

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
January 6, 2021**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 6:00 p.m. on Wednesday, January 6, 2021.

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; Deputy Fire Chief Clarence Batschelet; Attorney John Leidy; Director of Marketing and Special Events Christian Legner; Deputy Town Clerk Kristiana Nickens; and Town Clerk Lori Ackerman.

OTHERS ABSENT: Town Attorney Robert Hobbs; Public Relations Administrative Assistant Betsy Trimble; and Assistant to the Town Manager Alyson Flynn.

Mayor Kingston called the meeting to order at 6:02 p.m. He noted that Councilor Nancy Caviness and Fire Chief Donna Black were attending the meeting remotely.

Mayor Kingston asked Councilor Rob Mooney 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. There being no one wishing to speak, Mayor Kingston closed the time for public comments.

CONSENT AGENDA

Minutes from the November 4, 2020, Regular Meeting; Minutes from the November 18, 2020, Mid-Month Meeting; Minutes from the November 19, 2020, Reconvened Meeting; and Budget Amendment

Councilor Whitman moved to approve the consent agenda as presented.

Motion carried 5-0 via roll call.

SPECIAL PRESENTATION

Introduction of New Police Officer

Police Chief Jeffrey Ackerman was recognized to speak. Police Chief Ackerman introduced new police officer Mitchell Ardinger to Council and the audience.

Town Clerk Lori Ackerman was recognized to speak. Town Clerk Ackerman went on to swear in police officer Mitchell Ardinger.

Mayor Kingston and Council welcomed Officer Ardinger to the Town.

Beach Renourishment Funding

Dare County Manager Bobby Outten was recognized to speak. Dare County Manager Outten gave a short presentation regarding the proposed changes to the funding system for beach nourishment project in Dare County to Council and the audience.

Mayor Kingston asked if there was any chance that the projects in Southern Shores and Avon will not move forward. Dare County Manager Outten didn't think there was any chance that Southern Shores' project would not go forward as he thought they were pretty well committed and have their funding plan in place. He added that they need money from Dare County to do it. He stated that he was unsure if Avon's project would move forward.

Mayor Kingston asked if the Avon project did not move forward what would happen to the \$1.4 million. Dare County Manager Outten stated that if Avon was not completed, there would be enough funding to do the Southern Shores project. He added that there was enough funding to do Southern Shores but not enough to fund Avon without a significant tax increase.

Mayor Kingston clarified that the \$1.4 million would need to be recovered either way from each of the towns. Dare County Manager Outten stated that if the Avon project was not done, the County wouldn't need it. He added that one project could be done but not both which was why they were looking at a reduction in funding.

Councilor Whitman asked if there were any restrictions on the \$1.4 million where Duck's funding would have to stay in Duck. Dare County Manager Outten stated that Dare County was not using Duck's money but was taking back Dare County's.

Interim Town Manager Joe Heard was recognized to speak. Interim Town Manager Heard explained that the grant would stay with the Town and Dare County would reduce the amount of money they were giving the Town.

Councilor Whitman clarified that the only thing the Town was not receiving was the \$2.5 million. He further clarified that the Town would not be receiving the funds to reduce the MSDs for the people in the beach nourishment area. Mayor Kingston stated that Duck would still be able to reduce the MSDs. Interim Town Manager Heard stated that it would not be by as much. Dare County Manager Outten pointed out that Duck was not giving Dare County its grant money. Councilor Whitman clarified that Dare County would be reducing the money they would be giving the Town. Dare County Manager Outten stated he was correct.

Mayor Kingston pointed out that the Town was still receiving the \$2.5 million but some of it was coming from the Town instead of Dare County. He added that there was also the FEMA grant so the MSDs would still have a positive impact.

Mayor Pro Tempore Thibodeau clarified that the numbers projected were the same, but it would be used from difference sources. Dare County Manager Outten stated she was correct. Mayor Pro Tempore Thibodeau clarified that conceivably there would be a Southern Shores and Avon project down the road and when the modeling was completed, those two new projects would be part of the mix in terms of the ability to help renourish. Dare County Manager Outten stated she was correct. Mayor Pro Tempore Thibodeau stated that she was concerned about the future and how much the renourishment funds could be spread out. She asked if it was \$8 million per year from the two percent on the occupancy. Dare County Manager Outten thought that was correct. Mayor Pro Tempore Thibodeau clarified that the Avon project will cost a lot more than the Southern Shores project. Dare County Manager Outten disagreed, adding that the Avon project as a standalone project would cost about the same as the Southern Shores project, but if he could get it in 2022 with the Buxton project, it would save about \$3 million.

Mayor Pro Tempore Thibodeau asked if the state gave \$1.4 million to other towns in other areas away from the Outer Banks. Dare County Manager Outten stated that he thought nine communities received the funding. Mayor Pro Tempore Thibodeau clarified that it was each town or community that had a project. Interim Town Manager Heard explained that it wasn't necessarily each town or community that had a project coming up but was based on who applied for the grant. He noted that it wasn't a requirement that there had to be a pending project. Dare County Manager Outten stated that the model with these two projects was projecting those maintenance costs in the model and under the models, Dare County could handle the maintenance costs in the fund going forward.

Mayor Pro Tempore Thibodeau clarified that anyone that had a project would get modeled in. Dare County Manager Outten stated that if the model could not handle the maintenance then the project would not be completed. Mayor Pro Tempore Thibodeau appreciated the overview as well as the support Duck was receiving from Dare County on all of this. She added that Duck benefitted greatly from it. She stated that the sand

sourcing was concerning to her. Dare County Manager Outten stated that all of Dare County's goals for the beaches were to leverage the dollars to keep the beaches nourished.

Mayor Kingston asked what the situation was with Nags Head and their renourishment. He asked what was going on with their \$1.4 million. Dare County Manager Outten explained that he met with their Board of Commissioners earlier in the day and had the same conversation. He stated that they were on the model for a 2025 project. He added that there has been some discussion about them wanting to change some of their dates, which was fine, but depending on what they want to do, the model could be re-run and if the model will support it, then they could do what they want to do with Dare County's help. He noted that it did not impact the Towns of Duck, Kitty Hawk, Kill Devil Hills, or Southern Shores. He stated that there was no reason not to try to help. He stated that if there wasn't enough funding to do the project or it was to the detriment of the other towns, then Dare County wouldn't do that.

Mayor Kingston clarified that the Town of Nags Head's grant does not play into the current scenario. Dare County Manager Outten stated that it does, adding that they were reducing the funding from all of the towns by \$1.4 million.

Attorney John Leidy was recognized to speak. Attorney Leidy pointed out that the Town of Nags Head has FEMA money that they would be awarded for repair of the project from Hurricane Dorian. He added that they would be holding a workshop in a few weeks to discuss how to coordinate the timing of the use of the funds. He noted that although 2025 was the original projected date for the next project, there was still some discussion about moving it up to 2022, depending on a number of other factors. Dare County Manager Outten stated that if one plugged whatever was needed from Dare County into a 2022 model, if there was funding available, then it would work on the years being saved after 2025, but it was an unknown as to what it would do until Dare County runs the model. He added that there needed to be enough cash up front in order to front the money to receive the savings five years from now.

Mayor Kingston stated that he had spoken to Kathleen Reily the day before. He stated that she wished to link up with the NC League of Municipalities to lobby for continuing funding. He noted that it was one of the potential goals of the NC League of Municipalities. He thought it was the right thing to do because he thought the two lobbyists she would be speaking to, were effective. Dare County Manager Outten agreed.

Mayor Kingston asked Dare County Manager Outten what he needed from Council. Dare County Manager Outten stated that it seemed like all of Council was in agreeance. He stated that there was no vote needed on anything, adding that he was just trying to have a conversation.

Mayor Kingston thanked Dare County Manager Outten for his presentation.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

Presentation of FY 2020 Audit

Lisa Murphy from Johnson, Mizelle, Straub and Murphy was recognized to speak. Ms. Murphy went on to give an overview of the Town's financial statements for the year ended June 30, 2020 to Council and the audience.

Mayor Kingston thanked Lisa Murphy for her presentation.

NEW BUSINESS

NCLM Municipal Advocacy Goals

Mayor Kingston stated that every two years, the NC League of Municipalities establishes goals that they want to pursue and they put together an advocacy group, which consists of numerous members and board members that goes up the review process to the Board of Directors, who narrow it down and then back out to the membership. He explained that they wanted to narrow it down to 17 goals and each member, city, or town has a vote with respect to the advocacy goals. He stated that there were a set of goals in front of Council from the League and they would like Council to designate a voting member and Council needed to pare the goals down to 10 that they wanted to move forward.

Interim Town Manager Heard stated that the intent of the effort was for Council to choose someone as the Town's representative for submitting the information to the League of Municipalities. He stated that the second item was a list of 17 goals that the League of Municipalities had come up with and Council was being asked to select up to 10 of the goals that were the most important to the Town.

Mayor Pro Tempore Thibodeau moved to nominate Mayor Don Kingston to be the Town's voting delegate.

Motion carried 5-0 via roll call.

Council went on to choose the following goals for the Town of Duck:

1. Secure federal and state aid directly to municipalities to offset all lost revenues due to the COVID-19 pandemic.
2. Create a permanent and adequate funding stream for local infrastructure needs.
3. Ensure state funding for any new, state-mandated benefits for municipal employees.
4. Improve state-wide funding and support for LEO training focused on use of force, mental health, and de-escalation skills.
5. Increase public safety grant funding and expand allowable uses.
6. Extend notification timeline for any changes to sales tax revenue disbursement.
7. Reduce pressure on property taxpayers by expanding locally controlled options for revenue generation.

8. Increase state and federal funding for affordable housing.
9. Improve processes and payments for moving utility lines located in the right-of-way during transportation projects.
10. Grant local governments the authority to build broadband infrastructure in order to partner with private providers and provide additional funding to help close the digital divide.

Mayor Pro Tempore Thibodeau moved adopt the seven very relevant goals, the two somewhat relevant goals, and the one less relevant goal as the 10 goals.

Motion carried 5-0 via roll call.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Attorney Leidy stated that he did not have anything to report.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Departmental Updates

Interim Town Manager Heard gave an 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.

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

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

Council Retreat February 17 and 18, 2021

Interim Town Manager Heard stated that the Council Retreat was scheduled for February 17-18, 2021 with both sessions lasting all day. He noted that a draft agenda was in Council's packet. He added that the format was planned to offer in-person presentations by staff and remote presentations by other presenters. He stated that the public will be encouraged to participate virtually and be given options for submitting comments and questions.

Mayor Pro Tempore Thibodeau thought the agenda looked great, adding that a lot of the items mirrored retreats that were held in the past. She thought there could be an

opportunity for some more interaction with Council rather than just presentations. She wasn't sure how it could be done. She stated that rather than having the information come to Council, feedback, presenting options or ideas could be asked for.

Councilor Caviness agreed with Mayor Pro Tempore Thibodeau's suggestion to have more time to have questions, answers, and conversation with the department heads after they have given their presentations. She thought it was something that has been lacking in previous years. She suggested having Surf Rescue have their own amount of time to thoroughly explain things.

Mayor Kingston clarified that Surf Rescue Director Mirek Dabrowski would not be present for the Retreat. Interim Town Manager Heard stated that he would not be attending in person but would be present virtually. Councilor Caviness felt that no one needed to be at the Retreat in person. Mayor Pro Tempore Thibodeau agreed. Councilor Caviness stated that she would like to have a broader amount of time for Surf Rescue Director Dabrowski to describe his services and to get Council's questions answered.

Mayor Pro Tempore Thibodeau agreed with Councilor Caviness' comments. She thought it would be nice to have Surf Rescue Director Dabrowski's presentation beforehand in order to clarify any confusion. She added that there was a lot of discussion about it at the end of the year as well as confusion on his presentation.

Mayor Kingston thought Interim Town Manager Heard could direct the staff that they have 45 minutes for a presentation and 30 minutes devoted to questions and answers instead of using the entire time for a presentation. Mayor Pro Tempore Thibodeau agreed, adding that Council has been fortunate to receive a lot of good information during the year. She added that it would be interesting to see what questions or decisions the department heads were looking at in case they wanted to receive feedback from Council. Councilor Caviness agreed.

Mayor Kingston thought there may be a lot of personnel requests and suggested that department heads come prepared in their presentations for what they were looking to do and accomplish as well as the justification for their requests.

Interim Town Manager Heard noted that staff was moving some items to the second day of the Retreat. He added that if there was a shorter topic that comes up, it may be heard during lunch on the first day.

Mayor Kingston thought there could be a lunch discussion regarding where things were with regard to COVID-19 and where it would take the Town. He thought there may be a better perspective as to how many more months ahead of February Duck would be impacted. He thought there could be good discussion regarding it.

December 2020 Financial Presentation

Interim Town Manager Heard reviewed the December 2020 financial statements with Council and the audience.

MAYOR'S AGENDA

Mayor Kingston stated that he had attended his chairman and mayors meeting on January 5, 2021 with the only subject being COVID-19. He stated that they were anticipating hearing from the governor regarding the extension of the declarations. He stated that there was a lot of discussion regarding the previous few weeks with regard to the spike in COVID-19 cases as it was community spread tied to gatherings from the Christmas and New Year's holidays. He hoped that there would be a downturn soon. He added that there was a lot of discussion on vaccinations and stated that they have administered approximately 400 to mainly healthcare workers and priority individuals. He stated that it was interesting that the vaccines were on a week to week basis and 100% of the vaccines have to be used before another supply comes in.

Mayor Kingston stated that the COVID-19 vaccinations started earlier in the day for people 75 years old and over. He heard it had run very smoothly but it would take a while to vaccinate that population as he thought there were thousands of people in that age range on the Outer Banks, adding that it was open to any North Carolina resident. He noted that Currituck County had started theirs as a drive-through with no appointment necessary, while Dare County was all by appointment.

Mayor Kingston stated that he had a NC League of Municipalities Executive Committee meeting on January 11, 2021. He stated that he had a long conversation with the executive director of NC Byways – Kathleen Reily – and she wanted coastal involvement with trying to work with the League to advocate some of the goals. He stated that he told her he would support her effort, adding that they were working with a couple of lobbyists and looking to engage them with the League to lobby on behalf of setting up residual funds annually. He thought it will be a good effort.

Mayor Kingston stated that he was looking forward to the upcoming winter celebration, adding that it won't be the same as prior years but will still be fun. He stated that the Outer Banks Chamber of Commerce was holding a State of the County on January 20 or 21, 2021 which he planned to attend virtually.

COUNCIL MEMBER'S AGENDA

Mayor Pro Tempore Thibodeau stated that she was appointed by the Dare County Board of Commissioners to join the Outer Banks Visitors Bureau again. She stated that she served on it several years ago and enjoyed it. She stated that her first meeting will be later in the month and she was looking forward to it.

Mayor Pro Tempore Thibodeau stated that she has also served for a while on the Government Access Channel Committee, adding that she was looking to see if anyone

else was interested in serving on the committee. Councilor Caviness stated that she would be happy to take over on that committee.

Mayor Pro Tempore Thibodeau moved to recommend Councilor Nancy Caviness serve on the Government Access Channel Committee.

Motion carried 5-0 via roll call.

Councilor Mooney had nothing to report.

Councilor Whitman had nothing to report.

Councilor Caviness had nothing to report.

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.

Mayor Kingston noted that the next meeting would be the Regular Meeting on Wednesday, February 3, 2021 at 6:00 p.m.

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.

Motion carried via 5-0 via roll call.

The time was 9:01 p.m.

Upon return from closed session, Attorney Leidy stated that Council consulted with the attorney and discussed some confidential personnel matters; some actions were taken but there was nothing to report.

Mayor Pro Tempore Thibodeau moved to hire Andrew Havens as the new Town Manager for the Town of Duck, pursuant to the terms of the contract that was approved in closed session.

Motion carried 5-0 via roll call.

Mayor Kingston suggested that a press release be put together to be sent out on January 7, 2021. Attorney Leidy stated that he would be happy to review it before it's released.

ADJOURNMENT

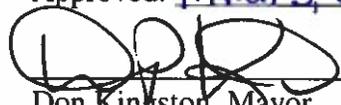
Councilor Whitman moved to adjourn the meeting.

Motion carried 5-0 via roll call.

The time was 10:15 p.m.



Lori A. Ackerman, Town Clerk

Approved: March 3, 2021


Don Kingston, Mayor

