

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
May 1, 2024**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 1:00 p.m. on Wednesday, May 1, 2024.

COUNCIL MEMBERS PRESENT: Mayor Pro Tempore Monica Thibodeau; Councilor Sandy Whitman; Councilor Brenda Chasen; and Councilor Kevin Lingard.

COUNCIL MEMBERS ABSENT: Mayor Don Kingston.

OTHERS PRESENT: Town Manager Drew Havens; Director of Community Development Joseph Heard; Police Sergeant Joseph Knight; Fire Chief Donna Black; Town Attorney Robert Hobbs; Finance and Human Resources Administrator Jessica Barnes; Public Information and Events Director Kristiana Nickens; and Town Clerk Lori Ackerman.

OTHERS ABSENT: Police Chief Jeffery Ackerman.

Mayor Pro Tempore Thibodeau called the meeting to order at 1:00 p.m. She noted that Mayor Kingston was excused from the meeting.

Mayor Pro Tempore Thibodeau asked Fire Chief Donna Black to lead the Pledge of Allegiance. She led the moment of silence asking everyone to keep the fallen officers from Charlotte in their thoughts.

PUBLIC COMMENTS

Mayor Pro Tempore Thibodeau opened the floor for public comments. She noted that comments will be limited to three minutes as there was a timer for the time limit. She asked that any comments related to the public hearing be held off.

Town Clerk Lori Ackerman was recognized to speak. Town Clerk Ackerman went on to read the written public comments that had been received.

Kevin Wright of 112 Quail Way was recognized. Mr. Wright wrote the following: "I am Kevin Wright, resident at 112 Quail Way and Secretary/Treasurer of the Duck Community and Business Alliance. While I understand the intent behind the proposed amendment to the Town's Facility Use Policy regarding a certificate of insurance naming the Town of Duck as an additional insured, I believe that the Town Council should weigh the potential benefit of such a policy against the cost said policy incurs upon facility users. Many organizations seeking to use the Town facilities have very limited budgets. The cost of obtaining insurance certificates would add an additional financial and coordination burden. The Town Administrative building and Meeting Hall have been

built and are maintained with taxpayer funds. It would seem to be an appropriate gesture to continue providing facility access to those taxpayers, as Council and staff have done in the past, without imposing an additional fiscal burden. Please reject the proposed facility use amendment. Thank you for your consideration.”

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

CONSENT AGENDA

Minutes from the April 3, 2024, Regular Meeting; Minutes from the April 17, 2024, Mid-Month Meeting; Resolution 24-07, a Resolution of the Town Council of the Town of Duck, North Carolina, Declaring the Week of May 12-18, 2024 as National Memorial Police Week; Resolution 24-08, a Resolution of the Town Council of the Town of Duck, North Carolina, in Support of a Resilient Coastal Communities Phase 4 Grant Application; Budget Amendments

Councilor Chasen moved to approve the consent agenda as presented.

Motion carried 4-0.

SPECIAL PRESENTATIONS

There were no Special Presentations at this time.

QUASI-JUDICIAL PUBLIC HEARINGS

There were no Quasi-Judicial public hearings at this time.

LEGISLATIVE PUBLIC HEARINGS

Public Hearing/Discussion/Consideration of the Proposed FY 2025 Budget

Mayor Pro Tempore Thibodeau turned the meeting over to Town Attorney Hobbs.

Town Attorney Hobbs opened the public hearing, noting that the Council would be sitting as a legislative body. He stated that Town Manager Havens would give a presentation.

Town Manager Drew Havens was recognized to speak. Town Manager Havens stated that at Council’s April 17, 2024 meeting, he presented the Proposed FY 2025 budget. He pointed out that the proposed budget was based on an Ad Valorem tax rate of \$0.25 for Fiscal Year 2024-2025 which was a three-cent increase from Fiscal Year 2023-2024. He added that the proposed budget also sets the tax rates for the two MSDs as follows: MSD-A would be at the rate of \$0.1296 and MSD-B at the rate of \$0.285. He noted that both remain unchanged from the Fiscal Year 2023-2024 budget. He stated that Council may hold additional work sessions, as needed, on the budget and that the budget needed to be

adopted by June 30, 2024. He reviewed the proposed budget with Council and the audience.

Town Attorney Hobbs asked Council if they had questions for Town Manager Havens.

Mayor Pro Tempore Thibodeau recommended that the public read the budget message because it was very clearly laid out and gave a good narrative of all of the information that was provided to Council and the audience. She asked with regard to the stone revetment, the sills would be the next phase, further asking what the cost would be. Town Manager Havens stated that it was approximately \$380,000.

Director of Community Development Joseph Heard was recognized to speak. Director Heard explained that he will have to obtain an updated estimate next year, adding that the \$380,000 was close.

Mayor Pro Tempore Thibodeau pointed out that the Town has money allocated for the design of the Public Safety building. She clarified that the next steps were contingent on reaching an agreement with the Army Corps of Engineers and them agreeing to lease to the Town and accepting the terms. She clarified that it was not in the draft budget other than the study. Town Manager Havens stated she was correct. He explained that the idea of including the \$88,000 in the draft budget was to start the work that would need to be done anyway while the Town waited on the Federal government. He noted that if the Town waits, gets that done and goes to start the design, they would lose several months. He added that this part of the process will take six to seven months and will take the Town through the schematic drawings. He stated that the next step after that would be approval of the schematic drawings and move on to the site design and then the construction drawings for the building.

Councilor Whitman asked if the Town received the CAMA permit with regard to the revetment. Town Manager Havens stated that it was still in process, adding that the public comment period was still open. He stated that the permit was applied for and he expected no issues in receiving it. He pointed out that the permit will cover the entire project and was good for the next five years. He stated that the permit should be in hand by the time the draft budget goes into effect on July 1.

Town Attorney Hobbs asked if any members of the public wished to comment on the proposed budget.

Michael Rollin of 149 Plover Drive was recognized to speak. Mr. Rollin thanked Town Manager Havens, Council, and staff for their work on the budget. He pointed out that all of the items that were deferred were for things such as fixing the bike path or boardwalk that were very much in the public eye and were part of the quality of life in Duck. He knew that choices needed to be made about the money and he saw the shortfalls to come in the future. He stated that he was not one for increased taxes, adding that he knew it needed to be done this time. He wondered if it would make sense to do a larger tax increase in order to obtain a larger levy so the Town does not have to keep deferring any

of the maintenance of items that were in the public eye. He asked Council to think about it before they keep deferring projects into the future because it will pile up.

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

Mayor Pro Tempore Thibodeau stated that Council did receive a written comment regarding the proposed budget. She stated that the next step would be Council voting on the budget at their June 5, 2024 meeting unless some significant issues come up before then.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

Discussion/Consideration of an Amendment to the Facility Use Policy

Mayor Pro Tempore Thibodeau reminded Council that the policy was something she brought up after the policy was implemented. She stated that Council had a discussion about it at their April 3, 2024 meeting and after going through it, she was asking some detailed questions regarding whether it was really necessary to have a homeowner association or anyone using the facilities to indemnify the Town. She noted that it did cost an amount of money and a public comment was read from the DCBA. She stated that at the April meeting, Council asked for input from the Town Attorney as well as the North Carolina League of Municipalities, which was the Town's insurance carrier. She stated that Council received some straightforward advice that the Town should carry that type of liability.

Mayor Pro Tempore Thibodeau stated that she was happy to continue the discussion, adding that it was the time everyone lived in and it was unfortunate because, while she shared the sentiment that the Town Hall and Meeting Hall were public buildings, but when people gather in them, they need to respect the cleaning and labor that goes into maintaining the buildings, but also any type of liability that may ensue for the Town. She stated that she would not contest the new rules but wanted to hear what the rest of Council had to say. She thanked Council for allowing her to dig into it after living through it with her homeowner association.

Councilor Chasen stated that she appreciated all of the research that had gone into the effort both legally and through the League of Municipalities. She stated that once the Town rents out the locations to anyone, the Town does not have liability insurance coverage, adding that there have been several frivolous lawsuits that the Town has had to pay money towards covering. She pointed out that by having the Town as a named insured, that is prevented from happening. She added that someone could still sue the Town, but the coverage would be there in order to protect the Town if anything does happen when the buildings are rented. She stated that she was in favor of the Certificate of Insurance requirement and was glad that Council received legal guidance on the issue.

Councilor Whitman agreed with Councilor Chasen's comments. He stated that he brought it up at the last meeting and thought the Town's attorneys and the League of Municipalities gave Council the right direction on the issue.

Councilor Chasen noted that when the facilities are rented out and the homeowner associations adds the Town of Duck as an additional insured, the Town would be on that policy for the entire term of that policy adding that the homeowner association would only have to add the Town once in a year's time.

Councilor Lingard agreed that the Town needed to be covered. He wondered if there was a policy that the Town could purchase to give equal cover so that each individual homeowner association would not have to add the Town as an additional insured. He stated that it could be added as a fee in the policy. He thought it may be economically better for everyone involved. He wasn't sure if it was something that could be done or if it was practical.

Mayor Pro Tempore Thibodeau thought it could be investigated. She pointed out that there was an insurance certificate with the indemnification where the Town is named as part of the policy. She stated that she was in favor of allowing the public to use the facilities, adding that she was glad there weren't a lot of restrictions on someone using the park. She stated that she liked the fact that these were public facilities and everyone wanted people to be able to use them as much as possible without a huge financial burden. She appreciated Council looking at the policy, adding that the Town needed to be concerned with covering itself and potential litigation, which has happened. Councilor Lingard suggested that it be something that could be discussed in the future.

Mayor Pro Tempore Thibodeau noted that no action was required from Council on the policy since there were no changes that needed to be made.

Councilor Chasen asked if was stated in the policy that the Town be named as an additional insured or provide a certificate of insurance, adding that it needed to be the named insured. Town Manager Havens stated that the policy had that there needed to be a Certificate of Insurance showing the Town as an additional named insured.

NEW BUSINESS

Discussion/Consideration of Ordinance 24-03, an Ordinance Amending Chapter 95, Section 05 and Chapter 156, Section 129 of the Town of Duck Code of Ordinances to Allow Outdoor Entertainment until 12:01 a.m. on January 1 of Each Year

Councilor Lingard stated that the idea came from talking to people in Town, both residents and businesses and the thought that people cannot celebrate New Year's Eve at midnight. He stated that people have to be like children or older people that cannot stay up that late. He noted that this issue did not come to him from a business owner, but it was from multiple discussions. He stated that he did speak to the business owner and asked them if the Town passed the ordinance, they would take advantage of it, to which

they said they would. He noted that there was only one business that was open until midnight in Town on New Year's Eve for outdoor entertainment, but it may change. He thought it was the one time of the year when almost everyone celebrates New Year's Eve at midnight, adding that it seemed silly that the Town doesn't allow noise after 10:00 p.m. He pointed out that he is not in Town on New Year's Eve, so it would not benefit him if the ordinance were passed. He stated that he was not in favor of changing the time any other time of the year except for New Year's Eve because he thought it was a unique event that was celebrated at midnight and to not be able to do it in Town seemed silly.

Councilor Whitman stated that he was not in favor of the ordinance. He pointed out that people come to Duck for the quietness and uniqueness. He stated that Council was not taking into consideration the neighbors that abut the properties if they decided to have an event. He thought Council should hear from the general public before anything is decided. He stated that he was in favor of keeping the time at 10:00 p.m. and if people wanted to go somewhere else to celebrate at midnight, they could go to another town.

Councilor Chasen stated that she did not think about the issue until it was brought up. She stated that she went out and talked to people and asked them how they felt with the overwhelming response of keeping it at 10:00 p.m. She pointed out that there was the crab pot drop at 10:00 p.m. each year at one of the businesses which was a lot of fun. She stated that she did not see the need but agreed with Councilor Whitman with regard to finding out how the public felt about it. She stated that at this point, she did not see any reason to change the time.

Mayor Pro Tempore Thibodeau stated that she was used to what has been in place, which was 10:00 p.m. in terms of noise. She stated that it spoke to the more quiet nature of the Town. She stated that she did not disagree that New Year's Eve was a time to celebrate until midnight, but she did not think anyone was telling the public that they could not, it was that they would not be doing it with live music. She stated that she did not see a lot of need for the change, adding that she would not support the ordinance without hearing input from the public. She noted that she has asked a few people and everyone was used to the crab pot drop at 10:00 p.m. on New Year's Eve. She stated that there are many people that go to another town to party.

Town Manager Havens stated that the Town would send out a survey and bring back the results at Council's June 5, 2024 meeting. Mayor Pro Tempore Thibodeau thought it was a great idea.

It was *consensus* of Council to table the Ordinance until their June 5, 2024 meeting.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Town Attorney Hobbs stated he had nothing to report.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Departmental Updates

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

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

Public Information and Events Director Kristiana Nickens was recognized to speak. Director Nickens gave a brief overview of activities to Council and the audience.

Police Sergeant Joseph Knight was recognized to speak. Police Sergeant Knight gave a brief overview of the past month's police activities to Council and the audience.

March FY 2024 Financial Presentation

Finance and Human Resources Administrator Jessica Barnes was recognized to speak. Administrator Barnes gave a short presentation on the March Fiscal Year 2024 financials to Council and the audience.

MAYOR'S AGENDA

Mayor Pro Tempore Thibodeau gave an Outer Banks Visitors Bureau meeting update and an Outer Banks Housing Taskforce meeting update to Council and the audience. She complimented the Council's meeting minutes, adding that they were great and everyone can glean a lot from the meetings if they cannot attend the meetings by reading the minutes. She thanked Town staff for the wonderful volunteer party that was held recently.

COUNCIL MEMBER'S AGENDA

Councilor Lingard stated that he had attended the North Carolina League of Municipalities CityVision conference recently. He stated that the main takeaway he took from the conference was that he spoke to a lot of people there while wearing his Town of Duck shirt and was told that Duck has the best Town Manager in Drew Havens. He stated that Council appreciates Town Manager Havens, adding that it was great to see that the rest of the state does as well.

Councilor Whitman thanked staff for the volunteer party. He reminded everyone about Duck Sweep on Fridays at 9:00 a.m., adding that it was a great way to meet neighbors as well as helping to keep the community clean.

Councilor Chasen gave a CurrentTV Government Education and Access Channel meeting update to Council and the audience.

OTHER BUSINESS

Additional Public Comments

Mayor Pro Tempore Thibodeau opened the floor for public comments. There being no one wishing to comment, she closed the time for public comments.

CLOSED SESSION

Councilor Whitman moved to enter closed session pursuant to North Carolina General Statute Section 143-318.11(a)(3), to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.

Motion carried 4-0.

The time was 2:28 p.m.

Upon return from Closed Session, Town Attorney Hobbs stated that Council discussed a legal issue and he provided legal advice but had nothing further to report.

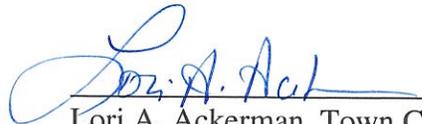
Mayor Pro Tempore Thibodeau noted that the next meeting would be the Regular Meeting on Wednesday, June 5, 2024 at 1:00 p.m.

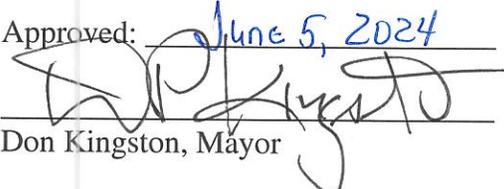
ADJOURNMENT

Councilor Whitman moved to adjourn the meeting.

Motion carried 4-0.

The time was 3:41 p.m.


Lori A. Ackerman, Town Clerk

Approved: June 5, 2024

Don Kingston, Mayor

