

Agenda  
Town of Duck Council  
Paul F. Keller Meeting Hall  
May 7, 2025  
1:00 p.m.  
Regular Meeting

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1. Call to Order
  - A. Pledge of Allegiance
  - B. Moment of Silence
2. Public Comments
3. Consent Agenda
  - A. Minutes from the April 2, 2025, Regular Meeting
  - B. Minutes from the April 16, 2025, Special Meeting
  - C. Minutes from the April 16, 2025, Mid-Month Meeting
  - D. Resolution 25-08, a Resolution of the Town Council of the Town of Duck, North Carolina, Declaring the Week of May 11-17, 2025 as National Memorial Police Week
  - E. Budget Amendment
4. Special Presentations
  - A. Swearing in of Mitchell Ardinger as Duck Police Department's Police Corporal and Recognition on Obtaining his Advanced Law Enforcement Certificate
  - B. Resolution 25-10, a Resolution of the Town Council of the Town of Duck, North Carolina, in Appreciation to Joseph Heard Upon His Retirement from the Town of Duck
5. Quasi-Judicial Public Hearings
  - A. None at this time
6. Legislative Public Hearings
  - A. Public Hearing/Discussion/Consideration on Ordinance 25-01, an Ordinance Updating Penalties for Violating the Tree Preservation Standards in Subsection 156.137(J) of the Town Code
  - B. Public Hearing/Discussion/Consideration of the Proposed Fiscal Year 2025-26 Budget

(continued)

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7. Old Business/Items Deferred from Previous Meetings
  - A. Discussion/Consideration of a Process to Appoint Seven Individuals to Serve on the Board of Adjustment
  - B. Discussion/Consideration of Authorizing the Town Manager to Execute a Contract for Dune/Beach Planting
8. New Business
  - A. Discussion/Consideration of Authorizing a Public Hearing on Ordinance 25-03, an Ordinance Adding Subsection 156.053(C) to the Town Code Allowing Additions to Match the Height of the Existing Roofline for Legally, Nonconforming Residences up to a Maximum of One Additional Foot
9. Items Referred to and Presentations from the Town Attorney
10. Items Referred to and Presentations from the Town Manager
  - A. Departmental Updates
  - B. March 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 Regular on Wednesday, June 4, 2025 at 1:00 p.m.

## **AGENDA:**

**May 7, 2025**

**Regular Meeting**

### **ITEM #3:**

#### Consent Agenda

- A. Minutes from the April 2, 2025, Regular Meeting
- B. Minutes from the April 16, 2025, Special Meeting
- C. Minutes from the April 16, 2025, Mid-Month Meeting
- D. Resolution 25-08, a Resolution of the Town Council of the Town of Duck, North Carolina, Declaring the Week of May 11-17, 2025, as National Memorial Police Week
- 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 April 2, 2025, Regular Meeting; minutes from the April 16, 2025, Special Meeting; minutes from the April 16, 2025, Mid-Month Meeting; Resolution 25-05, which declares the week of May 11-17, 2025 as National Memorial Police Week and a budget amendment. The budget amendment appropriates \$13,685.00 from Fund Balance to Streets and Highways for the pedestrian improvement project. Council is asked to approve the minutes, the resolution, and the budget amendment.

### **ATTACHMENTS:**

- April 2, 2025 Minutes
- April 16, 2025 Special Minutes
- April 16, 2025 Minutes
- Resolution 25-08
- Budget Amendment #8

**TOWN OF DUCK  
TOWN COUNCIL  
REGULAR MEETING  
April 2, 2025**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 1:00 p.m. on Wednesday, April 2, 2025.

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

COUNCIL MEMBERS ABSENT: None.

OTHERS PRESENT: Town Manager Drew Havens; Director of Community Development Joseph Heard; Police Chief Jeffrey Ackerman; Interim Fire Chief Matthew Dudek; Town Attorney Robert Hobbs; Public Information and Events Director Kristiana Nickens; Finance Administrator Lauren Creech; 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 1:03 p.m.

Mayor Kingston asked Interim Fire Chief Matthew Dudek and Interim Deputy Fire Chief Jeffrey Del Monte 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 hearing be held off.

Steve House of the Dare County Board of Commissioners was recognized to speak. Mr. House thanked Council for all that they do. He invited Council and the public to the celebration of Wilbur Wright's birthday on April 16, 2025 at the Hilton Garden Inn.

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

**CONSENT AGENDA**

**Minutes from the March 5, 2025, Regular Meeting; Resolution 25-03, a Resolution of the Town Council of the Town of Duck, North Carolina, Honoring Wilbur Wright on his Birthdate and the Vital Cultural and Economic Contributions of the**

**Wright Brothers to the “First in Flight” Legacy of Dare County and North Carolina; Resolution 25-04, a Resolution of the Town Council of the Town of Duck, North Carolina. Declaring the Month of April as Child Abuse Prevention Month; Resolution 25-05, a Resolution of the Town Council of the Town of Duck, North Carolina, Declaring the Month of April as Fair Housing Month; Resolution 25-07, a Resolution of the Town Council of the Town of Duck, North Carolina, Encouraging the North Carolina Legislature to Expand Authority to Construct Housing for Local Government Employees; Amendment to the Town’s Adopted Position Classification Table to Add Two Position Classifications to Allow for Some Reorganization without Adding Any Additional Personnel; Contract with Thompson, Price, Scott, Adams & Co., P.A. for Audit Services for Fiscal Years 2025, 2026, and 2027; Fifth Amendment to the Contract between the Town of Duck and Sandski, LLC for Lifeguard Services; and Budget Amendment**

Councilor Chasen moved to approve the consent agenda as presented.

Motion carried 5-0.

### **SPECIAL PRESENTATIONS**

#### **Swearing in of Matthew Dudek as Duck Fire Department’s Fire Chief**

Town Manager Drew Havens was recognized to speak. Town Manager Havens went on to recognize Interim Fire Chief Matthew Dudek, adding that he was recently promoted to the rank of Fire Chief.

Town Clerk Lori Ackerman was recognized to speak. Town Clerk Ackerman went on to swear in Fire Chief Dudek.

Mayor Kingston and Council congratulated Fire Chief Dudek on his promotion.

#### **Swearing in of Jeffrey Del Monte as Duck Fire Department’s Deputy Fire Chief**

Fire Chief Matthew Dudek was recognized to speak. Fire Chief Dudek went on to recognize Interim Deputy Fire Chief Jeffrey Del Monte, adding that he was recently promoted to the rank of Deputy Fire Chief.

Town Clerk Ackerman went on to swear in Deputy Fire Chief Del Monte.

Mayor Kingston and Council congratulated Deputy Fire Chief Del Monte on his promotion.

### **QUASI-JUDICIAL PUBLIC HEARING**

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

## **LEGISLATIVE PUBLIC HEARINGS**

### **Public Hearing/Discussion/Consideration of 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**

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 Senior Planner Sandy Cross would give a presentation.

Senior Planner Sandy Cross was recognized to speak. Senior Planner Cross stated that Ordinance 24-06 proposes to amend several sections of the Duck Town Code to accommodate the addition of *Amusement Arcades* as a specially permitted use in the Village Commercial (V-C) zoning district and associated changes. She explained that the proposed amendments include adding a definition for the term *Amusement Arcade*, adding *Amusement Arcades* as a specially permitted use in the V-C district, a corresponding “S” in the V-C column and prohibited use “X” under all other columns in the use table, and adding a minimum parking standard of one parking space for each 200 square feet.

Senior Planner Cross explained that following consideration of the applicant’s revised text amendment proposal at its December 4, 2024 meeting, the Town Council requested Planning Board review of the revisions and after receiving comments from the applicant, additional public comments, and consideration of the revised proposal at its public meeting on December 11, 2024, the Planning Board voted 3-2 to recommend denial of the proposed text amendment. She noted that the public hearing was deferred to this meeting at the request of the applicant.

Senior Planner Cross pointed out 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 which would have included laser tag, escape rooms, etc. She stated that following discussion and consideration at its 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 V-C zoning district.

Senior Planner Cross stated that while reviewing the initial proposal, the Planning Board members raised concerns about the broad array of uses permitted under the proposed definition; in particular, the Board members were 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-kart tracks that typically have greater impacts than other uses included in the initial definition. She added that after discussion of these concerns, the applicant agreed to remove these uses

with potentially greater impacts and narrow the list of permitted uses in the proposed definition.

Senior Planner Cross stated that after initially reviewing the proposal at its December 1, 2021, meeting, the Council instructed staff to obtain public comments on the issue. She pointed out 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 application prior to the public hearing that was set.

Senior Planner Cross noted that staff had compiled a list of standards concerning similar amusement arcades/indoor entertainment uses for other communities on the Outer Banks, as follows:

- 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.

Senior Planner Cross stated that based on the above information, staff finds that the applicant's proposal is consistent with permitted uses in a majority of the local communities. She noted that in all communities where amusement arcades are specifically allowed, they list or interpret similar uses to be permitted uses.

Senior Planner Cross explained that the Town's adopted Comprehensive & CAMA Land Use Plan does not contain recommendations relating to the specific amendment being proposed but contains general policy statements, goals, and recommendations regarding Duck Village and the development of businesses in Duck.

Senior Planner Cross 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. She stated that at Council's December 4, 2024 meeting, Council reviewed the text amendment application relating to amusement arcades, 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. She pointed out that the Council briefly discussed the idea of establishing business license requirements/fees for amusement arcades or machines and requested the Planning Board to evaluate the necessity and appropriateness of this option. She added that the Planning Board considered a revised text amendment application allowing *Amusement Arcades* as a

specially permitted use in the V-C zoning district at their December 11, 2024 meeting where the Board received comments from the applicant as well as members of the public in favor and opposed to the text amendment. She stated that after further discussion and consideration, the Board members voted 3-2 to recommend denial of the revised text amendment proposal in Ordinance 24-06.

Senior Planner Cross stated that 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, the thought being that a business license could quickly be revoked for noncompliance with zoning standards or conditions of approval. She explained that the desirability of business licensing was briefly discussed by the Planning Board with the majority of the Board members recommending against allowing amusement arcades entirely. She pointed out that establishing a business license requirement for this use would entail a minor amendment to Section 111.03 to remove amusement arcades from the list of exempt businesses, updating the Town's fee schedule to establish appropriate licensing fees, and referring to the business license requirement in conditions for the use in Section 156.036 of the Zoning Ordinance. She added that if Council opted to consider business licensing for amusement arcades, staff would prepare a separate ordinance outlining the changes.

Senior Planner Cross stated that the public hearing would have been held at Council's February meeting but was rescheduled to this meeting at the request of the applicant to ensure that all five members were present. She stated that Council is requested to consider the text amendments and vote to either approve, deny, or approve an amended version of the proposal.

Town Attorney Hobbs asked Council if they had questions for Senior Planner Cross.

Mayor Pro Tempore Thibodeau clarified that after the Planning Board meeting, there were some changes that the applicant made. Senior Planner Cross stated that after the original Planning Board meeting, the applicant heard what the Planning Board said and made changes before it came to Council in November 2024. She added that Council felt that the changes were substantial enough to send it back to the Planning Board.

Town Attorney Hobbs asked the applicant to make a presentation.

Keith Bliss of 140 Schooner Ridge Drive was recognized to speak. Mr. Bliss went on to hand out hard copies of his presentation to Council. He stated that there were some missing elements within the offerings in Duck Village, adding that since Duck was a walkable community, shops, restaurants, activities, and nightlife as well as casual/leisure entertainment was sought out by all ages and demographics. He explained that indoor gaming was an activity that was enjoyed by all ages, particularly the demographic that came to Duck, noting that the average Duck visitor was 47 years old. He stated that most families spend time mingling, socializing, and listening to live music before or after dining and shopping. He added that often, young adults and others of all ages cannot find alternative ways to spend more time enjoying the Town. He pointed out that without



alternative entertainment offerings, traffic, and restaurant business flows away from Duck to go to another town. He stated that arcades offer an option for an entire family to stay in Duck as well as a place for young adults to entertain themselves in a way that they enjoy.

Keith Bliss stated that while most patrons are afforded many restaurants, eateries, boardwalk/backyard bars and musical entertainment, an amusement arcade would be enclosed within a building. He added that in his experience, this type of use will not have any additional impact on noise levels, traffic, or parking than the current types of entertainment and activities that are offered in Duck, noting that it would be complimentary and a more balanced offering to families and visitors of all ages. He pointed out that it was also consistent with the Comprehensive & CAMA Land Use Plan.

Keith Bliss explained that he was requesting a zoning text amendment to allow special use permit applications to be considered for amusement arcade use within the V-C district, with parameters and guidelines to meet certain criteria defined within the Land Development Ordinance and zoning codes. He stated that the text amendment would allow for retail locations to submit for a special use permit as a light-impact indoor entertainment business element in the V-C district, specific to the amusement arcade subtitle use, but would not open all uses as defined in the Indoor Entertainment definition. He stated that he was proposing the following parameters and guidelines for amusement arcade use:

- Maximum area of 1,500 square feet on the main floor.
- Up to 1,000 square feet of additional second story area (not including staircases or entryways) for a total of 2,500 square feet of arcade space.
- Limited to one contiguous space within a group development/shopping center/single property.

Keith Bliss pointed out that limiting the allowable square footage per location would achieve the following: (1) limited scale and scope to match the small-town feel and layout of Duck Village and shops; (2) similar impact to any other popular location regarding parking constraints; (3) smaller scale allows for pedestrian traffic and other activities nearby for other family members or while waiting for availability; and (4) second floor expansion space would be limited to existing commercial spaces with second floors already in place.

Keith Bliss stated that amusement arcades were boutique in nature, especially with the constraints proposed by the zoning text amendment for amusement arcades where approval is through a special use permit. He thought that if the goal was to be the best small town beach village experience, a variety of activities for vacationers should be a priority, not just more of the same t-shirt and board short shops that currently exist. He added that complementing uses in the same building or shopping center would create a well-rounded experience for people and that dining, socializing and amusement arcade spaces within the same shopping center would allow for vacationers to find an entertainment experience for all. He went on to show examples of other amusement

arcades in towns of similar size of Duck to Council and the audience using Banner Elk, NC and Newport, RI. He stated that Duck Village was family oriented and multi-generationally friendly; however, there were some missing elements within the community. He asked Council to move forward and show a willingness to progress and thrive by offering casual/leisure entertainment with the zoning text amendment and allowing special use permit applications for indoor amusement arcades.

Town Attorney Hobbs asked Council if they had questions for Keith Bliss.

Councilor Whitman pointed out that there will be 800 square feet on the first floor and 1,000 square feet on the second floor. He asked if someone else wanted to do it and if they did not have the second floor space, they would still need to get the 1,500 square feet. Keith Bliss stated that it would be 1,500 square feet maximum on the main floor. Councilor Whitman asked Keith Bliss how he felt about having the arcade being close to a place that served liquor. Mr. Bliss stated that he had no concerns at all, asking what it had to do with an amusement arcade. He added that it was more of a question for when he has a special use permit application in front of Council. He stated that it wasn't a question he could answer right now because this public hearing was for the zoning text amendment, adding that he wasn't in front of Council to propose for his building. Councilor Whitman pointed out that Keith Bliss was asking for a text amendment which Council had no clarification on at this point as to what will be put in, as well as what could and could not be done. Mr. Bliss pointed out that it was a written zoning text amendment that was in front of Council. Councilor Whitman noted that it did not have any of the requirements. He stated that Mr. Bliss was just asking Council to put an X under special use permits. Mr. Bliss stated that it was the only thing that could be done at this point.

Mayor Kingston asked what the overall occupancy would be for a 1,500 square foot facility with pinball machines. He asked how many pinball machines would be put in. He thought that Mr. Bliss had thought some of it through. Keith Bliss stated that he did not have a business plan for an arcade in mind at this point. He added that he has been in the real estate development space for a long time and this is not with a specific plan in front because he could not craft that, adding that it did not make sense for him to imagine it and spend time on it if he didn't have the ability to get there. He stated that it would be more of a fire marshal or fire code issue. He added that at the same time, it would be based on assembly use and fire code.

Senior Planner Cross explained that if this was a permitted use through a special use permit, the applicant would have to go through an Appendix B where he would have to provide occupancy information that would dictate how many people would be allowed in the space, how many bathrooms would be necessary, and all would be determined through the building permit process.

Councilor Chasen stated that the examples of arcades that Keith Bliss had listed seemed to be buildings where people could go in, there was no supervision, people could swipe a card in order to play a game and then they were done. She clarified that that was what

the examples were. Keith Bliss stated that it wasn't, explaining that one was manned by five people and the other was boutique enough that the Town of Banner Elk allowed them to have it because the operator/owner also operates two other businesses side by side from where the employees were. Councilor Chasen understood that Mr. Bliss did not have a plan, but he was bringing it to Council to make it a permitted special use. She added that she was trying to figure out Mr. Bliss' intention. She noted that if no one wanted it, she felt that there was no reason for it to be in front of Council. She stated that Mr. Bliss had stated that he would like to do this, asking what he had in mind. She asked what the intent was without a formal plan. Keith Bliss asked Councilor Chasen if she was asking about how it would be staffed. Councilor Chasen stated that she was asking how Mr. Bliss would like to develop it. She asked if he planned to do it where it was not supervised or if there would be people working there. Keith Bliss stated that it came down to examining other arcade spaces versus space he may have versus space that another applicant with a special use permit may have in order to figure out what it would look like because they may have management in an ancillary space which would be supplying employees to monitor and manage that space. He stated that he would not anticipate an arcade to have a cash register of any kind, so it wasn't a matter of moving cash or money but would be more of making sure the games were operating and how many people were in the space. He added that it could be staffed with one person or more if needed. He pointed out that it wasn't any different than staffing a bicycle rental shop.

Councilor Chasen stated that based on the comments Council received, the overwhelming comment was safety, which was a problem for her. She stated that she grew up playing video games, but never did it where there wasn't an adult present at all times. She pointed out that it was the safety of the young people, which was an overwhelming concern, reiterating that she was not comfortable with allowing a special use permit without having some sort of restriction. She added that she was not comfortable with allowing children to go into an arcade without an adult present because it then becomes a responsibility of the Town and the police department to provide that safety, which was where she was uncomfortable about not knowing more of the details. She wasn't sure if Keith Bliss could provide them at this meeting. Keith Bliss explained that it would come with the special use permit as it would have the hours of operation as well as who would be operating it.

Councilor Chasen asked Town Attorney Hobbs if Council was willing to let arcades be a special use, restrictions could be imposed on it, such as stating that it needed to be a supervised area. Town Attorney Hobbs stated that Council could do that.

Councilor Lingard stated that what Council was looking at was a boutique arcade with classic machines. He stated that his issue was that that type of setup would probably not make enough money, so whoever is operating it would suggest that it needed to change to more modern machines or sweepstakes machines. He asked if the Town would be able to restrict the types of machines that would be put into a space like this. Senior Planner Cross stated that she would defer to Police Chief Jeffrey Ackerman on it, adding that sweepstakes machines would not be permitted. Police Chief Jeffrey Ackerman was recognized to speak. Police Chief Ackerman explained that sweepstakes machines were

currently not permitted. Senior Planner Cross stated that the current zoning text amendment read that it prohibited adult arcades. She thought if someone were to come in and change their machines to sweepstakes, if that became permissible in North Carolina, Council could revisit the ordinance and/or classify them as adult arcades. She thought it may also be a question for Town Attorney Hobbs.

Councilor Lingard stated that he was concerned that Keith Bliss was presenting a nice, quaint boutique arcade. He thought it was a slippery slope if Council approved it and it became something else as well as opening the door to other applicants with a different view. Senior Planner Cross explained that the way the text currently read was as follows: "Amusement Arcade. A building or portion of a building in which five or more pinball machines, video games or machines or other similar player operated amusement devices are maintained. The term adult arcade is specifically excluded from this definition and limits the use to arcade games, not laser-tag or other large scale space Indoor Recreation devices." She stated that Council could add "or sweepstakes type machines." She added that, while not currently legal, there was always the potential that they could be legal at some point in the future and Council could stop it before it becomes legal. Town Attorney Hobbs pointed out that this was a text amendment and Council could always further refine any part of the zoning code at any time.

Director of Community Development Joseph Heard was recognized to speak. Director Heard stated that the Town presently restricts all that kind of activity so it would not be permitted. Senior Planner Cross explained that the use table prohibits those type of activities currently.

Mayor Pro Tempore Thibodeau stated that currently if a business owner put in four pinball machines, it was legitimate. She clarified that when over five are put in, it then becomes an arcade. Senior Planner Cross explained that when Duck Duck Burgers was still in operation, it was approved for a 400 square foot arcade. She added that it was approved prior to the prohibited and permitted use table going into effect. She stated that since Duck Duck Burgers has been closed for a period of more than 10 months, it was no longer grandfathered for that, but if it had continued operation past the owner's death, there would potentially still be an arcade there. She noted that she never patronized the business so she wasn't sure if there was an arcade in there or not.

Councilor Whitman clarified if a business such as Wings decided to put an arcade in, they could take 1,500 square feet of the building if this text amendment passes and come before Council for an approval for an arcade in that building. Senior Planner Cross explained that they would have to go through the special use permit process.

Councilor Lingard stated that he was always concerned with special use permits and Council setting precedents. He asked Town Attorney Hobbs to explain why it was not a precedent if Council were to grant a special use permit for one arcade but deny it for another arcade. Town Attorney Hobbs explained that it would go through a quasi-judicial process where Council would use the standards that were set forth in the ordinance, but otherwise Council would rely on professionals to give advice on the planning aspects of

the application. He added that the site itself, which was always unique, the building and other aspects of it and then any proposed conditions that Council could impose on an application or special use permit. He noted that since each one is so different and so unique, then if Council approves one, they do not necessarily have to approve other ones because each property will be different.

Councilor Whitman clarified that there were no ground rules and everyone has their own set of rules when they come before Council. Town Attorney Hobbs disagreed, explaining that the rules were the Town's code. He added that Council has the code that has guidelines for every use in the Town, but some uses were designated as special uses so that Town staff were not able to administratively approve something without Council knowing about it. He stated that this was a higher-level standard that all the applications have to come to Council and Council has to hold a quasi-judicial process where Council could either approve or deny those based on the hearing.

Senior Planner Cross stated that the formula business section of the ordinance speaks to certain criteria, applicability, and limitations. She added that if Council felt that this was something that they were interested in moving forward but not totally comfortable with the language, they could ask the Planning Board to look at further restrictions, similar to what was completed with formula businesses. Town Attorney Hobbs added that Council could add additional guidelines, noting that Council could make changes to the ordinance and go through the same process at any time.

Mayor Kingston stated that the whole theme of Keith Bliss' application was a rising need in Duck. He stated that in all of the years he has been mayor, no one has ever approached him about having an arcade in Town. He knew that historically that they were prohibited. He asked where Mr. Bliss got the feel that there was a rising need in Duck that the Town needs one or more arcades. He pointed out that Council was not receiving that from public input. He stated that he was interested in knowing how Mr. Bliss determined that there was a great need for arcades. Keith Bliss stated that he received 107 signatures on a petition in favor of arcades, just in the past 48 hours. He reiterated that it was within 48 hours, which was how fresh the information was, adding that it was not months of him or anyone else looking for support, but was just within 48 hours, the petition received 107 signatures. He explained that the majority of the rising need was with all the property owners that do not live in Duck or attend the Council meetings and are not part of the annual census of who lives in Town. He added that the majority of the rising need was from past guests at properties to plenty of other discussions of it. He stated that it was not just a rising need for amusement arcades, but a rising need for alternative entertainment.

Councilor Lingard stated that he would be interested to see where the people that signed the petition live. He thought a lot would be in the triangle area for obvious reasons. He added that he wanted to know how many of the people have actually been to Duck. Keith Bliss pointed out that Wes Stepp was the 101<sup>st</sup> signer of the petition. Councilor Lingard understood but change.org was an international website, adding that someone from Sydney, Australia could have signed it. Mr. Bliss agreed. Councilor Lingard pointed out

that Council had all of the emails with the people's addresses, backgrounds, where they lived and their ownership status in them. He understood that Mr. Bliss had the petition with all the signatures, but he was taking it with a grain of salt because Council does not know where the people who signed the petition are from or if they have any association with Duck at all. Mr. Bliss reminded Council that it was not a petition for him to obtain a permit to open an arcade, adding that he wasn't at that point yet. He pointed out that there will be a whole other wave of support or opposing petitioners coming in when the first application comes in. He stated that he did not have the ability to apply but was asking for a chance to allow a fun activity, safe, family-friendly, and a great complement within Duck Village to be allowed for consideration, adding that now he couldn't have the discussion. He noted that it has taken him six months to get to this point to even have permission to have a discussion and now Council would tell him yes or no with regard to continuing the discussion. He reiterated that it wasn't an application for an actual use, or a floor plan with actual games and parking that Council would be asking applicants in the future. He stated that he was just asking for the ability to ask for the chance.

Mayor Kingston pointed out that Keith Bliss had an opportunity to come before Council previously and decided to postpone coming until this meeting. He added that it was not Council delaying the decision on this. Keith Bliss agreed, adding that he was just asking for a chance and that he wanted to be sure all five Council members were present. He noted that it was a scheduling issue that took a couple of months due to conflicts on Council's part and not his. He stated that he was willing to come before Council at any time because all he wanted was to know if it was a good business plan for him to look into, but he did not have the ability to do that yet. He reiterated that he was just asking for the opportunity to be able to add it to the special use table so he could apply for a special use permit, which would come with a larger list of details that Council was asking at this meeting but were not applicable to this public hearing.

Councilor Chasen stated that the Town has received a lot of emails from citizens, visitors, and property owners, which was a broad spectrum of people that have a direct interest in the Town of Duck and were quantifiable. She added that six had sent in an email in support of the text amendment and that was the only thing Council was discussing. She stated that 79 were strongly opposed to the text amendment. She explained that since Keith Bliss had given Council information on his petition, she wanted to give him full disclosure that Council was getting his information but were also receiving other information from representatives that were interested in the Town.

Mayor Pro Tempore Thibodeau thought, knowing the history and background of previous applications and how it has been scaled down, some people were not completely understanding of what Council was trying to do. She stated that one could say the word "arcade" and come up with a lot of different ideas based on one's own personal experience. She felt that there was some misunderstanding of exactly what Council was trying to look at. She further felt if Council were to allow for a special use for this type of activity, and have an applicant come before Council, she wasn't sure there were enough parameters built into what currently exists to be able to say whether or not the use fits within the parameters. She thought there was an appetite for more activities for

families in Town but with a limit. She reiterated that she thought it was a misunderstanding of some people regarding what Council was discussing and some of that was because Council did not have an idea of what they were talking about because it could not be discussed yet. She stated that her concern was if Council allowed a special use permit and then it becomes very subjective because they would not fit the parameters. She wasn't sure if there were enough parameters on this currently. She thought there should be more parameters around special use permits, adding that she thought a lot of people did not know what Council was discussing. Keith Bliss explained that a lot of points have been made today that, legally speaking, Council could vote to approve the text amendment and send it to Zoning to see if there should be other parameters suggested and have it come back to Council to modify it again prior to anyone submitting an application.

Mayor Kingston understood what Mayor Pro Tempore Thibodeau was talking about, but thought most people knew what an arcade was. He stated that all one has to do is walk into the laser tag place in Nags Head and head to where the pinball machines were. He pointed out that it was an arcade, which was what Council was discussing. He added that Council was discussing pinball machines in a room unsupervised. Keith Bliss pointed out that he never stated it would be unsupervised. Mayor Kingston stated that it wasn't that hard to understand, adding that it was a text amendment and if Council wanted to change the Town to allow it or not. Mr. Bliss reiterated that he didn't say it would be unsupervised. Mayor Pro Tempore Thibodeau stated that supervision could be added to the criteria. Mr. Bliss pointed out that all of that would come up during a special use permit application, reiterating that currently he could not apply because it has not been added to the use table for him to be able to apply.

Councilor Chasen thought the problem she was having with the text amendment was that she did not want to open a Pandora's Box and allow the special use permit. She thought she was hearing from the rest of Council that they would like to have some parameters to understand what it is and what would be acceptable. She did not know how to go about looking into that more or what Council would do. She wasn't sure if arcades were a problem or not, but she knew it was her responsibility to figure out some things before she votes in favor or not, adding that she was not comfortable with it currently because she did not have enough details and information about what it was and what it would look like.

Mayor Kingston thought it was more straightforward that what Councilor Chasen had stated because if a restaurant were to open, there would be tables and food would be served. He added that if an arcade were to open, there would be pinball machines and people coming and going. He stated that the question was whether Council wanted it to be a use within the Town. He pointed out that special use permits and all of the parameters could be set up but the question was if Council wanted arcades in the Town. He added that it wasn't hard to visualize a room with a lot of pinball machines, because it was an arcade. He reiterated that it was pretty straightforward. He asked if Council wanted that as an accepted use in Town or not. He thought with special use permits and

all of the parameters were important, but he thought everyone could visualize what an arcade was.

Town Attorney Hobbs asked if any members of the Planning Board wished to give a presentation.

James Cofield of 101 East Bias Lane was recognized to speak. Mr. Cofield stated that he was a member of the Planning Board. He thought everyone took the issues that come before the Planning Board seriously. He thought Council took the issues that come before them seriously. He stated that the Town engages in community planning for a reason, adding that the Town drafted and adopted the Comprehensive & CAMA Land Use Plan. He pointed out that the Town takes these items seriously because he thought everyone had a vision and wanted the best for the Town. He thought the Comprehensive & CAMA Land Use Plan sets out the best long-range vision. He added that the Planning Board, even with their differences, do the same thing.

James Cofield stated that the residents of Duck spoke clearly about arcade facilities in Town a few years ago. He stated that staff, at Council's request, conducted a survey and 90% of the respondents were against it. He thought Council needed to listen to the consensus opinion that is against the type of use that is being considered. He pointed out that he seriously considered the text amendment twice when it came before the Planning Board, adding that he was sure Council would do the same at this meeting. He reiterated that the survey conducted by the Town showed that 90% of the people that responded were against this type of use.

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

Gray Berryman of 106 Bayberry Drive was recognized to speak. Mr. Berryman stated that he was speaking as a father of four as well as on behalf of renters because he owns four rental homes and on behalf of high school students that he coaches. He pointed out that there were a large number of constituents who were not represented at this meeting or in the survey. He stated that, as a father, coach, and community leader, everyone was working to help bring out the best in others, especially with young people. He stated that it was everyone's duty as community leaders to help young people learn how to make good decisions and to do that they need practice, time outside, time in person in school, time at home with family, and time in places that were less structured so that they can meet and interact with others, make buying decisions, politely talk to others, have some freedom from their family, but also be able to come back and interact. He stated that with regard to the people he works with on a regular basis, they were all in support of having arcade type opportunities, or other social opportunities for young people. He pointed out that there was a large number of people that were not represented where this would serve that need. He added that everyone was very privileged to be able to live in Duck, privileged to have the opportunity to have families, and have younger people. He stated that as someone who on a daily basis is working with preteens and teenagers, this was a critical need. He asked Council to consider the text amendment and think of it as a



way that the Town could help give back and return the favor as well as help the next generation be better.

Jim Braithwaite of 135 Bayberry Trail, Southern Shores, was recognized to speak. Mr. Braithwaite stated that with regard to the survey, people seem to put a lot of stock in it, but years ago he developed the gas station in Town, which was a permitted use by law and 400 people signed a petition against it. He reiterated that it was a use that was permitted by law and thought that the same people that voted against it now use the gas station. He stated that he owns a couple shopping centers in Duck and arcades were the missing link, adding that any type of indoor recreation was needed. He pointed out that there is inclement weather, red flag days and people get tired of just shopping and dining. He noted that it was difficult to own a shopping center with just retail and restaurants because something that complements them was needed. He added that the longer people stay there, the more money they make, causing the tenants to do well and it makes for a better combination and was something that was really needed. He stated that he was the one that proposed a laser tag and other activities because he knew that it was needed and it would be successful. He stated that it was clear that it was a needed use and would make the community better for tourists and people that live in Town. He stated that just because someone doesn't need something doesn't mean it's not wanted. He pointed out that Duck now has a sidewalk and a boardwalk, adding that he doesn't use them but they were needed. He pointed out that sometimes Council has to do the right thing and what's good for the community and make it better, which will help tourism, the shopping centers, and vacationers. He stated that he supported Keith Bliss' request.

Carl Wilkerson of 125 Spyglass Road was recognized to speak. Mr. Wilkerson stated that he was opposed to the request for a text amendment. He thought the definition was very worrisome and imprecise to the scale and scope with the unknowns that could be within that permitted use. He pointed out that he wasn't referring to the special use amendments, but the core element of the proposal. He added that the definition would allow all sorts of things from a few people that have voiced their concerns. He wondered if it meant Skee ball, mechanical bull riding, or shooting galleries. He reiterated that it was imprecise and too broad. He thought it would procedurally create unnecessary headaches for Council and the Planning Board because once one special use exception has been provided to an arcade, he believed it would be very hard to deny the next one or the one after that. He added that the Planning Board could decide that four or five arcades would be enough, but six would not be allowed, which pits the applicants against the Planning Board and exposes legal challenges for arbitrary and capricious differentiation. He felt it was a headache that was coming. He stated that he has five adult children who come to visit with their children who love video games, but never have they said that they wished they could go to an arcade. He reiterated that he was opposed to the text amendment as it would contradict the long-standing uniqueness of the Town, adding that he did not agree with the premise that there was a growing need for additional entertainment.

Jessica Fanning of 100 Sea Hawk Drive West was recognized to speak. Ms. Fanning stated that she was in favor of the text amendment. She felt it was a great opportunity to

provide a fun, family activity. She understood that space was limited in Town, adding that there were great options for people to do outside, but when it came to indoor things to do, the Town was extremely limited. She stated that she was in favor of an arcade that was supervised with established rules and proper parameters. She pointed out that she was having a hard time understanding what would be so bad with having an indoor space for kids and families to play some arcade games. She agreed with Mayor Pro Tempore Thibodeau that there was some misguided information on what everyone was being told. She stated that she knew many families that come to visit Duck as well as friends from Southern Shores and Kitty Hawk who would welcome this opportunity to take their kids to an arcade in Duck. She reiterated that she was in favor of the text amendment.

Joe Cortelli of 201 Schooner Ridge Drive was recognized to speak. Mr. Cortelli stated that he did not have any instinctive problem with an arcade, adding that he agreed with a lot of the comments about supervision and things that could go wrong. He understood that this was only a request to consider an arcade, adding that parameters could be created that would be acceptable moving forward. He added that younger people that play video arcade games will be looking for things to do outside of the house on rainy days. He understood the business side of this as Mr. Bliss was looking for opportunities to grow his business over time and keep the people coming to Duck. He stated that he looked up the growth in retail and found there was no growth in retail, adding that in the year 2000, there were 1 million retail locations in the United States and since that time it has dropped by 25%. He thought an arcade would give the Town the opportunity to thrive and look at alternatives for the storefronts rather than them being empty. He thought what should be happening is that Council should consider a special permit for uses like this with parameters that everyone agrees with. He didn't think it was fair that people were saying that arcades would bring trouble to Duck.

Beverly Perkins of 107 Ships Watch Drive was recognized to speak. Ms. Perkins stated that a comment was made about Newport, Rhode Island and how they accepted the arcade. She stated that she did not want to see Duck become like Newport, Rhode Island. She stated that it would increase the traffic if arcades were allowed and no one knows what kind of people will come into Town. She added that other areas have proven that they have had the same problems. She thought Council needed to be very careful on what they were thinking about and looking into.

Maureen Wilkerson of 125 Spyglass Road was recognized to speak. Ms. Wilkerson went on to read a letter from her neighbors, Robert and Kathy Freer: "The application for an arcade in Duck has already met with official and unofficial resistance, i.e., it has been rejected by recent Planning Board vote as well as homeowners in Duck. We do not support any further consideration of an arcade. There are a host of activities either provided by the Town and/or by private businesses that are more in line with the rare, village-like setting of Duck. We encourage the Council to maintain the special appeal of Duck rather than turning it into just another honky beach town that visitors can pass through on the way to someplace else more charming and inviting. Please do not kill the goose that laid the golden egg."

Larry Platt of 108 Seabreeze Drive was recognized to speak. Mr. Platt stated that he did not understand why people feared change so much. He stated that people feared the gas station that Jim Braithwaite had put in, but last summer he stopped at this gas station and used it. He stated that people fear so many things but they don't listen. He thought everyone was spending too much time listening to people who were over 47 years old, adding that the young people that were coming to Duck operate differently than older adults. He stated that when the bars close, they were not drunk like they were years ago, but were looking for something to do as a social activity and an arcade was a social activity. He understood that this was not a final decision, but thought Council should take some time and give Keith Bliss an opportunity to see if an arcade was an alternative that people would use.

Marc Murray of 115 Sea Hawk Drive West was recognized to speak. Mr. Murray stated that he was the Chairman of the Planning Board. He stated that he wanted to highlight the two members of the Planning Board that voted in favor of the proposal since there was overwhelming public resistance. He reminded Council that the Planning Board no longer hears the quasi-judicial hearings, adding that he went through the UNC School of Government training for them. He pointed out that data was great when it was good data, but Council did not have any good data. He noted that the letters and comments were just that, just letters and comments; the petition was just a petition. He stated that, to some degree, as an appointed official to the Planning Board appointed by Council, imagination has to be used to try to figure out what the use will look like and if it was something that would fit within the Town. He stated that a lot of the people that have been commenting do not understand that a proposal for an arcade has not even come before Council yet. He stated that that was why two members of the Planning Board voted for it because they felt like there needed to be an opportunity and the data the Board had was not complete. He stated that with regard to the survey from the prior application, a survey of a non-representative sample was not data but it was just comments. He encouraged Council to give the comments weight, but also take seriously the responsibility that they have, having a higher understanding of this proceeding as well as a higher understanding of what the applicant is asking for – just a text amendment and not a proposal.

Town Clerk Ackerman went on to read the written public comments that had been received. She noted that 72 written public comments had been received regarding the proposed text amendment. with seven in favor, 1 had no opinion either way, and 64 were opposed. She added that she would just be reading the names and addresses of those that submitted written comments, but that their full comments would be recorded into the minutes of the meeting.

Dorothy Donat of 1402A Duck Road and Waynesboro, VA was recognized. Ms. Donat wrote the following: “Members of the Duck Town Council, we do not feel that amusement arcades fit the vision of the Town of Duck. As state and local regulations are often adjusted, it's clear to see that betting machines (games) will be requested in the near future, if not included in this proposal. Our community and police force do not need the scenarios that can arise from arcades (i.e. Virginia Beach dealing with rowdy crowds and needing to post “No Cussing” signage). If folks enjoy arcades, they are available in

Corolla and beaches south of us. Please keep Duck the upscale, breath of fresh air that it is.”

Louis Fedele of 1532 Duck Road was recognized. Mr. Fedele wrote the following: “Dear Sirs, I think Amusement Arcades would be considerably outside the character of the Duck Community.”

John Fletcher of 143 Dune Road and Upperville, VA was recognized. Mr. Fletcher wrote the following: “The Town of Duck, NC is a class act. Don’t cheapen it with an arcade/game room.”

Bob Boester of 112 Marlin Drive and Hampton, VA was recognized. Mr. Boester wrote the following: “Dear Mayor and Town Council: My family and I have been property owners in Duck since 1980 when Wee Winks was the only store. We have watched the Town develop and, with the guidance of Town officials, take on a character that is so appealing that this week it landed on the cover of Southern Living. Amusement arcades have no place in Duck. Each of the Outer Banks Towns have made choices that make them what they are, and amusement arcades belong in Nags Head along with chain stores and national fast-food outlets. The Town correctly denied an attempt to allow amusement arcades just last year and there is no reason to change that decision.”

Todd Ahrens of 117 Old Squaw Drive was recognized. Mr. Ahrens wrote the following: “Hello. No need for an amusement arcade in the Town of Duck. Please vote no.”

Walter Lischick of 228 Ocean Boulevard, Southern Shores and Salisbury, MD was recognized. Mr. Lischick wrote the following: “I am not in favor of an arcade. This is not in keeping with the values of Duck.”

Caryl Brackenridge of 156 Marlin Court was recognized. Ms. Brackenridge wrote the following: “I am writing this email to express my opposition to an amusement arcade in Duck. There are enough things like that in other parts of OBX. Such an addition would completely change the character of the Town. The wonderful beach, the boardwalk, the tasteful stores and restaurants all set Duck apart from the more commercial OBX towns and I would like to see it stay this way.”

Jon Pollard of 124 Buffell Head Road and Middlebury, CT was recognized. Mr. Pollard wrote the following: “As a property owner in Duck for almost 25 years, I am concerned the Town is considering to potentially allow an Amusement Arcade to open. I don’t see the need for Duck to become more like Nags Head. Allowing one or more amusement arcades in Duck will change the character of our town, and not in a good way. We need to stay small and unique, that’s the charm of the Town.”

David Ottaviano 110 Sandy Ridge Road was recognized. Mr. Ottaviano wrote the following: “Dear Leaders of Duck, We understand that there is a new request to change the Town Code to permit some amusement arcade businesses. Our opinion is that we strongly object to this type of business being established in a family town. The ambience

will deteriorate. That being said, the Town would be wise to move in the direction of a more self-service, walking community. The summer traffic is a real hinderance and establishments which encourages walking is advised. Most services are provided which encourages this to happen aside from a good food store. There are two small convenience stores, a vegetable stand and a fish market which thrive during the summer but there is no really good food store with reasonable prices in Town. Keep up your good work in making Duck a well sought out summer community for families.”

Sandra Hassink of 135 Marlin Drive and Wilmington, DE was recognized. Ms. Hassink wrote the following: “Dear Council, I am writing in opposition to the proposal for an amusement arcade in Duck. One of the most unique and special characteristics of Duck is how it encourages connection to nature and family time. As a pediatrician, I am concerned about the epidemic of virtual pursuits have replaced these kinds of connections for our young people. Adding one more virtual pastime will cheapen what Duck has to offer and rob our young people of experiences much more precious than a video game.”

Mike Green of 125 Spindrift Lane was recognized. Mr. Green wrote the following: “*ORD 25-006 The applicant has proposed amendments to several sections of the Duck Town Code to accommodate the addition of Amusement Arcades as a specially permitted use in the Village Commercial (V-C) zoning district and associated changes. Specifically, the proposed amendments include adding a definition for the term Amusement Arcade, adding Amusement Arcades as a specially permitted use in the V-C district, adding a corresponding “S” in the V-C column and prohibited use “X” under all other columns in the use table, and adding a minimum parking standard of 1 parking space for each 200 square feet for Amusement Arcades.* **I am OPPOSED to the proposed amendments to the Duck Town Code to accommodate Amusement Arcades and associated changes as presented above.** A similar request was made and rejected in 2022. I remain strongly opposed for the same reasons as in 2022. The proposed amendments to the Town Code run counter to the “Duck Experience” because the activities in these proposed amendments would move Duck Village closer to being like surrounding towns, thereby eroding and ‘genericizing’ Duck to look and feel like the surrounding towns. Amusement arcades are not in character with the village. I am a full-time resident of Duck. I live here because of the current village feel of Duck. To preserve the Duck Experience, it is imperative that any zoning be maintained that keeps Duck from looking and feeling just like other towns. This speaks to Duck’s character as a village. This is especially important when weighing the commercial offerings that Duck offers. The more the Town Council and Duck business owners press for zoning and code change similarities to the surrounding towns in its commercial offerings, the more the Duck experience, character and activities are lost. Specifically, if this zoning change is approved, just how would this activity enhance the character of the village? No evidence of this is provided other than some concept that kids will play inside when they do that already with their portable devices at home. The Duck experience is about the great outdoors and the beauty of the beach. It is not about inland mall-like entertainment that cheapens the feel of Duck. Moreover, why would Duck want to offer the same entertainment as the surrounding towns? That is not in support of the unique Duck Experience. If these proposed Duck Town Code amendments are approved, then the

aperture is opened for future amendments for broadening these kinds of indoor activities to items, such as billiard rooms, slot machines, indoor mini-golf, etc. The slippery slope begins, and it would be impossible to walk back. This request for the amendments is being made by one applicant. Changing the zoning for just one applicant opens the door to all. This is too broad an action and will change the Duck Experience negatively. As noted, the activities that Duck offers are centered around its outdoors beauty, its unique location, the innovative use of the sound boardwalk, the creative walk/bike shared trail, the unique family-friendly pedestrian focused movement, and the idyllic, picturesque specialty shops and restaurants with small business offerings. This is what separates Duck from the surrounding towns. Fighting to preserve Duck's character requires backbone and vision. For these reasons, I say, "NO" AGAIN. I do NOT support these proposed amendments to the Duck Town Code."

Mary Alice Hayword of 125 Spindrift Lane was recognized. Ms. Hayword wrote the following: *"ORD 25-006 The applicant has proposed amendments to several sections of the Duck Town Code to accommodate the addition of Amusement Arcades as a specially permitted use in the Village Commercial (V-C) zoning district and associated changes. Specifically, the proposed amendments include adding a definition for the term Amusement Arcade, adding Amusement Arcades as a specially permitted use in the V-C district, adding a corresponding "S" in the V-C column and prohibited use "X" under all other columns in the use table, and adding a minimum parking standard of 1 parking space for each 200 square feet for Amusement Arcades. I am OPPOSED to the proposed amendments to the Duck Town Code to accommodate Amusement Arcades and associated changes.* A similar request was made and rejected in 2022. I remain strongly opposed for the same reasons as in 2022. The proposed amendments to the Town Code run counter to the "Duck Experience" because the activities in these proposed amendments would move Duck Village closer to being like surrounding towns, thereby eroding and 'genericizing' Duck to look and feel like the surrounding towns. Amusement arcades are not in character with the village. I am a full-time resident of Duck. I live here because of the current village feel of Duck. To preserve the Duck Experience, it is imperative that any zoning be maintained that keeps Duck from looking and feeling just like other towns. This speaks to Duck's character as a village. This is especially important when weighing the commercial offerings that Duck offers. The more the Town Council and Duck business owners press for zoning and code change similarities to the surrounding towns in its commercial offerings, the more the Duck experience, character and activities are lost. Specifically, if this zoning change is approved, just how would this activity enhance the character of the village? No evidence of this is provided other than some concept that kids will play inside when they do that already with their portable devices at home. The Duck experience is about the great outdoors and the beauty of the beach. It is not about inland mall-like entertainment that cheapens the feel of Duck. Moreover, why would Duck want to offer the same entertainment as the surrounding towns? That is not in support of the unique Duck Experience. If these proposed Duck Town Code amendments are approved, then the aperture is opened for future amendments for broadening these kinds of indoor activities to items, such as billiard rooms, slot machines, indoor mini-golf, etc. The slippery slope begins, and it would be impossible to walk back. This request for the amendments is

being made by one applicant. Changing the zoning for just one applicant opens the door to all. This is too broad an action and will change the Duck Experience negatively. As noted, the activities that Duck offers are centered around its outdoors beauty, its unique location, the innovative use of the sound boardwalk, the creative walk/bike shared trail, the unique family-friendly pedestrian focused movement, and the idyllic, picturesque specialty shops and restaurants with small business offerings. This is what separates Duck from the surrounding towns. Fighting to preserve Duck's character requires backbone and vision. For these reasons, I say, "NO" AGAIN. I do NOT support these proposed amendments to the Duck Town Code."

Jeff LoSapio of 1330 Duck Road and Herndon, VA was recognized. Mr. LoSapio wrote the following: "To the Duck Town Council, I would like to chime in with my 2-cents regarding the potential to allow arcades in Duck. I hope you vote "no". I have lived in Duck several times over the years in my early 20's back in 1992. I had previously lived in KDH and Kitty Hawk, but the charm of Duck won me over. Duck didn't have the fast food restaurants, the big stores, the noise, etc...It felt then as it still feels today – a charming, quiet beach community. I reside part-time in Duck now having built a house in 2017 with the intent to retire here in the coming years. I hope that Duck can continue to maintain the vibe it has done so well to prevail over the years. Thanks for taking my thoughts into consideration."

LuAnn Masterson 154 Ocean Way and Chesapeake, VA was recognized. Ms. Masterson wrote the following: "I don't understand where exactly these arcades would be put in but parking is bad enough in the summer without them & the only way I can see it working is if they were built on the outskirts of Duck. My personal opinion is that it will "junk up" the quaint village feel to the Town of Duck & attract sketchiness."

Karen Carroll of 100 Marlin Drive and Pittson, PA was recognized. Ms. Carroll wrote the following: "I personally oppose the amusement arcade."

Christine Payne of 123 Marlin Drive and Williamsburg, VA was recognized. Ms. Payne wrote the following: "To members of our Town Council, We want to express our opposition to the request to permit amusement arcade businesses in the Town of Duck. As a general rule, any time lawmakers open up code, whether on the local, state, or federal level, we leave ourselves vulnerable to unforeseen, unintended negative consequences. Even allowing a limited change in regulations sets a precedent that, once established, creates leverage for similar business ventures. Allowing the establishment of these businesses would be antithetical to the 2023 Vision reflected in updated community surveys conducted in 2022. As property owners and residents, we share a respect for our fragile and extraordinary natural environment. Our pristine, safe, and uninterrupted beaches are our most valuable asset. Duck and our Village thrives because of its unique charm and character. Those who gravitate towards amusements of the proposed nature can do so in Nags Head, not Duck."

Ron Blunck of 1356 Duck Road and Hyattsville, MD was recognized. Mr. Blunck wrote the following: "Dear Town Council, I am a resident of Duck, own several additional

rental properties in Duck, and president of Carolina Dunes Association and am the coordinator for the Duck HOA and Property Owners Forum. I've received significant feedback from property owners on this issue. They and I are very opposed to changing the Town Code to allow amusement arcades in Duck, period! This would be totally out-of-character with the nature and ambiance of our small town. Anyone who wants this type of business can easily take a short drive south. There's plenty of amusement entertainment in Kill Devil Hills. Please vote against this text amendment when it comes before you."

David Heath of 122 Wampum Drive and Midlothian, VA was recognized. Mr. Heath wrote the following: "Good afternoon, As a new homeowner in Bayberry (Cook Dr.) I am just hearing about this proposal. I also have a home on Wampum Dr. which I have owned for over 30 years. One of the unique features of Duck is it's "Small town feel – homeyness". If you approve this proposal and change it will bring unwanted riff-raft to the town. I hear from renters all the time that the reason they rent in Duck is because they like the quietness, being able to walk places, the small hometown feel which has gone unchanged for decades. Please do not approve this proposal as it will commercialize the town and also attract kids from other areas to Duck who I feel will cause trouble. We need only look at beach weeks in the past to see how teens can cause trouble when in hordes. I beg of you to maintain the atmosphere of Duck which people have come to love in the many decades they have been coming down. This will affect revenue and tourism in Duck in a negative manner. I think if you do some research you will find these are actually dying out – what an eye sore it would be to have broken down arcades. Please see below other concerns about an Arcade: **Faulty Controls/Power Outages:** Arcade machines can have issues with joysticks, buttons, or trackballs becoming unresponsive or malfunctioning. Arcade machines use high-voltage components, and power supply issues (PSU) can lead to problems with controls, PCBs, or even the entire machine. **Fuse Issues:** If a fuse keeps blowing, it indicates a problem with the wiring or a short circuit, not just a weaker fuse. **Electrical Damage:** Burning smells or charred electronics are signs of electrical problems that need to be addressed. **Monitor Issues:** Problems with the monitor, such as missing colors or no image, can also occur. **Preservation of Classic Games:** Classic arcade games are often difficult to maintain and require specialized knowledge, and the parts are often no longer available. **Health and Behavioral Concerns:** **Excessive Gaming:** Prolonged gaming can contribute to sedentary behavior, potentially leading to health issues like obesity. **Loud Noises:** The loud noises in arcades can cause long-term hearing problems. **Potential for Problem Gambling:** Arcade games, particularly those that involve winning prizes, can potentially lead to problem gambling, especially in individuals with a predisposition to addiction. **Other Issues:** **Cost:** Arcades can be expensive to operate and maintain, and the cost of playing games can add up. **Social and Cultural Issues:** Arcades can be seen as a space where certain youth behaviors or social codes are prevalent, and there may be issues with inclusivity or representation. **Damage to Machines:** Some arcade operators report that people damage the machines, especially the controls, when they are upset or frustrated. Thank you for your time."



Ginnie Jones of 106 Sprigtail Drive and Seneca, SC was recognized. Ms. Jones wrote the following: “To whom it may concern, I have been a home owner in Duck for 15 years (renting out most of that time) and visiting Duck for longer. I understand there is a request to add businesses that have arcade games. I do not want arcades added to the town shopping or boardwalk areas. I’ve visited many shore communities up and down the east coast and find that arcades are a negative element. I feel allowing them into Duck would destroy the town’s nature theme and sense of family and community. Thank you for your consideration.”

Joanne Von Bischoffhausen of 161 Victoria Court and North Brunswick, NJ was recognized. Ms. Von Bischoffhausen wrote the following: “Good afternoon, as a 35+ year owner in Duck I want to voice my opposition to changing the code to allow amusement arcade. Duck is a place that does not need that. The charm of Duck lies in its simplicity. How Wings was allowed in surprises me. If people want arcades they can go to the bypass. An arcade would ruin the charm of a “village”. No one wants this...if they do they can vacation elsewhere. Please think long and hard on what the implications will be.”

Lisa P of the Schooner Ridge Subdivision was recognized. Ms. P wrote the following: “Hi, My name is Lisa and we own a house in Duck (Schooner Ridge). I would kindly ask that you vote NO to changing the Town Code to permit some amusement/arcade businesses. I grew up going to Va Beach and they have arcades, etc. and, in my opinion, it has created a “cheap and cheesy” environment there. Duck is a wonderful town with a family and neighborhood appeal that makes it unique and special. I would hate to see that upended with amusement businesses.”

Yvonne Du Buy of 104 Wampum Drive and Gaithersburg, MD was recognized. Ms. Du Buy wrote the following: “Dear Council Members: I am writing in regard to the proposed amendments to several sections of the Duck Town Code to accommodate the addition of Amusement Arcades as a specially permitted use in the Village Commercial (V-C) zoning district and associated changes. As a homeowner in Duck since 2001, I am strongly opposed to the proposed code changes to permit amusement arcade facilities due to the negative impacts of amusement arcades on the character and ambiance of Duck as a small, charming, family-oriented beach village as it has always been to all who reside and visit here. A major attraction for residents and visitors alike is that with the Boardwalk, park, bike path, water sports, etc., Duck encourages engaging in outdoor activities, which is especially important for young people in today’s world. Please do not consider making any changes that would spoil this significant contribution to their well-being.”

Mariana Brook of 142 Marlin Drive and Burlington, NC was recognized. Ms. Brook wrote the following: “I am opposed to having arcades in Duck. Traffic is bad enough and they would be sure to add to that problem.”

Bud Jacobs of 156B Plover Drive, Unit 50 and Frederick, MD was recognized. Mr. Jacobs wrote the following: “To whom it May concern, My wife and I would not be in favor of an arcade in Duck.”

Brian Nelson of 151 Marlin Court and Arlington, VA was recognized. Mr. Nelson wrote the following: “I am writing to say that we would be very much opposed to the proposed Duck Town Code amendment that would allow amusement arcade businesses in Duck. The Town of Duck has a very unique feel to it that differentiates us from other OBX towns that allow such uses. Bringing these types of businesses will only change that to the negative and our family feels strongly against doing that.”

Amy Boshier of 109 Wampum Drive and Midlothian, VA was recognized. Ms. Boshier wrote the following: “*ORD 25-006 The applicant has proposed amendments to several sections of the Duck Town Code to accommodate the addition of Amusement Arcades as a specially permitted use in the Village Commercial (V-C) zoning district and associated changes.* I am writing today to voice my opposition to ORD-25-006 amendments to Duck Town code. I do not support any such changes which would ultimately permit the establishment of an arcade commercial establishment within the Town of Duck. This issue has been discussed previously by the Town Council and I remain opposed. Please consider my position when deciding this matter.”

Sharon Horner of 109 Old Squaw Drive and Richmond, VA was recognized. Ms. Horner wrote the following: “I own at 109 Old Squaw and would like to note my opposition to the arcade. During season, the outdoor activities should be more than adequate for guests and I do not believe the residents that live there full time would have a use for arcades. Would be happy to discuss.”

Kelly Gleason of 130 Christopher Drive and Windsor, CO was recognized. Ms. Gleason wrote the following: “I have been told there is another permit change request to allow these types of business within Duck Town limits. It seems as if we just had this conversation not long ago. I am **against** these permit changes. We have enough traffic congestion issues without causing more due to these types of business being established in the heart of Duck. It’s bad enough the town allowed the zoom to put in golfcarts. Which we now have to deal with illegal parking and underage speeding drivers consistently during the peak season. Our beautiful town was just showcased in Southern Living Magazine. And on the Front Page! It highlights our boardwalk, eateries, and beaches. It portrays a quaint community. If people want amusement park or facilities, they belong down in Hatteras, Kill Devil Hills, or Kitty Hawk where those places have given up their charming community atmosphere. Once again, I ask that you please table this vote. The planning board I believe once already recommended **against** this when last raised a year or two ago. Let’s keep Duck unique. A lot of people on spring break are going to miss this announcement.”

Ellen Maiolino of 117 Sea Colony Drive, Unit 226 and North Brunswick, NJ was recognized. Ms. Maiolino wrote the following: “Dear Council, I would like to register my opposition to an arcade in our lovely village. I have been vacationing here since the ‘80’s

and also own a condo here. One of the many reasons why I love it here is that it does not have any arcades or boardwalks with games and rides. There are plenty of other places where people can vacation if that's what they want. Please do not allow it."

Sunny Sonner of 134 Bayberry Drive and Norfolk, VA was recognized. Ms. Sonner wrote the following: "I am very much opposed to an Amusement Arcade in Duck!"

Kelly Wilkes of 1347 Duck Road and Richmond, VA was recognized. Ms. Wilkes wrote the following: "Hello, According to the Carolina Dunes HOA, I was told that a public hearing is scheduled to potentially change the code to allow for Amusement permits. This "Amusement" business has been presented before in one form or another, and my stance stays strongly against opening any doors to Amusement activity. As a non-resident property owner who spends approximately 100 days in Duck, I was against an arcade when this issue first arrived in February 2022. My position is the same today, and I am strongly against amending the code to allow such businesses in Duck. Amusement/Arcades can encourage loitering, contribute to litter and trash issues, and may create situations that compromise the safety of minors. Overall, these entertainment uses do not enhance the quality of the environment and community in Duck and could significantly alter its landscape. Therefore, I am against amending the permit to allow these businesses to establish themselves in Duck. Thank you."

Melinda Johnson of 116 Bayberry Drive and Mechanicsburg, VA was recognized. Ms. Johnson wrote the following: "My husband and I live in Bayberry Bluffs. We are opposed to the idea of an amusement/arcade project. It does not meet the climate of our beautiful town of Duck."

Joe Sanderlin of 118 Cook Drive and Salem, VA was recognized. Mr. Sanderlin wrote the following: "We recently were advised that there seems to be interest in an Amusement Arcade development within the Duck city limits. Being a home owner for over fifty years, we have certainly seen Duck grow with strict development guidelines, which is what makes Duck special. Our hope is this will continue and NOT permit this Amusement Arcade from being permitted. To say that this in our opinion is a terrible idea, is an understatement. This will only create a negative environment in the immediate and surrounding areas. We have seen first-hand in our community where a nearby amusement center was created and began to draw an unsavory crowd drawing in drugs, violence, gangs from both youth and adult in an area that was originally an upper scale metropolitan area. In less than ten years the area was degraded. Allowing an Amusement Arcade may seem nonessential to some, but let me assure you this would be the beginning of the Town of Duck erosion."

Terri Burt of 187 Ocean Front Drive and North Chesterfield, VA was recognized. Ms. Burt wrote the following: "Dear Duck Town Council, I would like to register my opposition to an amusement arcade in the Town of Duck. Such a venue would significantly alter the atmosphere and ambiance of the community. There would also be an unwelcome increase in noise and traffic through Duck when during the summer months there is often gridlock at certain points. The negative impact of such a venue

would be very detrimental to the Town of Duck. It could also be the first step toward arcades, etc. I do not believe that Duck wants to become another Virginia Beach or Atlantic City.”

Mary Beth Lopes of 114 Cook Drive was recognized. Ms. Lopes wrote the following: “Good morning, Planning Board Members. I’m writing to document my opposition to changing Town Code to allow for the operation of arcade businesses within the Town of Duck. As non-rental property owner of 25 yrs, and full-time resident since 2022, I have witnessed much change in Town. For the most part, the change has been very positive. I am grateful for the foresight, and commitment that Town Council has demonstrated over the years. Thank you. For the past number of years I’ve worked in businesses located in The Waterfront Shops. Currently, I’m one of the managers at Duck’s General Store. Over the last two years, we have seen a steady increase in the number of unsupervised minors simply “roaming” in our store and throughout Town. While many are respectful, there is an increasing number who are not. We’ve experienced an increase in breakage of items, and shoplifting. Unfortunately, this activity is not only an issue with the younger population. As a resident of Cook Dr., I’ve also been subject to less than desirable visitors in rental properties. The issues some have brought to our neighborhood are unsettling. I fully understand that much of what I experience is part of living in a vacation destination. What I don’t understand, or find acceptable, is the Planning Board possibly amending Town Code to allow a business venue that would be a magnet where unaccompanied kids could potentially just hang out, and meet up. Where adults with questionable intentions could easily prey on young visitors. Duck, NC is not Wildwood, NJ. Nor do we want to be. I ask that the arcade topic be put to rest, and that no change of any kind is made to Town Code. Thank you for taking time to consider my objection.”

Dan Johnson of 164 Ocean Way and Clifton, VA was recognized. Mr. Johnson wrote the following: “Town Council. This is Dan and Cindy Johnson, homeowners in Ocean Dunes since 1985. If put to a vote, we would vote against changing the Duck Town Code to allow for Amusement Arcade Businesses in Duck.”

Frank Del Gandio of 117 Wampum Drive and Gaithersburg, MD was recognized. Mr. Del Gandio wrote the following: “To whom it may concern, I have been advised of the meeting on April 2, 2025 to discuss the town council desire to change a code to allow for amusement centers in the Town of Duck. I am unable to make this meeting, so I am writing to you with my concerns. I have owned a home in the Outer Banks for over 30 years. In these years I have seen many changes to the town of Duck. I can say that most have been good changes. It has gotten a bit overgrown with traffic in the summers unbearable on Duck Road. I am opposing the allowance of amusement areas in the town that would bring in visitors from other neighboring towns creating more traffic on Duck Road. Right now there is limited town parking, and this would create more of a parking problem. Please note my disagreement with this new code change and proposal to allow amusement areas.”

Robin Ulmer of 118 Marlin Drive and Columbus, OH was recognized. Ms. Ulmer wrote the following: “Dear Esteemed Leaders of the Town of Duck, I have proudly owned

property in Duck for 25 years as a non-resident homeowner. I am writing to formally acknowledge the ordinance under consideration and to express my **strong opposition** to the proposed amendment. I am deeply troubled by the audacity of an external business attempting to impose changes on our pristine and cherished community. Duck's Town Code has been thoughtfully designed to uphold the values and unique character of our small town, and any attempt to undermine these principles is unacceptable. Regrettably, I am unable to attend the hearing scheduled for April 2, 2025. Please accept this message as my official position on all matters concerning ORD-25-006."

Leslie Farah with no address given, was recognized. Ms. Farah wrote the following: "Council, I am writing to request the council not change the current code that prohibits arcade businesses in the Town of Duck. I worry how the face of the town will change, opening a door that won't be closed. The quaint atmosphere of Duck is what distinguishes it from the rest of the Outer Banks. I would hate to see Duck loaded with gaudy arcade buildings and candy stores. We are a town of shops, restaurants and nature. Let's keep what sets us apart. Please. Listen to what residents have requested. No change to the code."

Margaret Curran of 110 Jasmine Court and Malvern, PA was recognized. Ms. Curran wrote the following: "Dear Honorable Mayor and Council Members, I am writing to express my strong opposition to the proposed establishment of amusement arcade businesses in the town of Duck. While these establishments may offer entertainment, I firmly believe that their presence would not align with the character and values of our community. **Concerns About the Impact of Amusement Arcades (1) Potential for Excessive Spending:** Amusement arcades often feature games that can lead to excessive spending, particularly among young people. Prize-redemption games, such as claw machines and coin-pusher machines, can entice players with high-value prizes, potentially leading to financial strain on families and a risk of addiction. **(2) Social Impact:** The intense focus on winning prizes can foster a culture of competition and obsession, potentially affecting social relationships and mental health. The bright lights and sounds of arcades can also be overwhelming, leading some individuals to lose track of time and spend more than they intend. **(3) Community Character:** Our town of Duck is known for its unique charm and family-friendly atmosphere. Introducing amusement arcades could alter this character by drawing in crowds that may not align with our community's values. It could also lead to increased noise and traffic, which might detract from the peaceful environment that residents and visitors alike appreciate. In conclusion, while amusement arcades may provide temporary entertainment, I believe their potential negative impacts on the community's well-being and character should not be overlooked. I urge you to consider these concerns and reject the proposal to bring amusement arcade businesses into Duck."

William Roark of 107 Pamela Court and Hershey, PA was recognized. Mr. Roark wrote the following: "Good Afternoon, I will be unable to attend the meeting, but we own property at 107 Pamela Court in Duck that we hope to one day make our permanent residence. As such, I wanted to comment on the possibility of an arcade or amusement park style attraction being added to the Duck area. In our minds, Duck is special and

different than the other areas of the Outer Banks. Duck is peaceful and pristine. It offers a wonderful family lifestyle, while still having a wide assortment of restaurants, walking areas, beach and quaint family entertainment. It “feels” like the small, idyllic, family beach town that people search for. To me, this is what makes Duck different than many, if not almost all, of the East Coast’s beach towns, which have slowly become engulfed by businesses and commerce that take away from that feeling. I am pro business and pro things that enhance the experience within Duck, but Duck’s competition is not Kitty Hawk or Nags Head, where arcades and more commercial interests have overtaken parts of the area. Duck is a place where those of us who truly want to connect with family over beaches, wildlife, special moments and the lack of screen time, in an ever changing world, look to come for that special moment. It is for this reason that I’m against adding an arcade or amusement type businesses within Duck. The peace and solitude of a true beach community is rare and becoming more rare these days. Once that is surrendered there is no backtracking to days gone by...it’s simply gone. Keep Duck the pristine and wonderful place it is for as long as possible.”

Scott Correira of 108 Wampum Drive and Mishawaka, IN was recognized. Mr. Correira wrote the following: “To the Town Council of Duck, and Town Leadership: We are homeowners in duck, and we are writing to oppose the “...proposed Amendments to the Duck Town Code that would accommodate the addition of Amusement Arcades as a specially permitted use in the Village Commercial (V-C) zoning district and associated changes”. Unfortunately, we will not be in town when he meeting is in progress on April 2, so we are expressing our views to the proposed Amendment in this email. As many residents have expressed in the past, we are not in favor of making any changes to the Duck Town Code that would allow for “Amusement Arcades” to be present in Duck. We don’t believe we need such attractions in Duck, nor do we believe they will add any value to the residential and/or vacation experience in the Town of Duck. We have a beautiful community that is thriving with businesses primarily made up of retail shopping, restaurants, and nature activities. We just don’t see why anyone sees fit to bring in “Amusement Arcades”, nor how allowing such will improve the quality of life in Duck for full and part-time residents, or vacationers. As such, we respectfully ask the Duck Town Council to vote “NO” to this proposal. Thank you for reading this, and for your consideration. And thanks for your services to our community. Have a great day!”

Lynn Osman of 134 Plover Drive, Unit B11 and Mechanicsville, VA was recognized. Ms. Osman wrote the following: “Property Owners – Lynn Osman and Christopher Wallis. Address – 134 Plover Road unit 11, Duck, NC. As owners in the Town of Duck we are opposed to the proposed amendment to the Duck Town Code to accommodate the addition of an Amusement Arcade as special permitted use. Thank you for your consideration.”

Susan Boras of 121 Marlin Drive and Ashburn, VA was recognized. Ms. Boras wrote the following: “Hello Council Members, I am Susan Boras, my husband George and I own two properties in the Town of Duck and we are very concerned by the arcade being proposed. If allowed, it would downgrade our quaint little beach town and make it less Duck and more Virginia Beach or Ocean City, MD. The Town has so much to offer

without the arcade. Is the arcade going to be pinball and other video games? In Florida, they call them arcades and they are video poker and slot machine establishments. I'm not sure where the proposed arcade would be put but I certainly hope the boardwalk isn't a consideration. Currently, in North Carolina, 100,000 illegal VLT's (video lottery terminals) are in operation. I know this is a hot topic for the current legislative session. I can see it now, it starts as an arcade and ends up being a gambling establishment within a short period of time. We are not in favor of this type of establishment in Duck. Thank you for hearing me out."

Jenn Skaff of 119 Canvasback Drive and Gainesville, VA was recognized. Ms. Skaff wrote the following: "I am writing to voice my strong opinion that arcade type facilities should not be permitted in Duck. This place has a special appeal because it specifically does not have businesses like arcades. People come here to experience what is almost a step back in time to when things were simple. The movement is to reduce time spent on screens and with technology so why add a business like this? How about some other type of business that encourages conversation and time together with family and friends. Clay painting studio? Sip and paint? A rotating do it yourself craft type business? I don't know...anything but an arcade or a Sugar Planet!!"

Robert Patchen with no address given, was recognized. Mr. Patchen wrote the following: "Please do not approve or advance or make pending or in any other way continue consideration of the proposed arcade business in Duck. The owners and visitors of Duck have already spoken on this issue and the majority do not support the addition of this type of "attraction" to Duck. Please don't corrupt our planning and zoning process by reversing legitimate prior decisions just to satisfy a moneyed developer."

Robert Ostrum of 121 Wampum Drive and Chapel Hill, NC was recognized. Mr. Ostrum wrote the following: "We bought a place on Wampum Dr in 2010 and have loved living here for the last 15 years. There have been lots of changes, most good but some bad. The addition of the ABC store, remodel of Wee Winks, and addition of Brindley Beach has negatively impacted our community and our lifestyle. There are constant trucks, cars and people not renting/living on our street and we can't imagine what bringing in more business will do to the town. We bought in Duck because it was small, quaint, and family friendly. Use to love taking the kids to Baldy's after dinner. All of this is to preface my remarks that the addition of an amusement arcade at Scarborough Faire would be a DISASTER. Traffic on 12 North is very congested now and with folks walking in crosswalks, the traffic stops especially in the summer months. This arcade would bring added traffic and more people to our small town that is already overcrowded in the season. This sentiment is unanimous amongst our Pootskeet Village community as well as others. Please do not sell out the Town of Duck to entertainment which will ruin our town and increase traffic."

Kathy Freer of 114 Wood Duck Drive and Charlottesville, VA was recognized. Ms. Freer wrote the following: "Council Members, The application for an Arcade in Duck has already met with official and unofficial resistance, i.e., it has been rejected by a recent Planning Board vote as well as home owners in Duck. We do not support any further

consideration of an Arcade. There are a host of activities, either provided by the Town, and/or by private businesses that are more inline with the rare, Village-like setting of Duck. We encourage the Council to maintain the special appeal of Duck rather than turning it into just another honkytonk beach town that visitors pass through on their way to someplace else more charming and inviting. Please do not kill the goose that laid the golden egg! Thank you for your consideration.”

Victor Meiller of 148 Marlin Drive was recognized. Mr. Meiller wrote the following: “Given the uniqueness of the town and the impact arcades could have, we wanted to voice our opposition to arcades in Duck. Duck has a quiet, family feel to it. Arcades do not represent that feel. On the surface arcades may seem family oriented and may not seem like much of an impact. But they do create an environment where parents can readily drop off groups of minors, unsupervised. This has led to problems everywhere for shopping malls and other areas where minors can be left unsupervised. Arcades come with a downside that could negatively impact Duck. There are numerous areas both north and south of Duck where these sorts of activities/facilities are readily available. Vacationers can partake in those services, close by, without changing the character of Duck.”

Linda Helmlinger of 125 Widgeon Drive was recognized. Ms. Helmlinger wrote the following: “We are Duck residents who live in the Carolina Dunes neighborhood. I realize that making money is an important part of the Town of Duck council. I also realize that how that money “plays” into the overall Duck environment is important. So here are our thoughts as property owners for 25 years and residents for 6 years: What demographic would use this most? Answer: young children to teenagers. Will they always be supervised? Answer: no. Will this increase the already ridiculous foot traffic in Duck? Answer: Yes and many without adult supervision. Are “Arcades” often associated with bad influences and drugs? Answer: Yes – look it up. Shouldn’t young people here for a vacation be spending their time with their families and the natural beauty of Duck? Answer: YES!!! So our vote would be NO. Thank you for your consideration.”

William Holden of 154 Marlin Drive and Woodbridge, CT was recognized. Mr. Holden wrote the following: “Dear Council Members --- We strongly oppose the change in zoning to allow amusement arcades. We feel it will change the ambience in Duck in a negative way. We have owned a home in Duck since 1978 and have seen the town grow in so many new ways and we are hoping desperately that this arcade will not be allowed. (It is bad enough that the ugly façade of the huge WINGS has to remain!!!) We respectfully hope that the entire council will oppose such business.”

Debra Shaw of 183 Teresa Court and Henrico, VA was recognized. Ms. Shaw wrote the following: “Christy’s willingness to clarify what this proposed wording would and could mean was very helpful. My husband and I do not have any specific objections to the proposal except to say that we trust the Duck government will continue to exercise good judgment in controlling growth and expanding amenities. We have always appreciated the small town feel of Duck.”



Clifford Firstenberg of 157 Victoria Court and Norfolk, VA was recognized. Mr. Firstenberg wrote the following: “Dear Council Members. We are long-time homeowners in Duck and likely to be full-time residents in the near future. We are adamantly opposed to any amusement arcade businesses in Duck. The allure of Duck is its family atmosphere that is NOT typical of beach resorts. Ask anyone who visits the OBX and they’ll comment on the attractiveness, quiet, and family orientation of Duck – even if they’re not staying there. Amusement arcades belong along beachfront boardwalks, in malls, etc. They do not belong in this highly desirable small town that has character anathema to arcade-type activity. Please do not modify the Town Code to allow such businesses.”

Mark Lipari of 117 Wood Duck Drive and Reston, VA was recognized. Mr. Lipari wrote the following: “To the duck Town Council: With regard to changes to town ordinances to permit an arcade to be opened within the town limits of Duck. We have been homeowners in Duck for over ten years and regular visitors for forty years and have enjoyed the family friendly atmosphere of the town, its beaches and local activities. Permitting an arcade to be opened in the town is not consistent with the family friendly atmosphere we have come to enjoy. Our concerns include, increased traffic from folks that are outside the town, what kind of supervision the arcade would have, who would pay for the supervision, what its hours of operation would be and that most likely other types of amusements would want to follow (such as slot machines and carnival rides). My family and I are opposed to making any changes that would permit an arcade or related business to open in Duck. We do not want to see changes that would negatively impact Duck’s family friendly atmosphere and reputation.”

Christine Hill of 108 Marlin Drive and Fairfax, VA was recognized. Ms. Hill wrote the following: “Dear Councilmembers – We understand there is another proposition for amusement arcade businesses in Duck. We are not Ocean City, Wildwood, NJ or any other of our barrier island beaches, we are the Town of Duck, which will rapidly lose the charm that vacationers, residents, and we homeowners seek when we are here. If arcade businesses are approved, then what is next? As strict as the Town is with building and environmental issues, let’s keep those reins tight on business permits as well. Please, PLEASE continue to oppose these types of special use permit requests. Thank you for your consideration.”

Nancy Bolton of 132 Buffell Head Road and Charlottesville, VA was recognized. Ms. Bolton wrote the following: “My husband and I have owned 2 homes in Duck since 1982. We are writing against the potential arcade which does not fit with the ambience that has been created here over the years. Kids need to be outside enjoying this wonderful place, not inside. They can do that at home. Do not corrupt our planning and zoning process.”

Tricia Edwards of 122 Sunflower Court and Newport News, VA was recognized. Ms. Edwards wrote the following: “Hi, We are 32 year nonresident owners of our home in Tuckahoe. We appreciate the character of Duck that has developed over this time. We are not in favor of an Amusement Arcade type business. It would definitely detract from the “vibe” of the town that has been so carefully curated by the town to this point. Please

vote “no” to changing the Town Code to permit an arcade business and keep up the good work!”

Robert Hasteadt of 112 Jasmine Court and Wantagh, NY was recognized. Mr. Hasteadt wrote the following: “As a property Owner in Duck I am opposed to an entertainment arcade. It will just become a “hang out” and potential problem area.”

John Gumbrecht of 113 Canvasback Drive and Fort Washington, PA was recognized. Mr. Gumbrecht wrote the following: “To Members of the Duck Town Council: We are opposed to amendments to the Duck Town Code to accommodate Amusement Arcades in the Village Commercial (V-C) District. We believe Amusement Arcades are unnecessary and not in keeping with the family-friendly atmosphere that makes the Town of Duck so wonderful. We think Amusement Arcades will create congestion and increase unsafe situations in the often-crowded town during peak summer months. We have been property owners in Duck for 25 years and regular summer visitors since the 1980s.”

Sherrie Lizza of 106 Sprigtail Drive and Clifton, VA was recognized. Ms. Lizza wrote the following: “As a property owner in Duck, I’m against allowing amusement arcade vendors in the town. I feel the positive draw for people is the pristine beach and family oriented atmosphere of the town. Allowing amusement vendors will not add to that. A picture of Duck was just featured on the cover of Southern Living Magazine and made #39 out of 50 best beaches. There is a reason for that. Let’s keep it that way.”

Patti Bossert of 102 Pelican Way was recognized. Ms. Bossert wrote the following: “Members of the town council, A few years ago a survey was conducted to determine the appetite for an arcade in town. The result of that survey was overwhelmingly against any arcade business in Duck. As a full time resident of Duck, I am against any change to the town code to permit an arcade business. During the tourist season the town of Duck offers a myriad of free events to the public. Not to mention free access to our beautiful beaches and our waterfront walk. I attended the last public hearing on this topic and read the business proposal literature provided to attendees. It specifically stated young people could be left unsupervised at the arcade while their parents had dinner/drinks at local establishments. I do not think this is a good practice. If you recall, just last year an unsupervised youngster overturned a golf cart which resulted in injuries to the occupants. In closing, I would like to remind council your constituents have previously voted against an arcade business in Duck. Video games can be played at home and there should not be any changes to the town code to permit an arcade business in town.”

Lou Ann Jewell of 109 East Tuckahoe Drive and Ashland, VA was recognized. Ms. Jewell wrote the following: “Dear Members of Duck Town Council – I apologize I am unable to attend the public hearing on April 2, 2025 but I have a few thoughts on game arcades. To begin, I am a non-resident property owner who frequents my home over 26 times during the calendar year. There are a mixture of rental and permanent residences around my home. What drew me to Duck is the non-commercial, no hotels, village containing shopping and restaurants. It was family oriented and my idea of a real beach town and not a noisy commercial destiny. In other localities with arcade facilities the

crowds that were drawn there were unsupervised groups of young people. When tired of gaming, they travelled in groups looking for trouble, i.e. vandalism, drugs, potential gangs, but nothing good. I believe the Town of Duck would be inviting this type of activity and once here the flavor of what people like about Duck is changed. The safe, family atmosphere deteriorates along with the feel of Duck. Gaming, once popular in the 80's, is no longer popular since many are home gaming. What happens to the facility where the equipment is housed? About 6 years ago I saw a prime waterfront property in New England with nothing but stacked gaming equipment, closed down and an eyesore. I blame their Planning and Council for allowing this to happen. This is not a fit for Duck and therefore I do not support the Council considering allowing gaming facilities, or changing an ordinance to allow. I think the Planning Board did their homework in not voting in favor of this.”

Brian Solomon of 103 West Tuckahoe Drive and Duquesne, PA was recognized. Mr. Solomon wrote the following: “I don’t think this is a good idea. Things like this will devalue the area, for which it was created in the first place. Let’s keep our town classy not trashy.”

Melissa Gibson of 103 Cook Drive was recognized. Ms. Gibson wrote the following: “We absolutely do not want an Arcade in Duck. We don’t want to turn Duck into a Myrtle Beach!!!!”

Robert Fitchett of 113 West Bias Lane was recognized. Mr. Fitchett wrote the following: “Please know that I support the Zoning Text Amendment to add Amusement Arcade to the Land Use Table.”

Cathy Hawkins with no address listed was recognized. Ms. Hawkins wrote the following: “Hello, I wanted to stand in support for the Zoning Text Amendment to add Amusement Arcade to the Land Use Table. Thank you!”

Shane Oster with no address listed was recognized. Mr. Oster wrote the following: “Dear Members of the Duck Town Council and Zoning Committee, I hope this letter finds you well. I am writing to propose the addition of an arcade in Duck, North Carolina, and to highlight the many ways it could benefit our community. As a visitor, I believe an arcade would be a fantastic asset, enhancing Duck’s appeal as a family-friendly destination while supporting local businesses and the economy. Why an Arcade Would Benefit Duck, NC: 1. Family-Friendly Entertainment – Duck is already a beloved vacation spot for families, but an arcade would provide a fun, indoor activity for children, teens, and even adults. On rainy days or during cooler months, an arcade would offer an engaging alternative to outdoor activities. 2. Boost for Local Businesses – An arcade would attract more visitors, increasing foot traffic to nearby shops and restaurants. Partnering with local businesses for promotions (e.g., discounts for arcade-goers) could create a thriving commercial synergy. 3. Year-Round Revenue – While Duck thrives in the summer, an arcade could help sustain tourism during the off-season, providing steady income for the town and local employees. 4. Community Gathering Space – Beyond tourism, an arcade could serve as a hub for residents, hosting birthday parties, teen nights, or even retro

gaming tournaments, fostering a stronger sense of community. 5. Safe, Supervised Fun – A well-run arcade provides a safe, controlled environment for entertainment, reducing the likelihood of underage visitors seeking less constructive activities. 6. Unique Attraction – While Duck offers beautiful beaches and outdoor recreation, an arcade would add a unique, modern entertainment option that complements the town’s charm without detracting from its coastal character. Thank you for your time and consideration. I look forward to your thoughts and am happy to assist in any way to make this vision a reality.”

Jim Braithwaite of 135 Bayberry Trail, Southern Shores, was recognized. Mr. Braithwaite wrote the following: “Dear Town Officials, This email is written in support of the proposed amendment to add arcades in the Town of Duck. I remember in the early 70’s when there were no stores, restaurants and very few houses. Mostly fishermen and crabbers were located here at that time and people had a difficult time making a living. As tourism grew, our community became extremely popular, and people started to move here permanently. We were and are still deeply rooted in tourism. I think people forget this fact. I’ve been leasing space in the Town since 1985 and have watched the community grow into what it is today. We are a family oriented tourist destination and as such, we need family oriented activities. We have plenty of retail, restaurants and lodging but we need something to complement them and indoor arcade as proposed does just that. It’s an activity the whole family can enjoy after or before shopping and dining, not to mention a wholesome activity on inclement weather days. Let’s not reject an idea because you personally don’t need it, therefore; I don’t want it. I don’t need a sidewalk but it’s a great idea and makes the community safer. I don’t need a lot of things but I’m still in favor of them. This proposed use would be a fantastic addition to the Town of Duck and help the few shopping centers continue to thrive. Your kind consideration to this matter would be greatly appreciated.”

Robert Lotze of 117 Dune Road was recognized. Mr. Lotze wrote the following: “I am writing in STRONG opposition to Duck allowing arcades. I cannot make the meeting. As a full time Duck resident and business owner, I feel arcades are unnecessary and not wanted. Visitors are welcome to go north to Corolla, or south on the island to find arcades close by. Arcades do not FIT the mission and feel of our town. In looking at the Town of Duck goals for the future, the community Vision and Goals specifically address our community, as arcade visitors are inherently not communicating with others. Our unique character encourages communication with family, the town’s many enmities, and with the natural environment of our beaches and sound.”

Colin Johnson of 125 Marlin Drive was recognized. Mr. Johnson wrote the following: “Hello Council, I support changing rules to allow arcade style entertainment in Duck. Duck has countless bars and entertainment for adults. I don’t believe Duck has one single indoor location with entertainment for kids. Duck leadership should consider how rules like this impact kids living and visiting the town. Most in the meeting will focus on keeping the towns quaintness and charm. If implemented correctly allowing arcades would not harm Ducks charm and would make it a more fun and inviting place. A blank ban on arcades is silly and out of touch in 2025 and reminds me of the town from the movie Footloose that banned rock music and dancing. Thanks for considering.”

Dan Harmon of 104 Osprey Ridge Road and Glen Allen, VA was recognized. Mr. Harmon wrote the following: “Good afternoon all, I’m emailing today as a supporter and in favor of the proposed Boutique Amusement Arcade Zoning in Duck NC. We have a home in Schooner Ridge and one of the challenges we face is indoor activities for our kids while in the area, not just in the Summer, but all seasons. Currently our friends and visitors have to take their kids to Grandy for an arcade which is impossible to do in the Summer months due to all of the traffic...and well out of the way in the Winter, Fall and Spring. This addition of a family friendly attraction will draw no additional outside noise, not require excessive parking, offers added and needed entertainment for adults and kids alike, and will support surrounding businesses of Sweet T’s, Coastal Cravings, Tap Shack and the gas station near by with additional foot traffic. That’s a win all around. The proposed space where it will go fits perfectly in the area. This is something that will stick around unlike the revolving door of businesses that have been in and out of the space over the years that have offered nothing similar. Our family, and many others we have spoken to kindly ask you to please approve this zoning. Thank you for your time and your efforts to do what the community needs!

Robert Mooney of 102 Pelican Way was recognized. Mr. Mooney wrote the following: “Good afternoon everyone, I am writing because I am unable to attend today’s meeting. Please read this email into the record. I have attended both a council meeting and a planning board meeting regarding the previous application for an establishment that contains “games”. My opposition to this kind of establishment is rooted in experience and observation. There were requests from some constituents to have a survey conducted by the Town to determine the VOTER’S sentiment on this issue. I am aware of the results of a previous attempt to learn the opinion of the people in town and the response was overwhelmingly negative. I have not received any communication from the Town about a survey so I must conclude that no survey has been conducted. Personally, I find that the lack of concern regarding what the people might want disappointing. Now, before everyone starts to explain that today’s discussion is merely about changing the ordinance to allow this kind of establishment in the Town. I know how this works. IF the council decides to change the ordinance and allow this kind of business in Town, I can already hear Joe Heard explaining that “we must approve applications from anyone intending to do this kind of business because they meet the parameters of the ordinance. Changing the ordinance without knowing the mind of your constituency is dishonest at the very least. If the Town decides to alter the current ordinance I’m certain the application to but “pinball” machines in an unsupervised setting will be submitted in short order and Joe will be telling the council that they must approve the request. Unfortunately if this ordinance change is voted in I’m afraid the Town will rue their decision. Perhaps the discussion could be tabled until a legitimate survey revealing the voter’s sentiments can be determined.”

Leo Grohowski of 106 South Baum Trail and Windermere, FL was recognized. Mr. Grohowski wrote the following: “We have been coming to Duck for 30+ years, first as renters and, since 2016, as homeowners. We have children who have and still enjoy it here, and soon hope to have grandchildren. **An amusement arcade is NOT in keeping**

**with the beauty and attractiveness of the town.** Let vacationers travel south the Kitty Hawk, Nags Head or KDH for these amusements, or north to Carolla, as they have done for decades. Why spoil what differentiates Duck from these more commercial towns.”

Stacey Walters of 1211 Duck Road was recognized. Ms. Walters wrote the following: “Members of Duck Town Council and Planning Board, As a business owner in Duck, I am always grateful for the support of our local government to maintain and improve our town. Looking forward to ways of making our community grow and prosper is beneficial not only to area businesses but also our residents. Local businesses keep people employed and give our year round residents places to enjoy year round. Expanding offerings of diverse attractions will only entice visitors to choose Duck as a destination, increasing revenues in the area. I see the proposed arcade as an enhancement to our tourist driven economy. The majority of our receipts occur during the summer months when most visitors are on family vacations. Visitors view Duck as a safe community, allowing their children to explore the town independently, despite the fact that there are very few activities geared to adolescents. I believe the arcade would offer a fun destination for kids, and isn’t that what vacation is for?! It is also my thought that it wouldn’t just be children and teens enjoying the “throwback” video games that are being proposed. Many adults would probably be enticed to play a round or two alongside their kids. As an operator of a business in the complex where the arcade is proposing to open, I am not concerned about parking as most patrons would more than likely be on foot, scooters or bicycles. We are all aware that parking is already an issue in town for every business. It is more of a concern to me when I see people parking in my lot and walking through the bushes to go to Tap Shack or leaving the property to walk through town. At least if the customer’s destination was on my property, they may stop in my shop as well. I also see the proposed arcade as a welcome neighbor, many of my own customers may bring their kids with them, letting the kids play in the arcade while the parents enjoy Sweet T’s. With the kids occupied, yet nearby, patrons of Sweet T’s may stay longer and spend more money. The main point is that the arcade would offer an activity that would be available rain or shine for people of all ages. It would also fill a space in Duck that has been unoccupied for years, adding to the vibrancy of our community. I understand the concerns of the community that this indoor arcade could open the door for other types of activity based entertainment businesses that the town does not want or have space to house. I am confident that the Town of Duck can draft the amendment to control what is allowed, keeping our small community quaint and family friendly.”

Town Clerk Ackerman pointed out that 53 emails were sent in before the Council agenda packet was made available to the public and after the agenda packet was published, 19 more emails were received. She stated that a total of 72 emails were received with 7 in favor of the amendment, 64 opposed to the amendment and 1 who had no opinion either way. She noted that of the 72 emails, 16 came from full-time, year-round residents of Duck.

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

Councilor Chasen stated that she was not opposed to arcades but had a problem with not having more precise language about what the games will be, adding that she would be fine with pinball and video games. She pointed out that the other games were in a gray area where there would be a reward for playing the game. She felt that pinball and video games were less of a problem but she felt that there needed to be some type of restraints so that people could not just walk in on their own. She thought there needed to be someone in the space.

Mayor Kingston stated that he was not convinced that there was a need for arcades within the Town. He pointed out that they were exempted many years ago for many reasons. He thought there was a lot of activity within Duck for young and old people, adding that he thought that this could be something that could turn Duck into something that Council did not want. He thought if the Town started with one arcade, there could then be several. He stated that he did not support the text amendment at this point in time.

Councilor Whitman agreed with Councilor Chasen's comments, adding that he did not have enough information.

Mayor Pro Tempore Thibodeau thought what Council should be tasked with was looking at the whole picture. She agreed that parameters were important when there is any kind of special use. She stated that there was concern and unknown about this type of business, adding that she was weighing that against the idea that the business community is something that Council needs to support in addition to the residents, visitors and out-of-town homeowners. She stated that Duck was a tourist community and having a business like this behind closed doors was like going into a bank - unless one was going into the bank, they were not seeing what was going on because it was not outdoors. She felt it would appeal to some families and that people would enjoy it. She pointed out that she was drawing from experience from being older and used to play pinball, adding that she never played video games but raised children who did. She added that children have also grown up during COVID that no one can really relate to with regard to a lot of the things that they were going through. She stated that it was brought to her attention recently with parents of younger children was the idea of a third space for youth, which was a sociological term where young children had a place to socialize and to have a place to gather. She pointed out that Council had heard a comment about having a little autonomy from their family but that it would be supervised, adding that she did not want to discount it. She noted that as a family community, she felt Council should be considering the entire family, which was where she wanted to be open to the idea and not just close it off because of a concept of honkytonk and neon, which is not permitted in Town.

Mayor Pro Tempore Thibodeau stated that she's been in Duck for a long time and was so proud of what was able to be accomplished before the Town incorporated and after. She stated that the Town has grown so well and did so many things right in the community, even though not everyone agrees with everything that has been done, but thought all had a passion for diversity, inclusion and being able to welcome families, adding that this might be something that could be a nice touch point for people. She stated that it could be down the road if this was successful and people were having fun, another one could be

opened at another shopping center. She noted that there were a lot of boutiques, several restaurants, and a few bars, but it was limited. She added that outdoor activities are encouraged and everyone wanted people to be outside which was why people came to Duck. She stated that having a little bit of variety would really help, would be good for business, and would be a nice option for the youth. She didn't think it would bring people to Duck unless they came from Southern Shores because it can be done anywhere on the beach. She thought for the people in Town, it would be a nice opportunity. She added that she was in support of at least exploring a little bit further whether it was with more parameters, the idea that Council would entertain the idea of something that was diverse from what was currently in place.

Councilor Lingard stated that he had no issue with the boutique approach that Keith Bliss was proposing in the location he was proposing it to go in. He stated that his issue was if Council was opening it up for a lot more obtrusive arcades. He agreed that there needed to be something for the young people to do. He noted that he would not want to see the text amendment moving forward without a provision in it for licensing. He added that if Police Chief Jeffrey Ackerman had issues with an arcade that was approved, the license could be revoked immediately or on appeal so that if there were issues, it could be stopped immediately.

Councilor Lingard stated he was still torn, adding that he could see arguments from both sides. He stated that based on the petition and the emails, it was very obvious there have been organization on both sides. He pointed out that it was interesting to see some of the emails were the same emails with three words changed, so it was obvious there were some campaigns done against it. He knew an HOA president told his HOA to vote against it and send emails in, adding that on the other side, there was a petition with 100 names, but as he looked at the names on the petition there were a lot of the same last names. He stated that he was not holding too much weight with either the emails or the petition. He added that he could see a need but he didn't want to open a Pandora's Box, noting that if he was allowed to abstain from voting, he would, but he would not. He stated that he wasn't sure what his decision would be.

Mayor Kingston stated that Council heard a lot of opinions on both sides, which, while they were only opinions, Council was elected officials by the people making those opinions and they were putting Council in place to make the decisions that they support. He thought it was overwhelming from the standpoint of the opinions received that people in Duck did not agree with expanding the text amendment to have arcades. He thought when Council considers this, he thought they needed to take into account the people they represent, which were the ones that have spoken out either today or via email. He thought Council needed to take that into account, adding that Council's responsibility was to the people that did speak out one way or the other. He stated that his opinion has not changed and he would not be supporting the text amendment.

Councilor Lingard reminded Council that they had another decision approximately eight months ago where there was a survey and the survey was overwhelmingly to go in one



direction and Council completely went against it with a vote of 4-1. He pointed out that Council had a precedent for not taking in account of what the public said.

Mayor Kingston asked what the vote has to be for a text amendment. Town Attorney Hobbs stated that it had to be a majority vote either to approve it or deny it.

Councilor Lingard stated that he would not think about doing this if Council could not put in some provision for licensing. He wasn't sure if approving the text amendment today would preclude Council from doing that or if there would have to be another text amendment. Town Attorney Hobbs explained that Council could look at any text amendment at any time and was not limited to reviewing this exact same issue at a later date, going through the exact same process with an application and it going before the Planning Board and having it brought back to Council with whatever additions or changes were brought forward at that time. He noted that some had already been discussed at this meeting during Council's deliberation. He added that Council was not prevented from considering this again with other features such as additional restrictions, licensing, etc. that comes before Council to review.

Councilor Lingard asked if this text amendment moved forward, who would bring up the question of licensing at a later date. Town Attorney Hobbs pointed out that Council was only approving what was in front of them and if approved at this meeting, then applications received before Council makes any further changes have vested rights. He explained that Council would not be able to make changes later retroactively to an application that has already been received. He thought if Council wanted to change a word or two, then it would be okay, but if substantive changes needed to be made or adding requirements such as licensing, then this would not be the forum to do that and it would need to go back to the Planning Board to look at the changes.

Councilor Lingard noted that the problem was if Council voted for this today, he did not see it coming back as there would be no impetus to bring it back to require a license. He stated that he mentioned licensing back in December and was a little annoyed with the Planning Board that they dismissed it so arbitrarily because they voted against it. He reiterated that he was not prepared to vote for the text amendment at this meeting without a licensing provision. He added that if there was, he would be prepared to vote in favor of it.

Mayor Pro Tempore Thibodeau asked if the text amendment was not voted in favor of today, there was no limitation on bringing it back again. Town Attorney Hobbs stated that there was no limitation on that, it would have to go through the same process again, adding that one would think that if it was considered again at the Planning Board stage, this hearing and discussion should be taken into account as far as Council's current beliefs and thoughts on it. He added that, unlike the special use permit process, which was a one-shot situation, a legislative process such as this did not have any limitations on it.

Mayor Kingston moved to deny Ordinance 24-06 as presented.

Mayor Pro Tempore Thibodeau stated that she was going to vote against the motion and not vote in favor of it. She pointed out that she wanted to represent the Town's constituents and thought Council needed to be thinking of the out-of-town property owners as well as the business community. She stated that Duck was a unique and wonderful place. She thought everyone cherished what they had and didn't think anyone would disagree with that. She felt that Council needed to be open to allowing new things in Town. She pointed out that the Town could have offices by use and by right, adding that there were limited number of uses. She thought it would be a good family thing with the right parameters, which comes at future times. She noted that if Council were to vote for it today, the parameters could be set.

Councilor Lingard stated that he was going to vote in favor of the motion because there was nothing in there regarding licensing. He added that if it was coming back with a proposal included, he would probably be in favor of voting for it.

Councilor Whitman thought there needed to be more parameters on what Council was voting on. He added that it was just too wide open and thought there should be a base formula that an applicant could work with and then ask for other things. He noted that there needed to be an even playing field for everyone.

Councilor Chasen stated that she was not in favor of accepting the text amendment as presented so she would be in favor of voting to deny it.

Town Attorney Hobbs reminded Council that a vote yes would be a vote to deny the application and a vote no would be to approve the application.

Councilor Lingard thought this was not over, adding that bringing it back to Council with changes that Council had suggested may have a different outcome.

Motion carried 4-1 with Mayor Pro Tempore Thibodeau dissenting.

## **OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS**

### **Discussion/Consideration of Appointing Two Individuals to Serve on the Planning Board**

Mayor Kingston stated that there were two openings on the Planning Board for a term to expire on May 1, 2028. He noted that the terms of Marc Murray and James Cofield will expire on May 1, 2025 and both had indicated that they wished to be reappointed. He stated that staff advertised the openings and four applications were received. He asked the applicants to introduce themselves to Council and the audience individually.

Marc Murray of 115 Sea Hawk Drive West was recognized to speak. Mr. Murray went on to introduce himself to Council and the audience and explained why he wished to be reappointed to the Planning Board.

James Cofield of 101 Bias Lane East was recognized to speak. Mr. Cofield went on to introduce himself to Council and the audience and explained why he wished to be reappointed to the Planning Board.

Warren Stembridge of 106 Beachcomber Court was recognized to speak. Mr. Stembridge went on to introduce himself to Council and the audience and explained why he wished to be appointed to the Planning Board.

Mayor Kingston noted that Robert Lotze had applied but was not present for the meeting.

Mayor Kingston opened the nominations. Mayor Pro Tempore Thibodeau nominated Marc Murray. Councilor Lingard nominated Marc Murray. Councilor Whitman nominated Marc Murray. Councilor Chasen nominated Marc Murray.

Mayor Kingston closed the nominations.

Motion to reappoint Marc Murray to the Planning Board for a term to expire on May 1, 2028 carried 5-0.

Mayor Kingston opened the nominations. He nominated James Cofield. Mayor Pro Tempore Thibodeau nominated James Cofield. Councilor Lingard nominated James Cofield. Councilor Whitman nominated James Cofield. Councilor Chasen nominated James Cofield.

Mayor Kingston closed the nominations.

Motion to reappoint James Cofield to the Planning Board for a term to expire on May 1, 2028 carried 5-0.

Mayor Kingston called for a 10-minute recess. The time was 3:16 p.m.

Mayor Kingston reconvened the meeting.

## **NEW BUSINESS**

### **Discussion/Consideration of Authorizing a Public Hearing on Ordinance 25-01, an Ordinance Updating Penalties for Violating the Tree Preservation Standards in Subsection 156.137(J) of the Town Code**

Director Heard stated that at the Planning Board's March 12, 2025 meeting, the Board voted 3-2 to recommend approval of Ordinance 25-01, which proposes to amend the current tree protection and penalty standards in the Zoning Ordinance by reducing the minimum size of replacement trees from a three-inch caliper to a two-inch caliper for tree removal violations. He added that during their review, the Board evaluated standards from other communities, determined the availability of larger trees from local and

regional nurseries, and discussed several other potential changes to the Town's current standards.

Councilor Chasen asked what the frequency was with regard to people violating the ordinance. Senior Planner Cross stated that it was infrequent. Director Heard thought it was every other year if that.

Councilor Lingard asked what the penalty was – if it was just replacing the tree or if there was a financial penalty. Director Heard stated that it was a financial penalty up to \$1,000. Councilor Lingard asked what the difference in cost between a two-inch tree and a three-inch tree. Director Heard pointed out that it was in the staff report, adding that it was minimal between \$50.00 to \$100.00 per tree.

Councilor Whitman moved to schedule a public hearing on Ordinance 25-01 for Council's May 7, 2025 meeting.

Motion carried 5-0.

**Discussion/Consideration of Ordinance 25-02, an Ordinance Amending Chapter 96, Sections 96.02, 96.04, 96.06, and 96.99 of the Town Code of the Town of Duck, North Carolina, Relating to Definitions, Fires, Alarm Systems, Alarm System Permitting, and Alarm System Fees**

Police Chief Jeffrey Ackerman and Fire Chief Matthew Dudek were recognized to speak. Police Chief Ackerman stated that they looked at the ordinance and believed they could eliminate the alarm system permitting requirement that was currently for fire protection and burglar alarm systems in Town. He explained that there was a process where permits would need to be filed and a fee paid annually, but they felt that it was no longer a useful thing for their needs. He stated that they wanted to encourage people to get the systems instead of putting an impediment in place to make it harder. He added that they wanted to look at fixing an issue within the current ordinance where a fine was a civil penalty and changing it to a fee.

Fire Chief Dudek explained that a lot of the language regarding alarm systems in the current ordinance was outdated where the older systems had very specific requirements for dedicated telephone lines to either dispatch centers or older fire alarm systems. He pointed out that it no longer applicable to have that language in the ordinance as there was really no need for oversight at the Town level, especially since so many people have access to things such as a Ring camera which can be tied to a smoke detector, there were now multiple vendors as well as internet-based systems. He added that it was cleaning up outdated language. He noted that they put their fee structure in line with each other so there was no difference between police and fire. He stated that when it comes to open burning, when they reviewed the ordinance as part of the hazard mitigation plan, they wanted to clean that up to give him the option to ban open burning in the event of the National Weather Service issuing a red flag warning. He added that a statewide ban

would not matter but even at the local level, if they didn't think conditions were right, they could put a full stop on it.

Fire Chief Dudek stated that the first section of the ordinance under Definitions clearly defines an alarm system business, automatic protection system, and a signaling device. He stated that there used to be a permitting process, adding that he thought some of the language was taken from other areas. He stated that they were trying to incentivize people to have a properly operating system that does not give false alarms, so now the fees were in line with each other on the police and fire side as well as how often, and how many false alarms would trigger the actual amount of the fee. He stated that there were now procedures for periodic testing of automatic protection systems.

Police Chief Ackerman pointed out that the updated ordinance would eliminate the civil penalty associated with violations in Section 96.06 and was changed to a fee that would be in the Town's fee schedule.

Mayor Pro Tempore Thibodeau stated that Fire Chief Dudek added the issuance of a red flag warning by the National Weather Service. She asked if he was able to tell people that they cannot burn things as the Fire Chief or if there had to be certain criteria. Fire Chief Dudek stated that he would have to look it up but believed he was able to do that.

Councilor Chasen moved to adopt Ordinance 25-02 as presented.

Motion carried 5-0.

**Discussion/Consideration of Resolution 25-06, a Resolution of the Town Council of the Town of Duck, North Carolina, Approving an Agreement with the Carolina Dunes Association, Formalizing Conditions Regarding the Use of the Town's Property at 145 Buffell Head Road**

Town Manager Drew Havens was recognized to speak. Town Manager Havens stated that the Town purchased property at 145 Buffell Head Road in March 2023, in the Carolina Dunes subdivision to ensure beach access for regular nourishment and emergency repairs after storms. He added that since the purchase, the Town has engaged in good faith and frequent discussions with representatives of the Carolina Dunes Association regarding the plans for the property and reached an agreement regarding the use of the property for its intended purpose.

Town Manager Havens stated that, initially, staff thought the house on the property would need to be removed to facilitate access for beach nourishment; however, further assessment confirmed that minor modifications to the exterior decking would allow the Town to maintain the house in its current rental program without compromising the use for beach nourishment. He pointed out that the Town understood the covenants on the property and intended to preserve the residential use, which was consistent with other properties in the neighborhood. He explained that for a few weeks every five years, the

property will serve as an access point for vehicles, equipment, and supplies needed for beach nourishment as well as any emergency repairs.

Town Manager Havens reminded Council that the Town purchased the property because other suitable points of access were not available to the Town for a multitude of reasons; the most substantial was the right of a private property owner, including private community owned property, to not allow access over their property. He stated that Resolution 25-06 and the Declaration of Restrictive Covenant would formalize the conditions regarding the use of the property.

Mayor Pro Tempore Thibodeau moved to adopt Resolution 25-06 as presented.

Motion carried 5-0.

**Discussion/Consideration of Authorizing the Town Manager to Execute a Contract for Dune/Beach Planting**

Senior Planner Cross reminded Council that the Town has a beach planting program and the current contract is with Emerald Forest, which the Town has contracted with them through several three-year cycles since 2008 and the Town currently plants two sprigs of American Beach Grass per hole ten rows deep. She added that Emerald Forest also plants Sea Oats for the Town at one per hole, four-foot staggered centers, three rows deep. She stated that they plant a row of Bitter Panicum grass, which was one row every six feet.

Senior Planner Cross explained that the current contract was for \$71,917.07 and will be expiring on June 30, 2025. She stated that the contract was coming before Council in anticipation of budget discussions, adding that she sent out Requests for Proposals back in January, with them being received by February 18, 2025. She stated that she directly solicited seven vendors, had the RFP posted on the Town's website and had it advertised in two issues of the Town's e-news, with three addendums to the original RFP. She stated that two vendors declined to submit an RFP and three vendors did submit RFPs. She pointed out that the reason it went to bid early was to give Council solid numbers that could be presented in the budget discussions. She noted that there was a change from the previous contract in that there would be a reduction of American Beach Grass from 10 rows to eight rows in order to reduce the cost slightly.

Senior Planner Cross stated that the following vendors submitted bids as follows:

- Caribbean Landscaping - \$64,502.50 for American Beach Grass; \$28,002.80 for Sea Oats; \$7,312.05 for Bitter Panicum; for a total of \$99,817.35
- Albemarle Landscaping - \$72,522.00 for American Beach Grass; \$28,289.00 for Sea Oats; \$8,989.00 for Bitter Panicum; for a total of \$109,800.00

- Emerald Forest - \$60,997.44 for American Beach Grass; \$43,569.60 for Sea Oats; \$10,892.40 for Bitter Panicum; for a total of \$115,459.44

Senior Planner Cross noted that the total figure for Caribbean Landscaping was for the first year only, adding that they have an incremental increase each year, whereas Albemarle Landscaping and Emerald Forest stay consistent for all three years. She pointed out that in the previous two contract cycles, there was a 9% increase in the period of 2019-2022 to 2022-2025 and the Town was now facing at 32% increase for 2025-2028 for Caribbean Landscaping. She added that it was a 34% increase for Albemarle Landscaping and 38% increase for Emerald Forest.

Senior Planner Cross stated that the two lowest responsive bidders have no experience with projects of this size or with Sea Oats and Bitter Panicum. She stated that the cost comparison between the lowest bidder – Caribbean Landscaping and the most experienced bidder – Emerald Forest, was \$15,642 for year one, \$12,648 for year two and \$9,563 for year three for a total difference of \$37,583 over the course of a three-year contract.

Senior Planner Cross stated that staff would recommend entering into a one-year contract to ensure that the Town was satisfied with the work product, provided that Caribbean Landscaping can handle the volume and the Sea Oats and Bitter Panicum planting were successful. She added that if it was determined that Emerald Forest was better equipped to provide the services requested, staff could ask them to include the rain garden maintenance in their contract. She noted that, given the increase in cost, staff could scale back the request further and put it back out for bid. She stated that if Council wished to move forward with a contract, staff was recommending a motion be made to award the contract subject to the funds being appropriated in the Fiscal Year 2025-2026 budget and allow the Town Manager to execute a contract on behalf of the Town. She stated that staff was also asking Council to make a determination as to whether they were in favor of a one-year contract with the option to renew for an additional two years or move forward with a three-year contract.

Mayor Kingston asked when the Town has to execute the contract. Senior Planner Cross stated that the Town has a contract in place until June 30, 2025. Mayor Kingston asked if Council had time to go through the budget discussion before a decision is made. Senior Planner Cross stated that they did, adding that if Council decided to make a decision, they should do it subject to funds being appropriated in the Fiscal 2025-2026 budget and allow the Town Manager to execute the contract. Mayor Kingston asked if there was any reason why Emerald Forest was suddenly so much more expensive. Senior Planner Cross explained that Emerald Forest has a system to track their costs and expenses and they were showing an increased cost. She added that when she looked at the numbers and noticed a substantial difference, it was because the difference was mostly in the Sea Oats which indicated that Caribbean Landscaping and Albermarle Landscaping did not understand the intensity of planting Sea Oats because it was such a complicated planting.

Councilor Whitman asked if the cost of Sea Oats had increased substantially. Senior Planner Cross stated that Caribbean Landscaping was quoting \$.95 per plant; Albemarle Landscaping was quoting \$1.38 per plant; and Emerald Forest was quoting \$2.15 per plant. She pointed out that she had asked whether there was an issue and she thought it had something to do with the distributor that they were purchasing their products from, adding that Emerald Forest cannot get their products from Coastal Transplants in Wilmington, NC, but Caribbean Landscaping and Albemarle Landscaping could.

Mayor Pro Tempore Thibodeau asked when the Sea Oats were planted each year. Senior Planner Cross stated that they were planted in the late spring and summer. She added that Emerald Forest may finish planting the Sea Oats before their contract ends, so the Town would fall into the beginning of the November timeframe when this would start with the new contractor, if Emerald Forest was not selected.

Councilor Lingard asked if there was any way to build in some flexibility into this. He noted that his experience was between the Army Corps of Engineers Pier and the Four Seasons subdivision, adding that he felt this year that some planting has gone further than needed because the beach grass was surviving better than in the past. He wondered if there was a way to build in the flexibility and look at what would be needed before planting season and base the contract on that. Senior Planner Cross stated that having someone out there to monitor and choose where and how much to plant would need to be built into it, which meant staff time.

Mayor Pro Tempore Thibodeau asked what the 27,000 linear feet that the Town contracts for on beach grass was. Senior Planner Cross stated that it was the entire length, adding that there were potential savings with what is planted from a volunteer program standpoint. She explained that for this year, Emerald Forest should reduce their total linear footage by 4,000 which was what the volunteers had planted. Mayor Pro Tempore Thibodeau clarified that Emerald Forest took that 4,000 linear feet off of the invoice. Senior Planner Cross stated that they did. Mayor Pro Tempore Thibodeau asked if it was part of the contract. Senior Planner Cross stated that it was.

Mayor Kingston asked if there was any advantage in rebidding. Senior Planner Cross stated that she did not think so. Mayor Kingston asked if there was any harm in making this decision after the Council holds their budget session. Town Manager Havens stated that there weren't, adding that the draft information that Council had included the low bid. He added that, from a business perspective, there wasn't any reason not to accept the low bid if they can agree to the contract terms. He stated that he agreed with Senior Planner Cross that it should be a one-year contract to make sure that they understand the work involved. Senior Planner Cross stated that if Emerald Forest was not chosen for the contract, they may come back next year with a lower bid.

Mayor Pro Tempore Thibodeau asked what the cost differential was between planting the Sea Oats and the American Beach Grass. Senior Planner Cross explained that the cost difference was due to where they were getting their Sea Oats from, adding that Emerald Forest was getting theirs from Florida because Coastal Transplants won't sell to them due



to them being a competitor. Mayor Pro Tempore Thibodeau clarified that in terms of effectiveness on the dunes, it was the time of year that they were planted. Senior Planner Cross stated she was correct.

Councilor Whitman asked if there was any other type of plant that could be put in besides or in place of Sea Oats. Senior Planner Cross stated that *Spartina Patens* could be planted but she did not have a cost for it, adding that she asked about it but did not think it would make a substantial difference.

Mayor Kingston stated that since it was a 32% increase, he would like Council to have a budget discussion on it at their April 16, 2025 meeting before a decision is made.

Councilor Whitman asked how many more days there were before the contract was awarded. Senior Planner Cross was sure they all had a 30-day clause in them, but it expired already. Councilor Whitman clarified that there weren't 45 days in the bid documents. Senior Planner Cross stated that she wasn't sure.

Councilor Chasen asked if it would be possible to split it up and let Caribbean Landscaping try the Sea Oats and Emerald Forest or Albemarle Landscaping do the rest. Senior Planner Cross stated that Sea Oats was the hardest thing to plant, adding that beach grass was very easy to plant. Town Manager Havens pointed out that that was not the way the bid was done. Councilor Chasen stated that another option could be to rebid it. Town Manager Havens agreed, adding that the bid process could be started again. Councilor Chasen asked if everything was planted at the same time. Senior Planner Cross stated that there were separate times of the year for the plantings.

Mayor Kingston asked if there was any reason Council could not delay the decision until Council's mid-month meeting. Mayor Pro Tempore Thibodeau thought the idea of going with the low bidder for one year made sense. Councilor Lingard stated that he was fine with waiting until the mid-month meeting.

It was *consensus* of Council to hold off on considering the contract until their April 16, 2025 meeting.

#### **ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY**

Town Attorney Hobbs stated he had attended the UNC School of Government Attorneys Conference and Fundamentals Workshop and found it really useful.

#### **ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER**

#### **Departmental Updates**

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

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

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

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

### **February FY 2025 Financial Presentation**

Finance Administrator Lauren Creech was recognized to speak. Administrator Creech gave a short presentation on the February Fiscal Year 2025 financials to Council and the audience.

### **MAYOR'S AGENDA**

Mayor Kingston stated that the mayors/chairmen meeting will be on April 15, 2025 hosted by the Town of Southern Shores. He congratulated Fire Chief Dudek and Deputy Fire Chief Del Monte on their promotions.

### **COUNCIL MEMBER'S AGENDA**

Mayor Pro Tempore Thibodeau stated that the summer season is starting and Easter is also upcoming, meaning everyone will see more people in Town. She thought May would be slower after the surge of the Spring Break weeks.

Councilor Lingard stated that he would be heading to Greenville, NC at the end of the month to attend the CityVision conference. He stated that a few months ago, Council held a public hearing on a special use permit for building height to change the way building height was measured in order to attach a roof to an existing building. He wondered if Council could give the Community Development Department some leeway in instances where a new roof is attaching to an existing one as long as it was within a few inches and bring back to Council. Town Manager Havens stated that it could be looked at.

Councilor Whitman congratulated Fire Chief Dudek and Deputy Fire Chief Del Monte.

Councilor Chasen congratulated Fire Chief Dudek and Deputy Fire Chief Del Monte as well as now being fully staffed. She gave a visitors bureau meeting update to Council and the audience. She noted that she will be out of town on April 6-8 for a tourism conference in Hickory, NC.

**OTHER BUSINESS**

**Additional Public Comments**

Mayor Kingston opened the floor for public comments. There being no one 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, April 16, 2025 at 1:00 p.m. He added that there was a presentation at 11:00 a.m. the same day just for Council.

**ADJOURNMENT**

Councilor Whitman moved to adjourn the meeting.

Motion carried 5-0.

The time was 4:51 p.m.

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Lori A. Ackerman, Town Clerk

Approved: \_\_\_\_\_

\_\_\_\_\_  
Don Kingston, Mayor

**TOWN OF DUCK  
TOWN COUNCIL  
SPECIAL MEETING  
April 16, 2025**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 11:00 a.m. on Wednesday, April 16, 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; Police Chief Jeffrey Ackerman, Deputy Police Chief Melissa Clark; Fire Chief Matthew Dudek; Clay Dills of Dills Architects; Anna Campbell of Dills Architects; and Town Clerk Lori Ackerman.

OTHERS ABSENT: Director of Community Development Joseph Heard; Public Information and Events Director Kristiana Nickens; Town Attorney Robert Hobbs; Finance Administrator Lauren Creech; and Deputy Town Clerk Christy Hanks.

Mayor Kingston called the meeting to order at 11:33 a.m.

**PRESENTATION FROM DILLS ARCHITECTS REGARDING A NEW PUBLIC SAFETY FACILITY**

Town Manager Drew Havens was recognized to speak. Town Manager Havens went on to introduce Clay Dills and Anna Campbell of Dills Architects. He stated that they have been working with Town staff on the programming phase of the Public Safety building project. He added that they would be giving Council an update as well as where things stand and get Council's reaction to it.

Clay Dills of Dills Architects was recognized to speak. Mr. Dills gave a presentation on the programming phase of the Public Safety building to Council, explaining their extensive experience in public safety architecture and reviewing what his firm believes would be needed for a new building for the police and fire departments, including the next steps which were to review program and schematics with Town staff in May; developing and reviewing the concept design and visuals in the June/July timeframe; and ultimately giving a public presentation in August. He then took questions from Council.

Mayor Kingston thanked Clay Dills for his presentation.

**ADJOURNMENT**

Councilor Whitman moved to adjourn the meeting.

Motion carried 5-0.

The time was 12:18 p.m.

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Lori A. Ackerman, Town Clerk

Approved: \_\_\_\_\_

\_\_\_\_\_  
Don Kingston, Mayor

**TOWN OF DUCK  
TOWN COUNCIL  
MID-MONTH MEETING  
April 16, 2025**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 1:00 p.m. on Wednesday, April 16, 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; Director of Community Development Joseph Heard; Police Chief Jeffrey Ackerman; Deputy Police Chief Melissa Clark; Fire Chief Matthew Dudek; Town Attorney Robert Hobbs; Public Information and Events Director Kristiana Nickens; Community Engagement Coordinator Betsy Trimble; Finance Administrator Lauren Creech; and Town Clerk Lori Ackerman.

OTHERS ABSENT: None.

Mayor Kingston called the meeting to order at 1:01 p.m.

**DISCUSSION/CONSIDERATION OF THE SALE OF SURPLUS POLICE VEHICLES**

Police Chief Jeffrey Ackerman was recognized to speak. Police Chief Ackerman explained that an opportunity came up to dispose of two police vehicles in a different way. He stated that the Town generally sells them on GovDeals and he looked at what the average sale prices were over the last six months, pointing out that they have trended downward. He stated that he contacted the police chief for the Town of Edenton Police Department and found out that they desperately needed some new vehicles. He noted that the Town of Edenton was not a poor community, but they have gotten very far behind on vehicle replacements that it would be more advantageous to purchase used vehicles, get themselves to a better place and then start cycling their vehicles.

Police Chief Ackerman stated that doing it this way, he would be able to sell the vehicles for a set fee, whereas when they are listed on GovDeals, it's an auction, adding that sometimes they do well and other times they don't. He asked Council to authorize the request. He noted that it would also be a cost savings to the Town because there won't be a cost to strip the vehicles and remove the graphics.

Councilor Chasen moved to declare two police vehicles surplus and permit staff to dispose of them by selling them to the Town of Edenton Police Department.

Motion carried 5-0.

**DISCUSSION/CONSIDERATION OF RESOLUTION 25-09, A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF DUCK, NORTH CAROLINA, OPPOSING CHANGES TO LOCAL GOVERNMENT AUTHORITY IN HOUSE BILL 765**

Town Manager Drew Havens was recognized to speak. Town Manager Havens stated that Council was aware of the update from the North Carolina League of Municipalities update in reference to House Bill 765. He explained that it was the latest in a series of legislation and legislation attempts that were aimed at eroding Council's authority to regulate land use. He stated that there were some in the General Assembly that do not believe that local governments were able to manage the affairs of their communities or have the best interests in the communities. He added that Council has passed other resolutions that basically stated the same thing, which was to let local government govern locally. He stated that Resolution 25-09 opposes the provisions in House Bill 765 which include some positive provisions in terms of allowances for tiny homes in some urban settings, which address the housing issue that was being felt throughout the state, but also there was language in there that hurts local governments.

Mayor Kingston stated that he met with the other mayors on April 15, 2025, and the Town of Nags Head has written a letter and the Town of Kill Devil Hills was sending a similar resolution. He added that the Towns of Southern Shores, Kitty Hawk and Manteo have not sent anything yet because they have not had a board meeting to adopt a resolution.

Councilor Whitman moved to approve Resolution 25-09 as presented.

Motion carried 5-0.

**DISCUSSION/CONSIDERATION OF AUTHORIZING THE TOWN MANAGER TO ENTER INTO A CONTRACT FOR THE DEMOLITION AND REMOVAL OF STRUCTURES AND OTHER SITE IMPROVEMENTS ON THE HERRON PROPERTY**

Town Manager Havens stated that staff recently sent out a Request for Proposals to remove the house and sheds on the Town's property at 101 and 103 Scarborough Lane, along with two septic tanks and some concrete slabs. He stated that he met with two contractors on the site, both of whom submitted proposals and the lower of the two came from Ben's Backyard. He stated that he was asking Council to give him the authority to enter into a contract with Ben's Backyard to complete the work. He noted that timing would be coordinated with some removal work that Councilors Whitman, Chasen and Lingard were doing. He added that the Town would need to complete an asbestos inspection which will cost approximately \$1,400 and then some abatement work. He stated that the total cost to dispose everything would be approximately \$10,000.

Councilor Chasen moved to authorize the Town Manager to enter into a contract with Ben's Backyard for the demolition and removal of the structures as well as other site improvements including asbestos inspection and abatement at 101 and 103 Scarborough Lane up to \$10,000.

Motion carried 5-0.

### **DISCUSSION OF FY 2026 BUDGET OVERVIEW**

Town Manager Havens gave a presentation on a gross needs "budget" noting that it was not in balance, touching on revenues, new personnel/purchases/projects, department by department review of expenditures and the five-year forecast to Council and the audience. He noted that he was looking for direction from Council on getting the budget balanced so it can be put together in a draft ordinance to be advertised for the public hearing, which would be at Council's May 7, 2025 meeting.

Mayor Pro Tempore Thibodeau noted that everyone's property valuation went up depending on the property so even though it was revenue neutral for the Town, it could affect different taxpayers differently depending on their rate of appreciation between the two valuations. Town Manager Havens agreed, adding that the Town's tax base increased by 73%. He guessed that none of Council's property went up exactly 73% as some went up more and some less. He stated that he had heard some people had over 100% increase on some properties in Duck. He pointed out that there was a wide variety and that it does average out to that 73%. Mayor Pro Tempore Thibodeau clarified that everyone will be affected, just at a slightly different rate. Town Manager Havens stated she was correct.

Mayor Kingston clarified if the Town took the one cent for the MSDs it was almost one half million dollars per cent. Town Manager Havens stated he was correct. Mayor Kingston clarified that each one cent was worth on half million dollars if the Town raises taxes by one cent. Town Manager Havens explained that each one cent was worth \$307,000. Mayor Kingston stated that he was looking at the MSDs. Town Manager Havens agreed, adding that he intentionally does not because MSDs are completely restricted revenue, so Council could not think about those in terms of what they do. He added that he thinks of them as a separate business that needs to pay its own expenditures.

Mayor Pro Tempore Thibodeau pointed out that Town Manager Havens had mentioned how the Town will receive a small advantage over the shared revenue formula in the next year. She clarified that even with that in the calculation, he still wanted to be conservative. Town Manager Havens stated she was correct, adding that it was a very small amount.

Police Chief Ackerman explained that the justification for the Police Investigator position was that the police department was not anywhere near what best practices were for investigations. He stated that they also had a "brain drain" over the years where when



they started, they had veteran officers with a lot of experience, adding that a lot of them came to Duck with investigative experience, but unfortunately that trend has changed. He noted that they now have a lot of officers that were newer, the department would be losing several veteran officers due to retirement in the next few years, and it has left the department with a major hole. He stated that they were not providing the level of service that the community deserves when it comes to investigations. He added that with their patrol model, they were not able to dedicate the time or resources to every investigation to make sure it was investigated quickly, thoroughly, and exhaustive by going through the process and putting people in jail when it was warranted. He noted that it was why the department put it off for many years in order to focus on getting the patrol staff in order to have a minimum of two officers working, adding that this was the last piece of the puzzle for the police department. He stated that he did not see any future growth beyond this as it completes putting the department on the path to having a roster that meets the standards, best practices, and current trends.

Councilor Whitman asked if the investigator would be a full-time position. Police Chief Ackerman stated that there were not enough investigations to keep one person busy year-round, so when they were not handling investigations, they will be tasked with all events and community outreach as well as being a full-service police officer so anywhere there was a shortage, this individual would fill in for that hole, which the department currently does not have.

Mayor Pro Tempore Thibodeau asked if the investigator position would mean that the individual would have to have extra training or if it was seniority. She further asked if it was something that the police department would go outside to get or grow from the department. Police Chief Ackerman explained that from the experience side; in order to be a successful investigator, one has to have the street experience and at least 15 years minimum experience. He stated that, with regard to the training side, most officers do not take the number and level of classes that would be required to be a competent investigator. He added that he saw the department being able to develop a more senior officer within the department; they may not be 100% there when they go in, but with a solid plan, he believed the department could get there and backfill the position with someone that was entry-level. He noted that a lot of what the investigator would do would be desk investigations, making sure the department could go in there, whether it was an unwitnessed death or a violent crime, adding that it would be someone that could go in and investigate those cases and come in to process a crime scene and has the experience, knowledge, expertise, and training. He added that when they were testifying in court, they would have that higher level so they would be designated as a witness on the stand, where a young officer would be lost in a major investigation. Mayor Pro Tempore Thibodeau clarified that if an investigation had to happen and it was consuming their time, it would be balanced with not putting the investigator on the backup schedule for a while to even things out. Police Chief Ackerman stated she was correct.

Mayor Kingston asked Town Manager Havens if he continues to shop medical insurance. Town Manager Havens stated that he does, explaining that the Town works with a broker. He stated that the plan date was December 1 of each year, which was after the

new fiscal year. He added that since he has worked for the Town, he has looked every year and asked the brokers to come in with some suggestions and because the Town is on a grandfathered plan, the Town cannot get anywhere close in terms of cost and coverage. He pointed out that to get the same coverage that the Town currently has, under the Affordable Care Act, the costs increase quite a bit because there were things that the Affordable Care Act requires that were not required under the grandfathered plan. He stated that the current plan the Town has was affordable not only for the Town but also for the employees that pay for a portion of their spouse/family coverage.

Mayor Pro Tempore Thibodeau asked if the 20% increase in medical and dental that was being projected was attributed to the plan increasing as well as the size of the workforce and the benefits to the families. Town Manager Havens stated that it included one additional staff member, adding that he factored in a 12% increase for medical and dental costs. Mayor Pro Tempore Thibodeau clarified that overtime has not been as big because the Town is now better staffed or if it was something that was budgeted for each year. Town Manager Havens explained that he always budgets for overtime in Public Safety, adding that the Administrative staff do not receive overtime, but they do receive compensatory time.

Councilor Whitman stated that the past two years he brought up the historical signs. He stated that there were supposed to be 10 that would be erected on the street. He asked if there was any way to ask for donations like what the Town did for the benches. Town Manager Havens stated that it could be done. Councilor Chasen clarified that it would not be a lifetime thing. Town Manager Havens stated that it would not be like the benches were. Councilor Lingard thought they would be close to businesses and felt that the businesses closest to the historical signs would be happy to purchase them. Town Manager Havens noted that Director Heard had talked to Community Planner James Gould about it and it was a matter of getting it teed up for Planner Gould. He added that it was an item that was easy to take out from the draft budget, but it could still get done but would be completed using a different revenue source.

Mayor Pro Tempore Thibodeau pointed out that with the Duck Trail repaving, nothing was completed last year. She clarified that Senior Planner Sandy Cross was keeping a close eye on the next steps for asphalt that needs to be replaced with concrete. Town Manager Havens stated she was correct. Director Heard explained that his staff was looking at the next phases of completing an area in Town and then shifting back. He added that it was based on need and if staff were witnessing root intrusion. Town Manager Havens noted that it was up near the Sanderling subdivision.

Councilor Chasen asked if the living shoreline item was monitoring the sound project that was just completed. Director Heard stated that it was. Town Manager Havens stated that it was someone from the outside coming in and using different technology. He added that it was about the growth of the plants. Director Heard stated that it monitors the growth of the shoreline and how much it was capturing as well as the types of plants that were there so staff were seeing how they were maturing with the natural vegetation.

Mayor Pro Tempore Thibodeau clarified that the monitoring that was being completed of the nourished beach was captured in Professional Services in the draft budget under Environmental Protection. Director Heard stated she was correct.

Mayor Pro Tempore Thibodeau stated that, with regard the five-year forecast, Town Manager Havens had stated with regard to moving out five years that it was an unknown, but Council does know that some of the projects had to do with Public Safety. She added that Council did not know exactly where the numbers will be but they know that they were trying to complete some big projects in the near future.

Councilor Whitman asked where the generator replacement was on the sheet that showed items that were cut. Town Manager Havens explained that it wasn't on the sheet because it was not cut. He added that the yellow sheet that Council had in front of them were items that were reduced from the budget. Councilor Whitman clarified if the hoses and nozzles were cut by \$3,000 or \$10,000. Town Manager Havens stated that it was reduced by \$3,000. Councilor Whitman stated that, out of everything that has been reduced or put off until next year or future years, he would like to see a list of those items before Council starts reviewing what was being asked for this year. Councilor Chasen asked if Councilor Whitman was talking about the prior year. Councilor Whitman stated that he was. Town Manager Havens stated that he understood the request. Mayor Pro Tempore Thibodeau asked Councilor Whitman if he was looking at what was deferred from last year. Councilor Whitman stated she was correct, pointing out that some of the items have been deferred a number of times. Mayor Pro Tempore Thibodeau pointed out that the playground equipment was one of the items. Councilor Whitman agreed, adding that it has been deferred four times now. Town Manager Havens agreed, adding that it was the playground equipment and the Town Park shoreline project. Mayor Pro Tempore Thibodeau stated that the shoreline project was beyond the Town's control because permitting was not obtained. Town Manager Havens explained that in Fiscal Year 2025, the Town funded Phase 1 but not all of it. He added that the year before it was in the CIP and \$0.00 was funded. He stated that last year as Council was going through this process, it was decided that Phase 1 would be funded and then Phase 2 would be funded in Fiscal Year 2026. He noted that the Phase 1 funds in Fiscal Year 2025 will still be spent but will be spent in Fiscal Year 2026, so this year's money will be encumbered and carried forward into Fiscal Year 2026 and added to the Phase 2 money that was built into the budget for Fiscal Year 2026 and the entire project would be done as one. He pointed out that there was a delay and had the Town had Phases 1 and 2 funded in Fiscal Year 2025, there would still have been a delay, but the money would have been there.

Mayor Pro Tempore Thibodeau asked when the Town encumbers money and has not spent it for Fiscal Year 2025 for the revetment, how it would show up on the Fiscal Year 2026 budget. Town Manager Havens stated that in the new fiscal year, he would bring forward a budget amendment which will bring in purchase order carryovers from the prior fiscal year. He noted that it was something typically done every July because there will be funding leftover that was committed in the prior fiscal year and it will be brought in as a budget amendment the first part of the new fiscal year.

Mayor Kingston clarified that Town Manager Havens was not estimating any Fund Balance contribution for this year. He further clarified that there was no opportunity to move things from next year to this year. Town Manager Havens stated that he has some ideas on how to balance the budget, adding that he would not share his opinion unless Council asked for it. He stated that, in order to balance the budget, he would suggest the following:

1. Cut the west side trail. While it is a really nice thing to have, Duck Trail does run north to south. This could be deferred for a year, saving \$270,000.
2. Restore the cut of \$35,000 for the land use planning for the Herron property and move that to Fiscal Year 2025.
3. Move the following projects that were currently in the Fiscal Year 2026 budget to the current year:
  - a. Server virtualization project - \$10,750
  - b. Police drone program - \$30,000
  - c. Replacement of the SCBA Cabinet – \$6,750
  - d. Replacement of the Town marquee sign - \$16,000
  - e. Amphitheater repairs - \$8,000
  - f. Picnic shelter improvements - \$6,000
  - g. Purchase of an additional water fountain by Four Seasons - \$5,000

Town Manager Havens explained that, regarding the use of the Fund Balance, it was a non-recurring revenue source and as long as the Town was using a non-recurring revenue source for a non-recurring expenditure, it was appropriate. He added that if Council told him to use the Fund Balance to pay for the Police Investigator position, he would tell them that it was an inappropriate use. He recommended tying an appropriation of the Fund Balance in the amount of \$385,300, which was the cost of Phase 2 of the shoreline protection project in order to finish the project. He stated that if Council told him not to use the Fund Balance and if he could not figure out how to complete the project without cutting other items, he would go back to the Department Directors and ask them to find the money. He added that this project could not be delayed anymore. He pointed out that this would be an appropriate use of the Fund Balance, adding that it would not dip below the minimum required.

Town Manager Havens stated that his final recommendation was a tax rate of \$.18 in order to finish balancing the budget. He noted that this will always be the last thing he recommends because it was asking the taxpayers to write a bigger check, which would equal \$.04 off revenue neutral and will generate enough money to balance the budget with an extra \$3,000. He went on to show a chart of how taxpayers would be affected by a tax increase.

Mayor Kingston stated that he liked Town Manager Havens' option, adding that it made sense to take this year while the Town could. He stated that his concern was, for two years in a row, there will be no contribution to the Fund Balance and letting it start to drop down. He asked if there was anything in Fiscal Year 2025-2026 planned that could be delayed in order to have a savings. He pointed out that hiring additional personnel

could always be delayed in order to have a savings. He asked if there was anything that the implementation could be delayed. Town Manager Havens explained that the Town will add to the Fund Balance in Fiscal Year 2025 by \$100,000, based on where the Town currently was. He added that for Fiscal Year 2026, as far as planning to add to the Fund Balance, the Town was currently over the minimum of 50% and it could be added to, but the Town will need to expense to the Fund Balance. He thought the way to do that would be to not use the Fund Balance for anything. He added that he was planning to reduce the Fund Balance by \$385,300. He stated that Council could decide not to use Fund Balance for that, which will freeze the Fund Balance and it will grow or hold steady. He reiterated that the Town was above the 50% minimum but below the 75%.

Mayor Kingston stated that he was concerned about the future. He pointed out that Mayor Pro Tempore Thibodeau had made the point that there were some big projects coming up, including beach nourishment, with the scope and cost being an unknown. He stated that he would like to see if there were any opportunities to delay any expenses during the year that would gain the Town some leverage for next year. He pointed out that he did not have an issue with moving things from the Fund Balance and getting projects completed. He added that he did not have an issue with a tax increase and thought that there will most likely be a tax increase from all of the towns. He stated that the Investigator position was not a big expense but thought they could be hired in October instead of June. He wondered if there were any other opportunities along those lines where costs could be deferred for a period of time. Town Manager Havens explained that if the police Investigator was hired on January 1, which was half a year and equated to \$45,000, the Town would save \$45,000 off the bottom line this year, but it would still hit next year in Fiscal Year 2027 in its entirety. He thought it would save some money this year but it didn't help in future years. He added that a lot of expenditures were being delayed until Fiscal Year 2027. He thought the Town gets to a point where it has projects that were really well planned and very well-reasoned, adding that the shoreline project was an excellent example. He stated that Director Heard had built that into the CIP three to four years ago and it was something that was needed and now it was something that the Town has to do.

Mayor Pro Tempore Thibodeau agreed that there was no question regarding the need for the shoreline project, adding that the permitting alone was three to five years in the making. She pointed out that the rocks had to be delayed because of the timing. She agreed that the project needed to start. She appreciated Town Manager Havens discussing meeting the needs which were laid out thoroughly. She stated that she was concerned about the gap in the future with the predictions where Council knew there were some big projects coming up. She noted that the Town bought a piece of property recently for future use and were getting ready to pay off the other property. She thought things were still being cut close even with a tax increase proposal, which was not giving a lot of breathing room.

Councilor Lingard agreed with Mayor Pro Tempore Thibodeau's comments, adding that he did not see anything else that would make a huge difference that could be cut. He pointed out that the Department Directors did a great job, but the Town could not keep

deferring projects. He stated that he could not see any option other than going with the tax increase. He added that he did not like it but it is what it is.

Councilor Whitman pointed out that Council keeps putting off projects for future years, but the future years will start adding up. He pointed out that at the special meeting earlier in the day, Council saw how construction costs are increasing. He felt that now was the time to do it instead of waiting another year or two. He pointed out that the Town kept losing that land and would not get it back.

Councilor Chasen agreed with Councilor Whitman's comments. She added that she was in favor of increasing taxes slightly more just so the Town has the ability to put it into the Fund Balance because there were so many large ticket projects, projects have been deferred, and they need to be done now. She thought with the revaluation, the Town could still take it back from the 20/25, but not down to the 18. She noted that it wasn't a great answer, but she did not know any other way to come up with the money, adding that the Town keeps cutting back while pushing forward.

Town Manager Havens wondered if Council could go another penny for the tax increase and take the \$300,000 to put into the Fund Balance, adding that they could use that \$300,000 to pay for some projects. He pointed out that the westside trail was the first thing that was eliminated, adding that Phase 1 was \$270,000. He added that it could come back.

Councilor Chasen stated that the westside had a lot of safety features that were involved with it in that it kept people on one side of the road, adding that there were a lot of reasons to keep that in the budget.

Town Manager Havens stated that, philosophically, he did not like taking money out of anyone's savings account and putting it into the Town's. He pointed out that there was revenue in excess of expenditures at the end of the year and the Town was maintaining somewhere in Council's range of 75%.

Mayor Kingston reminded Council that the tax increase was defensive because the other towns would be increasing taxes as well. He added that if Duck did not increase taxes, it would be hurting next year and the year after. Town Manager Havens stated that the Town's shared revenue proportion would drop. Mayor Kingston stated that Duck needed to have a defensive tax increase. Town Manager Havens explained that the Town of Southern Shores was increasing their taxes by three cents just for adding a fire department. Mayor Kingston pointed out that the Town of Kitty Hawk was discussing an increase, the Town of Manteo was having difficulties, and he suspected that the Town of Nags Head would be increasing their taxes. He reiterated that if the Town did not increase taxes, it would be hurting in future years. Town Manager Havens agreed, adding that, realistically speaking, the Town's expenses weren't static and if Duck went with Revenue Neutral, in an environment where shared revenues were not growing, which they weren't, the Town would be falling behind by the rate of inflation. He added that the only lever Council had was the Ad Valorem tax.

Mayor Kingston asked if there should be a small increase for beach nourishment and the MSDs for future protection as well as helping with the shared revenues. Town Manager Havens stated that it would be the only reason. He stated that it was revenue over expenditures, adding that where the Town currently was, it was flowing positive in that the Town was receiving money from tax revenue, and putting some money out in order to prepare for the next nourishment project. He stated that the beach nourishment fund continues to grow and the way the modeling works, the MSD rates would be left exactly where they were at revenue neutral, so in Fiscal Year 2026-2027, the Town would add to it, in Fiscal Year 2027-2028, the Town will draw from it for the renourishment and then it will stay level because the debt service would increase.

Mayor Pro Tempore Thibodeau clarified that Town Manager Havens was stating that the \$3.19 million would be coming off from Fiscal Year 2027 to Fiscal Year 2028 and that the Town was holding a balance of \$4 million, then the Town pays out the \$3 million. Town Manager Havens stated she was correct. Mayor Pro Tempore Thibodeau asked where financing would come in or if the Town was not financing. Town Manager Havens stated that the Town would be financing. Mayor Pro Tempore Thibodeau clarified that the Town had financing plus it would be using cash, which was the Town's decision to make. Town Manager Havens stated she was correct, adding that the Town could borrow all of it and not use cash. Mayor Pro Tempore Thibodeau pointed out that that was what the original MSD rates were for and now the Town has a savings and a buffer. Town Manager Havens stated she was correct.

Mayor Pro Tempore Thibodeau thought what Council has done by keeping the MSD rates flat throughout the whole process has shown a growth. She felt it was wise to have some balance in there, adding that she wasn't sure if she agreed with raising the MSDs in anticipation of an unknown when the Town has a healthy balance in there. She added that when they were first set up, it was done to take care of debt. She reiterated that she would not be in favor of adjusting the MSD rates. Town Manager Havens explained that one penny would change the levy by \$90,000.

Councilor Lingard stated that he wasn't sure if the MSD rates should be increased. Councilor Whitman reminded Council that when the Town starts the next beach nourishment project, there will be an increase in the cost no matter what, adding that the Town would either be paying it now or later. Mayor Pro Tempore Thibodeau pointed out that it was an unknown at this point. She thought Council should plan once they know something and then adjust it. Councilor Lingard thought Council should know by this time next year. Town Manager Havens stated that he would have a better idea on the construction costs when it's closer to the time of issuance.

Mayor Kingston asked if the Town will have an expense of approximately \$150,000 for 300 lots. Town Manager Havens stated he was correct. Mayor Kingston thought that could be covered. Town Manager Havens agreed. Mayor Kingston pointed out that one cent would cover that and it was all related. Town Manager Havens agreed, adding that

there were adequate funds within the fund to do it. He noted that he did not model that expense. Mayor Kingston stated that it was just a suggestion.

Town Manager Havens clarified that Council wanted to see the next draft of the budget with the changes discussed. He pointed out that he had forgotten to mention that he was recommending adding the restoration of the Duck Trail repaving, which was initially eliminated. Councilor Lingard asked what the amount was for the repaving. Town Manager Havens stated that it was \$130,000. Mayor Pro Tempore Thibodeau clarified that it would be taken from the Fund Balance. Mayor Kingston stated that it would be. Town Manager Havens disagreed, explaining that if Council moved forward with the \$.18 increase, the Town would be able to include the repaving of the Duck Trail within the Fiscal Year 2025-2026 budget, assuming that the Town could use Fund Balance to pay for the shoreline project and then move the \$117,500 of Fiscal Year 2026-2027 budget expenditure into the Fiscal Year 2025 budget.

Councilor Whitman asked if any more money would be coming in for the BRIC project. Town Manager Havens stated that there would be. Councilor Whitman clarified that it would go back into the Fund Balance. Town Manager Havens stated he was correct. Councilor Whitman asked where it would put the Town. Mayor Kingston stated it would be at 70%. Town Manager Havens stated that it would help get rid of the \$2.8 million that was in the negative in Fiscal Year 2024 and would return the Fund Balance to where it was plus a little more.

Mayor Kingston asked Town Manager Havens to review his changes with Council in order to get consensus. Town Manager Havens reviewed his changes with Council and the audience. It was *consensus* of Council to have the suggested changes made.

Town Manager Havens explained that the next step will be the public hearing on Wednesday, May 7, 2025 and then a work session at Council's mid-month meeting on Wednesday, May 21, 2025, if needed.

Mayor Kingston thanked Town Manager Havens for his presentation.

Mayor Kingston noted that the next meeting would be the Regular Meeting on Wednesday, May 7, 2025 at 1:00 p.m.

### **ADJOURNMENT**

Councilor Whitman moved to adjourn the meeting.

Motion carried 5-0.

The time was 3:39 p.m.

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Lori A. Ackerman, Town Clerk



Approved: \_\_\_\_\_

\_\_\_\_\_  
Don Kingston, Mayor

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF DUCK,  
NORTH CAROLINA, DECLARING THE WEEK OF MAY 11 – 17, 2025 AS  
NATIONAL MEMORIAL POLICE WEEK

Resolution No. 25-08

WHEREAS, in 1962, President John F. Kennedy signed a proclamation which designated May 15 as Peace Officers Memorial Day and the week in which that date falls as National Police Memorial Week. Currently, tens of thousands of law enforcement officers from around the world converge on Washington, DC to participate in a number of planned events which honor those that have paid the ultimate sacrifice; and

WHEREAS, Duck Police Officers play an essential role in safeguarding the rights and freedoms of all those residing in or visiting our community and are the guardians of life and property; defenders of the individual right to be free; warriors in the battle against crime; and are dedicated to the preservation of life and property; and

WHEREAS, it is important that all citizens know and understand the duties, responsibilities, hazards and sacrifices of their law enforcement officers, and that law enforcement officers recognize their duty to serve the people of this community, by protecting them against violence and disorder; and

WHEREAS, in 2024, 165 law enforcement officers, including seven in North Carolina, died in the line of their duty to serve; and

WHEREAS, The Town of Duck honors the valor, service, and dedication of all Police Officers, and publicly salutes the service of each and every one of our own Duck Police Officers.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Duck hereby proclaims May 11 – 17, 2025 as Police Week in the Town of Duck, and Thursday, May 15, 2025 as Peace Officers Memorial Day in honor of those peace officers who, through their courageous deeds, have lost their lives in the performance of duty and call upon all our citizens to make every effort to express appreciation to these men and women who protect and serve this community.

Adopted this 7<sup>th</sup> day of May, 2025.

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Mayor

Attest

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Town Clerk

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

Amendment No.: 8  
 Department: Streets & Highways Date: 5/7/2025

Budget Amendment					
Revenues	Fund	Dept. Code	Acct. Code	Obj. Code	Requested Amount
Fund Balance Appropriated	10	4900	4999	-	13,685.00
				TOTAL:	13,685.00

Expenditures	Fund	Dept. Code	Acct. Code	Obj. Code	Requested Amount
Streets & Highways: Contracted Services	10	5740		512	13,685.00
				TOTAL:	13,685.00

**Reason for Amendment:**  
 Pedestrian crossing improvement project funded in FY 23-24 that was delayed in permitting. No PO was created at the end of FY24 so the unspent funds went to Fund Balance. The proposed crosswalk, signage, and pavement marking improvements include:  
 Sunset Grille: Add "Bike Lane Ends" sign facing south and Add pavement markings for this transition.  
 Christopher Drive: Add painted refuge median, flexible poles, and signs  
 Scarborough Lane Shoppes: Add painted refuge median, flexible poles, and signs  
 Aqua: Add painted refuge median, flexible poles, and signs and Add "Bike Lane Ends" sign facing north

Approved: \_\_\_\_\_ Denied: \_\_\_\_\_  
 Date: \_\_\_\_\_

**AGENDA:      May 7, 2025                      Regular Meeting**

**ITEM #4B:**

Special Presentations

- B. Resolution 25-10, a Resolution of the Town Council of the Town of Duck, North Carolina, in Appreciation to Joseph Heard Upon His Retirement from the Town of Duck

**RECOMMENDED ACTION:**

- Present Director of Community Development Joseph Heard with Resolution 25-10

**SUMMARY OF INFORMATION:**

Director of Community Development Joseph Heard has submitted his notice of retirement with the Town of Duck, effective May 30, 2025. Resolution 25-10 honors and thanks Director Heard for his service to the Town of Duck.

**ATTACHMENTS:**

- Resolution 25-10

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF DUCK, NORTH  
CAROLINA, IN APPRECIATION TO JOSEPH HEARD UPON HIS RETIREMENT  
FROM THE TOWN OF DUCK

Resolution No. 25-10

WHEREAS, the Town of Duck desires to recognize and honor employees of the Town for dedicated and distinguished contributions to the community; and

WHEREAS, after serving the Town of Kitty Hawk for eight years, Joe Heard began his career with the Town of Duck on September 29, 2014 as the Director of Community Development; and

WHEREAS, Mr. Heard served as the Interim Town Manager for the Town of Duck from July 20, 2020, through February 15, 2021; and

WHEREAS, Mr. Heard is a member of the American Institute of Certified Planners, the American Planning Association, the N.C. Division of Coastal Management CAMA Local Permit Officer, the N.C. Division of Energy, Mineral & Land Resources, Local Sediment Control Program, and the National Trust for Historic Preservation and has received numerous honors and awards during the span of his professional career; and

WHEREAS, Mr. Heard has been instrumental in helping the Town Council, Planning Board, and Board of Adjustment in their discussions of planning, land use, environmental and economic development issues that affect the Town of Duck, its residents, and businesses; and

WHEREAS, Mr. Heard has distinguished himself as a hard-working and dedicated public servant, at all times committed to helping his community and administering planning regulations with a sense of fairness; and has provided invaluable leadership and guidance on many significant projects; and

WHEREAS, Mr. Heard has decided to retire from the Town of Duck on May 31, 2025, after 11 years of service to the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DUCK, NORTH CAROLINA, that the Town Council hereby thanks Mr. Joseph Heard for his service to the Town of Duck, North Carolina; and

BE IT FURTHER RESOLVED that the Town Council has the sincere appreciation for Mr. Heard's service to the community and is held in the utmost esteem by the Town Council who along with management and staff wishes him a long and healthy retirement.

Adopted this 7<sup>th</sup> Day of May, 2025.

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Mayor

ATTEST:

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Town Clerk

**AGENDA: May 7, 2025**

**Regular Meeting**

**ITEM #6A:**

Legislative Public Hearings

- A. Public Hearing/Discussion/Consideration on Ordinance 25-01, an Ordinance Updating Penalties for Violating the Tree Preservation Standards in Subsection 156.137(J) of the Town Code

**RECOMMENDED ACTION:**

- Conduct the Public Hearing
- Discuss & Consider Approval of Ordinance 25-01

**SUMMARY OF INFORMATION:**

At its public meeting on March 12, 2025, the Duck Planning Board voted (3-2) to recommend approval of Ordinance 25-01 which proposes to amend the current tree protection and penalty standards in the Zoning Ordinance by reducing the minimum size of replacement trees from a three-inch (3”) caliper to a two-inch (2”) caliper for tree removal violations. The amount of the overall penalty would stay the same. During their review, the Board members evaluated standards from other communities, determined the availability of larger trees from local/regional nurseries, and discussed several other potential changes to the Town’s current standards.

**ATTACHMENTS:**

- Letter of Transmittal to Town Council
- Staff Report
- Town Code Section 156.137
- Draft Ordinance 25-01



**TO:** Mayor Kingston and Members of the Duck Town Council  
**FROM:** Joe Heard, AICP, Director of Community Development  
**DATE:** May 7, 2025  
**RE:** Discussion Concerning a Potential Text Amendment to the Town’s Tree & Vegetation Preservation Standards

**Public Hearing Notice**

Public Hearing Advertised: April 20 & 27, 2025 (Coastland Times)  
Public Hearing Town Website: April 17, 2025  
Public Hearing Town Hall Posted: April 22, 2025

**Issue**

*Subsection 156.137(J) – Tree & Vegetation Violations & Penalties*

When enforcing replanting penalties, staff has run across the issue of contractors being unable to find/purchase trees of the size required by the ordinance from most plant nurseries in the local area and region. The current ordinance requires such replacement trees to be “...a minimum of 3 inches in caliper and 10 feet in height” at the time of planting. Staff received credible reports from local landscaping contractors and followed up by contacting regional plant nurseries to document that this size of tree is not readily available.

At its meeting on November 6, 2024, the Duck Town Council authorized Community Development staff to work with the Planning Board to review the violations and penalties section of the Tree and Vegetation Preservation ordinance and recommend a more appropriate penalty and replanting standards.

**Proposal**

The Duck Planning Board is recommending approval of this proposal to amend the current tree protection and penalty standards in the Zoning Ordinance by reducing the minimum size of replacement trees from a three-inch (3”) caliper to a two-inch (2”) caliper for tree removal violations to better address tree availability issues and be more consistent with “real world” situations faced by local landscaping contractors.

Please note that the proposed amendment does not reduce the size/amount of the overall penalty for violations. It simply allows smaller trees to be planted to fulfill the penalty requirements.





**Background Information**

In June 2007, the Duck Town Council adopted a *Tree and Vegetation Preservation and Planning* ordinance. This ordinance established standards concerning if/when trees can be removed, minimum requirements for tree canopy coverage, and vegetation protection during development. The ordinance was updated in March 2008 with additional canopy coverage standards and other minor amendments.

In March 2010, the Town Council added a subsection establishing specific fines and penalties for violation of the Town's Tree Preservation Ordinance.

In June 2015, following several months of comprehensive review by the Planning Board, the Duck Town Council adopted many substantial text amendments to Section 156.137, *Tree and Vegetation Preservation and Planning* (Attachment A). The specific amendments are summarized as follows:

- Added standards for measurement of multi-trunk trees – 156.137(A)(3)
- Added requirements for documentation of emergency tree removal – 156.137(D)(3)
- Not permitting shrubs to be planted as a substitute for replacement trees – 156.137(F)(2)(a)
- Eliminated a prohibition against tree topping – 156.137(H)(3)(a)(7)
- Added greater requirements for replacement tree planting as a penalty for improper tree removal – 156.137(J)(5)
- Established provisions for off-site planting or payment-in-lieu for situations where it is infeasible to replant all required plantings on site – 156.137(J)(6)

**Applicable Ordinance Standards**

The entire *Tree and Vegetation Preservation and Planning* ordinance is attached for your reference but the violations and penalty standards found in Subsection 156.137(J) are outlined below. The subsection proposed for change is highlighted.

*(J) Violations and penalties.*

(1) It shall be a violation for any person to remove a tree without having first obtained a tree removal permit, if so required under the provisions of Subsections 156.115 and 156.137 of the Town Code. It shall be a violation for a property owner to employ, authorize or direct any third person or entity to remove a tree without having first obtained a tree removal permit, if so required under the provisions of this section.

(2) A separate violation shall be deemed to have occurred for each tree removed without a tree removal permit in violation of the provisions of this section.

(3) Each violation of the tree removal permit requirements of this section shall subject the offender to a civil penalty in the amount of \$1,000.



(4) Removal of a tree greater than 6 inches in diameter at breast height on any vacant, undeveloped parcel without the necessary permits and approvals as defined above in Subsection 156.137(B), shall subject the offender to a civil penalty according to the following procedure.

(a) If the number and type of removed trees and/or vegetation can be determined, the civil penalty shall be assessed as follows:

1. Unauthorized removal of large trees as defined by the "Town of Duck Vegetation Planting Guidelines" shall subject the offender to a civil penalty in the amount of \$400 per tree.

2. Unauthorized removal of small trees as defined by the "Town of Duck Vegetation Planting Guidelines" shall subject the offender to a civil penalty in the amount of \$200 per tree.

1. Unauthorized removal of shrubs as defined by the "Town of Duck Vegetation Planting Guidelines" shall subject the offender to a civil penalty in the amount of \$40 per shrub.

(b) If the number and type of removed trees and/or vegetation cannot be determined, a civil penalty can be determined based on the square footage of disturbed area and/or area of canopy coverage removed. The penalty shall be equal to \$1 for every 1 square foot of canopy coverage removed. In no instance shall the civil penalty exceed \$5,000.

(5) Unauthorized removal of trees and vegetation shall also subject the offender to mitigation requirements as specified herein.

(a) When dealing with violations of clear-cutting standards under Subsection 156.137(B) or canopy coverage standards in Subsection 156.137(G), the required canopy coverage of replacement trees shall be no less than the canopy coverage which has been determined to have been removed for the assessment of the required civil penalty. The mitigation requirements shall be calculated using the formula to determine canopy coverage as defined above in Subsection 156.137(G). Replacement trees and vegetation, to the extent that it can be determined, shall of a similar type to that which has been removed.

(b) When dealing with tree removal violations of Subsection 156.137(C), the diameter at breast height measurement of the trunk shall be used to determine the number of replacement trees. Trees of similar type must be planted such that the total caliper inches of trees planted is no less than the dbh of the tree(s) removed. In cases where the size of an individual tree(s) cannot be determined, the canopy coverage of replacement trees and vegetation shall be no less than the canopy coverage which has been determined to have been removed for the assessment of the required civil penalty.

(c) The size of such replacement trees at the time of installation shall be a minimum of 3 inches in caliper and 10 feet in height. Each tree must be planted at least 30 feet from any other tree.

(6) If in the determination of the Zoning Administrator, the site cannot reasonably accommodate the required numbers of replacement trees, then only the amount of trees which can be accommodated on the site will be replaced and the remainder of replacement trees and vegetation shall be mitigated through a payment in lieu of providing on-site trees. This payment shall be made to the Town of Duck to be used for tree and vegetation planting and maintenance in public spaces. The amount of the payment shall be in accordance with the costs for purchase, delivery, and planting of the required replacement trees and vegetation.



**Standards in Other Communities**

The following list summarizes the fines and penalties used by a sample of other communities in North Carolina when trees are improperly removed. All these communities have a tree protection ordinance and have earned Tree City USA certification from the National Arbor Day Foundation.

<b>COMMUNITY</b>	<b>FINE</b>	<b>OTHER PENALTY</b>
Town of Cary	\$2,000	Replant inch/inch based on caliper of trees removed
Town of Chapel Hill	1 1/2 times the value of the trees removed (max. \$20,000)	
Town of Oak Island	\$500	Tree replanting consistent with planting plan
Town of Riverbend		Replant 30 trees/acre
City of Southport	\$100-\$200/dbh	Replant inch/inch based on caliper of trees removed
City of Wilmington	Optional fee-in-lieu of planting	Replant two times caliper of trees removed
City of Wilson	Optional fee-in-lieu of planting based on value of trees removed	Replant in compliance with landscaping ordinance standards

Regarding the size of replacement trees to be planted, staff has compiled the following sample of minimum tree sizes from communities throughout the State.

<b>COMMUNITY</b>	<b>TYPE OF TREE</b>	<b>MINIMUM SIZE</b>
Town of Cary	Canopy	2.5" caliper
City of Elizabeth City		8' height, 2" caliper
Town of Grifton		6' height, 2" caliper
City of Jacksonville	Canopy Understory	8-10' height, 2" caliper 8' height, 1" caliper
Town of Oak Island	Canopy	2" caliper
Town of Riverbend		2" caliper
City of Southport	Canopy Understory	3" caliper 2" caliper
City of Wilmington		2" caliper
City of Wilson		2.5" caliper



**Tree Availability/Cost**

As noted in the proposal, one of the key issues is the availability (or lack thereof) of larger trees that comply with the Town’s replanting standards. Staff has consulted with local and regional nurseries to better understand the availability and estimate the cost of purchasing and planting different sized trees. Community Planner Jim Gould compiled the following information from local and regional nurseries:

- Home Depot (Kitty Hawk, NC) - Do not have 3” caliper trees available.
- Lowe’s (Kill Devil Hills, NC) – Do not have 3” caliper trees available.
- Kitty Hawk Garden Center (Kitty Hawk, NC) – closed for the season. Have not had 3” caliper trees available in the past.
- Nature’s Harmony (Manns Harbor, NC) – closed for the season. Have not had 3” caliper trees available in the past.
- Bennett’s Creek Nursery (Powells Point, NC) – 3” caliper trees not available on site but can be ordered from Virginia.
- Greenbrier Farms (Chesapeake, VA) – 3” caliper trees not available on site but can be ordered.
- Tidewater Trees (Virginia Beach, VA) – 3” caliper trees are available.
- Coastal Landscapes & Nursery (Virginia Beach, VA) – 3” caliper trees are available.
- Lancaster Farms Wholesale Nursery (Suffolk, VA) – 3” caliper trees not available on site.

So, only two of nine regional nurseries contacted have 3” caliper trees readily available.

The estimated costs are as follows:

<b>SIZE OF TREE</b>	<b>ESTIMATED PURCHASE COST</b>
1.5”– 2” caliper	\$100-\$125 tree
2”-2.5” caliper	\$110-\$180 tree
2.5”-3” caliper	\$130-\$180 tree
3” caliper	\$170-\$200 tree

There are additional costs for tree delivery and planting, which can increase the cost of the tree itself many times over. For example, Greenbrier Farms charges \$700-\$750 for delivery of a truckload of trees to Duck. Local landscape contractor, Albemarle Landscapes & Tree Service, provided an estimate of approximately \$500/tree for purchase, delivery, and planting of a 3” caliper tree as heavy equipment is required to dig and transport each tree. Local general contractors have reported costs of over \$1,000/tree for delivery and installation by a landscape contractor.

**Duck Comprehensive & CAMA Land Use Plan**

The Town of Duck’s adopted Comprehensive & CAMA Land Use Plan contains the following goal and recommendations relating to tree and vegetation preservation and protection.



Goal 3 of the CLUP is “to preserve and protect terrestrial ecosystems”. To accomplish this goal, the following applicable actions are recommended:

3.2: “Continue tree preservation and landscaping site development standards.”

3.2.1: “Implement best practices for fire and storm safety in site development and neighborhood design requirements that also balance with the benefits of native vegetation.” The accompanying note highlights that vegetation helps reduce stormwater flooding and helps treat stormwater. It also improves air quality by trapping dust, sand, and other airborne particles.

3.2.2: “Provide opportunities to educate the public about the variety and importance of natural ecosystems.”

As part of its recommendation, the Planning Board determined that the proposed ordinance was consistent with the Town’s adopted Comprehensive & CAMA Land Use Plan. As part of its decision, the Town Council is asked to make a final determination if the proposed text amendment is consistent with the CLUP.

### **Planning Board Recommendation**

At its public meeting on March 12, 2025, the Duck Planning Board voted (3-2) to recommend APPROVAL of Ordinance 25-01 which proposes to amend the current tree protection and penalty standards in the Zoning Ordinance by reducing the minimum size of replacement trees from a three-inch (3”) caliper to a two-inch (2”) caliper for tree removal violations. During their review, the Board members evaluated standards from other communities, determined the availability of larger trees from local/regional nurseries, and discussed several other potential changes to the Town’s current standards.

The Board members voting in favor of the motion to recommend approval of the amendment stated concerns about the lack of local/regional availability of larger trees and challenges that presents to local contractors, pointed out that smaller trees suffer less replanting shock and begin to grow quicker, and noted that the amended ordinance would still require a substantial penalty to deter violations. They also expressed an opinion that the proposal is consistent with the Town’s adopted Comprehensive & Land Use Plan.

The members voting against the motion questioned its necessity, expressed concerns that the reduction in tree size would lessen the immediate visual impact of the replanting, and be less of a deterrent to potential violations of the tree preservation ordinance.

### **ATTACHMENTS**

- A. Town Code Section 156.137
- B. Draft Ordinance 25-01
- C. Letter of Transmittal to Town Council

## § 156.137 TREE AND VEGETATION PRESERVATION AND PLANNING.

### (A) Purpose.

(1) The purpose of this section is to preserve, protect, and replace trees and vegetation within the town because such plantings:

- (a) Are an important public resource;
- (b) Preserve and enhance the town's physical and aesthetic environment, especially its natural and unique atmosphere;
- (c) Enhance the air quality by filtering air pollutants;
- (d) Reduce topsoil erosion by the holding effect of their roots;
- (e) Reduce storm water runoff;
- (f) Provide a buffer and screen against noise pollution;
- (g) Reduce energy consumption by acting as a wind break and producing shade;
- (h) Preserve and enhance nesting areas for birds and other wildlife which, in turn, assist in the control of insects;
- (i) Protect and enhance property values;
- (j) Protect and enhance the quality of life and the general welfare of the town; and
- (k) Improve the compatibility of uses by providing privacy and enhancing the aesthetic transition between uses.

(2) For the purpose of this section, **TREE** is defined as a self-supporting, woody plant, together with its root system, having a well-defined stem or trunk or a multi-stemmed trunk system, a more or less well-defined crown, and a mature height of at least 8 feet. **TREE** does not include trees in containers or nursery stock trees kept or maintained for resale. **VEGETATION** is herein defined as perennial bushes and shrubs or ornamental or other grasses meeting minimum size requirements at planting.

### (3) Multi-trunk trees.

(a) For the purposes of this section, **MULTI-TRUNK TREES** are defined as trees that have more than 1 trunk growing from a single root mass or trees that split into multiple stems below breast height (4 1/2 feet above ground).

(b) The diameter at breast height of multi-trunk trees shall be measured according to the following formula from the U.S. Forest Service National Core Field Guide: the dbh for a multi-trunk tree is calculated by taking the square root of the sum of squared dbhs of all trunks. The following example shows how this formula is intended to be applied:

*Example: multi-trunk tree with four 10-inch trunks*

1. Find square of each trunk.  $10 \times 10 = 100$
2. Add squared numbers together.  $100 + 100 + 100 + 100 = 400$
3. Calculate square root of total. Square root of 400 = 20
4. This multi-stem tree would be measured as a 20 inch dbh tree.

(c) Preserving some trunks of a multi-trunk tree is preferable to removal of the entire tree. The Director is authorized to allow the pruning or removal of an individual trunk to accommodate reasonable development of a property.

(B) *Clear cutting.* On a vacant, undeveloped parcel, removal of any tree greater than 6 inches in diameter at breast height is prohibited except after receiving an approved development site plan and issued building permit, an approved tree management plan and any required tree removal permit.

### (C) Tree removal permit.

(1) *Permit required.* No person shall remove or destroy any tree which is 24 inches or greater diameter at breast height on any lot without first obtaining a tree removal permit from the Zoning Administrator in accordance with the procedures set forth in this section. Further, no person shall remove or destroy any tree located in the common open space of any development without first obtaining a tree removal permit.

(2) *Issuance of permit.* Tree removal permits shall be issued only after the Zoning Administrator has received the required tree management plan and a completed application for such permit which has been signed by the property owner. In determining whether to grant or deny a permit, the Zoning Administrator shall consider:

- (a) The effect of the proposed tree removal upon the stabilization of soil;
- (b) The intended use of the property and feasible alternatives which would preserve existing trees;
- (c) The existing topography, proposed changes in the topography and proposed landscaping;

- (d) The hardship imposed or the reasonable use denied to the applicant as a result of permit denial;
- (e) Historical value of the trees;
- (f) Good horticultural and forestry practices;
- (g) The effect of the proposed tree removal on the deadening and absorption of sound;
- (h) The likelihood that the proposed action will adversely affect the control of flooding or soil erosion;
- (i) The impact of such action on surrounding property or persons;
- (j) The consistency of the proposed action with the purpose of this section.

(3) (a) A permit shall expire and become null and void if work authorized is not commenced within 6 months from the date of the permit or if such work when commenced is suspended or abandoned at any time for a period of 6 months;

(b) If work has commenced and the permit becomes null and void or expires because of lack of progress or abandonment, a new permit for the proposed tree removal activity shall be obtained before proceeding with further work.

(4) Removal of any size tree where the tree trunk is within 10 feet of a structure shall be allowed without a permit.

(D) *Tree emergency exception.*

(1) A tree emergency shall be deemed to exist when:

(a) A tree has become an imminent danger or hazard to persons or property as a result of fire, motor vehicle accident, or natural occurrence such as lightning, windstorm, ice storm, flood, or other similar event; or

(b) A tree must be removed in order to perform emergency repair or replacement of public or private water, sewer, electric, gas, or telecommunications utilities.

(2) In the case of a tree emergency, the Director is hereby authorized to:

(a) Issue a tree removal permit without an application;

(b) Waive the requirement for a tree removal permit set forth in this section; or

(c) Waive any of the other regulations of this section.

(3) Notwithstanding any other regulations, a person otherwise required to obtain a tree removal permit may take any reasonable action necessary to avoid or eliminate the immediate danger or hazard, or conduct emergency repair or replacement of the public or private utility. The person taking such action shall file an application for a tree removal permit within 72 hours after a tree is removed in a tree emergency.

(4) In these instances, documentation of the need for the emergency tree removal must be provided. Such documentation can include (as applicable):

(a) Documentation from a certified arborist;

(b) Police report;

(c) Photographs; and/or

(d) Other information documenting the condition of the tree and circumstances surrounding its removal.

(E) *Vegetation management plan required for new development and substantial redevelopment.* Any addition to the footprint of a structure, increases in lot coverage, changes to driveway and parking areas, or total renovation cost greater than or equal to 50% of the assessed value of the principal structure and for tree removal permits as required in division (C) (1).

(1) Any applicant proposing to remove or destroy existing trees or vegetation in conjunction with any land development activity, including the moving of buildings, shall submit a vegetation management plan containing such of the following information as deemed necessary by the Director:

(a) The location, size and species of all trees which are at least 6 inches diameter at breast height, indicating which are to be preserved, which are to be removed, and a description of the condition of trees or vegetation that are to be preserved;

(b) Specifications for the removal of trees and protection of trees during construction;

(c) Proposed grade changes or other potentially injurious work adjacent to trees or vegetation designated for preservation with specifications for maintaining ground drainage and aeration around such trees;

(d) The location, size and species of all vegetation to be planted;

(e) An estimate of the vegetation canopy coverage to be provided as required in division (G) via retention or new planting; and

(f) Such other information that the Director deems essential.

(2) Any applicant proposing to remove or destroy multiple existing trees or substantial vegetation on a developed lot not in conjunction with a land development activity shall ensure that the total vegetation cover on the property is equal to or greater than the minimum requirement through retention of existing vegetation or planting of new vegetation to meet ordinance requirements.

(3) Although not required, any person or firm subject to the requirements of this chapter is encouraged to seek professional assistance from a certified arborist, landscape architect, or similar professional.

(F) *Acts harmful to trees.*

(1) No person shall abuse, mutilate or otherwise damage any tree or vegetation located on public property, or any tree or vegetation protected by this section, including those located in the public right-of-way along street frontages within subdivisions. However, nothing in this section shall be construed to prevent reasonable and proper trimming of trees or vegetation located on public property by authorized persons in accordance with accepted horticultural practices.

(2) No person shall attach any sign, notice, placard, electrical wire or other injurious device to any tree, nor shall any person cause any substance harmful to trees to come in contact with them, or prevent water and oxygen from reaching their roots.

(G) *Canopy cover required.*

(1) New development and substantial redevelopment as defined in §156.137(E) on any property shall provide for the planting or retention of trees (or approved substitute vegetation in the "Town of Duck Vegetation Planting Guidelines") on the site to provide for a minimum vegetative lot coverage as follows:

(a) Ten percent for a lot within any commercial zoning district;

(b) Fifteen percent for a residential lot; and

(c) Required vegetative lot coverage will be calculated based on the total lot area minus the footprint of the principal building.

(2) To meet the minimum requirements of this division, vegetative lot coverage shall be calculated using the following methods:

(a) Vegetation that is newly planted to meet vegetative lot coverage requirements shall include only vegetation on an approved list of local vegetation, as provided in the "Town of Duck Vegetation Planting Guidelines," or other trees, bushes, shrubs, or grasses as approved by the Zoning Administrator upon submission of a landscape plan with assessment of local hardiness and calculation of canopy. All vegetation planted to meet these requirements shall be a minimum size as specified in the "Town of Duck Vegetation Planting Guidelines" and shall be planted as described in the technical standards included within the guidelines. Palm trees and tropical vegetation cannot be counted to meet vegetative lot coverage requirements. The plant list contained in the "Town of Duck Vegetation Planting Guidelines" defines the plant species that are included within each category. If the canopy coverage is accomplished by installation, canopy credit shall be provided based on the categories listed below:

1. Large trees, provide a 400 square foot canopy credit.

2. Small trees, provide a 200 square foot canopy credit.

3. Mulched bushes or shrubs (18-24 inches minimum height at planting or a 3 gallon size) provide a 40 square foot canopy credit.

4. Ornamental grasses (18-24 inches minimum height at planting or of a 3-gallon size) provide a 20 square foot canopy credit. Credit for smaller coastal grasses and forbs, such as American Beach Grass, will be provided at 100 sprigs or plants for every 100 square feet of lot area. Credit will not be provided for retention of existing vegetation in oceanfront areas within the CAMA small structure setback.

(b) Existing vegetation that is retained to meet vegetative lot coverage requirements may be calculated based on the methods described in division (a) above based on the allowable square footage as shown for large and small trees, shrubs, and grasses. Areas of significant, mature vegetation that will remain undisturbed may also be calculated on a square foot basis by determining the area within the perimeter surrounding the vegetation to be retained. Existing vegetation to be retained need not be on the approved list of local vegetation as provided in the "Town of Duck Vegetation Planting Guidelines," provided it is a native or locally adaptive plant species.

(c) For trees to be eligible for any tree canopy cover credit, the required amount of open soil surface must be present and protected around the tree. The area of vegetative canopy cover for which credit is given shall always remain in vegetative cover and there shall be no other use of the area other than for vegetation growth or passive recreation except as otherwise provided herein. Developed properties shall be required to maintain the minimum vegetative canopy described above and must provide for replacement of or vegetations that are removed, per division (E)(2).

(H) *Vegetation protection during and post development.*

(1) During development or razing activity, the builder shall install effective dripline protection around all vegetation preservation areas, and shall further install tree wells, retaining walls, construction fencing, or other structures necessary to protect individual trees designated for preservation. The protective measures shall be specified on the vegetation



management plan and shall be designed and installed in a manner consistent with good horticultural practices and subject to the approval of the site plan approving agent.

(2) If vegetation is not listed for removal on the tree removal permit but is destroyed or receives major damage due to construction activities, it must be replaced with vegetation sufficient to reach the required vegetation canopy, subject to review and approval of the Zoning Administrator.

(3) Trees conserved and planted to meet vegetation canopy requirements shall be actively protected during development activity and passively protected throughout their life in accordance with requirements for protected trees set forth below:

(a) *Prohibited activities.* During lot clearing, grading, building, and all construction activities, the following activities and conditions, and any other activities and conditions harmful to a tree's roots, trunk, or crown, within the vegetation protection zone are prohibited:

1. Vehicle or equipment traffic, parking, or storage, except as provided for in limited activities below;
2. Materials or supplies storage;
3. Placement of temporary or permanent structures;
4. Equipment maintenance or washout;
5. Wounding of trunk;
6. Wounding or breakage of scaffold limbs or branches greater than 6 inches in diameter; and
7. Fires; excessive heat from equipment exhaust pipes.

(b) *Limited activities.* During lot clearing, grading, building, and all construction activities, the following activities and conditions within the vegetation protection zone are limited to 1 side of the tree in the outer half of the dripline, but in no case closer than 2 1/2 feet to the trunk of a planted tree and 10 feet to the trunk of a conserved tree:

1. Site or lot clearing or grubbing;
2. Soil excavation;
3. Soil cuts;
4. Soil fill;
5. Grading;
6. Trenching;
7. Tilling;
8. Edging;
9. Soil compaction;
10. Top dressing with soil greater than 2 inches in depth; and
11. Paving.

(l) *Preservation of special trees.*

(1) The Town Council may, by ordinance, designate any tree as a heritage, memorial, or designated specimen tree. A heritage tree means any tree which the Town Council has designated by ordinance to have notable historic or cultural interest. A memorial tree means any tree which the Town Council has designated by ordinance to be a special commemorating memorial. A designated specimen tree means any tree which the Town Council has designated by ordinance to be notable by virtue of its outstanding size and quality for its particular species. No designated tree shall be removed, damaged or disturbed in any way unless the Town Council finds that:

- (a) There is an overriding need for public improvements;
- (b) A severe hardship exists in developing a site; or

(c) The tree dies, becomes irreversibly diseased or irreversibly damaged by natural causes. In permitting such action, the Town Council may require that the tree be relocated on-site or to another site designated by the town, or be replaced with a similar tree or trees to approximate the canopy lost.

(2) The provisions of this section shall not apply to:

- (a) Work conducted on federal, state, or local government owned property;
- (b) Emergency work to protect life, limb or property; and
- (c) Routine installation, maintenance and repair of utilities.

(J) *Violations and penalties.*

(1) It shall be a violation for any person to remove a tree without having first obtained a tree removal permit, if so required under the provisions of §§ 156.115 and 156.137 of the Town Code. It shall be a violation for a property owner to employ, authorize or direct any third person or entity to remove a tree without having first obtained a tree removal permit, if so required under the provisions of this section.

(2) A separate violation shall be deemed to have occurred for each tree removed without a tree removal permit in violation of the provisions of this section.

(3) Each violation of the tree removal permit requirements of this section shall subject the offender to a civil penalty in the amount of \$1,000.

(4) Removal of a tree greater than 6 inches in diameter at breast height on any vacant, undeveloped parcel without the necessary permits and approvals as defined above in § 156.137(B), shall subject the offender to a civil penalty according to the following procedure.

(a) If the number and type of removed trees and/or vegetation can be determined, the civil penalty shall be assessed as follows:

1. Unauthorized removal of large trees as defined by the "Town of Duck Vegetation Planting Guidelines" shall subject the offender to a civil penalty in the amount of \$400 per tree.

2. Unauthorized removal of small trees as defined by the "Town of Duck Vegetation Planting Guidelines" shall subject the offender to a civil penalty in the amount of \$200 per tree.

3. Unauthorized removal of shrubs as defined by the "Town of Duck Vegetation Planting Guidelines" shall subject the offender to a civil penalty in the amount of \$40 per shrub.

(b) If the number and type of removed trees and/or vegetation cannot be determined, a civil penalty can be determined based on the square footage of disturbed area and/or area of canopy coverage removed. The penalty shall be equal to \$1 for every 1 square foot of canopy coverage removed. In no instance shall the civil penalty exceed \$5,000.

(5) Unauthorized removal of trees and vegetation shall also subject the offender to mitigation requirements as specified herein.

(a) When dealing with violations of clear-cutting standards under §156.137(B) or canopy coverage standards in § 156.137(G), the required canopy coverage of replacement trees shall be no less than the canopy coverage which has been determined to have been removed for the assessment of the required civil penalty. The mitigation requirements shall be calculated using the formula to determine canopy coverage as defined above in § 156.137(G). Replacement trees and vegetation, to the extent that it can be determined, shall of a similar type to that which has been removed.

(b) When dealing with tree removal violations of § 156.137(C), the diameter at breast height measurement of the trunk shall be used to determine the number of replacement trees. Trees of similar type must be planted such that the total caliper inches of trees planted is no less than the dbh of the tree(s) removed. In cases where the size of an individual tree(s) cannot be determined, the canopy coverage of replacement trees and vegetation shall be no less than the canopy coverage which has been determined to have been removed for the assessment of the required civil penalty.

(c) The size of such replacement trees at the time of installation shall be a minimum of 3 inches in caliper and 10 feet in height. Each tree must be planted at least 30 feet from any other tree.

(6) If in the determination of the Zoning Administrator, the site cannot reasonably accommodate the required numbers of replacement trees, then only the amount of trees which can be accommodated on the site will be replaced and the remainder of replacement trees and vegetation shall be mitigated through a payment in lieu of providing on-site trees. This payment shall be made to the Town of Duck to be used for tree and vegetation planting and maintenance in public spaces. The amount of the payment shall be in accordance with the costs for purchase, delivery, and planting of the required replacement trees and vegetation.

(K) *Conflicting provisions.*

(1) Where provisions of this zoning chapter dictate conflicting landscaping or screening requirements, the more stringent requirements shall prevail.

(2) Except under the following conditions, no certificate of occupancy or other final approval shall be issued until the relocation or replacement of trees and/or vegetation, as required by the tree removal or vegetation management plan, has been completed and the final approval has been given by the Zoning Administrator. To address temporary adverse conditions during the current planting season, at any time prior to the issuance of the certificate of occupancy the property owner may request to defer installation of vegetation for a period not to exceed 90 days beyond the date of the certificate of occupancy. This request will be accompanied by the following:

(a) A cash deposit, an irrevocable letter of credit, or other financial surety shall be provided to the town to be held until the planting is completed. The amount shall be equal to \$1 for every 1 square foot of canopy coverage required to be installed to satisfy the canopy coverage requirements as specified in the approved vegetation management plan.

(b) A signed memorandum of understanding between the property owner or authorized agent and the town specifying

the timeframe for installation of all vegetation and the penalties for failing to abide by the terms of the agreement. This agreement shall also include terms for refunding the cash deposit upon verification of compliance with terms of the vegetation management plan or tree removal permit.

(L) *Special use permits.* The Town Council may, upon application of the property owner, grant special use permits modifying the requirements of this section in accordance with the procedures and limitations established for special use permits in § 156.155. Special use permits shall be granted only if the applicant has clearly demonstrated a situation of extreme topography, unusual lot shape or extraordinary circumstance. In addition, the requested special use permit shall only be granted if the Town Council finds that the proposed development will not be inconsistent with the Comprehensive & Land Use Plan and the purpose of this section, and otherwise will not result in inadequate on-site amenity or any condition which will adversely affect nearby property. Requests for special use permits may be granted in whole, in modified form with conditions or denied by the Town Council after consideration of the requisites presented in this section.

(M) *Irrigation.* Vegetation that is well-adapted to the local environment does not generally require irrigation. Irrigation systems are not required; however, all irrigation systems installed subsequent to this section must meet the requirements of this section. If irrigation systems are used, the preferred source for their water is from individual or community wells rather than from the county water supply. For irrigation systems which use county water, the installation shall include rain sensors so that unnecessary watering does not occur and thereby add to the local high ground water table. No components of an individually owned private irrigation system shall be installed in any right-of-way. Water from sprinkler heads of an irrigation system shall be appropriately directed to retain the flow of water on the site for which it has been installed and to avoid run-off to adjacent properties and rights-of-way.

(Ord. 07-05, passed 6-6-2007; Am. Ord. 08-01, passed 3-5-2008; Am. Ord. 10-03, passed 3-3-2010; Am. Ord. 15-06, passed 6-3-2015; Am. Ord. 21-01, passed 6-2-2021) Penalty, see § 156.999

**AN ORDINANCE UPDATING TREE PRESERVATION PENALTIES  
IN THE ZONING ORDINANCE OF THE TOWN OF DUCK,  
NORTH CAROLINA**

**Ordinance 25-01**

**WHEREAS**, when facing replanting penalties, contractors and property owners have been unable to readily find and purchase trees of the minimum size required by the ordinance from plant nurseries in the local area and region; and

**WHEREAS**, the Duck Planning Board has considered this standard and voted to recommend approval of this ordinance at its public meeting on March 12, 2025; and

**WHEREAS**, the Town Council has found this ordinance to be consistent with the Town's adopted Comprehensive & CAMA Land Use Plan; and

**WHEREAS**, the Town Council has determined that this amendment would be beneficial by updating the Town's tree violation penalties to address tree availability issues and be more consistent with "real world" situations.

**NOW THEREFORE BE IT ORDAINED** by the Town Council for the Town of Duck, North Carolina that the Town's penalties for tree protection violations in Subsection 156.137(J) of the Zoning Ordinance shall be amended as follows:

**PART I.** The Town's minimum size standard for replacement trees in Town Code Subsection 156.137(J)(5)(c) be amended to read as follows:

"(c) The size of such replacement trees at the time of installation shall be a minimum of two inches (2") in caliper. Each tree must be planted at least 30 feet from any other tree."

**PART II.** This ordinance shall be effective upon its adoption.

\_\_\_\_\_  
Don Kingston, Mayor

ATTEST:

\_\_\_\_\_  
Lori Ackerman, Town Clerk

Date adopted: \_\_\_\_\_

Motion to adopt by: \_\_\_\_\_

Vote: \_\_\_\_\_AYES \_\_\_\_\_NAYS

DRAFT



March 13, 2025

RE: Ordinance 25-01: Text Amendment to the Penalty Section for Violations of Town's Tree & Vegetation Preservation Standards

Mayor Kingston and Duck Town Council Members:

At its meeting on November 6, 2024, the Duck Town Council authorized Community Development staff to work with the Planning Board to review the violations and penalties section of the Tree and Vegetation Preservation ordinance and recommend more appropriate penalty and replanting standards. At its public meeting on January 15, 2025, the Duck Planning Board reviewed standards from other communities, availability of trees from local/regional nurseries, and discussed potential changes to the Town's current standards.

Following additional discussion and consideration at its meeting on March 12, 2025, the Duck Planning Board voted (3-2, Murray/Wetzel/Snyder in favor, Cofield/Webb opposed) to recommend approval of the attached text amendment reducing the minimum size of trees (from 3" caliper to 2" caliper) to be planted as part of the penalty for violation of the tree preservation ordinance. Please note that this proposal would not change the fines or overall amount of tree planting required as a penalty for tree preservation violations.

Evidenced by the split vote, there were differing opinions about the necessity of the proposed amendment. The Board members voting in favor of the motion to recommend approval of the amendment stated concerns about the lack of local/regional availability of larger trees and challenges that presents to local contractors, pointed out that smaller trees suffer less replanting shock and begin to grow quicker, and noted that the amended ordinance would still require a substantial penalty to deter violations. They also expressed an opinion that the proposal is consistent with the Town's adopted Comprehensive & Land Use Plan.

The members voting against the motion questioned its necessity, expressed concerns that the reduction in tree size would lessen the immediate visual impact of the replanting, and be less of a deterrent to potential violations of the tree preservation ordinance.

*Text Amendment:  
Planning Board Recommendation to Council  
Page 2 of 2*

Sincerely, /s/

Marc Murray, Chairman  
Town of Duck Planning Board

**AGENDA:****May 7, 2025****Regular Meeting****ITEM #6B:**

Legislative Public Hearings

- B. Public Hearing/Discussion/Consideration of the Proposed Fiscal Year 2025-2026 Budget

**RECOMMENDED ACTION:**

- Conduct the Public Hearing; per discussion

**SUMMARY OF INFORMATION:**

At the Council's April mid-month meeting, the Town Manager presented a Proposed FY 2026 Budget. The proposed budget is based on an Ad Valorem tax rate of \$0.18 for FY 2025-2026 which is \$0.07 cents less than the FY 2024-25 tax rate, but \$0.0245 cents more than the revenue-neutral tax rate. The Proposed Budget also sets the tax rates for the two MSDs as follows: MSD-A would be at the rate of \$0.0798 and MSD-B at the rate of \$0.189, both of which are set to the revenue neutral rate. The Council will hold the Public Hearing and defer further action until after the work sessions. The budget must be adopted by June 30, 2025.

**ATTACHMENTS:**

- FY 2025-2026 Budget Message
- Budget Ordinance
- The draft Budget is available online at <https://ducknc.gov/town-council/budget/> and clicking on the Draft Fiscal Year 2025 - 2026 Budget Document





## **Budget Message**

May 7, 2025

Dear Mayor Kingston and Duck Town Council:

In accordance with the Local Government Budget and Fiscal Control Act and NC General Statute 159-11, the Annual Budget for Fiscal Year beginning July 1, 2025, and ending June 30, 2026 is balanced and hereby submitted for your consideration.

Multiple factors influence the annual budget process, including the condition of the national, state, and local economies and the emergent and pre-emergent needs identified in our community by elected officials, staff, advisory boards, and citizens as we continue our quest for continual improvement in all our services and offerings.

Taking all these factors into account, this budget represents a significant amount of careful consideration and study in order for the Town to meet its obligations, fulfill some of its goals, and remain fiscally healthy.

In preparing the Fiscal Year 2025-2026 (FY25-26) Budget, Town staff followed guidance from Town Council's adopted Vision 2032 which contains the following:

### **THE SIX UNIFYING PRINCIPLES**

Duck is a community that expresses its beliefs in certain unifying principles:

#### **DUCK AND OUR VILLAGE**

Our residential neighborhoods and Duck Village connect to form the fabric of our community. Our collection of small shops, restaurants, offices, parks and boardwalks combine to shape the Duck experience. The development of the Village has a coastal residential style and scale and its continuity creates an energetic and walkable experience. Our quality of life is enhanced through innovative solutions that protect and preserve the Village's unique character and environment.

#### **ENHANCED MOVABILITY**

Duck is a pedestrian first community that is safe and easy to navigate by walking and cycling. Our multi-use trail, sidewalks, soundside boardwalk, and beach provide a variety of ways to explore and discover Duck. Collaboration with various organizations enables us to optimize our traffic flow in our unique seasonal environment.

## **ENVIRONMENTAL STEWARDSHIP**

There is a conscious respect for Duck's fragile and extraordinary environment. We protect and preserve opportunities for our residents and visitors to enjoy our ocean, sound, and natural coastal habitats. We value our pristine, safe, uninterrupted beaches, which are our most valuable asset. Our resilience and adaptability, guided by environmental awareness and forward thinking, ensure our sustainability as a community.

## **ACTIVE, ENGAGED COMMUNITY**

Duck is built on participation. We are an inclusive community that welcomes and embraces the diversity, talents, and expertise of all of our stakeholders. Pride and ownership is felt by all who live, work, and visit here. People feel connected by a shared motivation to preserve the unique nature of this special place.

## **VIBRANT, THRIVING BUSINESS COMMUNITY**

The business community plays an essential role in creating the Duck experience. A high level of collaboration and coordination ensures that we have a vibrant town where each and every individual can enjoy the recreation, arts, music, shopping, dining, and lodging unique to Duck.

## **RESPONSIVE AND RESPONSIBLE LEADERSHIP**

Duck maintains a responsive and responsible government. Council, staff, and the community work together to offer high quality services intended to add value to the entire Town. We have an educated, experienced and motivated staff empowered to execute the Town's objectives. Duck is an innovative and respected leader within the Outer Banks region and its solutions are frequently emulated by others. Continuity of leadership preserves our established values and vision.

The FY25-26 Budget totals \$13,123,845 for all Town operations, capital improvements, and debt service requirements. This is \$3,398,535 (20.6%) less than the FY24-25 Budget. Following Town Council's direction, the budget is balanced with a tax rate of **\$0.18**, which represents a **2.45 cent increase** in this rate above the Revenue Neutral tax rate of \$0.1555. This budget sets the MSD tax rates at their Revenue Neutral levels of \$0.0798 for MSD-A and \$0.189 for MSD-B. While increasing the tax rate is not an action taken without extensive and careful consideration, the effects of inflation on operational and personnel expenses, and a desire to maintain and improve the community, made an increase necessary even after extensive reductions (\$1.6 million) in budget requests.

In addition to our primary (General) fund, we have a Capital Reserve Fund for our Beach Nourishment project. This fund receives revenue, via transfer from the General Fund, an amount equal to the MSD tax revenue plus a proportionate share of the Sales Tax Revenue that equates to the impact on this revenue due to the MSD tax levy. This proportionate share is estimated to be 15.64% of the total received. Transfers from the Capital Reserve Fund are for debt service, professional services, and other expenses directly related to our Beach Nourishment project.

## Revenue

After benefiting from a few years, post COVID-19 pandemic, where we experienced increases in tourism-based revenue that helped mitigate against an increase in the tax rate while still allowing for projects to improve and maintain our facilities, we have seen a return to pre-pandemic levels of revenue from these sources. This budget contains revenue estimates that, while acknowledging a sense of some optimism regarding the continuation of the current economic climate, it remains conservative in terms of estimates so as to not create a shortfall in the budget should the climate change.

Revenues are budgeted at \$13,123,845, a 20.6% decrease compared to the FY24-25 Budget. The majority of the decrease in revenue (\$4.6 million) is due to debt proceeds to purchase the Herron property and a transfer to the general fund to pay off one of the Special Obligations Bonds used to fund the FEMA portion of the Beach Nourishment project.

The Town receives revenue from several sources, the largest of which is Ad Valorem taxes. The Ad Valorem tax is levied upon property, and measured by the value of the property, not the owner's ability to pay. The Ad Valorem tax generates \$5,566,115 or 42.4% of the revenue for our General Fund in FY25-26. In addition, MSD taxes account for an additional \$1,024,119, or 7.8% of our revenue. This means that half of the services that we provide are paid for with sources other than local property tax revenue. MSD tax revenue is restricted to be used for Beach Nourishment related expenses.

The Town of Duck contracts with the Dare County tax office to collect our taxes. This enables our residents to receive one tax bill and remit payment to one place. It also allows us to enjoy an excellent collection rate for real and personal property taxes. In FY25-26, we have budgeted for a collection rate of 99.94% as prescribed by State law.

Another large source of revenue comes from our share of the sales tax that we all pay. These are essentially two tax types: the Sales Tax on the retail sale or lease of tangible personal property, services, the rental of hotel rooms, and the Use Tax, which is an excise tax on the right to use or consume property in North Carolina or elsewhere. All taxes are pooled by the State and shared, in accordance with statutory formulas, by all 100 counties. Each county, in turn, shares their portion of the sales tax proceeds with the incorporated cities and towns in the county. We also receive a proportionate share of the 6% occupancy and meals tax charged in Dare County.

In addition to sales tax and occupancy tax revenue, the Town also receives revenue from the State reflecting our statutory portion of tax revenues from telecommunication services, video programming, beer and wine sales, and motor fuel sales. With the exception of the proportionate share of sales tax, as noted above, State collected local revenues can be used for any legitimate government function. Please refer to the Revenue section of the budget document for a more detailed explanation of our revenue sources.

## Expenditures

As noted above, the FY25-26 Recommended Budget totals \$13,123,845 for all Town operations, capital improvements, and debt service requirements. This is \$3,398,535 (20.6%) less than the FY24-25 Budget. This decrease is due to the large expenditures in FY 24-25 to purchase the Herron property and retire the FEMA portion of the Beach Nourishment bond debt.

One of the largest expenditures for Duck, and for most localities, is the cost of personnel. Our professional staff allows the Town to continue to provide quality service to our residents. The total of all personnel related expenses, including wages and benefits, is budgeted at \$5,198,559. This represents a total of 39.6% of the total budget. This budget includes the addition of one staff member to the Police Department to address the need for a dedicated investigator. It also includes a merit increase pool of 5% of total salaries in order to remain competitive in the local employment market. Also included are small increases in Workers' Compensation insurance rates, retirement contribution rates, and an increase in medical insurance rates. Please refer to the Personnel section of the budget document for a thorough explanation of all changes being proposed in compensation and benefits.

This table shows the total number of personnel in each department over the last three years and what is proposed for FY 25-26.

<b>Personnel by Department</b>						
<b>Department</b>	<b>FY 22-23</b>	<b>FY 23-24</b>	<b>FY 24-25</b>	<b>FY 25-26 Requested</b>	<b># Change</b>	<b>Percent Change</b>
Administration	5.5	5.5	2.5	2.5	0.0	0%
Finance & Human Res			1.0	1.0	0.0	0%
Public Facilities	1	1.5	1.5	1.5	0.0	0%
Police	14.5	14.5	14.5	15.5	1.0	7%
Fire	14.5	14.5	14.5	14.5	0.0	0%
Inspections	2	2	2.0	2.0	0.0	0%
Community Development	2.5	2.5	2.5	2.5	0.0	0%
Communications & Events			2.0	2.0	0.0	0%
<b>Total</b>	<b>40</b>	<b>40.5</b>	<b>40.5</b>	<b>41.5</b>	<b>1</b>	<b>2.5%</b>

Through operational efficiencies in the utilization of personnel, leveraging technology to mitigate staffing increases, receiving countless hours of volunteer assistance, and other management strategies, we are able to maintain a lean staffing profile. Subsequent to the new positions added three years ago, our leadership team identified future additional personnel needs, but we are able to maintain existing levels of service without increasing staff prior to this year.

While not attempting here to cover specifics regarding expenses for all fifteen operational departments, what follows are some highlights of more significant expenses and proposed changes in staffing levels. The Capital Improvement Plan, which is included toward the end of this budget document, contains details about the capital projects/purchases mentioned below.

- **Governing Body:** Expenses related to the Town Council including election expenses.
- **Administration:** Expenses related to the general administration and management of the Town.
- **Finance and Human Resources:** Expenses for financial services such as financial statement preparation, preparation of the annual audit, and other related services provided by outside professionals. This department also contains the amount paid to Dare County to collect our tax revenue. Also, expenditures related to employee engagement, tuition reimbursement, and other Human Resources related expenses.
- **Legal:** Expenses related to the services of the Town's contracted attorney.
- **Information Technology:** Expenses for our contracted IT support, licenses, subscriptions, etc. for our Information Technology infrastructure. Also included this year is a cost to transition to virtual servers as opposed to investing in on-premises servers that have a limited lifespan.
- **Police:** Expenses related to the Duck Police Department. Included this year are a new Police Investigator position and the scheduled replacement of two police vehicles.
- **Fire:** Expenses for the operation of the Duck Fire Department. This year we are moving away from providing a direct allocation to the Fire Department and budgeting, as we do with other departments, expenses in individual line items. This will also move accounts payable functions from the volunteer fire department to be handled by Town Finance staff.
- **Ocean Rescue:** Expenses, directly to a contractor, to provide ocean rescue services on the beach in Duck.
- **Communications & Special Events:** Expenses for communication platforms, graphic design, and the production of on-line and print communication materials. Also, expenses related to the conduct of special events, such as Jazz Festival, 4<sup>th</sup> of July, etc. and advertising and marketing for these events and the Town of Duck in general.
- **Community Development:** Expenses related to planning, code enforcement, grant writing, and the Planning Board.
- **Inspections:** Expenses related to our enforcement of the NC Building Code including the issuance of permits and inspections to ensure Code compliance.
- **Public Facilities:** This department accounts for expenses related to the maintenance of our buildings, playground, park, boardwalk and others with the exception of sidewalks/Duck Trail which are accounted for in the Streets & Highways department. Projects for FY 25-26 include replacing a portion of the irrigation system in the Town Park, and other more routine repairs and upgrades.
- **Streets & Highways:** While we own no streets, this department accounts for expenses related to the maintenance of Duck Trail, sidewalks, crosswalks (including lights), and for projects related to improving this infrastructure.
- **Sanitation:** Expenses, paid to our contractors, for the collection of trash and recycling.

- **Environmental Protection:** Expenses related to beach nourishment, beach grass planting, and soundside shoreline protection. Included in this year is funding for the second phase of the Town Park Shoreline Protection project.
- **Transfers:** Transfers to the Beach Nourishment Capital Project fund.
- **Contingency:** A small percentage (1%) of budgeted expenditures (after subtracting debt service and capital) to allow for unexpected expenditures during the year.

Expenditures by Function						
Function	FY23-24 Actual	FY24-25 Budget	FY25-26 Request	FY25-26 Recommend	Variance v. CY	% Change
General Government	1,887,475	3,827,146	2,035,645	2,013,922	(1,813,224)	-47.4%
Public Safety	5,081,675	5,343,131	5,629,544	5,614,894	271,763	5.1%
Streets & Highways	4,545,223	332,634	408,433	268,433	(64,201)	-19.3%
Community Development	343,120	391,069	398,796	399,796	8,727	2.2%
Environmental Protection	2,148,834	4,713,890	2,880,045	2,880,045	(1,833,845)	-38.9%
Communications & Special Events	231,945	511,404	536,206	539,206	27,802	5.4%
Transfers and Contingency	1,438,789	1,403,106	1,443,175	1,407,549	4,443	0.3%
<b>Total</b>	<b>15,677,062</b>	<b>16,522,380</b>	<b>13,331,843</b>	<b>13,123,845</b>	<b>(3,398,535)</b>	<b>-20.6%</b>

## Fund Balance

The North Carolina Local Government Commission recommends that local governments maintain a minimum unassigned fund balance of no less than eight percent (8%) of expenditures. The Town of Duck has adopted a formal fund balance policy establishing a goal of maintaining a fund balance for the General Fund of 75% of expenditures after deducting debt service payments related to Beach Nourishment. The Town of Duck's estimated non-committed or non-restricted fund balance as of June 30, 2025, is estimated to be \$9.9 million or 70.7% of FY24-25 expenditures. This represents an increase of \$3.8 million in fund balance due to receiving grant reimbursement for the NC 12 elevation project and the FEMA portion of the Beach Nourishment project. This budget appropriates \$385,300 from Fund Balance to pay for the Town Park shoreline project.

## Conclusion

It remains important to concentrate our annual budgeting efforts on maintaining current levels of service and maintenance of Town-owned property and infrastructure and ensuring we are providing competitive compensation for our small staff while attempting to avoid any large increase in rates and fees. The budget being presented for your consideration accomplishes these goals. Each year we are faced with different challenges and opportunities. The coming year looks to bring challenges caused by workforce and inflationary influences in the local area, state, and nation. It is these unknowns that continue to influence how we structure our budget.

Maintaining our critical infrastructure and essential services comes at a cost; and Duck, like towns throughout the State, must manage in a fiscal climate marked by economic uncertainty. Town Council members accept their responsibility with great conviction and sincerity and strive to be

well-informed and engaged in the operation of this government. This budget reflects the Council's commitment to maintaining and improving this community and positioning it to be financially sound in the future. I believe it to be worthy of your consideration and approval.

Respectfully Submitted,

*Drew Havens*

Drew Havens,  
Town Manager

# Annual Budget Ordinance

## Town of Duck, North Carolina

### FY 2025 – 2026 Annual Budget

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### Budget Ordinance

BE IT ORDAINED by the Town Council of the Town of Duck, North Carolina that the following anticipated fund revenues and departmental expenditures, together with certain fees and schedules, and with certain restrictions and authorizations, are hereby appropriated and approved for the operation of the Town government and its activities for the fiscal year beginning July 1, 2025 and ending June 30, 2026.

#### Section 1: General Fund

<b>General Fund Revenues</b>	
Ad Valorem Taxes	\$5,566,115
MSD Taxes	\$1,024,119
Local Government Sales Tax	\$1,800,000
Real Estate Transfer Tax	\$375,000
Occupancy Tax	\$1,900,000
Grants	\$52,686
ABC and Beer & Wine	\$93,000
Utility Taxes	\$420,000
Permits and Fees	\$177,000
Interest and Asset Sales	\$325,000
Transfers	\$788,025
Debt Proceeds	\$0
Fund Balance Appropriated	\$385,300
Other Revenue	\$217,600
<b>Total Revenues</b>	<b>\$13,123,845</b>

<b>General Fund Expenditures</b>	
Governing Body	\$177,124
Administration	\$460,329
Finance & Human Resources	\$260,127
Legal	\$66,720
Information Technology	\$186,706
Police	\$2,475,817
Fire	\$2,084,727
Ocean Rescue	\$783,723
Communications & Special Events	\$539,206
Community Development	\$399,796
Inspections	\$270,627
Public Facilities	\$862,916
Streets & Highways	\$268,433
Sanitation	\$1,501,220
Environmental Protection	\$1,378,825
Transfers	\$1,305,655
Contingency	\$101,894
<b>Total Expenditures</b>	<b>\$13,123,845</b>



**Section 2: Beach Nourishment Capital Reserve Fund**

<b>Beach Nourishment Capital Reserve Fund Revenues</b>	
Transfer from General Fund (MSD Tax Revenue)	\$1,024,119
Transfer from General Fund (Restricted Sales Tax Revenue)	\$281,536
Fund Balance Appropriated	\$0
<b>Total Revenues</b>	<b>\$1,305,655</b>

<b>Beach Nourishment Capital Reserve Fund Expenditures</b>	
Transfer to General Fund	\$788,025
Reserved for Future Expenditures	\$517,630
<b>Total Expenditures</b>	<b>\$1,305,655</b>

**Section 3: Levy of Taxes - Ad Valorem**

There is hereby levied a tax at the rate of \$0.18 (eighteen cents) per one hundred dollars (\$100) valuation of property as listed for taxes as of January 1, 2025, for the purpose of raising the revenue listed Ad Valorem Taxes 2025-2026 in Section 1: General Fund of this ordinance. This rate is based on a valuation of property for purposes of taxation of \$3,070,500,000 and an estimated rate of collection of 99.94%.

**Section 4: Levy of Taxes - Municipal Service District-A**

There is hereby levied a tax at the rate of \$0.0798 (seven point nine-eight cents) per one hundred dollars (\$100) valuation of property as listed for taxes as of January 1, 2025 in Municipal Service District - A (MSD-A), for the purpose of raising the revenue listed MSD Taxes 2025-2026 in Section 1: General Fund of this ordinance. This rate is based on a valuation of property for purposes of taxation of \$832,813,000 and an estimated rate of collection of 99.94%.

**Section 5: Levy of Taxes - Municipal Service District-B**

There is hereby levied a tax at the rate of \$0.189 (eighteen point nine cents) per one hundred dollars (\$100) valuation of property as listed for taxes as of January 1, 2025 in Municipal Service District - B (MSD-B), for the purpose of raising the revenue listed MSD Taxes 2025-2026 in Section 1: General Fund of this ordinance. This rate is based on a valuation of property for purposes of taxation of \$190,555,000 and an estimated rate of collection of 99.94%.

**Section 6: Fees & Charges**

There is hereby established, for Fiscal Year 2025-2026, various fees and charges as contained in the Fee Schedule attached to this document. All mileage reimbursements for the use of personal vehicles shall be the same as the allowable IRS rate in effect on the date of travel.

**Section 7: Position Classification and Salary Schedule**

There is hereby established, for Fiscal Year 2025-2026, a Salary Schedule and Position Classification Table as shown on an attachment to this document in order to maintain the Town's Pay and Classification Plan.

**Section 8: Special Authorization of the Budget Officer**

- a) The Budget Officer shall be authorized to reallocate fund appropriations among the various objects of expenditure as he deems necessary, provided such reallocations do not increase or decrease the total budget for any department.
- b) The Budget Officer shall be authorized to amend this budget as necessary to fulfill all obligations evidenced by a purchase order outstanding on June 30, 2025.

**Section 9: Use of the Budget and the Budget Ordinance**

This Ordinance and the budget document shall be the basis for the financial plan of the Town of Duck for Fiscal Year 2025-2026. The Budget Officer shall administer the budget and the Finance Officer shall establish records which are in agreement with the budget, this ordinance, and the appropriate statutes of the State of North Carolina.

**Section 10: Distribution**

Copies of this ordinance shall be furnished to the Budget Officer and the Finance Officer of the Town of Duck so that they may keep this ordinance on file for their direction and disbursement of funds.

Adopted this the 4th day of June, 2025.

Attest:

\_\_\_\_\_  
Donald Kingston, Mayor

\_\_\_\_\_  
Lori A. Ackerman, Town Clerk

## Salary Schedule and Position Classification Table

**Effective July 1, 2025**

Following the recommendations of a Classification and Pay Study performed by The MAPS Group in 2021, the Salary Schedule and Classification Table shown below are incorporated into the personnel costs shown in the FY 2024-25 budget and adopted as shown in Section 7 of the Budget Ordinance. The Personnel section of the budget document contains information regarding the number of employees in each department and in each job classification.

### Salary Schedule

GRADE	HIRING RATE	MINIMUM	MID POINT	MAXIMUM
1	36,932	38,778	47,088	57,244
2	38,778	40,717	49,442	60,106
3	40,717	42,753	51,914	63,111
4	42,753	44,891	54,510	66,267
5	44,891	47,136	57,236	69,581
6	47,136	49,493	60,099	73,061
7	49,493	51,968	63,104	76,714
8	51,968	54,566	66,259	80,550
9	54,566	57,294	69,572	84,577
10	57,294	60,159	73,050	88,806
11	60,159	63,167	76,703	93,246
12	63,167	66,325	80,538	97,909
13	66,325	69,641	84,565	102,804
14	69,641	73,123	88,793	107,944
15	73,123	76,779	93,232	113,341
16	76,779	80,618	97,893	119,007
17	80,618	84,649	102,788	124,958
18	84,649	88,881	107,928	131,206
19	88,881	93,325	113,324	137,766
20	93,325	97,991	118,990	144,654
21	97,991	102,891	124,939	151,886
22	102,891	108,036	131,186	159,481
23	108,036	113,438	137,746	167,456
24	113,438	119,110	144,634	175,829
25	119,110	125,066	151,866	184,621
26	125,066	131,319	159,459	193,852
27	131,319	137,885	167,432	203,544
28	137,885	144,779	175,804	213,722
29	144,779	152,018	184,593	224,407
30	152,018	159,619	193,823	235,628
31	159,619	167,600	203,514	247,409
32	167,600	175,980	213,690	259,780
33	175,980	184,779	224,375	272,769
34	184,779	194,018	235,593	286,407
35	194,018	203,719	247,373	300,728
36	203,719	213,905	259,742	315,764
37	213,905	224,600	272,729	331,553
38	224,600	235,830	286,365	348,130

## Classification Table

GRADE	CLASSIFICATION	FLSA STATUS	HIRING RATE	MINIMUM	MID POINT	MAXIMUM
5	Maintenance Technician		44,891	47,136	57,236	69,581
7	Administrative Assistant		49,493	51,968	63,104	76,714
	Firefighter					
	Police Officer					
	Code Enforcement Technician					
8	Permit Technician (Deputy Town Clerk)		51,968	54,566	66,259	80,550
	Public Safety Office Administrator					
	Master Firefighter					
	Senior Police Officer					
9	Master Firefighter/Acting Company Officer		54,566	57,294	69,572	84,577
	Master Police Officer					
	Planner I (Community Planner)					
10	Community Engagement Coordinator		57,294	60,159	73,050	88,806
	Fire Engineer					
	Police Corporal					
	Finance Administrator					
11	Fire Captain		60,159	63,167	76,703	93,246
	Police Sergeant					
	Town Clerk	E				
	Senior Planner					
13	Building Codes and Maintenance Administrator		66,325	69,641	84,565	102,804
	Planning Manager					
14	Finance and Human Resources Manager	E	69,641	73,123	88,793	107,944
16	Deputy Fire Chief		76,779	80,618	97,893	119,007
	Deputy Police Chief	E				
18	Public Information and Events Director	E	84,649	88,881	107,928	131,206
20	Community Development Director	E	93,325	97,991	118,990	144,654
	Fire Chief	E				
	Police Chief	E				
22	Development & Infrastructure Director/Assistant Town Manager	E	102,891	108,036	131,186	159,481
25	Town Manager	E	119,110	125,066	151,866	184,621

E = Exempt from the Wage and Hour provisions of the Fair Labor Standards Act (FLSA)

**Schedule of Rate and Fees  
Town of Duck Fee Schedule  
Effective July 1, 2025**

**Section I Building Permits & Inspections**

<u>Building Use</u>	<u>New Construction &amp; Additions</u>	<u>Renovations/Remodels &amp; Repairs<sup>2</sup></u>
<u>Residential – heated space</u>	<u>\$0.65/sq. ft.</u>	<u>\$0.50/sq. ft.</u>
<u>Residential – unheated space<sup>1</sup></u>	<u>\$0.35/sq. ft.</u>	<u>\$0.15/sq. ft.</u>
<u>Multifamily, Hotels/Motels – heated space</u>	<u>\$0.95/sq. ft.</u>	<u>\$0.80/sq. ft.</u>
<u>Multifamily, Hotels/Motels – unheated space</u>	<u>\$0.65/sq. ft.</u>	<u>\$0.45/ sq. ft</u>
<u>Commercial – heated space</u>	<u>\$0.95/sq. ft.</u>	<u>\$0.80/sq. ft.</u>
<u>Commercial – unheated space</u>	<u>\$0.65/sq. ft.</u>	<u>\$0.45/ sq. ft</u>
<sup>1</sup> Unheated space includes attached decks, garages, sheds, and utility rooms.		
<sup>2</sup> Includes floodplain development fee		

\*Minimum building permit fee is \$100.00

\*\*Excludes projects where Flat Fees are charged

A Stop Work Order will be issued for improvements occurring without an issued permit.

Work Without a Permit – A fee double the amount of the required permit will be charged for any permit acquired AFTER work has been started or completed.

Construction must begin within 6 months or permits will expire.

Permit Renewal Fee (must be renewed within 30 days of expiration) \$100.00.

Note that fees/permits/approvals may also be required for construction projects from other local, state, and Federal agencies. Examples:

- Water connection or review fees, health department fees, recordation fees by Dare County
- Wetlands permitted, U.S. Army Corps of Engineers
- Right-of-way review/dedication, North Carolina Department of Transportation
- Major CAMA permits, North Carolina Coastal Resources Commission

**Beach Stairs/Dune Access:**

New/Complete Replacement Stairs	\$100.00
Minor Repairs	\$25.00

Signs:

Roof signs	\$50.00 + sign permit fees
Ground Mounted/Freestanding Signs	\$100.00 + sign permit fees

Inspections:

\$75.00 first re-inspect  
Double the fee of the last re-inspect  
for each subsequent re-inspection for  
the same item

Failure to Call for Inspection

50% of the original permit cost

Inspections Not Otherwise Listed

\$50.00

**Section II Five (5) Building Permit system.**

1. There shall be a five (5) permit system with separate permits issued for:

- Building Permit
- Electrical Permit
- Plumbing Permit
- Mechanical Permit
- Gas Permit

2. When a building permit is issued there will be no charge for permits associated with electrical, plumbing, or mechanical work performed by the licensed contractor named in the permit application.

3. Above & Below ground propane tanks are not subject to Section II (1) above and may require additional permits.

**Section III Other fees, not covered in sections above:**

1. Mobile Homes	Single-wide \$350.00 Double-wide \$500.00 Triple-wide \$800.00
Poured footing inspection for mobile home	\$100.00
2. Temporary Construction Trailer	\$300.00 flat fee **
3. Temporary Tent ( >240 sq. ft. requires Flammability certificate)	\$100.00 flat fee **
4. House Moving (into or within Town)	

(fees do not include any necessary building or trade permits & additional fees for escort may apply)

Moving into Town of Duck	\$1,000.00
Moving within the Town of Duck	\$750.00
Moving on the Same Lot	\$500.00
Moving out of Town of Duck	\$250.00

5. Pools/Spas & Hot Tubs

Permanently Installed Swimming Pools	\$300.00 flat fee **
In-Ground Hot Tubs	\$300.00 flat fee **
Free Standing/Portable Hot Tubs	\$150.00 flat fee **

6. Gas Pumps

\$100.00 per pump

7. Structural Demolition

(Asbestos Report required if commercial or ever used as commercial)

Residential Demolition in AEC zone	\$350.00 flat fee **
Residential Demolition not in AEC Zone	\$250.00 flat fee **
Non-Residential Demolition in AEC zone	\$600.00 flat fee **
Non-Residential Demolition not in AEC zone	\$400.00 flat fee **

8. Fuel Tanks

Above Ground: 0-5,000 gallons	\$400.00
Above Ground: Above 5,000 gallons	\$600.00
Underground: 0-5,000 gallons	\$500.00
Underground: Above 5,000 gallons	\$700.00

9. Bulkheads & Retaining Walls

requiring a building permit up to 50 Ft.  
Each additional foot over 50 feet

\$2.00 per linear ft.  
\$1.00 per linear ft.

Piers

\$1.00 per linear ft.

10. Flood Development Permit (*in addition to other applicable building permit or land disturbance fees*)

Repairs & Maintenance	No Fee
Remodels/Renovations	No Fee
Additions	\$50.00
New Construction/Substantial Improvements	\$100.00

11. Occupancy Permit (New Construction only)

Temporary Residential	\$50.00
Temporary Commercial	\$300.00
	\$500.00

12. Communication Tower/Water Tank

\$20.00/vertical foot

**Section IV Electrical Permit Fees for Repairs/Replacement/Extension of Service:**

Temporary Service Pole	\$75.00 flat fee **
Repair Permit Fee	\$50.00
Minimum Permit Fee	\$100.00
(Includes: change out of existing service OR installation of new service up to 200 amps)	
Plus the following:	
Service Upgrade or New Service > 200 amps	\$0.25 per each amp over 200 amps
Receptacles, Lights, Switches and Outlets as follows:	
0-49	\$30.00
50-above	\$45.00
Dryer	\$5.00
Baseboard Heat per unit	\$3.00
Miscellaneous	\$5.00

**Section V Plumbing Permit for Repairs/Replacement/Extension of Service:**

Repair Permit Fee	\$50.00
Minimum Fee	\$100.00 <u>plus</u> \$10.00 per fixture

**Section VI Mechanical Permit for Repairs/Replacement/Extension of Service:**

Minimum Permit Fee	\$100.00 <u>plus</u> following:
Change Air Handling Unit	\$30.00
Change Heat Pump	\$30.00
Change Boiler	\$40.00

**Section VII Gas Permit for Repairs/Replacement/Extension of Service:**

Minimum Permit Fee	\$100.00 <u>plus</u> \$20.00 per appliance
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**Section VIII Development and Site Plan Review Fees:**

1. Single Family Dwellings



New Construction	\$150.00 per dwelling unit
Additions/Renovations/Remodels (increased heated space, changes to coverage or increased occupancy ***)	\$75.00 per unit
Additions/Renovations/Remodels (No change to heated space, coverage or occupancy)	\$25.00 per unit
Repairs & Maintenance (within existing footprint)	No Fee
2. Multi Family Dwellings, Duplexes, Condominiums, Townhouses, Apartments	\$150.00 per dwelling unit
3. Motels/Hotels	\$100.00 per unit
4. Commercial Parking Lots, Commercial, Business and Multi-family Accessory Parking Areas (other than single family residence). Note that this fee is in addition to other required review fees for the same project.)	\$50.00 per space
5. All other new development not included elsewhere in fee schedule (this fee is based on footprint of proposed development or structure and is in addition to review fees for associated parking areas.)	\$0.75 per square foot
6. Plan of Development	\$250.00
7. Lots in a Subdivision	\$500 plus \$75/lot

**Section IX Other Planning and Zoning Review and Application Fees:**

1. Text Amendment to the Zoning Ordinance	\$350.00
2. Rezoning (Zoning Text/Map Amendment)	\$750.00 ( <i>plus \$500/acre or any fraction thereof beyond one acre</i> )
3. Change of Use Permit if no site plan change is required	\$200.00
4. Change of Use Permit requiring submittal of a new site plan	\$250.00
5. Special Use Permit	\$400.00

6. Special Use Permit for Home Occupation	\$200.00
7. Special Use Amendment	\$250.00
8. Board of Adjustment Variance request	\$500.00
9. Group Development Application Fee	\$500.00
10. Group Development Amendment Fee	\$250.00
11. Exempt Plat Review Fees	\$300.00
12. Board of Adjustment Appeal	\$500.00
13. Zoning Compliance Certificate/Review Letter	\$400.00
14. Fire Marshall Inspections for Commercial Occupancy Permits	
New Building Shell	\$60.00
Completed space > 500 square feet	\$30.00
Completed space 501-5000 square feet	\$60.00
Completed space >5,000 square feet	\$100.00
15. Sign Permit Fees	\$50.00 per sign/max \$200.00
Temporary Sign Permit	\$25.00 per 10-day period + \$50.00 deposit
Community/Association Sign Permit	Fee waived but application still required and building permit may also be necessary
16. Signs removed from public rights of way or within 30' of centerline of public roads and picked up by owner within 10 days—note after 10 days signs will be discarded	\$25.00 per sign
17. Administrative Approvals/Reviews/Uses not otherwise listed	\$250.00
18. Special Planning Board or Town Council Meeting requested by Applicant	\$1,000.00
19. CAMA Minor Permit	Established by CAMA

20. Land Disturbance Permit (without an approved building permit)
- Minor \$25.00
    - Irrigation
    - Minor Grading Associated with Landscaping Project
    - Septic Repair in Same Location
  - Intermediate \$100.00
    - New Septic Installation
    - Driveway/Parking Improvements
    - Installation of Stormwater Retention Area
  - Major \$200.00
    - Significant Topographic Changes (Cutting/Filling)
    - Installation of Stormwater Conveyance

21. Fire/Burglar Alarms

False Alarm Fees

- First false alarm in a 30-day period No charge
- Second false alarm in a 30-day period \$25.00
- Third false alarm in a 30-day period \$50.00
- Fourth or subsequent false alarm in a 30-day period \$100.00.

22. Minor Home Occupation \$50.00

23. Homeowners Recovery Fund Fee Established by State Law

Resubmittal of Expired Site Plan Approvals

Site plan approvals expire 24 months after the date of approval. After the expiration date of an approved site plan a charge of 50% of initial review fee shall be paid for a re-submittal when the following conditions are met:

- a. A review fee has been paid
- b. Site plan approval has expired
- c. No changes are being proposed in the re-submitted site plan

**Section X Administrative and Miscellaneous Charges:**

***Note: Fees are non-refundable unless otherwise stated.***

- 1. Re-hearing/advertising \$250.00  
(at Petitioner/Applicant's request)
- 2. Copy of Agenda Package per page charge below

(available free online)

- |   |  |
|---|--|
| 3. Copy of Zoning Ordinance<br>(available free online)  | per page charge below                                  |
| 4. Copy of Land Use Plan<br>(available free online)   | per page charge below                                  |
| 5. Copy of Budget Document<br>(available free online)   | per page charge below                                  |
| 6. Copies of Requested Documents<br>8 ½ x 11, 11 x14 & 11 x17<br>(after the 5 <sup>th</sup> sheet)<br>(after the 3 <sup>rd</sup> sheet)   | \$ .25 black & white per page<br>\$ .30 color per page |
| 7. Insufficient Funds Charge (returned checks)<br><i>(The Town Manager may require cash or cashier's check for future payments from applicants who have submitted checks that were returned for insufficient funds)</i> | \$25.00 first time                                     |
| 8. Police Off-Duty  | \$55.00/hour (4 hour minimum)                          |

\* In addition to any other required application fee such as those for the use of required off-duty police officers, a \$200 refundable deposit will be required. This deposit will be refunded following the event once the Town is assured that the Duck Town Park area utilized by the event has been cleaned up and that all requirements of the permit have been complied with. If damage exceeds the amount of the deposit, the event sponsors are responsible for the cost of any additional repairs.

- |   |          |
|---|----------|
| 9. Special Event Permit Application Fee | \$100.00 |
|---|----------|

10. Room and Facility Deposits and Fees:

The following fees shall apply for the use of rooms and facilities unless waived by the Town Clerk, separate checks are required for deposits and fees:

- |  |          |
|--|----------|
| Deposit for Rooms and Facilities (per room),<br>not including the Paul F. Keller Meeting Hall: | \$50.00  |
| Deposit for Paul F. Keller Meeting Hall:   | \$150.00 |

Deposits will be refunded after the date for which the room or facility was reserved.

Cleaning Fee for Rooms and Facilities (per room),

not including the Paul F. Keller Meeting Hall: \$50.00  
Cleaning Fee for Paul F. Keller Meeting Hall: \$150.00

Monitor Fee for Rooms and Facilities  
reserved after 5 p.m. or on holidays or weekends: \$ 15.00 per hour

- Priority One, Two, and Four groups and entities will not be charged any deposits or fees.
- Priority Three groups and entities will be required to pay a deposit, monitor and cleaning fee.
- Priority Four groups or entities may not use a room or facility more than once in any three-month period.

Priority One: Town Council and its respective Boards and Commissions.

Priority Two: Town departments and Town sponsored events.

Priority Three: Homeowner, Property Owner, and similar organizations, provided that the applicant is an organization located in the Town.

Priority Four: Non-profit organizations, including other governmental entities, provided that the use of the room or facilities is for educational, business, or professional meetings.

Rooms and Facilities in the Town Hall Complex may not be reserved for weddings, or similar events.

11. Golf Carts

Annual Registration Fee \$25.00  
Fee for Failing to Register \$50.00

12. Beach Equipment Vendor License

Annual Registration Fee \$500.00  
Annual Deposit (fully refundable assuming no infractions) \$500.00

**Note: Fees are non-refundable unless otherwise stated.**

**AGENDA: May 7, 2025**

**Regular Meeting**

**ITEM #7A:**

Old Business/Items Deferred from Previous Meetings

- A. Discussion/Consideration of a Process to Appoint Seven Individuals to Serve on the Board of Adjustment

**RECOMMENDED ACTION:**

- Discuss a process to be completed to fill seven positions on the Board of Adjustment

**SUMMARY OF INFORMATION:**

The terms of the entire Board of Adjustment will expire on July 1, 2025. Staff will reach out to the current members to inquire as to whether they wish to be reappointed. Additionally, Council may direct staff to advertise for the positions to see what other individuals may be interested in serving. Council will need to discuss a process for filling these seven positions and reappoint or appoint them at the June 4, 2025 meeting

Please note that the Board of Adjustment has 5 full members and 2 alternates. Alternates shall be called on to attend only those meetings and hearings where one or more regular members are absent or unable to attend because of financial or other interest.

**ATTACHMENTS:**

- Current Board of Adjustment List

## **Town of Duck Board of Adjustment**

### **Olin Finch**

**Member; term expires 7/1/25**

116 Sandy Ridge Road  
Duck, NC 27949  
cell: (252) 207-4566  
home: (252) 261-8710  
email: [olinfinch@gmail.com](mailto:olinfinch@gmail.com)

### **Miriam Rollin**

**Member; term expires 7/1/25**

149 Plover Drive  
Duck, NC 27949  
home: (703) 408-6002  
email: [marollin@icloud.com](mailto:marollin@icloud.com)

### **Tim McKeithan**

**Member; term expires 7/1/25**

140 Mallard Court  
Duck, NC 27949  
home: (252) 261-8805  
cell: (757) 672-3045  
email: [timobx68@gmail.com](mailto:timobx68@gmail.com)

### **Warren Stembridge**

**Alternate; term expires 7/1/25**

106 Beachcomber Court  
Duck, NC 27949  
home: (703) 554-4772  
email: [wstem5@gmail.com](mailto:wstem5@gmail.com)

### **Carol Powell**

**Member; term expires 7/1/25**

104 Carrol Drive  
Duck, NC 27949  
cell: (252) 202-7282  
home: (252) 262-5722  
email: [cpowellduck@gmail.com](mailto:cpowellduck@gmail.com)

### **David Flowers**

**Member; term expires 7/1/25**

118 Poteskeet Drive  
Duck, NC 27949  
P.O. Box 20009, Baltimore, MD 21284  
home: (410) 296-6832  
cell: (443) 677-1184  
email: [davidflowersret@aol.com](mailto:davidflowersret@aol.com)

### **Thomas Burton**

**Alternate; term expires 7/1/25**

109 Sandpiper Cove, P.O. Box 8122  
Duck, NC 27949  
cell: (804) 339-0257  
email: [thomas.b.burton@gmail.com](mailto:thomas.b.burton@gmail.com)

**AGENDA:            May 7, 2025                            Regular Meeting**

**ITEM #7B:**

Old Business/Items Deferred from Previous Meetings

- B. Discussion/Consideration of Authorizing the Town Manager to Execute a Contract for Dune/Beach Planting

**RECOMMENDED ACTION:**

- Authorize the Town Manager to execute a contract with Caribbean Landscaping for dune/beach planting

**SUMMARY OF INFORMATION:**

As a part of a comprehensive effort to preserve and protect its dune system, the Town has annually planted beach grass, sea oats, and bitter panicum using a contractor and volunteers along the entire length of its beaches. The three-year contract for the contracted planting will expire on June 30, 2025 and the Town has solicited proposals from qualified contractors for a new three-year contract. Three contractors responded to the Request for Proposal. The lowest responsive bidder has limited experience with a contract of this size and scope so it is recommended that a one-year contract be awarded to Caribbean Landscaping with the option to renew that contract for an additional two years.

**ATTACHMENTS:**

- Staff Memorandum
- Request for Proposal
- Proposal from Caribbean Landscaping
- Proposal from Albemarle Landscapes
- Proposal from Emerald Forest
- Draft Contract





**MEMORANDUM**

TO: Drew Havens, Town Manager

CC: Joe Heard, Director of Community Development

FROM: Sandy Cross, Senior Planner/CAMA LPO/CZO/CFM

DATE: April 29, 2025

SUBJECT: Beach Planting Contract

The Town has a contract with Emerald Forest, Inc. for beach grass planting which includes planting 27,231 linear feet of American Beach Grass in the fall and Sea Oats and Bitter Panicum in the spring. Emerald Forest has contracted with the Town of Duck since 2008. Their current contract expires June 30, 2025.

Town Staff put a request for proposal out on January 17, 2025 anticipating an increase in cost and knowing that budget discussions were beginning. This request mimicked our previous approved planting requests, with one exception. We currently plant two (2) American Beach grass sprigs per hole, ~ ten rows deep in the fall/winter time-frame. We also plant 1 sea oat per hole on staggered 4' centers, 3 rows deep and a single row of Bitter Panicum on 6' centers. The January 17, 2025 RFP reduced the rows of American Beach from 10 rows to 8 rows in an effort to reduce some cost.

This request was directly solicited to seven (7) potential vendors, posted on our website and included in two (2) E-news notices. The proposal included 3 addendums with proposals due on February 18th. We received two responses declining to bid and three proposals.

There is a clear low bid in response to our proposal as you can see on the table below.

	American Beach Grass	Sea Oats	Bitter Panicum	Total
Caribbean Landscaping	\$64,502.50	\$28,002.80	\$7,312.05	\$99,817.35
Albemarle Landscaping	\$72,522.00	\$28,289.00	\$8,989.00	\$109,800.00
Emerald Forest	\$60,997.44	\$43,569.60	\$10,892.40	\$115,459.44

Given the budget cuts experienced last year, we did modify the proposal request modestly by reducing the beach grass rows from 10 to 8. All other conditions remained the same as the previous request. None of the vendors offered a multi-year discount but rather a status quo or an annual increase. Please note that Caribbean's total noted above is for year one and would increase to \$105,896 that is noted below by the third year of the contract

Contract Range	Highest Annual Cost
2019-2022	\$65,136
2022-2025	\$71,917
2025-2028	\$105,896

Staff would recommend that we award the contract to the low bidder, however we would recommend that we contract for one year rather than 3 with a two-year renewal option. This will allow us time to determine if the low-bid contractor (Caribbean) can handle the volume and that the Sea Oat and Bitter Panicum plantings are successful.

Should Town Council desire to move forward with a contract, Staff would suggest that a motion be made to award the contract subject to funds being appropriated in the FY 2025-26 budget and to allow the Town Manager to execute the contract on behalf of the Town. A draft contract is included for consideration.

Attachments:

- A. Town of Duck Request for proposal
- B. Emerald Forest proposal
- C. Albemarle Landscapes Proposal
- D. Caribbean Landscaping proposal
- E. Draft contract



## Request for Proposal

The Town of Duck is seeking requests for proposals from qualified contractors to implement the following project.

### **American Beach Grass, Sea Oat, Bitter Panicum Planting & Fertilization Project**

**Plant American Beach Grass** from crest of dune, east to 3' from the east toe of the dune to include:

- Two beach grass sprigs (type 'cape') installed a minimum of 8" deep on 18" centers, not to exceed 8 rows deep;
- Fertilize with 18-6-6 or 16-8-8 (400 lbs per acre broadcasted across top of planted beach grass)

Contractor shall provide total cost per linear foot based upon approximately 17,006 linear feet running from the northern limits of the USACOE property to the northern Town limits and approximately 10,225 linear feet from the southern Town limits to the USACOE Property beginning the Fall/Winter of 2022-2023 through the Fall/Winter of 2025-2026. The total linear footage for American Beach grass planting is subject to a linear foot reduction not to exceed 7,000 feet dependent on volunteer planting efforts.

Planting of American Beach Grass shall occur between November and March yearly with fertilization to occur no later than April 15<sup>th</sup>.

**Plant local Sea Oat stock** from the crest of the dune eastward to include:

- One sea oat sprig installed a minimum of 8" deep staggered on 4' centers, not to exceed 3 rows deep;
- Fertilize each planting hole with one level teaspoon of time-release (18-6-12 Osmocote or similar type) fertilizer.

**Plant local Bitter Panicum stock** east of the dune crest and mid-way to the base of the dune to include:

- One stem with a part of the rhizome attached or a minimum 8-12" length of rhizome without the above ground parts, installed a minimum of 8" deep staggered on 6' centers, one row only;
- Fertilize each planting in a one foot broadcast circle with time-release (18-6-12 Osmocote or similar type) fertilizer.

Contractor shall provide total cost per linear foot based upon approximately 17,006 linear feet running from the northern limits of the USACOE property to the northern Town limits and approximately 10,225 linear feet from the southern Town limits to the USACOE Property.

Planting of Sea Oats and Bitter Panicum shall occur between May and September yearly with fertilization and watering to occur at planting.

### **1) PROPOSAL**

- a. The Town of Duck is requesting proposals from qualified contractors for a multi-year contract. In your bid tabulations, please provide a breakdown of project cost for each portion of the stated project if a one year, two year or three year contract is awarded. The Town reserves the right to extend the awarded contract for an additional two years.
- b. Proposals will be evaluated based on cost and a demonstrated ability of the contractor to successfully manage a contract of this size and scope. If awarded the contract, the contractor must be prepared to begin work by July 1, 2025.
- c. Contractor will also be asked to provide the same bid price to property owners wishing to contract for additional beach grass or sea oats provided they contract for these services during the same time frame that the Town's project is planted. Proposals between individual property owners and the awarded contractor shall be independent from any contract entered into with the Town of Duck.

### **2) SCOPE**

The scope of work includes furnishing all labor, supplies, planting stock, fertilizer and equipment and performing all work required for dune grass planting and fertilization in the Town of Duck, Dare County, N.C.

Any materials or supplies approved by the Town and provided by the contractor (i.e. fertilizer and plants) shall be verified with a bill of lading.

### **3) COMPLETION DATE**

Completion dates for each portion of the project are detailed in the general description of work to be performed unless otherwise directed by the project coordinator.

### **4) QUALIFICATIONS OF CONTRACTOR**

Contractor shall have substantial experience in planting and fertilization of grasses on similar size jobs. Contractor shall provide a list of the three most recent jobs of similar size along with the name and phone number of the owner, owner's representative or contracting officer who can speak to the satisfactory performance of work contracted and completed on projects for planting of dune grasses. Contractor shall provide a description of contractor's qualifications related to the planting and fertilization of dune grasses or related experience which will help the Town of Duck determine that contractor is qualified and experienced.

The contractor must maintain valid insurance in the amount of \$2,000,000 for general liability and \$1,000,000 for worker's compensation. Proof of insurance shall be provided to the Town each year.

All workers employed by the contractor must be eligible to work in the United States of America and the State of North Carolina. Verification of employment eligibility shall be provided.

#### **5) OTHER CONDITIONS**

- a. The Respondent shall be fully responsible for all costs incurred in the development and submission of any response to this request. Submittal documents should be prepared simply and economically, providing a straightforward and concise description of the Respondent's capabilities to satisfy the requirements of the request. All responses, inquiries, or correspondence relating to the RFP will become the property of the Town of Duck when received and will not be returned.
- b. The Town reserves the right to reject any and all submittals. This request for proposals is neither a contractual offer nor a commitment to purchase services. The Town assumes no contractual obligation as a result of the issuance of this request, the preparation or submission of a qualifications statement by a Respondent, the evaluation of statements, or final selection. Any bid submitted will be binding for ninety (90) days after the date of the bid opening.
- c. Bidders will comply with all local, state, and federal laws and ordinances governing said work including the current Occupational Health and Safety regulations.
- d. By submitting a proposal, the contractor is attesting that they are an Equal Opportunity Employer.

Proposals should be submitted to the Town Manager's Office located at 1200 Duck Road or mailed to P.O. Box 8369, Duck, NC 27949 on or before February 17, 2025. Questions regarding the scope of work should be directed to Sandy Cross at 252-255-1234, or by email at [scross@ducknc.gov](mailto:scross@ducknc.gov).



**Addendum No. 1**  
**Request for Proposal**  
**American Beach Grass, Sea Oat, Bitter Panicum**  
**Planting and Fertilizer Project**  
**Duck, Dare County, North Carolina**  
**January 23, 2025**

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The following shall take precedence over the plans and specifications of the above-named project and shall become part of the Contract Documents. Original items of the specifications, contract documents and information indicated on the Request for Proposal not herein modified, amended, voided or suspended shall remain in effect.

**4) Qualifications of Contractor**

1. Applicant shall include verification of Class A Contractors Licensure in the Landscape category with their proposal. North Carolina Licensure is preferred but not required.



**Addendum No. 2**  
**Request for Proposal**  
**American Beach Grass, Sea Oat, Bitter Panicum**  
**Planting and Fertilizer Project**  
**Duck, Dare County, North Carolina**  
**February 11, 2025**

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The following shall take precedence over the plans and specifications of the above-named project and shall become part of the Contract Documents. Original items of the specifications, contract documents and information indicated on the Request for Proposal not herein modified, amended, voided or suspended shall remain in effect.

**1) PROPOSAL**

a. The Town of Duck is requesting proposals from qualified contractors for a multi-year contract. In your bid tabulations, please provide a breakdown of plant quantities, **price per linear foot, cost per plant** and project cost for each portion of the stated project if a one year, two year or three year contract is awarded. The Town reserves the right to extend the awarded contract for an additional two years beyond the initial three-year term.

Town of Duck Request for Proposal  
American Beach Grass, Sea Oats, Bitter Panicum Planting and Fertilization Project

		2025/2026			2026/2027			2027/2028		
		Fall/Winter	Spring/Summer		Fall/Winter	Spring/Summer		Fall/Winter	Spring/Summer	
Item	description	27, 231 LF	27, 231 LF	Item \$ Amount totals Year 1	27, 231 LF	27, 231 LF	Item \$ Amount total Year 2	27, 231 LF	27, 231 LF	Item \$ Amount total Year 3
	American Beach Grass, 18" oc, 2 sprigs per hole, 8 rows per LF (total plant quantity & price per linear 1 foot)									
	Cost per plant									
	Sea Oats, 4' centers, 3 rows deep per LF (total plant quantity & price per 2 linear foot)									
	Cost per plant									
	Bitter Panicum, 6' centers, 1 row per LF (total plant quantity & price per 3 linear foot)									
	Cost per plant									
			<b>Year 1 Total \$ Items 1,2,3</b>			<b>Year 2 Total \$ Items 1,2,3</b>			<b>Year 3 Total \$ Items 1,2,3</b>	

Notes:	All plantings include supply, installation and application in accordance with the terms of the RFP
	Include narrative detailing any multi-year contract discounts





**Addendum No. 3**  
**Request for Proposal**  
**American Beach Grass, Sea Oat, Bitter Panicum**  
**Planting and Fertilizer Project**  
**Duck, Dare County, North Carolina**  
**February 13, 2025**

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The following shall take precedence over the plans and specifications of the above-named project and shall become part of the Contract Documents. Original items of the specifications, contract documents and information indicated on the Request for Proposal not herein modified, amended, voided or suspended shall remain in effect.

**The Town offices will be closed on February 17<sup>th</sup>, the day that proposal are due. We will be extending the submission deadline to the end of business on February 18<sup>th</sup> to allow hand delivery.**

Proposals should be submitted to the Town's Administrative Building located at 1200 Duck Road or mailed to P.O. Box 8369, Duck, NC 27949 on or before ~~February 17, 2025~~ **end of business February 18, 2025**. Any questions regarding the scope of work may be directed to Sandy Cross at 252-255-1234, or by email at [scross@ducknc.gov](mailto:scross@ducknc.gov).

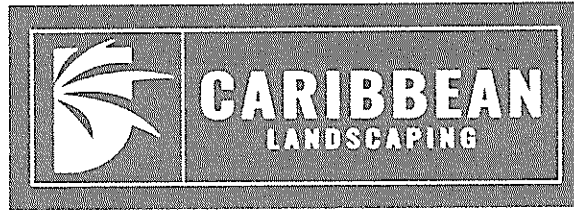
Town of Duck Request for Proposal  
 American Beach Grass, Sea Oats, Bitter Panicum Planting and Fertilization Project

		2025/2026			2026/2027			2027/2028		
		Fall/Winter	Spring/Summer		Fall/Winter	Spring/Summer		Fall/Winter	Spring/Summer	
Item	description	27, 231 LF	27, 231 LF	Item \$ Amount totals Year 1	27, 231 LF	27, 231 LF	Item \$ Amount total Year 2	27, 231 LF	27, 231 LF	Item \$ Amount total Year 3
1	American Beach Grass, 18" oc, 2 sprigs per hole, 8 rows per LF (total plant quantity & price per linear foot)	240,464		\$2.37 per linear foot TOTAL: \$64,502.50						
	Cost per plant	10.54								
2	Sea Oats, 4' centers, 3 rows deep per LF (total plant quantity & price per linear foot)		20,424	\$1.03 per linear ft. TOTAL: \$28,002.80						
	Cost per plant		954							
3	Bitter Panicum, 6' centers, 1 row per LF (total plant quantity & price per linear foot)		4,539	.27 per linear ft. TOTAL: \$1,231.25						
	Cost per plant		954							
			Year 1 Total \$ Items 1,2,3	\$99,817.35		Year 2 Total \$ Items 1,2,3	\$102,811.87		Year 3 Total \$ Items 1,2,3	105,896.23

Notes: All plantings include supply, installation and application in accordance with the terms of the RFP  
 Include narrative detailing any multi-year contract discounts No discount offered

3% Increase each year.

Caribbean



*Caribbean Landscaping  
5039 The Woods Rd.  
Kitty Hawk, NC 27949*

*252-480-6400*

*Abram P. Skibo*

#### LICENSING AND INSURANCE

- Current NC Pesticide License
- Current NC Landscaping Contractor License CL1735
- Current NC Irrigation Contractor License
- Current Workmans Comp and General Liability Policies with Basnight & Moran Insurance Agency in Nags Head: Contact-Adriane -252-480-4600



North Carolina Landscape Contractors' Licensing Board  
 Post Office Box 20875  
 Raleigh, North Carolina 27619

**North Carolina Landscape Contractors' License**

Valid From: 8/1/2024 – 7/31/2025  
 First Licensed on: 1/31/2022  
 NCLC Individual License #: 3605

Abram Phillip Skibo  
 PO Box 7040  
 Kill Devil Hills, NC 27948-7040

2024 - 2025

North Carolina  
 Landscape Contractors' Licensing Board

**Abram Phillip Skibo**  
**NCLC License # 3605**  
 is a licensed Landscape Contractor  
 in the State of North Carolina  
 Valid From: 8/1/2024 - 7/31/2025

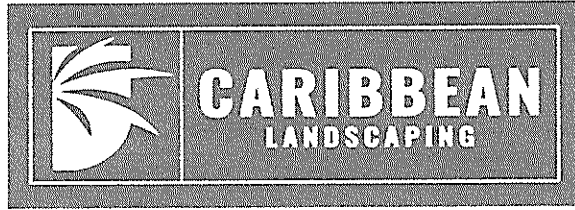
**North Carolina Landscape Contractors' Corporate License**

Valid From: 8/1/2023 – 7/31/2024  
 First Licensed on: 2/4/2022  
 NCLC CORPORATE LICENSE #: CL1735

Skibo Obx, Inc.  
 Caribbean Landscaping  
 Licensee: Abram Phillip Skibo #3605  
 5039 The Woods Rd  
 Kitty Hawk, NC 27949-4023

NCLC CORPORATE LICENSE #: CL1735  
 Skibo Obx, Inc.

**Caribbean Landscaping**  
 (Licensee: Abram Phillip Skibo #3605)  
 is recognized as a  
 licensed Landscape Contractor business  
 in the State of North Carolina  
 Valid from: 8/1/2023 - 7/31/2024



## EQUIPMENT

(2) 1 2020 F 350 and 1 2007 F450 Crew Cab Dump Trucks with Caribbean logo/company info

1 2020 Isuzu Box truck

2 2019 Dodge Ram Trucks

1 Kubota tractor

(6) Toro Zero Turn 52" Commercial Mowers

1 Enclosed Trailer with logo/Company info

(2) Landscape Trailers

1 Bobcat tractor

(2) Toro Commercial Walk behind mowers

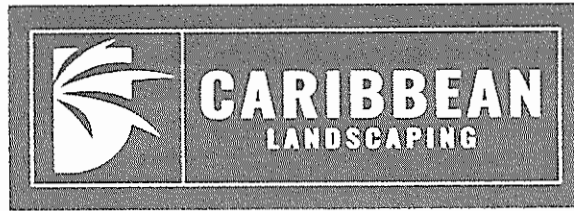
(6) Chainsaws

(3) pole saws

(12) trimmers

(6) commercial backpack blowers

1 Toro Commercial Sprayer Spreader



## REFERENCES

1. SEA DUNES COMMUNITY: Installed American Beach Grass along dunes. Contact: Seaside Management. Hennie Pepler: [Hennie@seaside-management.com](mailto:Hennie@seaside-management.com)
2. Sea Pines Community: Established dunes with American Beach Grass. Contact: Seaside Management. Hennie Pepler:
3. Village of Ocean Hill. Installed American Beach Grass on dunes. Contact Bryan Smyth: [vohmanager@gmail.com](mailto:vohmanager@gmail.com)

# Albemarle Landscapes Inc

## Town of Duck Request for Proposal American Beach Grass, Sea Oats, Bitter Panicum Planting and Fertilization Project

		2025/2026			2026/2027			2027/2028		
		Fall/Winter	Spring/Summer		Fall/Winter	Spring/Summer		Fall/Winter	Spring/Summer	
Item	description	27, 231 LF	27, 231 LF	Item \$ Amount totals Year 1	27, 231 LF	27, 231 LF	Item \$ Amount total Year 2	27, 231 LF	27, 231 LF	Item \$ Amount total Year 3
	American Beach Grass, 18" oc, 2 sprigs per hole, 8 rows per LF (total plant quantity & price per linear 1 foot)	290,464 PLANTS \$2.6632/FT.		\$72,522	290,464 PLANTS \$2.6632/FT.		\$72,522	290,464 PLANTS \$2.6632/FT.		\$72,522
	Cost per plant	\$0.2497/PLANT			\$0.2497/PLANT			\$0.2497/PLANT		
	Sea Oats, 4' centers, 3 rows deep per LF (total plant quantity & price per 2 linear foot)		20,424 PLANTS \$1.0389/FT.	\$28,289		20,424 PLANTS \$1.0389/FT.	\$28,289		20,424 PLANTS \$1.0389/FT.	\$28,289
	Cost per plant		\$1.3851/PLANT			\$1.3851/PLANT			\$1.3851/PLANT	
	Bitter Panicum, 6' centers, 1 row per LF (total plant quantity & price per 3 linear foot)		4,539 PLANTS \$0.3301/FT.	\$8,989		4,539 PLANTS \$0.3301/FT.	\$8,989		4,539 PLANTS \$0.3301/FT.	\$8,989
	Cost per plant		\$1.9804/PLANT			\$1.9804/PLANT			\$1.9804/PLANT	
			<b>Year 1 Total \$ Items 1,2,3</b>	\$109,800		<b>Year 2 Total \$ Items 1,2,3</b>	\$109,800		<b>Year 3 Total \$ Items 1,2,3</b>	\$109,800

Notes:	All plantings include supply, installation and application in accordance with the terms of the RFP
	Include narrative detailing any multi-year contract discounts



**Albemarle Landscapes, INC**  
 PO Box 209  
 Kitty Hawk, NC 27949  
 +12522561883  
 albemarlelandscapes@gmail.com  
 www.albemarlelandscapes.com

**Estimate 74102**

**ADDRESS**

Town of Duck  
 1200 Duck Road  
 Duck, NC

DATE	TOTAL
02/18/2025	\$109,800.00

ACTIVITY	QTY	RATE	AMOUNT
<b>Commercial Landscape Services:Commercial Landscape Services</b> Labor and equipment to plant beach grass springs 17,006 In.ft. North of USACE property and 10,225 In.ft. South of USACE property.	1	38,400.00	38,400.00
Prices are good for this contract and the following 2 years should the contract be extended.			
<b>Commercial Landscape Services:Plants:Plants</b> Plants are not warrantied. 290,464 Beach Grass	1	38,703.00	38,703.00
<b>Commercial Landscape Services:Plants:Plants</b> Plants are not warrantied. 20,424 Sea Oats	1	24,720.00	24,720.00
<b>Commercial Landscape Services:Plants:Plants</b> Plants are not warrantied. 5,520 Bitter Panicum	1	5,520.00	5,520.00
<b>Commercial Landscape Services:Commercial Delivery Fee</b> Material Shipping Cost	1	1,100.00	1,100.00
<b>Commercial Landscape Services:Commercial Materials:Commercial Materials</b> Fertilizer	1	1,357.00	1,357.00

\*\*\*\*\*

Office Cell # 252-256-1883  
 Office Main # 252-715-5888  
 Fax # 252-715-1986  
 info@albemarlelandscapes.com



ACTIVITY	QTY	RATE	AMOUNT
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Total Length = 27,231 ft

Price per foot = \$109,800 / 27,231 ft = \$4.032/ft

Plants  
 290,464 beach grass  
 20,424 sea oats  
 4,539 bitter panicum  
 Total Plants  
 315,427 Plants

Price per plant = \$109,800 / 315,427 plants = \$0.348/plant

A 3.5% processing fee will be added to all credit card payments.  
 If this Estimate is Approved, please respond via email with your  
 written acceptance.

SUBTOTAL	109,800.00
TAX	0.00

Estimates are only good for 60 days from sent date.

TOTAL	<b>\$109,800.00</b>
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THANK YOU.

Albemarle Landscapes & Tree Service is not Responsible for  
 any broken windows when mowing grass.

Plants are not warrantied.

GROUND PESTICIDE APPLICATOR  
 LICENSE#: 026-27846  
 NC CORPORATE IRRIGATION CONTRACTOR  
 LICENSE #: C-936  
 NCLC LICENSE #: 3643  
 Licensed ISA Arborist #: SO-10968A

15% Late Fee after 30 days

Accepted By

Accepted Date

Office Cell # 252-256-1883  
 Office Main # 252-715-5888  
 Fax # 252-715-1986  
[info@albemarlelandscapes.com](mailto:info@albemarlelandscapes.com)

North Carolina  
Landscape Contractors' Licensing Board

NCLC CORPORATE LICENSE #: CL1629

**Albemarle Landscapes, Inc.**  
(Licensee: *Christian Lee Richardson #3643*)

is recognized as a  
licensed Landscape Contractor business  
in the State of North Carolina  
Valid from: 8/1/2024 - 7/31/2025



North Carolina Landscape Contractors' Licensing Board  
Post Office Box 20875  
Raleigh, North Carolina 27619

**North Carolina Landscape Contractors' License**

Valid From: 8/1/2024 - 7/31/2025  
First Licensed on: 3/31/2023  
NCLC Individual License #: 3646

Chase William Whitfield Patterson  
PO Box 209  
Kitty Hawk, NC 27949-0209

2024 - 2025



## References

Jeff Haskett  
Planted approx. 2,000 beach grass sprigs in Kitty Hawk.  
252-267-1777  
Jeff@hasketthomes.com

John Toll  
Planted 10,000 beach grass sprigs in Southern Shores  
252-473-7920  
Johnmtoll@embarqmail.com

Michael Hyatt  
Planted 4,800 beach grass sprigs in Corolla  
804-997-5090  
Laneyhyatt@yahoo.com



EMERALD FOREST INCORPORATED

Wetland Mitigation Specialists  
P.O. Box 15815  
Chesapeake, VA 23328  
[www.emeraldforestwetlands.com](http://www.emeraldforestwetlands.com)

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Phone: 757.421.0929  
Mobile: 757.636.8977  
E-mail: [pete@emeraldforestwetlands.com](mailto:pete@emeraldforestwetlands.com)

**Request for Proposals, American Beach Grass, Sea Oat, Bitter Panicum**  
**Planting and Fertilizing Project**  
**Town of Duck, NC**

1. Proposal Narrative
2. Cost Spreadsheet
3. Qualifications of Contractor
  - a. Class A Contractor's License
  - b. Pesticide Business License
  - c. Nursery operation Permit



Wetland Mitigation Specialists  
P.O. Box 15815  
Chesapeake, Virginia 23328  
emeraldforestwetlands.com

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Phone/fax: 757.421.0929  
Mobile: 757.636.8977  
E-mail: [pete@emeraldforestwetlands.com](mailto:pete@emeraldforestwetlands.com)

Town of Duck, NC  
Attn: Sandy Cross  
1200 Duck Road  
Duck, NC 27949

RE: Request for Proposals, American Beach Grass, Sea Oat, Bitter Panicum Planting & Fertilization Project

**Dear Ms. Cross,**

This document shall serve as our proposal for planting American Beach Grass, Sea Oats, and Bitter Panicum on the coastal dunes of the Town of Duck, NC. The scope of work includes the supply, installation, and one-year establishment warranty for American Beach Grass Sprigs (Cape variety) and local Sea Oat and Bitter Panicum stock. All work will be performed in accordance with the Request for Proposal received by our office on January 17, 2025, and subsequent Addenda 1, 2 and 3.

**1. Planting of American Beach Grass Sprigs**

- American Beach Grass sprigs shall be installed at a depth of 8 inches and spaced 18 inches apart, starting from the dune crest and extending eastward to within 3 inches of the eastern toe of the dune. A maximum of 8 rows will be planted, with two sprigs per hole.
- A total of 400 pounds of 16-8-8 fertilizer per acre will be broadcast on the planted areas. (3,000 lbs. total per year)
- All planting work will be completed between November and March, and fertilization will be finished by April 15th.

**2. Planting of Local Sea Oats (Plugs)**

- Sea Oat plugs shall be installed a minimum of 8 inches deep, staggered on 4-foot centers from the crest of the dune eastward, not exceeding 3 rows deep. Each hole will receive one plug.
- A teaspoon of time-release 19-6-12 fertilizer will be placed in each hole at the time of planting. (0.2 ounces per plant, 250 lbs. total per year)
- Sea Oat planting will take place between May and September each year.

**3. Planting of Local Bitter Panicum**

- Bitter Panicum stock will consist of one stem with part of a rhizome attached, or a minimum of 8-12 inches of rhizome with no above-ground parts.

- The plants will be installed at a minimum depth of 8 inches, staggered on 6-foot centers in a single row, placed east of the dune crest and extending midway to the base of the dune.
- A one-foot broadcast circle of time-release fertilizer (such as Osmocote 19-6-12) will be applied around each plant. (0.35 ounces per plant, 100 lbs. total per year)

As the current contractor for this project since 2013, the Town of Duck is familiar with our qualifications. However, we have included several updated references showcasing our expertise in Dune Management. Also attached please find our Class A Contractors License in the landscape category from the Virginia Department of Professional and Occupational Regulation. We have also submitted our application for reciprocity to the North Carolina, Landscape Contractor's Licensing Board. We anticipate approval of reciprocity prior to July 1, 2025, contract start date. Finally, our Nursery Operation Permit and Pesticide Business License are attached to complete our qualification requirements.

Due to the volatility of materials and labor costs, we are unable to offer a multi-year discount. However, as an alternative, we are pleased to offer a price lock for the entire three-year contract, guaranteeing no increase in rates for each year

We look forward to the opportunity to work on this coastal dune restoration project. Should you have any questions or require further clarification, please do not hesitate to contact me at (757) 636-8977.

Best Regards,



Peter D McClintock, President

Emerald Forest, Incorporated

Town of Duck Request for Proposal  
American Beach Grass, Sea Oats, Bitter Panicum Planting and Fertilization Project

		2025/2026			2026/2027			2027/2028		
		Fall/Winter	Spring/Summer		Fall/Winter	Spring/Summer		Fall/Winter	Spring/Summer	
Item	description	27, 231 LF	27, 231 LF	Item \$ Amount totals Year 1	27, 231 LF	27, 231 LF	Item \$ Amount total Year 2	27, 231 LF	27, 231 LF	Item \$ Amount total Year 3
	American Beach Grass, 18" oc, 2 sprigs per hole, 8 rows per LF (total plant quantity & price per linear 1 foot)	290,464 plants \$2.24 per LF		27,231 lf. x \$2.24 = \$60,997.44	290,464 plants \$2.24 per LF		27,231 lf. x \$2.24 = \$60,997.44	290,464 plants \$2.24 per LF		27,231 lf. x \$2.24 = \$60,997.44
	Cost per plant	\$0.21 each			\$0.21 each			\$0.21 each		
	Sea Oats, 4' centers, 3 rows deep per LF (total plant quantity & price per 2 linear foot)		20,242 plants \$1.60 per LF	27,231 lf. x \$1.60= \$43,569.60		20,242 plants \$1.60 per LF	27,231 lf. x \$1.60= \$43,569.60		20,242 plants \$1.60 per LF	27,231 lf. x \$1.60= \$43,569.60
	Cost per plant		\$2.15 each			\$2.15 each			\$2.15 each	
	Bitter Panicum, 6' centers, 1 row per LF (total plant quantity & price per 3 linear foot)		4,539 plants \$0.40 per LF	27,231 lf. x \$0.40 = \$10,892.40		4,539 plants \$0.40 per LF	27,231 lf. x \$0.40 = \$10,892.40		4,539 plants \$0.40 per LF	27,231 lf. x \$0.40 = \$10,892.40
	Cost per plant		\$2.45 each			\$2.45 each			\$2.45 each	
			<b>Year 1 Total \$ Items 1,2,3</b>	<b>\$115,459.44</b>		<b>Year 2 Total \$ Items 1,2,3</b>	<b>\$115,459.44</b>		<b>Year 3 Total \$ Items 1,2,3</b>	<b>\$115,459.44</b>

Notes:	All plantings include supply, installation and application in accordance with the terms of the RFP
	Include narrative detailing any multi-year contract discounts

**Emerald Forest, Incorporated, February 12, 2025** *Peter McClintock* President

EXPIRES ON  
12-31-2026

NUMBER  
2705059933

COMMONWEALTH of VIRGINIA  
Department of Professional and Occupational Regulation  
9960 Mayland Drive, Suite 400, Richmond, VA 23233  
Telephone: (804) 367-8500



EMERALD FOREST INCORPORATED  
P.O. BOX 15815  
CHESAPEAKE, VA 23328

BOARD FOR CONTRACTORS  
CLASS A CONTRACTOR  
\*CLASSIFICATIONS\* LSC



*Barbara A. ...*  
State Seal Design

Status can be verified at <http://www.dpor.virginia.gov>

(SEE REVERSE SIDE FOR PRIVILEGES AND INSTRUCTIONS)

COMMONWEALTH of VIRGINIA  
Department of Professional and Occupational Regulation

CLASS A BOARD FOR CONTRACTORS  
CONTRACTOR

\*CLASSIFICATIONS\* LSC  
NUMBER: 2705059933 EXPIRES: 12-31-2026  
EMERALD FOREST INCORPORATED  
P.O. BOX 15815  
CHESAPEAKE, VA 23328



(FOLD)

Status can be verified at <http://www.dpor.virginia.gov>

DPOR-PC (02/2017)

DPOR-LIC (02/2017)

(DETACH HERE)

\* Application for reciprocity submitted to North Carolina Landscape Contractors Licensing Board submitted on 02/10/2025. Approval anticipated prior to the July 1, 2025 contract start date.



VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES  
OFFICE OF PESTICIDE SERVICES

P O BOX 1163, RICHMOND VA 23218-1163

INVALID IF INSURANCE AND/OR CERTIFICATE OF DESIGNATED APPLICATOR  
LAPSE BEFORE EXPIRATION DATE

PESTICIDE BUSINESS LICENSE



**Issued**  
5/4/2024

**Expires**  
3/31/2025



**License No.**  
4102

**Fee Paid**  
\$150

Issued in accordance with application duly executed by the business shown below which has agreed to comply with all applicable laws, rules and regulations and has paid the required fee.

**Mailing Address**

EMERALD FOREST INC  
517 BALLAHACK RD  
CHESAPEAKE, VA 23322

**Business Location**

EMERALD FOREST INC  
P O BOX 15815  
CHESAPEAKE, VA 23328

\_\_\_\_\_  
Joseph Guthrie  
Commissioner

\_\_\_\_\_  
Liza Flegson Trossbach  
Authorized Representative

not transferable  
**Virginia Department of Agriculture and Consumer Services**  
P. O. Box 1163, Richmond, VA 23218

**PERMIT**  
**NURSERY OPERATION**

ISSUED  
09-DEC-2024

PERMIT

EXPIRES  
31-DEC-2025

91-31609-550

Issued in accordance with application duly executed by the party shown below who has agreed to comply with all applicable laws, rules and regulations and has paid the required fee of \$75.

EMERALD FOREST INC  
PETER D MCCLINTOCK  
517 BALLAHACLE ROAD  
CHESAPEAKE, VA 23322

Joseph Guthrie  
COMMISSIONER

BY David Gianino  
AUTHORIZED REPRESENTATIVE



Wetland Mitigation Specialists  
P.O. Box 15815  
Chesapeake, Virginia 23328  
[emeraldforestwetlands.com](http://emeraldforestwetlands.com)

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Phone: 757.421.0929

Mobile: 757.636.8977

E-mail: [pete@emeraldforestwetlands.com](mailto:pete@emeraldforestwetlands.com)

## **Qualifications of Contractor**

### **Dune Project References, 2025**

1). Ms. Tammy Halstead, City of Norfolk, Public Works

700 City Hall Building, Norfolk, Virginia 23510

Ocean View Dune Planting and Maintenance, annually since 2008

Office: 757 664-4648, [Tammy.Halstead@norfolk.gov](mailto:Tammy.Halstead@norfolk.gov)

2). Mr. Guy Miller, W3 Marine, Inc.

1601 S. Main Street, Norfolk VA 23523

JEB Little Creek Dune Enhancement Planting

Office: (757) 627-3440, [guymler@w3marine.com](mailto:guymler@w3marine.com)

3). Mr. Jim Gunn, Coastal Design and Construction

6364 Allmondsville Rd. Gloucester, VA 23061

Various Projects since 2005, Colonial National Historic Park Project 2023/24

Office: 804 693-4158, [jim@coastaldesign.net](mailto:jim@coastaldesign.net)

- Incumbent Dune Planting and Maintenance Contractor for the Town of Duck, NC, since 2013.

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.  
  
\_\_\_\_\_  
Finance Director

**NORTH CAROLINA  
DARE COUNTY**

**SERVICE CONTRACT  
PURCHASE ORDER # \_\_\_\_\_**

THIS CONTRACT is made and entered into this the \_\_\_\_ day of \_\_\_\_\_, 2025, by and between TOWN OF DUCK, a body corporate and politic existing pursuant to the laws of the State of North Carolina, (hereinafter referred to as "the TOWN") party of the first part and Skibo Obx, Inc., dba Caribbean Landscaping (Abram P. Skibo, President) (hereinafter referred to as "CONTRACTOR"), party of the second part.

**1. SERVICES TO BE PROVIDED AND AGREED CHARGES**

The services and/or material to be furnished under this contract (hereinafter referred to collectively as "SERVICES") and agreed charges are as follows:

The services and/or materials to be furnished under this contract (hereinafter referred to collectively as "SERVICES") are as specified in the *Town of Duck, North Carolina, Request for Proposal: American Beach Grass, Sea Oat, Bitter Panicum Planting & Fertilization Project* issued by the TOWN on January 17, 2025 and the response submitted by the CONTRACTOR on February 18, 2025, both of which are attached.

TOWN shall pay CONTRACTOR for SERVICES rendered pursuant to this contract a sum not to exceed \$99,817.35. Costs for any additional work associated with this contract shall be agreed to by the TOWN and negotiated at the time such work is deemed necessary.

Additional SERVICES not covered specifically by this CONTRACT shall be negotiated on an as needed basis.

**2. TERM OF CONTRACT**

The term of this CONTRACT for SERVICES is from July 1, 2025, to June 30, 2026. The CONTRACT may be extended for a single two (2) year extension with the mutual concurrence of the TOWN and the CONTRACTOR, and consistent with the request for proposal submitted to the Town of Duck on February 18, 2025. Either party may nonetheless cancel this CONTRACT on sixty (60) days written notice to the other party by certified mail or personal delivery. This contract is subject to the availability of funds to purchase the specified SERVICES and may be terminated at any time if such funds become unavailable.

### **3. PAYMENT TO CONTRACTOR**

The TOWN agrees to pay at the rates specified for SERVICES satisfactorily performed in accordance with this contract. Unless otherwise specified, the CONTRACTOR shall submit bills of lading for all materials and itemized invoices to the TOWN at the completion of work performed. Payment will be processed promptly upon receipt and approval by the TOWN of the invoice.

All equipment, and maintenance and repair of equipment, necessary for CONTRACTOR's performance of this CONTRACT shall be the CONTRACTOR's responsibility.

### **4. INDEPENDENT CONTRACTOR**

Both the TOWN and the CONTRACTOR agree that the CONTRACTOR shall act as an independent contractor and shall not represent itself as an agent or employee of the TOWN for any purpose in the performance of the CONTRACTOR duties under this contract. Accordingly, the CONTRACTOR shall be responsible for payment of all Federal, State and local taxes arising out of the CONTRACTOR activities in accordance with this contract, including by way of illustration but not limitation, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, and any other taxes or business license fees as required.

CONTRACTOR shall comply with the requirements of E-verify, Article 2 of Chapter 64 of the North Carolina General Statutes, and attests to compliance with said regulations as stated in the attached Affidavit.

In performing the SERVICES, the CONTRACTOR are acting as independent contractors and shall perform SERVICES in accordance with currently approved methods and practice in the CONTRACTOR'S professional capacity and in accordance with the standards of applicable professional organizations and licensing agencies.

### **5. INSURANCE AND INDEMNITY**

The CONTRACTOR shall indemnify and save harmless the TOWN, its agents and employees from and against all actions, liability, claims, suits, damages, cost or expenses of any kind which may be brought or made against the TOWN or which the TOWN must pay and incur by reason of or in any manner resulting from injury, loss or damage to persons or property resulting from negligent performance of or failure to perform any of its obligations under the terms of this CONTRACT.

The CONTRACTOR shall be fully responsible to the TOWN for the acts and omissions of its sub-contractors and of persons either directly or indirectly employed by CONTRACTORS.

In addition, the CONTRACTOR shall comply with the North Carolina Worker's Compensation Act and shall provide for the payment of workers' compensation to its employees in the manner and to the extent required by such Act. In the event the CONTRACTOR is excluded from the requirements of such Act and do not voluntarily carry workers' compensation coverage, the CONTRACTOR shall carry, or cause its employees to carry, adequate medical/accident insurance to cover any injuries sustained by its employees or agents during the performance of SERVICES.

The CONTRACTOR agrees to furnish the TOWN proof of compliance with said Act or adequate medical/ accident insurance coverage upon request.

The CONTRACTOR, upon request by the TOWN, shall furnish a Certificate of Insurance from an insurance company, licensed to do business in the State of North Carolina and acceptable to the TOWN verifying the existence of any insurance coverage required by the TOWN. The Certificate will provide for sixty (60) days advance notice in the event of termination or cancellation of coverage.

## **6. HEALTH AND SAFETY**

The CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. The CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees from the work and other persons who may be affected thereby.

## **7. NON-DISCRIMINATION IN EMPLOYMENT**

The CONTRACTOR shall not discriminate against any employee or applicant for employment because of age, sex, race, creed, or national origin. The CONTRACTOR shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their age, sex, race, creed, or national origin. In the event the CONTRACTOR are determined by the final order of an appropriate agency or court to be in violation of any non-discrimination provision of federal, state or local law or this provision, this Contract may be canceled, terminated or suspended in whole or in part by the TOWN, and the CONTRACTORS may be declared ineligible for further TOWN contracts.

## **8. GOVERNING LAW**

This contract shall be governed by and in accordance with the laws of the State of North Carolina. All actions relating in any way to this contract shall be brought in the General Court of Justice of the State of North Carolina or in the Federal District Court for the Eastern District of North Carolina.

## **9. OTHER PROVISIONS**

This contract is subject to such additional provisions as are set forth in any addendum executed separately by each party and attached hereto.

## **10. CONTRACT DOCUMENTS/AMENDMENTS**

This document together with any attached exhibits constitutes the entire Contract between the said two parties and may only be modified by a written mutual agreement signed by the parties and attached hereto.

**11. SIGNATURES**

Both the TOWN and the CONTRACTOR agree to the above contract.

Witnessed or Attested By:

\_\_\_\_\_

(SEAL)

TOWN OF DUCK

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Witnessed or Attested By:

\_\_\_\_\_

CONTRACTOR

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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

\_\_\_\_\_  
Finance Director

**AGENDA:****May 7, 2025****Regular Meeting****ITEM #8A:**

New Business

- A. Discussion/Consideration of Authorizing a Public Hearing on Ordinance 25-03, an Ordinance Adding Subsection 156.053(C) to the Town Code Allowing Additions to Match the Height of the Existing Roofline for Legally, Nonconforming Residences up to a Maximum of One Additional Foot

**RECOMMENDED ACTION:**

- Review the Proposed Zoning Text Amendment
- Consider Authorizing a Public Hearing for the June 4, 2025 Town Council Meeting

**SUMMARY OF INFORMATION:**

At its public meeting on April 9, 2025, the Duck Planning Board voted unanimously (4-0) to recommend approval of Ordinance 25-03 which proposes the addition of Subsection 156.053(C) that states, "...for any single-family dwelling built prior to July 3, 2002 that exceeds the maximum height for the zoning district in which it is located, an addition can be constructed to match the height of the existing roofline, provided that the addition does not exceed the maximum building height of the zoning district by more than one foot (1')."

**ATTACHMENTS:**

- Letter of Transmittal to Town Council
- Staff Report
- Draft Ordinance 25-03





**TO:** Mayor Kingston and Members of the Duck Town Council  
**FROM:** Joe Heard, AICP, Director of Community Development  
**DATE:** May 7, 2025  
**RE:** Text Amendment: Height Allowance for Additions to Existing Residences of Nonconforming Height

**Proposal**

The proposal recommended by the Planning Board would add Subsection 156.053(C) with the following wording:

“(C) Notwithstanding any other provision of this chapter, for any single-family dwelling built prior to July 3, 2002 that exceeds the maximum height for the zoning district in which it is located, an addition can be constructed to match the height of the existing roofline, provided that the addition does not exceed the maximum building height of the zoning district by more than one foot (1’). The addition must conform with all other provisions of the Town’s adopted zoning, flood damage prevention, and building code regulations.”

**Background Information**

At its public meeting on April 2, 2025, the Duck Town Council referenced a recent special use permit application for a building height amendment to allow an addition with the same roofline and height as the existing residence. It was noted that similar situations exist elsewhere in the community and a provision allowing minor height exceptions was suggested. The Council members expressed an interest in Community Development staff working with the Planning Board to develop an ordinance containing this type of height allowance for nonconforming residences.

**Historical Reference**

Since the Town’s incorporation, there have been three (3) height exception requests. In 2005, the Board of Adjustment approved a 3.6’ variance to tie into an existing roof line. A zoning text amendment removed height matters from variance proceedings, and they have subsequently been handled as special exceptions that must be approved by Town Council. In 2015, a height exception was approved for .3’ above the 35’ maximum and in 2024 a height exception for 1.2’ was approved above the 35’ maximum. Staff also recently reviewed another situation where the roof height would exceed the 35’ maximum by .07 feet, however the contractor and owner chose to build the addition to meet the 35’ rather than apply for a special exception.



### **Staff Analysis**

To summarize, the proposed allowance would only be permitted under following conditions outlined in Subsection 156.053(C):

1. The structure must be a single-family residence.
2. The residence must have been constructed prior to July 3, 2002.
3. The permitted height encroachment can be no more than one foot (1') above the maximum height allowed in the zoning district in which the property is located. Additions at a greater height must still obtain a special use permit.
4. The addition must comply with all other applicable Town standards.

### **Duck Comprehensive & CAMA Land Use Plan**

The Town of Duck's adopted CAMA Land Use Plan does not contain recommendations relating to the specific amendment being proposed, but contains the following goals and recommendations generally guiding the adoption of development standards:

#### **4: Guide the character, location, and type of development and activity in town to reinforce the "Duck Experience".**

4.1.2: Review existing zoning districts, dimensional standards, and land development regulations for the potential to implement character area recommendations.

4.2: Ensure that development of land minimizes negative direct and secondary environmental impacts, avoids risks to public health, safety, and welfare and is consistent with the carrying capacity of the land.

#### **5: Protect and preserve Duck's coastal residential character.**

5.1: Closely protect the character of existing single-family neighborhoods as well as multi-family enclaves through the adoption and enforcement of appropriate development standards.

As part of its recommendation, the Planning Board found that the proposed text amendment is consistent with the Comprehensive & Land Use Plan. As part of its final decision, the Town Council is asked to determine whether the text amendment is or is not consistent with the Town's adopted CLUP.

### **Planning Board Recommendation**

At its public meeting on April 9, 2025, the Duck Planning Board voted unanimously (4-0) to recommend APPROVAL of the proposed amendment, noting that it will allow greater flexibility



Town of Duck, North Carolina  
**Department of Community Development**  
*Text Amendment: Nonconforming Height Allowance*

*Agenda Item 8A*

for property owners with nonconforming residences to make reasonable improvements to their properties with minimal impact to neighboring properties.

The Board saw value in reducing the need for owners to request special use permits for improvements that typically have minimal visual impact from the street or surrounding properties. During their evaluation of the height standards, the Board members discussed several alternatives for height allowances including a maximum of two feet (2') and simply matching the height of the existing roofline regardless of the height.

ATTACHMENTS

- A. Letter of Transmittal to Town Council
- B. Draft Ordinance 25-03



April 10, 2025

RE: Ordinance 25-03: Text Amendment to the Town's Standards for Nonconforming Building Height

Mayor Kingston and Duck Town Council Members:

At its meeting on April 2, 2025, the Duck Town Council authorized Community Development staff to work with the Planning Board to consider an allowance for building height in situations involving additions to existing residences of nonconforming height.

At its public meeting on April 9, 2025, the Duck Planning Board voted unanimously (4-0) to recommend approval of the attached text amendment with a one-foot allowance, noting that it will provide greater flexibility for property owners with nonconforming residences to make reasonable improvements to their properties. The Board members also saw value in reducing the need for owners to request special use permits for improvements that typically have minimal visual impact from the street or surrounding properties. The Board expressed an opinion that the proposal is consistent with the Town's adopted Comprehensive & Land Use Plan.

During their evaluation of the height standards, the Board members discussed several alternatives for height allowances including a maximum of two feet (2') and simply matching the height of the existing roofline regardless of the height.

Sincerely, /s/

Marc Murray, Chairman  
Town of Duck Planning Board

**AN ORDINANCE AMENDING THE ZONING ORDINANCE  
OF THE TOWN OF DUCK, NORTH CAROLINA  
BY ALLOWING THE HEIGHT OF  
ADDITIONS TO MATCH THE ROOFLINE OF EXISTING,  
NONCONFORMING RESIDENCES**

**Ordinance No. 25-03**

**WHEREAS**, the Duck Town Council and Planning Board have determined that this amendment will allow greater flexibility for property owners with nonconforming residences to make reasonable improvements to their properties with minimal impact to neighboring properties; and

**WHEREAS**, the Duck Town Council and Planning Board have found that creating this allowance is reasonable and consistent with the recommendations of the Town's adopted CAMA Core Land Use Plan.

**NOW THEREFORE BE IT ORDAINED** by the Town Council for the Town of Duck, North Carolina that the Zoning Ordinance shall be amended as follows:

**PART I.** The title of Section 156.053 shall be amended to "ADDITIONS TO NONCONFORMING SINGLE-FAMILY RESIDENTIAL STRUCTURES".

Subsection 156.053(C) shall be added with the following wording:

"(C) Notwithstanding any other provision of this chapter, for any single-family dwelling built prior to July 3, 2002 that exceeds the maximum height for the zoning district in which it is located, an addition can be constructed to match the height of the existing roofline, provided that the addition does not exceed the maximum building height of the zoning district by more than one foot (1'). The addition must conform with all other provisions of the Town's adopted zoning, flood damage prevention, and building code regulations."

**PART II.** This ordinance shall be effective upon its adoption.

---

Don Kingston, Mayor

ATTEST:

\_\_\_\_\_  
Lori Ackerman, Town Clerk

Date adopted: \_\_\_\_\_

Motion to adopt by: \_\_\_\_\_

Vote: \_\_\_\_\_AYES \_\_\_\_\_NAYS