

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
December 6, 2023**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 6:00 p.m. on Wednesday, December 6, 2023.

COUNCIL MEMBERS PRESENT: Mayor Don Kingston; Mayor Pro Tempore Monica Thibodeau; Councilor Sandy Whitman; Councilor Rob Mooney; Councilor Randy Morton; Councilor-elect Brenda Chasen; and Councilor-elect Kevin Lingard.

COUNCIL MEMBERS ABSENT: None.

OTHERS PRESENT: Town Manager Drew Havens; Director of Community Development Joseph Heard; Police Chief Jeffrey Ackerman; Deputy Fire Chief Clarence Batschelet; Town Attorney Robert Hobbs; Finance and Human Resources Administrator Jessica Barnes; Public Information and Events Director Kristiana Nickens; Senior Planner Sandy Cross; and Town Clerk Lori Ackerman.

OTHERS ABSENT: Fire Chief Donna Black.

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

Mayor Kingston asked Councilor Rob Mooney to lead the Pledge of Allegiance. Mayor Kingston led the moment of silence.

SWEARING IN OF TOWN COUNCIL MEMBERS

Mayor Kingston turned the meeting over to Town Manager Havens. Town Manager Drew Havens was recognized to speak. Town Manager Havens stated that the new Council members would be sworn in followed by the election of the Mayor and Mayor Pro Tempore. He turned the meeting over to Town Clerk Ackerman.

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

ELECTION OF TOWN COUNCIL OFFICERS

Election of Mayor

Town Manager Havens opened the nominations for Mayor of Duck.

Councilor Whitman moved to nominate Don Kingston as Mayor. Town Manager Havens asked for other nominations. There being no other nominations, Town Manager Havens closed the nominations.

Motion carried 5-0.

Town Manager Havens turned the meeting over to Mayor Kingston.

Election of Mayor Pro Tempore

Mayor Kingston opened the nominations for Mayor Pro Tempore of Duck. He moved to nominate Monica Thibodeau as Mayor Pro Tempore. Mayor Kingston asked for other nominations. There being none, he moved to re-appoint Monica Thibodeau as Mayor Pro Tempore.

Motion carried 5-0.

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 hearings be held off.

Donna Creef of the Outer Banks Association of Realtors was recognized to speak. Ms. Creef congratulated Council on their election. She stated that she was present to listen to the presentations that will be held later in the meeting. She was not sure where the Town was going with the presentation on occupancy limits, but she hoped that if the Town does take any action in the future, that the Outer Banks Association of Realtors will be involved. She noted that septic health was important to everyone and vacation homes were important to the Outer Banks. She added that she met last week with the Town of Nags Head to discuss septic health and what the Outer Banks Association of Realtors could do to help promote it for them.

Town Clerk Ackerman went on to read the written public comments that had been received.

Chris Marik and Jessica Bonnacci of Ocean Atlantic Rentals were recognized to speak. Mr. Marik and Ms. Bonnacci wrote the following: "My sincere apologies that we cannot attend; our Ocean Atlantic Rentals, Inc. Christmas party is this evening. Thank you for understanding this conflict, and for sharing this with all Council members and attendees. Ocean Atlantic Rentals, Inc. was established in 1979, and has had a brick-and-mortar business location in Duck since 1984. From our location at 1194 Duck Road, we rent beach and cottage equipment, deliver gear, and offer a setup/takedown chair and umbrella service on the beach. All reservations are paid for over the phone, in the store, or online – never on the beach.

Concerning proposed changes: Attachment A: An Ordinance amending the Town Code of Duck, Chapter 94: Beach and Dune Management, Part I: (B) 'The following activities shall be considered unlawful on the beach, as defined in §94.04:' (1) will homeowners,

visitors, and tourists (setting up their own items) be held to the same guidelines as vendors when it comes to: leaving equipment on the beach unattended before 8 a.m. the use of guy-lines to secure their umbrellas, and equipment placement? How will the Town handle selective enforcement? (2) We appreciate the ordinance for evening equipment removal being moved from 5 p.m. to 6:30 p.m. We suggest equipment set up starting at 6 a.m., as any tourist has the opportunity to do.

In other towns, we begin setups at 6 a.m. By 8 a.m., the heat and beach traffic has peaked, which is unsafe for our staff and our guests. For the sake of safety, the Town of Nags Head has worked with us expanding the allotted beach day to 6 a.m.-7 p.m.

Because of the current set up ordinances, Ocean Atlantic Rentals, and most other local set up companies, are limited to only servicing oceanfront Duck homes. Even then, we are unable to set up in front of their vacation property because the territory has been claimed earlier in the morning by others. Our wish is to not compete with, or disrupt, tourists who do not hire the service, but to provide a service that is safe with the same rights as every other beach goer.

All of this being said, beach nourishment would truly remedy any sort of time ordinance and ease the tension not only between vendors and tourists, but all Duck beach goers. We are fortunate to be a part of this strong tourist economy, but the lack of sand and space is the root problem.

(F) 'Exemptions. The provisions of this chapter shall not apply to (1) employees of the Town of Duck, (2) businesses providing services under a contract with the Town, and (3) persons or businesses who are expressly made exempt as authorized by the Town Manager.' I understand exemptions for a Town event or surf contest, but does this include Ocean Rescue/Duck lifeguards? While Ocean Rescue has always been a crucial asset to our community and are clearly qualified lifesaving professionals..." ***-The three-minute time ended at this point in the reading of the written comments.***

Tom Kelly of Beach Masters was recognized to speak. Mr. Kelly stated that his company was one of the original tent vendors in Duck. He stated that the 8 a.m. rule was enforced on vendors last year to the point he received telephone calls and emails letting them know that they were setting up before 8 a.m. while the entire beach was covered by visitors who have already set up their items. He stated that his guests were basically second-class citizens to those who set up their own items on the beach.

Tom Kelly explained that their tents were 10x10 as was every other tent on the beach. He stated that their umbrellas were eight feet wide and when two are put together were 16 feet, which was taking up more space and giving less space underneath, which was why tents have become so essential to his guests and why they were more preferred. He added that putting two umbrellas up together side by side takes up more room but takes up less room putting four umbrellas together which happens all the time. He noted that placing them perpendicular to the ocean was not possible due to the 15 feet from the dune restriction for emergency vehicles. He stated that there was not 20 feet of beach at high

tide, so putting them side by side is the only way they can be put on the beach. He stated that if they follow the proposed rules and space them by another 10 feet, it would take up 30 feet instead of 20 feet. He pointed out that there was no problem for lifeguards to get under a tent in order to respond to an emergency.

Tom Kelly stated that visitors do not have to follow the same rules with regard to enforcement as vendors do. He stated that it was the same with the Town exemption. He asked why a business was allowed to start at 5:30 a.m. *-The three-minute time ended at this point.*

Steve Pauls of Farm Dog Beach Services was recognized to speak. Mr. Pauls stated that he has worked for Farm Dog Beach Services for about six years and when he first started, he thought the beach set-up service was for people that had more money than sense of their own to carry their own items to the beach. He stated that he discovered after working for a while that he was wrong in that people that were older, infirm, have weight problems or people with small children would thank him for the service. He added that if a person has to bring their own items out onto the beach, they would find that there were not a lot of places to put them.

Steve Pauls stated that he read the proposed changes and sent emails with some suggestions. He thought that the \$2,000 fee for doing business in Duck was excessive to charge someone, adding that it was onerous and anti-small business. He suggested making it a deposit or bond so that the Town could charge a fine if someone was violating the rules and it would come out of that fee and those that followed the rules would receive the deposit back at the end of the year.

Steve Pauls stated that the 8:00 a.m. start time was hard for his business because it was a “land grab” in the mornings on the beach. He stated that by 9:00 a.m., it is dangerously hot on the beach, adding that there was not any parking for his crew. *-The three-minute time ended at this point.*

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

CONSENT AGENDA

Minutes from the November 1, 2023, Regular Meeting; Resolution 23-16, Resolution of the Town Council of the Town of Duck, North Carolina, Amending Resolution 23-18, Declaring Certain Property Surplus, and Authorizing the Sale at Auction of Said Property; and Budget Amendment

Councilor Whitman moved to approve the consent agenda as presented.

Motion carried 5-0.

SPECIAL PRESENTATIONS

Discussion/Consideration of Resolution 23-14, a Resolution of the Town Council of the Town of Duck, North Carolina, Honoring and Thanking Rob Mooney for his Service to the Town of Duck

Town Manager Havens read Resolution 23-14 to Council and the audience that honored and thanked Rob Mooney for his service to the Town of Duck.

Mayor Pro Tempore Thibodeau moved to adopt Resolution 23-14 as presented.

Motion carried 5-0.

Mayor Kingston went on to present Rob Mooney with Resolution 23-14.

Discussion/Consideration of Resolution 23-15, a Resolution of the Town Council of the Town of Duck, North Carolina, Thanking Randy Morton for his Service to the Town of Duck Council as Interim Town Council Member

Town Manager Havens read Resolution 23-15 to Council and the audience that honored and thanked Randy Morton for his service to the Town of Duck.

Mayor Pro Tempore Thibodeau moved to adopt Resolution 23-15 as presented.

Motion carried 5-0.

Mayor Kingston went on to present Randy Morton with Resolution 23-15.

Presentation by Malcolm Fearing regarding Workforce Housing

Former Dare County Commissioner Malcolm Fearing was recognized to speak. Mr. Fearing went on to give a short presentation on workforce housing to Council and the audience.

Mayor Kingston thanked Mr. Fearing for his presentation.

Presentation of the Town's Fiscal Year 2022-2023 Audit Report

Jonathan Dail from Johnson, Mizelle, Straub and Consolvo, LLP was recognized to speak. Mr. Dail went on to give an overview of the Town's financial statements for the year ended June 30, 2023 to Council and the audience.

Mayor Pro Tempore Thibodeau moved to accept the FY 2023 Audit as presented.

Motion carried 5-0.

Mayor Kingston thanked Jonathan Dail for his presentation.

QUASI-JUDICIAL PUBLIC HEARING

Public Hearing/Discussion/Consideration of SUP 23-010, a Special Use Permit Application by the Sanderling Homes Association, Inc. Requesting Allowances for Fill and Grading Activities related to the Stabilization of a Neighborhood-Owned Pond Adjoining Oyster Catcher Lane: (1) to Allow a Bulkhead to Support and Contain Fill; and (2) to Allow up to Six Feet of Fill Behind the Bulkhead.

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

Town Attorney Robert Hobbs was recognized to speak. Town Attorney Hobbs stated that the Council would be sitting as a quasi-judicial body for the public hearing, meaning that they will sit as a court and must make its decision based upon competent material and substantive evidence that will be presented during the course of the hearing. He stated that anyone wishing to give testimony would have to give it while under oath with the applicant afforded due process rights including the right to present evidence, examine, and cross-examine witnesses. He asked 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. There were none.

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.

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

The following persons were sworn to provide testimony during the hearing: Joseph Heard, Sandy Cross, Joseph Blakaitis, and George Wood.

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

Director of Community Development Joe Heard was recognized to speak. Director Heard noted that the public hearing was properly advertised. He stated that the applicant was requesting approval for the following allowances requested in the special use permit relating to the installation of a bulkhead and associated fill and grading activities adjoining a neighborhood-owned pond:

1. Allow the bulkhead to support and contain fill, which is not permitted under Subsection 156.128(A)(6).
2. Allow fill up to six feet in depth behind the bulkhead along the edge of the pond where a maximum of three feet is permitted in Subsection 156.128(A)(12)(a).

Director Heard explained that the subject property was over 2.61 acres in size and serves as a passive recreation area for the Sanderling neighborhood. He stated that it was presently zoned Single-Family Residential (RS-1) and contains a natural pond approximately one acre in size that has been improved by the Sanderling Homes Association. He noted that the pond serves as a stormwater drainage feature as well as an amenity for the community with a dirt/gravel walking path that has been established around the pond. He added that it was accessible from Oyster Catcher Lane and was surrounded by 21 other properties in the Sanderling neighborhood, all of which were zoned RS-1 and contain single-family homes.

Director Heard stated that the pond on the subject property has experienced annual erosion rates of approximately one foot in recent years. He stated that the applicant was proposing to stabilize the sides of the existing pond with the installation of a living shoreline consisting of marsh grasses around much of the pond. He noted that the proposal also involved the addition of fill and a bulkhead along a 220-foot section of the pond that was located in close proximity to neighboring property lines. He explained that the bulkhead will extend slightly into the existing pond and be at least four feet but could potentially be up to six feet in height with fill behind to support the bulkhead. He added that the proposed fill will extend eight to nine feet behind the bulkhead, allowing enough distance to install the tiebacks supporting the bulkhead as well as the relocation of the walking path around the pond onto the subject property since the path currently encroaches on several abutting properties.

Director Heard stated that Subsection 156.128(C) of the Duck Town Code establishes review criteria for special use permit applications involving fill and grading activities. He noted that the following standards should be considered as part of the Council's review:

1. The site for the proposed fill is otherwise adequate in size, shape and other characteristics to accommodate the proposed project.
2. The applicant has demonstrated that the requirements of this chapter are unreasonable or impractical due to the necessity for fill, lot shape, topographical features, location of mature vegetation, or location and characteristics of existing improvements on the lot.
3. The amount of fill proposed is the minimum necessary to accommodate the proposed project, especially for soundfront properties.
4. The proposed fill will not negatively impact adjacent properties or the surrounding area, especially for soundfront properties.
5. The special exception will be consistent with any applicable goals, policies and objectives specified in the Town's adopted Comprehensive & Land Use Plan and Vision Statement. This review includes the Town of Duck's evaluation of the proposal's consistency with its adopted Comprehensive & Land Use Plan, which may be more flexible or more stringent than interpretations by others.
6. The applicant has submitted a drainage plan.

Director Heard stated that all of the criteria for granting a special exception were met in staff's opinion, they were recommending approval of SUP 23-010 and the proposed improvements subject to the following conditions:

1. The applicant must submit required application materials and obtain necessary land disturbance and building permits prior to commencing work for construction of the bulkhead, fill/grading, and associated improvements.
2. The applicant must obtain a CAMA permit for the proposed project prior to issuance of a land disturbance permit.
3. All areas of land disturbance must be stabilized prior to issuance of a Certificate of Completion for the project.

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

Councilor Whitman asked if the pond was consistent with the Town's stormwater regulations with regard to what was being done in Town. Director Heard stated that the Town does not have separate stormwater regulations from the State. Councilor Whitman asked about the areas the Town was trying to accomplish in the areas around Duck. He asked if this was consistent with what the Town was doing. Director Heard stated that it was. Councilor Whitman asked if the walkway was going to be constructed of stone around the pond. Director Heard stated that it would be dirt and would be unimproved. Councilor Whitman clarified that there would be a large number of trees that would be removed on the north side of the pond. Director Heard stated that he did not think there would be any trees removed as part of the project. Councilor Whitman pointed out that the bulkhead around the pond had a line of trees there. Director Heard stated that the bulkhead was on the northern side with no trees there.

Mayor Pro Tempore Thibodeau asked if the residents that were around the pond were all in agreement with the project. She further asked if it was part of the CAMA application. Director Heard stated that the residents would be notified when the CAMA application comes in, adding that they were notified initially. He stated that staff has not received any comments from adjoining property owners expressing any concerns regarding the proposal. Mayor Pro Tempore Thibodeau clarified that the reason for the six feet as opposed to three feet was because of the height of the pond and the fact that it has to be high enough to hold the pond in and the walkway around it. Director Heard stated she was correct. Mayor Pro Tempore Thibodeau pointed out that Council has heard other applications for bulkheads that exceeded three feet in height. She thought the applicant was trying to recapture lost property as opposed to creating something that never existed. Director Heard stated that the applicant would be doing that, adding that he thought the main rationale was to stabilize the edges of the pond and create an area to bring the path off of the adjoining private properties.

Councilor Lingard asked how far from the shoreline into the pond the bulkhead will be. Director Heard stated that the applicant would be able to provide that answer.

Councilor Chasen asked who would maintain the culverts on Oyster Catcher and NC 12 to make sure the property does not flood. Senior Planner Sandy Cross was recognized to speak. Senior Planner Cross explained that the culvert under NC 12 would be NCDOT's responsibility and the one under Oyster Catcher Lane would be the responsibility of the Sanderling Homes Association.

Mayor Kingston asked what the average depth of the pond was. Director Heard stated that the applicant would be able to answer that question.

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.

George Wood of Environmental Professionals, Inc. was recognized to speak. Mr. Wood stated that he was responsible for doing the environmental design for the shoreline stabilization. He stated that he was instructed to see if a living shoreline could be accomplished around the entire pond as it met the applicant's desire and vision for the community. He stated that he completed an analysis of the options available and recognized that one of the issues was an area where they could not complete a living shoreline because it required sloping of the bank back which would encroach into two adjoining properties as well as into the roots of some live Oak trees. He stated that the design represented the minimum amount of bulkheading they could do and still provide adequate protection of trees as well as provide for the walking path to be contained on the homeowner association property.

George Wood explained that the proposal was in the process of being reviewed by CAMA for a major development permit, adding that in discussing it with them earlier in the day, they received 11 of 15 agencies that commented with no objections. He noted that there were four more to be received, with one being from CAMA, adding that their in-house recommendation was to issue the permit.

George Wood pointed out that a Council member had a question about trees. He explained that the area that appeared to have a lot of vegetation was part of the area that will have the living shoreline and will not be bulkheaded, adding that the tree removal would be minimal.

Councilor Whitman asked about the bulkhead area. George Wood noted that the only trees that would be required to be removed would be those that fall into or lean into the pond. He added that the bulkhead has been designed to minimize the encroachment into the pond and would be approximately five feet with a maximum of 9.7 feet offshore from the shoreline, which should provide adequate distance for the tie-backs to remain on the homeowners association property so they will have control over that in the future if they need to do repair work to the tie-backs.

George Wood noted that there was a question regarding the reason for the height. He explained that the height of six feet was a height that was measured from the water level, which was the greatest height there was. He added that as one goes back to the shoreline, the amount of material that was placed will be less and less but they will be covering the exposed roots on the path for safety purposes.

George Wood stated he was not sure of the depth of the pond because the bottom of it is muddy, which was due to eutrophication. He explained that it was when runoff, including dirt, goes into a water body and fills it sufficiently so that some vegetation can grow up from the bottom and choke a pond.

George Wood stated that the drainage plan had been vetted by Andy Diehl, adding that they made sure that they limited the height of the bulkhead so that the drainage from the adjoining properties would go towards the pond and not back towards the properties. He stated that the Sanderling Homeowner Association agreed with the characterization of the project and agreed with the staff recommendations with the conditions.

Councilor Whitman asked if the 30-foot public trust was a non-buildable site. He further asked if it was not like an easement where it could have tiebacks installed. George Wood stated that the 30-foot public trust was a regulatory overlay by the Division of Coastal Management and in that 30-foot buffer from the water's edge they were only allowed to do water dependent activities which would include bulkheading and tiebacks. Councilor Whitman asked if that was the case, why the living shoreline could not be used. George Wood stated that there is a slope that banks back and in order to build the living shoreline, it would encroach and create damage to the roots of the live Oaks. He added that they would have to go further out into the pond in order to get the slope that was required as well as having a flat area for the walkway. Councilor Whitman pointed out that Mr. Wood had stated they had 30 feet to work with. Mr. Wood disagreed, explaining that 30 feet was the regulatory area from the water's edge landward and the applicant is restricted on how far they can go into the water.

Mayor Kingston asked if the rip rap would stop any erosion at the end of the bulkhead. George Wood explained that they have a part where the rocks came to the bulkhead which would address the erosion.

Mayor Pro Tempore Thibodeau clarified that there were existing bulkheads on the site. George Wood stated she was correct, adding that they would be building additional in front of the existing bulkheads.

Town Attorney Hobbs asked if any of the sworn witnesses wished to make a presentation. There were none.

Town Attorney Hobbs asked Council if they had any final questions.

Mayor Kingston asked if this has ever been subject to ocean overwash. George Wood stated that it had, adding that originally the pond had been excavated on high ground

many years ago and was surrounded by high ground. He added that the flooding would come from the sound.

Joe Blakaitis of 115 Sandpiper Cove was recognized to speak. Mr. Blakaitis stated that the ocean overwash came with a hurricane about 20 years ago where the water came over the dune and went into the pond and destroyed part of it.

Mayor Kingston clarified that the new design would not really help if there was ocean overwash. George Wood believed the primary cause of erosion of the pond was from the water that goes into the pond from the west and as it recedes, it creates quite a bit of erosive energy. He felt that the erosion was caused by the ebb and flow of the sound water.

Town Attorney Hobbs asked if there were any remaining questions from Council. There were none.

Town Attorney Hobbs asked if staff or the applicant wished to make closing comments. 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 three proposed conditions.

Mayor Pro Tempore Thibodeau moved to approve SUP 23-010 as presented, with the findings of fact as well as the three proposed conditions listed.

Motion carried 5-0.

LEGISLATIVE PUBLIC HEARINGS

Public Hearing/Discussion/Consideration of Ordinance 23-14, an Amendment to Height Measurement for Coastal High Hazard Areas in the Definition of *Building Height* in Section 156.002 of the Town Code

Mayor Kingston turned the meeting over to Town Attorney Hobbs.

Town Attorney Hobbs opened the public hearing, noting that the Council would be sitting as a legislative body. He stated that Director Heard would give a presentation.

Director Heard stated that the ordinance proposes to amend the definition of *Building Height* found in Section 156.002 of the Zoning Ordinance by adding a maximum allowance of three feet above the highest adjacent grade below the structure to begin the height measurement in Coastal High Hazard Area (CHHA) flood zones, similar to

allowances in other flood zones. He stated that at their October 18, 2023 meeting, the Planning Board voted unanimously to recommend approval of the ordinance as it was the most appropriate solution to fairly address how building height was measured in CHHA zones.

Mayor Pro Tempore Thibodeau thought it was great that the loophole would be closed. She clarified that the difference would not make the building higher. Director Heard explained that the height would be measured from the top of the board rather than from the lowest girder.

Town Attorney Hobbs asked if any members of the Planning Board wished to make a presentation. There were none.

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

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

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

Mayor Pro Tempore Thibodeau moved to approve Ordinance 23-14 as presented.

Motion carried 5-0.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

Discussion/Consideration of Ordinance 23-15, Amending Ordinance 13-03, an Ordinance Amending the Town Code of the Town of Duck, North Carolina, related to Beach and Dune Management; Discussion/Consideration of Ordinance 23-16, Establishing an Ordinance Defining and Regulating Businesses and Registration; and Discussion/Consideration of an Amendment to the Town of Duck Fee Schedule

Senior Planner Cross stated that on September 20, 2023, staff presented a culmination of two years of data collection related to beach vendors and tents on the beach following an extensive survey that was completed earlier in the year. She pointed out that during the Council's September 20, 2023 meeting, Council gave staff direction and in doing so, they were directed to review Chapter 94 of the Code of Ordinances, related to the size of tents, eliminating the use of guy wires, modifying the time related to the removal of unattended items on the beach, implementing signage requirements and limitations, developing a vendor permit process, and developing an enforcement process, which was part of draft Ordinance 23-15.

Senior Planner Cross stated that under Definitions, staff defined beach equipment more clearly; defined beach equipment vendor services and commercial beach equipment, defined guy line, removed the definition of “tents” with more detailed definitions of beach equipment, and defined vacation rental as recommended by Town Attorney Hobbs.

Senior Planner Cross explained that staff added the word “beach” to all equipment references; cleaned up and added to the section related to emergency access; added a clause that allows for emergency services to relocate equipment; added that beach equipment must maintain a 10 foot separation from the dune vegetation and turtle nests; added that beach tents and commercial equipment can be located no closer than 50 feet to a lifeguard stand or accessway; a 12x12 size limitation that may not extend beyond the footprint of the guy lines; added that two tents may be attached perpendicular to the shore or tents parallel to the shore must maintain a 10 foot separation; all beach equipment must be properly secured so as not to endanger beachgoers; unattended beach equipment must be removed by 6:30 p.m.; and beach equipment may not be placed or erected solely for advertising purposes.

Senior Planner Cross stated that with regard to beach equipment vendors, staff established a requirement for a business license and fee; added language that provides for signage regulations and limitations; noted that transactions may not occur on the beach in any form; and that violations were subject to civil penalty and/or revocation of the business license. She stated that staff added language exempting Town staff, businesses contracting with the Town, and persons/businesses exempted as authorized by the Town Manager. She noted that there was some concern regarding businesses that were contracting with the Town.

Senior Planner Cross stated that draft Ordinance 23-16 defined and regulated business licenses and registrations. She noted that the Town was only regulating beach equipment vendors as defined in Chapter 94. She stated that the ordinance allowed for an annual license fee; detailed the period of the license and due date; detailed information required for the application; and detailed the reason for refusal and revocation of the license. She pointed out that the license spelled out the Town Clerk as the responsible party for managing it; adding that in addition to Town Clerk Ackerman, Deputy Town Clerk Melissa Felthousen would be able to handle them if needed.

Senior Planner Cross stated that with the development of a business registration, a fee schedule will be needed. She noted that at Council’s September 20, 2023 meeting, Council indicated that this should be impactful in the sense that vendors will think twice about violating the ordinance and that the income could help with enforcement efforts. She pointed out that staff was proposing an annual fee of \$2,000.

Senior Planner Cross stated that staff were asking for Council to consider adopting Ordinance 23-15, Ordinance 23-16, and to consider an amendment to the fee schedule. She noted that depending on what happened at this meeting, she would come back before Council at their January 3, 2024 meeting with an enforcement plan.

Mayor Pro Tempore Thibodeau asked why the definition of vacation rentals was added to the draft ordinance, pointing out that it was not referenced anywhere in the ordinance. Senior Planner Cross explained that she used vacation rentals in the definition of commercial equipment. Town Attorney Hobbs pointed out that commercial beach equipment, commercial beach tent, and commercial beach umbrella definitions were added that referred to vacation rental accommodation. He added that the intent was to define what that meant. Mayor Pro Tempore Thibodeau clarified that it meant that a private citizen who lives in Duck would not be engaging in commercial activity if they hired a tent vendor. Senior Planner Cross thought it just added clarity to the ordinance, adding that it was trying to clarify what vacation rental accommodation meant. Mayor Pro Tempore Thibodeau clarified that the distinction to say that it could be rented commercially was broken down by how it could be done and this was what that clarity was doing as it was either directly through a vendor or through a vacation rental, adding that anyone could do it directly through a vendor. Senior Planner Cross stated she was correct.

Councilor Lingard stated that a number of vendors had mentioned the timing of 8:00 a.m. He stated that he has always accepted that as the rule and never thought of where the 8:00 a.m. came from and why it was the rule. He asked what the thought was behind that and why the rule was in place. Senior Planner Cross explained that the ordinance was originally adopted in 2009 and the time was established then. She stated that part of it had to do with equality and land grabs. She stated that it was to give everyone an opportunity to get on the beach, adding that she did not have a position on the time but knew that the comments that she heard were about people setting up on the beach before 8:00 a.m. She added that, whether they were vendors or not, there were owners and residents who want to go to the beach and felt like the beach was full of unattended beach equipment before 8:00 a.m. and because of that, they did not have a chance to get onto the beach.

Councilor Lingard clarified that this was not a rule specifically for vendors but a rule for everyone. Senior Planner Cross stated he was correct. Councilor Lingard clarified that if there was someone to enforce the rules, the people that set up would be subject to the enforcement. Senior Planner Cross stated he was correct. Councilor Lingard thought Senior Planner Cross' point was valid about the heat and parking, adding that he was not sure if Council wanted to discuss moving the time back a half hour or hour. He wasn't sure if it was something Council needed to think about in terms of safety. He added that by 7:00/7:30 a.m. there were a lot of tents on the beach. He thought it would be nice to walk on the beach without the tents on there at 7:00 a.m.

Councilor Whitman asked if the Town moved forward with a business license and fee, the commercial vendors would have to have insurance naming the Town as an additional insured. He pointed out that the Town would be issuing a license to the vendor, adding that the Town was taking some responsibility. Senior Planner Cross stated that this was her first time dealing with a business license, so she would defer to Town Attorney Hobbs or Town Manager Havens.

Mayor Kingston thought if the vendor had a business license, they would have to have proof of insurance. Town Manager Havens stated that the Town could require that. He thought it would be best to have Town Attorney Hobbs research that.

Mayor Kingston asked what the timeframe was today that people cannot get on the beach with their tents. He asked if there was a time. Senior Planner Cross explained that unattended items were not supposed to be on the beach before 8:00 a.m. or after 5:00 p.m. She added that it wasn't just tents, it was also chairs or any beach equipment.

Councilor Whitman clarified that if he rented a tent from a vendor and it was set up at 8:00 a.m., he would have to have someone under the tent. Senior Planner Cross stated that he would not if it was after 8:00 a.m.

Mayor Pro Tempore Thibodeau clarified that no one else could set up a tent privately. Senior Planner Cross stated she was correct. Mayor Pro Tempore Thibodeau thought with regard to the 8:00 a.m. time, it would be difficult for someone to enforce if the Town was thinking of doing enforcement. Senior Planner Cross explained that it was why she did not develop an enforcement plan because she was not sure if it would fall on staff, lifeguards, or if the businesses would have to pay someone to enforce the rules.

Councilor Lingard asked if the Town would educate rental companies to inform the renters that they cannot use the tents that have guy lines. Senior Planner Cross stated that the last three years she sent messages out in March to all property management companies with the same information that was sent to the commercial vendors and beach equipment vendors where she spelled out the rules and asked that the information be conveyed to the renters. She stated that the same thing will be done and will ask Public Information and Events Director Kristiana Nickens to advertise it on social media. She added that there will need to be an individual out on the beach to educate the people on the rules.

Mayor Pro Tempore Thibodeau thought the education had to extend beyond the property management companies and commercial vendors. She thought the whole Town needed to be aware because there were a lot of people that have friends and family coming to Duck to use the beach and will not have any idea about the rules. Senior Planner Cross agreed, adding that it would be helpful to have an individual to work two hours in the morning and evening to educate the public.

Mayor Kingston noted that trash enforcement was difficult. Senior Planner Cross stated that it will be difficult no matter how it is handled. Mayor Kingston agreed.

Councilor Lingard asked about the fee and if it was monthly. Senior Planner Cross stated that it was an annual fee. She stated that she looked at the going rates for beach equipment and it ranged from \$250 per week to \$1,000 per week for a set up. Councilor Lingard asked if it would be possible to split the fee and have it as half being a fee and the other half a deposit so that if the vendor followed the rules, they would receive half of the money back at the end of the season. He thought it would be more of an incentive to

follow the rules. Councilor Whitman thought that everyone would pay the fee and if they violated the rules, they would not get back half their money. He thought it was the same thing either way. Senior Planner Cross stated that she would defer to Council on the issue.

Councilor Chasen asked what the other municipalities were doing as far as allowing equipment on and off the beach. Senior Planner Cross stated that the Town of Nags Head runs from 6:00 a.m. to 7:00 p.m.; the Town of Southern Shores was 8:00 a.m.; the Town of Kill Devil Hills was sunup to sundown; and the Town of Kitty Hawk did not have any limitations. She pointed out that the difference between the other municipalities and the Town of Duck was that they all had a Public Works Department that could manage the oversight.

Mayor Kingston pointed out that if Duck had a set of rules in place, the time would not make any difference if the equipment needed to be kept so far apart and far away from the emergency line. He stated that if they came in at 6:30 a.m. or 7:00 a.m. versus 8:00 a.m., they would still have to abide by the rules. He stated that he did not understand why there were exemptions in the ordinance. He pointed out that a tree service company could set up chairs on the beach if they were doing business with the Town. He asked why there were exemptions for people that contract with the Town. Senior Planner Cross stated that it was an option. Mayor Kingston stated that he had a problem with it.

Mayor Pro Tempore Thibodeau stated that the enforcement that Council was thinking about funding with the business license would also be an enforcement Town-wide that would be on the backs of the commercial vendors. She stated that it would be enforcement for private citizens as well as the commercial activity. She noted that the education piece will be huge. She added that she would be in favor of extending the time because it will be too hard to enforce and was more of an education item. She thought that the education everyone received last year with regard to the trash schedule made everyone talk about it. She thought the tone of the education was important since it was new and anything the Town does will be a change.

Mayor Kingston pointed out that just like trash and parking, it will be complaint driven. He stated that if someone was complaining about violations, it will need to be looked into and the Town should get away from the hour to hour and day to day enforcement. He suggested giving the public a reasonable time to put their items on the beach and periodically check it. He thought getting into enforcement will be like parking and trash – the Town does not have the resources unless Council wanted to hire full-time people. He thought Council wanted to get the regulations in place and deal with them on an exception basis. He did not have a problem with moving the time back as there was a lot of justification for it. He added that if an individual wanted to put a tent on the beach, they could do that. He reiterated that he had a problem with the exemptions.

Councilor Lingard thought the source of complaints were the ghost visitors – the ones that set up their tents on the beach and then leave. He suggested that the vendors try to incentivize somehow the customers to tell them if they will not be using their tents, which

could help the Town. He added that if the vendors were not setting up the tents, the people will not be on the beach. He reiterated that the vendors need to incentivize their customers as he felt it would go a long way to alleviating the complaints of people that want to put their tents on the beach but cannot due to the commercial tents.

Senior Planner Cross clarified that Council was in favor of removing the exemption clauses and changing the time to 7:00 a.m. Mayor Pro Tempore Thibodeau thought it was reasonable, suggesting that the time be 7:00 a.m. to 6:00 p.m. She thought the problem with 6:00 a.m. was that people were complaining about the noise. She thought Council had some work to do on the ordinances and did not think it could be done at this meeting.

Councilor Chasen asked when a decision would be made for this to be implemented for the next season. Senior Planner Cross stated that it needed to be very soon. She added that the vendors needed to know what will be changed so they can work to deal with it and their rentals that they have coming up.

Town Attorney Hobbs pointed out that both ordinances were not development regulation ordinances and, under the State statutes, would require two reads unless Council adopts the ordinance on the first read with four votes.

Mayor Kingston suggested making changes to Ordinance 23-15 and have more discussion at Council's January 3, 2024 meeting on the fees because it will need a deeper discussion. He thought if the Town was going to do self-enforcement by complaints, he wondered if the fee needed to be so high. He felt a fee would be needed but reiterated that he wanted to have a greater discussion on the fees.

Town Attorney Hobbs asked Council if they wished to give staff their individual thoughts on the fees as a discussion point. Mayor Kingston thought by public comment that Council heard that \$2,000 was excessive and the rationale for the \$2,000 was that Duck would have to enforce it with resources. He stated that if the Town could get people to abide by the rules, it would not need a lot of that expense. He thought there could be a reasonable fee that was in line with the other towns. Senior Planner Cross stated that it was \$100. Mayor Kingston thought the Town did not have to be in line with the other towns, but the license and insurance needed to be understood. He thought it was a good point that was brought up and if the Town was going to issue business licenses, the insurance risk to the Town needed to be known. Town Attorney Hobbs stated that he would research it.

Mayor Pro Tempore Thibodeau stated that she liked the idea of a license due to the difficulty that staff had with contacting vendors that were non-compliant. She thought registering was important and the idea of some kind of penalty could get complicated as to what the Town may hold as a bond for good behavior. She agreed that the \$2,000 fee was excessive, adding that it could be \$500, but she was not sure about the penalty and the bond as she was not sure what was easier for staff. She thought there needed to be some rules on it.

Councilor Lingard wondered how the Town would enforce however many strikes a vendor gets and if the Town tells a vendor they cannot put tents on the beach and they continue to do so, what the remedy would be at that point. Councilor Whitman stated that the remedy would be that they would lose their money. Councilor Lingard asked if there was a vendor that continued to violate the rules, who would enforce that. Town Manager Havens explained that the vendor would be subject to civil penalties. Town Attorney Hobbs added that they could also lose their license.

Mayor Kingston asked Council how they felt about Ordinance 23-15 and the changes Senior Planner Cross had mentioned – the time on the beach and the exemptions. Councilor Whitman thought Council needed to discuss the exemptions more. Councilor Chasen asked what the exemptions were for. She asked if there was something that currently existed. Senior Planner Cross stated that the Town has a contract that includes a beach service. Councilor Chasen asked if it was with the lifeguard service. Senior Planner Cross stated that it was. She added that she discussed it with him and he did not have a problem with paying the fee and registering his service. She thought the bigger question was the time and the business license. She thought if Council was able to extract the exemptions and figure out a start time that works, Ordinance 23-15 could be adopted at this meeting and staff could come back with the business license and enforcement at Council's January 3, 2024 meeting. She noted that the items added in Chapter 94 were items that make things more clear and removing the guy lines because it was a long discussion at Council's September 20, 2023 meeting.

Mayor Pro Tempore Thibodeau pointed out that Council agreed on the 6:30 p.m. time. She asked how they felt about 6:30 or 7:00 a.m. Councilor Chasen stated that she liked it. Councilor Lingard stated that 12 hours made sense. Councilor Whitman asked what the hours would be. Councilor Lingard stated that it would be from 6:30 a.m. to 6:30 p.m. Mayor Pro Tempore Thibodeau thought any time earlier than 8:00 a.m. would be good.

Town Attorney Hobbs stated that with the time change, Subsection F dealt with exemptions. He thought it could be removed or limited to just Town employees and take out the businesses if they have a contract with the Town or are authorized by the Town Manager.

Mayor Kingston clarified that Town Attorney Hobbs was suggesting employees of the Town or exemptions made by the Town Manager. Town Attorney Hobbs asked if there would be instances where it would be anticipated where employees of the Town would need to do something in violation of this or that the Town Manager would need to authorize it. Senior Planner Cross stated that there would not. Town Attorney Hobbs suggested that Subsection F be stricken. Mayor Kingston clarified that Subsection F would be stricken and a new time frame would be added to the ordinance. Town Attorney Hobbs thought those changes would address the concerns of Council.

Senior Planner Cross pointed out that the ordinance addressed and noted some of the items that the beach vendor service has to comply with regarding identification and signage, which will be part of the business license. She added that it will come back before Council at their January 3, 2024 meeting. She noted that it gave the vendors some idea of what they will be facing going into the season.

Councilor Lingard stated that that the signage piece was primarily to limit the size of the signage. He asked if that was correct. Senior Planner Cross stated that it was to limit the size of the signage as well as to identify because there were vendors that do not have identification on their equipment. Councilor Lingard clarified that it was a minimum and maximum size. Senior Planner Cross stated he was correct.

Councilor Whitman moved to adopt Ordinance 23-15 as amended with the change in times to be between the hours of 6:30 p.m. and 6:30 a.m. and removing proposed Subsection F – Exemptions.

Motion carried 5-0.

Mayor Kingston stated that Ordinance 23-16 needed direction with regard to licenses and fees.

Town Attorney Hobbs thought the fees would be under the Town's fee schedule. He added that for Ordinance 23-16, he was asked to go back and look at adding a requirement for insurance, noting that the same exemption provision was in the ordinance which could be brought back or removed.

Mayor Pro Tempore Thibodeau thought it would be a good idea to hear what Council was thinking about with regard to a fee and what would be reasonable. Town Attorney Hobbs thought he had heard \$500 as one suggestion. Councilor Whitman thought it would depend on how far the Town will go with enforcement. Senior Planner Cross thought it would be something that Council could give direction on as well as whether they wanted it to continue as being complaint-driven. Councilor Whitman thought the complaint-driven aspect would not work. Senior Planner Cross pointed out that she enforced it last year by having residents send her photographs and letting her know where the violators were. She added that she tried to send emails to the violators the same day the complaint was brought to her attention and letting them know what the regulations were.

Town Manager Havens suggested that staff think through the enforcement and give Council some options relative to enforcement as well as the fees. He added that there were some comments that were made regarding a portion of a fee and a bond. He thought Ordinance 23-16 was pretty solid with the exception of what Town Attorney Hobbs would be working on. He reiterated that staff would discuss fees and enforcement at their January 3, 2024 meeting with Council.

Councilor Lingard thought that most of the enforcement issues last year were due to tents being put on the beach before 8:00 a.m., which would go away. Senior Planner Cross noted that there was not a problem with tents being removed and the equipment being left on the beach overnight has diminished substantially. She added that it had to do with the equipment being set up before 8:00 a.m., pointing out that residents were the ones complaining, which was evident in the survey that was sent out. Councilor Lingard thought the issue would get worse with the enormous tents that do not comply with the Town's ordinance and enforcing it will be difficult. Senior Planner Cross agreed. Mayor Pro Tempore Thibodeau pointed out that that was where the education piece would be needed as well as letting everyone know why the Town was doing this.

Senior Planner Cross stated that she will come back with a revised Ordinance 23-16 and fee schedule at Council's January 3, 2024 meeting.

NEW BUSINESS

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

Government Access Channel Committee

Mayor Kingston stated that the Government Access Channel was represented by former Councilor Tony Schiano. He asked for nominations to serve on the committee. Councilor Chasen stated that she would like to serve on the committee.

Councilor Whitman moved to appoint Councilor Chasen to the Government Access Channel Committee.

Motion carried 5-0.

Planning Board – Council Liaison

Mayor Kingston stated that Councilor Whitman has been the Council liaison for the Planning Board, adding that he has expressed an interest in remaining as the liaison.

Mayor Pro Tempore Thibodeau moved to reappoint Councilor Whitman as the Town Council liaison.

Motion carried 5-0.

Dare County Tourism Board

Mayor Kingston stated that Mayor Pro Tempore Thibodeau was the Town's representative for the Dare County Tourism Board and was currently serving a four-year term. Mayor Pro Tempore Thibodeau stated that she would be happy to continue to serve on the board.

Councilor Chasen moved to reappoint Mayor Pro Tempore Thibodeau to the Dare County Tourism Board.

Motion carried 5-0.

Check Signatory – Two Council Members

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

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

Motion carried 5-0.

Albemarle RPO Rural Transportation Advisory Committee

Mayor Pro Tempore Thibodeau moved to appoint Councilor Lingard to the Albemarle RPO Rural Transportation Advisory Committee.

Motion carried 5-0.

Discussion/Consideration of 2024 Council Meeting Date Schedule

Town Clerk Ackerman stated that the draft 2024 Council meeting date schedule was before Council. She pointed out that Council has a goals planning session at their January mid-month meeting and then their annual Retreat at their February mid-month meeting, adding that there were no conflicts in the schedule with regard to the holidays.

Mayor Pro Tempore Thibodeau moved to adopt the schedule as presented.

Councilor Chasen asked if it was possible to move the all of the meetings to 1:00 p.m. Councilor Whitman stated he was in favor of the time change. Councilor Chasen explained that it would allow staff that work all day to get home at a decent hour and a lot of the items people were working on could be done during the day. Councilor Lingard thought with the demographic and population in Town that Council may get more people to attend the meetings during the day.

Mayor Pro Tempore Thibodeau did not disagree that Council would be fresher during the day, but worried about the accessibility for the community and people that work during the day as they would not be able to attend the meetings. She thought the Town would continue to live stream the meetings so anyone could watch the meetings, adding that comments could still be submitted via email and could be read. She stated that at a future meeting she would like to discuss extending the time period for public comments from

three minutes to five minutes. She stated that she would not oppose the 1:00 p.m. meetings on a trial basis for the year. She noted that she had suggested changing the meetings from 7:00 p.m. to 6:00 p.m. last year. She thought it was fine if people felt that Council were accessible.

Mayor Kingston stated that he had the same concern as Mayor Pro Tempore Thibodeau from the standpoint of the public. He added that with videos and live streaming, the Town was accommodating people in that regard. He stated that his other concern was the summer activities on Wednesdays such as the magic show, which starts at 11:30 a.m. He thought it would create an issue for those Wednesday meetings starting at 1:00 p.m. when Council, staff and the public would need to attend them at the same time. He thought there needed to be some discussion regarding that. He stated that there would be a conflict with regard to the parking and attendance.

Councilor Whitman pointed out that the activities in the summer are finished by 12:00 noon and the parking lot is empty. Mayor Kingston pointed out that people tend to hang around the park. He added that the parking lots would need to be cleared if the meetings were held at 1:00 p.m. Councilor Whitman stated that the parking lots will never be completely cleared for two months in the summer, adding that it did not matter what time of day it was.

Mayor Pro Tempore Thibodeau wondered about people that need to come before Council for a public hearing. Councilor Lingard thought that those people work during the day and having the meeting during the day would be easier on them. He thought they would have to be paid extra to attend Council's night meetings. He added that if someone comes from a long distance away, it may be that they have to stay overnight but if the meeting was during the day, they would not have to. Mayor Pro Tempore Thibodeau agreed, adding that she would be in favor of trying the time change for the upcoming year.

Mayor Kingston thought Council needed to look at an accommodation for the meetings in the summer as he saw a conflict with having the meetings at 1:00 p.m. with regard to parking. He added that all Town staff were working during the day but at 6:00 p.m. most of them have gone home. He thought it needed to be taken into consideration because Council wanted people to attend the meetings. He reiterated that the summer schedule needed to be looked at, adding that it could be held at 2:00 p.m. or 3:00 p.m. He added that the other issue was people use the park in the summer.

Mayor Pro Tempore Thibodeau clarified that people that Council would want to come to the meetings may be prevented because they cannot find a place to park. Mayor Kingston stated that she was correct.

Councilor Whitman clarified that Mayor Kingston wanted to have the meetings at 2:00 p.m. for the months of July and August. Mayor Pro Tempore Thibodeau stated that she was not in favor of that, adding that standardization was important. Councilor Whitman pointed out that other towns meet at 9:00 a.m., adding that Dare County meets at 9:30

a.m. He stated that some municipalities meet during the day and sometimes they last all day. Mayor Pro Tempore Thibodeau clarified that Councilor Whitman was not suggesting changing the time to 9:00a.m. Councilor Whitman stated she was correct.

Councilor Lingard stated that he was in favor of trying the meetings at 1:00 p.m. Mayor Pro Tempore Thibodeau stated that she would like them standardized and if an issue arose, Council could discuss it.

Mayor Pro Tempore Thibodeau withdrew her motion.

Mayor Pro Tempore Thibodeau moved to adopt the schedule as presented and change the monthly meetings to 1:00 p.m.

Mayor Kingston reiterated that Council needed to look at the summer months from the standpoint of having a plan in place to deal with it. Mayor Pro Tempore Thibodeau stated that it could be tried for a year.

Motion carried 5-0.

Discussion/Consideration of the FY 2024-2025 Budget Calendar

Town Manager Havens stated the draft 2025 budget calendar was before Council, adding that he was recommending that Council adopt the schedule. He noted that some things on the schedule have already started and thought everything was on schedule with meeting the deadlines. He pointed out that the Town Council strategic planning session would be held on January 17, 2024 and the Retreat would be February 21-22, 2024.

Councilor Whitman moved to approve the Fiscal Year 2024-2025 budget calendar as presented.

Mayor Pro Tempore Thibodeau clarified that the strategic planning session and Retreat would be held at 1:00 p.m. for the strategic planning session or clarifying the times for those meetings. Town Manager Havens explained that the strategic planning session will be held at 1:00 p.m. and the Retreat would start at 9:00 a.m.

Motion carried 5-0.

Discussion/Consideration of a Extending the Contract between the Town of Duck and Sandski, LLC d/b/a Surf Rescue

Surf Rescue Director Mirek Dabrowski was recognized to speak. Surf Rescue Director Dabrowski stated that this was the first time the Town was exercising a TBD, adding that in previous years the contract was renegotiated. He stated that he had forgotten about the TBD in July and that was so discussions could be started early. He went on to give a short presentation on lifeguard services to Council and the audience, noting he was having an issue with insurance.

Mayor Kingston asked with regard to the liability insurance, that there were no other carriers that would insure Sandski, LLC. Surf Rescue Director Dabrowski stated that he was trying. Mayor Kingston asked if the carrier had left the beach. Surf Rescue Director Dabrowski stated that he was currently insured through Lloyds of London. He understood that once they step in, a company is considered uninsurable, adding that they were insuring him because they could. He added that the last company he had insurance with had a large class action lawsuit settlement and they were basically out of business. He noted that he was dropped in the middle of the summer and was able to get picked up by Lloyds, adding that he was looking at other avenues but his current agent told him there were not any other companies available.

Mayor Pro Tempore Thibodeau stated that the insurance was clear cut. She asked Surf Rescue Director Dabrowski if he was anticipating the cost increase going to paying the lifeguards. Surf Rescue Director Dabrowski explained that last year when he came before Council in the spring asking for more money, it was basically to get even with what the other towns were paying. He stated that he had a meeting two weeks ago with Town Manager Havens regarding the Love the Beach, Respect the Ocean campaign and after the meeting, he met with others and they were increasing the pay for lifeguards. He stated that in order to stay competitive he needed to increase the pay for his lifeguards for fear of losing the ones he has. He noted that in the past, he went eight years without having to raise salaries, but it is no longer like that today. He pointed out that the increase he was asking for included that salary increase.

Town Manager Havens explained that the contract with Sandski, LLC was for five years with two optional renewal periods. He stated that the Town was exercising the first of those two optional renewal periods. He stated that the amount Surf Rescue Director Dabrowski was quoting was for Fiscal Year 2025, which will be for the upcoming budget year. He stated that Surf Rescue Director Dabrowski needed to know whether or not he has the contract because if he does, he needed to start recruiting immediately, which was why it was before Council. He stated that he looked at the numbers and did not think they were out of line, especially when looking at what other towns were doing. He added that he looked at an option of self-performing the service and the Town could do it very close to what Sandski, LLC charges, but there were things he offers that could not be done, such as recruit, train, and the care and feeding of a lot of young people. He stated that the other piece that Sandski, LLC offers that the Town cannot is housing for the lifeguards. He strongly advised Council against self-performing the service, adding that he was recommending that Council exercise the first renewal option for the coming fiscal year.

Mayor Kingston asked what the Town was paying for the current fiscal year. Surf Rescue Director Dabrowski stated that it was \$626,000. Mayor Kingston clarified that it was raised from \$566,000 in the current contract. Surf Rescue Director Dabrowski stated he was correct. Town Manager Havens explained that Surf Rescue Director Dabrowski had come before Council previously to get the lifeguards up to \$18.00/hour, adding that he will now have to advance it a little more in the coming year.

Surf Rescue Director Dabrowski stated that, per lifeguard, he was in line with the Towns of Kill Devil Hills and Nags Head. He stated that he was already in line with the Town of Southern Shores, where he has a contract, but it was something that was negotiated four years ago in anticipation of what may happen. Town Manager Havens stated that Surf Rescue Director Dabrowski was talking about cost per lifeguard, so if Council wanted to reduce the cost of the service, then the service would need to be reduced.

Mayor Kingston clarified that, moving into the new year, the Town was not adding any lifeguard stands or lifeguards. Surf Rescue Director Dabrowski stated he was correct. Mayor Kingston pointed out that the contract would be increased by \$134,000 by not adding lifeguards or stands. He stated that he understood the insurance aspect, but thought the insurance increased four times. Surf Rescue Director Dabrowski explained that it went from \$23,000 per year to over \$100,000 per year. Mayor Kingston pointed out that it was the total insurance, adding that he was only concerned with Duck. Surf Rescue Director Dabrowski stated that Duck was at \$78,000, which was based on adding up the total number of lifeguards and dividing it into the total cost. Mayor Kingston asked when the insurance went into effect. Surf Rescue Director Dabrowski stated that it was August 17th. Mayor Kingston clarified that it ran with the contract. Surf Rescue Director Dabrowski stated that it was in the middle of the contract and on the advice of his insurance agent, he needed to be bound with something else immediately with a new policy. He added that he asked for an extension until the end of October which was when he finishes service in the Town. Mayor Kingston pointed out that the cost increase was very significant every year. Surf Rescue Director Dabrowski agreed. Mayor Kingston stated that he understood cost of living, but this was a 25% increase.

Town Manager Havens stated that Council's options were to exercise the first renewal of the contract as it was, reduce the level of service, or go out to bid. Mayor Kingston pointed out that those options were not currently in front of Council. He asked what the decrease in service would cost the Town if a lifeguard stand is removed. Town Manager Havens stated that Surf Rescue Director Dabrowski had the cost per lifeguard numbers, adding that if Council wished to give the number they were comfortable with paying for the lifeguard service, staff could come back with the reduction in level of service that would take to get to that. Surf Rescue Director Dabrowski stated that it did not mean that he would eliminate two lifeguard stands completely over the summer, adding that he could stagger the start time instead and still have coverage for the busiest part of the summer.

Mayor Kingston stated that he was having trouble making a decision on a 25% increase without any options to look at. He added that it was a pretty significant increase.

Mayor Pro Tempore Thibodeau thought one of the charters for being a town was for public safety. She understood that this was coming at an inopportune time and that it was quite an increase after Council accepted the increase from last year. She knew that Town Manager Havens had mentioned that there was a certain "hassle factor" of having to run a lifeguard service, adding that Surf Rescue Director Dabrowski has institutional

knowledge and a stellar record of service in the Town. She stated that the Town was lucky to have that quality and thought his standards were unparalleled. She pointed out that Duck has a large summer population and she felt uncomfortable jeopardizing the safety of the visitors just to save money. She stated that looking for more efficiencies where possible was something that Council should be doing but she was not sure what the timeframe was for that. She understood that if Council wanted the same level of service, it would cost more. She pointed out that Duck has raised the level of service over the years by adding lifeguard stands, looked to the growth, looked to the coverage that was needed, and she could not put a price on it.

Mayor Kingston stated that his point was that Council had two objectives – public safety and fiscal responsibility. He thought it was a lot of money.

Councilor Lingard asked where the money came from if Council does approve the contract extension, further asking what would suffer. Town Manager Havens explained that it was part of the General Fund. He stated that the primary source of revenue, which was the General Fund, was ad valorem tax followed by occupancy and sales tax. He added that there was no specific revenue stream assigned to lifeguard services. Councilor Lingard asked how the Town will pay for it and if it would mean an increase in taxes or a cut somewhere else. Town Manager Havens stated that the Town could only spend each dollar once and if the Town spent the money for this, it would mean there would not be enough funds to spend somewhere else unless more revenue comes in. Councilor Lingard feared that if the Town reduced services and someone drowned, Council could get crucified for it.

Councilor Whitman felt the needed lifeguards on the beach was a big increase after last year's increase. He stated that it was a lot of money, adding that insurance was increasing everywhere. He stated that he felt for Surf Rescue Director Dabrowski. Surf Rescue Director Dabrowski stated that he figured out his number first before taking the other town's numbers into consideration. He added that in an effort to show what was going on, he brought in the other towns to use as a comparison and it showed he was really far behind them, which was the reason for the increase he was asking for.

Mayor Kingston stated that he has a hard time making a decision now knowing that Council would be facing a lot of decisions in the next month or two. He added that it was not that Council did not want to renew the contract, it was that he was not sure if Council wanted to make that dollar commitment at this point. He asked where the money was coming from, adding that Council had not discussed the other issues facing the Town including a possible tax increase. He thought Council could make the commitment to move forward with the service, but he was not sure he wanted to agree to a 25% increase yet. He thought it needed to be balanced with other projects going on in Town. Surf Rescue Director Dabrowski stated that he understood. Mayor Kingston understood that Surf Rescue Director Dabrowski wanted a commitment and he thought Council could give him a commitment that they wanted to do service with him, but not at this level. He reiterated that Council has not seen any options.

Mayor Pro Tempore Thibodeau understood the reason Council was discussing this was because of planning that has to start happening at the beginning of the year. She agreed that it was getting ahead of a budget discussion that was outlined for after the Retreat. She thought going back to Public Safety, it was one of the things Duck does as a town and was a basic need along with trash and planning. She felt that Council could not compromise on the public safety piece as the Town has come too far with everything that has been done with police and fire. She was not sure if Council could sacrifice this important, critical service at the current level.

Town Manager Havens stated that if Council would be willing to commit to a contract with Sandski, LLC to renew it, staff will have the number and will come back to Council with options. He stated that he will work with Surf Rescue Director Dabrowski on reducing service. He pointed out that Surf Rescue Director Dabrowski needed to know if he has a contract and if he can start recruiting lifeguards now. Mayor Kingston stated he had no problem with extending the contract, but the question was at what level.

Councilor Whitman asked what a lifeguard stand costs the Town annually. Surf Rescue Director Dabrowski stated that it was \$38.00/lifeguard. Town Manager Havens stated that with regard to the lifeguard stands, the cost of it would be the number of hours a lifeguard was in it as well as the number of days. Surf Rescue Director Dabrowski stated that he could reduce the cost per lifeguard or reduce the number of lifeguards as well as the level of service.

Mayor Kingston asked if what was suggested was enough for Surf Rescue Director Dabrowski or if more was needed. Surf Rescue Director Dabrowski stated that he needed something signed. He felt if he and Town Manager Havens could have some leeway, they could come up with something that would be acceptable to be signed in the next two weeks so he could have an idea of what he has.

Town Manager Havens asked Surf Rescue Director Dabrowski if he could have some time to work on the numbers, he could provide a letter of intent to renew the contract. He added that Council would be voting to extend the contract, but the question was at what level of service. Surf Rescue Director Dabrowski thought that Town Manager Havens was fine with the current price and he could sign the contract at that price contingent on what the expenses were and what could be afforded. He stated that if Council wanted to increase the level of service, he could provide it at the current price or leave it as is. He stated that he was more comfortable with something signed than not. He added that he could discuss with Town Manager Havens what it would be for the cost.

Mayor Kingston thought it was obvious in that the Town would be doing business through June 30, 2024 due to the current contract that was in place, adding that the Town would not suddenly abandon the lifeguards and stop providing services. Surf Rescue Director Dabrowski understood.

Councilor Whitman thought that two lifeguard stands could be eliminated which could cover the increase, but if they were backed out, the service times being used could be

separated. Surf Rescue Director Dabrowski stated that he has the spring and the fall, which was 10 weeks of four lifeguards each day. He stated that he could adjust it out that way or he could start the lifeguard stands later. Councilor Whitman pointed out that what Surf Rescue Director Dabrowski was suggesting was what Council was looking for.

Town Manager Havens suggested that he and Surf Rescue Director Dabrowski come back with something in writing and what the different adjustments would mean. He stated that if Surf Rescue Director Dabrowski would rather not have Council take any action until their January 3, 2024 meeting where all of the options could be presented, they could do it or Council could commit to extend the contract at this meeting, but the dollar amount would need to be worked out. Surf Rescue Director Dabrowski was in favor of Town Manager Havens' suggestion.

Town Manager Havens suggested that Council make a motion to commit to exercising the first option of renewal for the contract with Sandski, LLC for Fiscal Year 2025, subject to negotiation of a final price with a maximum of \$760,000, depending on options that would be presented to Council. Town Attorney Hobbs clarified that at Council's January 3, 2024 meeting, there would be a finalization of the final contract price. Town Manager Havens stated he was correct. Town Attorney Hobbs pointed out that Council was not approving the price at this meeting, just the extension.

Councilor Chasen moved to extend the optional extension with Sandski, LLC for Fiscal Year 2025 and Council will revisit the issue at their January 3, 2024 meeting to finalize the price, with the maximum cost of \$760,000.

Motion carried 5-0.

Mayor Kingston called for a five-minute recess. The time was 9:30 p.m.

Mayor Kingston reconvened the meeting.

Discussion/Consideration of Authorizing the Town Manager to Execute a Contract with Hatchell Concrete, Inc. for Duck Trail Improvements at the Ocean Crest Neighborhood, and a Retaining Wall Replacement near Plover Drive

Senior Planner Cross stated that as part of the Fiscal Year 2023-2024 budget, funding was approved for improvements to the Duck Trail shared use path paralleling Duck Road and for a retaining wall replacement. She stated that bids for improvements to the Duck Trail at Ocean Crest and for the retaining wall replacement at Plover Drive were opened on November 15, 2023 with bids received from four contractors. She noted that Hatchell Concrete, Inc. was the low bidder at \$161,575. She added that, based on engineering estimates, Council budgeted \$111,000 for the Duck Trail repaving and \$25,000 for the retaining wall replacement for this fiscal year. She recommended that Council authorize the Town Manager to execute a contract with Hatchell Concrete, Inc.

Councilor Chasen asked if the \$80,000 for stormwater management was earmarked for projects. Senior Planner Cross stated that it was for the area near Wee Winks Market. Councilor Lingard asked if Hatchell Concrete was a new firm. Senior Planner Cross stated that they were not.

Councilor Whitman moved to authorize the Town Manager to enter into a contract with Hatchell Concrete, Inc. as presented.

Motion carried 5-0.

Presentation/Discussion with Ashlynn Basnight, Town of Duck Intern, and Sandy Cross, Senior Planner, regarding Research into Rental Housing Occupancy

Senior Planner Cross stated that in 2023, staff received a number of complaints related to over occupancy of vacation rental homes and upon investigation, staff began documenting instances and properties that were advertising more occupants and/or beds than permitted by the Dare County Environmental Health Department and/or the Town Code Section 156.126 – Standards for the Scale of Residential Development, and/or Section 156.094 – Number of Off-Street Parking Spaces Required.

Senior Planner Cross stated that Town Intern Ashlynn Basnight spent the past semester as a participant of the Outer Banks Field Site Internship in coordination with UNC Chapel Hill and was tasked with additional research beyond what Town staff had collected to determine how extensive the issue may be.

Town Intern Ashlynn Basnight was recognized to speak. Town Intern Basnight and Senior Planner Cross went on to give a presentation on the research completed regarding rental housing occupancy to Council and the audience.

Mayor Kingston liked the checklist with regard to next steps. He thought to do a lot of research on the issue would take a lot of time. He assumed that if staff received a complaint, there would be enforcement or research. Senior Planner Cross stated he was correct, adding that staff addresses it to the extent that they know they can. She noted that the reason staff had Town Attorney Hobbs complete some research was because there was a homeowner that told staff that they could not tell them what they could and could not advertise.

Mayor Kingston asked if a letter campaign could be achieved letting rental agencies know that there is an over-occupancy issue and the Town would be monitoring it. Senior Planner Cross explained that her understanding was that the real estate commission had sent out a letter to realtors that they could not advertise for more occupancy than what they had. She stated that a lot of them stopped listing the occupancy and that was where the over occupancy came from. She thought education on the impacts to septic systems as well as trying to determine whether there are actual environmental impacts would be a good start.

Mayor Pro Tempore Thibodeau agreed that education about what a septic system is and how it operates was important. She added that the Town of Nags Head had an initiative on this for almost 10 years. She thought the entire community of Duck should all be thinking about this, whether it was people that live in Town or those that visit. She stated that about 15 years ago, the Town of Southern Shores had passed an ordinance that did not allow homes to have no more than seven bedrooms, sleeping 14 and it was determined that they could not legislate what variety of beds were allowed.

Mayor Pro Tempore Thibodeau thought education regarding septic would be very helpful, adding that there were new rules that were coming into effect that the homebuilders were talking about that could shake up the community if they stick and could be rough for people as it could be extremely expensive. She stated that she never heard that staff received any complaints, adding that Council heard there were some complaints and research was completed, but it was something that came out of left field for her as a Council member thinking there have been a lot of complaints. She pointed out that houses do sit empty for a good number of months, which gives everything a chance to recover. She reiterated that education was needed on septic awareness, adding that trying to police the number of beds advertised in houses would be difficult and maybe illegal.

Councilor Chasen thought the presentation was very informative, adding that it was not surprising based on what she has seen in some of the rental houses in her neighborhood. She stated that there was one house in her neighborhood when it is booked, there were a lot of cars parked there and the septic alarm goes off quite a bit. She thought it was not doing the homeowner any good with the wear and tear on the system as well as the property management company having to come out. She felt there were more reasons to look into this but was not sure what the Town could do. She asked what could be done. Senior Planner Cross thought staff could start with education.

Mayor Kingston thanked Senior Planner Cross and Town Intern Basnight for their presentation.

Discussion/Consideration regarding Maintaining the Town's Property at 145 Buffell Head Road as a Vacation Rental Home

Town Manager Havens stated that the Town owns a single-family home located at 145 Buffell Head Road that provides a long-term solution to issues surrounding access to the beach for beach nourishment and other maintenance. He explained that the original plan was, following the 2023 rental season, to demolish the house and return the property to a natural state with vehicular access for the Town and its contractors. He added that, subsequent to the purchase of the home, staff determined that with some modifications to the exterior decks, there could be the necessary access without removing the house.

Town Manager Havens stated that staff, including Building Inspector Steve McMurray and Maintenance Technician Kim Pittman, inspected the house and found it to be structurally and mechanically sound. He stated that staff then developed a list of

modifications and upgrades that will allow for access to be created and improve the overall appeal of the property in the rental market.

Town Manager Havens explained that by maintaining the house as a rental property will not relieve the need to place permanent restrictions on the use of the property to remove all doubt as to the Town's use, it will allow the Town to receive revenue from the property and not substantially change the look of the property in the neighborhood.

Town Manager Havens stated that if Council decided to keep the house, some repairs would be needed as follows:

- Remove deck, stairs, and associated pilings on the south side of the house.
- Replace joists, deck boards, reorient stairs, railings, and balusters to the front entry deck. This is needed for beach maintenance access.
- Replace joists, deck boards, railings, and balusters to the rear deck. This is needed when the hot tub is moved.
- Remove a portion of the walkway and lower to grade the lower-level deck on the east side of the house.
- Move the hot tub to the newly replaced deck and locate it at the southeast corner of the deck. This is needed for beach maintenance access.
- Replace the shower head and valves as well as any necessary piping for the enclosed outdoor shower.
- Replace the shower head and valves and include a foot washing head on the beach walkway shower.
- Install new hinges and hardware for the outdoor shower enclosure.
- Paint the interior and exterior of the outdoor shower enclosure.
- Replace east facing fixed pane windows.

Town Manager Havens stated that he has a list of costs but wanted to know how Council felt about keeping the house versus removing it. Councilor Whitman thought he needed more information about the cost before giving his answer. Mayor Pro Tempore Thibodeau assumed that the property was needed to access the beach with a bulldozer when the Town completes beach renourishment in four to five years. Town Manager Havens stated she was correct. Mayor Pro Tempore Thibodeau stated that in the meantime, a truck or other vehicle would be needed to access the beach. She stated that she liked the idea of keeping the house. She clarified that the house would be kept and Town Manager Havens would allow as part of the rental that renters would be told that traffic would be coming through that area if needed. Town Manager Havens stated she was correct.

Town Manager Havens stated that if the Town were to keep the house, it would continue the current and prior use of the property. He explained that one of the causes of alarm from people that lived in the neighborhood when the property was purchased was that there would be an empty piece of land that would invite questions regarding public beach access which was clearly not something that Council wished to do with this property. He stated that the property would continue as it has in the past and the use would be the same

as a rental property. He noted that there were no significant defects to the property, but the Town would still continue to work with the people in the Carolina Dunes subdivision to come up with a mutually agreeable covenant to place on the property to grant them the comfort they were looking for in terms of a future Council not being able to remove the house and create a public beach access.

Town Manager Havens stated that the question in front of Council was, if the Town kept the house, it would be continued with Resort Realty as the rental agent. He noted that they had been the rental agent for a number of years prior to the Town buying the house. He added that there have not been any issues but there were other agencies with a presence in Duck. He added that once Council makes a decision on whether or not to keep the house, he could sign the contract with Resort Realty and open it up for rentals immediately. He stated that he could also contact other agencies to see what their terms and conditions were and bring it back to Council. He stated that if the Town kept the house, he would like to expand the rental calendar more towards year-round instead of mid-summer.

Town Manager Havens stated that there was a package of repairs to the house and Maintenance Technician Pittman put out an advertisement for quotes for the repairs. He stated that quotes were received for the whole job as well as other quotes for some parts of the repairs and not the whole job. He recommended the following repairs for this year: windows, ceiling painting, flooring, bathroom fixtures and labor, light fixtures and labor, landscape maintenance, and some miscellaneous repairs for a cost of \$41,569. He further recommended that Council consider authorizing expenditures up to \$45,000 for repairs/updating and contracting for rental management for year-round rentals.

Councilor Whitman asked if the bathroom fixtures, ceiling fans, light fixtures, labor, landscape maintenance and miscellaneous repairs would be subcontracted out or completed in house. Town Manager Havens explained that the Town would buy the fixtures and could have a licensed contractor install them. He stated that Maintenance Technician Pittman had recommended that the Town purchase the fixtures and hire a handyman over a licensed contractor to install the fixtures.

Mayor Pro Tempore Thibodeau stated that she did not have a problem with the list and items that need to be replaced. She thought the Town may be able to get more rental income by changing rental companies. She added that for homes that have been in a rental program for a while, when it is sold, it usually is moved to another company. She noted that the house would be upgraded and would command more so if the house stays with the same rental company, it definitely should bring in more money. She stated that the year-round rental sounded good, but she cautioned Town Manager Havens that there will be hot tub maintenance that could add up over time. She suggested keeping a contract for hot tub maintenance in mind. Town Manager Havens noted that the house would be blocked out for the Jazz Festival for the bands if Council decided to keep the house.

Councilor Lingard thought it was a no-brainer to keep the house.

Mayor Kingston moved to keep the house and authorize the Town Manager to spend \$45,000 for the necessary repairs.

Mayor Pro Tempore Thibodeau suggested allowing the Town Manager the latitude to decide on the rental management company.

Mayor Kingston amended his motion to include allowing the Town Manager the latitude to decide on a rental management company.

Town Manager Havens stated that he wanted to have a discussion with Mayor Pro Tempore Thibodeau to receive some guidance on the rental management company.

Motion carried 5-0.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Town Attorney Hobbs stated his firm appreciated being able to serve as the Town's attorney, adding that his firm advised the Incorporation Committee in 2001 and has served the Town since its incorporation in 2002. He noted that he has been Duck's attorney since 2008.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Departmental Updates

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

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

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

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

October FY 2024 Financial Presentation

Finance and Human Resources Administrator Jessica Barnes was recognized to speak. Administrator Barnes gave a short presentation on the October Fiscal Year 2024 financials to Council and the audience.

MAYOR'S AGENDA

Mayor Kingston stated that the mayors/chairmen meeting will be on December 12, 2023 hosted by Dare County. He noted that there will be two new mayors at this meeting – from the Town of Kill Devil Hills and Town of Manteo. He stated that he would be attending the annual DCBA meeting on December 9, 2023 where he will be presenting Town projects and activities. He noted that the public was invited to attend even if they were not members of the DCBA. He thanked former Council Member Rob Mooney for his extended service to the Town over the last four years as well as former Council Member Randy Morton for his short tenure as an Interim Council Member. He welcomed new Council members Brenda Chasen and Kevin Lingard, congratulating Mayor Pro Tempore Thibodeau and Councilor Whitman on their re-election to Council.

Mayor Kingston noted that there were vacancies on the Planning Board and Board of Adjustment since Councilors Chasen and Lingard were now on Council. He added that staff would be advertising the positions and making appointments for those boards at Council's January 3, 2024 meeting. He wished everyone a Happy Holiday.

COUNCIL MEMBER'S AGENDA

Mayor Pro Tempore Thibodeau thanked the public and staff for a great meeting. She stated that she was looking forward to working with Council. She added that she wanted to tread carefully on some of the items that were discussed earlier in the meeting such as the septic and occupancy. She reiterated that the Health Department is tasked with the responsibility of keeping the rules and regulations. She thought there will be a lot of upheaval and the Town will be faced with some interesting challenges. She further thought the Town's role could be one of education to start and take it incrementally from there. She wished everyone a Happy Holiday.

Councilor Lingard thanked Mayor Kingston and Mayor Pro Tempore Thibodeau for their welcome to Council. He pointed out that for the appointments to the Planning Board and Board of Adjustment, it should be made clear whether applicants will be expected to give a presentation or not. Town Manager Havens thought the way it has been was Council wanted the applicants to attend the meeting but there was nothing said about a presentation. Councilor Chasen thought a presentation would be helpful. Mayor Kingston stated that he was not in favor of a presentation, adding that the applicants could attend the meeting and let Council know who they are and introduce themselves. Councilor Chasen thought the applicants could introduce themselves and why they want to be on the board. Town Manager Havens asked if it was the consensus of Council, adding that it would be similar to the process of what Councilor Lingard was discussing as opposed to the latest appointment for Council. Councilor Lingard thought for the Planning Board appointment, individuals had to give a short presentation on why they wanted to serve. He thought it was useful and wanted to avoid the situation that happened earlier in the year. Town Manager Havens clarified that the decision of Council was for applicants to come to the January 3, 2024 meeting, be prepared to say

who they were, where they live and why they want to serve. Councilor Chasen added that they could answer questions from Council. Councilor Lingard agreed.

Councilor Lingard asked if people could apply for both boards. Town Manager Havens thought it would not be an issue, adding that the same individual could not be appointed to both boards.

Councilor Whitman welcomed Councilors Chasen and Lingard to Council. He congratulated Mayor Kingston and Mayor Pro Tempore Thibodeau on their re-election. He thanked staff for the great Christmas party that was held recently. He wished everyone a Happy Holiday.

Councilor Chasen thanked everyone for voting for her and the rest of Council. She thanked staff for all of the great information that everyone has provided.

OTHER BUSINESS

Additional Public Comments

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


Mayor Kingston noted that the next meeting would be the Regular meeting on Wednesday, January 3, 2024 at 1:00 p.m.

ADJOURNMENT

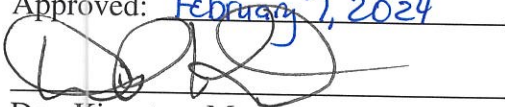
Councilor Whitman moved to adjourn the meeting.

Motion carried 5-0.

The time was 11:03 p.m.



Lori A. Ackerman, Town Clerk

Approved: February 7, 2024


Don Kingston, Mayor

