

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
February 7, 2024**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 1:00 p.m. on Wednesday, February 7, 2024

COUNCIL MEMBERS PRESENT: Mayor Don Kingston; Mayor Pro Tempore Monica Thibodeau; Councilor Sandy Whitman; Councilor Brenda Chasen; and Councilor Kevin Lingard.

COUNCIL MEMBERS ABSENT: None.

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

OTHERS ABSENT: None.

Mayor Kingston called the meeting to order at 1:00 p.m.

Mayor Kingston asked Councilor Kevin Lingard to lead the Pledge of Allegiance. Mayor Kingston led the moment of silence.

PUBLIC COMMENTS

Mayor Kingston opened the floor for public comments. He noted that comments will be limited to three minutes as there was a timer for the time limit. There being no one wishing to speak, Mayor Kingston closed the time for public comments.

CONSENT AGENDA

Minutes from the December 6, 2023, Regular Meeting; Minutes from the January 3, 2024, Regular Meeting; Minutes from the January 17, 2024, Mid-Month Meeting

Mayor Pro Tempore Thibodeau moved to approve the consent agenda as presented.

Motion carried 5-0.

SPECIAL PRESENTATIONS

Recognition of the Promotion of Cameron Whitaker to the Rank of Fire Engineer

Fire Chief Donna Black was recognized to speak. Fire Chief Black went on to recognize Cameron Whitaker, adding that he was recently promoted to the rank of Fire Engineer. Mayor Kingston and Council congratulated Fire Engineer Whitaker on his promotion.

QUASI-JUDICIAL PUBLIC HEARING

There were no Quasi-Judicial public hearings at this time.

LEGISLATIVE PUBLIC HEARINGS

There were no Legislative public hearings at this time.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

Discussion/Consideration of Appointing Two Individuals to Serve on the Board of Adjustment

Mayor Kingston stated that there have been several changes to the Board of Adjustment with Councilor Lingard previously being appointed to the Board but then was elected to Council which created a vacancy. He stated that Bob Webb was an Alternate on the Board of Adjustment and was recently appointed to the Planning Board. He noted that there was an opening for a Member and an Alternate, adding that it has been the policy of Council in the past to appoint an existing Alternate as a Member where a vacancy occurred.

Mayor Kingston moved to appoint Tim McKeithan as a full Member of the Board of Adjustment for a term to expire July 1, 2025.

Mayor Pro Tempore Thibodeau stated that she was in favor of the motion. Councilor Chasen thought it was an appropriate process to move an Alternate to a Member position.

Motion carried 5-0.

Mayor Kingston pointed out that there were two vacancies on the Board of Adjustment for the Alternate positions. He stated that three individuals had submitted an application for the positions – Miriam Rollin, Thomas Burton, and Daniel Snyder. He stated that he would like each individual to introduce themselves and explain why they would like to serve on the Board.

Miriam Rollin of 149 Plover Drive was recognized to speak. Ms. Rollin went on to introduce herself, adding that she was interested in serving on the Board of Adjustment. She explained that she and her husband have lived permanently in Duck for about one year but spent time in Duck for decades, adding that it was a very special place to them. She stated that since they moved to Duck, she has volunteered extensively with N.E.S.T., the Marine Mammal Stranding Network, as well as the grass planting in Duck. She stated that the Board of Adjustment, as she understood it, was involved in applying the

Code to specific fact situations. She noted that she was a recovering attorney and had been an attorney throughout her career and as an attorney, she was trained to do the application of the law to the facts of a given situation. She thought she would bring analytical skills in deciphering what the relevant facts and irrelevant facts were and coming to a conclusion in terms of what the law, as applied, meant.

Daniel Snyder of 139A Jaycrest Road was recognized to speak. Mr. Snyder went on to introduce himself, adding that he was interested in serving on the Board of Adjustment. He stated that he has been coming to the Outer Banks since he was a child and he and his wife purchased a home in Duck in 2016 and moved full-time in 2020. He stated that both he and his wife have been involved with the Town as much as they can; they help at the Concerts on the Green, the Turkey Trot, the 4th of July parade, and other events. He stated that he was trying to stay involved as much as he could, adding that he saw this as a steppingstone for future involvement on other committees. He added that he was an IT administrator/manager for a small consulting firm in Washington, DC and some of his strengths were responsibility, creativity, and being detail oriented which he felt would help on the Board of Adjustment.

Mayor Kingston noted that Thomas Burton had applied for the position but was not present for the meeting.

Mayor Kingston thanked the candidates for their time and opened it up for deliberation or discussion. Town Attorney Robert Hobbs was recognized to speak. Town Attorney Hobbs explained that Council's procedures included the opportunity to nominate one or more person and then take a vote. He added that it could include a discussion if necessary. He stated that each position would be voted on and one or more Council Member could nominate one person for the position and then have a vote and the person that receives the highest number of votes would be selected. He noted that it did not have to be a majority vote.

Mayor Kingston nominated Daniel Snyder. Mayor Pro Tempore Thibodeau nominated Miriam Rollin. Councilor Lingard nominated Thomas Burton.

Mayor Kingston called for a vote for Daniel Snyder. Mayor Kingston, Councilor Lingard, Councilor Whitman, and Councilor Chasen voted in favor; Mayor Pro Tempore Thibodeau voted against.

Daniel Snyder was appointed to the Board of Adjustment as an Alternate for a term to expire July 1, 2025.

Mayor Pro Tempore Thibodeau nominated Miriam Rollin. Councilor Lingard nominated Thomas Burton. Councilor Chasen nominated Miriam Rollin. Councilor Whitman nominated Thomas Burton.

Mayor Kingston called for a vote for Miriam Rollin. Mayor Pro Tempore Thibodeau, Councilor Lingard, and Councilor Chasen voted in favor; Mayor Kingston and Councilor Whitman voted against.

Mayor Kingston called for a vote for Thomas Burton. Mayor Kingston and Councilor Whitman voted in favor; Mayor Pro Tempore Thibodeau, Councilor Lingard, and Councilor Chasen voted against.

Miriam Rollin was appointed to the Board of Adjustment as an Alternate for a term to expire July 1, 2025.

NEW BUSINESS

Discussion/Consideration of Updating the Town's Facility Use Policy

Town Clerk Lori Ackerman was recognized to speak. Town Clerk Ackerman stated that the Town has had a Facility Use Policy in effect since 2012. She explained that the Facility Use Policy was put into place for different groups to rent Town facilities such as the first-floor conference room and the Paul F. Keller Meeting Hall, adding that the rooms were mostly used by homeowner associations for their annual meetings with a monitor that oversees things. She stated that staff realized that the policy needed updating with one of the newest changes being a sheet for the monitor to fill out as well as all groups being required to fill out a Release and Indemnity Agreement. She noted that the fee schedule was also updated to reflect the changes made to the policy. She went on to review the changes with Council and the audience.

Mayor Pro Tempore Thibodeau clarified that if someone wanted to use one of the rooms at 8:00 a.m., they could request to come in at 7:45 a.m. to complete their set up, adding that the rest of the meeting would not start until 8:00 a.m. Town Clerk Ackerman stated she was correct. Mayor Pro Tempore Thibodeau clarified that Priority Four groups were charged a rental fee as opposed to not being charged. Town Clerk Ackerman stated that they were not charged, adding that Priority Four groups were non-profit groups. Mayor Pro Tempore Thibodeau clarified that the policy had not changed in terms of who would be charged, but only the fees as well as cleaning up the language. Town Clerk Ackerman stated she was correct.

Councilor Whitman clarified that with the Indemnity Agreement, there was a \$1 million insurance policy required. He asked if the Town received that now. Town Clerk Ackerman stated that the Town did not, adding that it was never a requirement for groups to fill the form out. Councilor Whitman clarified that the Town would receive a copy of the Certificate of Insurance. Town Clerk Ackerman stated he was correct.

Mayor Kingston asked if there was any reference to any other Town facilities such as the picnic shelter, the amphitheater, or gazebo. He asked if they were excluded from outside groups using them. Town Clerk Ackerman stated he was correct. Mayor Kingston asked if it should be highlighted in the policy.

Town Manager Drew Havens was recognized to speak. Town Manager Havens explained that the Town does not take reservations for those facilities, adding that someone could reserve the Paul F. Keller Meeting Hall with a monitor, but if a family wanted to have a picnic in the picnic shelter, it would be allowed with the understanding that it cannot be exclusively reserved. Mayor Kingston stated that he wasn't sure if there should be some sort of explanation about it in the policy. He wondered if there should be any exclusions. Town Manager Havens reiterated that staff do not take reservations for those facilities, but if it was something that Council wanted to do, it could be done. He stated that, historically, if someone showed up and wanted to have a wedding on the gazebo stage, they could, but it was with the understanding that they could not stop other people from using it at the same time. Mayor Kingston asked if there should be any further definition or explanation of the use of those facilities in the policy.

Mayor Pro Tempore Thibodeau asked Town Clerk Ackerman if she has to explain that policy to people that call regarding renting one of the facilities for a wedding. She asked if that was a question that was asked a lot. Town Clerk Ackerman stated that she has never received a request for someone to hold a wedding in any of the facilities. Town Manager Havens thought it would be easy to insert some language that the first-floor conference room and the Paul F. Keller Meeting Hall were for solely available to rent. He stated that if Council wanted that language in there, staff would add it.

Councilor Whitman asked if there was any language in the policy that the Town has first rights to all of the facilities. Town Clerk Ackerman stated that Town Council and staff were considered a Priority One group, so they would always have the first priority. Councilor Whitman pointed out that it was only for the Town Hall and Paul F. Keller Meeting Hall. He asked about the other facilities. Town Manager Havens explained that the Town's Park Use Policy expressly gives priority to Town Council and staff.

Mayor Pro Tempore Thibodeau thought the other facilities were covered in the Park Use Policy. Town Manager Havens stated that he would have to look at that policy.

Mayor Kingston stated that his reservation was whether or not people are allowed to use the gazebo for a non-Town sponsored event. He stated he had the same reservation with the amphitheater and if someone decided to come in and hold a concert. Town Manager Havens stated that because it was public property, staff do not throw anyone out. He added that if Public Information and Events Assistant Betsy Trimble was going to the amphitheater with a magician to help him set up for a Town event and someone was on the stage, they would be asked to leave. He reiterated that staff does not reserve those facilities for anyone other than Town events. Mayor Kingston stated that he was concerned about the use of the park and what was and was not acceptable. Town Clerk Ackerman stated that the only thing that was held in the amphitheater was a memorial service a few years ago and they were told they could hold it but it was public property and other people could use it at the same time.

Mayor Pro Tempore Thibodeau clarified that the changes to the policy were refinements that would tighten up what staff has experienced as well as addressing anything that has come up over the last 12 years. Town Clerk Ackerman stated she was correct.

Councilor Lingard asked if Council was to push that the gazebo was available for weddings, there was a way for the Town to make some money or if it was something that would not be considered. Mayor Pro Tempore Thibodeau thought it would be a lot of administrative time and may cost the Town money. Councilor Lingard thought if the Town could receive any money from the rental, it would cover the administrative time. Town Manager Havens stated that if it was something Council wanted staff to explore, options could be brought back. He added that it was never done, but did not mean it could not be done, and the facilities were so compact and programmed during the summer. Town Clerk Ackerman reiterated that she was never approached by anyone to use any of the facilities for a wedding since the policy was implemented in 2012.

Mayor Kingston asked who worked on the updated policy. Town Clerk Ackerman stated that it was Town Manager Havens, and all of the department heads.

Councilor Chasen stated that she had suggested on the Fee Schedule that the language be changed from "Note: It is the policy of the Town that any fees submitted shall not be refunded." to the following: "Note: Submitted fees are nonrefundable." She added that the new language seemed cleaner and less complicated. Mayor Pro Tempore Thibodeau stated that she liked the suggested language.

Councilor Whitman moved to approve the updated Facility Use Policy with the changes noted.

Motion carried 5-0.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Town Attorney Hobbs stated he had nothing to report.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Town Manager Havens stated that with regard to obtaining a value on the Public Safety building land with the Corps of Engineers – the appraisals have been submitted to the Corps by the appraiser. He explained that there would be a couple rounds of reviews with the review appraiser at the Corps of Engineers Property Division asking questions and the appraiser would respond to them. He expected that to take a few weeks before staff sees the appraisals, which having the appraisals done was the first step in having an understanding of what the value difference was in terms of the lease value of a new piece of land that would be needed for the new building and the value of the current improved

property. He stated that progress was being made and as soon as he gets the results he will share with Council.

Town Manager Havens stated that the Town has applied for a grant through the North Carolina Department of Environmental Management that specifically targets BRIC-type projects and the shortfalls that many BRIC projects in the state of North Carolina have seen because of the long drag from being told a municipality has the BRIC money and actually receiving the final approval. He stated that the grant application was submitted last week and staff expects to hear something in April. He added that \$1.5 million was requested, which covers the shortfall. He thanked Director Heard for putting the application together, adding that he would let Council know as soon as staff hears anything.

Town Manager Havens stated that all of Council recently received an email regarding helium balloon regulations. He stated that he had sent Council a memorandum earlier in the week and was asking for direction as to how they want to proceed, whether they wanted staff to work on ordinance changes, focus their efforts on education, or both.

Mayor Kingston explained that the inquiry came from another town but it does apply to any beach on the Outer Banks. He thought it was something that would be very difficult to get into with regard to enforcement. He thought something could be put in the ordinance regarding bringing balloons to the beach and taking them off. He understood the harm and danger but thought the enforcement would be very difficult to control helium balloons on the beach even though he recognized that it was a problem. He thought communication and an ordinance change would be of value.

Mayor Pro Tempore Thibodeau thought communication was important as well as the value of protecting the environment. She stated that she would like to see that incorporated in some regard because she thought it was educational. She pointed out that people don't think about it, adding that she learned a lot from the initial correspondence regarding balloons coming from another state and the impact globally with how long they last. She thought more of a public service educational piece would be how she would like to start things. She pointed out that many years ago, Council had to deal with fireworks, adding that the Town could not ban the sale of fireworks but could let the public know that they were prohibited from use in Duck. She stated that it gets tricky in terms of what a municipality can do but thought it would start with education.

Councilor Lingard thought having some regulation was a back-up to the education. He stated that since he received the email, he picked up four balloons on the beach in the last two days. He added that he picks them up on a regular basis. He thought having something to back up the education was important.

Councilor Chasen agreed that it was more of a communication/education issue than it was with anything the Town could regulate because, while it was considered littering, enforcement was near impossible, but was an opportunity for education. She stated that helium balloons as well as latex balloons were a major problem not only for sea turtles

but also for birds and whales. She agreed with Mayor Pro Tempore Thibodeau's comments regarding education, adding that having some sort of information that could be sent out to the public would be helpful.

Councilor Whitman agreed with the other Council member's comments. He thought education was important and if the Town tried to enforce it, it was nearly impossible.

Councilor Lingard asked how the public could be educated. He asked if there was a way to formally communicate with the rental companies and the public. He thought there needed to be a formal way to educate the public. Town Manager Havens stated that Public Information and Events Director Kristiana Nickens sends out general information and targets it to specific audiences. He added that with regard to the tent issue previously, a direct mailing was sent to vendors and property managers. He stated that the Town's website was another source of information for the public.

Councilor Chasen pointed out that Ms. Swick has gone to the other municipalities. She thought there should be some kind of combined effort with the municipalities.

Town Manager Havens stated that staff will keep an eye on things and if the problem is beyond what the Town's current ordinances will enforce, he will come back to Council. He believed that the littering ordinance would be beneficial in enforcement.

Mayor Kingston thought most balloons that were released were accidental, adding that they are usually tied on chairs, at houses for parties, anniversaries, and weddings.

Mayor Pro Tempore Thibodeau thought the Outer Banks Wedding Association would be a good place to emphasize the issue. She thought that they do think about these kind of things. She stated that she liked the idea of a combined message across the towns and educating people in various ways. She thought there were creative ways to get the message across, especially if the towns were united in that message.

Departmental Updates

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

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

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

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

December FY 2024 Financial Presentation

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

MAYOR'S AGENDA

Mayor Kingston stated that he had his mayor/chairman meeting on February 20, 2024 hosted by the Town of Kitty Hawk. He stated that, with regard to the Outer Banks Housing Task Force of which he was a member, he decided to step down, adding that Mayor Pro Tempore Thibodeau would be replacing him. He stated that he was looking forward to the upcoming Retreat.

COUNCIL MEMBER'S AGENDA

Mayor Pro Tempore Thibodeau stated that she was happy to step in to the Outer Banks Housing Task Force role. She went on to give an update on the Outer Banks Tourism Board activities to Council and the audience.

Councilor Lingard stated that he and Councilor Chasen had attended Essentials of Municipal Government recently and learned a lot from it. He gave an update on the RPA Committee meeting to Council and the audience.

Councilor Whitman thanked Public Information and Events Director Nickens and Public Information and Events Assistant Betsy Trimble for their hard work on the recent Community Celebration. He reminded Council and the audience that there would be beach grass planting on Friday, February 9, 2024 at 1:00 p.m.

Councilor Chasen stated that she had attended Essentials of Municipal Government with Councilor Lingard recently. She gave a short update on the Government and Education Access Committee meeting to Council and the audience. She thanked staff for providing Council with needed information to help them do the best job they can for the citizens of Duck. She thanked the audience for attending the meeting.

OTHER BUSINESS

Additional Public Comments

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


Mayor Kingston noted that the next meeting would be the annual Retreat on Wednesday, February 21 and 22, 2024 at 9:00 a.m.

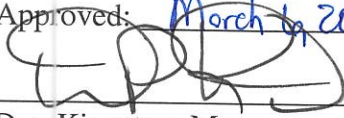
ADJOURNMENT

Councilor Whitman moved to adjourn the meeting.

Motion carried 5-0.

The time was 2:32 p.m.


Lori A. Ackerman, Town Clerk

Approved: March 14, 2024

Don Kingston, Mayor

