

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
September 2, 2020**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 7:00 p.m. on Wednesday, September 2, 2020.

COUNCIL MEMBERS PRESENT: Mayor Don Kingston; Mayor Pro Tempore Monica Thibodeau; Councilor Nancy Caviness; Councilor Sandy Whitman; and Councilor Rob Mooney.

COUNCIL MEMBERS ABSENT: None.

OTHERS PRESENT: Interim Town Manager Joseph Heard; Police Chief Jeffrey Ackerman; Fire Chief Donna Black; Attorney John Leidy; Director of Marketing and Special Events Christian Legner; Assistant to the Town Manager Alyson Flynn; Permit Technician Kristiana Nickens; and Town Clerk Lori Ackerman.

OTHERS ABSENT: Town Attorney Robert Hobbs.

Mayor Kingston called the meeting to order at 7:01 p.m. He announced that Fire Chief Donna Black was elected to and sworn in as the Second Vice President of the International Association of Fire Chiefs. He added that in two years, Fire Chief Black will become President of the IAFC. He and Council went on to congratulate Fire Chief Black on that honor.

Mayor Kingston asked Fire Chief Donna Black to lead the Pledge of Allegiance. Mayor Kingston led the moment of silence.

Mayor Kingston thanked everyone that was viewing the meeting remotely and to ensure an orderly meeting, he asked the audience to follow the guidelines for those that wished to submit comments during the Public Comment period. He noted that if the comments were submitted via email it would be read into the record and if comments were submitted for a later comment, it could be done through the question and answer function in Zoom and would be read into the record. He stated that the meeting recording would be available on the Town's YouTube channel as soon as possible after the meeting.

PUBLIC COMMENTS

Mayor Kingston opened the floor for public comments.

Scott Kessler of 1377 Duck Road was recognized to speak. Mr. Kessler stated that he has attended most of the Council meetings since May 2019 and like others, he has many opinions about some of the decisions that he thought were good as well as some that were not so good. He stated that he was dismayed at the August 5, 2020 meeting when there

was a request to discuss the June financial report with the response being that it would not be discussed. He stated that he was also dismayed when he watched the opening sequence of the special meeting on August 26, 2020. He stated that he personally agreed with the seven unread public comments asking for an independent person to execute the financial activities of the Town's finances, adding that an employee with accounting or finance skills and a proper alignment with the organization were the best way to ensure fiscal responsibility.

Scott Kessler stated that clean audits were a minimum financial requirement and were required, yet they do not address items such as budget preparation, accounting treatment, financial analysis, and delivering financial clarity. He stated that they were unique disciplines that required special education training, experience and passion to meet those standards. He stated that he graduated from Virginia Tech with a degree in finance, has an accounting degree from VCU and spent 36 years practicing the disciplines. He stated that he was pretty competent in offering his opinion that the Town was not achieving complete financial responsibility. He pointed out that during the 2020 budget process, there were questions regarding the increased cost for extending the surf rescue requirements. He noted that the lifeguards would be on call beyond the Labor Day timeframe and the Town Manager did not respond to Council's question and only stated that it would be looked into. He stated that at the next meeting, the question was brought up again and was not answered. He pointed out that it was basic a financial analysis and that he could have answered the question in less than 30 minutes if he had the contract with the new rates in front of him. He stated that in the end, the 2020 budget was approved without the answer that Council had asked.

Scott Kessler reiterated that finance and accounting require passion and it has been his life's vocation. He stated that a mentor once told him to never be sorry for his passion but use it in the right way. He stated that he remains committed to fiscal responsibility and will continue to attend Council meetings.

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

CONSENT AGENDA

Minutes from the July 1, 2020, Regular Meeting; Minutes from the July 16, 2020, Emergency Meeting; Minutes from the July 20, 2020, Special Meeting; Minutes from the July 24, 2020, Reconvened Meeting; Adoption of Resolution 20-08, a Resolution Awarding Master Police Officer Tammy Bybee her Sidearm and Badge upon Retirement; Adoption of Resolution 20-09, a Resolution Receiving and Accepting the Findings of the Coastal Hazards Infrastructure Vulnerability Assessment

Councilor Whitman moved to approve the consent agenda as presented.

Mayor Pro Tempore Thibodeau asked if the adoption of Resolution 20-09 was a requirement on Western Carolina University's behalf to take the presentation and information that the Town received and sanction it.

Interim Town Manager Joe Heard was recognized to speak. Interim Town Manager Heard stated that the report was a study and not something that technically required adoption by the Council. He noted that it was presented to Council at their annual Retreat and had a few minor changes before it was submitted in its final form. He stated that the document was used during the preparation of the Hazard Mitigation Plan and the Land Use Plan, but as staff was looking into the Town's CRS rating and the score that needed to be achieved to help with the Town's insurance rates as well as looking at future grant possibilities to fund projects that may help with the vulnerable areas that were identified, it was something that would carry greater weight if the study is adopted. He stated that what was proposed was that it be received and accept the findings of that vulnerability assessment study.

Motion carried 5-0 via roll call.

SPECIAL PRESENTATIONS

Swearing in/Introduction of Police Department Leadership Team

Police Chief Jeffrey Ackerman was recognized to speak. Police Chief Ackerman stated that he was happy to introduce his new leadership team. He went on to introduce Police Lieutenant Melissa Clark, Police Sergeant Jason Garrett and Police Sergeant Joseph Knight as his new team to Council and the audience.

Town Clerk Lori Ackerman was recognized to speak. Town Clerk Ackerman went on to swear in Police Lieutenant Clark, Police Sergeant Garrett and Police Sergeant Knight.

Swearing in/Introduction of Kay Nickens as Deputy Town Clerk

Interim Town Manager Heard stated that there has been an opportunity that has been in the works for a little while. He stated that Permit Technician Kay Nickens has earned this opportunity through the work she has done over the past few years showing great capability to take on additional responsibilities.

Town Clerk Ackerman stated that Permit Technician Nickens had expressed an interest a while ago in shadowing her in order to become the Town's Deputy Town Clerk. She stated that they have been working together for a while and when Interim Town Manager Heard had asked about Permit Technician Nickens being promoted to Deputy Town Clerk, she was totally in favor of it. She stated that she was happy to have Interim Town Manager Heard's support of the promotion.

Town Clerk Ackerman went on to swear in Permit Technician Kay Nickens as the new Deputy Town Clerk.

Interim Town Manager Heard noted that Deputy Town Clerk Nickens' promotion was part of the efforts that staff has had to implement cross training between Town employees as well as for succession planning should Town Clerk Ackerman decide to retire as it would mean that Deputy Town Clerk Nickens could step in to provide a smooth transition. He added that he would be continuing to encourage cross training of employees.

PUBLIC HEARINGS

There were no Public Hearings to discuss.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

There was no Old Business items to discuss.

NEW BUSINESS

Discussion/Consideration of Authorizing the Interim Town Manager to Execute an Addendum to the Contract with Sandski, LLC, Authorizing an Increased Level of Service During the Fall Months of 2020

Interim Town Manager Heard stated that as part of staff's analysis of the request, they became aware of some things that were occurring that led them to believe that this would be a good concept to look at. He stated that staff did some background research on the issue as well as the need for what would be in the contract.

Deputy Town Clerk Kay Nickens was recognized to speak. Deputy Town Clerk Nickens went on to give a short presentation regarding Town of Duck occupancy expectations and the Dare County lifeguard contingency plans for increased service to Council and the audience. She noted that the Town expected to see a higher than usual need for public services during the fall months including the need for additional surf rescue staff to monitor the safety of residents and visitors on the beach.

Mayor Kingston asked if the Towns of Kill Devil Hills and Nags Head have ATVs. Deputy Town Clerk Nickens stated that the Town of Kill Devil Hills has five ATVs as well as a roving patrol of their beach. She added that they would implement the roving ATV at the end of September. She added that the Town of Nags Head will have patrol units that will continue through September.

Councilor Caviness asked if the rental homes were not maxed out, the rental companies gave an idea of what percentage of occupants would be in the rentals. Deputy Town Clerk Nickens stated that the rental companies did not specify the numbers of individuals for the rental homes.

Mayor Pro Tempore Thibodeau explained that rental companies are not equipped to give a head count because different sized families would use the house for different reasons.

She added that one week it could be fully booked and another week it could be partially booked.

Councilor Caviness asked Mayor Pro Tempore Thibodeau if she expected it to be more of a pre-summer or spring type of occupancy versus the summer occupancy. Mayor Pro Tempore Thibodeau stated that she did. She added that a lot of people have been reluctant to come with more than one group other than their immediate family.

Mayor Kingston asked if Corolla, the Town of Kitty Hawk, and the Town of Kill Devil Hills were decreasing the number of lifeguard stands they have on their beaches. Deputy Town Clerk Nickens stated Corolla was unique because it included both Corolla and Carova. She stated that after Labor Day, they stop patrolling in Carova, adding that the three stands in place were for only Corolla. Mayor Pro Tempore Thibodeau noted that the point was that everyone was adding their capacity for September into October.

Mayor Kingston asked what the Town of Southern Shores normally had in season. Ocean Rescue Director Mirek Dabrowski was recognized to speak. Ocean Rescue Director Dabrowski stated that they have one ATV and were adding two ATVs as opposed to two lifeguard stands and two ATVs. Mayor Kingston asked Ocean Rescue Director Dabrowski how many ATVs he had. Ocean Rescue Director Dabrowski stated that he had 10. He added that he also uses side by sides. He stated that he would be putting two side by sides and two ATVs in Southern Shores.

Interim Town Manager Heard stated that the annual contract covers a number of years and the contract addendum would specify that, following Labor Day weekend, there would be one supervisor and four roving ATVs on the beach.

Ocean Rescue Director Dabrowski stated that when he heard about increased rentals in the fall, he asked former Town Manager Chris Layton and subsequently Interim Town Manager Heard to have Deputy Town Clerk Nickens do some research and find out what was going on and then ask for his recommendation with regard to what would be best for the Town. He stated that as he was looking at it, he suggested blanketing the beach with ATVs, but then he looked at it again and felt it wouldn't work. He stated that he picked the most densely populated areas – Four Seasons, Christopher Drive, Schooner Ridge, Caffey's Inlet, Sprigtail and the Carolina Dunes subdivision. He stated that there was a lifeguard stand at Barrier Island, which was typically the busiest stand, along with Four Seasons, which made up 80% of the population on the beach in the fall. He felt that they would be the best places to put additional manpower for the month of September, which would be six additional lifeguards for 23 days. He added that for the month of October, he would be adding two lifeguards for two weeks. He noted that there would still be lifeguard service until October 31, 2020 with two ATV patrols and supervisors.

Mayor Kingston asked how many people were usually on the beach in September. Ocean Rescue Director Dabrowski stated that, depending on the weather and the day of the week, it could be between 400 to 700 people. He noted that currently he was seeing approximately 1,500 to 1,800.

Councilor Whitman asked how many lifeguards were on the beach at the end of last year. Ocean Rescue Director Dabrowski stated that he typically had 12 that stayed for the entire season but did not work full time. Councilor Whitman noted that Ocean Rescue Director Dabrowski had 12 lifeguards last year and asked Council last year for additional lifeguards from Australia which were applied for but couldn't come due to COVID-19. He added that in his contract, Ocean Rescue Director Dabrowski had the additional lifeguards from Australia. He asked if they were covered in the contract. Ocean Rescue Director Dabrowski stated that he asked those lifeguards to show up and they were included in the regular salary cost, but when they didn't show up due to COVID-19, he had to hire other lifeguards. Councilor Whitman thought Ocean Rescue Director Dabrowski would be keeping the lifeguards because there would be a later season and they would be able to stay later before they went back. Ocean Rescue Director Dabrowski stated he was correct, adding that he had hired 60 people at the beginning of the season, which was 15 more than he needed. He added that he had them because some were doing semesters abroad, internships and any kind of travel outside of the country, which was non-existent. He stated that he called the lifeguards that worked for him that he knew would be doing semesters abroad, traveling abroad, or internships and asked them to rethink what they were doing over the summer because they would not be able to do what they had signed up for. He stated that he ended up with more lifeguards than he normally would have, which helped him to provide service for the contract.

Councilor Whitman agreed, but added that Ocean Rescue Director Dabrowski already had a contract in place with the Town to have additional lifeguards at the end of the season to carry into the fall. He asked where they were accounted for in the contract. Ocean Rescue Director Dabrowski stated that he was asking for six lifeguards, adding that the additional lifeguards were four. He explained that he had two lifeguards prior to last year and when the contract was enacted, he was given two more lifeguards. Councilor Whitman clarified that there were six positions for 23 days and four were covered in the contract. He further clarified that only two additional positions were needed. Ocean Rescue Director Dabrowski stated that was asking for six additional positions plus the original four, which would bring it to 10 lifeguards. Councilor Whitman pointed out that the contract only had six positions in it. Ocean Rescue Director Dabrowski stated that he may have made an error.

Councilor Whitman pointed out that there would be four roaming patrols plus six additional ones. Ocean Rescue Director Dabrowski noted that it was 10 lifeguards. Councilor Whitman disagreed, adding that Ocean Rescue Director Dabrowski had already stated that he had six lifeguards. Ocean Rescue Director Dabrowski disagreed. Councilor Whitman stated that there were two. Ocean Rescue Director Dabrowski stated that he added two to bring it to four lifeguards. He added that he recommended six lifeguard stands.

Councilor Whitman asked if the lifeguards that work for Duck cover where the Town of Southern Shores begins. He clarified that the Town of Duck was paying for lifeguards in Duck and not Southern Shores. Ocean Rescue Director Dabrowski stated that Duck was

not paying for lifeguards in Southern Shores. Councilor Whitman asked why the roaming patrols in Duck go to Southern Shores. Ocean Rescue Director Dabrowski explained that it depended on what happens during the day, adding that if there was a call that happened to be in Southern Shores, he would send back up to whichever lifeguard was closest, which was considered mutual aid. He added that it could be brought to his attention if anyone saw a Duck lifeguard doing work in Southern Shores. Councilor Whitman stated that he was bringing it to Ocean Rescue Director Dabrowski's attention at this meeting. He added that he has witnessed Duck lifeguards go past the Tuckahoe subdivision and not come back for quite a while. He asked where they went. Ocean Rescue Director Dabrowski stated that he was unaware and will keep an eye on things. He reiterated that Duck was not paying for service in Southern Shores.

Mayor Pro Tempore Thibodeau appreciated all of the points that were brought up. She stated that there were four roaming patrols that would take the Town through October 15, 2020. She clarified that now there would be six additional lifeguards which would be on the lifeguards stands, for a total of 10 lifeguards. She further clarified that there would be two roving lifeguards on duty through October 31, 2020, which wasn't in the original contract. Ocean Rescue Director Dabrowski stated she was correct. Mayor Pro Tempore Thibodeau asked if the roving lifeguards would leave Duck to work in Southern Shores. She understood that in the summer Ocean Rescue Director Dabrowski would allocate his resources and may blend the two services. She asked if Duck executed the amended contract, the lifeguards would continue to go to Southern Shores. Ocean Rescue Director Dabrowski stated that at times he needs additional manpower to move things, whether it was in Duck or Southern Shores. He stated that if anyone sees his lifeguards going to Southern Shores, to bring it to his attention as soon as possible. He added that Duck was not paying for his lifeguards to patrol the Town of Southern Shores. He stated that their population density will be greatly reduced with respect to the density in Duck.

Mayor Pro Tempore Thibodeau asked if in the summer, normal operations was not to have the lifeguards patrolling in Southern Shores. Ocean Rescue Director Dabrowski stated that it was not normal. Mayor Pro Tempore Thibodeau asked what was normal. Ocean Rescue Director Dabrowski explained that Southern Shores pays for two ATVs and four lifeguard stands during the summer, which was more than adequate for what they have. He added that Duck has 12 lifeguard stands and four ATVs. He stated that periodically he needs additional manpower to move something in Southern Shores so he may send an ATV there. He noted that he also provides storage for the NEST people for their ATVs. He stated that the lifeguards do cross the Town lines to help one another even though the majority of his manpower is in the Town of Duck.

Mayor Pro Tempore Thibodeau stated that she does not go to the beach very often but does notice when she goes to the beach that the ATVs were not turning around at the Town line. She figured they were blended and Ocean Rescue Director Dabrowski was allocating his resources appropriately. She stated that she did not have an issue with it but has noticed it sometimes. She noted that she was asking about the amended contract so that she could understand what the Town was doing. She clarified that the patrol that Duck has with the original contract – which was four roving patrols – that the lifeguards

will turn around at the Town line unless they have something to do in Southern Shores. Ocean Rescue Director Dabrowski stated she was correct.

Mayor Pro Tempore Thibodeau stated that she was just asking what the Town could expect. She clarified that the four roving patrols was normally part of the Town's contract and would be in Duck and turn around at the Town line. Ocean Rescue Director Dabrowski stated she was correct. Mayor Pro Tempore Thibodeau clarified that the six additional lifeguards would be stationary in Duck. Ocean Rescue Director Dabrowski stated that it would give flexibility based on the population of the beach. Mayor Pro Tempore Thibodeau clarified that there would be a minimum of two lifeguard stands at any time. Ocean Rescue Director Dabrowski stated that there were two stands that he double sits during the summer at Barrier Island Station and Four Seasons due to population density. He noted that it wasn't every day.

Mayor Kingston asked how many stands and roving lifeguards were currently in Duck. Ocean Rescue Director Dabrowski stated that it was constantly in flux. He explained that because of the pandemic, he had a lot of his lifeguards go back to school early while others stayed but were doing classes online. He stated that he has four ATVs and seven lifeguard stands. Mayor Kingston thought it was safe to say that even though Duck has high occupancy, there will be a tail off on who's on the beach. He added that in prior years it's been 400 – 700 people, but there may be more this year since there will be more occupancy. He stated that kids are back in school so families with a lot of kids would not be here. He wondered how Duck could go from six lifeguard stands to a more reasonable number. Ocean Rescue Director Dabrowski stated that he gave his recommendation and it was up to Council to make a decision. He noted that this has not been done before, adding that all of the other towns were doing whatever was necessary to accommodate people.

Mayor Kingston clarified that if nothing was done, there was no cost since things would remain in place. Ocean Rescue Director Dabrowski stated he was correct. Mayor Kingston asked what was in place for September 2019. Ocean Rescue Director Dabrowski stated that it was four lifeguards and one supervisor.

Councilor Caviness asked what the recommendation would be if the Town went from six lifeguard stands to four. She further asked where the lifeguard stands would be. Ocean Rescue Director Dabrowski stated that they would be at Schooner Ridge, Four Seasons, Christopher Drive and possibly Caffey's Inlet or Caffey's Inlet and Sprigtail Drive. He noted that he would have to look at the population to see where the crowds were.

Councilor Caviness asked if the six lifeguard stands would remain and move the four people between them or if it was a bad idea to have an unoccupied fixed lifeguard stand. Ocean Rescue Director Dabrowski stated that having a lifeguard stand without anyone in it creates a false sense of security. He stated that he took a lifeguard stand down knowing it would be put back up and left it on the beach without any signs on it so it could be used again. He felt that if someone sees a lifeguard stand, the expectation would be that there should be a lifeguard there.

Mayor Kingston asked what the impact would be with no lifeguard stands but instead six roving lifeguards. Ocean Rescue Director Dabrowski stated that it was up to Council. He added that as far as the impact, if the area was densely populated, six ATVs would need additional manpower and he didn't have an issue with it. He stated that if he came across a densely populated area with a lot of people in the ocean, the lifeguard could sit there and then the level of patrols would need to be adjusted.

Councilor Whitman clarified that currently the beach should be fully manned until September 7, 2020 as per the current contract. Ocean Rescue Director Dabrowski stated he was correct. Councilor Whitman clarified that Ocean Rescue Director Dabrowski had to sit at a lifeguard stand recently because the beach was not fully manned. Ocean Rescue Director Dabrowski stated that he was helping out because there were roaming patrols.

Councilor Mooney stated that the current contract did not exist without the addendum and was confusing to read. He thought it needed to be rewritten. He clarified that in the current contract, the day after Labor Day until October 15, 2020, there would be only ATVs on the beach. Ocean Rescue Director Dabrowski stated he was correct. Councilor Mooney asked what the coverage would be from October 15 to October 31, 2020. Ocean Rescue Director Dabrowski stated that there would only be a supervisor on duty.

Councilor Mooney asked Interim Town Manager Heard to read Section 1C of the contract. Interim Town Manager Heard stated that it read as follows: "...contractor shall provide ocean rescue services from May 1st through October 31st of each year from 10:00 a.m. through 6:00 p.m. each day..." Councilor Mooney asked why there wasn't any coverage from October 15th through October 31st. Ocean Rescue Director Dabrowski explained that there was a supervisor in a truck. Interim Town Manager Heard noted that the next sentence described what happened from May 15th all the way up through Labor Day. Councilor Mooney stated that the paragraph was poorly written. Interim Town Manager Heard read the following from the contract: "...a minimum of one lifeguard supervisor shall be on location within the Town to respond to calls for service..."

Councilor Mooney stated that the addendum decreases the coverage the day after Labor Day to October 15, 2020. He pointed out that the original contract had four roving ATVs from the day after Labor Day to October 15, 2020 from 7:00 a.m. to 7:00 p.m. He added that in the new addendum the time has been changed to 8:30 a.m. to 7:00 p.m. He thought the original contract, especially that section, needed to be reworked to make it easier to understand so it would eliminate any confusion.

Mayor Pro Tempore Thibodeau agreed with Councilor Mooney's comments. She wondered what the differences were between the two services. Councilor Mooney thought the addendum was redundant. Mayor Pro Tempore Thibodeau agreed. Ocean Rescue Director Dabrowski stated that he did not know what was in the contract. He understood the confusion, but there were changes in service frequently. He noted that he was providing lifeguard service to the Town. Councilor Mooney stated that it seemed

confusing and needed to be made more clear what was in the regular contract versus what was in the addendum.

Mayor Pro Tempore Thibodeau asked about red flags. She thought that even though they were in the addendum, they were also in the original contract. Ocean Rescue Director Dabrowski thought red flags needed to be emphasized in both. Mayor Pro Tempore Thibodeau stated that the big differential between the contract and the addendum was the six additional lifeguards. Ocean Rescue Director Dabrowski stated she was correct. Mayor Pro Tempore Thibodeau clarified that it will cost \$30,000 for the 23 days in September as well as 15 days in October. Ocean Rescue Director Dabrowski stated she was correct. Mayor Pro Tempore Thibodeau thought Council could assume from October 15 – 31, 2020 that the coverage was in the original contract. Councilor Mooney noted that it had only one supervisor for that timeframe.

Mayor Kingston asked if the original contract could go to four roving ATVs and a supervisor from 7:00 a.m. to 7:00 p.m., and how quickly it could be expanded if more lifeguards were needed. Ocean Rescue Director Dabrowski stated that his lifeguards were looking to do something and if the Town asked him after Labor Day, he couldn't guarantee it. Mayor Pro Tempore Thibodeau clarified that Ocean Rescue Director Dabrowski needed the surety to get something going. Ocean Rescue Director Dabrowski stated she was correct, adding that if they don't have a job, they won't stick around.

Councilor Whitman clarified that Ocean Rescue Director Dabrowski would only be keeping 11 of his current lifeguards. Ocean Rescue Director Dabrowski stated that he had 22 that were looking to continue working through the fall. He stated that if the Town allows the six additional lifeguards along with what the National Park Service and the Town of Southern Shores were asking for, he would need a total of 20 lifeguards. He added that for each six guards he puts on the beach, he would need eight to 10 to fulfill the positions.

Mayor Kingston stated that his biggest concern was that there was a 10% increase to the contract for something Council thinks may happen but were not sure will happen. He added that the Town already has coverage and was paying \$486,000 and this would be an additional \$50,000. He stated that it was just for six lifeguards that may or may not be needed since the Town was already operating with four plus a supervisor. He wasn't sure if it was worth the expense to increment it even though it was basically lifeguard stands. He noted that there were roving lifeguards already in place, which the Town has had in prior years. Ocean Rescue Director Dabrowski stated that was why Council was having this discussion. He stated that he would do whatever Council wanted him to do. He noted that the lifeguard force won't be in place forever as they want to know what was going on and would be leaving if they are not needed.

Mayor Pro Tempore Thibodeau noted that the last sentence of the addendum stated the following: "...if it was determined by mutual agreement by the Town and the contractor that it was not necessary to maintain these guards during October, then they would be reduced..." She stated that she wanted some more information as to how that would

work. Ocean Rescue Director Dabrowski thought there will be a huge drop in the population density on the beach. He noted that after storms, the population drops off. He stated that it was a matter of beach counts which he continues to do. He thought if Council moved forward with the contract the way it was written; September was 23 days and it was a fixed price. He stated that the lifeguards would have jobs until September 30th and then he would determine whether or not they need to work into October. He pointed out that the National Park Service was finished by September 30, 2020 and he would be cutting between five to six positions. He stated that for the Town of Southern Shores, there were two positions he would be cutting. He added that he lets his lifeguards know when their jobs end each year.

Mayor Pro Tempore Thibodeau clarified that a week before September 30, 2020, Ocean Rescue Director Dabrowski would have a conversation with Interim Town Manager Heard and let him know what was needed. Ocean Rescue Director Dabrowski stated she was correct.

Mayor Kingston asked how much coverage was in Duck in prior years after Labor Day. Ocean Rescue Director Dabrowski stated that there were two lifeguards in prior years, with two additional lifeguards added into the contract in 2019. He stated that he wanted to get to eight lifeguards on the beach for the month of September. He stated that if it was bad and he felt more people were needed, he would put more lifeguards on the beach. He stated that he was fine with whatever decision Council makes, adding that what was happening with the rental programs this year was unprecedented. Mayor Kingston asked if there was any differential between a roving lifeguard and a lifeguard in a stand from the standpoint of cost. Ocean Rescue Director Dabrowski stated that there was as there was fuel involved with a roving lifeguard as well as wear and tear on the ATV.

Mayor Kingston pointed out that even though occupancy will be up, the taxes were an unknown. He thought that covering a \$50,000 expense could be difficult. Ocean Rescue Director Dabrowski stated that there was a cost plus in the construction industry so if Council wanted to do a cost plus to guarantee two weeks or one week, he may be able to figure out a contract amendment that will give the lifeguards needed.

Interim Town Manager Heard stated that four guards would equal \$19,627 for September and \$12,800 for October. He added that two additional lifeguards would cost a little over \$9,813 for September and \$6,400 in October.

Mayor Kingston thought that the lifeguard stands could be taken down and have roving ATVs for September and see what happens.

Councilor Caviness felt that September was a month that still had a lot of beach activity and this year it looked like the Town would have a very strong fall. She stated that she would like to see, as a compromise, in addition to the ATVs, to have four lifeguard stands through September and then revisit the issue for October if needed. She stated that if it was going to cost \$20,000 for four lifeguard stands, she liked the idea of having that for

mutual aid and assistance. She thought going through the end of September may be prudent based on all of the research that was completed. Mayor Pro Tempore Thibodeau agreed, even though it was a lot of money. She didn't think Council could put a price on public safety and liked the idea of finding a compromise and having the four lifeguard stands. She stated that she wouldn't mind the service being extended through October as long as Council had an idea of knowing if it was needed or not. She thought there were a lot of variables with the weather and population. She reiterated that she did not have a problem with putting extra money in to Public Safety with the amount of visitation that was expected.

Ocean Rescue Director Dabrowski stated that the month of September is a nice month and October is usually colder and there isn't the population of people there like in September. He stated that there was a large increase in the rentals for the month of October, but he believed that there wasn't a huge population that would be going into the ocean then, which was also why he didn't have as many lifeguards.

Councilor Whitman suggested decreasing it to three additional lifeguards to see how it goes and then re-evaluate things in October. Mayor Pro Tempore Thibodeau guessed if there were lifeguards in September, they could be available in October. Ocean Rescue Director Dabrowski stated that they would. He reiterated that the National Park Service and the Town of Southern Shores were pulling out their lifeguards and patrols in October.

Mayor Kingston clarified that the Town of Southern Shores was pulling out all of their lifeguard stands. Ocean Rescue Director Dabrowski stated he was correct, adding that they only had two lifeguard stands out currently. Mayor Kingston clarified that the Town of Kitty Hawk was pulling out all of their lifeguard stands. Ocean Rescue Director Dabrowski stated he was correct. Mayor Pro Tempore Thibodeau pointed out that the Town of Kitty Hawk has public beach accesses, so they definitely have people there. Mayor Kingston thought that the Town of Kill Devil Hills was going from 20+ lifeguards down to five.

Interim Town Manager Heard stated that the cost of three lifeguards would be \$14,720 for September and \$9,600 for October, if that was the choice that Council wanted to make. Mayor Kingston thought Council should look at September and October being a question mark. Councilor Whitman pointed out that Council could review the contract at their September 16, 2020 mid-month meeting. Interim Town Manager Heard stated that they could. He noted that there were some immediate things that the contract would cover following this meeting, but if Council wanted to revisit service in October, it could be done at their mid-month meeting.

Ocean Rescue Director Dabrowski pointed out that he has never written an addendum to his contract, but it was designed that if Council wanted coverage in September, he would be able to do. He noted that Council did not have to do anything for October, adding that he did not want this to be the norm.

Mayor Kingston asked when the lifeguard stands decrease to six stands. Ocean Rescue Director Dabrowski stated that he had seven on the beach currently. Mayor Kingston asked what the maximum was. Ocean Rescue Director Dabrowski stated that the maximum was 12, adding that he decreased it to seven on Wednesday, August 26, 2020.

Mayor Kingston stated that the suggestion was to go with three stands just for the month of September. He noted that Councilor Mooney had made the suggestion that the addendum needed to be consistent with the original contract. Mayor Pro Tempore Thibodeau pointed out that she and Councilor Caviness were thinking four lifeguard stands and thought Mayor Kingston and Councilor Whitman were in favor of three lifeguard stands. She asked what Councilor Mooney thought. Councilor Mooney thought four would be better, adding that there could be two on either side of the Army Corps of Engineer's pier.

Ocean Rescue Director Dabrowski stated that it wasn't just the population but also the conditions of the water. He noted that due to beach nourishment, the northern beach is a lot tamer than the disruptive beach on the southern end. He stated that he would put the three lifeguard stands at the southern end, but if Council wanted two on the north side and two on the south side, he could accommodate. Mayor Pro Tempore Thibodeau clarified that Ocean Rescue Director Dabrowski wanted to put all three lifeguards stands on the southern beach and none on the northern beach. Ocean Rescue Director Dabrowski stated that there would still be roving patrols on the northern beach.

Mayor Pro Tempore Thibodeau stated that for \$19,600, she thought the Town would see some higher occupancy tax coming in. She added that she wanted to see good service for the Town. She noted that she could support four lifeguard stands if one was put on the northern beach. She stated that she was concerned about the safety issue.

Councilor Caviness thought the section between Barrier Island to Christopher/Scarborough and Four Seasons had a lot of people and a lot of people with small children. She stated that the homes weren't that big and lent itself to smaller groups with young children. Ocean Rescue Director Dabrowski agreed.

Mayor Kingston clarified that Council was looking at four lifeguard stands for the month of September and revisiting the issue for the month of October as well as amending the addendum to be consistent with the original contract. Mayor Pro Tempore Thibodeau agreed, adding that it would be in terms of the hours of duty. Mayor Kingston pointed out that even though Council has not seen the occupancy tax numbers for August yet, it was down for July by 7%. He wasn't sure the Town would see that tax even if the homes were occupied. He thought revisiting the issue in a few weeks was a good idea.

Mayor Pro Tempore moved to approve four additional lifeguards with an amendment to the Sandski, LLC surf rescue and rework the amendment to be consistent with the original contract for the month of September and re-evaluating October at Council's September 16, 2020 mid-month meeting.

Interim Town Manager Heard asked if the motion should include authorizing the Interim Town Manager to execute the contract for the month of September.

Mayor Pro Tempore Thibodeau amended her motion to include authorizing the Interim Town Manager to execute the contract for the month of September

Motion carried 5-0 via roll call.

Discussion/Consideration of Authorizing the Interim Town Manager to Execute a Contract Extension with Waste Management of Virginia, Inc., to Collect and Dispose of Residential Solid Waste, Commercial Solid Waste, and Commercial Recyclable Materials

Permit Coordinator Sandy Cross was recognized to speak. Permit Coordinator Cross stated that in August 2015, the Town Council had authorized the Town Manager to execute a five-year contract with Waste Management for residential and commercial solid waste and commercial recycling collection. She stated that the contract was scheduled to expire on October 1, 2020, but it included a renewal clause that allowed a three-year contract extension subject to negotiated cost revisions for the additional term. She noted that the revised proposed costs included a 3% increase over last year and will include an annual CPI increase or a maximum 2.5% increase – whichever was lower – for the remaining two years of the contract, at which time solid waste collection services would be put out to bid.

Interim Town Manager Heard pointed out that the bottom line was it was a 3% increase and 2.5% in subsequent years.

Mayor Kingston asked how it matched up with the budgeted amount. Interim Town Manager Heard stated that \$868,000 was budgeted and with the 3% increase it would bring it to \$868,293. He added that the Town would need an additional \$293. He pointed out that the figures were estimates, noting that it was right on the budget and doesn't get much closer. He stated that the budgeted amount may need to be discussed further in April/May 2021 if a budget amendment would be necessary, but he didn't anticipate needing one.

Councilor Whitman asked if the Town has a fixed amount of tonnage. Permit Coordinator Cross stated that Waste Management does not charge for tonnage.

Mayor Kingston clarified that Waste Management does not charge per can per day. Mayor Pro Tempore Thibodeau pointed out that Page 5 of the contract has curbside per unit listed. Permit Coordinator Cross stated that they charge per can, but it was a number that comes out to \$47,670 per month for curbside collection. She added that there was also commercial collection which was approximately \$21,282 per month and was based on the dumpsters and cubic yards.

Councilor Whitman clarified that if it was \$21.00 per unit, it would be \$84.00 per unit if there were four units in place. He further asked if per unit counted as per household. Permit Coordinator Cross stated that it was what Waste Management provided to the Town. Councilor Whitman clarified that there were only 2,270 units in Duck. Permit Coordinator Cross stated he was correct.

Mayor Pro Tempore Thibodeau clarified that once Council approves the contract, it would be the contract price except for the CPI or 2.5%, whichever was lower. Interim Town Manager Heard stated she was correct, adding that it would carry the Town through the next three years, expiring in September 2023. He stated that the Town would begin the bid process in the spring of 2023.

Mayor Pro Tempore Thibodeau moved to authorize the Interim Town Manager to execute a contract extension with Waste Management as presented.

Motion carried 5-0 via roll call.

Discussion/Consideration of Authorizing the Interim Town Manager to Execute a Contract Extension with Tidewater Fibre Corporation to Collect and Dispose of Residential Recyclable Materials

Interim Town Manager Heard stated that in August 2015, the Town Council had authorized the Town Manager to execute a five-year contract with Tidewater Fibre Corporation for residential recycling collection and disposal. He stated that the contract was scheduled to expire on October 1, 2020 and included a mutually agreeable renewal clause beyond the initial term of the contract. He stated that Town staff opted to negotiate a three-year contract extension to keep the Tidewater Fibre Corporation contract on the same timeline as Waste Management's contract in anticipation of a full bid process at the expiration of both of the contracts.

Assistant to the Town Manager Alyson Flynn was recognized to speak. Assistant to the Town Manager Flynn stated that Tidewater Fibre Corporation's proposed cost increases equated to an 18% increase over the 2015 rates and a subsequent annual increase of 3% over the final two years of the contract. She stated that much of the proposed increase was the result of the decline in the average market price for a recovered ton of recyclables, which was down 70%, as well as the distance from which they travel to serve the Town of Duck. She added that the residue rate, which was the charge for contaminated collectables, would be increasing from \$40.50 to \$52.50; however, she noted that staff has not see an increase in this rate over the life of the expiring contract.

Interim Town Manager Heard pointed out that the contract in front of Council had changes on Page 3, which was negotiating a maximum residue of no more than \$63.00 per ton and negotiating not exceeding 25%. He noted that the \$63.00 per ton was added to the contract. He stated that with regard to the budget, for residential recycling, the Town has \$177,000 budgeted for it and it could fluctuate as it was based on the amounts and other factors. He stated that the estimate was under \$7,000 of what was budgeted.

Mayor Pro Tempore Thibodeau thanked Town staff for breaking the contract down for Council and saving the Town almost \$20,000.

Mayor Pro Tempore Thibodeau moved to authorize the Interim Town Manager to execute a contract extension with Tidewater Fibre Corporation as presented.

Motion carried 5-0 via roll call.

Discussion/Consideration of Authorizing the Interim Town Manager to Execute a Contract for Duck Trail Improvements Adjoining the Sanderling Neighborhood with Barnhill Contracting Company, Inc.

Permit Coordinator Cross stated that as part of the Fiscal Year 2020-2021 budget, funding was approved for improvements to the Duck Trail shared use path paralleling Duck Road. She stated that Requests for Bids for improvements north and south of Martin Lane were requested on July 14, 2020, adding that bids were received from four contractors with Barnhill Contracting Company having the low bid of \$125,695.00.

Permit Coordinator Cross noted that Council had budgeted \$200,000 for trail improvements this fiscal year so there was sufficient funding remaining in the budget for additional Trail improvements. She stated that staff has initiated additional survey and design work between Oyster Catcher Lane and Blue Heron Lane with the expectation that a portion of this area can be repaved this winter. She noted that as the design and specifications were not complete, these potential improvements were not specifically included in the contract; however, staff included the wording in the contract that will allow for supplemental changes or additions to the scope of the contract.

Councilor Whitman asked if it was based on unit prices. Permit Coordinator Cross stated that it was.

Mayor Kingston asked what the timetable will be. Permit Coordinator Cross stated that it would be 60 days from the date the contract is signed. She added that the contractor had an additional 10 days to get the bond paperwork completed. She stated that ATX Tree Service would be coming in to do some trimming between Martin Lane and Station Bay Drive. She stated that the work should be completed before spring 2021.

Mayor Pro Tempore Thibodeau asked how long Anlauf Designs takes to complete the designs and what the charge would be. Permit Coordinator Cross stated that surveys cost approximately \$4,100 and Anlauf Designs would probably charge \$5,000.

Interim Town Manager Heard explained that the survey and design would be completed for the entire stretch that will include an area that will not be worked on until next year so the cost will already be absorbed.

Mayor Pro Tempore Thibodeau asked how long the survey would take. Permit Coordinator Cross stated that it was currently in progress.

Councilor Whitman moved to authorize the Interim Town Manager to execute a contract with Barnhill Contracting Company, Inc. as presented.

Motion carried 5-0 via roll call.

Presentation/Adoption of Resolution 20-10, a Resolution Adopting an Updated Emergency Operations Plan

Fire Chief Donna Black was recognized to speak. Fire Chief Black stated that the Town adopted its current Emergency Operations Plan on July 19, 2017 and due to subsequent changes in the types of issues, solutions, resources, and responsibilities, she started a coordinated effort to update the existing plan.

Fire Chief Black explained that the purpose of the plan was to outline how the Town will use available resources to prevent or minimize potential impacts of emergencies or disasters whenever possible. She explained that the plan will do the following:

1. Prepare to deal efficiently with the effects of emergency events through the development of plans, procedures, and training of all personnel.
2. Respond to matters of life safety and property protection.
3. Inform decision makers and the public about critical information.
4. Promote a means to recover rapidly from unavoidable damages by implementing contracts, procedures, and procuring necessary resources.
5. Identify potential opportunities to reduce future negative impacts and implement those actions.

Fire Chief Black went on to review the Emergency Operations Plan with Council and the audience.

Mayor Kingston asked how often the plan was updated. Fire Chief Black stated that it should be reviewed annually but it's been every three years. She stated that she spoke with Drew Pearson of Dare County Emergency Management and looked at other plans to make sure Duck has enough information in the plan. She noted that since Duck was a small town and not a county, the plan did not have to be as beefy as other plans. She thought every couple of years it could be updated.

Mayor Pro Tempore Thibodeau asked if the plan was completely rewritten after reviewing it. Fire Chief Black stated that it was more substantive around some of the hazards as well as adding more responsibilities. Mayor Pro Tempore Thibodeau clarified that the process was that staff sat in a meeting and reviewed it together. Fire Chief Black stated that she made the suggested changes based on Dare County's plan as well as some other plans she had looked at regionally, gave staff her redlined changes, and then all looked at it in totality.

Councilor Caviness moved to adopt Resolution 20-10 as presented.

Motion carried 5-0 via roll call.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Attorney John Leidy was recognized to speak. Attorney Leidy stated that he did not have anything to report in open session.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Departmental Updates

Planning Intern Savannah Newbern was recognized to speak. Planning Intern Newbern gave a brief overview of the past month's permit activities to Council and the audience.

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

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

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

Update on Beach Nourishment/Maintenance

Interim Town Manager Heard stated that Council received a copy of a letter from Coastal Protection Engineering North Carolina, adding that there were three different projects they were working with the Town. He stated that the first was the post hurricane Dorian repair. He noted that those documents have been submitted to FEMA, adding that the beach nourishment area lost over 170,000 cubic yards of sand and the damage was estimated at approximately \$3 million. He stated that the paperwork has been submitted to FEMA for that and staff was awaiting their response. He stated that the intent of the repair and funding/reimbursement will be tied to the Town's beach nourishment project coming up in 2022.

Interim Town Manager Heard stated that the second project was the Town's regular annual monitoring and analysis. He stated that Coastal Protection Engineering anticipated having the draft monitoring report in a couple of weeks. He pointed out that the Town was not just focusing on the beach nourishment project area, but on the entire Town, so there will be profiles from north to south.

Interim Town Manager Heard stated that the third project was the 2022 permitting and design. He stated that Coastal Protection Engineering has begun their preparations for the environmental documentation that was necessary for obtaining permits. He stated that they were getting ready to work on the borrow area investigation in the areas of the ocean that sand would be pulled from, which begin in September.

Interim Town Manager Heard stated that with regard to the beach nourishment grant, staff was anticipating a mid-September date for notifying communities about whether or not they will receive funds from that pool of money. He didn't think the Town would receive the \$2.5 million but hoped to receive a substantial amount in order to reduce the cost of the 2022 project.

Financial Statement for the Month of August for FY 2021

Assistant Flynn reviewed the financial statements with Council and the audience, noting that she would have a full update for Council at their September 16, 2020 mid-month meeting.

MAYOR'S AGENDA

Mayor Kingston stated that he continues to attend weekly meetings with the Dare County Board of Commissioner Chairman as well as the other mayors and officials with respect to COVID-19. He stated that earlier in the day they discussed the Governor's orders, adding that the Town amended its Declaration of State of Emergency earlier in the day. He stated that he has a three-hour organizational meeting with the North Carolina League of Municipalities which would be spread out over three days via Zoom. He stated that he has his Finance Committee meeting on Wednesday, September 9, 2020 via Zoom. He stated that on Monday, September 14, 2020, he had an Executive Committee meeting via Zoom and on September 17-18, 2020, he had his Board of Directors meeting via Zoom. He stated that with regard to the Town Manager search, all four firms responded to the request for the meeting on Wednesday, September 9, 2020 and will each have a 30-minute timeframe with 15-minute breaks in between. He noted that Colin Baenziger would be attending in person with the other three firms meeting via Zoom. He thanked Director Legner for her work on setting up the Zoom meetings.

COUNCIL MEMBER'S AGENDA

Mayor Pro Tempore Thibodeau congratulated Town staff that were recently promoted and adding to the resiliency for the Town staff. She congratulated Fire Chief Black on her new role. She stated that she appreciated the input received from the community and wanted to clarify the misperception of some comments that came in regarding the Heron property. She went on to give a background of how the property came to become available for purchase and noted that the property was not rezoned for the Town nor purchased by the Town after many months of discussions.

Councilor Mooney stated that he had no report.

Councilor Whitman wished Police Chief Ackerman and Fire Chief Black luck on everything they will be accomplishing in the upcoming years.

Councilor Caviness congratulated Town staff on the recent promotions. She thanked Mayor Pro Tempore Thibodeau for the background information on the Heron property that she discussed.

OTHER BUSINESS

Additional Public Comments

Mayor Kingston opened the floor for public comments.

Director Legner stated that no additional public comments had come in.

There being no comments, Mayor Kingston closed the time for public comments.

CLOSED SESSION

Mayor Pro Tempore Thibodeau moved to enter closed session pursuant to North Carolina General Statute 143-318.11(a)(3) and (6) in order to confer with the Town Attorney regarding a matter within the attorney/client privilege and to preserve that privilege and to discuss a confidential personnel matter in accordance with North Carolina General Statute 160A-168, including but not limited to considering the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee.

Motion carried 5-0 via roll call.

The time was 10:48 p.m.

Upon return from closed session, Attorney Leidy stated that Council conferred with the attorney and took some action, but there was nothing to report.

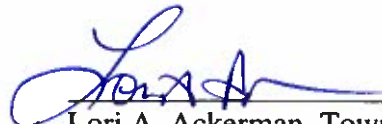
Mayor Kingston noted that the next meeting would be the Reconvened Meeting on Wednesday, September 9, 2020 at 1:00 p.m.

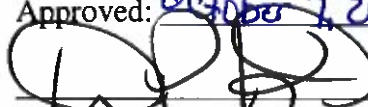
RECESS TO RECONVENE

Councilor Whitman moved to recess the meeting.

Motion carried 5-0.

The time was 11:43 p.m.


Lori A. Ackerman, Town Clerk

Approved: October 7, 2020

Don Kingston, Mayor

