

Agenda
Town of Duck Council
Paul F. Keller Meeting Hall
February 5, 2025
1:00 p.m.
Regular Meeting

1. Call to Order
 - A. Pledge of Allegiance
 - B. Moment of Silence
2. Public Comments
3. Consent Agenda
 - A. Minutes from the December 4, 2024, Regular Meeting
 - B. Minutes from the January 8, 2025, Regular Meeting
 - C. Minutes from the January 15, 2025, Mid-Month Meeting
 - D. Contract with VHB for Bidding and Construction Administration Services for Phases 1 and 2 of the Town Park Shoreline Protection Project
 - E. Budget Amendment
4. Special Presentations
 - A. None at This Time
5. Quasi-Judicial Public Hearings
 - A. None at This Time
6. Legislative Public Hearings
 - A. None at This Time
7. Old Business/Items Deferred from Previous Meetings
 - A. None at This Time
8. New Business
 - A. Discussion/Consideration of the Process to Fill a Vacancy on the Planning Board
9. Items Referred to and Presentations from the Town Attorney

10. Items Referred to and Presentations from the Town Manager
 - A. Departmental Updates
 - B. December FY 2025 Financial Presentation
11. Mayor's Agenda
12. Council Member's Agenda
13. Other Business
 - A. Additional Public Comments
14. Adjournment – The Next Meeting will be the Retreat on Wednesday and Thursday, February 19 and 20, 2025 at 9:00 a.m.

AGENDA: February 5, 2025 Regular Meeting

ITEM #3:

Consent Agenda

- A. Minutes from the December 4, 2024, Regular Meeting
- B. Minutes from the January 8, 2025, Regular Meeting
- C. Minutes from the January 15, 2025, Mid-Month Meeting
- D. Contract with VHB for Bidding and Construction Administration Services for Phases 1 and 2 of the Town Park Shoreline Protection Project
- E. Budget Amendment

RECOMMENDED ACTION:

- Approve the Consent Agenda

(As a reminder, the Consent Agenda is intended to be voted on and approved as one motion. If discussion is required on individual items, a motion must be made to remove that item from the Consent Agenda and add it to the Regular Agenda.)

SUMMARY OF INFORMATION:

The Consent Agenda includes the minutes from the December 4, 2024, Regular Meeting, the minutes from the January 8, 2025, Regular Meeting, minutes from the January 15, 2025, Mid-month Meeting, a contract with VHB for bidding and construction administration services for Phase 1 and 2 of the Town Park shoreline protection project, and a budget amendment. The minutes from the December 4, 2024 are being brought back due to them originally being correct and adopted incorrectly, resulting in them having to be adopted again. The contract with VHB is for bidding and construction administration services associated with the upcoming Town Park Shoreline Protection project. Phase 1 construction of the project is budgeted in FY25 and pending funding during the budget process, Phase 2 is scheduled during FY26. The budget amendment appropriates funds for interest paid on the FEMA portion of beach nourishment debt. Council is asked to approve the minutes, the contract and the budget amendment.

ATTACHMENTS:

- December 4, 2024 Minutes
- January 8, 2025 Minutes
- January 15, 2025 Minutes
- Draft Contract with VHB
- Budget Amendment #6

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
December 4, 2024**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 1:00 p.m. on Wednesday, December 4, 2024.

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

COUNCIL MEMBERS ABSENT: None.

OTHERS PRESENT: Town Manager Drew Havens; Director of Community Development Joseph Heard; Police Chief Jeffrey Ackerman; Fire Chief Donna Black; Deputy Fire Chief Matthew Dudek; Town Attorney Robert Hobbs; Public Information and Events Director Kristiana Nickens; Senior Planner Sandy Cross; Deputy Town Clerk Christy Hanks; and Town Clerk Lori Ackerman.

OTHERS ABSENT: None.

Mayor Kingston called the meeting to order at 1:00 p.m.

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

PUBLIC COMMENTS

Mayor Kingston opened the floor for public comments. He noted that comments will be limited to three minutes as there was a timer for the time limit.

Michael Rollin of 149 Plover Drive was recognized to speak. Mr. Rollin stated that he wanted to bring attention to the concerns regarding a request to change Town Ordinance 24-06 to allow arcades. He stated that he made the same comments at the Planning Board meeting at their last meeting, adding that they were part of the Board's recommendation to Council.

Michael Rollin stated that the applicant's arguments that they raised were focused on their use of the property and not the impact on the Town overall by changing the ordinance. He explained that allowing arcades in Duck would fundamentally change the unique character, adding that there is no other town like Duck on the Outer Banks. He stated that by opening the door to arcades in Duck it would ruin the character of it and homogenize it more with other jurisdictions on the Outer Banks adding that those that were looking for entertainment such as with arcades could find them elsewhere.

Michael Rollin stated that changing the Town Code to allow arcades should be avoided. He thought the Town should not be opening it up to everyone by changing the Town Code. He stated that while he believed arcades are not beneficial to Duck, if Council decided they wanted to entertain businesses such as these, they should be looking at it on a case-by-case basis on the merits of the individual business through a special use permit and not through changing the Town Code.

Miriam Rollin of 149 Plover Drive was recognized to speak. Ms. Rollin stated that she wanted to speak on opposing the down-zoning provision of North Carolina State Bill 382. She stated that she fully supported the remarks that Michael Rollin had made about the reality that an arcade gaming facility which allows unsupervised youths to congregate was not in keeping with the current character of Duck and zoning should not be changed to allow them.

Miriam Rollin urged Council to explore actions it can take to advance turtle-friendly lighting to beach-front properties as Jeannette's Pier has implemented.

Miriam Rollin explained that Senate Bill 382 was a bill that purports to help hurricane victims in western North Carolina, but in reality, provided no new funding now for the victims. She stated that the bill included a plethora of unrelated provisions with one being the down-zoning provision of Senate Bill 382. She explained that the provision required down-zoning limits to apply to rezonings and regulatory amendments initiated by local governments. She added that under the provision, unless receiving written permission from every affected property owner, local governments were not allowed to initiate or enact rezoning or text amendments that reduce density or reduce the uses allowed. She pointed out that this would prevent local governments, including Duck, from taking zoning actions for the good of the citizens. She stated that it may even affect local adoption of updated FEMA NFIP mapping.

Miriam Rollin stated that the Senate has already voted on December 2, 2024 to override Governor Roy Cooper's veto and the House was expected to vote on it by December 11, 2024. She urged Council to uphold the Governor's veto.

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

CONSENT AGENDA

Fiscal Year 2025-2026 Budget Calendar; Resolution 24-16, a Resolution of the Town of Duck, North Carolina, Opposing Senate Bill 382 regarding Zoning Authority of Local Governments; Budget Amendment

Mayor Pro Tempore Thibodeau moved to approve the consent agenda as presented.

Motion carried 5-0.

SPECIAL PRESENTATIONS

Resolution 24-16, a Resolution of the Town Council of the Town of Duck, North Carolina, Honoring and Thanking Fire Chief Donna Black for Her Service to the Town of Duck

Mayor Kingston read Resolution 24-16 to Council and the audience.

Mayor Pro Tempore Thibodeau moved to approve Resolution 24-16 as presented.

Motion carried 5-0.

Town Manager Havens presented Fire Chief Black with a framed resolution. Council went on to congratulate Fire Chief Black for her service.

Introduction of Matthew Dudek as the Town of Duck Fire Department's Deputy Fire Chief

Fire Chief Donna Black was recognized to speak. Fire Chief Black went on to introduce Matthew Dudek at the Town of Duck's newest Deputy Fire Chief to Council and the audience.

Mayor Kingston and Council welcomed Deputy Fire Chief Dudek to the Town.

Presentation by Addison Vlastnik, UNC Chapel Hill OBXFS Environmental and Urban Studies & Planning Student, and Town of Duck Intern, regarding the Development of a Living Shoreline Monitoring Plan for the NC12 Resiliency Project and her Time with Duck

Addison Vlastnik was recognized to speak. Ms. Vlastnik went on to give a short presentation on the development of a living shoreline monitoring plan for the NC 12 Resiliency project as well as what she learned as an intern with the Town to Council and the audience.

Mayor Kingston thanked Addison Vlastnik for her presentation.

Presentation of the Town's Fiscal Year 2023-2024 Audit Report

Jonathan Dail of Johnson, Mizelle, Straub and Consolvo was recognized to speak. Mr. Dail went on to give a presentation on the Town's Fiscal Year 2023-2024 audit report to Council and the audience.

Councilor Chasen moved to accept the audit as presented.

Motion carried 5-0.

Mayor Kingston thanked Jonathan Dail for his presentation.

QUASI-JUDICIAL PUBLIC HEARING

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

LEGISLATIVE PUBLIC HEARINGS

There were no Legislative public hearings at this time.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

There was no Old Business to discuss at this time.

NEW BUSINESS

Discussion/Consideration of 2025 Council Meeting Date Schedule

Town Manager Drew Havens was recognized to speak. Town Manager Havens stated that Council receives a draft schedule of their meetings for the coming year. He pointed out that a point of discussion was Council's January meeting as it fell on January 1, 2025 and would need to be rescheduled to another date.

Mayor Kingston thought the options would be January 2, 2025 or January 8, 2025. Town Manager Havens stated that it was up to Council, adding that those two dates were logical options.

Councilor Whitman stated that he was in favor of rescheduling it to January 2, 2025. Councilor Chasen pointed out that the second was her birthday. Councilor Lingard stated that he was in favor of rescheduling it to January 8, 2025 since he will not be available on January 2nd. Mayor Pro Tempore Thibodeau stated that January 8, 2025 was fine with her. Mayor Kingston pointed out that Councilor Whitman would not be available on January 8th. Councilor Whitman noted that January 8, 2025 was also the date for the Planning Board meeting. Mayor Pro Tempore Thibodeau clarified that January 2nd was the other option but it was Councilor Chasen's birthday. Councilor Chasen stated that she would be fine if it was held on the second.

Councilor Lingard asked what time the Planning Board meeting started. Councilor Whitman stated that it was 4:00 p.m. Mayor Pro Tempore Thibodeau asked if January 3, 2025 would work. Director Heard stated that the Planning Board could move their meeting to another date if Council needed to hold their meeting on January 8th. He added that the Planning Board could have their meeting on January 15, 2025. Councilor Whitman pointed out that Council has their mid-month meeting on January 15th. Town Manager Havens stated that the mid-month meeting would be done in time for the Planning Board to have theirs.

Mayor Kingston thought January 8, 2025 would work since all of Council would be present, but the conflict was the Planning Board meeting. Mayor Pro Tempore Thibodeau thought Councilor Whitman wouldn't be available. Councilor Whitman stated he wasn't available on January 2, 2025.

Mayor Kingston clarified that the Planning Board meeting started at 4:00 p.m. Director Heard stated he was correct. Mayor Kingston asked if it was subject to change. Town Manager Havens explained that the Planning Board could shift their meeting, adding that if they were to start at 5:00 p.m., he did not see why Council would not finish their meeting before then.

Councilor Chasen moved to accept the Council meeting dates with the change to the January meeting from January 1, 2025 to January 8, 2025 at 1:00 p.m.

Motion carried 5-0.

Discussion/Consideration of Authorizing a Public Hearing on Ordinance 24-06, an Ordinance Amending Four Sections of the Town Code to allow Amusement Arcades as a Permitted Use in the Village Commercial Zoning District

Director Heard stated that Council was being asked to consider authorizing a public hearing for Ordinance 24-06. He explained that the applicant has proposed amendments to several sections of the Duck Town Code to accommodate the addition of *Amusement Arcades* as a permitted use in the Village Commercial zoning district and associated changes. He stated that the proposed amendments included the following:

1. Section 156.002 – Add a definition for the term *Amusement Arcade*.
2. Section 156.036 – Add *Amusement Arcades* to the list of permitted uses.
3. Section 156.040 – Add *Amusement Arcades* as a permitted use “P” in the V-C column and prohibited use “X” in all other zoning districts under the *COMMERCIAL: Entertainment/Recreational Facilities* category.
4. Section 156.094 – Add the following standard for *Amusement Arcades* to the parking table: “1 parking space for each 200 square feet of floor area.”

Director Heard stated that the applicant, Keith Bliss, desires to establish an amusement arcade within one unit of the Duck Commons shopping center at 1211 Duck Road. He stated that following the Planning Board meeting, the applicant submitted a revised application that made substantial changes to the proposed amendments to Subsections 156.002, 156.036, and 156.094 as follows:

156.002 – The revised proposal added the phrase: “...and limits the use to arcade games, not laser-tag or other large scale space Indoor Recreation devices” to the initial proposed definition.

156.036 – Whereas the initial text amendment simply proposed the addition of *Amusement Arcades* as a permitted use, the revised text amendment changed the

requirement to a special use permit and added the remaining wording further specifying standards/limitations for the use.

156.040 – Consistent with the change in Section 156.036, the “P” proposed for the V-C column is amended to be an “S”, requiring a special use permit.

156.094 – The initial application reviewed by the Planning Board proposed the following wording be added in the Parking standards: “No Additional Parking Required if Amusement Arcade Space is Placed Within Existing Facilities”. To address comments and concerns raised at the Planning Board meeting, the applicant amended his proposal to the one parking space/200 square feet standard reflected in the current proposal. This standard is similar to the current minimum parking standards for retail uses. The applicant also added the “...for amusement arcade space placed within existing facilities” wording.

Director Heard pointed out that since the current proposal differs from the text amendment reviewed by the Planning Board, Council may consider if the changes are substantial enough to send back to the Board for further review.

Director Heard stated that the Planning Board voted 3-2 to recommend denial of the proposed text amendments in Ordinance 24-06 at their meeting on November 13, 2024. He explained that the majority of the Board who voted to deny the application stated an opinion that indoor entertainment facilities were inconsistent with the Town’s adopted Comprehensive & Land Use Plan and incompatible with the current uses and character of Duck Village. He added that the Board also cited comments in opposition submitted by the public during review of a previous, similar text amendment proposal regarding indoor entertainment facilities in 2021. He noted that the members that were in support of the proposal shared an opposing view that amusement arcades were compatible with other uses in Duck Village and would provide a greater diversity of family entertainment currently lacking in Duck.

Mayor Pro Tempore Thibodeau understood that after the Planning Board meeting, the applicant made some adjustments and now Council was seeing the adjustments including a 1,000 square foot second floor. She stated that, personally, she wanted it to go back to the Planning Board to have them look at exactly what the applicant was asking for and to get some understanding about the reason for the parking and size of the square footage. She asked if it would be reasonable to ask the Planning Board to take another look at this with the revision and the changes the applicant had made.

Mayor Kingston agreed with Mayor Pro Tempore Thibodeau’s comments. He thought the changes should go back to the Planning Board for re-evaluation before bringing it to Council.

Councilor Lingard thought a lot of the problem in people’s minds with arcades was that once they start, there was no control. He wondered if the Town could require a license for the arcade and if there was an issue, then the license could be revoked. He wasn’t sure

if that was a possibility or if it was something that could be considered. Director Heard stated that it was a possibility, adding that it would require a little tweaking to the ordinance and would require setting a fee for the license. He noted that he had completed some research on what different communities were doing and there was a possibility of doing this if the Council wanted it, adding that it could be part of the proposal.

Councilor Whitman thought at the Planning Board meeting, the applicant had talked of it being an unmanned operation set up by the gaming people that sell the machines where they electronically operate everything. He strongly felt that if it was an arcade set up, that there be some requirements for on-site personnel and not have all of them off-site.

Mayor Kingston stated that Council could deny the public hearing, send it back to the Planning Board, or approve the public hearing. He asked if Council denied the public hearing, it would force the applicant to go back to the Planning Board or if the application was done. Town Attorney Hobbs explained that the applicant has the right to re-apply using whatever language they could use and go back through the process again. He added that sending it back to the Planning Board would give the Board the opportunity to look at it again and provide Council with updated advice on the amendments. He stated that staff have indicated that they considered the amendments to be substantial, so it could be an appropriate method to send it back if Council was interested in having the Planning Board look at it again.

Director Heard stated that the applicant had the right to be heard, but some of the changes that they made were the result of comments that were made at the Planning Board meeting, but some were not.

Councilor Chasen clarified that if Council held the hearing at this meeting, the same options would be available if Council decided not to hold the public hearing. Town Attorney Hobbs explained that Council would not be having the public hearing at this meeting but were authorizing the public hearing. He recommended that Council either schedule it for a public hearing based on what they had in front of them or send it back to the Planning Board to consider the changes the applicant submitted after the Planning Board meeting. He added that when it comes back to Council, they will have an updated recommendation from the Planning Board and then schedule the public hearing and obtain public feedback, which was the purpose of having the hearing to allow the applicant to have people weigh in on the application before a decision is made.

Councilor Lingard stated the he wanted the Planning Board to consider the licensing aspect.

Mayor Pro Tempore Thibodeau moved to send Ordinance 24-06 back to the Planning Board and consider, if it was in their purview, the idea of licensure of the establishment in addition to the changes that the applicant made.

Motion carried 5-0.

Discussion/Consideration of Authorizing a Public Hearing on Ordinance 24-07, an Ordinance Correcting References in Sections of the Town Code Regarding Outdoor Lighting and Special Use Permit Procedures

Director Heard stated that at their November 6, 2024 meeting, Council authorized the Planning Board and Community Development staff to develop the necessary text amendments to address several updates and corrections to the Town Code. He noted that several of these proposals were more complicated and will require comprehensive review over the coming months; however, the Planning Board has already recommended approval of specific corrections to two sections of the Zoning Ordinance:

1. Subsection 156.116 – Correct a reference to the Town’s outdoor lighting standards.
2. Subsection 156.155(B)(1) – Correct a reference to the submittal timeframe for special use permits.

Director Heard stated that as the proposed amendments were necessary to update and address specific errors in the Town’s Zoning Ordinance, the Planning Board voted unanimously to recommend approval of the proposed text amendments in Ordinance 24-07. He added that staff was recommending that Council set a public hearing for the ordinance.

Mayor Pro Tempore Thibodeau moved to schedule a public hearing on Ordinance 24-07 for January 8, 2025, as presented.

Motion carried 5-0.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Town Attorney Hobbs stated he had nothing to report. He thanked Fire Chief Black for her service to the Town.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Departmental Updates

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

Senior Planner Sandy Cross was recognized to speak. Senior Planner Cross gave an 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 Chief Jeffrey Ackerman was recognized to speak. Police Chief Ackerman gave a brief overview of the past month's police activities to Council and the audience.

October FY 2025 Financial Presentation

Town Manager Havens gave a short presentation on the October Fiscal Year 2025 financials to Council and the audience.

Town Manager Havens stated that Council had Resolution 24-17 in front of them, which was a resolution authorizing the execution and delivery of an installment financing contract for the Herron properties. He asked Council to adopt the resolution.

Councilor Chasen moved to adopt Resolution 24-17 as presented.

Motion carried 5-0.

MAYOR'S AGENDA

Mayor Kingston stated that the mayors/chairmen meeting will be on December 17, 2024 hosted by the Town of Nags Head. He stated that he would be participating in the OBX Chamber Leadership session with the other mayors on December 11, 2024 at Dare County. He stated that on December 14, 2024, he would be giving a presentation at the annual DCBA meeting that will be held in the Paul F. Keller Meeting Hall. He stated that he was looking forward to the Yuletide Celebration on December 7, 2024.

Mayor Kingston pointed out that Mayor Pro Tempore Thibodeau has served four years on the Outer Banks Tourism Board, which Council appreciated. He added that Councilor Chasen has now been nominated to succeed her. He stated that Councilor Chasen will be stepping down from the Government Access Channel Committee and asked Councilor Lingard and Mayor Pro Tempore Thibodeau if either had an interest in serving.

Mayor Pro Tempore Thibodeau stated that she and Councilor Lingard had discussed the appointment prior to the meeting and Councilor Lingard had offered to serve. She thought it was a great opportunity to network with others in Dare County, adding that Councilor Chasen had done a great job on the committee.

Mayor Kingston stated that there was now an opening on the Albemarle RPO Rural Transportation Advisory Committee. Mayor Pro Tempore Thibodeau stated that she would be happy to serve on that committee.

COUNCIL MEMBER'S AGENDA

Mayor Pro Tempore Thibodeau thanked Fire Chief Black for her service to Town. She gave a Housing Taskforce Committee meeting update to Council and the audience. She stated that she would be coming off the Outer Banks Tourism Board, adding that her last

meeting would be later in the month and that she enjoyed serving on the Board. She stated that she attended the Dare County Commissioners meeting recently with Lee Nettles to request that the Commissioners approve the tourism impact grants that were approved at the Board level, which totaled over \$1 million for different infrastructure around Dare County. She stated that she was looking forward to the upcoming Yuletide Celebration on December 7, 2024.

Councilor Lingard thanked Fire Chief Black for her service to the Town. He stated that he had not been to an Albemarle Transportation Committee meeting so he did not have an update. He added that he was looking forward to the Yuletide Celebration.

Councilor Whitman wished Fire Chief Black good luck and welcomed Deputy Fire Chief Matthew Dudek. He reminded everyone that beach planting and soundside clean up would be taking place later in the week. He added that he was looking forward to the Yuletide Celebration.

Councilor Chasen thanked Fire Chief Black for her service to the Town. She stated that she was looking forward to serving on the Outer Banks Tourism Board and added that Councilor Lingard will enjoy serving on the Government Access Channel Committee.

OTHER BUSINESS

Additional Public Comments

Mayor Kingston opened the floor for public comments.

Michael Rollin of 149 Plover Drive was recognized to speak. Mr. Rollin thanked Council and staff for making Duck a wonderful place to live. He wished Fire Chief Black good luck.

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

Mayor Kingston noted that the next meeting would be the Regular meeting on Wednesday, January 8, 2025 at 1:00 p.m.

CLOSED SESSION

Mayor Pre Tempore Thibodeau 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 5-0.

The time was 3:04 p.m.

Upon return from closed session, Town Attorney Hobbs stated that Council discussed a legal matter, sought legal advice from him, and Council provided feedback and guidance to him.

ADJOURNMENT

Councilor Whitman moved to adjourn the meeting.

Motion carried 5-0.

The time was 3:35 p.m.

Lori A. Ackerman, Town Clerk

Approved: _____

Don Kingston, Mayor

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
January 8, 2025**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 1:00 p.m. on Wednesday, January 8, 2025.

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

COUNCIL MEMBERS ABSENT: Councilor Sandy Whitman.

OTHERS PRESENT: Town Manager Drew Havens; Director of Community Development Joseph Heard; Police Chief Jeffrey Ackerman; Deputy Police Chief Melissa Clark; Deputy Fire Chief Matthew Dudek; Town Attorney Robert Hobbs; Public Information and Events Director Kristiana Nickens; Senior Planner Sandy Cross; Finance Administrator Lauren Creech; and Town Clerk Lori Ackerman.

OTHERS ABSENT: Deputy Town Clerk Christy Hanks.

Mayor Kingston called the meeting to order at 1:02 p.m. He noted that Councilor Sandy Whitman was excused from the meeting.

Mayor Kingston asked Police Chief Jeffrey Ackerman to lead the Pledge of Allegiance. Mayor Kingston led the moment of silence.

PUBLIC COMMENTS

Mayor Kingston opened the floor for public comments. He noted that comments will be limited to three minutes as there was a timer for the time limit. He asked that any comments related to the public hearings be held off.

Town Clerk Lori Ackerman was recognized to speak. Town Clerk Ackerman read the following public comment from Michael and Miriam Rollin:

“Distinguished Duck Town Council members, Town staff, and other meeting attendees: We are Miriam and Mike Rollin, two full-time residents (and voters) of Duck, NC, residing at 149 Plover Drive. Normally, we would provide comments in person at the meeting, but we had to go out of town for important family responsibilities. We wanted to share with you all our strong opposition to the proposed ordinance change that would allow for arcade gaming facilities in the Town of Duck, as a special use permit activity. We firmly believe that such facilities would be contrary to the established (and very much cherished) culture of Duck, as well as counter to the traditional and heretofore planned land uses in Duck. Such arcade gaming facilities would risk increasing adolescent and young adult conflict, especially if the adolescents and/or young adults

were without any responsible supervision. And our view in opposition to such arcade gaming facilities in Duck is supported by the vast majority of responses to a survey conducted just a few years ago, as well as the Duck Planning Board recommendation in December 2024. We do not find it at all compelling that some other jurisdictions in the Outer Banks (and beyond) permit such land uses...in fact, that points to the unique character of Duck, which needs to be preserved! Please do not approve this ordinance change allowing arcade gaming facilities as a special use permit activity in the Town of Duck. Thank you.”

Jim Braithwaite of 134 Bayberry Trail, Southern Shores, was recognized to speak. Mr. Braithwaite stated that he wanted to speak in favor of holding a public hearing for the proposed arcade ordinance. He understood that there had been a lot of discussion about the prior survey and the results of it but wanted to remind Council and the audience that in the past, Handy Hugo, which was a permitted use by law, had a petition with over 400 signatures of people against it. He was sure that a lot of the people that voted against not having it were against it even though it was an approved use. He thought surveys should be taken with a grain of salt, adding that surveys were usually taken for surrounding property owners because that was who was the most affected. He pointed out that the survey pertained to something he was doing and everyone was notified. He thought there was a conflict and always has been with regard to anything new being proposed. He stated that it seems like it’s happening again because a business interest and a resident interest were always in conflict.

Jim Braithwaite pointed out that Duck was a tourist community and thought people were losing sight of that. He added that Duck was not a year-round community even though it had year-round residents. He stated that first and foremost Duck was a tourist community. He added that this was a needed use and was a family-oriented business. He noted that the longer one can keep people at a shopping center, the more money they will spend. He stated that it was a good selling point and a good use. He reiterated that he was in favor of holding the public hearing.

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

CONSENT AGENDA

Minutes from the November 6, 2024, Regular Meeting; Minutes from the December 4, 2024, Regular Meeting; Budget Amendment

Councilor Chasen had a correction to Page 5 of the December 4, 2024 minutes.

Councilor Chasen moved to approve the consent agenda as amended.

Motion carried 4-0.

SPECIAL PRESENTATIONS

Employee Recognition Program

Mayor Kingston stated that in December 2011, Council adopted an employee service recognition program that would acknowledge the service of employees of the Town at five-year intervals by providing them with a certificate of recognition as well as a gift certificate to a Duck business of their choosing.

Mayor Kingston, Town Manager Havens, and Deputy Fire Chief Matthew Dudek went on to present Fire Engineer Matthew Munden with his 5-year service recognition and \$50 gift certificate.

Introduction of Lauren Creech as the Town of Duck's Finance Administrator

Town Manager Drew Havens was recognized to speak. Town Manager Havens went on to introduce Lauren Creech as the Town of Duck's newest Finance Administrator to Council and the audience.

Mayor Kingston and Council welcomed Finance Administrator Creech to the Town.

Introduction of Matthew Quinn as the Town of Duck Fire Department's Firefighter

Deputy Fire Chief Matthew Dudek was recognized to speak. Deputy Fire Chief Dudek went on to introduce Matthew Quinn as the Town of Duck's newest Firefighter to Council and the audience.

Mayor Kingston and Council welcomed Firefighter Quinn to the Town.

Swearing in of Xavier Berry and Micheal Ohse as the Duck Police Department's Newest Officers

Police Chief Jeffrey Ackerman was recognized to speak. Police Chief Ackerman went on to introduce Xavier Berry and Micheal Ohse as the Town of Duck's newest Police Officers. He noted that for the first time ever, Duck sent the two officers through Basic Law Enforcement Training, and they both successfully finished the program.

Town Clerk Ackerman went on to swear in Officers Berry and Ohse.

Mayor Kingston and Council welcomed Officers Berry and Ohse to the Town.

QUASI-JUDICIAL PUBLIC HEARING

Public Hearing/Discussion/Consideration of SUP 24-10, a Special Use Permit Application by Michael Garner and Anne Henningfeld to Construct a Residential Addition 36.2 Feet in Height to Match the Existing Roofline of the House at 113

Royal Tern Lane, Exceeding by 1.2 Feet the Maximum Building Height Allowed in the Single-Family Residential Zoning District under Subsection 136.030(D)(7)

Mayor Kingston turned the meeting over to Town Attorney Robert Hobbs.

Town Attorney Hobbs stated that the Council would be sitting as a quasi-judicial body for the public hearing, meaning that they will sit as a court and must make its decision based upon competent material and substantive evidence that will be presented during the course of the hearing. He stated that anyone wishing to give testimony would have to give it while under oath with the applicant afforded due process rights including the right to present evidence, examine, and cross-examine witnesses. He asked if any member of Council needed to disclose any communications about the subject of the hearing that they may have had with the applicant or any person prior to the hearing. There was none.

Town Attorney Hobbs asked if there was anyone present that wished to petition the Council for permission to intervene in the hearing as a party. There were none.

Town Attorney Hobbs stated that anyone that would be presenting evidence in connection with the hearing would need to take an oath. He asked that anyone wishing to testify come forward to be sworn in.

Town Clerk Ackerman went on to swear in the applicants, witnesses, and staff for the public hearing.

The following persons were sworn to provide testimony during the hearing: Joseph Heard, Sandy Cross, Ken Green, Michael Garner, and Anne Henningfeld.

Town Attorney Hobbs opened the evidentiary portion of the hearing. He stated that Director Heard would give an overview.

Community Development Director Joseph Heard was recognized to speak. Director Heard noted that the public hearing was properly advertised. He stated that the height of the existing residence was assumed to be conforming but was unknown until the completion of the addition. He stated that the recently constructed addition was built to match the roofline of the existing residence, which has a nonconforming height of 36.2 feet. He pointed out that the proposal was requesting approval of a special use permit to allow the addition, which exceeds by 1.2 feet the maximum height limitation of 35 feet allowed in Subsection 156.030(D)(7).

Director Heard stated that the property at 113 Royal Tern Lane was part of the Sanderling subdivision and the property was 16,730 square feet in size and zoned Single-Family Residential. He stated that the property has approximately 87 feet of frontage on the Royal Tern Lane cul-de-sac, was over 190 feet in depth, and widens to approximately 110 feet at the rear along the Currituck Sound. He pointed out that the property was initially developed in 1985 with a two-story, four-bedroom residence that was 2,200 square feet in size. He added that a two-story addition on the southern side of the home

that consisted of two office spaces and a bathroom was permitted in 2022 and completed in 2024.

Director Heard explained that the height of the existing residence was assumed to be conforming but was unknown until completion of the addition. He stated that a height certificate prepared by B.I.L.D. Surveying showed the recently constructed addition was built to match the roofline of the existing residence, which has a nonconforming height of 36.2 feet. He noted that the proposal was requesting approval of a special use permit to allow the addition, which exceeds by 1.2 feet the maximum height limitation of 35 feet allowed in Subsection 156.030(D)(7).

Director Heard stated that Subsection 156.054 of the Duck Town Code establishes review criteria for special use permit applications related to building height. He noted that the following standards should be considered as part of the Council's review:

- A. The Zoning Administrator shall review the proposed application and determine if a special use permit is necessary to permit reasonable opportunity to improve the subject property.
- B. Upon determination by the Zoning Administrator that a special use permit is necessary, the Town shall process the application and schedule an evidentiary public hearing by the Town Council in accordance with the procedures set forth in Section 156.155 as well as the procedures set forth below.
- C. The Town Council may grant a special use only after determining that the application meets the following criteria:
 1. The site for the proposed use is adequate in size and shape, and the proposed use will not negatively affect adjacent property or the surrounding area;
 2. The special use will not be inconsistent with the objectives specified in the CAMA Comprehensive & Land Use Plan;
 3. The applicant has demonstrated that the requirements of this chapter are unreasonable or impractical due to unusual building design, lot shape or mature vegetation; or there are practical siting constraints where original placement of the dwelling on the lot prohibits reasonable improvements that meet existing requirements;
 4. Any height special use authorized under the terms of this section for an addition to an existing structure shall be limited to no greater than five feet beyond the maximum height permitted in the zoning district; and
 5. The proposed structural modifications meet sound residential design objectives to:
 - a) Minimize loss of privacy on neighboring properties;
 - b) Maximize image of quality residential development to the street frontage; and
 - c) Avoid reduction of light and air to neighboring properties.

Director Heard stated that Subsection 156.054 of the Duck Town Code establishes review criteria for special use permit applications involving building height and setbacks. He stated that staff evaluated this application and provided the following recommended findings:

1. The site for the proposed use is adequate in size and shape, and the proposed use will not negatively affect adjacent property or the surrounding area.
2. The special use will not be inconsistent with the objectives specified in the Comprehensive & CAMA Land Use Plan.
3. The applicant has demonstrated that the requirements of this chapter are unreasonable or impractical due to unusual building design, lot shape or mature vegetation; or there are practical siting constraints where original placement of the dwelling on the lot prohibits reasonable improvements that meet existing requirements.
4. Any height special use authorized under the terms of this section for an addition to an existing structure shall be limited to no greater than five feet beyond the maximum height permitted in the zoning district.
5. The proposed structural modifications meet sound residential design objectives to:
 - a. Minimize loss of privacy on neighboring properties;
 - b. Maximize image of quality residential development to the street frontage; and
 - c. Avoid reduction of light and air to neighboring properties.

Director Heard stated that staff concluded that all five required findings were met by the proposal and that staff recommended approval of the special use permit application, subject to the following condition:

1. The applicant must submit a finished construction Elevation Certificate prior to issuance of a final Certificate of Completion/Occupancy for the project.

Director Heard noted that the applicant had already met the condition so it was no longer needed if Council approved the application.

Town Attorney Hobbs asked Council if they had questions for Director Heard.

Mayor Pro Tempore Thibodeau asked what the difference was between the final requirement that does not need to be in the special use permit if it were accepted. Director Heard explained that it was not the building height certification, but the elevation certificate for the flood zone. He added that staff has one but it needs to be tweaked. He noted that staff had sufficient information and did not need the addition anymore.

Town Attorney Hobbs asked the applicant to make a presentation.

Ken Green of Ken Green & Associates was recognized to speak. Mr. Green stated that he had the drawings completed and they matched the roofline that existed, adding that he

had no idea that it was over 35 feet. He stated that he is now measuring everything before plans are drawn, so he would not run into this issue in the future. He explained that because of the way it was completed, it made the house look better aesthetically and if he had dropped the roofline down another foot or so, it would have looked more like an addition and not part of the house. He appreciated the approval if Council were to grant it.

Councilor Chasen asked how it was discovered that the height was higher than 35 feet. Ken Green explained that before he was able to get the occupancy permit, one of the criteria was to get a roof height elevation, and at that time it was at 36.2 feet, so he brought the issue to the Town.

Mayor Kingston assumed that if Ken Green knew it was over the height limit, he would have come to Council asking to have the roofline match than have it one foot less. Ken Green stated he was correct. He added that now that he has run into this issue, they are measuring things first.

Mayor Pro Tempore Thibodeau clarified that this was a common way to measure the average height due to the steep rooflines in Sanderling. Ken Green explained that a lot of the houses that have been built through Dare County allowed them to go over 35 feet. He stated that he now goes into those homes and measures beforehand so there was no question on the height. Mayor Pro Tempore Thibodeau stated that she wasn't sure if Dare County measured differently in the past because of average building height. Mr. Green did not think Dare County measured differently, adding that he did not remember back then if he was required to obtain a roof height for the Certificate of Occupancy.

Town Attorney Hobbs asked if there were any sworn witnesses that wished to make a presentation. There were none.

Town Attorney Hobbs asked if there were any remaining questions from Council. There were none.

Town Attorney Hobbs closed the evidentiary portion of the public hearing and turned the meeting back over to Mayor Kingston. He reminded Council that a vote of the majority was required to approve the application. He stated that if there was a motion to approve the permit, it would include the adoption of the findings of fact and conclusions set forth in the draft order, adding that there were no proposed conditions.

Councilor Lingard pointed out that Council has had public hearings on special use permits where the applicant has asked for forgiveness but he thought this was not the kind of case Council has seen and thought this was something that could not have been avoided and very minor. He stated that he did not have an issue with the application.

Mayor Pro Tempore Thibodeau agreed with Councilor Lingard's comments, adding that Council likes to see things ahead of time. She thought, aesthetically, Council has seen this kind of small exception helping with the aesthetics of the area. She added that it was

nice to ask for permission rather than ask for forgiveness. She stated that she would be in favor of approving the application.

Councilor Chasen stated that she appreciated that the builder was proactive once he realized the situation as well as the continued work that he is working on by continuing to look at things proactively to address any issues he may find. She added that she would be in support of the application.

Councilor Chasen moved to approve SUP24-10 with the findings of fact and conclusions.

Motion carried 4-0.

LEGISLATIVE PUBLIC HEARINGS

Public Hearing/Discussion/Consideration of Ordinance 24-07, an Ordinance Correcting References in Section 156.116 of the Town Code regarding Outdoor Lighting and Subsection 156.155(B)(1) regarding Special Use Permit Procedures

Mayor Kingston 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 Director Heard would give a presentation.

Director Heard stated that at their November 6, 2024 meeting, Council authorized the Planning Board and Community Development staff to develop the necessary text amendments to address several updates and corrections to the Town Code. He stated that several of the proposals were more complicated and will require comprehensive review in the coming months; however, the Planning Board recommended the following specific corrections to two sections of the Zoning Ordinance as follows:

1. Subsection 156.116 – Correct a reference to the Town’s outdoor lighting standards.
2. Subsection 156.155(B)(1) – Correct a reference to the submittal timeframe for special use permits.

Director Heard explained that Subsection 156.116 read that, in order to reduce light pollution and light trespass, the following standards shall apply to all lighting in all districts except on single-family detached residential lots, unless otherwise noted. He pointed out that as a result of changes in the Zoning Ordinance, Section 156.126 is now related to standards for the scale of residential development, not lighting. He added that staff was proposing to correct the error by amending the wording to a more generic “Outdoor Lighting standards found elsewhere in the Town Code.”

Director Heard explained that Subsection 156.155(B)(1) read that written applications for a special use permit, along with appropriate fees, shall be submitted to the Zoning Administrator no later than 30 days before the next regular monthly meeting of the

Planning Board. He stated that staff were proposing to change the reference from the Planning Board meeting to the Town Council meeting for submission of a special use permit review application since the Planning Board was no longer involved in that review process. He added that the necessary amendment to this subsection was simply overlooked during the comprehensive changes that were made in 2023.

Director Heard stated that since the proposed amendments were necessary to update and address specific errors in the Zoning Ordinance, the Planning Board members voted unanimously at their November 13, 2024 meeting to recommend approval of the proposed text amendments in Ordinance 24-07. He added that staff was also in favor of the recommendation.

Town Attorney Hobbs asked Council if they had questions for Director Heard.

Mayor Pro Tempore Thibodeau clarified that the Planning Board had decided that 30 days was adequate time. Director Heard stated she was correct, adding that it gives staff enough time to review the application that was submitted. Mayor Pro Tempore Thibodeau clarified that 30 days ahead for the submittal and then advertising the public hearing would give enough time to get everything in order. Director Heard stated that it would come later in the process for the public hearing. He added that it would be enough time.

Town Attorney Hobbs asked if any members of the public wished to comment on the proposed ordinance. There were none.

Town Attorney Hobbs asked if there were any remaining questions of Council. There were none.

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

Mayor Pro Tempore Thibodeau moved to adopt Ordinance 24-07 as presented.

Motion carried 4-0.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

Discussion/Consideration of Ordinance 24-04, an Amendment to the Town Standards and Definition of Lot Coverage in Section 156.002 of the Town Code Regarding Allowances for Pervious Surface Materials for Single-Family Residences

Director Heard stated that Ordinance 24-04 proposes to update and clarify the Town's standards for the use of pervious materials on single-family residential properties consistent with the intent of the Town's lot coverage standards. He pointed out that specifically, the draft ordinance included exemptions for artificial turf and water in swimming pools (Subsections 5 and 6) to make the Town standards consistent with

recently adopted State legislation. He added that Subsection 7 proposed a 100% lot coverage credit for pervious parking surfaces and Subsection 8 proposed a 40% credit for other types of semi-pervious parking surfaces and pervious surfaces used elsewhere on a property. He noted that the ordinance also proposed standards for appropriate subsurface base materials, certification of perviousness by a North Carolina licensed engineer, long-term maintenance of the pervious surface, and recordation of maintenance agreements.

Director Heard stated that on April 5, 2023 Council adopted Ordinance 23-01, which amended the definition of *Lot Coverage* by allowing completely pervious groundcover materials to be entirely exempt from lot coverage calculations. He stated that this exemption was subject to certification by a North Carolina licensed engineer or documentation of installation according to manufacturer's specifications. He pointed out that the definition of *Lot Coverage* previously had, and still has, a provision allowing paving blocks such as turfstone or an equivalent, permeable interlocking concrete pavers, and porous concrete installed on a pervious base (not to include clay) to be considered 60% impervious.

Director Heard stated that after working with the new standards for a year, staff ran across several instances where contractors wanted to review the 100% allowance for the use of permeable pavers in a parking area. He stated that it was not entirely clear to the public or staff when each provision was intended to apply and following research and multiple meetings of discussion/analysis, the Planning Board prepared the draft ordinance to help clarify when allowances would apply to pervious/semi-pervious surfaces in the future.

Director Heard stated that in response to a Planning Board question concerning a 10-year/two-hour storm event, Town Engineer Michael Robinson noted that a 10-year, two-hour storm in Duck equaled 3.1 inches of rainfall and for comparison, he added that the Towns of Kill Devil Hills and Nags Head both use 4.2 inches as a design storm for engineered stormwater. He stated that Town Engineer Robinson had offered his opinion, based on a rainfall frequency chart and that a minimum 3.1-inch standard was adequate for the Town's purposes.

Director Heard explained that as part of omnibus building code/development related legislation ratified by the North Carolina State Legislature on June 28, 2024, local governments are expressly prohibited from counting the water in a swimming pool or artificial turf as developed area, impervious surface, or partially impervious surface for stormwater management purposes. He pointed out that it could be legally and technically argued that the Town's lot coverage standards are not part of a stormwater program; however, as the lot coverage standards are part of a local government ordinance, and stormwater management was a major component of the Town's rationale for maximum lot coverage standards, the Planning Board opted to include the new State exemptions in the draft ordinance.

Director Heard stated that as it updates and further clarifies the definition of *Lot Coverage* and allowances for the use of permeable materials in lot coverage calculations

consistent with the Town's intent, the Planning Board initially voted 4-1 to recommend approval of the proposed text amendments in Ordinance 24-04 at their September 11, 2024 meeting. He stated that in addition to clarifying which type of pervious materials will receive which allowances, the Planning Board highlighted the importance of having appropriate subsurface base materials, licensed engineer's certification of perviousness, long-term maintenance of the pervious surface, and recordation of maintenance agreements. He noted that these items have been addressed in the draft ordinance and as part of their discussion, the Planning Board acknowledged the challenge of enforcing the maintenance provisions and considered the timing of implementing the changes when the new State legislation will not take effect until November.

Director Heard stated that following the November 6, 2024 public hearing, Council reviewed the text amendment application related to lot coverage allowances for pervious surfaces and sent the application back to the Planning Board to provide more clarity regarding the implementation and enforcement of the proposed standards, specifically the recordation requirements for certification and maintenance agreements.

Director Heard stated that at the Planning Board's December 11, 2024 meeting, the members reviewed maintenance standards and a recordation template provided by Town staff, listened to public comments, and unanimously concurred with the plan regarding enforcement of maintenance provisions for pervious surfaces. He added that the Planning Board noted the necessity of long-term maintenance for pervious surfaces to maintain an effective level of perviousness and the need to record agreements so that new owners of a property were aware of the maintenance requirements.

Mayor Pro Tempore Thibodeau clarified that the homeowners would have to certify that they would comply with maintenance agreements, so it was on the homeowner and not referencing any particular maintenance plan, but just the homeowner stating that they would be doing it. Director Heard stated that the maintenance plan can change. Mayor Pro Tempore Thibodeau agreed. She clarified that the homeowner was the one who would be stating that they would be doing it. Senior Planner Sandy Cross was recognized to speak. Senior Planner Cross stated she was correct, adding that that was one of the reasons when it is recorded, it would transfer to the new homeowner when a title search is completed. Mayor Pro Tempore Thibodeau stated that she saw the complexity in all of it. She clarified that it would apply to new properties and for moving forward and the 60% would apply to astroturf and the 100% permeable would apply to anyone that was getting a lot coverage benefit. Senior Planner Cross stated that it would if they chose to take the credit. Mayor Pro Tempore Thibodeau clarified that this would not apply to existing homes but was for anyone that may want to obtain the extra credit as a deed restriction. Senior Planner Cross stated she was correct. Mayor Pro Tempore Thibodeau asked if staff would, on demand, ask a homeowner to provide proof of maintenance. Senior Planner Cross explained that it would be on a complaint-driven basis due to flooding issues.

Councilor Chasen asked if someone received the credit, put the restriction on the deed and they sell the property, what would happen if they had not maintained it. She asked if

the Town had any intention of checking at a sale or if it would still be complaint driven. Senior Planner Cross stated that it would be complaint driven, which was why it needed to be recorded so the next homeowner knows that there was a maintenance agreement in place.

Councilor Lingard thought this was something that the real estate agent should be looking at when they see a deed restriction to make it a condition that the seller has it maintained before the sale goes through. He noted that he used to be a real estate agent and that it would have been something that he would have been looking into if he was representing a buyer to make sure that the maintenance had been completed before his buyer took possession of the home.

Mayor Pro Tempore Thibodeau thought that it would be a material fact for a realtor if there was a realtor involved, adding that a licensee would have to know about that and disclose it to any buyer.

Mayor Kingston asked Council if they wished to adopt the ordinance at this meeting or schedule another public hearing on it. Councilor Lingard thought the issue before was not knowing what the maintenance agreement would look like. He thought now it made a lot of sense to him and that he would be in favor of adopting the ordinance at this meeting.

Mayor Pro Tempore Thibodeau asked if Council was doing the public hearing at this meeting. Mayor Kingston stated that Council already held a public hearing. He stated that Council could adopt the ordinance or schedule another public hearing. Mayor Pro Tempore Thibodeau appreciated the time and effort involved in the ordinance. She thought what comes from it will be a deterrent with trying to use it because it was complicated. She appreciated the maintenance guideline that Council was presented with, read it thoroughly and thought there was a lot of maintenance involved. She pointed out that it was complicated to maintain and thought it will deter people from trying to obtain extra lot coverage from these methods while others may like it. She felt it was too much for staff to follow up on and reiterated that it will be a deterrent. She stated that recording it in a deed was something that should not be taken lightly and was something that people would be reluctant to do.

Councilor Lingard moved to adopt Ordinance 24-04 as presented with the additional information on clarifying maintenance agreement recordation.

Motion carried 4-0.

Discussion/Consideration of Authorizing a Public Hearing on Ordinance 24-06, an Ordinance Amending Four Sections of the Town Code to Allow Amusement Arcades as a Specially Permitted Use in the Village Commercial Zoning District

Director Heard stated that the applicant – Keith Bliss – has proposed amendments to several sections of the Duck Town Code to accommodate the addition of *Amusement*

Arcades as a permitted use in the Village Commercial zoning district and associated changes. He stated that the applicant wishes to establish an amusement arcade within one unit of the Duck Commons shopping center at 1211 Duck Road.

Director Heard reminded Council that it was important to recognize that the current text amendment proposal differs from the prior, similar proposal in that it only proposes to add amusement arcades and not the full array of indoor entertainment uses previously proposed. He stated that following discussion and consideration at their November 10, 2021 meeting, the Planning Board voted 3-2 to recommend approval of a text amendment proposed to allow *Indoor Entertainment Facilities* as a permitted use in the Village Commercial zoning district.

Director Heard noted that while reviewing the initial proposal, the Planning Board raised concerns about the broad array of uses permitted under the proposed definition; in particular, the Board was concerned that certain types of uses including billiard rooms, bowling alleys, paintball facilities, skating rinks, amusement rides including ferris wheels, spinners, carousels and the like, and electric go-cart tracks have greater impacts than other uses included in the initial definition. He added that after discussing these concerns, the applicant agreed to remove uses with potentially greater impacts and narrow the list of permitted uses in the proposed definition.

Director Heard explained that the Planning Board questioned the initially proposed parking standards of one space per 300 square feet of customer area. He stated that while the Board agreed with the Town's current minimum parking standard of one space per 100 square feet is on the more burdensome end of the spectrum, the initially proposed standards were on the most lenient end. He added that after the discussion, the Planning Board and applicant compromised by increasing the proposed minimum parking standards to one space per 200 square feet gross-floor area, consistent with retail uses.

Director Heard stated that after initially reviewing the proposal at their December 1, 2021 meeting, Council instructed staff to obtain public comments on the issue. He stated that a great majority of the public comments received over the next month were in opposition to indoor entertainment facilities and the applicant chose to withdraw the text amendment application for indoor entertainment facilities prior to the public hearing being set by Council.

Director Heard stated that staff compiled a list of standards concerning similar amusement arcades/indoor entertainment uses for other communities on the Outer Banks and found the following:

- Southern Shores – no provisions for amusement arcades or indoor entertainment facilities.
- Kitty Hawk – no provisions specifically for amusement arcades or indoor entertainment facilities but miniature golf, game rooms, and indoor skate parks are permitted as special uses.

- Kill Devil Hills – billiard parlors, video and amusement arcades are permitted uses.
- Nags Head – indoor entertainment facilities are permitted uses.
- Manteo – no provisions for amusement arcades or indoor entertainment facilities.
- Dare County – indoor recreation uses are permitted uses.
- Currituck County - indoor recreation/entertainment is a permitted use.

Director Heard stated that nationally, the American Planning Association’s PAS Parking Standards offer examples of parking standards for indoor entertainment and similar uses that vary widely depending on the specific type of use. He noted that standards range from as much as one space per 50 square feet customer use area to as little as one space per 400 square feet gross floor area. He added that based on this information, staff found that the applicant’s proposal was consistent with permitted uses in a majority of the local communities. He stated that in all communities where amusement arcades were specifically allowed, they list or interpret similar uses to be permitted uses.

Director Heard stated that following the Planning Board meeting on November 13, 2024, the applicant submitted a revised application that made substantial changes to the proposed amendments in Subsections 156.002, 156.036, 156.040, and 156.094 as follows:

156.002 – The revised proposal added the phrase “...and limits the use of arcade games, not laser tag or other large scale space Indoor Recreation devices...” to the initial proposed definition.

156.036 – Whereas the initial text amendment proposed the addition of *Amusement Arcades* as a permitted use, the revised text amendment changed the proposed requirement to a special use permit and added the remaining wording further specifying maximum square footage standards/limitations for the use.

156.040 – Consistent with the change in Section 156.036, the “P” proposed for the V-C column was amended to be an “S”, requiring a special use permit.

156.094 – The initial application reviewed by the Planning Board proposed the following wording be added in the Parking standards: “No Additional Parking Required if Amusement Arcade Space is Placed within Existing Facilities”. To address comments and concerns raised at the Planning Board meeting, the applicant amended his proposal to the one parking space per 200 square feet standard reflected in the current proposal. This standard is similar to the current minimum parking standards for retail uses. The applicant also added the following wording: “...for amusement arcade space placed within existing facilities...”

Director Heard stated that at Council’s December 4, 2024 meeting, Council reviewed the text amendment application relating to amusement arcades and decided that the recent changes to the proposal were substantial and sent the application back to the Planning Board to review the amended proposal and make a revised recommendation. He added

that Council briefly discussed the idea of establishing a business license requirement/fee for amusement arcades or machines and requested the Planning Board to evaluate the necessity and appropriateness of this option. He stated that the Planning Board considered a revised text amendment application allowing *Amusement Arcades* as a specially permitted use in the Village Commercial zoning district at their December 11, 2024 meeting and received comments from the applicant as well as members of the public in favor and opposed to the text amendment. He added that the Board voted 3-2 to recommend denial of the revised text amendment proposal.

Director Heard explained that the Council's discussion concerning the possibility of establishing business license requirements/fees for amusement arcades and/or machines centered around the timing and ease of enforcement with the thought being that a business license could quickly be revoked for noncompliance with zoning standards or conditions of approval. He stated that the desirability of business licensing was briefly discussed by the Planning Board but not in detail due to a majority of the Board recommending against allowing amusement arcades entirely. He noted that if Council decides to consider business licensing for amusement arcades, staff can prepare an ordinance outlining the changes.

Mayor Kingston thought Council should move forward with the public hearing in order to give the applicant an opportunity to discuss it with Council as well as giving the public an opportunity to discuss with Council. He reiterated that he would be in favor of moving forward with the public hearing at Council's February 5, 2025 meeting.

Mayor Pro Tempore Thibodeau agreed with Mayor Kingston's comments and thought it would be worthy of further discussion and exploration. She pointed out that this was the second time that Council has seen this type of proposal with this one not being as large scale as the previous one. She thought Council or the Town could put any number of restrictions on this type of special use. She understood that no one wanted disruptions and out of control youth behavior, but she thought it could be considered a stretch that it would be the case. She added that she would not be at the February meeting due to another engagement.

Councilor Lingard agreed that there should be a public hearing. Councilor Chasen agreed with the rest of Council's comments, but thought all of Council should be present for the public hearing. Mayor Kingston pointed out that it would need to be held at the February 5, 2025 meeting in order to be fair to the applicant.

Councilor Lingard moved to schedule the public hearing on Ordinance 24-06 for February 5, 2025.

Motion carried 4-0.

NEW BUSINESS

Discussion/Consideration of Options for the Disposal of the House and Other Structures Located on the Herron Property that is Now Owned by the Town of Duck

Town Manager Drew Havens was recognized to speak. Town Manager Havens stated that on December 20, 2024, the Town acquired three parcels of land located at 101 and 103 Scarborough Lane and 1165 Duck Road, from the Herron family. He stated that the property currently has an old house and several outbuildings/structures and while the house is one of the older structures in Duck, its age and deferred maintenance make its continued utility to the Town unfeasible. He pointed out that while Council will be discussing the future use of the property at their Retreat, staff was recommending attempting to auction the house for removal by a purchaser if one is found and allow a reasonable amount of time for it to be removed. He added that, concurrently, staff was also recommending that a request for proposals be developed to remove all structures, foundations, and any other debris from the site. He noted that a bid alternate will be included in the request for proposals to allow for the removal of the house by any potential purchasers. He stated that Council will be asked at a future meeting to consider responses to the request for proposals as well as considering a contract to perform the work described.

Mayor Kingston asked how long the house would be up for auction. Town Manager Havens stated that it would be 30 days and he would use GovDeals as well as putting it on the Town's website. Mayor Kingston asked if the prior owner had taken everything that they wanted. Town Manager Havens stated that they have taken most of the items.

Councilor Lingard suggested that opening bid be for \$1.00 and accept it for that price if someone would take it away. He thought the biggest issue was removing the home and if someone else could use it, then that would be fine. Town Manager Havens stated that the minimum bid will be \$1.00 and the winner would have to move the home at their expense. He noted that the home was not beyond salvage.

Mayor Pro Tempore Thibodeau stated that she had wondered what the mechanism was for the auction. She thanked Town Manager Havens for stating that it was one of the older houses in Duck. She stated that she had the same kind of pain when the Rodgers house was taken down because it was a cool, iconic spot, along with other older houses. She thought if no one wanted to take the house away, that there could be a way to use some of the wood. She thought the building should be documented before anything happens for historic preservation and the importance of the history of Duck. She added that some of the wood could be sold as historic home wood. She stated that she hated the idea of it ending up in a dumpster and thought people would like to have a plank from it.

Town Manager Havens stated that he talked to one of the owners of the house who said that the original structure was added onto and the way it was added onto was with pieces of wood from shipwrecks that were found on the beach. He stated that there is some history there, adding that if the Town could not sell the house, he could look into seeing what could be salvaged. He hoped at some point, a new building would be built for

Public Safety and thought there could be something that could be used from the house. Mayor Pro Tempore Thibodeau thought documenting it or having an historical group involved to document things. She stated that she didn't want to just say goodbye to it. Councilor Lingard wondered if it could be put in the auction details that the first reference is to have the house removed, but if someone wanted to salvage the wood from it, then that was another option. He pointed out that old wood was a commodity and people were happy to reuse it. Mayor Pro Tempore Thibodeau agreed.

Mayor Kingston asked if there was any way to assess if there was any value of anything in the house. Town Manager Havens stated that there were plywood floors, ceilings, and walls. Mayor Kingston thought the Town should move forward with trying to auction the house off and see if there is interest in someone buying it and removing it and if not, Council could make a decision on how it will be demolished. Councilor Chasen thought it could be used for art projects.

Mayor Pro Tempore Thibodeau asked if there was a timeline for this. Town Manager Havens did not think it was an emergency but felt it should move forward. He added that Council would be discussing the future use of the property at their Retreat. He noted that if everything was removed from the property, there was no reason it couldn't be used as temporary public parking.

Councilor Chasen moved to declare the house as surplus and auction it and create a request for proposals for the removal of the other outbuildings.

Motion carried 4-0.

Discussion/Consideration of Town Council's Recommendation for the North Carolina League of Municipalities' 2025-2026 Biennium Legislative Goals and the Appointment of a Voting Delegate to Send the Council's Input to the League

Town Manager Havens stated that every two years the North Carolina League of Municipalities, through legislative action committees, develops proposed legislative goals for the League to pursue during the upcoming legislative session. He stated that the draft goals were then sent to all members of the League for their consideration and members are asked to submit their selection of the top 10 goals most important to that member's municipality. He noted that Council was provided a full list of the goals and asked to review them and make individual selections in advance of this meeting. He added that Council needed to appoint a voting delegate to send the information to the League.

Council and Town Manager Havens reviewed the list and chose the items most important to them.

Mayor Pro Tempore Thibodeau moved to appoint Town Manager Havens as the Town's representative and submit Council's top 10 goals.

Motion carried 4-0.

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

Deputy Police Chief Melissa Clark was recognized to speak. Deputy Police Chief Clark gave a brief overview of the past month's police 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.

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

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

November FY 2025 Financial Presentation

Town Manager Havens gave a short presentation on the November Fiscal Year 2025 financials to Council and the audience.

MAYOR'S AGENDA

Mayor Kingston stated that the mayors/chairmen meeting will be on January 21, 2025 hosted by the Town of Manteo. He reminded Council of the goal planning session Council will be participating in on January 15, 2025.

COUNCIL MEMBER'S AGENDA

Mayor Pro Tempore Thibodeau stated that she was thinking about the residents in California that were suffering through the wildfires and weather. She stated that it made her think of how important Duck's Public Safety is and how valued they are. She added that Duck was lucky to have an amazing Public Safety Department.

Councilor Lingard stated that he was looking forward to working on the Government Access Committee.

Councilor Chasen stated that she recently met with Lee Nettles for an orientation for her service on the Outer Banks Tourism Board. She added that the Board would be meeting on Thursday, January 16, 2025.

OTHER BUSINESS

Additional Public Comments

Mayor Kingston opened the floor for public comments.

Jim Braithwaite stated that with regard to the Herron property, he had talked to Town Manager Havens briefly about it and had his contractor look at it who will have a house mover look at the house. He noted that the initial price to move the house was \$35,000. He added that if there was an opportunity to move it across the street, he thought he would try to do that in order to preserve the house. He added that if the house was demolished, it would cost money to do that. He wasn't sure if it was possible, if he won the bid and was cost effective, if he could receive credit for the demolition fee that the Town would have to pay and give him the money so he could offset the cost to move the house if it were possible. He pointed out that the Town would be paying \$17,000 - \$20,000 to demolish it and he would rather take that amount and use it. Town Manager Havens stated that he would discuss things with Jim Braithwaite offline.

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

Mayor Kingston noted that the next meeting would be the Mid-Month meeting on Wednesday, January 15, 2025 at 1:00 p.m.

CLOSED SESSION

Mayor Pro Tempore Thibodeau 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 3:18 p.m.

Upon return from closed session, Town Attorney Hobbs stated that he discussed a legal matter with Council, provided legal advice and received guidance from Council.

ADJOURNMENT

Councilor Chasen moved to adjourn the meeting.

Motion carried 4-0.

The time was 3:54 p.m.

Lori A. Ackerman, Town Clerk

Approved: _____

Don Kingston, Mayor

**TOWN OF DUCK
TOWN COUNCIL
MID-MONTH MEETING
January 15, 2025**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 1:00 p.m. on Wednesday, January 15, 2025.

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

COUNCIL MEMBERS ABSENT: None.

OTHERS PRESENT: Town Manager Drew Havens, Town Attorney Robert Hobbs; Director of Community Development Joseph Heard; Police Sergeant Joseph Knight; Deputy Fire Chief Matthew Dudek; Public Information and Events Director Kristiana Nickens; Finance Administrator Lauren Creech; and Deputy Town Clerk Christy Hanks.

OTHERS ABSENT: Police Chief Jeffrey Ackerman and Town Clerk Lori Ackerman.

Mayor Kingston called the meeting to order at 1:00 p.m.

VISION 2032 PROGRESS REPORT

Public Information and Events Director Kristiana Nickens was recognized to speak. Director Nickens gave a short presentation on the progress of the Town's Vision 2023 to Council and the audience.

Mayor Kingston thanked Director Nickens for her presentation.

GOALS PLANNING SESSION

Town Manager Drew Havens was recognized to speak. Town Manager Havens stated that this meeting was Council's 2025/2026, looking into 2027 priority setting session, as well as starting on the Fiscal 2026 budget season. He noted that this would be the first interaction that staff have with Council as they begin to think about preparing the annual budget.

Town Manager Havens stated that Vision 2032 had six unifying principles in order to frame where Council currently was. He stated that this meeting was primarily for staff to hear from Council what they want to accomplish in the coming year. He stated that Council would be discussing goals, how they set them, and what they do with them.

Town Manager Havens stated that Council would be discussing some next level goals as well as thinking about where they would fall under the six unifying principles. He noted

that each principle has goals assigned to it and hoped that Council was thinking about the goals they wanted to bring forward that would reflect not only the three-to-five-year goals, but what they wanted staff to focus on in the coming year. He noted that it was important for staff to know that as the draft budget is prepared so that they are doing things that are responsive to what Council believes to be the most important with the understanding that staff could do just about anything Council wanted but they could not do everything because the Town is resource limited.

Town Manager Havens stated that the six unifying principles were as follows:

1. Duck and Our Village
2. Enhanced Movability
3. Environmental Stewardship
4. Active, Engaged Community
5. Vibrant, Thriving Business Community
6. Responsive and Responsible Leadership

Town Manager Havens asked Council if they had any questions about the six unifying principles. There being none, he stated that each Council member would state and explain one idea for the six unifying principles and then move onto the next for three rounds. After that, Council would be discussing things and then vote on what they thought were the most important.

Councilor Lingard stated that, even though it wasn't new, it was something that a lot of people have been talking about, which was the west side Duck Trail. He understood that it had been shelved last year, but he thought Council should prioritize that, particularly since there would be a lot of demands on the capital expenditures because of the recent Herron property purchase. He pointed out that he would like to push that aside for now, adding that people have told him that the west side trail will be a fantastic thing to do. He thought it should go under Enhanced Movability. Town Manager Havens clarified that Councilor Lingard wanted to prioritize the design and construction of the west side trail. Councilor Lingard stated he was correct.

Mayor Pro Tempore Thibodeau stated that she wanted to start with working to get some plans for the new property; something that was simple but meaningful in order to take advantage of the property in the short-term. She thought it would go under Environmental Stewardship or Responsive and Responsible Leadership. Town Manager Havens suggested that it go under Duck and Our Village. Mayor Kingston agreed. Mayor Pro Tempore Thibodeau suggested that it be worded as such: Plan simple but meaningful improvement for the new property. Town Manager Havens suggested that it be: Plan simple and meaningful improvements to the Herron property. Mayor Pro Tempore Thibodeau stated that she was fine with the suggested bullet point.

Mayor Kingston stated that he wanted to start with maintain or grow the Fund Balance with no or minimal tax increase for fiscal responsibility. Town Manager Havens thought

it would go under Responsive and Responsible Leadership. He suggested the bullet point read: Maintain or grow the Fund Balance with little or no tax increase.

Councilor Whitman stated that he wanted to start with pursuing the construction of the Public Safety Building. Town Manager Havens thought it should go under Responsive and Responsible Leadership and should be worded as follows: Aggressively pursue the Public Safety building solutions.

Councilor Chasen asked if coverage needed to be increased with regard to the cameras in Town. She thought there was an incident where there was vandalism and the Town did not have enough coverage. She stated that she would like to see the coverage area increased for Public Safety. Town Manager Havens clarified that it should be as follows: Expand the Public Safety and street camera network. Councilor Chasen stated that it was fine. Town Manager Havens asked where it should go. Councilor Chasen thought it could go under Duck and Our Village.

Councilor Lingard stated that Council looked last year at a Code Enforcement Officer, but because of budget constraints, it did not come to fruition. He wondered if it could be looked at more creatively and maybe a position could be created which could be filled by off-duty police officers or fire personnel who know the Town and could do it on a flexible voter basis rather than having a fixed person who would have to be paid by the Town all year. He thought code enforcement varied throughout the year, adding that a position could be created which could be filled by several people within the existing organization. Town Manager Havens suggested it be worded as follows: Explore creative solutions for code enforcement duties. He thought it would be under Responsive and Responsible Leadership. He asked if Councilor Lingard wanted it put somewhere else. Councilor Lingard stated that Responsive and Responsible Leadership would be fine. Mayor Pro Tempore Thibodeau clarified that it was a governance thing. Town Manager Havens stated that it was as it would be for the entire community and not just the Village area.

Mayor Pro Tempore Thibodeau stated that she was in favor of shoreline stabilization and thought it would go under Environmental Stewardship. She explained that it was Town project updates and ways to educate the public to understand the challenges. She asked if this was listed last year. Town Manager Havens suggested it be advance shoreline work to protect the park and serve as an example for owners. Mayor Pro Tempore Thibodeau pointed out that the Town did have a project that will commence in this fiscal year, but moving forward to continually completing the projects and having that example piece would be meaningful for a lot of residents and owners. Town Manager Havens asked if the same language could be used for this year. Mayor Pro Tempore Thibodeau stated that it could, adding that it serves as an example for the owners in Town.

Mayor Kingston stated he wanted a repeat of last year in that he thought there needed to be a continued investigation and plan of more parking and restrooms in the park. He noted that the restrooms should not be in the parking lot but near the green, which could overlap with what Council decides to develop with the Herron property. He reiterated

that Council needed to address the issue of parking and restrooms. Mayor Pro Tempore Thibodeau clarified that Mayor Kingston was talking about the park property. Mayor Kingston stated she was correct. Town Manager Havens suggested using the same wording as last year – investigate more parking and restrooms in the park – and have it under Duck and Our Village.

Councilor Whitman stated he wanted to maintain the infrastructure and keep up with the maintenance of the buildings and the park. Town Manager Havens suggested the following: maintain the Town facilities and infrastructure. Councilor Whitman thought it should go under Responsive and Responsible Leadership.

Councilor Chasen stated that Council discussed it before, but she wanted to add the ferry through Harbourtown Cruises. She asked if there was anything that could be looked into to see if that was a viable option to get traffic from Manteo to Duck and back via the water. Town Manager Havens noted that the provider has had issues, adding that it was something worth exploring if Councilor Chasen wanted to add it. Councilor Chasen thought it was worth looking into because it was another way to get the traffic off Duck Road. She added that she had had several conversations with residents and visitors, both in Duck and in Manteo, and there seemed to be a great deal of interest in the ferry, but she wasn't sure how to implement a solution. Town Manager Havens thought the Visitors Bureau would fund something like this. Councilor Lingard asked if it could be less specific. He thought that rather than it being Duck to Manteo, have it as a ferry service in general. He added that if someone could run a ferry from Powell's Point to Duck on a weekend, it would solve a lot of staffing issues for the restaurants. Councilor Chasen agreed. Councilor Lingard thought Councilor Chasen's suggestion should be changed to just ferry services and not be so specific. Town Manager Havens clarified that it would go under Enhanced Movability. Councilor Chasen stated he was correct. Town Manager Havens suggested it be worded as follows: explore passenger ferry options. Councilor Chasen stated that it was fine.

Councilor Lingard stated that he wanted to defer his final choice until after he heard Mayor Pro Tempore's choice.

Mayor Pro Tempore Thibodeau stated that she was in favor of improving and encouraging participation and engagement with the business community, which was an item from last year. Councilor Lingard stated that he would have chosen that item. Town Manager Havens noted that it was under Thriving Business Community. Councilor Lingard thought Duck the Halls was an initiative of the business community and was great. He thought that kind of thing should be encouraged.

Mayor Kingston stated that he was favor of continuing the stormwater management program. Town Manager Havens clarified that it was continue the stormwater management program, further clarifying that it should be under Environmental Stewardship. Mayor Kingston stated he was correct.

Councilor Whitman stated that his last choice was to enforce the SUPs and ordinances in Town. He pointed out that Council had discussed a temporary ordinance officer, but he didn't see it on the list. Mayor Kingston asked if it was part of the looking at new solutions for enforcement. Deputy Town Clerk Christy Hanks was recognized to speak. Deputy Town Clerk Hanks pointed out that it was under Duck and Our Village. Town Manager Havens noted that there was one for exploring creative solutions for code enforcement. He suggested the following addition: support creative solutions for code enforcement and continue efforts to enforce SUPs. Mayor Kingston suggested adding "and ordinances" to the code enforcement point. Town Manager Havens suggested the following language: continued enforcement of SUPS and ordinances to the code enforcement point. Councilor Whitman stated that was fine.

Councilor Whitman stated that his last choice would be to understand the changes in demographics in Duck. Town Manager Havens asked where it should go. Councilor Whitman thought it should go under Responsive and Responsible Leadership. Town Manager Havens pointed out that last year it was monitor and understand the changes in demographics in Duck, which was under Responsive and Responsible Leadership.

Councilor Chasen stated that her last choice was to share the history of the Town. She explained that it had already started with the horse, which put the Town in a good position, adding that Public Information and Events Director Kristiana Nickens has obtained some grants in order to tell some of the video stories. She thought last year there was something in the budget to erect signs/historical markers, adding that she wanted to push that in order to share and communicate with the public more. She noted that it was on the list last year under Active Engaged Community. Town Manager Havens suggested it be worded as share the history of the Town.

Mayor Pro Tempore Thibodeau stated that her last choice was housing, adding that she wanted to support the efforts of the Dare Housing Taskforce. She pointed out that people have said that there was no such thing as affordable housing, adding that Duck has the highest mean value of any town, but she thought there were more creative ways. She noted that the Town got ahead of it way before other towns did with the ADU ordinance and thought it could be revisited again if it was more doable on existing properties. She stated that she wanted to word it as such: supporting the Dare Housing Taskforce and actively look for solutions in Duck. Town Manager Havens thought it would be under Responsive and Responsible Leadership. He thought it should read as follows: support the work of the Dare Housing Taskforce and explore creative solutions for workforce housing in Duck. Mayor Pro Tempore Thibodeau stated that it was fine.

Mayor Kingston stated that he wanted to add another item, adding that he thought the Town needed to continue to address the traffic issues and support the Mid-Currituck Bridge. Town Manager Havens asked if it was on the list last year. Mayor Kingston stated that last year it was a multi-jurisdictional task force on traffic issues. He thought the Town needed to continue to address traffic issues. Town Manager Havens suggested it be worded as follows: continue to address traffic issues and support the construction of the Mid-Currituck Bridge.

Councilor Whitman asked if he could add the pedestrian plan to Mayor Kingston's item. Mayor Kingston thought it was already on the list. Councilor Whitman stated that it wasn't on any of the lists. Town Manager Havens stated that Council had added prioritizing construction of the sidewalk. Councilor Whitman stated that he meant the entire Town and not one section. Mayor Kingston thought it should be added to the existing point. Town Manager Havens stated that it could be added to the existing point. Councilor Whitman pointed out that on the goals of the Vision, it listed safety of crosswalk improvements. Town Manager Havens stated it was part of the pedestrian plan. Councilor Whitman agreed and wanted to know where it was discussed. Town Manager Havens explained that there were two projects that were coming up – one by Wee Winks and the other by Towne Bank. Director of Community Development Joseph Heard was recognized to speak. Director Heard stated there were different crosswalks – one by Scarborough and staff was waiting on approval from NCDOT. Town Manager Havens noted that those projects were listed as ready to go and were part of the work that VHB did for the Town a couple of years ago. He added that, as Director Heard had noted, the Town is waiting on NCDOT to give the approval. He clarified that the wording for the point should be as follows: prioritize the design and construction of the west side trail and implementation of the pedestrian plan under Enhanced Movability.

Councilor Chasen stated that Council had discussed putting up signs on the boardwalk that were unique to a geographic location so that if something happens, a person could call and say what sign they were near. Mayor Pro Tempore Thibodeau thought it was already in the plan from last year. She asked if it was in addition to the historic signage. Councilor Chasen stated that it was, adding that it was more for safety so Public Safety personnel could find people. Town Manager Havens suggested that he work with staff on that, adding that existing signs were labeled geographically but staff did not have the graphics. He added that it was something that was brought up to former Public Information and Events Director Christian Legner, but nothing ever came of it. He noted that there were some challenges to it in terms of communication with the first responders, adding that he would put it on his list to discuss with staff.

Mayor Pro Tempore Thibodeau thought it may be good to hear from Public Safety on the signage with regard to people calling and stating that they did not know where they were in Town. Town Manager Havens stated that there were big signs with landmarks to let people know where they are. He thought it may be a matter of making them a little more prominent and visible as well as having some interim signs for in between places where one can't see the existing signs to have some sort of communication. He noted that staff will work on it. Mayor Pro Tempore Thibodeau suggested putting a red 911 sign next to the signs for people to identify where they are. Councilor Whitman pointed out that this would be a moot point if the Town obtains the rest of the cameras.

Town Manager Havens suggested that Council discuss the items they had chosen as priorities.

Mayor Pro Tempore Thibodeau thought with the shoreline stabilization, Council needed to effect it, make it happen, and learn from it. She stated that she saw that happening with Director Heard, Senior Planner Sandy Cross and VHB going out and talking to other communities about their successes and the recognition the Town has received from the State planning group. She pointed out that it was a tangible example of what the Town has been able to do. She added that she wanted to be able to translate that into things that citizens could and could not do. She thought being able to share what the Town was learning, understanding the challenges, and receiving updates was important. She stated that it was her reason for wanting the shoreline stabilization because it goes with helping carry the citizens along with the educational piece.

Mayor Kingston thought everyone needed to continue to understand that the role of Council was to put the strategic objectives in place and not to get tactical on their discussions. He pointed out that this meeting was really to give Town Manager Havens direction to put together the tactical plans within the organization and then have further discussion. He thought Council needed to keep that in mind as they look at these goals moving forward because they needed to be strategic to give direction and not necessarily solutions.

Councilor Whitman stated that he would like the rest of Council to vote for maintaining and growing the Fund Balance so if an emergency arose, the Town would have the funds to take care of it.

Councilor Chasen stated that she wanted to support aggressively finding a solution for Public Safety, adding that she understood she was beating a dead horse.

Councilor Lingard thought there was an item that did not receive any votes last year that could be done with little or no cost to the Town, especially if the Town could receive sponsorships, which was the shared history of the Town. He thought people would be happy to sponsor the boards, especially if it was about the building they were in. He reiterated that it was something that could be easily done with little or no cost to the Town. He added that he didn't think it would get any votes this year but it was something he was in favor of. Councilor Chasen pointed out that there has been a lot of information received already, adding that it would be a matter of making it happen. Mayor Pro Tempore Thibodeau thought there were some restrictions on that in that the Town ran into it when it wanted to get the banners for the power poles, adding that businesses contributed their names under the banners. She stated that it was found out that advertising was not allowed on the banners. She wasn't sure what the signs would be but reiterated that the Town had trouble doing it before. She added that if it was on private property, it would be a great idea to do it that way.

Mayor Pro Tempore Thibodeau stated that she wanted to support the housing issues. She thought Council needed to be thinking outside the box because the Town was not making any more land and thought some innovative things could be accomplished in Duck while maintaining the character with a little creativity.

Council went on to vote on what priorities they felt were the most important.

Town Manager Havens explained that he did not have a tally to project, but wanted to give Council what they voted on:

- Tied for first place were the goals: Maintain and grow the fund balance with little or no tax increase and Aggressively pursue Public Safety building solutions, each with a score of 7.
- The second highest goal was Prioritize the design and construction of the west side pedestrian trail and implementation of the pedestrian plan with a score of 5.
- The third highest goal was to Maintain Town facilities and infrastructure with a score of 5.
- The fourth highest goal was to Plan simple and meaningful improvements to the Herron property with a score of 4.

Town Manager Havens stated that he would have the full tally in order to Council by January 16, 2025. He thanked Council for their work on the goals.

Mayor Kingston stated that there was one more item of business. He turned the meeting over to Town Attorney Robert Hobbs.

Town Attorney Robert Hobbs was recognized to speak. Town Attorney Hobbs stated that at Council's last meeting, they voted to schedule a public hearing for February 5, 2025 for proposed Ordinance 24-06, which has to do with amusement arcades. He stated that it has become known that there may be some Council member absences for the February 5, 2025 and March 5, 2025 meetings. He pointed that there seemed to be some interest in potentially rescheduling the public hearing in order to have all five Council members present during the meeting where the public hearing would be held. He understood that staff had checked with the applicant who submitted the proposed amendment and he was okay with postponing the hearing in order to allow all five Council members to be present for it. He suggested that Council make a motion to reschedule the public hearing to their April 2, 2025 meeting.

Mayor Kingston asked if this was at the request of the applicant. Town Manager Havens stated that it was.

Councilor Chasen moved to reschedule the public hearing on proposed Ordinance 24-06 from February 5, 2025 to April 2, 2025.

Motion carried 5-0.

Mayor Kingston thanked Town Manager Havens for the exercise. He noted that the next meeting would be the Regular Meeting on Wednesday, February 5, 2025, at 1:00 p.m.

ADJOURNMENT

Councilor Whitman moved to adjourn the meeting.

Motion carried 5-0.

The time was 2:22 p.m.

Lori A. Ackerman, Town Clerk

Approved: _____

Don Kingston, Mayor



This instrument has been
preaudited in the manner
required by the Local
Government Budget and
Fiscal Control Act

Finance Officer

**AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN
VHB ENGINEERING NC, P.C AND
TOWN OF DUCK, NORTH CAROLINA
BIDDING AND CONSTRUCTION PHASE SERVICES FOR SHORELINE PROTECTION
TOWN PARK
AMENDMENT TO VHB CONTRACT NO. 86559.21**

January 23, 2025

This Contract Amendment details of the services to be performed by VHB, timing of the services, and compensation. The Amendment includes the Terms and Conditions of our original Agreement.

PART I

PROJECT DESCRIPTION

The Town of Duck proposes the installation of a stone revetment, breakwater sills, and marsh fill along a section of the Currituck Sound shoreline at the Town Park. The shoreline protection measures are planned to extend for the full length of the shoreline adjacent to the Town property at the Park (approximately 1,000 linear feet). VHB, under a previous contract, has produced permit drawings and application package, along with final plans and construction documents. Permits have been issued, and the Client intends to bid the project for construction. This Amendment covers VHB services for bidding and construction administration.

SCOPE OF SERVICES

VHB will undertake the following scope of services:

1.0 BIDDING AND CONSTRUCTION PHASE SERVICES

VHB will prepare an advertisement for construction of the shoreline project; the Client shall be responsible for placing the advertisement. VHB will conduct a pre-bid meeting to review the plans with potential bidders and solicit questions; following receipt of questions, VHB will issue any necessary addendums. Prior to the pre-bid meeting, the Client will request marking of utility locations by the utility owners, and request that the marking be timed so that prospective bidders can review the marked locations at the time of the pre-bid meeting. VHB will attend the Bid Opening; if the Client does not receive the required number of bids, the Client will re-advertise the project and solicit of second round of bidding. If rebidding occurs, VHB will attend the second Bid Opening.

After receiving the required number of bids, VHB will evaluate each bid package for accuracy and any discrepancies, prepare a bid comparison document, and make a recommendation of award. VHB will prepare the Agreement between the Town of Duck and contractor; VHB will use the standard form: *EJCDC C-520, Agreement Between Owner and Contractor for Construction Contract (Stipulated Price)*.

During this contractor contracting period, VHB will coordinate with the contractor to provide the necessary drawing packages and electronic CADD for field layout. VHB will coordinate with the contractor on the proposed construction schedule while also accommodating the Town's schedule of special events, particularly the Jazz Festival, week of Thanksgiving, and the week of Easter. Additionally, VHB will conduct a pre-construction meeting with the contractor.

VHB will provide part time construction administration assistance and observations as detailed herein. VHB's



review and approval of submittals such as shop drawings, samples, or other data, shall be for the limited purpose of checking for conformance with the design concept and the information in VHB's documents. This review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are the sole responsibility of the contractor and other unrelated parties. Review of a specific item shall not indicate that VHB has reviewed the entire assembly of which the item is a component. VHB shall not be responsible for any deviations from VHB's documents or other documents which are not brought to the attention of VHB in writing by the contractor. VHB shall not be required to review partial submissions of those for which submission of correlated items have not been received. VHB will also review and approve contractor applications for payment and any necessary change orders. Should unanticipated conditions be encountered, or changes be requested by the Client during the construction process that require change order drawings, an additional task for such services will be provided. VHB will request Client approval prior to proceeding with the work.

It is anticipated that construction will occur in two phases, with the stone revetment at the south end of the Park being constructed prior to June 30, 2025 (Phase 1), and the remaining work to be constructed after July 1, 2025 (Phase 2).

Phase 1: It is anticipated that the Phase 1 work will take 4 weeks to complete. VHB will attend (2) progress meetings and/or site visits, (1) punch list meeting, and (1) final walkthrough. VHB shall make these field meetings for the limited purpose of determining whether work is in general conformance with VHB's plans and specifications. Such visits are not intended to be an exhaustive check or detailed inspection of the contractor's work. VHB shall not supervise or have control over the contractor's work nor have any responsibility for construction ways, means, methods, techniques, sequences, or procedures selected by the contractors nor for the contractor's safety precautions or programs in connection with the Work. Should the construction schedule extend beyond 4 weeks, or if other factors necessitate additional meetings or coordination, VHB will request an amendment to this scope and fee.

Phase 2: It is anticipated that the Phase 2 work will take 8 weeks to complete. VHB will attend (6) progress meetings and/or site visits, (1) punch list meeting, and (1) final walkthrough. VHB shall make these field meetings for the limited purpose of determining whether work is in general conformance with VHB's plans and specifications. Such visits are not intended to be an exhaustive check or detailed inspection of the contractor's work. VHB shall not supervise or have control over the contractor's work nor have any responsibility for construction ways, means, methods, techniques, sequences, or procedures selected by the contractors nor for the contractor's safety precautions or programs in connection with the Work. Should the construction schedule extend beyond 8 weeks, or if other factors necessitate additional meetings or coordination, VHB will request an amendment to this scope and fee.

SCHEDULE

VHB will complete the Scope of Services described herein within the schedule described above. This schedule is provided for project planning purposes and will be revised during final contract execution.

- | | |
|-------------------------|------------------------|
| 1. Bidding | March 2025 |
| 2. Phase 1 Construction | April 2025 |
| 3. Phase 2 Construction | November-December 2025 |

SERVICES NOT INCLUDED

Any services not described above are not anticipated and, therefore, not included in this Agreement at this time. Should additional services be required, VHB will submit an amendment to this Agreement for the Client's review and approval.



VHB shall have no responsibility for the construction, means, methods, sequence, techniques or procedures, installation, maintenance, operation or safety related to or arising out of construction or post-construction activities.

COMPENSATION AND PAYMENT FOR VHB SERVICES

I. Fees and Reimbursable Expenses

VHB will complete the Scope of Services described herein for the Lump Sum Fees identified below, which include labor costs and expenses such as: printing and reprographics; travel and subsistence; computer charges; telephone charges; shipping, postage, and courier service charges; purchase of maps and similar documents; etc. These direct expenses will be billed at cost. Subconsultants will be billed at cost. VHB reserves the right to reallocate fees among the tasks below, within the overall budget.

1. Bidding and Construction Phase Services	
a. Phase 1	\$20,000
b. Phase 2	\$45,000
TOTAL LUMP SUM FEE	\$65,000



VHB Engineering NC, P.C., AUTHORIZATION

By: _____

Title: _____

Date: _____

CLIENT AUTHORIZATION

The Town of Duck, North Carolina, agrees with Part I, which includes the Scope of Services, Schedule, and Compensation. This amendment is subject to the Terms and Conditions of our original Agreement. Together they constitute the entire Agreement between VHB Engineering NC, P.C., and the Town of Duck.

TOWN OF DUCK, NORTH CAROLINA

By: _____

Title: _____

Date: _____

**Town of Duck, North Carolina
FY 2025
Budget Amendment**

Amendment No.: 6
 Department: Revenue Date: 2/5/2025

Budget Amendment					
Revenues	Fund	Dept. Code	Acct. Code	Obj. Code	Requested Amount
FEMA Sinking Fund interest	10	4300	4311	-	17,255.00
Transfer from capital reserves	10	4900	4901		43,141.00
				TOTAL:	60,396.00
Expenditures	Fund	Dept. Code	Acct. Code	Obj. Code	Requested Amount
Beach Nourishment debt service	10	5770		564	60,396.00
				TOTAL:	60,396.00

Reason for Amendment:
 To appropriate funds for interest paid on FEMA portion of beach nourishment debt. \$ 17,255 is coming from sinking fund interest and the remaining \$ 43,141 from beach nourishment capital reserve funds.

Approved: _____ Denied: _____
 Date: _____

AGENDA: February 5, 2025

Regular Meeting

ITEM #8A:

New Business

A. Discussion/Consideration of the Process to Fill a Vacancy on the Planning Board

RECOMMENDED ACTION:

- Discuss a process to be completed to fill a vacancy on the Planning Board

SUMMARY OF INFORMATION:

Planning Board member Joe Blakaitis unfortunately passed away recently, which now leaves a vacancy on the Board. Council will need to discuss the process to fill Mr. Blakaitis' unexpired term, which would have ended on May 1, 2027.

ATTACHMENTS:

- None