

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
September 7, 2016**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 7:30 p.m. on Wednesday, September 7, 2016.

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

COUNCIL MEMBERS ABSENT: Councilor Chuck Burdick.

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 Public Information Denise Walsh; Public Relations Assistant Betsy Trimble; and Town Clerk Lori Ackerman.

OTHERS ABSENT: None.

Mayor Kingston called the meeting to order at 7:34 p.m. He asked Councilor Nancy Caviness to lead the Pledge of Allegiance. Mayor Kingston led the moment of silence.

Mayor Kingston noted that Councilor Burdick was excused from the meeting.

PUBLIC COMMENTS

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

CONSENT AGENDA

Minutes from the August, 3, 2016, Regular Meeting; Budget Amendments

Councilor Caviness moved to approve the Consent Agenda as presented.

Motion carried 4-0.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

Overview/Discussion of Response to Tropical Storm Hermine

Town Manager Christopher Layton was recognized to speak. Town Manager Layton thanked Mayor Kingston, Director of Community Development Joe Heard, Fire Chief Donna Black, Police Chief John Cueto and Director of Public Information Denise Walsh for taking care of things while he was out of the country. He stated that he felt very

comfortable with the coverage in Town while he was away. He stated that there were some issues that needed to be discussed; however, he didn't think it would require a very long discussion because the overall impact of Tropical Storm Hermine on the Town was minimal. He noted that there was some vegetative debris and damage to three pools. He thought it was appropriate for the Town to complete a vegetative debris sweep to pick up storm related debris, beyond the normal bulk pickup. He stated that the bulk pickup was scheduled for October 14, 2016 so there would be time for the normal bulk items to be picked up at that time. He stated that there were larger items that needed to be picked up sooner. He recommended using Coinjock Farms where they could perform a sweep of vegetative debris only. He stated that two sweeps would be done to make sure all debris was picked up. He stated that if Council was fine with it, he would work with staff to get the word out about the debris pick up.

Councilor Caviness asked what the difference was between the Town doing a small scale pickup versus people putting the debris in their trash cans. Town Manager Layton thought in this case, some of the properties have larger limbs that would not fit into the trash cans. He thought it was appropriate to put smaller limbs in the trash cans.

Mayor Kingston asked if a vote was needed or a consensus. Town Manager Layton stated that a consensus would be fine. He didn't think the cost would be overwhelming for the cleanup.

Mayor Pro Tempore Thibodeau thought it was reasonable. She thought that the public would appreciate the ability to have the bigger items cleaned up.

It was *consensus* of Council to have Town Manager Layton work with Coinjock Farms on the vegetative debris cleanup.

Director of Community Development Joe Heard was recognized to speak. Director Heard reviewed the damage assessments that were submitted to Dare County to Council and the audience.

Fire Chief Donna Black was recognized to speak. Fire Chief Black reviewed the meetings that were held leading up to the storm to Council and the audience.

Police Chief John Cueto was recognized to speak. Police Chief Cueto reviewed the preparation details of Public Safety before and after the storm to Council and the audience.

Director of Public Information Denise Walsh was recognized to speak. Director Walsh reviewed the public information preparation on the storm with Council and the audience.

Mayor Kingston noted that he received a telephone call from Dominion Power on Sunday evening. He stated that they had 1,941 requests for service, but only three were from Duck. He stated that he wasn't sure what the total outage was in Duck due to the storm.

He added that he met with Town staff two times before the storm and they were well prepared and executed well in Town Manager Layton's absence.

Discussion/Consideration of Authorizing a Public Hearing on Items Referred from the Planning Board:

ZMA 16-001, an Application to Rezone 1165 Duck Road from Single-Family Residential (RS-1) to Village Commercial (V-C)

Director Heard stated that the applicants were requesting approval of a zoning map amendment from Single-Family Residential to Village Commercial at 1165 Duck Road. He added that the property owners planned to market the property for sale and did not have a specific development proposal associated with the zoning map amendment at this time. He noted that the Planning Board reviewed the application at their August 10, 2016 meeting and recommended approval.

Councilor Caviness asked if the preliminary work has occurred on this property with regard to the pedestrian plan. She further asked if the agreement or communication would transfer to the next owner. Town Manager Layton stated that there wasn't an easement required that any work would be done in the right of way of that parcel.

Mayor Pro Tempore Thibodeau moved to authorize the public hearing for ZMA 16-001 for the October 5, 2016 Town Council meeting.

Motion carried 4-0.

Ordinance 16-05, an Ordinance of the Town Council of the Town of Duck, North Carolina, Eliminating a Provision for the Submittal of Protest Petitions in Section 156.181 of the Town Code

Director Heard stated that in 2015, the NC State Legislature voted to pass NC State Law 2015-160, which eliminated the use of protest petitions in North Carolina. He noted that the proposed text amendment would eliminate the protest petition provision in the Zoning Ordinance, and would bring the Town's ordinance into compliance with State law. He stated that the Planning Board reviewed it and recommended approval.

Mayor Pro Tempore Thibodeau moved to authorize a public hearing for Ordinance 16-05 for the October 5, 2016 Town Council meeting.

Motion carried 4-0.

NEW BUSINESS

Discussion/Consideration of Authorizing the Town Manager to Execute a Contract with VHB Engineering, NC. P.C. for Services Related to the Implementation of the Comprehensive Pedestrian Plan

Town Manager Layton stated that over the past several months, staff has been developing a strategy for the implementation of the Comprehensive Pedestrian Plan improvements envisioned for the Village Commercial District of the Town. He stated that VHB was finalizing the construction documents for the design and implementation of Phase I and II of the project which were proposed to be bid at the same time. He explained that Phase I consisted of the crosswalks, gateways, signage, accessibility and utility relocations for the entire project area. He added that Phase II consisted of the sidewalk improvements on the east side of Duck Road from Four Seasons to Duck Deli. He noted that in order to advance the project, VHB submitted a draft agreement that provided for additional survey work required for easements and additional topographic information, sidewalk connect compliance review related to ADA standards, design refinements and bid documents.

Town Manager Layton stated that the fee for the work was \$37,200, with a proposed completion in February, 2017. He added that \$10,000 has been budgeted for the work and if the agreement was approved, an additional \$27,200 would need to be appropriated from the Contingency Fund. He stated that, subject to funding in Fiscal Year 2018, the agreement would allow for construction of Phase I and II to begin in Fiscal Year 2018.

Mayor Kingston asked what the timeline would be between VHB completing their work, the easements being obtained and construction beginning. Town Manager Layton stated that they would run concurrently.

Councilor Britt clarified that there was nothing in the contract that stated that it would need to be redone if the funds weren't available. Town Manager Layton thought if the Town did not move forward with the project, most of the items would require additional funding to make sure everything was correct. He added that the surveys should be close and there should be no reason why the Town could not get the easements and have them in place before starting construction.

Councilor Britt moved to authorize the Town Manager to execute an agreement with VHB Engineering for services related to the implementation of the Comprehensive Pedestrian Plan.

Motion carried 4-0.

Discussion/Consideration of Authorizing the Submittal of a Grant Application to the Dare County Visitors Bureau for Phase I of the Comprehensive Pedestrian Plan – Commercial Village Area Improvements

Town Manager Layton stated that the grant application was in conjunction with the contract with VHB Engineering. He stated that a source of funding for the project was through a grant with the Dare County Tourism Board Restricted Fund. He explained that the grant source would cover 50% of the applicable project up to \$500,000; however, \$500,000 has never been awarded for a project. He added that the grant application was requesting \$500,000 for Phase I and II of the improvements, noting that the estimated

project cost was \$1,002,222. He stated that the Town would be responsible for the remaining \$502,222.

Mayor Pro Tempore Thibodeau clarified that this was for not only the sidewalk but the entire construction of where the bicycle path and the median and sidewalk will be. Town Manager Layton stated she was correct. He added that the whole section would be completed according to the plan to Duck Deli on the east side. Mayor Pro Tempore Thibodeau thought it was great.

Councilor Caviness asked if Diane Bognich from the Tourism Board thought the emphasis should be on pedestrian and bicycling safety, movement and capacity versus any kind of the enhancements to the vehicular traffic. Town Manager Layton stated that she did not make that distinction. He thought that Town staff sold it as both a safety aspect and by making it safer and taking the unpredictability out, it would allow traffic to flow more smoothly. Director Heard added that it would also enhance the visitor experience. Councilor Caviness noted that it came out really clear in the write up.

Mayor Kingston asked when the Tourism Board would make their decision. Director Heard stated that the grant had to be in by September 30, 2016; the Steering Committee begins their review on December 1, 2016 and would notify the community informally as early as February, 2017. He added that they have until the end of June, 2017 before a municipality was officially notified and the grant could be spent by July 1, 2017. Town Manager Layton stated that in the past, staff has had a strong indication where they felt comfortable putting it in the budget or not. He expected to know something in the March/April timeframe when the budget is being worked on.

Councilor Britt suggested letting the Tourism Board know about the amount of time and money that the Town has already committed to the grant application. He added that it could be stated what the Town has already completed as well as what was spent. Town Manager Layton thought it was a good idea. He noted that it was emphasized with the Tourism Board staff when the meeting was held. Councilor Caviness stated that it goes a long way when applying for a grant to show that research and homework was completed. Mayor Pro Tempore Thibodeau stated that there was a lot of competition in the County.

Mayor Kingston moved to authorize the Town Manger to submit the grant application as presented.

Motion carried 4-0.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Town Attorney Robert Hobbs was recognized to speak. Town Attorney Hobbs stated he had nothing to report.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Update on Departmental Activities

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

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

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

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

Update on the Town of Duck Beach Nourishment Project

Town Manager Layton stated that the BOEM lease has been signed. He added that Julien Devisse of Coastal Planning and Engineering will be meeting with Director Heard and him to look at some of the hot spots on the beach so they could put it into the plan as they move forward.

Update on the Proposed Refinancing of Town Hall/Property Debt

Town Manager Layton stated that at their August 3, 2016 meeting, Council had authorized him to explore refinancing of the existing debt on the Town Hall/Property that was currently owned by BB&T Bank. He noted that he had hoped that the Town could refinance the debt to lower the rate on the loan from 3.21% to below 2%, but unfortunately, the agreement with BB&T Bank for the debt issuance did not allow the calling of the loan prior to November 17, 2017. He explained that the stipulation was made in consideration of BB&T Bank dropping the prepayment penalty. He stated that the Town would explore refinancing the loan next year.

Overview of Street Parking and Beach Commercial Activity Regulations

Town Manager Layton stated that at its last meeting, Council requested that he provide them with an overview of the regulations related to street parking and beach commercial activity. He added that two memorandums were in Council's packets related to each of the items. He stated that for the on-street parking, it was largely complaint driven. He added that there was an ordinance on the books that states that all public roads, which would be the NC Department of Transportation maintained roads, could not have any on-street parking. He explained that the ordinance was added when the Town incorporated and was due to overflow parking from large houses that generated complaints.

Town Manager Layton stated that the North Carolina General Statutes have a rule that says that police can enforce parking regulations on private roads if those roads were added by an ordinance to the Town Code. He added that in order to do that, the Town requires a request to be submitted by a homeowner association requesting that the Town enforce parking on those roads. He stated that the subdivisions were listed in Council's memorandum that have private roads that asked the Town to enforce parking along those roads.

Town Manager Layton explained that the way staff has enforced parking since the rules have been in effect, was largely complaint driven. He added that if staff receives a complaint from an individual, the police will look at it to see if the rules were being violated and they could be subject to ticket or towing depending on the situation. He stated that the exception was if there was something that was considered a public safety issue such as parking that blocks the flow of traffic or the ability of Public Safety vehicles to be able to get through a road. He added that at that point, the person could be ticketed or towed. He stated that if the person is parked in front of a fire hydrant, they could be ticketed or towed.

Town Manger Layton stated that as a general rule, the police go out of their way to find the people that were illegally parked and ask them to move their vehicles. He added that oftentimes, the people could not be located due to them being on the beach or attending a wedding and at that point, the vehicle is either ticketed or towed. He noted that a vehicle is rarely towed, but it has happened on occasion.

Town Manager Layton stated that, with regard to commercial beach activity regulations, staff follows the rules. He added that there were prohibitions against commercial activity on the beach but if there wasn't a point of sale on the beach, then it was not prohibited. He explained that if someone was holding surf lessons and the people met on the beach, but cash was not being exchanged, or if someone was holding surf fishing lessons, the Town did not have rules to regulate it. He noted that the Town had rules against solicitation on the beach. He added that staff did not get into the issue of how someone who is giving the lessons happens to be on the beach. He stated that if staff receives a complaint that someone was using a beach access that they weren't authorized to use, then they would get involved.

Mayor Pro Tempore Thibodeau thought it was a good reminder as to how the Town has gotten to where it currently was and how things were being handled presently. She thought the fact that Public Safety was using discretion and not being heavy handed on ticketing was great.

Councilor Caviness noted that things were very clear and thanked Town Manager Layton for the memorandums.

Financial Statement for August FY 2017

Town Manager Layton reviewed the financial statement, beach activities and beach nourishment reports with Council and the audience.

MAYOR'S AGENDA

Mayor Kingston stated that he has his mayors lunch on September 20, 2016. He added that he will be out of town from September 26, 2016 through October 3, 2016. He congratulated Town Manger Layton on his first cross country win.

COUNCIL MEMBERS' AGENDA

Mayor Pro Tempore Thibodeau stated that she will not be at the October 5, 2016. She stated that the Government Access Channel would be meeting on September 8, 2016 regarding consultant work that will be done.

Councilor Caviness had nothing to report.

Councilor Britt stated that he was in town with regard to Tropical Storm Hermine and appreciated the professionalism from all departments.

OTHER BUSINESS

Additional Public Comments

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

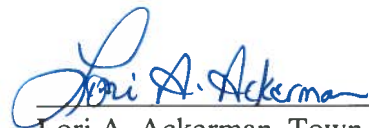
Mayor Kingston noted that the next meeting will be the Regular Meeting on Wednesday, October 5, 2016 at 7:00 p.m.

ADJOURNMENT

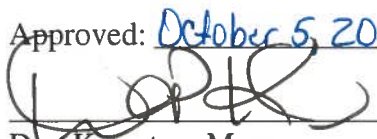
Councilor Britt moved to adjourn the meeting.

Motion carried 4-0.

The time was 9:35 p.m.



Lori A. Ackerman, Town Clerk

Approved: October 5, 2016


Don Kingston, Mayor

