

**TOWN OF DUCK  
TOWN COUNCIL  
REGULAR MEETING  
August 3, 2022**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 6:00 p.m. on Wednesday, August 3, 2022.

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

**COUNCIL MEMBERS ABSENT:** None.

**OTHERS PRESENT:** Town Manager Drew Havens; Police Chief Jeffrey Ackerman; Fire Chief Donna Black; Town Attorney Robert Hobbs; Public Information and Events Director Christian Legner; Finance and Human Resources Administrator Jessica Barnes; Donna Creef of Creef Consulting; Senior Planner Sandy Cross; and Town Clerk Lori Ackerman.

**OTHERS ABSENT:** Director of Community Development Joseph Heard.

Mayor Kingston called the meeting to order at 6:00 p.m.

Mayor Kingston asked Master Police Officer John Gilreath to lead the Pledge of Allegiance. Mayor Kingston led the moment of silence.

**PUBLIC COMMENTS**

Mayor Kingston opened the floor for public comments. He noted that comments will be limited to three minutes as there was a timer for the time limit. He added that the public could email public comments, but they must be received by 4:00 p.m. on the day of the Council meeting. He noted that written comments must also be limited to three minutes when read aloud. He asked that any comments related to the public hearing be held off. There being no one wishing to speak, Mayor Kingston closed the time for public comments.

**CONSENT AGENDA**

**Minutes from the July 6, 2022, Regular Meeting; Correction to the Fiscal Year 2022-2023 Position Classification Table; FY 2022 Audit Contract**

Councilor Schiano moved to approve the consent agenda as presented.

Motion carried 5-0.

## **SPECIAL PRESENTATIONS**

### **Employee Recognition Program**

Mayor Kingston stated that in December 2011, Council 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, Police Chief Jeff Ackerman, and Town Manager Drew Havens went on to present Master Police Officer John Gilreath with his 5-year service recognition certificate and \$50 gift certificate.

## **PUBLIC HEARINGS**

### **Public Hearing/Discussion/Consideration of Ordinance 22-05, an Ordinance of the Town Council of the Town of Duck, North Carolina, Amending Several Sections of the Duck Town Code to Accommodate the Addition of Residential Duplex Structures as a Permitted Use in the C-1 Neighborhood Commercial Conventional Zoning District**

Mayor Kingston turned the meeting over to Town Attorney Robert Hobbs. Town Attorney Hobbs stated that the meeting was open and that Donna Creef would give a presentation.

Donna Creef of Creef Consulting was recognized to speak. Ms. Creef stated that Marty Barnette, on behalf of Andrew Meredith, submitted a zoning text amendment application to add residential duplex structures to the C-1 zoning district as a permitted use. She explained that as part of the application, a definition of “Duplex” should be added to the zoning ordinance since there was not one in the present ordinance. She noted that there was a definition of “Duplex” in Chapter 50: Solid Waste, which can be used for the zoning ordinance. She stated that Mr. Meredith owns a water sports rental business at 1448 Duck Road and if the requested use was added to the C-1 zoning regulations, it would apply to all properties zoned C-1 in Duck Village and not just Mr. Meredith’s. She added that the permitted/prohibited use table of Section 156.040 will need to be amended if the request is approved.

Donna Creef stated that in 2014, the Town approved an amendment to the special use permit for Drew Meredith’s watersports business to add a structure to be used with 1,200 square feet of commercial space on the first floor and a 600 square foot accessory apartment on the second floor. She noted that both uses were permitted in the C-1 zoning district and recently it was discovered by Planning staff that the first-floor commercial use was being used for residential purposes, adding that the watersports activities continue on the site as well.

Donna Creef stated that in 2004, the Town amended the VC, C-1, and C-2 zoning districts to remove single family residential structures from those districts. She stated that staff reviewed the 2004 meeting minutes for the Planning Board and Council, and the intent was to have the commercial districts be developed for commercial purposes only. She added that in recognition of the residential uses that existed in 2004 at the time of the amendments, the non-conforming regulations in the zoning ordinance were amended to include language allowing for the expansion and reconstruction of residential structures in the VC, C-1, and C-2 districts.

Donna Creef stated that the Planning Board discussed the issue at their June 8, 2022 meeting and reviewed draft language from staff. She pointed out that the Board voted unanimously to recommend approval of the proposed ordinance and that staff was recommending approval as well.

Town Attorney Hobbs asked Council if they had questions for Donna Creef. There were none.

Town Attorney Hobbs asked if the applicant wished to make a presentation.

Robert Hornik of the Brough Law Firm was recognized to speak. Mr. Hornik stated he was present on behalf of Drew Meredith in support of the text amendment application. He stated that he was present for the Planning Board meeting and viewed the July 6, 2022 Council meeting and would not be repeating everything that Donna Creef had said at those meetings. He pointed out that he believed there were two other C-1 districts in Duck, with one north that was approximately one acre. He noted that Drew Meredith's property was approximately one acre and the proposed text amendment has been drafted in such a way to be pretty tight, so it would not be broadly applicable. He added that even if it were, there were very few C-1 districts so there would not be much of an impact on the Town.

Robert Hornik thought that when Drew Meredith received his conditional use permit in 2014 for the commercial space on the first floor and the residential on the second floor, he had two or three tenants and potential tenants at that location for the ice cream and coffee shop, but the site has not worked out for that type of use. He stated that the request was to approve the text amendment so that Mr. Meredith could pursue an amendment to the existing conditional use permit which would allow him to have a duplex. He noted that the three amendments that were part of the draft ordinance were all directed to making that possible.

Councilor Mooney clarified that this would not be for new construction. Robert Hornik stated he was correct.

Mayor Pro Tempore Thibodeau clarified that the 1,200 square foot space on the first floor would be part of the residential unit. Robert Hornik stated she was correct.

Town Attorney Hobbs asked if any members of the Planning Board wished to give a presentation.

James Cofield of 101 Bias Lane East was recognized to speak. Mr. Cofield stated that the Planning Board reviewed the issue several months ago and thought the key item that the Planning Board looked at as a consideration was that modifying the text amendment made it applicable to a very small area in Duck. He pointed out that there were only two parcels in Duck that would be impacted and the Planning Board thought that, overall, the impact on the Town would be minimal and that it seemed to be a reasonable approach to accommodate additional uses.

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

There being no one else wishing to speak, Town Attorney Hobbs closed the public hearing and reminded Council that they were sitting as a legislative body and in order to adopt the ordinance on the first read, it would require a super majority vote, which was four members. He turned the meeting over to Mayor Kingston for deliberation.

Mayor Pro Tempore Thibodeau moved to approve Ordinance 22-05 as presented.

Motion carried 5-0.

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

There was no Old Business to discuss.

### **NEW BUSINESS**

#### **Discussion/Consideration of Authorizing a Public Hearing on Ordinance 22-07, an Ordinance Amending Subsections 156.030(D)(6), 156.031(D)(6), and 156.032(D)(6) of the Town Code to Add Standards Specifying How Stormwater Management Requirements are to be Calculated and Additional Siting Criteria**

Senior Planner Sandy Cross was recognized to speak. Senior Planner Cross stated that the proposed text amendment was intended to clarify and enhance the standards under which residential properties can be granted an allowance of up to 35% maximum lot coverage. She explained that when the proposal was developed, Community Development staff worked with Town Engineer Mike Robinson to better define the expectations for stormwater plans and calculations.

Senior Planner Cross stated that the Planning Board discussed the proposed ordinance at their July 13, 2022 meeting and voted unanimously to recommend approval of the ordinance which would amend Subsections 156.030(D)(6), 156.031(D)(6), and 156.032(D)(6) of the Town Code.

Councilor Schiano clarified that it was Council’s job to authorize a public hearing for the proposed ordinance. Senior Planner Cross stated he was correct.

Councilor Mooney moved to authorize a public hearing for Council’s September 7, 2022 meeting on Ordinance 22-07 as presented.

Motion carried 5-0.

**Discussion/Consideration of Authorizing a Public Hearing on Ordinance 22-08, an Ordinance Amending Subsections 156.051(D), 156.051(E), and 156.051(F) of the Town Code to Clarify the Elevation of Dune Walkover Structures, and Under What Circumstances Minimum Setback Exemptions Can be Granted**

Senior Planner Cross stated that the proposed text amendments were intended to establish clear, consistent standards for the appropriate elevation for dune walkover structures in circumstances where exceptions related to minimum setback requirements are permitted. She noted that the Town has standards for different types of walkway structures in different sections of the Zoning Ordinance and which standard applies to dune walkover structures has been called into question in certain circumstances.

Senior Planner Cross stated the Town presently has separate sections and standards for the construction of walkways that overlap and cause confusion for designers, contractors, and property owners and to resolve the conflict between the sections of the Code. Subsections 156.051(D) and (E) were proposed to be amended by the addition of the following statement: “Dune walkover structures subject to this exemption must still comply with all applicable standards found in Subsection 156.124(C)(1) of the Town Code.” She explained that it will mean that the underside of the dune walkover structure across the frontal or primary dune shall be a minimum of 18 inches and a maximum of 30 inches above grade. She added that Subsection 156.051(F) of the Town Code was proposed to be amended by adding the following language: “Dune walkover structures and sound access walkways are not exempt from minimum yard requirements unless in compliance with the standards of Subsection 156.051(E).”

Senior Planner Cross stated that the Planning Board reviewed the proposed text amendment at their July 13, 2022 meeting and following a discussion and consideration, they voted unanimously to recommend approval. She noted that during the zoning text amendment discussion, questions were raised regarding the need for the requirement that improved dune walkover access structures be constructed a minimum of 18 inches above grade over primary and frontal dunes. She added that this requirement was noted in Chapter 94.04 and also found in the regulatory standards specified in Subsection 156.124 of the Zoning Ordinance. She stated that there were concerns that one size does not fit all and various standards should be applied. She stated that if Council wished, they could send this section back to the Planning Board for further review and consideration.

Mayor Kingston stated that he would like to hear from Planning Board Chair James Cofield. James Cofield stated that the Planning Board had a discussion about the need to

accommodate the changes that staff recommended, which the Planning Board was in favor of. He stated that there was also discussion regarding minimum standards for height of the dune walkover, adding that the best way to look at it was that the wave structure on the six-mile oceanfront stretch of Duck and the dunes vary significantly. He added that if one looked at the MSDs, the dunes vary significantly in that area. He thought the discussion with the Planning Board was that one size did not fit all and the Town should recognize the difference in wave action along the six-mile stretch of Duck as well as the difference in the dune structure. He stated that, with the idea that it could be a varying standard based upon whatever standards are allowed, requiring the entirety of Duck of having an 18-inch minimum dune walkover height did not seem to fit.

James Cofield stated that in order to accommodate the request to move forward, the Planning Board approved the items in front of Council but were recommending that Council request that the Planning Board look at the standards that were being proposed.

Mayor Kingston clarified that James Cofield was recommending that Council schedule a public hearing but also ask the Planning Board to take a deeper look. James Cofield stated he was correct. Senior Planner Cross pointed out that it would be two different steps – Chapter 94 for the beach management as well as 156.124 which was the regulatory standard section. Mr. Cofield agreed, adding that it was there that the standards were set.

Mayor Pro Tempore Thibodeau clarified that the Planning Board would discuss what would make sense for different contours of dunes as well as setting a variety of standards for the dune walkovers. James Cofield stated she was correct, adding that with regard to the variety, it was only because the dune structures vary significantly. He noted that the dune structures that were below the Army Corps of Engineers' property was different than what was in the MSD area. He stated that the Planning Board wanted to produce something that fits the dunes in the varying districts in Duck. He reiterated that one standard does not fit all for something like this.

Mayor Kingston asked if there was an issue moving ahead with what has been proposed versus going back and studying it again. James Cofield stated that staff was of the opinion that there was not an issue, but he felt that it should not be postponed because there could be some people that could come before the Town to request approval of dune walkover structures that would be caught during this period. He reiterated that it should be done immediately and not wait for later consideration.

Councilor Mooney asked if Council scheduled the public hearing, the Planning Board could get this piece done before the next Council meeting. Senior Planner Cross stated that they could not. She explained that the ordinance revision would not impact a homeowner's ability to construct dune walkovers, but any change made to 156.124 in the future would apply in that situation. She pointed out that the zoning text amendment only applies to community accessways, shared access between owners, and only for building new. She noted that if they were just modifying or extending a walkway a few feet it

would not be considered a complete rebuild. She added that she was referencing regulatory standards that typically apply to new construction and not in every instance.

Councilor Schiano asked if it would apply to privately owned homes that want to construct a walkway over a dune. James Cofield stated that it would be for new construction. Senior Planner Cross pointed out that it was Subsection 156.124 not 156.051, which was adding clarification due to the conflict between the 12 inches in 156.051 and 18 inches in Chapter 94. Councilor Schiano clarified that 18 inches and 30 inches are what needed to be standardized. Senior Planner Cross thought that was what James Cofield was suggesting that will not be standardized. Councilor Schiano clarified that the proposal was for the 18 and 30 inches. Mayor Pro Tempore Thibodeau pointed out that there was no 30 inches in the proposal. Councilor Schiano understood, adding that the Town was looking to standardize between 18 and 30 inches for the public hearing. Senior Planner Cross disagreed, explaining that the public hearing was to simply clarify what the Town has for community accessways and shared accessways in the setbacks that are oceanfront that would achieve consistency with Chapter 94. She added that the Town was trying to achieve consistency with how shared accessways and community accessways were treated on the oceanfront.

Mayor Pro Tempore Thibodeau clarified that some were at 18 inches and some were at 12 inches. Senior Planner Cross disagreed, adding that there have been questions about that inconsistency. She stated that if the Town was going to allow shared accessways in the setbacks but the ordinance states they can be no more than four feet wide and no more than 12 inches above grade, but on the dune management inspection and regulatory zoning inspection regarding dune walkways it states that they must be 18 inches, one could not apply for that exception. Mayor Pro Tempore Thibodeau agreed, adding that they would not connect, which was her understanding. She added that it was consistently clarifying everything that has to do with those walkways to make sure they are all consistent.

Senior Planner Cross stated she was looking for authorization from Council to advertise for a public hearing to add the language to the setback exceptions as they relate to dune walkovers. She pointed out that if one was sharing a dune walkover, it could be in the setback, but it has to be 18 inches above grade but no more than 30 inches. She added that James Cofield would like to have the regulatory standard 156.124 as well as Chapter 94 sent back to the Planning Board to clarify whether 18 inches above grade and no more than 30 inches should be applied across the entire beach. She noted that the nourishment area is a separate area because it was an engineered beach and homeowners are not allowed to have walkways at all.

Mayor Kingston clarified that Town staff and the Planning Board's recommendation was to send the ordinance for a public hearing and ask Planning Board and staff to revisit the issue on the other section. Senior Planner Cross stated he was correct. James Cofield stated that there was a bit of ambiguity in the Town Code and that was what the staff was trying to accommodate in order to remove the ambiguity. He added that, in reviewing the process, the Planning Board looked at it and wondered if the minimum of 18 inches

applied, which was where the discussion occurred in the Planning Board's analysis of the proposal in front of Council. He thought it was fair to say that the discussion was that it needed to be looked at due to the differences along the beach in Duck. He stated that the second issue that the Planning Board wanted to do was to have more public input from the Town residents because there has been some discussion among residents that own oceanfront properties as well as some that own properties in areas that are not affected or the dunes are different than in the MSD areas.

Mayor Pro Tempore Thibodeau moved to authorize a public hearing on Ordinance 22-08 as presented and further authorized the Planning Board to examine the standards related to the elevation of dune walkover structures as noted in Chapter 94 and 156.124.

Motion carried 5-0.

**Discussion/Consideration of Authorizing the Town Manager to Execute a Contract for Beach/Dune Planting**

Senior Planner Cross stated that as part of a comprehensive effort to preserve and protect its dune system, the Town has annually planted beach grass, sea oats, and bitter panicum using a contractor and volunteers along the entire length of the beach. She stated that the three-year contract for the planting has expired and the Town solicited proposals from qualified contractors for a new three-year contract with two contractors responding – Emerald Forest and Caribbean Landscaping. She recommended that Emerald Forest, who submitted a proposal with the following costs: FY2023: \$64,715; FY2024: \$67,446; and FY2025: \$71,917, be awarded the contract. She noted that the total cost in the proposal will be lower depending on the amount of beach grass that is planted using volunteers.

Councilor Mooney clarified that Caribbean Landscaping did not have the references to demonstrate their ability to complete the work. Senior Planner Cross stated he was correct.

Mayor Kingston asked who the contractor was for the sidewalks in the Village area. Senior Planner Cross stated it was Caribbean Landscaping.

Councilor Whitman moved to authorize the Town Manager to execute a contract with Emerald Forest as presented.

Motion carried 5-0.

**Update on Annual Hazard Mitigation Plan Implementation**

Senior Planner Cross explained that the Town was part of the National Flood Insurance Program Community Rating System and as a participant in this program, property owners in Duck receive discounts on their flood insurance based on activities that the Town engages in to promote flood loss prevention and mitigation, with one of those activities

specifically relating to the Hazard Mitigation Plan. She noted that Duck was part of a multi-jurisdictional Outer Banks Regional Hazard Mitigation Plan consisting of Dare and Currituck Counties as well as the surrounding municipalities. She added that the Plan was adopted in June 2020 and the Town has mitigation action items that are used as a guide and must be updated on a regular basis. She stated that review of the existing action items has recently been completed with various department heads regarding existing conditions, problem areas, changing conditions, hazardous events, and action items to address listed items as well as new items that have developed or become available.

Senior Planner Cross stated that once the Plan has been approved, the updated report will be made available on the Town's website and linked to interested parties through the Town's weekly e-news.

Councilor Schiano thought it was an excellent plan. Senior Planner Cross pointed out that it was a big part of when the Town applies for grants and the more detail, the better in order to obtain the grants. Councilor Schiano thought it was impressive. He asked how the Plan is managed so that it moves in the right direction. Senior Planner Cross stated that it gets reviewed annually, adding that every five years there is a much larger implementation and revision to the plan. Councilor Schiano asked if monitoring the erosion was active all of the time or only during set times. Senior Planner Cross stated that it was developed as a rapid assessment a few years ago to obtain agreements from owners to put ground control points out, adding that ideally it would be done annually; however, it was very time intensive.

Councilor Schiano stated that he would be interested in seeing the trending results. Senior Planner Cross stated that she had four sets of plans, adding that she would be running them again when the surveys for the beach nourishment are started. Councilor Schiano asked if anything would be available after the fifth set of plans were completed. Senior Planner Cross stated that she has summary reports that she could send to Council.

Mayor Pro Tempore Thibodeau stated that when the updates and changes are submitted to the local plan, the Town would look toward 2025 to complete a regional update with the coastal counties. She asked if staff was keeping track of Duck's changes that would easily meld in or if it would be considered a cumbersome project in 2025. Senior Planner Cross hoped it would not be cumbersome, adding that she hoped that this one would be the Town's 2022 update and next year there would be a 2023 update, adding that by 2025, the entire document would be ready. Mayor Pro Tempore Thibodeau asked if it would have to be shared with others. Senior Planner Cross stated that it all ends up in one plan but Duck is not required to share it with the other towns. She added that she has access to the other town's plans since it was located in the regional plan.

Mayor Kingston asked if this was part of the Albemarle Commission plan that was just released for review. Senior Planner Cross stated that it was not.

Mayor Pro Tempore Thibodeau moved to approve the updates to the Hazard Mitigation Plan 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**

**Departmental Updates**

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.

Senior Planner Cross gave a brief overview of the past month's permit activities to Council and the audience.

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

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

**July FY 2023 Financial Presentation**

Finance and Human Resources Administrator Jessica Barnes was recognized to speak. Administrator Barnes gave a short presentation on the July Fiscal Year 2023 financials to Council and the audience.

**MAYOR'S AGENDA**

Mayor Kingston stated that his mayors/chairmen meeting has not been scheduled yet but will be held sometime in August and hosted by the Town of Manteo. He stated that he remains as the president of the North Carolina Local Leadership Foundation, adding that the foundation has been dormant the last few months but rework on the Foundation is being done with a consultant brought in to look at organization and strategic initiatives.

Mayor Kingston stated that he had sent Council an email earlier in the week regarding bringing a proposal forward. He stated that he wanted to propose a one-time bonus to the entire full-time Town staff, excluding the Town Manager, who have been working full-time or using their accrued sick, vacation, or compensatory leave for the last six consecutive months. He noted that by North Carolina Statute and the North Carolina

State Treasurer as well as confirmed by Attorney John Leidy, Council has the authority to grant bonuses to staff.

Mayor Kingston explained that the biggest driver of the request is the state of the national and local economy where costs continue to escalate and Town employees, particularly those who are newer and not high wage earners, were struggling to make ends meet. He added that following Town policy, Duck's pay scale adjusted by the CPI was 6%, which only impacts those who are at the bottom or top of the pay grade and not most of staff. He noted that Town Manager Havens had proposed a COLA increase during the budget process, but Council opted to maintain the merit/bonus basis and did account for economic pressures by providing up to a 3% merit increase and up to a 3% merit bonus. He thought Town staff appreciated this change.

Mayor Kingston stated that in reflecting on the decision as well as in a conversation with Town Manager Havens, the change occurs on the employee's anniversary date and many of the Town's employees would not see a pay increase until later in the fiscal year. He pointed out that less than half of Town staff have an anniversary in the first quarter of the fiscal year and 15 of the 40 employees have theirs in the second half of the fiscal year.

Mayor Kingston stated that one of the issues was that the neighboring towns made some pretty significant changes in their compensation to account for the economic changes, adding that the Town of Nags Head gave a 7% COLA increase and 1.25-2.5% merit increase; the Town of Kill Devil Hills gave a 7.50% COLA increase, a 5% merit increase, and a 5% merit bonus; the Town of Manteo gave 3.50% COLA increase; the Town of Southern Shores gave a 5% COLA increase and 1.25 or 2.5% merit increase; and the Town of Kitty Hawk gave a 5% minimum and 11% average COLA increase. He noted that Duck does not give out COLA increases and has a 3% merit increase and a 3% merit bonus. He noted that while the towns did not have the same merit system Duck has, the larger COLA increases have put the Town behind, particularly with the Public Safety department. He added that Duck may catch up again, assuming the other towns do not continue to make these kind of adjustments, but the reality was that the current economy was impacting Town staff now.

Mayor Kingston stated that Town Manager Havens discussed the proposal with his leadership team and they all agreed that a fixed amount of a bonus would do more of what needed to be accomplished, which was to provide more help for the lower wage earners. He added that as an alternative, a percentage bonus could be given, but would only provide a larger benefit to the higher wage earners. He explained that the proposal he had in front of Council would be a fixed \$3,000 per employee bonus that would equate to 6.4% for the lowest wage earners and represented an amount that would really help staff make ends meet in an economy with inflation at 9-10%.

Mayor Kingston explained that the total cost to provide each employee a \$3,000 bonus was \$117,000 and the expense would most likely require a budget amendment to the 2022-2023 budget from the Fund Balance. He noted that a budget amendment may not

be required in the short term as Council could monitor the expense on a monthly basis. He stated that his questions before Council were as follows:

- Are you in agreement with the proposal or do you want more time to review and re-address at Council's September 7, 2022 meeting?
- Do you have any alternatives?
- If in agreement, what date do we make the payment?
- Do you need any other clarification from the Mayor or Town Manager?

Mayor Kingston recommended that the bonus be given to employees sooner than later as he felt it was equitable and needed. He thought from an expense standpoint, there was no doubt that it would cripple the Town at all.

Mayor Pro Tempore Thibodeau clarified that if a town passes a COLA increase, it was effective immediately and if there was a merit increase or merit bonus, a town has to wait for the employee anniversary date for it to take effect. Town Manager Havens stated she was correct. Mayor Pro Tempore Thibodeau clarified that by doing what Duck did in the budget, it was subject to each employee's anniversary date, but if the Town adopted a COLA increase, it would have been effective immediately with the budget. Town Manager Havens stated she was correct. Mayor Pro Tempore Thibodeau clarified that it would have been given out in the employees' biweekly salary. Town Manager Havens stated she was correct.

Mayor Pro Tempore Thibodeau clarified that having a one-time bonus would accomplish a few things because it was not a percentage but was a flat fee based on all employees and it gave a bump to those employees that were either newer or entering a different pay scale. She noted that it would have more impact on the lower salaried employees and would be immediate. She thought the \$3,000 bonus was discussed by Mayor Kingston and Town Manager Havens. She asked why \$3,000 was chosen as opposed to \$4,000 or \$5,000. Mayor Kingston explained that he and Town Manager Havens discussed it and thought it was a reasonable rate, adding that it was a higher percentage for the lower salaried employees and a lesser percentage for the higher salaried ones. He pointed out that at one point, they had discussed excluding some employees from the bonus, but decided not to do that. He stated that they thought that \$3,000 was a reasonable number and was a pretty significant percentage.

Mayor Pro Tempore Thibodeau clarified that Mayor Kingston and Town Manager Havens looked at the percentage of the 6.4 over the lower of the salary ranges. Mayor Kingston stated she was correct. Mayor Pro Tempore Thibodeau stated that she was curious as to where the \$3,000 figure came from.

Councilor Schiano thought \$3,000 equated to 6.4% for the lowest salaried employees but thought the overall percentage would be about 4%. Town Manager Havens stated that it would. Councilor Schiano clarified if one looked at the 3% merit and 3% bonus and added 4% to it, it would be approximately 10%. He pointed out that it was roughly consistent with the accumulation of each of the other towns. He thought it was a

reasonable number in terms of what the other towns were doing. He added that Council could argue both ways on whether or not to do a percentage or a dollar amount and guessed the rationale for the dollar amount was that the type of expenses the Town was trying to mitigate were the same for everyone regardless of the employee's salary increase. Mayor Kingston agreed. Councilor Schiano thought it was fair to do the flat amount and suspected that Town Manager Havens did not include himself but thought it should be considered. Mayor Kingston pointed out that Town Manager Havens' annual review was later in the meeting and was a separate discussion.

Councilor Mooney thought Councilor Schiano's analysis was good and Council should do something in this troubled time to make things better for the employees. He stated that he was in favor of the \$3,000 bonus.

Mayor Pro Tempore Thibodeau asked if Council should revisit the issue in the future if this was implemented based on the state of the economy or if Council felt this would be the only time there would be an adjustment for this year. Mayor Kingston thought it was situational as Council knows what the economy is today but no one will know what it will be like six months from now. He thought Council wanted to be equitable and fair and felt it should be left open for future discussions.

Mayor Pro Tempore Thibodeau pointed out that the Town had \$126,000 from the government stimulus that has not been applied to anything in the budget so this could be a wash. Mayor Kingston noted that in doing some research, some towns have used ARP funds as bonuses for their employees. Mayor Pro Tempore Thibodeau thought it made sense to use it that way, adding that there was a high cost of living on the Outer Banks. She asked Town Manager Havens to remind Council at a future financial review regarding the \$126,000 and where it would be put since she did not think Duck budgeted for it. She further asked if only half was budgeted. Town Manager Havens stated that half was budgeted, which was in the Fund Balance. He added that the government has stated that a government can use the ARP funds for anything, including supplanting for current projects. He stated that staff would bring Council a list of things that Duck can do with those funds including the bonus that Council was discussing. Mayor Pro Tempore Thibodeau stated that it would be helpful, adding that she was in favor of the bonuses and would be interested in revisiting a second round of bonuses, depending on the revenues and the state of the overall economy. She felt that the Town employees were something that Council greatly valued and would want to continue to show how much they are valued.

Mayor Kingston stated that even if the money was taken from the General Fund, Duck would have to have a very healthy General Fund, adding that Duck was well above the percentage presently. He added that from a financial impact, he saw a minimal impact. He noted that with the delay of some of the projects, it would free up additional funds. He thought Council was in agreement and asked if the decision should be made tonight.

Councilor Mooney thought the decision should be made tonight and implemented as soon as possible. Councilors Schiano and Whitman agreed. Mayor Pro Tempore Thibodeau

stated that she would be in favor of a higher number but did not sense a consensus on that at this meeting. She stated that she would be in favor of the bonuses given out right away.

Mayor Kingston moved to authorize the Town Manager to pay a \$3,000 bonus to all full-time employees, excluding the Town Manager, to those that have been working with accrued sick, vacation, and compensatory leave for the last six consecutive months, effective immediately.

Motion carried 5-0.

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

Mayor Pro Tempore Thibodeau stated that members from the Outer Banks Visitor's Bureau would be giving a presentation at Council's October 5, 2022 meeting. She stated that she serves on the Roanoke Island Historical Association board and recently attended The Lost Colony performance. She encouraged everyone to attend the show as she found it very entertaining.

Councilor Mooney stated he had no report.

Councilor Whitman thanked Director Legner and Public Relations Assistant Betsy Trimble for their hard work on the entertainment that has been happening this year.

Councilor Schiano stated that the Government Access Committee recently added a traffic safety video that was running on CurrenTV. He hoped that people would watch it.

### **OTHER BUSINESS**

#### **Additional Public Comments**

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

### **CLOSED SESSION**

Mayor Pro Tempore Thibodeau moved to enter closed session in accordance with Section 143-318.11(6) of the North Carolina General Statutes to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public office or employee or prospective public officer or employee.

Motion carried 5-0.

The time was 8:09 p.m.

Upon return from closed session, Mayor Kingston moved to give Town Manager Havens a 7.5% salary increase and a \$10,000 bonus effective August 1, 2022.

Motion carried 5-0.

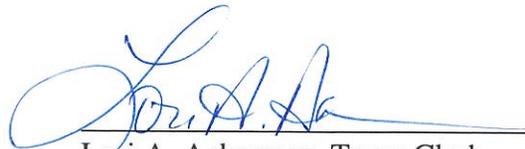
Mayor Kingston noted that the next meeting would be the Regular Meeting on Wednesday, September 7, 2022 at 6:00 p.m.

**ADJOURNMENT**

Councilor Whitman moved to adjourn the meeting.

Motion carried 5-0.

The time was 9:27 p.m.



Lori A. Ackerman, Town Clerk

Approved: September 7, 2022  
  
Don Kingston, Mayor

