

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
October 5, 2022**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 6:00 p.m. on Wednesday, October 5, 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; Director of Community Development Joseph Heard; Police Lieutenant Melissa Clark; Fire Chief Donna Black; Town Attorney Robert Hobbs; Public Information and Events Director Christian Legner; Finance and Human Resources Administrator Jessica Barnes; Senior Planner Sandy Cross; and Deputy Town Clerk Kristiana Nickens.

OTHERS ABSENT: Police Chief Jeffrey Ackerman and Town Clerk Lori Ackerman.

Mayor Kingston called the meeting to order at 6:00 p.m. and welcomed Director of Community Development Joseph Heard back to the Council meeting after an extended absence.

Mayor Kingston asked Director Heard and Building Inspector Steven McMurray 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 asked that any comments related to the public hearing be held off.

Robert Hornik of the Brough Law Firm was recognized to speak. Mr. Hornik stated that he was present to address the beach nourishment project and the beach access issue. He stated that he represents the Ships Watch Property Owners Association and the owners of the building called The Lawrence located at 143 Spinnaker Court South, which was the property that was directly adjacent to the Barrier Island property. He stated that he was present on behalf of his clients concern and objection to any kind of arrangement that would allow for permanent vehicular beach access through the Barrier Island property.

Robert Hornik stated that he had several different concerns with the first being the notice that the property owners were given. He noted that his client at 143 Spinnaker Court South never received any notice regarding the Major CAMA permit from October or

Minor CAMA permit. He pointed out that notice was given to the property owners association, adding that the property owners association did not have any interest in 143 Spinnaker Court South. He stated that the regulations provide that notice must be given to all adjacent riparian landowners when an application for a Minor CAMA permit has been issued or applied for. He reiterated that it did not happen. He stated that with regard to the substance of the application, he did not see any need for permanent vehicular private access. He understood that Council and staff may want to have some kind of other vehicular access for the beach nourishment project, adding that he thought there was already access to the beach but not where the Town or contractor would want it to be. He thought the location was inappropriate and would affect the owners of 143 Spinnaker Court South who have had no say in the process. He understood that the beach nourishment project would not be nourishing the property near the Ships Watch subdivision and asked Council to reject the proposal for beach access.

Robert Ross of 104 Cyril Lane, Richmond, Virginia, was recognized to speak. Mr. Ross stated that he was present as an adjacent riparian landowner who owns 25% of the land and improvements at 143 Spinnaker Court South. He stated that he and his wife were attorneys but were deferring to their counsel for the legal arguments in North Carolina, adding that Ships Watch and 143 Spinnaker Court South have able counsel and will be addressing the issue. He stated that he and his wife heard of the public hearing and proposal for the first time during the prior week, adding that they never received an actual notice.

Robert Ross stated that he was dismayed that Town staff have been negotiating the proposal with Barrier Island for over a year and during that time, he and his wife had purchased two additional 10% ownership deeds for 143 Spinnaker Court South in anticipation of their children having a share one day. He added that if they had known about the beach traffic and vehicle parking lot in front of their property, their decision would have been different. He noted that they purchased the property shares for the quiet environment that looked over the ocean, adding that it didn't take an expert to know that the project will damage the natural environment and adversely affect the animals. He knew that Council would make the right decision.

Patricia Nelson of 112 Olde Duck Road was recognized to speak. Ms. Nelson stated that she was speaking on behalf of the Olde Duck Beach Owners Association as their president. She stated that their neighborhood is adjacent to the southern border of Barrier Island Station, adding that she wanted to express their objection to the CAMA application to install a permanent vehicle beach access over the dunes. She pointed out that the beach nourishment project was the primary reason for the Town to obtain access to the beach, both vehicular and for the workers, which she understood, adding that it was a temporary need. She stated that if there was another subdivision in Duck or the Town of Southern Shores that will allow a temporary vehicle beach access for the nourishment project, they would support that instead of the current proposal for a permanent vehicle access at Barrier Island Station. She noted that if there was not another subdivision in Duck that will allow a temporary vehicle access, they were not opposed to a temporary access for vehicles for the beach nourishment project but asked that once the project was

completed that the dune be returned to their former height and vegetation be added back. She stated that they do not support a permanent cut through the dune at Barrier Island Station. She added that Barrier Island Station has 140 units on its property, so for seven months of the year during the off season, up to 140 vehicles each week could be driving on the beach.

Patricia Nelson stated that the Duck area was no longer a Memorial Day through Labor Day visitor and tourist destination as the season has expanded and increased, adding that COVID-19 definitely changed the way people travel and take vacations. She stated that the use of a permanent access to the beach has the potential to be much greater than it would have been before the pandemic. She understood it was a difficult decision, adding that she appreciated Council's thoughtful consideration on the matter. She added that those that love the beach in Duck do not normally see many vehicles on the beach except for Surf Rescue staff. She asked Council to not allow a permanent vehicle beach access to be installed at Barrier Island Station.

Slayton Dabney of 113 Topsail Court was recognized to speak. Mr. Dabney stated that he owns a second home at 113 Topsail Court as well as owning other properties in the Ships Watch subdivision that borders Barrier Island Station – 111 Topsail Court, 127 Foresail Court, plus 18 fractional deeded interests in other homes. He noted that everyone in the Ships Watch subdivision values what they have and wants to preserve the beach as well as keeping it the way it has always been. He added that vehicle access will present many problems and he was concerned that any kind of permanent access could lead to a slippery slope situation even if the permanent access was only for emergency use vehicles. He stated that, eventually, it could morph into the public asking for access since it was presumably funded by the Town. He reiterated that he was very concerned about vehicles driving on the beach, eroding the beach, and causing environmental concerns. He added that over wash from bulldozing the dune would potentially cause issues for the homes and homeowners.

Keith Kittinger of 123 Foresail Court was recognized to speak. Mr. Kittinger stated he has a fractional ownership in Ships Watch, adding that he lives permanently in Richmond, Virginia. He stated that he was concerned that the permanent beach access could damage the environment for his children and grandchildren. He pointed out that the dunes seem to be protected for a number of reasons, with one being to protect the property owners in Ships Watch and Barrier Island. He noted that if there was any kind of storm surge, those properties could potentially be damaged. He stated that he was also concerned with the wildlife that makes their home in the dunes. He stated that, on behalf of all of the owners in Ships Watch and Barrier Island, he was against the proposal.

Larry Muncy of 127 Olde Duck Road was recognized to speak. Mr. Muncy stated that he wanted to offer some alternatives for beach access. He pointed out that the end of Sound Sea Avenue, 1.5 miles north of the Army Corps of Engineers Pier was a road that leads to the beach, which he saw on the Town's website. He stated that he drove over there recently and noticed fresh tire tracks so he knew that someone was using it. He wasn't sure if the Town could get the Sound Sea Homeowners Association to consider using it

since it's a private access. He understood that the Corps of Engineers had turned the Town down for access to the beach. He wondered if anyone from the Town had contacted the bosses in Vicksburg, Mississippi. He thought the Town may be able to get them to reconsider.

Tom Perkins of 107 Ships Watch Drive was recognized to speak. Mr. Perkins believed that Duck could work together with Dare County to work out the issue. He stated that he had a letter he wanted to give to Council that has a solution that could be agreeable to everyone. He pointed out that the essence of the letter was that Ships Watch could work with Dare County, the Town Council, and everyone in the audience to come up with a solution that was acceptable to all.

Deputy Town Clerk Kristiana Nickens was recognized to speak. Deputy Town Clerk Nickens went on to read the public comments that have come in to Council and the audience.

D. Porter Jones of 147 Olde Duck Road was recognized. Mr. Jones wrote the following: "Sandy, I have a few questions, comments and concerns relating to the attached application: (1) Why wasn't the property owner at 150 Olde Duck Road (Parcel #009800000) notified? The applicant Landowner (aka Barrier Island) is located at 1245 Duck Road and is on Tax parcel (#009782000). Thus, there are two adjacent riparian landowners (not one), the one parcel to the north (143 South Spinnaker Court) and the other adjacent parcel to the south (150 Olde Duck Road). See attached tax map. How was it determined that 150 Olde Duck Road did not need to be notified? (2) Why didn't you clarify in the attached application that both Barrier Island Station and the Town of Duck will have permanent access to use this new proposed drive over? In the application, it is described that 'the applicant wishes to retain ramp permanently following the nourishment project'. It seems before any such permit is granted; CAMA should be aware of what parties will have access to this new drive-over-access. Would CAMA approve if 100 different individuals or entities would have permanent access? (3) Has the Town hired an engineer to study a potential storm surge event and its impact on the surrounding property owners with and without this proposed drive over beach access? (4) Has the Town hired a traffic engineer to study the projected vehicular usage of this permanent drive over beach access? Why is CAMA indifferent as to what type of vehicles and the potential usage of this drive over beach access could be? To me, if the North Carolina Coastal Management Program really wants to 'protect the resources of our beautiful and productive coast' shouldn't they need to review a third-party study to determine the potential impact that this new drive over beach access will have? (5) Why in the Description (page 3) do you refer to this as a 'CAMA Major Permit' but on page 2 it clearly states this is a CAMA Minor Permit? (6) Has the Town of Duck formalized an easement with Barrier Island in order to drive from Highway 12 to this new proposed drive over access? Has that easement been recorded? (7) Why has the Town not secured easements and access points prior to starting the design for the beach nourishment project? How was the Town able to get general contractors to price (bid) out the beach nourishment project without this access and easements formalized? Was the contractor's price based on not having this access point? Did they price the job out with and without

this access point? If so, what was the cost difference? In my opinion, the Town is negotiating with Barrier Island from a position of weakness as Barrier Island clearly understands that the Town really needs this access point for the beach nourishment project. (8) Is the Town of Duck compensating Barrier Island in any monetary or non-monetary ways other than allowing Barrier Island to use this access? Who is going to monitor Barrier Island's usage? What restrictions (if any) will be placed on Barrier Island's usage of this access?" *-The three-minute time ended at this point in the reading of the written comments.*

Ronnie Harrison of 103 Sprigtail Drive was recognized. Mr. Harrison wrote the following: "For safety reasons I am not a fan of personal vehicles on the beach. Just because Barrier Island is a gated property does not mean limited access. They have hundreds of owners and guests that have access to the property. Some activities that start out small turn into an annoyance. Golf carts come to mind."

Dennis Wojcik of 103 Dune Road was recognized. Mr. Wojcik wrote the following: "To Duck Town Council, re: Agenda item 8A, New Business, Center Turn Lane Addition 1248 Duck Road. I am a full-time resident of Duck and live on Dune Road. I believe the approval of the Promenade at Duck project clearly will negatively impact the traffic problems on Duck Road (NC 12) in the vicinity of the project. As I have stated previously, I believe the addition of a center left turn lane servicing the southern driveway to the project is clearly warranted and the construction of such is feasible. In regard to extending a proposed center left turn lane to service the project's northern driveway I have viewed this as problematic for various reasons. Even if it is determined that it is feasible to construct this left turn lane to the northern driveway the installation of such does nothing to mitigate the problems caused by the inappropriate location of this driveway and the traffic pattern conflict of vehicles turning left from the driveway and from Dune Road. I request that the Town Council ask VHB to consider the following suggestion, investigate the possibility of working with the NCDOT to require the northern driveway of the Promenade project be designed and constructed as a right turn only ingress-egress driveway. This design would: eliminate any issues regarding extending the construction of the center left turn lane to the Promenade's northern driveway; be less expensive than a full extension of a center left turn lane; eliminate the traffic pattern conflict caused by vehicles turning left from the northern driveway and Dune Road; still allow full use of the parking proposed by the Promenade at Duck project. It is thought that much of the parking in the north parking lot will be utilized by residents and employees of the project which would minimize any impact a right turn only ingress-egress drive may cause. If the Council would desire to discuss these issues, please contact me and I will be glad to accommodate the request."

Claire Del Gandio of 117 Wampum Drive and Robert Lee 103 Wampum Drive were recognized. Ms. Del Gandio and Mr. Lee wrote the following: "To whom it may concern Town Council of Duck. We (Poteskeet Village Homeowners) are writing to express our concerns on an issue being discussed at the Town Council meeting this Wednesday, October 5, 2022. The issue of concern is under New Business and relates to Duck creating a beach access on Barrier Island property. As we understand it, the beach

nourishment committee is looking for an entry point to get to the beach with large equipment, rather than use the current Southern Shores access. We also understand that there is another subdivision in Duck that has granted temporary access for this purpose. We are opposed to creating additional permanent beach access for vehicles. We do not oppose the use of a Barrier Island access for the beach nourishment project. In fact, we see additional safety and beach protection in keeping construction vehicles from traveling north from Southern Shores. But we do oppose making that access permanent. Our concerns generally fall into three categories: safety, the environment, and equity. Our beach is not wide, especially south of the Army Corps pier. Considering safety, let's look at the Town's publicly stated views on pedestrians from the comprehensive Pedestrian Plan: "Duck is a pedestrian first community." This plan also states that 'no other mode of travel offers such a convenient and stress-free way to experience the activity of Duck Village, connect with local neighborhoods, and enjoy the natural beauty of the Town's beach, sound, and coastal landscapes.' Pedestrian safety is already a concern along Duck Road where sidewalks exist, crosswalks are marked, and police enforcement is feasible. If something goes wrong on a paved street, public safety responders have a relatively easy time getting to the scene and operating their equipment. Response and rescue on the beach is more complex and dangerous. What would response times be and what other specialized equipment might be required? Accidents happen on the beach. This past July beachgoers were injured when a Duck Surf Rescue vehicle overturned on the beach. One can only imagine the additional risk when vehicle operators are not public safety professionals. Will they be experienced beach drivers? Will they be over-exuberant (and careless) when they're on a beach outing? Will they be sober? Following on to that there is a greater question of how police will be able to enforce vehicle operation on the beach effectively. Will this cost the taxpayer extra money in equipment and human resources? In addition to enforcement there would follow the concern of brush fires or rescue operations required from this kind of traffic. What kind of additional equipment might the taxpayer have to bear related to that? As to the environment, the beach features: beach vegetation and beach creatures, don't stand a chance against the weight, breath, and power of motorized vehicles. As to equity, it is unreasonable for the taxpayers' money to be used to intentionally enhance the value of private real estate and rental income. The idea that the traffic would be minimal is undone by the reality that one property owner is given proprietary access to the beach while others bear the risk and related costs. As a reminder the beach is public property." ***-The three-minute time ended at this point in the reading of the written comments.***

Stanford Baird of K&L Gates LLP was recognized. Mr. Baird wrote the following: "Comments and objections to application for CAMA Minor development permit 1245 Duck Road at the Atlantic Ocean dated September 21, 2022. Dear Mr. Corbett: our firm represents Ships Watch Association, Inc. ('SWA') regarding the above-referenced matter and the referenced CAMA permit application (the 'Application') submitted to the North Carolina Department of Environmental Quality, Division of Coastal Management ('DCM') by the Town of Duck (the 'Town') for the proposed permittee, Barrier Island Station Common Areas Association, Inc. ('Barrier Island Station HOA'). A copy of the application is enclosed for reference. Based on the application, Barrier Island Station HOA seeks to build a permanent vehicle access road to the public trust beach at the

Barrier Island Station property and, in so doing, irreparably damage the protective dune, vegetation, and wildlife in the project area and forever change the character of the beach at Ships Watch, Barrier Island Station, and the Town of Duck as whole. Below are the comments and objections of SWA to the application and the proposed project. We request the DCM review and consider these comments and objections and those of other adjacent riparian landowners and deny the application. Background comments and objections: (1) SWA is a homeowners association that owns the common area property and manages the privately owned properties at the Ships Watch Resort at 1251 Duck Road in the Town of Duck ('Ships Watch'). The Ships Watch Resort property runs from the Atlantic Ocean to the Currituck Sound. (2) There are 53 homes in Ships Watch, of which 13 are wholly owned by individuals and 40 are fractionally owned. There are currently 413 private ownership interests represented by SWA. (3) The lots and homes at Ships Watch are owned either by individual owners or by fractional owners, each of whom have deeds on file with the Dare County Register of Deeds. While SWA owns common area property adjacent to Barrier Island Station, on information and belief, none of the owners of lots and homes in Ships Watch adjacent to Barrier Island Station have been given notice of the application by the Town, Barrier Island Station HOA, or DCM of the proposed vehicle access to the beach or offered an opportunity to file objections. (4) Ships Watch Resort is occupied throughout the year, and there is no 'off season' when vehicles on the beach would not pose a hazard to Ships Watch occupants on the beach, including the homeowners, their children and grandchildren, and their guests. (5) The application by Barrier Island Station HOA provides no information showing why this unprecedented vehicle beach access road through the protective dune and established vegetation should be approved or is necessary. Barrier Island Station currently has two established pedestrian accesses over the dune line to the beach, one of which is a ramp designed for access by individuals with disabilities. The current Barrier Island Station pedestrian accesses do not breach the dune line. (6) The proposed vehicle beach access road would cut through and destroy an expansive dune area and established vegetation that is the habitat of various species of wild birds, deer, and other wildlife." *-The three-minute time ended at this point in the reading of the written comments.*

There being no one else wishing to speak, Mayor Kingston closed the time for public comments. He reminded the audience that if they were going to submit written emails to Town Council, to check the Town's webpage as there was an explanation on how to respond to various issues that the Town was dealing with.

CONSENT AGENDA

Resolution 22-15, a Resolution of the Town Council of the Town of Duck, North Carolina, Authorizing the Town Manager to Reimburse Dare County for Overpayments of Occupancy Taxes

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, Director of Community Development Joseph Heard, and Town Manager Drew Havens went on to present Building Inspector Steven McMurray with his 5-year service recognition certificate and \$50 gift certificate.

Presentation by the Dare County Tourism Board and the Outer Banks Visitors Bureau

Tim Cafferty of the Dare County Tourism Board and Lee Nettles of the Outer Banks Visitors Bureau were recognized to speak. Mr. Cafferty and Mr. Nettles went on to give a short presentation on the activities of both businesses to Council and the audience. They then took questions from Council.

Mayor Kingston thanked Tim Cafferty and Lee Nettles for their presentation.

QUASI-JUDICIAL PUBLIC HEARING

Public Hearing/Discussion/Consideration of SUP22-003, an Application by Barnette Integrated Land Development, on Behalf of Property Owners Andrew Meredith, for a Special Use Permit to Establish a Duplex in the Neighborhood Commercial District at 1448 Duck Road

Mayor Kingston turned the meeting over to Town Attorney Hobbs.

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 if any member of Council needed to disclose any communications about the subject of the hearing that they may have had with the applicant or any person prior to the hearing, they needed to disclose that communication.

Councilor Whitman stated that he was the Council Liaison for the Planning Board and had sat through the approval, but it would not have any effect on his vote for this public hearing.

Town Attorney Hobbs stated that anyone that would be presenting evidence in connection with the hearing would need to take an oath. He asked that anyone wishing to testify come forward to be sworn in.

Deputy Town Clerk Kristiana Nickens was recognized to speak. Deputy Town Clerk Nickens proceeded to swear in the applicants and staff for the public hearing.

The following persons were sworn to provide testimony during the hearing: Joseph Heard, Robert Hornik, Andrew Meredith, James Cofield, and Deanna Beacham.

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

Director of Community Development Joseph Heard was recognized to speak. Director Heard stated that the public hearing was properly advertised. He stated that the recently adopted Subsection 156.033(B)(14) requires approval of a special use permit to establish a duplex on a property in the Neighborhood Commercial (C-1) zoning district. He stated that the applicant was proposing to convert the first floor of the existing two-story mixed-use building from retail use to residential use (three-bedroom apartment). He noted that as the second floor already contained a one-bedroom apartment, the building would be reclassified from mixed-use to a residential duplex. He pointed out that there were no physical changes being proposed to the existing site improvements or building exterior and that the watersports rental business and boat ramp would continue to operate in their current location and capacity elsewhere on the property.

Director Heard stated that the property at 1448 Duck Road was approximately 34,613 square feet in size and zoned Neighborhood Commercial (C-1). He explained that the property contained structures, a boat ramp, and docking facilities associated with the North Duck Watersports business as well as a two-story mixed-use building currently housing an apartment on the upper level and approved for retail use on the first floor.

Director Heard stated that the property was formerly a hunt club prior to development of the boat launching and rental facility with the boat ramp and watersports business on the property that were originally established by the applicant after a conditional use permit was approved by Dare County in 1992. He noted that a subsequent conditional use permit was approved by the Duck Town Council on April 2, 2014 and the current special use permit application proposes a minor modification to the previously approved permit.

Director Heard stated Subsection 156.155 of the Duck Town Code establishes review criteria for special use permit applications, with the following standard that should be considered as part of the Planning Board and Town Council's review:

1. The use meets all required conditions and specifications of the ordinance.
2. The use does not materially endanger the public health or safety.
3. The use will not substantially injure the value of adjoining property unless the use is a public necessity.

4. The use will be in harmony with the area in which it is located and be in general conformity with the Comprehensive and CAMA Land Use Plan.

Director Heard stated that as part of their recommendation, the Planning Board found that the proposed special use permit for a residential duplex was appropriately designed and scaled, does not involve additional site development, and will not negatively impact the surrounding area. He added that the proposal appears to comply with the relevant goal and policy objectives from the Comprehensive and CAMA Land Use Plan.

Director Heard stated that since the Planning Board found that the request complied with all required findings at their meeting on September 14, 2022, they voted unanimously to recommend approval of the special use permit application, subject to the following conditions:

1. The applicant must obtain approval from the Dare County Environmental Health Department.
2. The applicant must submit required application materials and obtain a building permit for any interior improvements associated with conversion of the retail space to an apartment.
3. A final inspection must be successfully completed and a Certificate of Occupancy obtained before occupation of the apartment is allowed.

Town Attorney Hobbs asked Council if they had questions for Director Heard. There were none.

Town Attorney Hobbs asked if the applicant had any questions for Director Heard. There were none.

Town Attorney Hobbs asked the applicant to make a presentation.

Robert Hornik stated he was before Council a few months ago in connection with the text amendment and went through the reasons behind the request as well as what the plan would be moving forward with the property. He stated that Andrew Meredith and Marty Barnette were present if Council had any questions, adding that they were fine with the conditions that were proposed.

Town Attorney Hobbs asked Council if they had questions for Robert Hornik.

Councilor Mooney asked if the duplex was intended for workforce housing.

Andrew Meredith of 100 Ocean Bay Boulevard was recognized to speak. Mr. Meredith stated that the duplex was for vacation rentals.

Town Attorney Hobbs asked if there were other presentations from the applicant. There were none.

Town Attorney Hobbs asked if any of the sworn witnesses wished to make a presentation. He explained that only one person would be allowed at the podium at a time; a person must be at the podium to speak during the hearing; presentations by witnesses should limit their presentation to three minutes; and those wishing to speak should make sure that their comments were relevant and not repetitive of what others have already said.

James Cofield of 101 Bias Lane East was recognized to speak. Mr. Cofield noted that he was the chairman of the Planning Board as well as a resident of the Town. He stated that the Planning Board met on September 14, 2022 and approved the application with a vote of 4-0. He noted that it was a fairly straightforward proposal and had followed the text amendment that had been approved previously by the Planning Board and Town Council. He added that he would be happy to stand for questions.

Deanna Beacham of 1444 Duck Road was recognized to speak. Ms. Beacham stated that she was happy that Andrew Meredith would be turning the property into a rental property and was supportive of the application.

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

Town Attorney Hobbs closed the evidentiary portion of the public hearing and turned the meeting back over to Mayor Kingston. He noted that a vote of the majority of Council would be required to approve the application. He added that as part of Council's deliberation and if there was a motion to approve the application, there were various findings that would need to be made and it would be helpful if the motion referenced the findings as well as the four proposed conditions.

Mayor Pro Tempore Thibodeau thought the proposal was straightforward, was endorsed by the neighbors and seems to be in good order. She stated that she did not have any issues with the work that was put into the application thus far.

Mayor Pro Tempore Thibodeau moved to approve SUP22-003 as presented with the findings as well as the four conditions.

Motion carried 5-0.

LEGISLATIVE PUBLIC HEARINGS

There were no Legislative Public Hearings at this time.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

4th of July Parade Debrief

Fire Chief Donna Black was recognized to speak. Fire Chief Black stated that staff came to Council early in the season to address concerns Public Safety and staff had going

forward with the July 4th parade, adding that they took the approach that they should take with any event or if there was a weather event, how staff looked at an after-action report. She noted that staff debriefs anything even if it was a fire, adding that staff took the same approach so they could learn from it. She went on to give a short presentation regarding the Town's 4th of July parade to Council and the audience.

Mayor Kingston pointed out that the 4th of July parade was not an expensive event for the Town and people love it. He asked if the Town could contract out putting up and taking down the barricades in order to take some of the work away from Public Safety. He thought the Town could hire some contractors to do that work. Fire Chief Black thought hiring contractors would make staff happy, adding that if volunteers were available to help, it would help to take some of the stress off Public Safety. Mayor Kingston clarified that the Town purchased the barricades. Fire Chief Black stated that they were leased. Mayor Kingston thought the expense of the lease would go away and be replaced with the cost of a contractor.

Mayor Pro Tempore Thibodeau pointed out that Duck had the assistance of the Town of Southern Shores Fire Department, adding that they were great in the parade. She asked if it was an easy ask of them. Fire Chief Black stated that it was, adding that they love the parade.

Councilor Schiano thanked Chief Black for an informative report, adding that he thought it was a great event. He didn't think that everyone understood the amount of work that happens in the background. He thought the more volunteers the Town could get, the better. He thought hiring some contractors to help was a good idea.

Mayor Kingston thanked Chief Black for her presentation.

NEW BUSINESS

Discussion with VHB related to Adding a Center Turn Lane to the BRIC Grant Funded NC 12 Elevation Project

Chris Dewitt of VHB was recognized to speak. Mr. Dewitt stated that his firm has been working with the Town for a number of years on the sidewalk and complete streets project along Duck Road, including the upcoming phase to add a sidewalk to the west side of the road between Resort Realty and Sunset Grille restaurant. He noted that the project started as just a sidewalk improvement, but with the availability of additional funding, it became more of a resiliency project as well as a project that will elevate the road to help minimize flooding from the sound, keep the sidewalks as part of the project, as well as installing some living shoreline improvements to complete a comprehensive resiliency project.

Chris Dewitt stated that he had hoped that construction would start this fall, but it would not be starting then, so he wanted to discuss what would happen moving forward as well as a likely construction schedule. He added that he would be discussing the potential for

a center turn lane by extending that with the redevelopment of the Resort Realty project and whether it can be incorporated into the NC 12 Resiliency Project.

Chris Dewitt stated that everyone was familiar with the BRIC project, which was one of the grant funding sources that the Town has secured to complete the resiliency project. He pointed out that the project area ran from Resort Realty to Sunset Grille restaurant, with a focus on the sidewalk project as well as the living shoreline and the elevation of the roadway. He noted that there were some stormwater management improvements included and subsurface chambers similar to the ones that were installed at the Tuckahoe subdivision years ago to solve the drainage problem.

Chris Dewitt explained that the project consists of three integrated elements that make it a roadway and coastal resiliency project – the first was the elevation of the roadway, the second was the sidewalks on both sides of the road with the infiltration strip separating the bicycle lane from the sidewalks, and the third was the living shoreline aspects that will replace the haphazard revetment that currently exists along the shoreline with a properly constructed revetment at a slightly higher elevation and installing some breakwater sills off the shore and completing some minimal fill and marsh planting to help restore and protect the existing marsh.

Chris Dewitt reminded Council and the audience that the Town has secured several sources of funding to help make the project a reality with the largest coming from the BRIC funds, which was resiliency funding through the Federal Emergency Management Agency as well as from the NC Fish and Wildlife Foundation, the Outer Banks Tourism Board, Dare County Soil and Water Conservation District, and Department of Emergency Management. He noted that the Town has matched those sources of funding to make the project a reality. He pointed out that some of the sources of funding come with review and approval processes that his firm has been going through, including a permitting process. He added that with the roadway project, it will need to be completed in the off-season. He stated that he had hoped to have the bids in by now and be ready to start construction shortly after the jazz festival, but with the process they were in, they were not ready yet.

Chris Dewitt stated that with regard to the scheduling process, they have submitted the permit application, and have been through a couple of rounds of revisions on the permit. He noted that most recently, they resubmitted the permit application and, concurrent with that, the FEMA funding – because it was federal funding – requires an environmental document that was consistent with the National Environmental Policy Act, which was needed for FEMA to finalize their approval and get the Town into final funding and construction. He stated that they have submitted the Environmental Assessment, received some comments from FEMA, and were now in the process of another revision to the Environmental Assessment. He added that FEMA was still working on their final approval for the funding, which should occur later this year.

Chris Dewitt thought that a portion of the permit will be denied because the sidewalk will add some degree of new impervious cover in the 30-foot CAMA buffer, which was a

threshold that CAMA has to deny the permit or that aspect of the project. He pointed out that it will require them to move forward with a variance request to the Coastal Resources Commission. He stated that they have spoken to the regulators at CAMA and felt that they will have a good deal of support with going to the Coastal Resources Commission for the variance, but it was a process that they will have to go through. He noted that they would make the application at the beginning of 2023 and would expect the permit denial near the end of 2022.

Chris Dewitt stated that there would be a utility meeting due to the number of utilities in the corridor on all the sidewalk projects and the drainage projects they worked on in the past, they have tried to coordinate with the utility owners and operators and would try to do that as early as possible. He stated that at Council's annual Retreat, he would come before the board with an update on the project.

Chris Dewitt stated that the Coastal Resources Commission meeting where the variance would be considered would occur in February 2023, anticipating an approval at that point, and then they would be ready to bid out the project. He stated that if they receive the final funding approval in the Environmental Assessment late this year, they can go before the Coastal Resources Commission in early 2023 and then they could bid the project early in 2023. He noted that the schedule anticipates the likely potential that they may receive fewer than three bids which would necessitate a rebid, which has happened with other phases of the sidewalk project. He noted that he would come before Council with a recommendation for a contract award in May 2023, which would allow them to get under contract with the successful contractor and potentially starting some of the work in the summer of 2023. He pointed out that it would not be the roadway work or any work that would disrupt traffic but would be the installation of the breakwater sills in the water. He hoped that the mobilization and roadway work would start after the jazz festival with an anticipated construction completion date of May 1, 2024.

Mayor Pro Tempore Thibodeau asked if given the delays with FEMA so far as well as a few more hurdles that have been identified, how likely the schedule would be. Chris Dewitt stated that they have been in frequent communication with FEMA about the project and the timeframe he just reviewed was consistent with what they have told him was their expectation. He stated that he could not guarantee that the November approval will come, but they anticipate that it will. He added that if the funding finalization slid a little it would still be workable within the schedule. He noted that when he talked to them early on and told them he wanted to be in construction now, FEMA told him that they could probably do that but the state representatives disagreed. He thought the state was not surprised where the project was, but he was and felt bad for not pushing it enough. He stated that he was hopeful that the approval would come in November, but if it delays the project a little, he didn't think it would delay the overall schedule.

Mayor Pro Tempore Thibodeau noted that the BRIC grant was fairly new for FEMA, adding that Duck was one of the number one projects in North Carolina. She asked if there have been any other BRIC grants that have been released in North Carolina. Chris Dewitt stated that he wasn't sure.

Mayor Kingston asked if the Coastal Resources Commission would have to deny the project before allowing a variance. Chris Dewitt stated that they would. Mayor Kingston asked if the Town could apply for the variance at the same time. Mr. Dewitt stated that the Town could not as the denial would have to be issued before applying for the variance.

Mayor Pro Tempore Thibodeau asked why the CAMA permit needed to be resubmitted. Chris Dewitt explained that the permit was submitted and CAMA made some comments, found it incomplete, made some comments, he revised the permit and submitted the application again and CAMA provided more comments. He noted that it was just a review process that was being completed. Mayor Pro Tempore Thibodeau asked if the environmental assessment was a North Carolina process. Mr. Dewitt stated that it was a federal process.

Councilor Schiano asked if the project would include a request to add a center turning lane. Chris Dewitt stated that he would review that with Council and the audience.

Chris Dewitt stated that there were coordinating with the redevelopment proposal at Resort Realty to make sure their project meshes with theirs and that items such as stormwater and grading were addressed concurrently as well as making sure the two projects can work together and understand each other's schedule. He understood that the issue of the turn lane has been discussed as part of the review process, adding that at their last meeting with the Town, they were asked to take a look to see if the Town wanted to add the turn lane extension to the overall BRIC project, if it was feasible, what it would look like physically, what the impacts would be on properties and the project as well as the timeframe and budget of the project. He pointed out that they have not conducted a traffic study, but have engaged their transportation and traffic engineers, adding that they have been involved in the discussion and they had helped create the concept plan. He reiterated that they have not completed a traffic analysis.

Chris Dewitt stated that it was an interesting section of roadway where the center turn lane starts to taper in front of the Resort Realty property and up to Dune Road. He pointed out that there were commercial driveways as well as the residential access at Dune Road, making it a dynamic section of roadway where the section of roadway changes and the driver's perception of what was going on changes. He noted that sometimes it feels like the turn lane in front of Resort Realty was a full width turn lane, but it wasn't because it starts to taper south of the Resort Realty property and was narrower than a lane in front of the property.

Chris Dewitt stated that they looked at widening the turn lane north to the southern entrance of Resort Realty and what it would take. He added that if the Town wanted to take that step, he wondered if it would make more sense to take it to the northern entrance. He noted that if Council wished to take that step, he wondered if it would make more sense to take it all the way through the Dune Road intersection, start the taper north of Dune Road so there would not be a taper situation in front of a residential road and a

commercial driveway, and get the taper out of the way to stop the confusion being created where drivers may stage in inadequate space and try to use it as a turn lane even though it was not one.

Chris Dewitt stated that, although his firm has not conducted a traffic study, if Council were to look strictly at likely turning volumes into the commercial development as well as into and out of Dune Road, a turn lane would most likely not meet strict warrants, because the numbers would not be there. He added that the roadway manual does recognize special circumstances in which a turn lane may be justified to address some situations. He stated that the Town has discussed this issue with NCDOT and they have stated the same thing in that they did not have the final plans so they could not give a final decision; they haven't conducted a traffic analysis; it probably did not meet turn lane warrants; but if the Town wanted to complete the project, NCDOT would not be opposed to extending the turn lane. He thought it was a recognition on NCDOT's part that the Town was dealing with a special circumstance where a turn lane may be warranted even though the volume of turns does not strictly meet the numbers.

Chris Dewitt reviewed the existing conditions as well as a concept that showed the idea of extending the center turn lane all the way through the Dune Road intersection with Council and the audience. He emphasized that if the turn lane was extended north, regardless of how far north it goes, the whole section of taper will shift north with the turn lane, adding that the end of the taper could not be left at Dune Road and widen the south end of the turn lane because there was a 115-foot taper length requirement. He pointed out that it was possible to do but comes with some impacts to the retaining walls and grading. He added that if the center turn lane was added to the plans for the BRIC project, it will require modifications to all of the checklist items he reviewed – the schedule, the permit application, the Environmental Assessment, and the encroachment agreement with NCDOT.

Chris Dewitt stated that if a decision was made that this is what the Town wanted to do, he thought all of the modifications could be built into the original schedule, adding that they were minor modifications such as adding a couple of feet of pavement mostly on the east side of the road to accommodate the shift in the turn lane. He thought it was important to note that those things would be necessary, so in addition to redesigning the roadway, he would need to modify those documents which would add over \$100,000 to the BRIC project and would be the cost to extend it through Dune Road and not just to the southern entrance of Resort Realty.

Mayor Pro Tempore Thibodeau asked how high the proposed retaining wall would be. Chris Dewitt stated that it would be a couple of feet and would be relatively small to avoid private property impacts as well as avoiding more clearing.

Mayor Kingston understood the impact on dollars, between design and increased construction costs. He asked if it would delay the Town another year with respect to completing the project. He noted that the timeframe was pretty tight and this could create

more slippage with the major change to the project. Chris Dewitt didn't think it would delay it if a decision was made soon.

Councilor Whitman asked if it would affect anything with regard to the BRIC grant first. Chris Dewitt stated that it would not; however, the BRIC grant funding and all of the other funding was adequate to cover the project as currently designed. He pointed out that this was an additional cost that the Town would have to take on. He added that nothing in it would affect the approval of the BRIC grant. Councilor Whitman asked with regard to the time schedule, when the Town would need to give notice that they want to proceed with the project. Chris Dewitt stated that he would need to know within a couple of weeks.

Councilor Mooney thought Council should proceed with the project right now adding that this was exactly the discussion Council had at their September 7, 2022 meeting regarding safety. He thought it mitigated a lot of the issues really well and Council should not delay on the decision.

Councilor Schiano agreed with Councilor Mooney and thought the project completes the turn lane through Town as well as addressing the concerns everyone had either about the Resort Realty project or the difficulty turning onto Dune Road. He pointed out that when it was layered in with the BRIC project, the Town will have completed everything that the land allows the Town to do to make Duck better as far as traffic and pedestrians. He thought the additional cost was not bad in order to get the project completed. He thought it was a great project and that Council should not delay on the decision.

Councilor Whitman asked, with regard to the \$28,000 fee for Chris Dewitt's company, how much of it would the Town see in a return if the project was not approved. Chris Dewitt asked for clarification. Councilor Whitman stated that VHB was charging the Town \$28,000. He asked if the project was not approved, the fees that would be incurred on the construction side would be covered in the base bill.

Town Manager Drew Havens was recognized to speak. Town Manager Havens stated that VHB designed the project and if CAMA or FEMA denies it, he thought Councilor Whitman was asking as if the \$28,000 was a lost cost. Chris Dewitt stated that the short answer was yes.

Mayor Kingston clarified that Chris Dewitt was looking for Council to make a decision this evening to move forward with the study which would include all of the application changes. He further clarified that the \$28,000 was to take the Town to the point of submission. Chris Dewitt stated he was correct, adding that it would be to completely revise the plans, revise the permit, the Environmental Assessment and incorporate this into the project. Mayor Kingston thought if one looked at the cost of the project, \$28,000 was a minimal number.

Mayor Pro Tempore Thibodeau agreed with Mayor Kingston's comments, adding that when one factors in how the Town has parlayed so many grants together and came out

ahead, especially when just the sidewalk was the original project and then the BRIC grant opportunity came along. She thought it was a very valuable investment for the Town and addresses the safety concerns that were heard from the residents on Dune Road. She thought it only helps the Town with its desire to be as safe as possible. She added that if the Town could complete the project and meet all of the timelines, it would be fortunate that everything happened at the same time.

Chris Dewitt stated that if Council decided to move forward, the first thing he would do was let all of the permitting agencies and FEMA know that the Town was interested in pursuing the modifications to the permit into the Environmental Assessment to see if there were any initial flags, adding that he did not anticipate any issues.

Mayor Kingston asked if the center turn lane would run to Sunset Grille. Chris Dewitt stated that he would not recommend that. Mayor Kingston asked if staff supported moving forward with the \$28,000 cost. Town Manager Havens stated that the Town could fund it, adding that staff saw the delay in the approval of the Environmental Assessment in permitting and after hearing from Council at the last public hearing, saw an opportunity to ask Council if they wanted to have a redesign completed. He thought a fourth option could be added for the use of the ARP funds that would pay for the \$28,000. He added that he was confident that he could find the money to do it.

Councilor Whitman moved to have the Town proceed with the feasibility of adding a third lane to the BRIC grant in the area of Dune Road and assign VHB to make the modifications to the environmental assessment, CAMA permits and plans and designs for the roadway project and run it through all of the regulatory agencies and proceed to construction.

Motion carried 5-0.

Mayor Kingston thanked Chris Dewitt for his presentation.

Discussion/Consideration of Approving a Notice of Intent to Extend the Series 2021B Variable Rate Special Obligation Bond for the Portion of the Beach Nourishment Funding to be Reimbursed by FEMA

Town Manager Havens stated that when the Town went to complete the financing for the currently planned beach nourishment project that was under contract, two series of bonds were issued. He stated that he was before Council to discuss extending the Series 2021B special obligation bond, which funded the portion of the project that will be reimbursed by FEMA. He stated that he was asking Council to authorize him to sign a Notice of Intent to extend the Series 2021B bond and subsequent Notice of Extension to the bond. He noted that two separate steps will need to be taken that were laid out in the bond documents.

Town Manager Havens reminded Council that the Town has two bonds – Series A was the Town’s portion of the beach nourishment project. He added that a Special Obligation

Bond was issued in the amount of \$2.4 million and was a five-year bond at 1.84%, issued on December 14, 2021, and runs for five years with the Town currently paying the principal once a year and interest twice a year. He pointed out that Council did not have to take any action on that bond.

Town Manger Havens stated that the Series B bond was issued on December 14, 2021 and was a one-year renewable bond around \$2.4 million at an interest rate of 1.64%. He explained that the way it was structured was that the Town does not have to pay any of the principal on the bond until it receives funding from FEMA. He noted that the Town was only making a quarterly interest payment on the bond. He added that the way the bond was structured was that the Town needs to make notification to the bond holder, which was PNC Bank, 60 days before the bond term ends to let them know that Duck wanted to renew. He stated that PNC Bank then has 30 days to respond with a new interest rate, adding that he did not know what the new rate would be, but thought it would be a lot more than 1.64%. He stated that once he receives the new interest rate, then the Town has to send a second notice – a Notice of Extension – within 15 days.

Town Manager Havens stated that he was asking Council to authorize him to contact PNC Bank letting them know that the Town intends to extend the bonds and needs the new interest rate. He added that once he receives the new interest rate, he will report back to Council. He thought the only options available would be to try to take the money from the savings in order to retire the bond, but he wasn't sure how that would work. He thought the Town could renew the bond for one more term.

Mayor Pro Tempore Thibodeau clarified that the annual renewal would happen next year as well. She asked if the Town would be renewing the bond annually until Duck gets reimbursed from FEMA, which could take several years. Town Manager Havens agreed that it could take several years, but he hoped that it would not. He pointed out that the bond has two renewal periods built into it and after that, the Town would need to renegotiate. Mayor Pro Tempore Thibodeau clarified that this would be the first and then the Town would have another opportunity next year. Town Manager Havens stated she was correct. Mayor Pro Tempore Thibodeau clarified that the Town would anticipate doing this again in September 2023. Town Manager Havens stated she was correct.

Town Manager Havens explained that when the Town receives money from FEMA, it is deposited into a "sinking fund", which holds only money from FEMA. He added that when it's time to make a payment, the bond holder takes all of the money out of that fund. He noted that while the Town may not get 100% of the funding back from FEMA by this time next year, it should have a fair amount of it so it could retire at least some of the debt. Mayor Pro Tempore Thibodeau clarified that they would just charge the Town what it has left. Town Manager Havens stated she was correct.

Councilor Schiano asked if there was any ceiling or benchmark rate mentioned in the bond document. Town Manager Havens stated that there wasn't since it was purely a negotiation.

Mayor Kingston clarified that because it was a renewal, the Town did not have to go before the Local Government Commission for approval. Town Manger Havens stated he was correct, adding that there was no Local Government Commission approval required, adding that it would go on the Local Government Commission's agenda as a note so they will be aware that the Town is renewing. Mayor Kingston clarified that the Town did not have to complete any formal filing. Town Manger Havens stated he was correct, adding that DEC Associates would take care of it.

Mayor Pro Tempore Thibodeau moved to authorize the Town Manager to sign a Notice of Intent to Extend the Series 2021B Bond and the subsequent Notice of Extension of the bond.

Motion carried 5-0.

Discussion/Consideration of Approving the Fiscal Year 2023-2024 Budget Adoption Schedule

Town Manager Havens stated that Council had in front of them the proposed schedule for the budget and CIP preparation and adoption. He stated that he was looking for Council to approve the Fiscal Year 2022-2023 budget calendar so he could finalize it with staff. He noted that Council would be directly involved in the Council strategic planning session on January 18, 2023 to hear what Council's priorities were for the coming year and the annual Retreat on February 15-16, 2023 where the CIP is reviewed. He stated that at Council's April 19, 2023 meeting, he would discuss the Fiscal Year 2024 budget with a public hearing on the proposed budget on May 3, 2023; a possible work session on May 17, 2023 on the budget if one will be required; and the adoption of the budget and CIP on June 7, 2023.

Mayor Pro Tempore Thibodeau stated that she has a conflict with January 18, 2023 in that she may be out of town. She added that she did not want to miss the meeting and may have to make her comments separately. She hoped that she would not have to miss it. Town Manager Havens pointed out that Councilor Mooney had missed the meeting this year, but he was able to receive direct input from him. He stated that if Mayor Pro Tempore Thibodeau could not make the meeting, he would spend time with her to get her ideas.

Mayor Kingston stated that Council would be revising their Vision 2032 at their October mid-month meeting and there would be output from that. He asked if the short-term goals would be available to Town staff shortly after the meeting so they could start working on the early planning. Town Manger Havens stated he would have the output of the session updating Vision 2032. He expected that when Council gets into the strategic planning session, a lot of it will be Council discussing goals that come out of the session. He added that staff also looks for relative priorities. Mayor Kingston clarified that Town staff would be part of the Vision 2032 meetings. Town Manager Havens stated he was correct.

Mayor Pro Tempore Thibodeau moved to approve the Fiscal Year 2023-2024 budget adoption schedule as presented.

Motion carried 5-0.

Discussion/Direction regarding Permanent Beach Access through Barrier Island Station for Beach Nourishment, Beach Monitoring, Beach Maintenance, and Emergency Services

Senior Planner Sandy Cross was recognized to speak. Senior Planner Cross stated that there had been a lot of feedback in the past week regarding the Barrier Island Station drive over beach access. She stated that she would be discussing the background/history, the CAMA Minor permit request, the notice requirements, the permit objections and rebuttals, the permit revisions, the immediate and long-term goals, and staff's request for guidance from Council. She pointed out that the discussion regarding Barrier Island Station's access has been discussed at previous Council meetings and was briefly mentioned at Council's August 3, 2022 and September 7, 2022 meetings.

Senior Planner Cross stated that in 2017, the Town had their beach nourishment project and were able to secure access through the Army Corps of Engineers Field Research Facility for all of the mobilization, demobilization, and workmen access. She noted that it was the only access that was used. She added that approximately two years ago, staff reached out to the Field Research Facility and were notified by Jeff Waters that he was not going to allow the Town any access to the beach. She stated that the Field Research Facility was having a groundbreaking ceremony that she and Town Manager Havens attended and met with Dr. David Pittman and Dr. Tyler Walmsley. She noted that Dr. Walmsley's position was above the director at the Field Research Facility, adding that Dr. Pittman's position was above Dr. Walmsley. She stated that they had a nice conversation and explained the Town's needs as well as how it would be a collaborative effort including making suggestions on how the Town could utilize the Corps property without impacting their mission and potentially creating an access that would be available for the Town for future nourishment projects but were denied that request.

Senior Planner Cross stated that once the Town received the denials from Dr. Waters and Dr. Walmsley, staff started strategizing on where the Town could gain access. She stated that staff solicited five communities – three in the nourishment area, one south of the nourishment area, and one north of the nourishment area. She stated that of the five, staff are still in discussions with two of them. She added that, currently, staff are trying to secure the access at the south end, which was Barrier Island Station and part of the negotiation involves them being able to retain the drive over access. She stated that there was another community north of the Corps of Engineers pier in the Port Trinitie subdivision which was also in the nourishment area and they have agreed to allow the Town to drive over, but she was waiting on a signed easement, adding that they do not wish to retain that access.

Senior Planner Cross explained that the contractors have indicated that they would prefer to use the access at Barrier Island Station and will, if granted, use both accesses at Barrier Island Station and Port Trinitie. She stated that the Town recently applied for a CAMA Minor permit to allow Duck to retain a beach access at Barrier Island Station for permanent use. She pointed out that this was something that was permissible under CAMA Coastal Resource regulations, adding that one of the limitations that was noted in the CAMA regulations is that such accessways shall be no greater than 15 feet in width. She noted that there were some public comments that the Town would have a 40-foot-wide dune cut, but that was untrue. She stated that the CAMA Minor permit request had the following language: "...ramp would be constructed in a manner that would preserve the dunes, function as a protective barrier against flooding and erosion by not reducing the volume of the dune."

Senior Planner Cross stated that there were some public comments via email regarding whether an environmental assessment or environmental statement was required or why it wasn't prepared. She explained that it was a CAMA Minor permit, was part of the Coastal Resource regulations that define what can and cannot be done in areas of environmental concern. She noted that a Hatteras ramp does not require an environmental statement under the state regulations. She read the following language regarding the requirements for a CAMA Minor permit: "A CAMA Minor permit may be issued if it meets property notification to the adjacent riparian owners, the coastal development standards required by the CRC rules and the CAMA Local Land Use Plan." She pointed out that an adjacent riparian owner was defined as a person who owns land on the bank of a natural watercourse or body of water, adding that there was a lot of angst from the public about not being notified. She explained that it was a property that was directly abutting a water source as well as being directly adjacent to the project location.

Senior Planner Cross thanked D. Porter Jones for his comments that were read into the record earlier in the meeting, adding that he had sent her a picture that showed the subject site of Barrier Island Station, 143 South Spinnaker Court, and 150 Olde Duck Road, which were the adjacent riparian owners. She pointed out that Dare County tax offices list 143 South Spinnaker Court and 150 Olde Duck Road as adjacent riparian owners.

Senior Planner Cross stated that with regard to all of the public comments about improper notice, she reached out to Dare County to see whether they send separate tax bills for the fractional owners and whether they have any records for those fractional owners, adding that they provided her with information from General Statute 105-302(2)(13) which had the following language: "Real property, owned under a time-sharing arrangement but managed by a homeowners association or other managing entity, shall be listed in the name of the managing entity." She pointed out that even if she wanted to notify the fractional owners, she had no way of knowing who they were and after reading 157 of 158 emails received, she found the owners for 143 South Spinnaker Court.

Senior Planner Cross stated that when she sent out the letter, Ships Watch Association president Tom Perkins received a copy of the notice as well as the permit application that was submitted. She stated that Mr. Perkins was able to provide the information to

approximately 400 of the fractional owners as noted during the Public Comment period. She noted that she received 158 objections to the permit with the primary objections being improper notice, overcrowding of the beach, significant risk to beach goers, damage to the dune system, decreased property value, and that there is a standing agreement with the Army Corps of Engineers. She stated that other objections she received were as follows:

- This is short sighted
- Public hearings were bypassed
- Nowhere else allows vehicles
- No explanation of need
- Duck has never had beach access
- Goal is public beach access and restrooms will be needed
- Increased need for police presence and do we have that manpower
- More congestion during peak season
- Increased traffic congestion on NC 12
- Access will change the composition of the beach
- Parked vehicles will take up a narrow strip of beach
- Light and noise pollution

Senior Planner Cross stated that she wanted to review the responses to the objections received. She stated that with regard to improper notice, staff accomplished proper notice with hand delivery to the president of Ships Watch on September 21, 2022, adding that email and certified delivery to 143 South Spinnaker Court was followed by an in-person meeting on September 26, 2022. She stated that with regard to overcrowding, beach driving is only permitted October 1 – April 30 of each year, per Chapter 94 of the Town of Duck Code of Ordinances. She added that staff does not see overcrowding as a result of the drive on the beach access at Sound Sea Village with 103 properties, noting that Barrier Island Station has a total of 133 units. She stated that she had asked the general manager of Barrier Island Station if their intent, when they have the access, was to advertise this for increased rentals and to improve their revenue stream. She stated that she was told that the only intent they have was to provide it as an amenity to their owners, adding that he mentioned that he would love to be able to boost revenue in January and February but it was not possible.

Senior Planner Cross stated that with regard to danger to beach goers, contact by the Duck Police Department was made to various police departments on the beach which revealed no pedestrian/vehicular conflicts other than a report of two vehicles alleged to be speeding in the Town of Nags Head a few weeks ago, but police were unable to substantiate the report. She noted that Chapter 94 of the Town Code limits speed, time of year and time of day for beach driving, with right of way afforded to beachgoers and further restrictions can be applied, if needed.

Senior Planner Cross stated that with regard to damage to the dune system/erosion/increased risk of over wash, the drive-over relative to the beach nourishment project would bring the existing 22-foot dune crest elevation to 18 feet. She

noted that the 22-foot dune elevation will be restored following the nourishment project and maintained at that elevation for the permanent vehicular access. She noted that the volume of the existing dune will be maintained with some contour modifications to keep it drivable.

Senior Planner Cross stated that with regard to decreased property values, Town staff contacted the Dare County tax office as well as three reputable realtors to obtain their feedback regarding property values adjacent to vehicular beach access points. She noted that all agreed that it would not affect property values unless the properties were also adjacent to a large public parking lot. She added that Sarah Spencer of Keller Williams Realty had offered to run some comparisons and found one property that sold that was directly adjacent to a vehicle beach access in the last year in the Town of Nags Head. She stated that the property sold for more per square foot than others.

Senior Planner Cross stated that with regard to another access option, staff was currently awaiting a signed easement from the Port Trinitie subdivision to allow a temporary, one-time access through their community for the nourishment project. She pointed out that this was not a long-term solution to the access issue. She stated that with regard to a standing agreement with the Army Corps of Engineers, the Town does have permission to access the beach through the US Army Corps of Engineers Field Research Facility, noting that in 2017 the Town had permission to access the beach for the nourishment project. She added that that option was not available for the 2022 renourishment project because the Army Corps of Engineers' mission supports the Department of Defense; past Field Research Facility directors have expressed a desire to further restrict or eliminate access; and future administrations cannot be relied upon for access.

Senior Planner Cross explained that the Town's tools for managing development were as follows:

- Remain open to partnerships and opportunities for increasing access to the ocean
- Renourish and maintain the beach
- Preserve the natural value and ecosystem services of the beach and dune by conserving and maintaining barrier dunes, beaches, and other coastal features
- Maintain reasonable limitations on beach driving
- Provide opportunities to educate the public about the variety and importance of natural ecosystems
- Enhance and support the police, fire, and public safety initiative by ensuring the safety of the residents and visitors as well as planning for facilities and expansions necessary to protect health and safety

Senior Planner Cross stated that the Town's immediate goal was access for the beach nourishment workers and the long-term goals were additional emergency service, surf rescue, and beach maintenance access; having an alternative location if the US Army Corps of Engineers Field Research Facility access is lost; and access for future nourishment projects. She noted that with regard to the permit revisions, several issues have come up since the Town submitted the permit application and has encountered a few

issues. She stated that the notice as discussed was an objection and while staff believes the notice was proper, because of the community objections, staff would be re-notifying the adjacent property owners. She added that with that notice, staff will be providing a revised drawing that will be more consistent with the drawing that Council had in front of them. She noted that, simultaneously, the CAMA Major permit would be requesting a minor modification. She explained that, as part of major nourishment projects, notification is only sent to the adjacent property owners of the fill project, i.e., the Army Corps of Engineers and the property at the northern end in the Sanderling subdivision.

Senior Planner Cross stated that with regard to past permits, the Division of Coastal Management has not required notification to adjacent property owners for temporary access. She stated that staff was making that request and notice would be sent to the adjacent riparian owners and they will have 30 days to object since it will be a major permit. She added that if the permit modification was granted, there was a process. She explained that if the permit was issued, objecting parties would receive notice as to what their options were and they can appeal the decision within 20 days of the decision. She noted that for a Minor CAMA permit, individuals have 10 days to make an objection and once the permit is issued, objecting parties are notified of their options and they can appeal within 20 days. She pointed out that both notices would include the plan and the permit revisions.

Senior Planner Cross explained that the permit revision and notice were not insurmountable, but Council will need to provide direction. She asked Council if they wanted to move forward with the permit revisions and notifications or if they wanted to take a step back and put it out for more public input. She noted that the window of opportunity was very limited and future board of directors at Barrier Island Station may have a different perspective.

Councilor Schiano asked what beach accesses were used for emergency services. Senior Planner Cross stated that, currently, there was the access at the Army Corps of Engineers and Sound Sea Village. Councilor Schiano asked about the access at Station Bay. Senior Planner Cross stated that it was one of the accesses, which was located on the Sanderling Resort property.

Mayor Pro Tempore Thibodeau asked what subdivision the Station Bay access was in. Senior Planner Cross stated that it was on the south side of the Sanderling Resort at 1461 Duck Road and could only be accessed through Station Bay Drive, which was a private street.

Mayor Kingston stated that over the years, he has had many conversations with the director and above at the Corps of Engineers regarding an access on the north side. He stated that the Town asked for an access on the north side so no one had to come through the main corridor but the answer was always no. He pointed out that those that thought the Corps of Engineers property was open to a lot of discussion as well as suggestions that the Town may have, that wasn't the case. He clarified that Senior Planner Cross had approached five different organizations about access and only received positive responses

from two. Senior Planner Cross stated he was correct, noting that Barrier Island Station was a second attempt. Mayor Kingston clarified that anyone that wanted to get on the beach in Kitty Hawk, Kill Devil Hills and Southern Shores could get on it and come up to Duck any time they wanted to October 1 through April 30, adding that the beach was open to anyone that could get on the beach. Senior Planner Cross explained that they would be able to come to Duck from Corolla. Surf Rescue Director Mirek Dabrowski was recognized to speak. Surf Rescue Director Dabrowski stated that the Towns of Southern Shores and Kitty Hawk do not allow driving on the beach.

Mayor Kingston clarified that anyone could drive on the beach in Duck. Senior Planner Cross stated that they are not permitted to drive on the beach in Southern Shores or Kitty Hawk because they do not allow it. Surf Rescue Director Dabrowski stated that anyone could drive on the beach in Duck, but one would have to access it by driving from Corolla. He added that the residents of the Sound Sea Village subdivision could drive on the beach from their access, however, it is a gated access.

Mayor Kingston pointed out that the situation with Barrier Island Station was the only positive situation the Town has had from any development. He clarified that any development could put in a beach access with a CAMA Minor permit. Senior Planner Cross stated that if the Town wasn't involved with the permit, this discussion would not be happening. She explained that Barrier Island Station could, at any point, submit a CAMA Minor permit to do exactly what the Town was proposing and not provide the Town with any beach access. Mayor Kingston clarified that Barrier Island Station would have an access that becomes private with the exception of the Town needing it. Senior Planner Cross stated that it would be a private gated access. Mayor Kingston stated that there would be protection in the future from the standpoint of getting to the beach with the beach nourishment project, beach maintenance, and rescue services. Senior Planner Cross stated he was correct. Mayor Kingston stated that it was really the Town's only opportunity in the short term to have that access. Senior Planner Cross stated he was correct.

Mayor Pro Tempore Thibodeau clarified that the Port Trinitie subdivision has indicated that they will sign a temporary easement for the beach nourishment project but would not allow Public Safety to use it. Senior Planner Cross stated she was correct, adding that once the project is completed, the access will be restored to pre-construction conditions. Mayor Pro Tempore Thibodeau pointed out that earlier there was a comment from a representative of the Ships Watch subdivision that this individual was willing to try to work something out with Council, but she was hearing from Senior Planner Cross that there wasn't enough time to address that. She asked how likely that would be based upon all of the objections from Ships Watch. Senior Planner Cross stated that, as much as she thought there could be enough cooperation from Ships Watch to make that happen within a very short period of time, there were over 400 fractional owners and she wasn't sure what involvement they all have to have in order to have a 15-foot-wide beach access that would need to be implemented within the next 30 days.

Councilor Schiano asked if Sound Sea Village's access was being used or could be used for beach nourishment. Senior Planner Cross stated that it wasn't, adding that it was one of the communities that the Town solicited and were adamant about not allowing it. Councilor Schiano asked if the Town used the Barrier Island Station access, they would restrict the Town from using it again in five years. Senior Planner Cross explained that the easement would implement the things the Town would be allowed to do, adding that this was just to get people on and off the beach to work on the nourishment. Councilor Schiano asked why driving is allowed on the beach. He further asked why driving on the beach could not be banned. Senior Planner Cross suggested that Sound Sea Village that was established in the late 1960's, would fill the Meeting Hall with objections because they have been driving on the beach since then. She added that they pride themselves on their beach and the ability that they have drive-over access.

Mayor Kingston asked Surf Rescue Director Dabrowski if beach access was prohibited in Duck and Southern Shores, how he would get his team onto the beach. Surf Rescue Director Dabrowski hoped he would have a mutual aid agreement, but if not, and if there was no agreement with the Army Corps of Engineers, then the only access would be Sound Sea Village and then Station Bay. He explained that, initially when the Four Seasons subdivision was planned, there was a drive-over access planned but it was removed. He added that there was an access at the end of Plover Drive, but that was removed. He stated that it limits the access to the densest beach where more issues occur between the Army Corps of Engineers and the south Town line. Mayor Kingston asked how much traffic was on the beach in the off season. Surf Rescue Director Dabrowski stated there was very little.

Mayor Pro Tempore Thibodeau asked if the Town could make regulations regarding how wide the beach has to be when driving on it. Senior Planner Cross stated that the Town of Nags Head delayed issuing their beach driving permits due to Hurricane Ian. She added that Duck could certainly put something out to let the public know that the beach was compromised and no driving was allowed. Surf Rescue Director Dabrowski pointed out that most of the bad weather is during the winter and no one would drive on the beach if the weather was bad.

Mayor Kingston pointed out that beach renourishment would not be going away, adding that the Town was obligated to continue to renourish the beach over time and over time the Town may be nourishing more of the beach than just the two miles that was currently done. He stated that the access in the future would be very important, especially since the Town was turned down by others. He added that the Corps of Engineers denied access and will probably never allow it again. Senior Planner Cross stated that she tried to get the Corps of Engineers to agree but they were adamant that they would not allow access. Mayor Kingston stated that the short-term benefit was beach nourishment and the long-term was for Public Safety.

Councilor Whitman asked how Emerald Forest gets onto the beach when they install the fencing and sea oats. Senior Planner Cross stated that they access the beach through

Sound Sea Village on the north end and once they get closer to the middle of Town, she has to ask the Corps of Engineers for permission.

Mayor Pro Tempore Thibodeau asked about the mobilization of the heavy equipment. She envisioned the bulldozers and the heavy equipment riding down the beach in a parade fashion from Southern Shores. She asked if it would take a couple of days for everything to get to the project area. Senior Planner Cross stated she was correct. Surf Rescue Director Dabrowski noted that it took them several days to get the equipment to Trout Run in Southern Shores, which was one of the major accesses he uses. He added that in order to access the beach, he drove over there and saw one or two pieces of equipment moving over the course of several days because they do not have enough operators to move everything at once. Mayor Pro Tempore Thibodeau clarified that the Town would be looking at a lot of heavy equipment throughout the entire project. Surf Rescue Director Dabrowski stated she was correct. Mayor Pro Tempore Thibodeau stated that the equipment would sit on the beach overnight, adding that she wanted to paint the picture for everyone that there will be a lot of driving on the beach. Senior Planner Cross agreed, adding that the Town needs to be thinking about a location that can provide mobilization and demobilization in the long-term, which will be a hard conversation with any community.

Councilor Schiano clarified that Barrier Island Station will only agree to grant the access if it was permanent; however, if it was not permanent, they would not agree to it. Senior Planner Cross stated he was correct. Councilor Schiano clarified that the Town would maintain the access going forward. Senior Planner Cross stated he was correct. Councilor Schiano asked if the Town maintains the access in Sound Sea Village. Senior Planner Cross stated that the Town does. Councilor Schiano asked if the Town maintains the access at Station Bay. Senior Planner Cross stated that the Town does.

Councilor Mooney thought the Town should look into and start developing a permit process so that the people that want to drive on the beach would have to come to Town staff to obtain a permit. He thought that the number of permits could be restricted, adding that he thought it was something that should be looked at. He suggested contacting the Towns of Kill Devil Hills and Nags Head to see how they work with the permits for driving on the beach. Surf Rescue Director Dabrowski pointed out that all of the accesses in the Towns of Kill Devil Hills and Nags Head were CAMA accesses and were public; however, the accesses in Duck were private. Councilor Mooney clarified that they have a lot of drivers on the beach. Surf Rescue Director Dabrowski disagreed, explaining that they have so many accesses because they are on public property and receive their funding from CAMA. Councilor Mooney thought Duck could issue permits for people in Barrier Island Station or Sound Sea Village.

Mayor Kingston moved to have the Town move forward with permit revisions and modifications, allowing staff to move forward with dealing with Barrier Island Station.

Councilor Whitman agreed with Mayor Kingston's motion, adding that the Corps of Engineers and Sound Sea Village could deny the Town access at any time, leaving no access at all to the beach.

Mayor Pro Tempore Thibodeau stated that Council heard a lot of objections with a lot of the objections rooted in skepticism about what the Town has gone through for the last two years in order to solve the issue. She stated that she was in favor of limiting the permits for beach driving if that was a concern, which she heard it was. She thought the Town could work through those details and thought people were fearful and she was sorry that people felt that they were not informed about what has been discussed. She pointed out that Council receives updates and have heard for almost two years that the Town has not been able to find a way to get on the beach because no one was permitting it. She added that, a few months ago, Council heard that there was some movement with one community, adding that she was thrilled about Port Trinitie allowing the Town to use their access because it would be the quick and easy route, but it was not permanent for Public Safety. She thought with regard to the CAMA Major permits that have to go through, there would be more iterations and that it wasn't fully settled. She pointed out that by giving the Town authorization to proceed, the Town could see where things will go with the CAMA Major permit.

Councilor Mooney stated that his sticking point was Public Safety and without that access in Barrier Island Station, Public Safety would suffer in the long run. He stated that the people that were closest to that access will be the immediate beneficiaries of Public Safety access, if needed. He stated that it was unfortunate but it needed to be somewhere, adding that he didn't think there were any other options.

Councilor Schiano stated that he had a lot of concerns and understood the dilemma as well as how hard it has been for staff to coordinate the beach nourishment project. He stated that his concern was increasing driving access on the beach. He reiterated that he would be in favor of prohibiting driving on the beach, adding that he wasn't sure why the Town needed to allow it at all. He thought the Town could get some public access somehow but not allow driving on the beach except for emergency vehicles. He understood the dilemma that Town had, but the beach nourishment project needed to keep going even though there weren't a lot of people willing to give the Town access to the beach. He thought that when the nourishment was in those areas, the people would allow access, but he couldn't be sure. He stated that he was concerned about driving on the beach.

Motion carried 4-1 with Councilor Schiano dissenting.

Mayor Kingston thought there were a lot of questions with respect to overall rules and regulations on driving on the beach and whether or not it could be limited. He thought some of those issues will need to be addressed. Town Manager Havens thought it would be an item of discussion at the Council Retreat.

Mayor Pro Tempore Thibodeau clarified that the motion was to move forward with a CAMA Minor permit for beach access. Town Manager Havens explained that the CAMA Minor permit was for a beach access. He pointed out that Council does not control CAMA, so the Town has to submit an application because they are the regulatory authority. Mayor Pro Tempore Thibodeau asked how the CAMA Major permit factored in with the 30-day notice. Senior Planner Cross stated that Coastal Protection Engineering was ready to submit a minor modification to the CAMA Major permit which will include notice to the adjacent riparian property owners and they will have 30 days to object. She added that if the minor CAMA Major permit modification is approved, then they will be given permission to create a beach access for nourishment at Barrier Island Station, understanding that there is still some risk that the adjacent property owners will file an appeal. She expected that the access will already be created at that point. She stated that if the appeal is granted and the proceedings stay, then there could be some implications. She added that if the appeal is denied, which could happen because if it meets the standard for CAMA regulations, the only basis they would have for appeal would be notification which will be properly done this time. She suggested to Robert Hornik, Robert Ross, and Jane Thorne to expect an email letting them know this was coming and to expect a certified letter. She stated that the way the regulations read, for CAMA Minor development permits was as follows: The applicant must give actual notice of their intention to develop the property and apply for a CAMA Minor development permit to all adjacent riparian landowners. Actual notice can be given by sending a certified letter informing the adjoining property owner in person or by telephone or by using any other method which satisfies the local permit officers that a good faith effort has been made to provide that required notice.”

Mayor Kingston clarified that Council’s decision was to partner with Barrier Island Station, but Barrier Island Station would have to obtain the permit. He further clarified that this was not a Town permit. Senior Planner Cross explained that the permit would be issued to Barrier Island Station with the Town acting as the agent to facilitate the permit. Mayor Kingston clarified that the Town would have access and take over the maintenance of the access. Senior Planner Cross stated he was correct. Mayor Kingston clarified that the Town was not approving the access as that would have to come from CAMA. Senior Planner Cross explained that because the Town was involved in the permit process, they would send this out to CAMA to process the permit, but if the Town was not involved and Barrier Island Station did this, she would be processing the permit.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Town Attorney Hobbs stated that he had nothing to report.

Mayor Kingston called for a 10-minute recess. The time was 9:46 p.m.

Mayor Kingston reconvened the meeting.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Departmental Updates

Police Lieutenant Melissa Clark was recognized to speak. Police Lieutenant Clark gave a brief overview of the past month's police activities to Council and the audience.

Fire Chief Black gave a brief overview of the past month's fire 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.

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

September FY 2023 Financial Presentation

Finance and Human Resources Administrator Jessica Barnes was recognized to speak. Administrator Barnes gave a short presentation on the September Fiscal Year 2023 financials to Council and the audience. She asked Council how they wished to spend the American Rescue Plan Act Funds of \$126,204 that were received with the following options:

1. One-time bonus for Town staff totaling \$142,626
2. Replace equipment for Fire, Police, and Streets & Highways, totaling \$128,450
3. Stormwater Management Plan totaling \$147,500
4. Extending the center turn lane as part of the BRIC project totaling \$110,000

Administrator Barnes noted that at the November 2, 2022 Council meeting, the ARPA grant ordinance will be prepared for Council's consideration as well as other policies required to ensure the Town follows Federal reporting requirements of the funds.

Mayor Kingston asked what staff recommended. He added that he would be in favor of the one-time staff bonuses that were given out earlier in the year, especially with regard to the Federal reporting requirements. Administrator Barnes noted that Option 2 and 3 were already included in this year's budget. Town Manager Havens thought, before this meeting, Option 1 was the best choice, adding that Option 4 had some benefits as well since the Town has spent the funds. He felt that the cleanest way to do it would be to spend it on staff bonuses since it was already done. He explained that the way the funding was structured, the Town could use it to supplant other planned revenues so the budget would not have to be reduced or expanded and the Town would need to identify what it would be spent on. He noted that a new project would not need to be created in order to spend the money. He reiterated that it would cleaner to spend it on the bonuses for Town staff.

Administrator Barnes agreed, adding that if something happened and it couldn't be spent on the turn lane, then another grant ordinance would be needed. She stated that the funds do not need to be expended until December 2025.

Mayor Pro Tempore Thibodeau moved to expend the additional revenues received from the American Rescue Plan Act funds for Covid relief with Option 1 – one-time bonus for Town staff.

Motion carried 5-0.

MAYOR'S AGENDA

Mayor Kingston stated that the mayors/chairmen meeting will be on October 18, 2022 in Duck. He stated that he was looking forward to the jazz festival and the Vision 2032 Retreat. He wished Director Legner the best of luck in her future endeavors.

COUNCIL MEMBER'S AGENDA

Mayor Pro Tempore Thibodeau wished Director Legner the best of luck and that she will be missed. She stated that she was happy that the Outer Banks Visitors Bureau were able to give a presentation earlier in the meeting. She noticed that the public has felt they have not been as informed as they would like regarding what is happening in Duck, so she will be thinking about ways to continue the outreach to the public. She wasn't sure how it could be improved because there is a skepticism continuing by some people. She thought open communication would help tremendously.

Councilor Mooney thanked Director Legner for her service to the Town and wished her luck at her new job.

Councilor Whitman thanked Director Legner for her service. He hoped to have a great jazz festival. He thanked Senior Planner Cross for her presentation earlier in the meeting.

Councilor Schiano thanked Director Legner and wished her the best of luck.

OTHER BUSINESS

Additional Public Comments

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

Mayor Kingston noted that the next meeting would be the 2032 Vision Retreat on Wednesday, October 19, 2022 at 11:45 a.m. and Thursday, October 20, 2022 at 8:15 a.m.

CLOSED SESSION

Mayor Pro Tempore Thibodeau moved to enter closed session pursuant to North Carolina General Statute 143-318.11(a)(3) to consult with the Town Attorney regarding matters protected by the attorney/client privilege and to preserve that privilege; and North Carolina General Statute 143-318.11(a)(6) to consider the qualifications, competence, performance, character, fitness, conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.

Motion carried 5-0.

The time was 10:32 p.m.

Upon return from closed session, Mayor Kingston moved to reaffirm the one-year extension contained in the Town Manager's employment contract or to carry the contract through January 31, 2024.

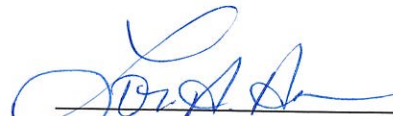
Motion carried 5-0.

ADJOURNMENT

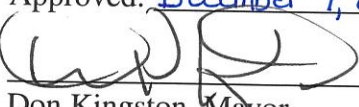
Councilor Whitman moved to adjourn the meeting.

Motion carried 5-0.

The time was 10:48 p.m.



Lofi A. Ackerman, Town Clerk

Approved: December 7, 2022


Don Kingston, Mayor

