

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
June 5, 2019**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 7:00 p.m. on Wednesday, June 5, 2019.

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

COUNCIL MEMBERS ABSENT: Mayor Pro Tempore Monica Thibodeau.

OTHERS PRESENT: Town Manager Christopher Layton; Police Chief John Cueto; Fire Chief Donna Black; Director of Community Development Joseph Heard; Town Attorney Robert Hobbs; Director of Marketing and Special Events Christian Legner; Public Relations Administrative Assistant Betsy Trimble; and Town Clerk Lori Ackerman.

OTHERS ABSENT: None.

Mayor Kingston called the meeting to order at 7:01 p.m. He asked Councilor Nancy Caviness to lead the Pledge of Allegiance. Mayor Kingston led the moment of silence.

Mayor Kingston moved to delay the new appointments to the Board of Adjustment until the July 3, 2019 meeting when there will be a full Council.

Motion carried 4-0.

Mayor Kingston moved to adopt public comment procedures to limit speakers to three minutes at the podium and to limit the first public comment period to one hour with the additional speakers that could not speak to be delayed until the second public comment period later in the agenda.

Motion carried 4-0.

PUBLIC COMMENTS

Mayor Kingston noted that when a speaker's name was called, they were to come to the podium, state their name and address, adding that there was a three-minute time limit for each speaker with a yellow caution flag going up at one minute and a red flag to end the comments after three minutes. He asked that the comments be civil and noted that Council members do not respond to public comments and that it was not a public hearing. He opened the floor for public comments, asking those that wished to speak about anything other than beach access and parking to come up first. He reminded the public that at the one-hour stop period there will be an additional public comment period later in the agenda.

Patti Bossert of 102 Pelican Way was recognized to speak. Ms. Bossert stated that she and her husband moved to Duck in July 2017 and have been involved in volunteering for many things in Town and was looking forward to participating more fully in the formal events such as the Board of the Adjustment. She noted that she submitted her name for the open position and wanted to introduce herself to the Council.

Bob Hovey of 302 Eden Street in Kill Devil Hills was recognized to speak. Mr. Hovey stated that he owned Duck Village Outfitters and wanted to talk about public parking and public beach access. He reminded Council and the audience that he had been involved in an altercation that ended in his arrest on Seabreeze Drive. He stated that he has stated various facts on the Town's Facebook page and believed that several beach accesses were deeded to the public and he had deeds and dedications that he has presented to Council over the past 10 years. He stated that he has spoken during public comments several times to talk about beach access and beach parking but has not gotten much of a response. He thought it was now at a point where it should be a topic of discussion amongst Council. He stated that there is a need for public access for the business owners, workforce and people in Duck. He added that not every citizen was allowed to go onto the beach in Duck for fear of being arrested as he was. He stated that he was more than willing to work with Council in any way possible as there has to be a resolution to the issue – either through prescriptive deeds; recognizing the deeds and dedications that were made to the public; allowing some public parking where parking made sense; and working with the Army Corps of Engineers to see if there was any way to use their property. He knew that the Town received no answer and thought it's been over 10 years since anyone has tried to push the issue with them. He thought that with enough people, there may be a little more room for persuasion for the Army Corps of Engineers.

Bob Hovey encouraged Council to listen to him and consider opportunities for beach access wherever possible, including parking for all citizens of Dare County. He didn't think it would be a big problem as he didn't think people would be flocking from out of town to access the beaches in Duck. He thought that the people that work in Town, the business owners and certain people should be allowed to go to the beach. He thought people may say it will create overcrowding, but he didn't see it as being a problem. He noted that the Town of Kitty Hawk has plenty of public beach accesses as does the rest of Dare County and thought people should be able to come to Duck to enjoy the beaches as well as shopping. He encouraged Council to work with him on seeing if there was any way to have public beach accesses with parking being a possibility.

John Ward of 278 North Spot Road in Powells Point was recognized to speak. Mr. Ward stated that he no longer resides in Duck but was raised here and was invited to speak during public comments. He stated that he missed the way that people would come together. He stated that when his grandmother hurt herself, half of the Town came to help build a handicap ramp. He stated that if there was anything he could do construction-wise, he was willing to help.

Cristelle Michael of 805 West 3rd Street in Kill Devil Hills was recognized to speak. Ms. Michael stated that when she heard that employees of the Town that were not homeowner association members or guests of a subdivision could not take a lunch break and walk to the beach, it concerned her that business owners and homeowners that live in Town could not access the beach legally. She stated that she did some research to look for a solution and found that there were a lot of options. She stated that she spoke to Dare County and they were happy to help Duck speak to the Federal government to see about getting public beach access at the Army Corps of Engineers area. She stated that Dorothy Hester told her all the Town needed to do was to reach out to them and they would be happy to help. She stated that she also called the Attorney General's office and the attorney for the Coastal Resources Commission, who returned her call. She explained that she was told that if Duck made beach access a priority, they could obtain beach access through grants that were available. She noted that while North Carolina doesn't dictate what Council needs to do with the Town, they were more than happy to help Duck get public beach access to the people in Town that do not currently have it.

Cristelle Michael asked Council if they saw the employees and business owners as members of the community. She asked if the business owners and employees add to the value of the visitors. She stated that if Council thought they were, she recommended that Council needed to make it a priority, especially since the Town's upcoming CAMA meetings were happening. She thought it would be a great opportunity to put the plan in place, so the Town could apply for funds by February 2020, which was the deadline. She thought it was all happening at a good time.

Dawn Midgett of 109 South Dogwood Trail in Southern Shores was recognized to speak. Ms. Midgett stated that she was a Duck oceanfront homeowner as well and paid taxes in Duck as well as using the beach. She stated that she did not understand why employees and locals who spend their money in Duck could not access the beach and why there hasn't been a beach access. She stated that she did not mind paying for people to use her walkway. She noted that Bob Hovey has been a local as long as she could remember. She added that all of the homeowners in the Sound Dollar Shores subdivision had to do was compromise and ask for people to pay an annual fee to the homeowner's association for the repair of the walkway. She stated that something needed to be done as she was a taxpayer in Dare County, Currituck County and the Town of Duck.

Ben Vorndran of 104 Sea Hawk Drive West was recognized to speak. Mr. Vorndran stated when he first heard about the issue, he did not have enough time to research it, but the thing that came to his mind when he started researching it was that North Carolina has national parks for people to go to and park and there were other public beach accesses in other towns for people to use. He wondered if there was any financial gain for Bob Hovey as a property owner in the Osprey Ridge subdivision. He noted that there was no public beach access, so it would be a financial gain to Mr. Hovey that would add value to his property. He understood that Bob Hovey was trying to run his business and respected it, pointing out that there were other places that people that have businesses in Duck could go to, adding that there were national parks that they could support. He thought it was a great idea. He thought if there was an influx of parking and people, there would

need to be more money for additional lifeguards and lifeguard stands as well as more crime to happen. He wondered if the groups that wanted public beach access would be willing to help pay for beach nourishment.

Bryan Zongolowicz of 319 West Palmetto Street in Kill Devil Hills was recognized to speak. Mr. Zongolowicz stated that he has a pool cleaning company that services homes in Duck. He stated that he's lived on the Outer Banks for about 30 years and always felt like it was off limits to come to Duck. He added that there has always been an issue with parking and that he did not have a voice, making everyone feel that Duck was off limits. He stated that he understood that the beach was public, but a public beach without a beach access was an oxymoron. He wondered how he could access the public beach. He stated that he backed Bob Hovey 100% on the issue as there needed to be an access. He added that a public beach without an access did not make sense in any situation. He stated that he was asking Council for a chance to go to the public beach and have a place to park. He stated that he's been a surfer for about 30 years and that the surfers could help the lifeguards out as surfers were notorious for saving people. He noted that the lifeguards will need help when the waves were big, which was when the surfers show up. He added that he could help out with the rescues as he has rescued eight people and he was sure his friends rescued 200-300 other people, He stated that he wanted access to the public beach, adding that he wanted to have a voice to get things done.

Matt Pruett of 102 West Windjammer Court in Nags Head was recognized to speak. Mr. Pruett stated that he was a writer/editor for Surflife and was responsible for the story that was posted that picked up on the viral post. He stated that he was a member of the surf media as well as a long-time surfer and thought what everyone wanted was access to the beach and he chose his side a long time ago. He thought having a discussion with the Army Corps of Engineers regarding the piers was a great idea and that it could solve a lot of problems because all that anyone wanted was access to the beach. He added that back in 1990, he would gladly walk a mile and one half to get to the beach at the Army Corps of Engineers property because it was a unique geographical position that makes it especially good in the summer months. He noted that he did not want to bring more people to Duck, he just wanted the people in Town to have access to the beach. He cautioned Council that the story would not be going away and what he had written was one of many stories. He added that when Duck comes to a logical conclusion that benefits the most people – locals, business owners and tourists – he would put a story out about it. He pointed out that the mainstream media would not back away from this topic and it was not a story that will go away until the Town comes to a resolution, and after the resolution is found, all of the credit will go to Duck. He thought if the conversation could continue regarding building actual beach accesses, it would be great. He thought that the first thing that should be on everyone's mind was contacting the Army Corps of Engineers to see what could be done to allow public access and parking. He stated that surfing has exploded in the mainstream over the last 10 years and thought that the reason the surfing community has been so passive about the issue in Duck was because they had other places to go surfing on the Outer Banks. He added that it was getting more crowded and harder to surf in other areas, making Duck one of the last refuges where

surfers could go. He thought the Town would receive a lot of positive reinforcement if there was at least one public beach access with parking.

Brittany Finch of 120 Sea Hawk Drive West was recognized to speak. Ms. Finch stated that she was not going to take a stand for or against beach access until she understood what it would mean for the Town of Duck. She stated that she lives in Duck and pays taxes. She stated that the Town has a lot of things that the other towns on the Outer Banks did not have, such as the bicycle path, the boardwalk, Town Hall, landscaping, the Town Green and all of the events that are held in Duck, which was all in the Town's budget. She added that if Duck had beach access in the budget, she wanted to know where the money would be coming from. She understood her homeowner association dues would come down since she would no longer be paying to maintain her beach access. She asked if her taxes would increase and by how much. She challenged Council to put something out for the homeowners in Town as they did not understand what it would look like. She added that it wasn't fair to the citizens of Duck to wonder if they had to protect their beach access, so they could go to an uncrowded beach. She didn't think it was the case, but thought it was what people were being made to believe. She thought if Council gave the people in Duck something to work with such as buying back some land from homeowner associations it would calm some of the tensions. She wondered about the parking issue and pointed out that it would be another thing that the Town would have to buy from the homeowner associations. She suggested that Council give the homeowner associations time to meet privately and then have the president of each homeowner association meet with Council so that everyone would feel like they had a voice. She agreed that the Army Corps of Engineers property was a great option for beach access since her children attend school in Corolla and the access is across the street from the school. She thought the economy would grow from having that access but wanted Council to give the homeowners something to work with as to what the cost would be for a public beach access.

Bradley Musika of 407 Burns Drive in Kill Devil Hills was recognized to speak. Mr. Musika stated that he spent his summers in Duck at Duck Village Outfitters. He noted that Bob Hovey was a pillar of the community for him in his childhood. He added that Mr. Hovey kept him out of trouble by having him build bicycles and doing general maintenance at Duck Village Outfitters. He stated that it meant the world to him as a child to come to the beach in Duck, adding that surfing on the beach in Duck was a hidden gem. He asked Council to give some form of access to any of the beaches in Duck.

Matt Price of 216 Sea Oats Trail in Southern Shores was recognized to speak. Mr. Price stated he liked the Town of Duck and Council built an amazing place that people love and want to visit. He stated that beach access for people to get to the beach was needed, but the question was how to do it. He hoped that Duck could come together as a community and peacefully support one another to try come up with something that would build a bridge for both parties instead of being adversarial. He stated that he would like to see people drop the mean-spirited rhetoric and try to work on the issue as a united force.

Leigh Forbes of 7016 Currituck Road in Southern Shores was recognized to speak. Mr. Forbes stated he was present due to a sad situation because a local entrepreneur was arrested and people who had purchased homes in Duck were stating that the public beach was their beach and they didn't know what they were talking about, which stimulated a lot of direction. He stated that he did not know the legalities of what was considered public or private beach access, but the fact that the beach was public, and people were being told that they could not visit the beach stimulated all of the issues. He stated that it seemed like there was an ample amount of resources from the Town to Dare County in order to try to rectify the problem and he hoped to see a resolution. He added that he brings people from his home by boat to patronize all of the businesses in Duck and they had the opportunity to walk a quarter mile to access the beach but could not because the public beach was not accessible. He wondered how many people will have an issue with ill feelings with the situation. He stated that it was a sad state of affairs, but he hoped that Council would do the right thing in moving the issue forward with the Town, Dare County and State for beach accesses in order to rectify the issue. He stated that it was crazy that Duck did not have the ability to work the issue out and that everyone has become so divided.

Shane Thomas of 2252 Colington Road in Kill Devil Hills was recognized to speak. Mr. Thomas stated he was a business owner and long-time enthusiast of the Outer Banks. He stated that people like Bob Hovey were salt of the earth individuals. He stated that as a small business owner in Duck, he runs social media for a handful of businesses in Town and in search engine optimization, Duck and the Outer Banks as a whole was down 20%. He added if one was a homeowner and rented in Duck, which was approximately 73% of the population, Dare County has been a very thin year this year in property management. He stated that the blemish that the Town of Duck has received in the past week on social media as well as in print was a hard one to swallow. He commended the Town's marketing team for staying on top of an undaunting task. He stated that there was a solution to the problem and Duck would be nimble and quick enough to find a resolution that would satisfy both parties in a quick and meaningful direction. He hoped that it would happen at this meeting. He added that he stands behind Bob Hovey and suggested that the Town consider an amicable solution to the problem in a timely manner that did not affect the negative publicity on-line and in print that Duck will feel. He thought that everyone could agree that it could be done.

There being no one wishing to speak, Mayor Kingston closed the time for public comments. He stated that there was a statement from the Town of Duck that was put out on social media as well having answers to a lot of questions that was available for the public to read. He stated that Bob Hovey had sent an email to all of Council on two different occasions and he responded to him. He read a portion of his response to Mr. Hovey to the Council and audience: "The Town Council is open to discussing this issue at a future date when tensions are eased and engage interested stakeholders in this dialogue. Staff will help to plan for this discussion over the coming months. In the meantime, the Town is updating its Comprehensive Plan and CAMA Land Use Plan and there will be opportunities to provide comments on state road, parking and beach access

through surveys and public meetings during this process.” He thanked everyone for speaking during Public Comments.

CONSENT AGENDA

Minutes from the May 1, 2019, Regular Meeting; Budget Amendments

Councilor Burdick moved to approve the consent agenda as presented.

Motion carried 4-0.

PUBLIC HEARINGS

Public Hearing/Discussion/Consideration of Proposed FY 2020 Budget

Mayor Kingston turned the meeting over to Town Attorney Hobbs.

Town Attorney Robert Hobbs was recognized to speak. Town Attorney Hobbs stated that the public hearing was open. He asked if anyone wished to comment on the proposed budget. There being no one wishing to speak, he closed the public hearing and turned the meeting back over to Mayor Kingston.

Councilor Burdick noted that Council had some questions at the work session that Town Manager Layton was going to look at and come back to Council. Town Manager Layton stated that the only lingering item that he was going to come back with was an alteration of the budget as it related to the sidewalk project north where \$60,000 would be removed and added to the Fund Balance. He believed that it could be done and would be one change that was not included in the draft budget ordinance. Councilor Burdick asked if it would need to be included. Town Manager Layton stated that after the public hearing, if Council wished to adopt the ordinance, he would have to make the change.

Councilor Burdick clarified that the taxes for beach nourishment would end this year. Town Manager Layton stated that the Town has one more year and then Council would have to make a decision. He added that the rate would remain the same this year and then in FY 2021 a decision would have to be made on what the new rate would be.

Councilor Burdick moved to adopt the budget as presented with the change of removing \$60,000 from Streets and Highways, specifically the Capital Outlay over \$5,000, and adding \$60,000 to the anticipated Fund Balance.

Motion carried 4-0.

Public Hearing/Discussion/Consideration of Conditional Use Permit 19-003: An Application for a Conditional Use Permit to Permit Revisions to the Minimum Rear Setback Under the Village Commercial Development Option for the Addition of a

Rear Stairway and Deck on a Previously Approved Mixed-Use Building at 102 Scarborough Lane

Mayor Kingston turned the meeting over to Town Attorney Robert 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 was recognized to speak. Town Clerk 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 and Travis Costin.

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 stated that Council granted approval of a conditional use permit on December 6, 2017 to Travis Costin to complete a mixed-use project on a small property at 102 Scarborough Lane. He stated that everything around the property was zoned Village Commercial and most of it was used commercially. He noted that the project was approved and over the past year Travis Costin has been working on it and has completed the first phase of the project including the garage and the significant overhaul of the existing cottage on the property. He stated that he was now looking at the second phase of the development.

Director Heard stated that as Travis Costin got into the specific design of the second phase, which was the two-story mixed-use building, he found that due to the height of the building, the stairway that he planned to run up the side of the building wasn't of sufficient length to get him all the way up to where the door on the second floor would be located. He stated that Mr. Costin needed to wrap the stairway around the back of the building, noting that he has proposed to extend it with a deck, although the deck may be necessary in order to reach the doorway.

Director Heard stated that the reason the permit was coming back before the Council was because approval was granted due to the size and very narrow depth of the property for some setback relief for Travis Costin. He stated that 17.7 feet was granted on December 6, 2017 and an approximately five-foot-wide stairway and deck would now be encroaching as close as 12.8 feet to the property at the rear. He added that Mr. Costin was present to request additional relief. He noted that there were no changes as to the proposed uses, function, height, size, and scale of the building as all was identical to what

was approved in 2017. He stated that he was only looking for additional flexibility to accommodate the stairway in the rear of the building.

Director Heard stated that the reason the conditional use permit was coming back before Council was because approval was granted by Council due to the size and very narrow depth of the property for some setback relief. He stated that 17.7 feet was granted in 2017. He stated that the five-foot-wide stairway and deck now encroaches as close as 12.8 feet to the property in the rear. He added that Travis Costin was before Council to request the additional relief. He noted that there was nothing changing as far as the proposed uses, function, height, size, or scale of the building as it was identical to what was approved in 2017. He stated that Mr. Costin was looking for additional flexibility to accommodate the stairway in the rear of the building.

Director Heard stated that at the Planning Board's meeting on May 8, 2019, they voted unanimously to recommend approval of the conditional use permit for the Village Commercial Development Option to permit a reduction of the rear setback for construction of a mixed-use building at 102 Scarborough Lane, subject to the following conditions:

1. The proposed development must comply with all conditions previously approved for Conditional Use Permit 17-003.
2. The building must be constructed in substantial conformance with the elevation drawings and floor plans submitted with the conditional use permit application, as prepared by Costin Creations, Inc. and dated March 20, 2019.
3. The applicant must submit revised building plans for consideration by the building inspector prior to issuance of a building permit for the stairway and deck.
4. This conditional use permit will expire in 18 months from the date of approval, unless construction of the proposed mixed-use building has commenced.

Director Heard noted that the Planning Board found that the proposal did not significantly alter the previously approved site layout and building design as the scale and use of the mixed-use building would remain the same. He pointed out that the additional rear setback relief would simply accommodate reasonable access to the second-floor apartment.

Councilor Burdick clarified that there was a wall between Travis Costin's property and the property behind it. Director Heard stated that there was a fence between the two properties. Councilor Burdick asked how high the fence was. Director Heard stated that he wasn't sure, but the applicant could answer it as he had not measured the height. Councilor Burdick asked Director Heard to give an approximation on the height. Director Heard stated that it appeared to be a little taller than a six-foot residential fence, reiterating that he had not measured the height of it.

Town Attorney Hobbs asked the applicant to make a presentation.

Travis Costin of 102 Scarborough Lane was recognized to speak. Mr. Costin stated that he had nothing further to add as Director Heard did a great job in explaining things.

Councilor Burdick noted that the project was for access, but the deck was being extended to the end. He added that it was a five-foot deck, which made it useless. He asked if there was some reason why Travis Costin could not put in a six to eight-foot deck since it would be encroached. Travis Costin stated that a five-foot deck was for a commercial staircase as it had to be a certain width with the handrails, which were 42 inches. Councilor Burdick stated that he was concerned about the deck that would be constructed when it would not be very useful. He added that if Council was going to give an exemption, it made sense to give an extra one to two feet to make it more useable.

Councilor Burdick asked how tall the fence would be. Travis Costin stated that it was eight feet tall.

Town Attorney Hobbs asked if any sworn witnesses wished to address the application. There were none. He asked if Council had any remaining questions. There were none. 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.

Councilor Caviness moved to approve Conditional Use Permit 19-003 as presented with the findings and conditions.

Motion carried 4-0.

Public Hearing/Discussion/Consideration of an Application for a Zoning Text Amendment to Add More Detailed Approval Criteria for Conditional Use Permit Applications in Section 156.155(E) of the Duck Town Code

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

Town Attorney Hobbs stated that Director Heard would give an overview.

Director Heard stated that the proposal was a text amendment application to add more detailed criteria for conditional use permit applications in Section 156.155(E) of the Town Code. He noted that, currently, what was in the ordinance was very generic and general and did not give Council or applicants much guidance in terms of what Council was looking for and what the applicant needed to provide to Council in order to approve the application.

Director Heard stated that the issue came up as part of a conversation when the Planning Board was looking at Village Commercial districts and Town Attorney Hobbs and Attorney Ben Gallop provided staff with a memorandum that addressed a number of important issues. He added that they made a recommendation that the Town consider

adopting some additional standards or criteria for review as Council was considering all conditional use permits.

Director Heard stated that what was being proposed was to add criteria section 156.155(E) to the Town Code and would provide a basis for decisions by the Planning Board and Town Council. He added that the criteria also provided an opportunity for potential applicants to better understand the review process and prepare relevant information for Council's consideration.

Director Heard noted that the recommended wording was very similar to ordinances used for many decades by other communities throughout the state of North Carolina. He added that many have been tried in courts and upheld as being a reasonable set of criteria for approval. He pointed out that it wasn't very detailed, which was intentional, but staff would provide Council with as much flexibility as possible when reviewing conditional use permit applications. He stated that the criteria was intended to still be relatively general in nature so there would be some flexibility as Council reviews the applications. He stated that it was intended to provide Council with some objective criteria in the instances where staff may consider denying a conditional use permit or if it was challenged, Council would have criteria to base their decision.

Director Heard stated that at their April 10, 2019 meeting, the Planning Board voted unanimously to recommend approval of the proposed text amendment adding more detailed criteria for approval of conditional use permits.

Councilor Burdick clarified that the generality wasn't so general that it still did not mean a lot. Town Attorney Hobbs stated that the wording was almost precisely approved by the North Carolina Courts in court decisions as well as by the School of Government's primary book on land use planning in North Carolina. He stated that it was a well-used and good set of criteria.

Councilor Caviness asked if after the Land Use planning was completed, the criteria would stay or be revised. Director Heard thought it was highly likely that it would remain as it was something that the Town's attorneys recommended independent of the other research that was being completed.

Town Attorney Hobbs asked if members of the Planning Board wished to address the application. There were no comments.

Town Attorney Hobbs asked if members of the audience wished to address the application. There were none.

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

Councilor Burdick stated that the application made sense. Councilor Britt stated that the language needed to be in the ordinance.

Councilor Burdick moved to adopt Ordinance 19-03 as presented.

Motion carried 4-0.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

Discussion/Consideration of Appointing or Re-Appointing Individuals to the Board of Adjustment

Mayor Kingston reminded Council and the audience that Council chose to delay the decision on appointing new individuals to the Board of Adjustment until the July 3, 2019 meeting. Councilor Burdick wished to invite the prospective applicants to the July 3, 2019 meeting. Mayor Kingston stated that he was planning to do that.

Town Manager Layton stated that if Council wanted to move forward with appointing the existing members to the Board of Adjustment, there were two individuals that were alternates and could be made full members, which has been the practice in the past. He added that the two new members would be for the alternate positions. He stated that Tom O'Brien and Randy Morton would become full members since they were currently alternates and with the resignation of Kent Zimmerman as well as the vacancy of Bill Guillaume, those two would move up to become full members.

Mayor Kingston moved to re-appoint Olin Finch, Carol Powell, Ed Sadler, Tom O'Brien, and Randy Morton to the Board of Adjustment for a term to expire on July 1, 2021.

Town Attorney Hobbs thought Council previously voted to table the item on the agenda. Mayor Kingston disagreed, noting that the vote was to table the new appointments.

Motion carried 4-0.

Mayor Kingston stated that with respect to the appointments for the new positions, it will be re-addressed at the Council's July 3, 2019 meeting. He went on to name the individuals that wished to be appointed to the Board of Adjustment – James Blose, Patti Bossert, Donna Krieger, Robert Wetzell, and Anthony Parisi.

NEW BUSINESS

Discussion/Consideration of Appointing Individuals to the Southern Shores Library Committee

Town Manager Layton stated that the Town of Southern Shores has formed an ad-hoc group of individuals to explore the possibility for a branch library that would serve Kitty Hawk, Southern Shores and Duck in Southern Shores and has asked individuals to serve on the committee. He stated that staff solicited interest and three individuals submitted applications to serve on this group – Theresa Cullen, Kevin Wright and Cindy

Glatkowski. He stated that Council was requested to appoint at least two individuals to serve on the Southern Shores Library Committee, but all three could be appointed if Council wished to do so.

Councilor Caviness moved to appoint Theresa Cullen, Kevin Wright and Cindy Glatkowski to the Southern Shores Library Committee as presented.

Motion carried 4-0.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Town Attorney Hobbs stated that he had no report.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Update on Departmental Activities

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

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

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

Review of the Proposed Phase IV of the Comprehensive Pedestrian Plan

Town Manager Layton stated that at Council's May 22, 2019 meeting, a request was made to review the location of the sidewalk proposed for Phase IV of the Comprehensive Pedestrian Plan improvements. He explained that the concerns expressed at the meeting were related to Phase III – the east side of Duck Road from Duck Deli to Ships Watch – of the project and the decrease in the size of the sidewalk from eight feet to five feet due to the proposed construction of Phase IV, which was in the same general area, but on the west side of Duck Road. He added that based on the discussions with the Town's engineers for the project, there appeared to be ample space for the Phase IV sidewalk even when taking into account the possibility of erosion in the area.

Councilor Britt clarified that there will be a bike lane, a strip of vegetation and then the sidewalk. Town Manager Layton stated that he was correct.

Councilor Caviness asked if Phase III was the east side of Duck Road and Phase IV was the sound side. Town Manager Layton stated she was correct.

Councilor Burdick stated that he did not have a problem with it but believed that the engineers were over-simplifying the problem. He stated that the rip rap was there because of the flooding from storms coming from the west. He added that it would not change unless something different was done than what currently existed. He stated that Town Manager Layton had discussed putting something in the water to try to slow things down. He thought if the project was to move forward, that needed to be part of the project and it would take some collaboration from the State to do it. He thought it was essential because the road will eventually be washed out. He didn't see why the money should be spent unless the Town was going to help itself in the long-term. He saw no reason why the Town couldn't, but felt Council needed to take the proactive approach to it as part of the project.

Mayor Kingston asked if the rip rap could be moved. Town Manager Layton stated that it could be adjusted. He explained that staff was finalizing the design and bid package for Phase III and with some luck and no power line issues, this time next year the Town would be finishing up that project. He stated that after finishing up the work on the bid package, staff would then work on the final design for the other side and one of the things needed before proposing anything was the SAV surveys, which was included in the contract for the permitting for the sills. He stated that once staff gets through that, then the other items could be discussed. He noted that the intent was to analyze that and come up with proposals. He stated that staff had not gotten to the point where they were ready to couple those with the Phase IV project. He noted that it may come together at the same time.

Councilor Burdick stated that his point was if the Town was going to move forward with the project, that it be a central part of the project. Town Manager Layton agreed. Councilor Burdick stated that with regard to the sills, the Town needs to still obtain permits in order to do it, but at least there would be a proactive approach to do it the right way. He added that he was not worried about where the rip rap was but was worried about the fact that rip rap alone would not solve the problem. Town Manager Layton agreed. He reiterated that the Town needed to be proactive and that it be part of the project.

Councilor Britt thought it was potentially difficult to tie together but thought Council has been vocal about it which was why the SAV research was included. He thought if they were separated, there may be some money available for the sill project. Councilor Burdick agreed. Councilor Britt stated that he was confident in the direction the Town was going as it was moving forward. Town Manager Layton stated that with regard to the timing, once the bidding and scope was completed, work could be started on finalizing the plans for the next phase of the project, which would be Phase IV. He stated that after that, staff would bring the final design before bidding to Council at their annual Retreat to make sure everything was included. He added that there was no reason why

that plan would not be in place by that time for discussion. Councilor Britt assumed that Council would see both at the same time. Town Manager Layton stated that staff wanted them to work concurrently.

Councilor Burdick thought it was an opportunity for the Town to take a proactive approach and show that there would not only be sidewalks installed, but also working on helping the environment at the same time.

It was *consensus* of Council to move forward with the project.

Financial Statements for May of FY 2019

Town Manager Layton reviewed the financial statements with Council and the audience.

MAYOR'S AGENDA

Mayor Kingston stated that Senator Tillis was in Duck on May 31, 2019 and invited State, Federal, County and local officials as well as managers to meet with him. He stated that he, Mayor Pro Tempore Thibodeau and Town Manager Layton attended it and found it was an interesting session. He stated that Dare County Chair Bob Woodard gave an overview of some of the accomplishments that Dare County has made without the help of Federal or state aid, including beach nourishment. He stated that he has his mayors meeting on June 18, 2018 in Kitty Hawk. He stated that he has a North Carolina League of Municipalities board meeting in Wilmington, North Carolina on June 12-14, 2019. He noted that they had their annual conference recently and he was reappointed to the Finance Committee.

COUNCIL MEMBER'S AGENDA

Councilor Caviness thanked Director Legner for the Brothers Like These program that was presented recently in Duck. She stated that she was looking forward to being on the Land Use Plan Committee. She noted that the Town has operated on 20 years' worth of vision planning with one Land Use Plan document. She added that all of those things together produce an extraordinary roadmap for the Town to follow. She stated that Duck would be embarking on that process again, which would take a year and at the end of it, there would be a great product that would define the future of the Town of Duck. She stated that it worked that way, so the Town could make sure that all of the stakeholders in the community could be heard.

Councilor Britt thanked those in the audience that spoke regarding beach access. He stated that he was impressed with the general attitude. He hoped that Council would continue to address the beach access problem and look at it more seriously. He thought the overall reaction from some of the people that spoke said a lot for the whole community and he hoped the Town could move forward with it in the future.

Councilor Burdick echoed Councilor Britt's comments and added that it was a constructive meeting with the comments received. He thought there would be a positive solution in the long run. He gave a short update on the Dare County Tourism Board meeting to Council and the audience.

OTHER BUSINESS

Additional Public Comments

Mayor Kingston opened the floor for public comments.

Matt Price of 216 Sea Oats Trail in Southern Shores was recognized to speak. Mr. Price thanked Police Chief Cueto and the Duck Police Department for their help in a recent theft that happened.

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

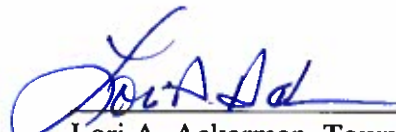
Mayor Kingston noted that the next meeting will be the Regular Meeting on Wednesday, July 3, 2019 at 7:00 p.m.


ADJOURNMENT

Councilor Britt moved to adjourn the meeting.

Motion carried 4-0.

The time was 9:02 p.m.


Lori A. Ackerman, Town Clerk

Approved: August 7, 2019

Don Kingston, Mayor

