

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
March 2, 2016**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 7:00 p.m. on Wednesday, March 2, 2016.

COUNCIL MEMBERS PRESENT: Mayor Don Kingston; Mayor Pro Tempore Monica Thibodeau; Councilor Nancy Caviness; Councilor Chuck Burdick; and Councilor Jon Britt.

COUNCIL MEMBERS ABSENT: None.

OTHERS PRESENT: Town Manager Christopher Layton; Police Chief John Cueto; Fire Chief Donna Black; Deputy Fire Chief Bill Walker; Director of Community Development Joseph Heard; Town Attorney Robert Hobbs; Public Information Officer Denise Walsh; and Town Clerk Lori Ackerman.

OTHERS ABSENT: Public Relations Administrative Assistant Bethany Conery.

Mayor Kingston called the meeting to order at 7:03 p.m. He asked Deputy Fire Chief Bill Walker to lead the Pledge of Allegiance. Mayor Kingston led the moment of silence.

PUBLIC COMMENTS

Mayor Kingston opened the floor for public comments. He asked that any comments regarding the public hearing be held off.

Judy Lotas of the League of Women Voters was recognized to speak. Ms. Lotas handed out the 2016 Citizens Guide to Council and the audience.

Ben Vorndran of 104 Sea Hawk Drive West was recognized to speak. Mr. Vorndran stated that he had looked at the agenda and the ordinance regarding permitted and prohibited uses. He stated that he looked at the list and certain uses stuck out to him such as prohibiting nurseries and campgrounds. He stated that he's lived in Duck most of his life and pointed out that Duck started out with a campground and Wee Winks. He thought the possibility of campgrounds being built in the near future would not happen since land values are so expensive, plus there were other restrictions. He thought that it was the land of opportunity and wondered if the Town wanted to keep limiting things. He noted that the general wording regarding vehicles, other equipment and other goods could not be on the property. He wondered if the Town would shut down house rentals and bicycle rental companies. He stated that nightclubs were listed. He wondered if a lot of the restaurants in Town would be shut down since they have live music that plays after 9:00 p.m. He added that they were more like bars than restaurants. He stated that the list looked too generic and general. He stated that the Town wanted to promote being green

but wanted to prohibit nurseries. He thought it would be nice to have a nursery in Duck for people to buy flowers and plants; however, the price of land would prohibit a large nursery from building in Town. He thought a generic list was great for larger towns and districts but not for Duck.

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

CONSENT AGENDA

Minutes from the February 3, 2016, Regular Meeting; Approval of the FY 2017 Government Education and Access Channel Budget

Councilor Burdick moved to approve the Consent Agenda as presented.

Motion carried 5-0.

PUBLIC HEARINGS

Public Hearing/Discussion/Consideration of CUP 16-001, an Application by Scott Foster, Representing the Property Owner, Cape Oil Corporation, for a Conditional Use Permit to Expand the Coastal Cravings Restaurant at 1209 Duck Road by Establishing an Outdoor Seating/Entertainment Area

Mayor Kingston turned the meeting over to Town Attorney Hobbs.

Town Attorney Hobbs stated that the Council would be sitting as a quasi-judicial body for the public hearing, meaning that they will sit as a court and must make its decision based upon competent material and substantive evidence that will be presented during the course of the hearing. He stated that anyone wishing to give testimony would have to give it while under oath with the applicant afforded due process rights including the right to present evidence, examine and cross-examine witnesses. He asked that anyone wishing to testify come forward to be sworn in.

Town Clerk Lori Ackerman proceeded to swear in the applicants and staff for the public hearing.

The following persons were sworn to provide testimony during the hearing: Joe Heard, Scott Foster and David Klebitz.

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

Director Heard stated that the applicant was requesting approval of a Conditional Use Permit to add a seasonal outdoor seating/entertainment area for Coastal Cravings Restaurant at 1209 Duck Road. He stated that the proposal included the following:

1. Addition of tables and seating in an outdoor seating/entertainment area on the lawn in the rear yard of the property. There would be drinks but no food service in this area. The proposed seating/entertainment area is 1,290 square feet in size and mainly located on top of the existing septic field of the property.
2. Renovation of an existing 128 square foot building recently moved to the site for use as a bar/beverage stand.
3. Construction of a 72 square foot stand-alone, unisex restroom and installation of the accompanying septic system.
4. A small 27 foot addition near the front entrance to the Coastal Cravings Restaurant to accommodate improvements to the indoor restrooms serving the restaurants and convenience store.
5. Approval of a 96 square foot storage shed that had been previously moved onto the property for use by Handee Hugo's gas station/convenience store. The location of this shed will be shifted slightly to accommodate an additional parking space.
6. Removal of an 81 square foot storage shed near the northern property line.
7. Addition of seven on-site parking spaces – one through restriping the existing parking area and six by paving and striping an existing gravel parking area at the rear of the drive aisle behind the existing building.
8. Removal of a 192 square foot entertainment stage that encroaches into the side setback and construction of a new 120 square foot entertainment stage near the rear of the property in compliance with the Town's minimum setback standards.

Director Heard pointed out that if the CUP was approved, it would amend the previously approved CUP 12-002, which was granted on March 7, 2012.

Director Heard noted that the hearing was properly advertised on February 12, 2016 and February 28, 2016 in *The Coastland Times*. He added that public hearing notices were sent to the applicant and all adjoining property owners on February 11, 2016. He stated that public hearing signs were posted on the property on February 11, 2016 and the hearing was posted on the Town's website on February 11, 2016 as well as posted copies at Town Hall on the same day.

Director Heard stated that Dare County had approved a Conditional Use Permit for development of the property in 1996. He added that in 2009, Coastal Cravings was established in the portion of the building previously leased to Burger King. He stated that

in March, 2012, Town Council had granted approval of a Conditional Use Permit to establish a 384 square foot outdoor seating area near the front entrance to the restaurant, which included the relocation of two ADA compliant parking spaces.

Director Heard stated that the expansion of Coastal Cravings Restaurant included a small bathroom addition and an outdoor seating/entertainment area with no food service. He noted that the property was 48,434 square feet in size, which exceeded the minimum lot size of 20,000 square feet in the Village Commercial District. He added that once the project was completed, it would result in a reduction in the amount of lot coverage on the property by 162 square feet. He stated that the addition of the restroom building, associated walkways, and gravel shed access will add 303 square feet of lot coverage; however, the removal of an existing storage shed and considerable portion of a gravel parking area behind the main building would reduce the lot coverage by 465 square feet.

Director Heard stated that the existing vehicular access to the property consisted of two paved access drives: one that enters near the southern property line and one near the northern property line. He stated that within the site, vehicles have the option of pulling through the gas station canopy in front of the convenience store/restaurant building or using a one-way drive around the rear of the building. He noted that no changes were proposed to the vehicular access entering/exiting the property or internally within the property. He stated that the applicant was proposing to add a striped pedestrian walkway from the entrance of the restaurant to the proposed outdoor seating/entertainment area. He added that the walkway was five feet in width and complied with all standards of the Americans with Disabilities Act. He stated that sidewalks were proposed to provide access to the bar/beverage stand and restroom buildings. He stated that the applicant proposed to add a bicycle rack in the grassed area between parking spaces 29 and 30 to accommodate customers on bicycles.

Director Heard stated that the site currently contained 28 parking spaces, which complied with the minimum parking requirements. He added that the addition of the proposed 1,290 square foot outdoor seating/entertainment area would increase the minimum parking requirements for the site. He noted that the applicant planned to restripe the existing parking area consistent with the site plan, which would create spaces at the minimum width of nine feet and would also create one additional parking space. He stated that the applicant was proposing to add a small, paved parking area on the eastern side of the drive aisle encircling the rear of the existing building. He stated that the area had been used informally as a gravel parking lot in the past, mainly for the employees. He pointed out that the construction of the paved parking area would result in six additional parking spaces on site.

Director Heard pointed out that between the two improvements, the amount of parking on the site would be increased to 35 parking spaces, which was enough to accommodate the additional parking required by the proposed development of the outdoor seating/entertainment area. He noted that the proposed project would be in compliance with the Town's minimum parking standards. He pointed out that 12 of the approved parking spaces for the site were located under and around the canopy of the gas pumps in

front of the convenience store. He stated that these spaces were approved by Dare County as part of the original site plan development in 1996. He added that the Town accepted the continued use of these spaces during its review of the outdoor dining area near the front of Coastal Cravings' entrance in 2012.

Director Heard stated that the applicant obtained approval from the Dare County Health Department for the installation of a second, small septic system serving the proposed restroom associated with the outdoor seating/entertainment area. He stated that the Health Department permit also granted approval for all of the proposed improvements on and around the existing septic system. He noted that the septic approval did not permit food service in the outdoor seating area.

Director Heard stated that the applicant was proposing to provide a small directional sign at the end of the striped walkway directing customers to the outdoor dining/entertainment area. He stated that the applicant may also seek to add a small directional sign relating to the bicycle parking area. He added that the final design of the signs would require review and approval by the Community Development Department prior to installation.

Director Heard stated that staff received written comments from three property owners, expressing support and concerns about parking and noise.

Director Heard stated that the Planning Board voted 5-0 to recommend approval of the proposed Conditional Use Permit with the following conditions:

1. The applicant must acquire necessary permits for all new buildings and renovations included in this proposal to ensure compliance with applicable standards.
2. The applicant must submit an as-built survey documenting all of the site improvements prior to the issuance of a Certificate of Occupancy for the buildings and use of the outdoor seating/entertainment area.
3. The applicant must obtain approval from the Community Development Department prior to the installation of any exterior lighting, which must comply with the Town's lighting standards and may require a building permit.
4. Any signage to be added must comply with the Town's Zoning Ordinance and be permitted by the Community Development Department prior to installation.
5. Entertainment activities must comply with all applicable Town standards, including the noise ordinance.

Mayor Kingston stated that in 2012, Council discussed the prior CUP and talked about the ingress and egress. He asked if the northern driveway was an exit only. He noted that Council had discussed signage in 2012 and thought the applicant had put in signage;

however, there doesn't appear to be any signage. He asked if it was an exit only and if so, he thought signage needed to be added from the standpoint of it being an exit without any entrance as well as direction on the southern drive. Director Heard thought the applicant's engineer could touch on the width of the driveway. He thought it was likely that it was too narrow to serve two-way traffic in that area.

Town Attorney Hobbs asked the applicants to make a presentation.

Scott Foster of Coastal Cravings Restaurant was recognized to speak. Mr. Foster stated that he was available to answer any questions of Council. He noted that in the 2012 application, the handicap parking spaces were restriped. He added that he had installed directional signage but the signs were destroyed over time. He stated that he needed to address those issues and will make sure it will be corrected to the Town code.

Councilor Burdick clarified that the driveways would be one-way at the entrance and exit. Scott Foster stated that it needed to be directional signage that makes it clear to the public that it was an exit and not an entrance. Councilor Burdick asked what type of entertainment will be held at the site. Mr. Foster stated that the entertainment would consist of acoustic music with two to three piece bands. He added that they would perform from 6:00pm to 9:00pm. He noted that he has never had any noise complaints since the music ends by 9:00pm. Councilor Burdick thought the difference now would be that the music would be in the rear of the property and could have more of an impact on the neighborhood. Mr. Foster noted that by changing the orientation of the stage, the music would be further from the buffer area.

Councilor Caviness asked how the stage would be oriented. Scott Foster stated that it would be oriented at the back of the beverage bar. Councilor Burdick clarified that the stage would be aimed at the street. Mayor Pro Tempore Thibodeau clarified that the stage would be facing west. Mr. Foster stated they were correct. Mayor Pro Tempore Thibodeau clarified that it would be towards the street. Mr. Foster stated she was correct.

Councilor Britt asked why food wasn't being served outside. Scott Foster stated that he could not execute any more dining than what they currently do. Councilor Britt noted that food could be served outside. Mr. Foster stated that he had asked the Health Department to allow beverages only. He added that serving food was not a consideration. Director Heard noted that if the applicant added food, it would be something that would require amending the Conditional Use Permit and by adding seats, it may result in additional parking being needed.

Councilor Burdick thought the applicant would need more parking. Scott Foster stated that he didn't see getting more parking on the property.

David Klebitz of Bissell Professional Group was recognized to speak. Mr. Klebitz stated that the northern access was 20 feet wide, which was the minimum necessary for ingress and egress. He added that he wasn't aware of what the actual traffic pattern was or if

there was signage in the past. He thought Scott Foster answered Council's question about the signage.

Town Attorney Hobbs asked if any members of the public or members of the Planning Board wished to give a presentation or comment on the application. There were none.

Mayor Pro Tempore Thibodeau noted that the Conditional Use Permit referenced outdoor dining and entertainment in some areas and in others it was referenced as outdoor seating and entertainment. She wasn't sure if it needed to be clarified. She asked if it mattered if it referenced dining in some areas. Director Heard stated that the Town's ordinance refers to an outdoor dining area even though there may be no dining there. He stated that the intent was to refer to it consistently as outdoor seating. Town Attorney Hobbs pointed out that the proposed draft permit mentioned outdoor dining. He stated that if Council decided to adopt the CUP as the approved permit, they could request that consistent wording be used.

There being no one else wishing to speak, Town Attorney Hobbs closed the evidentiary portion of the public hearing and turned the meeting back over to Mayor Kingston. He stated that since there was some discussion about the directional signage, Council could consider adding a condition that the applicant must install and maintain directional signage on all driveways.

Councilor Burdick stated that he would like to have the suggested language Town Attorney Hobbs brought up included as a condition. Mayor Kingston clarified that Council Burdick wished to see language that the signage would indicate one-way around the building and out the northern entrance. Councilor Burdick stated he was correct, adding that it should be one-way in at the southern entrance and one-way out at the northern entrance. Mayor Pro Tempore Thibodeau thought they went both ways on the southern entrance. Mayor Kingston noted that the southern entrance was pretty wide.

Mayor Pro Tempore Thibodeau thought the problem was that people try to turn into the exit. Councilor Burdick agreed. He added that if people come in and exit through the southern entrance, it would be a problem for people to get out. He felt that the problem was in the back as there wasn't a wide drive aisle.

Councilor Caviness thought if someone was in the back of the property, the only way to maneuver was out towards to the northern drive. Mayor Kingston agreed. Councilor Caviness stated that if there was parking closer to Duck Village Outfitters, she could see people potentially exiting from the southern entrance but thought once someone was behind the building, they would not come back the same way.

Councilor Burdick asked if Coastal Cravings Restaurant would have outdoor seating. Director Heard stated that there would be seats. Councilor Burdick clarified that there wasn't a standard for the seating as long as the applicant is not serving food. Town Attorney Hobbs stated that the hearing could be reopened if additional evidence was needed. Mayor Kingston thought the number of seats has been defined.

Town Attorney Hobbs reopened the public hearing.

Councilor Burdick asked if there was a designated number for the amount of seating that the applicant would be putting in the rear of the property. He asked if it was accounted for with regard to the parking. He further asked if the parking was strictly on square footage. Director Heard stated that the parking was strictly based on square footage. Councilor Burdick clarified that there was no limit as to how many chairs or seating arrangement is put in the rear of the property. Director Heard stated that since they would not be used for dining, they weren't counted that way and would not apply toward the parking requirements.

Mayor Pro Tempore Thibodeau assumed that the applicant would keep the area manageable with regard to the seating. Scott Foster stated that the plan was to install 6 picnic tables with string lighting. He believed that the pavement needed to be well marked from the northern side of the building and across the back for parking and travel. He added that on the south side entrance, it was twice as wide with gas customers there. He thought the egress would be maintained there.

Councilor Caviness asked if the break where people stop to head out south of the property would be where the striped path would be located. Scott Foster thought the parking markers should be put on the pavement all around the corner, close to where the old existing drive-thru menu was located. Councilor Caviness felt that if people were directed to go out the north entrance, there would be less vehicular conflict. Mr. Foster agreed.

Councilor Burdick asked if the Police Department was required to check to make sure the applicant complies with the noise ordinance. Director Heard stated that the Police Department has been checking noise levels for years at properties. Mayor Kingston suggested that Council discuss the noise ordinance at its Retreat. Councilor Burdick stated that he wanted to make sure Council was traveling down the right path.

There being no one else wishing to speak, Town Attorney Hobbs closed the evidentiary portion of public hearing and turned the meeting back over to Mayor Kingston.

Councilor Caviness moved to approve Conditional Use Permit 16-001 adopting the findings and conditions and adding the condition #6 for the installation and maintenance of directional signage on all driveways and the clarification of the language so that it was consistent to read outdoor seating and entertainment.

Motion carried 5-0.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

Discussion/Consideration of Authorizing a Public Hearing on Ordinance 16-02 regarding the Addition of Section 156.040, Establishing a Table Listing Permitted and Prohibited Land Uses

Director Heard stated that at Council's December 2, 2015 meeting, it authorized the Community Development staff to work with the Planning Board and Town Attorney on the development of a text amendment to address issues with permitted and prohibited uses raised by the recent *Byrd v. Franklin County* decision of the NC Supreme Court. He stated that after reviewing alternatives over the past few months, the Planning Board developed a proposal to add Section 156.040 to the Zoning Ordinance, establishing a table listing permitted and prohibited land uses, guidelines for use of the table, and interpretation of unlisted land uses in the future.

Director Heard noted that the Planning Board recommended approval of the proposed text amendment and asked that Council set a date for a public hearing for formal consideration and adoption of the proposed ordinance.

Councilor Burdick stated that he reviewed the list and felt it would be easier to understand if he had a printed copy versus an electronic copy. He stated that it would be helpful if Director Heard could provide Council with hard copies of the list. He pointed out that smoke and vapor shops were on the list. He wondered if it prohibited the sale of cigarettes. He stated that the post office was not listed in the Village Commercial District even though it was located there. Director Heard stated that it was in the existing ordinance. Council Burdick agreed but added that it would be helpful if Council had a printed copy of the list. Mayor Pro Tempore Thibodeau noted that any time Council wanted a printed list, they could ask for it from staff.

Mayor Kingston noted that bleachers and grandstands were listed as prohibited uses. He added that the Town brought in temporary bleachers for the jazz festival. He asked if they would now be prohibited or if it would be considered a temporary use. Director Heard stated that the Planning Board had similar discussions at their meetings with regard to certain types of uses and whether they needed to be further defined. He stated that there was some interest by some of the Planning Board members in looking at the list again. He added that smoke and vapor shops would be prohibited if it was the primary purpose of a shop.

Councilor Burdick thought the Town was getting into a fuzzy situation. Town Attorney Hobbs thought the intent was because of the court decision and the way the ordinance read, it would not prohibit uses that weren't expressly prohibited. He thought the purpose and goal of the Planning Board at this level was to get the uses stated in the ordinance with a general understanding of what the prohibited uses would be. He noted that it was a fairly urgent matter to get the ordinance updated, but thought if the Planning Board had to go back and define every use; it would delay the adoption for a while. He thought the ultimate goal would be to continue working on it and adding more definitions so there would be clearer guidance. He stated that most of the uses were fairly common sense statements. He agreed that there were some that could be worthy of further definition as time goes on.

Councilor Burdick stated that his concern was if it was made too general, the Town would go so far that it wouldn't be valid. Town Attorney Hobbs thought it would be more valid and enforceable the way it was presented than what currently existed, which was any use that was not expressly permitted was prohibited. He added that it was the most general use that the Town has and is now unenforceable by court decision. He thought the list was a step in the right direction and was much better than what currently existed. He added that he saw it as an incremental step to a more robust set of defined uses in the Town's ordinance, not just for permitted uses but also for prohibited uses.

Mayor Pro Tempore Thibodeau asked how easy it would be to remove something from the list once it makes it onto the list. Town Attorney Hobbs stated that it could be done with a text amendment. Mayor Pro Tempore Thibodeau noted that the list wasn't set in stone and that future councils may wish to change it. Town Attorney Hobbs noted that the list was a starting point and was put together as carefully as possible, but also with the understanding that time is of the essence in trying to get this on the books.

Councilor Burdick clarified that Town Attorney Hobbs was suggesting that the list get on the books as soon as possible and if there were questions, it would be sent back to the Planning Board. Town Attorney Hobbs stated he was correct.

Councilor Britt understood that time was of the essence. He noted that there were a lot of loopholes and would be more comfortable with not approving things that Council did not like on the list. He added that he didn't want to ban something until Council was absolutely sure it shouldn't be there. He suggested that the items that Council had questions about not be included on the list and ask the Planning Board to specifically go after the definitions and then add them in as opposed to trying to take them out. Mayor Pro Tempore Thibodeau thought it was a good suggestion.

Councilor Caviness stated that there was a distinction in the zoning between a bed and breakfast home and a bed and breakfast. She explained that a bed and breakfast home was listed on the list under Group Living but a bed and breakfast was not listed; however, a hotel/resort was. She stated that as an owner of a bed and breakfast, she wouldn't describe herself as a hotel/resort or a bed and breakfast home as she understood that bed and breakfast homes were only permitted on a residential lot that fronts Duck Road. She noted that that distinction was not made on the list. Mayor Pro Tempore Thibodeau noted that it was conditional. Councilor Caviness agreed, adding that bed and breakfast was omitted completely. Mayor Pro Tempore Thibodeau asked if a bed and breakfast home also a bed and breakfast. Councilor Caviness stated that it wasn't, adding that they were two different definitions.

Town Attorney Hobbs stated that if Council decided to authorize a public hearing, it could provide feedback to Director Heard in the interim and it could also be discussed at the public hearing. Councilor Burdick thought it was a good idea. Mayor Pro Tempore Thibodeau agreed, adding that Council had the time to look at it. She thought it could be discussed at the Retreat. Councilor Burdick agreed. Director Heard stated that the

Planning Board had expressed an interest in viewing definitions. He thought they would appreciate any feedback from Council.

Councilor Britt stated that he was comfortable making a motion to schedule a public hearing as long as there was time at the Retreat for Council to get their thoughts to Director Heard and think about the gray areas and whether or not to leave them in or out.

Councilor Britt moved to schedule the public hearing on Ordinance 16-02 at Council's April 6, 2016 meeting.

Mayor Kingston asked if the Town was on the leading edge of getting something in place. Director Heard stated that as far as towns went, Duck was on the leading edge. Mayor Kingston thought it could be discussed at the Retreat but felt it was more for a mid-month meeting. Mayor Pro Tempore Thibodeau thought that Council could discuss their concerns at the Retreat.

Motion carried 5-0.

Discussion/Consideration of Re-Authorizing the Mayor and Town Manager to Take Actions Necessary to Accept Bids, Pending Contract, for the Duck, Kitty Hawk and Kill Devil Hills Beach Nourishment Project

Town Manager Layton stated that the Town continues to move forward on the Duck, Kitty Hawk and Kill Devil Hills Beach Nourishment Project. He reminded Council that previous bids received for the project were rejected and a second Request for Bid has been released. He stated that responses to this Request for Bid were due on March 8, 2016. He stated that in order to keep the project moving forward and not incur unnecessary delays, he recommended that Council re-authorize the Mayor and he to accept or reject bids received on March 8, 2016. He noted that the criteria for the acceptance or rejection of the bids would be discussed at the meeting. He added that Council will continue to have the sole authority to enter into a contract for the project.

Mayor Pro Tempore Thibodeau moved to authorize the Mayor and Town Manager to take necessary actions to accept bids related to the Duck, Kitty Hawk and Kill Devil Hills Beach Nourishment Project as presented.

Motion carried 5-0.

NEW BUSINESS

Discussion/Consideration of Authorizing the Town Manager to Enter into a Contract with RPC Contracting, Inc. for Stormwater Improvements

Town Manager Layton stated that, as part of the Town's continuing efforts to address stormwater issues and also begin the process of repaving the Duck Trail, an Invitation to Bid was issued for a project near Acorn Oak Avenue and Sound Sea Avenue along NC

12 and also included an easement on the Forbes Parcel on the Currituck Sound. He explained that the project included the removal of asphalt comprising the Duck Trail and replacing it with pervious concrete. He added that drains will be placed along NC 12 connecting to an existing drainpipe that currently empties onto the Forbes Parcel. He stated that a retention area will be created on the Forbes Parcel with overflow into the Currituck Sound. He stated that the project included the replacement of an existing bulkhead that has failed. He stated that the bulkhead needed to be repaired to prevent the Duck Trail from collapsing into the pond adjacent to it.

Town Manager Layton stated that the Town received three bids for the project with RPC Contracting, Inc. having the low bid of \$108,680. He noted that the Town's budget included \$65,000 for the project. He pointed out that if Council decided to move forward with the project, it would be necessary to transfer \$50,000 from the Fund Balance to cover the additional costs.

Councilor Burdick moved to authorize the Town Manager to enter into a contract with RPC Contracting, Inc. for stormwater improvements.

Motion carried 5-0.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Town Attorney Hobbs stated that he had attended the Planning Board meeting to assist with the prohibited/permitted uses list. He stated that he worked on an easement in connection with the stormwater project, which has been recorded.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Update on Departmental Activities

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

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

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

Public Information Officer Denise Walsh was recognized to speak. Public Information Officer Walsh gave a brief overview of the past month's activities to Council and the audience.

Update on Beach Nourishment Project

Town Manager Layton stated that re-bids were due on March 8, 2016 and he should have some plans shortly after. He stated that at the upcoming Council Retreat, CP&E will be in attendance on March 9, 2016 to provide Council and the audience an update on the beach nourishment project. He added that he would also have up to date information on where the Town stood with regard to the bids as well as a complete presentation on the profile surveys that were completed recently for the entire Town.

Town Manager Layton stated that the CAMA Major permit has been obtained. He added that the U.S. Fish and Wildlife Service has issued its Batch Biological Opinion for the project and Town staff has received draft copies of the terms and conditions from the National Marine Fisheries Biological Opinion as well as the draft copy of the BOEM lease agreement. He explained that the Town needed these to get the bids out initially; the final documents should be coming in shortly. He stated that because the bids were rejected and the meetings with the Local Government Commission had to be postponed regarding the financing. He added that it was tentatively rescheduled for the middle of March.

Annual Retreat March 8th and 9th

Town Manager Layton reminded Council and the audience that the Annual Retreat would be held on March 8 and 9, 2016, beginning at 8:30 a.m. He noted that Jesse McNinch of the Corps of Engineers and Robbie Fearn of the Pine Island Audubon Society would be giving a presentation on sea level rise. He added that CP&E would be giving a presentation on the beach nourishment project and Chris Dewitt from VHB would be giving a presentation on the pedestrian plan.

Ethics Training

Town Manager Layton reminded Council that certified ethics training was mandatory after each election for each elected official. He explained that an ethics webinar meets that requirement and will be offered beginning May 18, 2016 from 10:00 a.m. to 12:00 p.m. He noted that it was the date of the Council's budget work session. He thought that Council could watch the webinar, break for lunch and then have their budget work session afterward.

Financial Statement for February FY 2016

Town Manager Layton stated that he did not receive the Occupancy Tax information so the financial report was not updated. He went on to review the beach activities report with Council and the audience.

MAYOR'S AGENDA

Mayor Kingston stated that he was recently invited to attend the Senior Leadership Workshop put on by Dare County Emergency Management. He stated that he attended it with Town Manager Layton, Fire Chief Black, Police Chief Cueto and Police Sergeant

Melissa Clark. He stated that it was a good session with a conversation about an active shooter situation at one of the schools. He stated that it was very informative with a lot of discussion. He thought everyone was well prepared for storms and hurricanes, but there were issues if there was an active shooter situation at the schools. He stated that it was good that Emergency Management got together all of the government leaders as well as police and fire. He stated that Chief Black and Chief Cueto did an excellent job in conversation and were leaders in their respective disciplines. He stated that he was looking forward to the Retreat and would be on vacation from March 14 – 22, 2016.

COUNCIL MEMBERS' AGENDA

Mayor Pro Tempore Thibodeau stated that she was looking forward to the annual Retreat. She added that she just returned from a vacation in Asia and was impressed that the citizens of Asia celebrate Chinese New Year for a long time.

Councilor Burdick stated that he also returned from a vacation and was looking forward to the Retreat.

Councilor Caviness stated that she had nothing to report.

Councilor Britt stated that he was looking forward to the Retreat and the upcoming Duck Merchants Association meeting. He noted that he would miss the April 6, 2016 Council meeting as he will be out of town.

OTHER BUSINESS

Additional Public Comments

Mayor Kingston opened the floor for public comments.

Sharron Young of 132 South Snow Geese Drive was recognized to speak. Ms. Young stated that the Town has been confronted with a disastrous, potential catastrophe on the beach. She stated that the beach was almost beyond use. She stated that she was concerned about the vacationers coming this year and what they will expect and find as well as what it will mean to the dunes, the fireworks and abuse of the land south of the beach. She stated that there was a real, potential problem. She suggested that as part of the discussion on beach nourishment at the Retreat, that Council consider what should be done when a lot of the structures hit the beach as they were very precarious and will not make it through another hurricane season or into 2017. She stated that she spent time with Spencer Rogers, and found out that North Carolina was one of two states with coastal areas that do nothing to prevent what is going on at the beach. She added that beach nourishment could be done if it was possible, but waiting until 2017 would bring about a disaster. She suggested that Council plan what will happen when the homes hit the beach.

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

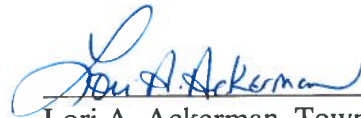
Mayor Kingston noted that the next meeting will be the annual Retreat on Tuesday, March 8, 2016 at 8:30 a.m.

ADJOURNMENT

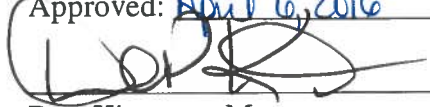
Councilor Caviness moved to adjourn the meeting.

Motion carried 5-0.

The time was 9:40 p.m.



Lori A. Ackerman, Town Clerk

Approved: April 6, 2016


Don Kingston, Mayor

