consideration of Resolution 16-02, a Resolution of the Town Council of the Town of Duck, North Carolina, in Support of a Body-Worn Camera Grant

Town Manager Layton stated that there has been a lot of discussion over the last year with incidents in other areas about cameras, and body-worn cameras that police officers may or may not wear while they are on duty. He stated that staff looked at the issue about a year ago prior to Chief Cueto's arrival and were not comfortable moving forward with purchasing the cameras due to unknowns with State policy and how the Town would handle the issuance and policy guidelines as well as how to deal with retaining the video information. He stated that as staff started working on the Capital Improvement Project process, it came up as something that would be helpful. He noted that there was guidance and technical know-how now that wasn't available to the Town before. He added that staff felt comfortable moving forward with it now.

Town Manager Layton explained that there was a grant for the body-worn cameras and the Town's total project cost was expected to be \$13,500, of which the grant would pay about \$4,590. He thought the remaining \$8,910 could be absorbed in the existing budget but if not, as the Town gets to the end of the fiscal year, the difference could be made up through a budget amendment since some surplus property has been sold through GovDeals totaling over \$15,000. He stated that from a management standpoint, he thought the body-worn cameras were good to have for accountability and training purposes as well as transparency purposes. He noted that Duck was the only town that was looking at using body-worn cameras and were the forerunners for them.

Police Chief John Cueto was recognized to speak. Chief Cueto stated that the body-worn camera grant was in accordance with the Governor's Crime Commission. He added that they released \$2.5 million in appropriated funds across the State of North Carolina. He noted that only 19 towns and municipalities in North Carolina was taking advantage of the grant opportunity and added that there was a ceiling of \$100,000. He stated that he was most concerned with the availability of the funds and was confident that the Town would be funded by March 1, 2016. He stated that the Police Executive Research Forum and the International Association of Chiefs of Police were in agreement with what the policies and procedures were, the technology is caught up and the Duck Police Department had a policy that would be implemented with the training on the body-worn cameras.

Chief Cueto stated that the cameras cost approximately \$1,500 each and the Town was looking for nine units. He stated that the cost was mainly for the software, data and storage. He explained that it would be achieved with a company called VIEVU which was partnering with Microsoft, making it very affordable and workable.

Mayor Pro Tempore Thibodeau moved to approve Resolution 16-02 as presented.

Motion carried 4-0.

Discussion/Consideration of Authorizing the Town Manager to Enter into a Contract with "A" Parking Lot Maintenance Company for Thermal Striping of Areas of the Duck Trail

Town Manager Layton stated that Council had previously appropriated funding to implement the recommendations of the Duck Trail Street Crossings Study. He explained that funding was provided to put in place thermal striping at each side street location where the Duck Trail intersects the street beginning at East Charles Jenkins Drive north to and including Plover Drive as well as Ships Watch Drive, Sound Sea Avenue, Acorn Oak Avenue and Ocean Bay Boulevard. He noted that other locations would be striped at a later date. He stated that informal bids were requested and received from three companies: "A" Parking Lot Maintenance Company for \$23,451; American Road Markings for \$24,044.50 and Clark Pavement Marking, Inc. at \$70,347. He recommended that Council authorize him to enter into a contract with "A" Parking Lot Maintenance Company for the thermal striping.

Mayor Pro Tempore Thibodeau asked why there was such a price difference with Clark Pavement Marking, Inc. Town Manager Layton stated that he wasn't sure but it could be that they weren't interested in doing the job. Mayor Pro Tempore Thibodeau asked how long the striping would take. Town Manager Layton stated that it would take a couple of weeks.

Mayor Pro Tempore Thibodeau moved to authorize the Town Manager to enter into a contract with "A" Parking Lot Maintenance Company for thermal striping of areas of the Duck Trail as presented.

Motion carried 4-0.

Discussion/Consideration of Authorizing the Execution of a Contract for Legal Services with Hornthal, Riley, Ellis and Maland, L.L.P.

Town Manager Layton stated that Hornthal, Riley, Ellis and Maland, LLP has represented the Town since before it incorporated in 2002 and since that time there have been minor adjustments to the contract, primarily related to the fees. He noted that the last change to the contract was in 2012 and the new, proposed contract would be effective as of July 1, 2016 and would increase the hourly rate for items not covered under the retainer from \$175 to \$200 per hour for all attorneys and would also increase the hourly rate for paralegal assistance from \$90 to \$110. He added that the retainer fee of \$2,500 would remain the same per month.

Town Attorney Robert Hobbs was recognized to speak. Town Attorney Hobbs stated that he was honored to continue to represent the Town on behalf of his firm.

Mayor Pro Tempore Thibodeau moved to authorize the execution of a contract for legal services with Hornthal, Riley, Ellis and Maland, LLP as presented.

Motion carried 4-0.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Town Attorney Hobbs stated that the Town received the last signed easement for the beach nourishment project, which was recorded about a week ago. He stated that the Town would not have to condemn any easements which would save a lot of expense for the Town. He stated that he was very appreciative of all of the property owners involved in the process and that they were very willing to work with him and the Town.

Town Attorney Hobbs stated that he's been working with Town Manager Layton on the easement for the Sound Sea Village drainage project, which has been completed. He hoped the Town would be moving forward with it.

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

Director of Community Development Joe Heard was recognized to speak. Director Heard gave a brief overview of the past month's permit activities to Council and the audience.

Public Information Officer Denise Walsh was recognized to speak. Public Information Officer Walsh 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 financing aspect has been started and there was a conference call scheduled with Carter and Associates, the Bond Counsel and the Local Government Commission on February 10, 2016; which was a kickoff meeting to discuss the expectations, what will be required and from that meeting, another meeting will be scheduled in Raleigh to review the application materials more in-depth.

Town Manager Layton stated that back in January, bids were due on January 21, 2016 for the nourishment project; however, BOEM had not issued their draft findings for the borrow areas, which meant it could not be provided to potential bidders. He stated that the BOEM draft findings were important because the cost was based on whatever conditions would be placed on the contractors. He stated that there was usually not a big change from the draft findings to the final findings. He hoped to have the draft findings in place to provide to the contractors, noting that they were unavailable on January 21, 2016, so the bids were postponed to February 2, 2016; however, there was a snowstorm and the draft findings could not be finalized. He stated that the bids would be due and opened on February 9, 2016. He stated that once the bids were there, everything else should fall into place, the Town could finalize bids, figure out where it was cost-wise, see if any engineering would be needed to get into the Town's price range, and start getting schedule information on when the actual work may be starting.

Town Manager Layton stated that there has been a lot of discussion with bid contractors and the consultants regarding what may or may not be allowed. He added that one contractor has indicated that their bid will likely be for three dredges working concurrently, which would likely get the project finished the quickest. He stated that there were inquiries about the potential of using cutter dredges over hopper dredges and if

they were allowed, who would be allowed to obtain permission from the agencies to use the cutter dredges. He stated that they were allowed but it would be on the contractor to obtain the permission.

Town Manager Layton reminded Council that there was a year window to complete the project. He stated that one contractor had inquired about completing all three projects in 2017 instead of 2016. He added that the answer to the contractor was that some of the work could be completed in 2017, but a good faith effort needed to be made to finish all of the contracts in 2016 and, at a bare minimum, finish at least one of the towns in 2016. He noted that it may or may not be an issue, but the biggest issue was from a contractor that did not want to pay for liquidated damages if there were any. He added that the contract was amended to extend the date for an additional two months to allow the contractor to complete the project with the good faith language of completing it in 2016. He stated that it may or may not be an issue depending on the bids, but most of the people weighing in on the decision felt it was worth the risk to see if the price was significant enough to justify it.

Town Manger Layton stated that all of the easements were in place and he was very proud to have accomplished that task. He stated that he wasn't sure if Duck was the only town to do a project like this without going to condemnation. He felt either the Town was lucky or it did something right.

Annual Retreat March 8th and 9th

Town Manager Layton noted that the annual Retreat was March 8 and 9, 2016 and the draft agenda was in Council's packets. He encouraged everyone to attend and pointed out that there would be a presentation on sea level rise, an update on the comprehensive pedestrian plan and a presentation on the beach nourishment project.

Update on Stormwater Project

Town Manager Layton stated that the stormwater project was around Sound Sea Village and continued the process of installing pervious concrete on the Duck Trail where there is a lot of standing water. He added that there would be drains installed to help drain that area and would run and connect to an existing pipe across from a pond that was adjacent to the Forbes property. He noted that additional piping would be installed via a French drain and would be placed through an easement that the Forbes' were granting the Town for the project.

Town Manager Layton reminded Council that the Town had looked at purchasing property a few years ago next to the Forbes property and it was decided it wasn't worth it at the time. He added that this would be accomplishing what the Town was looking to do several years ago and would effectively drain that area. He stated that one of the unanticipated costs with the project was that the bulkhead would need to be replaced at the pond which was holding the Trail up. He stated that he wasn't sure how it would impact the bids, but added that the engineer's estimated cost was slightly higher than

what was budgeted, so he would have to see what came in with regard to the bids and then decide from that point.

Town Manager Layton pointed out that bids were out on the street and were due on February 16, 2016. He added that Town Attorney Hobbs had prepared the easement and it should be signed very soon in order to get the project started. He hoped to bring back a request for a contract for the project at Council's March 2, 2016 meeting.

Budget Adoption Schedule

Town Manager Layton reviewed the recommended budget schedule for FY 2017 with Council and the audience. He noted that in February, budget requests would be issued from established departments and agencies; in March the requests would be due to him and he would develop revenue estimates and then meet with the departments and agencies to review the requests; in April he would submit the proposed FY 2017 budget to Council and then schedule work sessions; in May there would be work sessions on an as-needed basis and the Notice for Public Hearing would be published; and finally in June, a public hearing and adoption of the budget would be done. He noted that beach nourishment remained an issue and he was just starting his work now in preparation of the Retreat to achieve some speculation on where the Town would be and would need. He didn't expect it to be an overly complicated budget.

Mayor Pro Tempore Thibodeau moved to approve the Proposed FY 2017 budget adoption schedule as presented.

Motion carried 4-0.

Financial Statement for January FY 2016

Town Manager Layton reviewed the financial statements with Council and the audience. He went on to review the beach activities report with Council and the audience.

MAYOR'S AGENDA

Mayor Kingston stated that he has his Mayor's meeting on February 16, 2016. He stated that he would be attending the beach nourishment bid opening with Town Manager Layton on February 9, 2016. He added that he would be sitting in on the conference call with the Local Government Commission on February 10, 2016. He stated that he; Town Manager Layton, Police Chief Cueto and Fire Chief Black have been invited to a senior leadership workshop on February 15, 2016 at First Flight Elementary School. He stated that he was looking forward to the Retreat and thanked Town staff for their hard work on the Paul Keller dedication ceremony and the winter celebration party.

COUNCIL MEMBERS' AGENDA

Mayor Pro Tempore Thibodeau stated that the recent celebrations were great and thanked Town staff. She stated that she has been sitting in on a few of the County Commissioner meetings and went on to give an update to Council and the audience.

Councilor Caviness gave an update on the recent Tourism Bureau meeting to Council and the audience.

Councilor Britt stated that the winter celebration party was great and he was amazed to see the department heads doing such a great job in Town.

OTHER BUSINESS

Additional Public Comments

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


Mayor Kingston noted that the next meeting will be the Regular Meeting on Wednesday, March 2, 2016 at 7:00 p.m.


ADJOURNMENT

Councilor Britt moved to adjourn the meeting.

Motion carried 4-0.

The time was 9:02 p.m.


Lori A. Ackerman, Town Clerk

Approved: March 2, 2016

Don Kingston, Mayor

