

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
June 4, 2025**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 1:00 p.m. on Wednesday, June 4, 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; Police Chief Jeffrey Ackerman; Fire Chief Matthew Dudek; Town Attorney Robert Hobbs; Public Information and Events Director Kristiana Nickens; Finance Administrator Lauren Creech; Planning and Permits Manager Sandy Cross; and Town Clerk Lori Ackerman.

OTHERS ABSENT: None.

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

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

PUBLIC COMMENTS

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

Robert Lotze of 117 Dune Road was recognized to speak. Mr. Lotze stated that he was concerned about the use of the sidewalks, especially with e-bikes. He thought Town staff had started installing markings that ask people to use only the bike lane for bicycles. He wondered if the Town was expanding the green markings on the sidewalk and if not, he suggested that the markings be at every intersection on the sidewalks through Town that would instruct bicyclists to dismount to cross the intersection. He stated that his major concern with the e-bikes was that they go so fast and it can't be regulated on the multi-use path on the south end of Town. He thought the police needed the ability to ticket people who are riding on the sidewalk with e-bikes because it was a hazard and an issue.

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

CONSENT AGENDA

Minutes from the May 7, 2025, Regular Meeting; Contract with Coastal Protection Engineering for 2025 Annual Beach Monitoring Services, Subject to Appropriation, and Authorizing the Town Manager to Execute the Contract; Contract with Coastal Protection Engineering for Pre-Permitting Coordination and Native Beach Sediment Analysis, Subject to Appropriation, and Authorizing the Town Manager to Execute the Contract; Deeming all Police TASER 7 Energy Weapons, Holsters, Cartridges, and Related Accessories as Surplus Property to be Donated to the Tyrell County Sheriff's Office and Other Certain Police Property to be Disposed of by Online Auction; Amended and Restated Contract between the Town of Duck and the Duck Volunteer Fire Department; Easement Agreement with Brightspeed of Eastern North Carolina, LLC and the Town of Duck; and Budget Amendment

Councilor Lingard moved to have Consent Agenda Item F – the easement agreement with Brightspeed – moved to New Business for more discussion.

Motion carried 5-0.

Councilor Chasen moved to approve the consent agenda as presented.

Motion carried 5-0.

SPECIAL PRESENTATIONS

Recognition of Police Officer Richard Deaner on Obtaining his Advanced Law Enforcement Certificate

Police Chief Jeffrey Ackerman was recognized to speak. Police Chief Ackerman went on to present Police Officer Richard Deaner with his Advanced Law Enforcement certificate.

Mayor Kingston and Council congratulated Officer Deaner on his achievement.

Recognition of Master Police Officer Nathan Mauffray on Receiving the Mighty Duck Award

Town Manager Drew Havens was recognized to speak. Town Manager Havens stated that on behalf of the SOAR Committee, he presented Master Police Officer Nathan Mauffray with the Mighty Duck award.

Mayor Kingston and Council congratulated Master Police Officer Mauffray on his award.

QUASI-JUDICIAL PUBLIC HEARING

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

LEGISLATIVE PUBLIC HEARINGS

Public Hearing/Discussion/Consideration of 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

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 Planning & Permits Manager Sandy Cross would give a presentation.

Planning & Permits Manager Sandy Cross was recognized to speak. Manager Cross Heard stated that the proposal recommended by the Planning Board would add Subsection 156.053(C) with the following wording: “(C) Notwithstanding any other provisions 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.”

Manager Cross stated that at Council’s April 2, 2025 meeting, 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. She explained that it was noted that similar situations exist elsewhere in the community and a provision allowing minor height exceptions was suggested. She stated that Council 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.

Manager Cross explained that since the Town’s incorporation, there have been three height exception requests. She stated that in 2005, the Board of Adjustment approved a 3.6-foot variance to tie into an existing roofline. She added that a zoning amendment removed height matters from variance proceedings, and they have subsequently been handled as special exceptions that must be approved by Council. She noted that in 2015, a height exception was approved for .3 feet above the 35-foot maximum and in 2024 a height exception for 1.2 feet was approved above the 35-foot maximum by .07 feet; however, the contractor and owner chose to build the addition to meet the 35 feet rather than apply for a special exception.

Manager Cross stated that the proposed allowance would only be permitted under the following conditions, which were outlined in Subsection 156.035(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 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 permit.
4. The addition must comply with all other applicable Town standards.

Manager Cross stated that at their public meeting on April 9, 2025, the Planning Board voted unanimously to recommend approval of the proposed amendment, noting that will allow greater flexibility for property owners with nonconforming residences to make reasonable improvements to their properties with minimal impact to neighboring properties. She pointed out that the Planning Board saw value in reducing the need for owners to request special use permits for improvements that typically have a minimal visual from the street or surrounding properties. She noted that during their evaluation of the height standards, the Board discussed several alternatives for height allowances including a maximum of two feet and simply matching the height of the existing roofline regardless of the height.

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

Mayor Pro Tempore Thibodeau clarified that the one foot would cover most of the discrepancies. She asked if staff have seen more than the one foot or if one foot was the idea that, administratively, a homeowner should have that right. Manager Cross explained that with the various exceptions that were requested, the highest was 3.6 feet, adding that the other two were 0.3 and 1.2 feet.

Mayor Kingston asked what would happen if the original roofline was greater than 35 feet. Manager Cross stated that it would apply to this. She explained that, prior to incorporation, Dare County did not request height certificates, but Town staff do. She explained that staff found an instance where there was an actual error and the homeowner chose not to come before Council. She stated that the other was two different rooflines and the contractor made the modification.

Councilor Lingard stated that the modification that was done made the house look much better. Mayor Pro Tempore Thibodeau clarified that the one foot would have worked. Councilor Lingard stated she was correct. Mayor Pro Tempore Thibodeau stated that it was her concern. Manager Cross stated that if it was more than one foot, a homeowner would still have the option to come before Council with a special use permit application to obtain approval.

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

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

Councilor Whitman stated that he sat through Planning Board meetings where this was discussed numerous times.

Mayor Pro Tempore Thibodeau moved to approve Ordinance 25-03 as presented.

Motion carried 5-0.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

Discussion/Consideration of the Proposed FY 2025-2026 Budget Ordinance and 2026-2030 Capital Improvement Plan

Town Manager Havens stated that the budget had been presented to Council two other times with no comments received from the public on it. He stated that he was asking Council to adopt the budget as presented.

Councilor Whitman moved to adopt the FY 2025-2026 budget and the Fiscal Year 2026-2030 Capital Improvement Plan as presented.

Motion carried 5-0.

Discussion/Consideration of Appointing Seven Individuals to Serve on the Board of Adjustment

Mayor Kingston stated that the terms of the entire Board of Adjustment will expire on July 1, 2025, adding that nine people had applied for the positions. He stated that any of the applicants that wished to introduce themselves could do so at this time. He noted that Carol Powell could not be in attendance due to a doctor appointment; Tim McKeithan was out of town; and Diane Jordan had withdrawn her application.

Nicki Johnson of 115 South Snow Geese Drive was recognized to speak. Ms. Johnson gave a short background on herself, adding that she wished to be considered for the Board of Adjustment.

Mayor Kingston explained that Council would be voting on the five Members first and then the two Alternates.

Mayor Kingston nominated Olin Finch as a Member.

Motion carried 5-0.

Mayor Kingston nominated Carol Powell as a Member.

Motion carried 5-0.

Mayor Kingston nominated Miriam Rollin as a Member.

Motion carried 5-0.

Mayor Kingston nominated David Flowers as a Member.

Motion carried 5-0.

Mayor Kingston nominated Tim McKeithan as a Member.

Motion carried 5-0.

Mayor Kingston nominated Thomas Burton as an Alternate.

Motion carried 5-0.

Mayor Kingston nominated Warren Stembridge as an Alternate.

Motion carried 5-0.

Mayor Kingston encouraged Nicki Johnson to keep applying as there will be openings in the future.

NEW BUSINESS

Easement Agreement with Brightspeed of Eastern North Carolina, LLC and the Town of Duck

Town Manager Havens explained that it was an easement agreement granting Brightspeed an easement to install their fiber optic cable on the eastern side of the Town's property along the Town green and the grass strip between the sidewalk and the plantings. He noted that the Town was granting an easement after Brightspeed had already installed the cable, adding that it was work that was completed over a year ago. He stated that he started having conversations with Brightspeed at that time and it's taken a year to get their full attention that they needed a legal right to be on the Town's property. He pointed out that it was a fairly standard easement form, adding that Town Attorney Hobbs has reviewed it.

Councilor Lingard stated that Brightspeed have installed orange poles all over Town that he felt were ugly. He pointed out that, from what he could tell, they were unnecessary, adding that the other utility companies do not have poles installed. He thought the cable companies thought they were special and need to show people where their cables were located with the orange poles. He stated that he would like to remove from the easement agreement Brightspeed's right to put in the orange poles on Town property, which were referenced as the surface location markers in the agreement. He added that, at some point, he would like to have all of the poles removed in Town, but thought that was a discussion for another day.

Town Attorney Hobbs suggested that if a motion to approve the easement with that change was made, that the motion be made to approve the easement agreement with one change, which was removing the term “surface location markers” as one of the components that Brightspeed can place on Town property and that approval would be contingent upon Brightspeed agreeing to that change.

Councilor Lingard moved to approve the easement agreement with Brightspeed on the condition that Brightspeed agree to remove the term “surface location markers” in the first paragraph of page 1.

Councilor Whitman asked Town Manager Havens if he could show Council where the cables were located on the as-built information. Town Manager Havens explained that they were located approximately 10 feet west of the easement line on the Town green, adding that it varied. He explained that the way the easement language was written, the easement will be 10 feet on either side of the currently existing conduit that has been installed.

Mayor Kingston clarified that the work has already been completed. Town Manager Havens stated he was correct.

Mayor Pro Tempore Thibodeau clarified that if Brightspeed did not agree to the easement agreement change, then the Town would be going back to the drawing board. Town Manager Havens stated that if they don't agree to the change, the Town would begin negotiating language with them again.

Councilor Lingard stated that if Brightspeed did not agree to the change, he proposed that the Town pass an ordinance to ban them completely.

Mayor Pro Tempore Thibodeau clarified that if Brightspeed had some type of surface marker, it would be acceptable to Councilor Lingard as long as it wasn't orange. Town Attorney Hobbs stated that he would come back to Council prior to the next meeting if Brightspeed doesn't agree with the change. He pointed out that they have gone a year without the markers and felt that the change won't be an issue.

Motion carried 5-0.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Town Attorney Hobbs stated he had no report.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Departmental Updates

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

Manager Cross 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.

April FY 2025 Financial Presentation

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

MAYOR'S AGENDA

Mayor Kingston stated that the mayors/chairmen meeting will be on June 17, 2025 hosted by the Town of Kill Devil Hills. He stated that he released to Council earlier in the day the Town Manager review schedule for 2025, of which the first activity will be coming up in early July. He noted that Councilor Chasen would be coordinating the review activity this year. He added that the first meeting in August Council will complete the Town Manager's annual review.

COUNCIL MEMBER'S AGENDA

Mayor Pro Tempore Thibodeau commended Chiefs Ackerman and Dudek on the development of their departments and the integration of the department with the community. She stated that she wasn't sure what could be done with regard to e-bikes since it was reported that the legislation has not moved forward on it. She thought that anything that could be done to help with directing the e-bikes and keeping them safe would be good. She stated that with regard to offshore drilling and the concern that people were seeing regarding the resurgence of an interest in allowing drilling to take place possibly off the coast, that there were some deadlines with public comments so she was not in a position to suggest that Council pass a resolution, adding that the Town had passed a resolution previously. She thought if it could be brought to light and resubmitted, it would be appropriate. She pointed out that the Dare County Commissioners may take up the issue at their June mid-month meeting and thought it was something that Council needed to keep on their radars. Town Manager Havens stated that he wasn't sure how far back the last resolution was passed, adding that if it was with the previous sitting Council, it could be submitted but it would not be a resolution of the

current Town Council. He pointed out that the prior resolution could be sent with a note stating that the previous Town Council passed it.

Councilor Lingard stated that he recently attended a class on comprehensive fiscal training for local governments, adding that whenever he attends statewide classes, he was always eternally grateful for the staff Duck has. He noted that some of the participants in the class were financial controllers and some were council members, adding that some of the questions they asked shocked him. He stated that it made him more grateful for the staff that Duck has.

Councilor Whitman thanked the Community Development staff for the new water fountain as well as the upkeep they are doing on the boardwalk. He thanked Director Nickens and Community Engagement Coordinator Betsy Trimble for starting the spring/summer events. He thanked Police Chief Ackerman for getting the police department up to full staff again.

Councilor Chasen stated that the season has started and asked everyone to be careful. She thanked Mayor Kingston and Councilor Lingard for sending her information about Duck and the Outer Banks being listed globally, adding that she forwarded the information to the Outer Banks Visitors Bureau. She stated that the Herron property may bring an opportunity to add some community art projects in the future.

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.

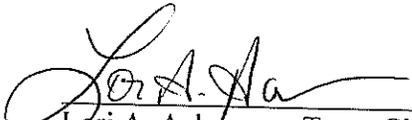
Mayor Kingston noted that the next meeting would be the Regular Meeting on Wednesday, July 2, 2025 at 1:00 p.m.

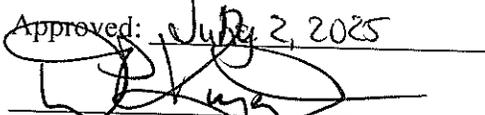
ADJOURNMENT

Councilor Whitman moved to adjourn the meeting.

Motion carried 5-0.

The time was 2:20 p.m.


Lori A. Ackerman, Town Clerk

Approved: July 2, 2025

Don Kingston, Mayor

