

**TOWN OF DUCK  
TOWN COUNCIL  
REGULAR MEETING  
July 6, 2016**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 7:00 p.m. on Wednesday, July 6, 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; Director of Community Development Joseph Heard; Attorney Ben Gallop; Public Relations Assistant Betsy Trimble; and Town Clerk Lori Ackerman.

**OTHERS ABSENT:** Town Attorney Robert Hobbs and Director of Public Information Denise Walsh.

Mayor Kingston called the meeting to order at 7:02 p.m. He asked Ocean Rescue Director Mirek Dabrowski 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. There being no one wishing to speak, Mayor Kingston closed the time for public comments.

**SPECIAL PRESENTATIONS**

**Introduction of 2016 Lifeguards**

Mirek Dabrowski, Director of Ocean Rescue, was recognized to speak. Mr. Dabrowski introduced each member of Ocean Rescue to Council and the audience.

Mayor Kingston and Council thanked the lifeguards for everything they do to keep people safe on the beach.

**CONSENT AGENDA**

**Minutes from the May 18, 2016, Mid-Month Meeting; Minutes from the June 1, 2016, Regular Meeting; FY 2016 Audit Contract; and Budget Amendment**

Councilor Britt moved to approve the Consent Agenda as presented.

Motion carried 5-0.

## **PUBLIC HEARINGS**

### **Public Hearing/Discussion/Consideration of Ordinance 16-04, an Ordinance to Amend Section 156.040 of the Zoning Ordinance by Establishing a Table Listing Permitted and Prohibited Land Uses and Making Associated Changes to Zoning District Standards**

Mayor Kingston turned the meeting over to Attorney Gallop.

Attorney Ben Gallop was recognized to speak. Attorney Gallop stated that the public hearing was open. He asked Director of Community Development Joe Heard to give a presentation.

Director Heard stated that at their April 6, 2016 meeting, the Town Council requested that the Planning Board and Community Development staff address concerns about how to deal with particular land uses identified by the Council members in the proposed permitted/prohibited use table. He stated that the Planning Board completed its review of the issues and recommended amendments to applicable sections of the Zoning Ordinance as well as adoption of a table of permitted and prohibited uses included as part of Section 156.040. He noted that proposed Section 156.040 also provided guidelines for using and interpreting the use table.

Mayor Kingston noted that the United States Government has permission for any kind of zoning in Duck. He asked about state and county and if it should be a consideration. Director Heard stated that it was not something that was specifically stated. Mayor Kingston asked if the Town could prohibit the Department of Motor Vehicles from opening an office in Duck. Director Heard stated that the Town did not have a specific provision regarding any type of use. He explained that there were provisions for federal facilities of any type. He added that there were some things that would fall under it such as a police department. He stated that Council could consider asking the Planning Board to look at state and county facilities.

Mayor Pro Tempore Thibodeau stated that many of the uses that were allowed were via a Conditional Use Permit. She thought if someone came to the Town with a proposal, it would have to be looked at through the Village Commercial Development option or through a Conditional Use Permit. She wondered if Mayor Kingston was suggesting incorporating that because of the federal facilities. She noted that the Town would look at things in detail because of the nature of the area. She wasn't sure what Mayor Kingston's objective was.

Mayor Kingston clarified that if the State wanted to come to Duck and build an office, they would not be prohibited from doing so. Director Heard stated that an office would fall under General Offices and would be permitted in any of the commercial districts. He

stated that it may be a good thing to limit the other items and deal with it on a case by case basis.

Councilor Burdick stated that the Planning Board decided that post offices should be allowed via a Conditional Use Permit no matter what zone in Town. He wasn't sure he agreed with it but thought it meant that any use of that nature – state and federal – needed to be looked at as a conditional use at the time it comes through. He added that the Town would be able to maintain some degree of control. He stated that that was the reason he did not disagree with putting post offices in that category. He noted that if the post office had to move, it was logical that it would come before the Planning Board to obtain approval through a Conditional Use Permit.

Mayor Kingston noted that it could be in conflict since United States Government uses and facilities were permitted everywhere. He added that he raised the question because he wanted to know if the Town could keep the State out if they wished to have an office in Duck. He wondered if it was something the Town should look at. Director Heard stated that the Town could, adding that the Town could not do anything with regard to federal offices wanting to move into Duck.

Councilor Burdick thought if Council was going to look into it, then post offices should be looked at with regard to federal offices. Mayor Kingston thought Council could move forward with the ordinance before them, but thought it may be good to take another look at it as an addendum in the future. He stated that he was using the NCDMV office in Nags Head as an example of his concern. Councilor Burdick agreed and thought it made sense. Director Heard stated that if Council wished, the Planning Board could look at conditional uses and add state and county government uses and facilities and add X's in the columns for residential areas but allow them as conditional uses in the commercial areas.

Councilor Britt stated that Council needed to be focused on the uses with regard to Conditional Use Permits and not who was doing it. He felt the focus was on the uses and thought the ordinance was fine as it was presented. He explained that a Conditional Use Permit was an allowed use with conditions, which controlled uses. Mayor Kingston stated that he brought it up as a potential issue for the Town. Councilor Burdick noted that what the Town did for post offices could conflict with what the Town did for United States facilities. Mayor Pro Tempore Thibodeau stated that she looked at the facilities as an office but not an actual federal facility. Councilor Burdick pointed out that it was and was under federal control. Mayor Pro Tempore Thibodeau asked why the Town was making post offices a conditional use. Councilor Burdick stated that the Planning Board had decided that they wanted them as a conditional use. Director Heard stated that the Planning Board discussion as it related to post offices was that the Planning Board was looking at uses and their impacts. He added that depending on the scale and layout, post offices could have significant impacts, particularly as it related to traffic. He thought the Board felt that it was something that needed to be looked at closer.

Attorney Gallop asked if members of the public wished to make a presentation. There were none.

Attorney Gallop closed the public hearing and turned the meeting back over to Mayor Kingston.

Councilor Britt thanked Director Heard and the Planning Board for their hard work on the ordinance.

Mayor Kingston suggested that the Planning Board look at any implications by state or county uses at a future meeting from a protection standpoint. Councilor Britt thought it was a good idea.

Mayor Pro Tempore Thibodeau clarified that Council wanted the Planning Board to consider the state and local uses as they did for Federal uses. Mayor Kingston stated she was correct. He added that it didn't have to be the same, but more knowledge on it would be good.

Mayor Pro Tempore Thibodeau moved to adopt Ordinance 16-04 as presented.

Motion carried 5-0.

## **OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS**

### **Overview of Preliminary Dare County Flood Maps**

Director Heard stated that on June 20, 2016, several representatives with the North Carolina Floodplain Mapping Program presented information about the newly released preliminary flood maps for Dare County to local public officials, adding that they offered a similar presentation on the new maps to the general public later that day. He stated that the presentation offered general information about the preliminary flood map changes, preliminary map review process, and the timeframe for implementation of the final flood maps.

Director Heard stated that when the maps are adopted, they will impact hundreds of individual property owners throughout the Town. He noted that, depending on the flood zone, property owners may have to comply with greater or lesser construction standards and pay higher or lower insurance rates.

Director Heard stated that the preliminary flood map amendments in the Town were overwhelmingly positive. He added that figures were provided that the number of properties located in a V flood zone decreased from 397 to 255 and the number of properties in an A flood zone decreased from 882 to 96. He noted that, while the figures were general in nature and individual properties may or may not have changed, the figures showed that a significant number of property owners may benefit from reduced insurance rates and lesser development standards.

Director Heard stated that Community Development staff was engaged in efforts to educate the public about the preliminary flood maps and how they can provide comments or appeal a determination on the maps. He stated that the Town's website will provide a link to a video about using the Flood Risk Information System website and will also have a list of Frequently Asked Questions and forms to assist residents and property owners about how to check the preliminary flood zone for their property, information about each flood zone, the process for submitting comments or appeals, and the process for approval of the final flood maps. He noted that staff would also be involved with arranging a community meeting for Duck residents and property owners, facilitating review of the final flood maps for adoption by Council as well as preparing associated amendments to the Town's Flood Damage Prevention Ordinance.

Mayor Kingston thanked Director Heard for his presentation.

### **NEW BUSINESS**

#### **Discussion/Consideration of Authorizing the Town Manager to Execute a Contract with Emerald Forest Incorporated for American Beach Grass and Sea Oats Planting and Fertilization**

Town Manager Christopher Layton was recognized to speak. Town Manager Layton stated that the Town's three year dune planting and fertilization contract with Emerald Forest expired on June 30, 2016. He added that requests were sent on April 21, 2016 to four prospective landscapers requesting proposals to bid on the contract. He noted that the four landscapers that were solicited were Emerald Forest, Coinjock Farms, Leah's Landscaping and McMillen Landscapes. He pointed out that McMillen and Leah both declined to bid; however, staff received proposals from Emerald Forest and Coinjock Farms.

Town Manger Layton stated that Emerald Forest's proposal offered the lowest per linear foot and offered a 5%, 8% and 10% discount over the three year contract term. He added that Coinjock Farms' proposal did not include a cost savings over the life of the contract. He recommended that he enter into a contract with Emerald Forest for a three year term.

Councilor Burdick moved to authorize the Town Manager to execute a contract with Emerald Forest Incorporated for American beach grass and sea oats planting and fertilization.

Motion carried 5-0.

#### **Discussion/Consideration of Authorizing the Town Manager to Execute an Agreement with Crowder Gulf for Disaster Debris Removal Services and Johnson Environmental for Debris Monitoring Services**

Town Manager Layton stated that the Town currently has an agreement in place with Dare County that allows the Town to utilize both disaster debris removal and disaster monitoring contractors utilized by the County. He stated that the contractors were currently TAG Grinding for debris removal and Thompson Consulting for debris monitoring. He noted that in the past, the Town worked with the Towns of Southern Shores and Nags Head on a joint procurement of secondary contractors that the Town could utilize in the event of a localized disaster debris removal situation or other circumstances in which the County contractors were not activated or the Town wished to utilize different contractors. He pointed out that six contractors had submitted proposals for disaster debris removal and three contractors submitted proposals for debris monitoring. He stated that an analysis of the proposals based on FEMA models determined that Crowder Gulf was the lowest responsive bidder for disaster debris removal and Johnson Environmental was the lowest for debris monitoring. He recommended that Council authorize him to enter into an agreement with Crowder Gulf and Johnson Environmental.

Mayor Kingston moved to authorize the Town Manager to execute an agreement with Crowder Gulf for disaster debris removal services and Johnson Environmental for debris monitoring services.

Motion carried 5-0.

#### **ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY**

Attorney Gallop stated he had nothing to report.

#### **ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER**

##### **Update on Departmental Activities**

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.

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 Relations Assistant Betsy Trimble was recognized to speak. Public Relations Assistant Trimble 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 Council had in their packets a letter from CP&E regarding the Town's monitoring report. He stated that staff was still working with the Corps of Engineers to get things finalized and did not expect any issues with getting through the process. He hoped to have an agreement regarding the access soon.

### **Update on 2022 Strategic Vision and Goal Setting Session**

Town Manager Layton stated that the 2022 Strategic Vision will be held on Monday, October 17 and Tuesday, October 18, 2016. He added that A. Tyler Sinclair would be individually interviewing each Council member before the session. He added that there would be half day sessions for each day and would not be as involved as the original Vision Retreat.

Councilor Burdick clarified that the sessions would be held on Monday and Tuesday. Mayor Kingston stated he was correct. Councilor Burdick thought Town Manager Layton meant that the sessions would be held on October 18 and 19. Town Manager Layton stated that he would clarify with A. Tyler Sinclair on the dates and let Council know.

Mayor Pro Tempore Thibodeau clarified that both sessions would be a half day each. Town Manager Layton stated she was correct.

### **Financial Statement for June FY 2016**

Town Manager Layton stated that he did not have the financial statements yet. He went on to review the beach activities and beach nourishment reports with Council and the audience.

### **MAYOR'S AGENDA**

Mayor Kingston stated that over the past couple of weeks, he and Town Manager Layton have been discussing the pedestrian plan in their weekly meetings. He added that Town Manager Layton had reached out to Jerry Jennings of NCDOT for final comments as well as searching for available funding. He stated that they decided that it would be good to meet with Malcolm Fearing of NCDOT, which will be happening on July 7, 2016. He stated that he, Town Manager Layton and Director Heard would be giving Mr. Fearing an overview of the Town's pedestrian and bicycle safety plan as well as showing him where the Town was with regard to searching for funding. He thought it was best to get Mr. Fearing's buy-in because he may have additional sources of funding and as the State representative, the Town needs his concurrence.

Mayor Kingston stated that he, Chief Cueto, Director of Public Information Denise Walsh and Public Relations Assistant Trimble attended the emergency management update at the end of June. He stated that it was a good session and also received an update from the standpoint of emergency management legislation's rules and laws.

Mayor Kingston stated that he will be attending his monthly mayor's meeting on July 19, 2016. He thanked Town staff and volunteers for the great job on the Fourth of July parade.

**COUNCIL MEMBERS' AGENDA**

Mayor Pro Tempore Thibodeau thanked everyone for the great job on the Fourth of July parade.

Councilor Burdick echoed Mayor Pro Tempore Thibodeau's comments on the parade.

Councilor Caviness stated that the last two concerts have been great fun and well attended.

Councilor Britt stated that his son loved the parade.

**OTHER BUSINESS**

**Additional Public Comments**

Mayor Kingston opened the floor for public comments.

Chief Black introduced Benjamin Williams as the newest part-time firefighter to Council and the audience.

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, August 3, 2016 at 7:00 p.m.


**ADJOURNMENT**

Councilor Burdick moved to adjourn the meeting.

Motion carried 5-0.

The time was 9:17 p.m.

  
Lori A. Ackerman, Town Clerk

Approved: August 3, 2016  
  
Don Kingston, Mayor

