

**TOWN OF DUCK
TOWN COUNCIL
CLOSED SESSION MINUTES - REDACTED
August 7, 2024**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 1:00 p.m. on Wednesday, August 7, 2024.

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

COUNCIL MEMBERS ABSENT: Councilor Sandy Whitman.

OTHERS PRESENT: Town Manager Drew Havens; Director of Community Development Joseph Heard; Police Chief Jeffrey Ackerman; Fire Chief Donna Black; Attorney Johny Hallow; Finance and Human Resources Manager Jessica Barnes; Community Engagement Coordinator Betsy Trimble; and Town Clerk Lori Ackerman.

OTHERS ABSENT: Town Attorney Robert Hobbs and Public Information and Events Director Kristiana Nickens.

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

CLOSED SESSION

Mayor Pro Tempore Thibodeau moved to enter closed session in accordance with Section 143-317.11(a)(6) of the North Carolina General Statutes to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; and in accordance with Section 143-318.11(a)(5) to establish or instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price or other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.

Motion carried 4-0.

The time was 2:28 p.m.

DISCUSSION REGARDING SUBMITTING AN OFFER TO PURCHASE THE HERRON PROPERTIES AT 1165 DUCK ROAD, 101 and 103 SCARBOROUGH LANE

PRESENT FOR CLOSED SESSION: Mayor Don Kingston; Mayor Pro Tempore Monica Thibodeau; Councilor Sandy Whitman; Councilor Brenda Chasen; Councilor

Kevin Lingard; Town Manager Drew Havens; Attorney Johny Hallow; and Town Clerk Lori Ackerman.

Council convened in closed session beginning at 2:33 p.m., pursuant to G.S. 143-318.11(a)(5), to establish or instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price or other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.

Town Manager Drew Havens began the closed session by providing a background on the Herron properties for the benefit of Councilors Chasen and Lingard. He passed out a sketch to all Council members that showed the three properties. He explained that the Town has been attempting to purchase all or portions of the properties prior to him being hired as the Town Manager. He added that since he started working for the Town, Council has made offers twice for 1165 Duck Road, also known as Parcel 3 on the sketch, with no counteroffer made. He pointed out that Council authorized him previously to obtain an appraisal on Parcel 3, with the thinking that it would have the most direct benefit to the Town. He noted that another sketch was before Council that showed 1165 Duck Road having parking, restroom facilities, picnic tables, and open space.

Town Manager Havens stated that there was a contract on 101 and 103 Scarborough Lane, also known as Parcels 1 and 2 on the sketch, but the contract has fallen through and the properties are back on the real estate market for \$1.25 million. He noted that 1165 Duck Road has never been off the market, but the Herrons had an offer for the full asking price of \$750,000, and for whatever reason, the Herrons are hung up on the \$750,000, had the offer, but was never able to close. He believed it was because \$750,000 was more than the land was worth and getting financing was extremely difficult.

Town Manager Havens stated he was in front of Council to ask if they were interested in the properties. He stated that he had talked to the realtor and was told that the family wanted to increase the price on all three parcels and he was encouraging them not to increase the price until after the new year. He pointed out that the Herrons have not been able to close or get a deal, adding that he knew who had been involved in the potential purchase of 101 and 103 Scarborough Lane and they could not make it work. He felt that if they couldn't make it work, it would take someone with more imagination to make it work. He asked Council if they wanted to make an offer on 1165 Duck Road only or on all three parcels. He stated that the Town's prior offer for 1165 Duck Road was \$600,000, which was \$33/per square foot, which was based on the appraisal that was completed. He added that \$750,000 was pretty aggressive and a pretty high price.

Mayor Kingston stated that he has always been a proponent of going after land for the Town because there is no land available. He stated that he would prioritize buying land over constructing the Public Safety building in the short term. He thought 101 and 103 Scarborough Lane would be more valuable to the Town than 1165 Duck Road in that there would be more options with 101 and 103 with what could be done. He stated that

he was in favor of the Town purchasing 101 and 103 Scarborough Lane as well as 1165 Duck Road. He knew that the Town's offer was accepted but then rejected several years ago, but still felt that the Town should pursue purchasing 101 and 103 Scarborough Lane and possibly 1165 Duck Road.

Mayor Pro Tempore Thibodeau stated that she had a lot of history with the property due to the time she's been on Council. She agreed that there was no more land to be had in Duck and that Council had challenges with regard to planning for the future. She gave a short background on why Council was originally interested in 1165 Duck Road to Councilors Chasen and Lingard. She stated that she was in favor of moving forward with pursuing the purchase of the properties, adding that there may be some hesitation from the Herron's with selling them to the Town. She pointed out that it happened before but was glad Town Manager Havens had a good conversation with the listing agent. She wasn't sure why the Herrons were hesitant to sell the properties to the Town but thought Council could work through something to honor the family if needed. She reiterated that she was in favor of pursuing the purchase of all three properties, adding that she would prefer it be used as a park and for open space.

Councilor Chasen stated that she was in favor of pursuing the purchase of all three properties, adding that it was an opportunity that should not be overlooked.

Councilor Whitman agreed with the rest of Council and was in favor of pursuing the purchase of all three properties. He asked if 103 Scarborough Lane and 1165 Duck Road were owned by one part of the family and 101 Scarborough Lane owned by another part of the family. Town Manager Havens explained that the Herron family owned all three parcels but they were owned by different members. He pointed out that 101 and 103 Scarborough Lane were owned by one group and 1165 Duck Road was owned by the other. He added that when the Town made its first offer on 1165 Duck Road, he was told that they were not interested in selling just one parcel and then they were interested in selling 101 and 103 Scarborough and were further interested in selling 1165 Duck Road; however, the Town's offer was received after someone else had put one in. He agreed with Council that it was a good investment to buy land.

Councilor Lingard stated that he was in favor of the Town pursuing the purchase of all three parcels. He added that having it as a park may help. Mayor Pro Tempore Thibodeau agreed, adding that Council needed to endear themselves with the Herrons. She thought Council was doing the Town and future generations a service by trying to purchase the properties.

Mayor Kingston stated that he meets monthly with the other mayors and chairmen, adding that Dare County has invested a lot over the years as have the other towns. He noted that they have property that they invested in years ago that they can now utilize for other things, while Duck has had a very limited availability of land. He thought purchasing these properties, especially for the future, was a good deal. He further thought that when Council made the original offer for all three parcels, there were eight parties of the Herron family that were involved with six that signed while two others did not due to

having a family argument. He pointed out that although they had tentatively approved the Town's offer for all three parcels, two would not sign and the Town did not purchase it. He wasn't sure how things will work out this time or what price would be good, adding that he would prioritize 101 and 103 Scarborough Lane and then 1165 Duck Road, if it was available, but felt that 101 and 103 were a better opportunity. Town Manager Havens pointed out that 1165 Duck Road's issue is the curb cut and it was street frontage on Duck Road, which could be an issue for development.

Councilor Chasen asked if the Town purchased all three properties, a Public Safety building could be constructed on it. She pointed out that it was not because that was where it should be, but because it had the Scarborough Lane and Duck Road access. Town Manager Havens thought it was doubtful, adding that maybe the Police Department could go there but not the Fire Department. He stated that half of the Fire Department building would take up a large portion of the land, adding that the Town would need more land. He noted that if all three parcels were stacked together, it could be an option.

Councilor Lingard stated that he liked the idea of using the property for parking and a park. Mayor Pro Tempore Thibodeau agreed. She knew that Fire Chief Black had talked about the noise factor of running a fire department in the middle of Town. She thought it was a good idea to keep the Public Safety building where it currently is. She stated that there could be things that Council could not even envision that the properties could be used for, adding that open space would be great right now. She thought if the Herrons were discussing raising the price, she would be in favor of going under full price or something close to it so they knew that Council was serious about purchasing them. She hoped things would work out this time.

Councilor Chasen asked if the Town would have to obtain financing. Town Manager Havens stated that since it was \$2 million, it would be financed and would have to go to the Local Government Commission for approval. He pointed out that the last offer the Town made was \$600,000 with a cash closing in 30 days; however, the Town could not do that this time and would need more lead time. He stated that he would ask Town Attorney Hobbs to work with Council on drafting an offer for the sale. He clarified that Council was in favor of an initial offer of \$1.8 million with authorization to go to \$2 million. Councilors Chasen and Lingard were fine with that.

Mayor Kingston asked what the offer would be for 101 and 103 Scarborough Lane only. He wondered if the Town was offering \$1.8 million for all three properties, what should be offered for just the two. He thought it could be \$1.2 million. Town Manager Havens stated that they were looking at \$1.25 million, but he could find out what the asking price was on the third parcel. He thought there was a lot of interest in selling all three properties.

Councilor Lingard asked who would make the decision on this. Town Manager Havens explained that it would be two groups that would receive the offer on all three parcels.

Mayor Kingston reiterated that he would like to prioritize pursuing the purchase of 101 and 103 Scarborough Lane. Councilor Lingard asked if Council was interested in 101 and 103, 101, 103 and 1165, or just 1165 Duck Road. He thought Council would be interested in whatever they could get. Councilor Chasen and Mayor Pro Tempore Thibodeau agreed.

Town Manager Havens stated that he would come back to Council at their September 4, 2024 meeting with an update regarding whatever response he received. He added that if there was kickback, Council could decide not to pursue the purchase of 1165 Duck Road and just focus on 101 and 103 Scarborough Lane. He noted that 1165 Duck Road doesn't have a whole lot of use for anyone as there wasn't a lot that could be done with that piece of land without the other two. He thought the realtor will be talking with the owners of 1165 Duck Road to let them know the Town is interested in all three parcels.

Mayor Pro Tempore Thibodeau thought there was consensus with Council, noting that she thought the Town would honor the property by leaving it as is or having some light improvements completed with some parking and public restrooms, which would preserve the openness and history of the property. She knew there was a building on the property and wasn't sure if it could be saved. Town Manager Havens stated that Council could offer to work out a way to sell the house. Mayor Pro Tempore Thibodeau thought it could be preserved. Town Manager Havens stated that if someone decided to purchase it, they could move it. Councilor Whitman thought the house was beyond saving and was in really bad shape.

Mayor Kingston clarified that Town Manager Havens would submit an offer for \$1.8 million and go up to \$2 million for the properties and if only 101 and 103 Scarborough Lane was offered, it would be \$1.2 million. Town Manager Havens agreed, explaining that the initial offer would be for all three parcels and if the Herrons came back and indicated that 1165 Duck Road would not be sold, he could come back to Council and ask about putting in an offer on 101 and 103 Scarborough Lane only. He noted that there didn't seem to be a lot of people interested in the properties since it's been on the market for several years. He stated that if the realtor told him that Council needed to hurry, he would let Mayor Kingston know it needed to be done sooner than later and that a special meeting with just a closed session would need to be called.

Councilor Chasen asked how quickly a special meeting could be done. Attorney Hallow stated that it would need to be advertised 48 hours in advance.

Town Manager Havens stated that back in 2021 he spoke to Larry Herron and told him of Council's interest in purchasing the land and that the Town wanted to figure out a way to honor the family. He noted that Mr. Herron was very pleasant, adding that it was a very good, relaxed conversation. Mayor Pro Tempore Thibodeau pointed out that Larry Herron seems very reasonable and has a lot of affinity. Town Manager Havens asked Council if they were in favor of something attached to the land as part of the deal that would name it after the Herrons in some way. It was *consensus* of Council to have something like that.

Council recessed the closed session.

The time was 2:56 p.m.

Council returned to closed session at 3:00 p.m. All Council members and Attorney Hallow were still present when council returned to closed session; however, Town Manager Havens and Clerk Ackerman were not present for this portion of the closed session.

[REDACTED]

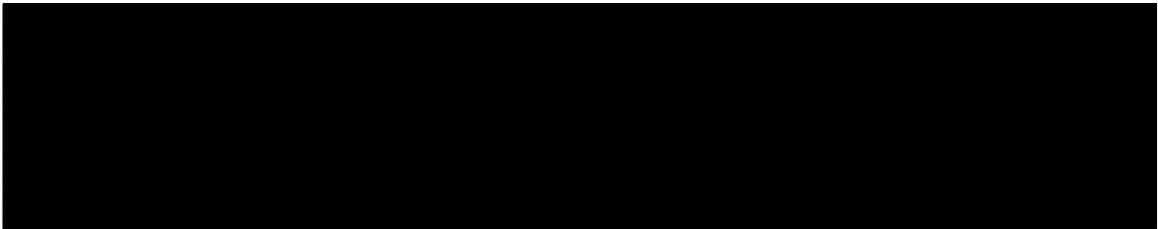
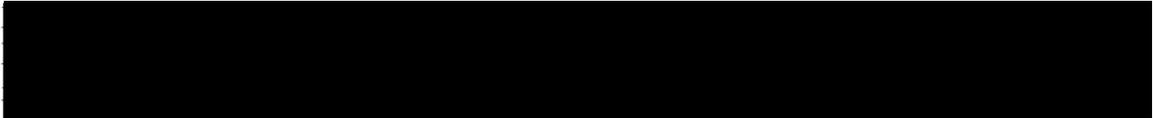
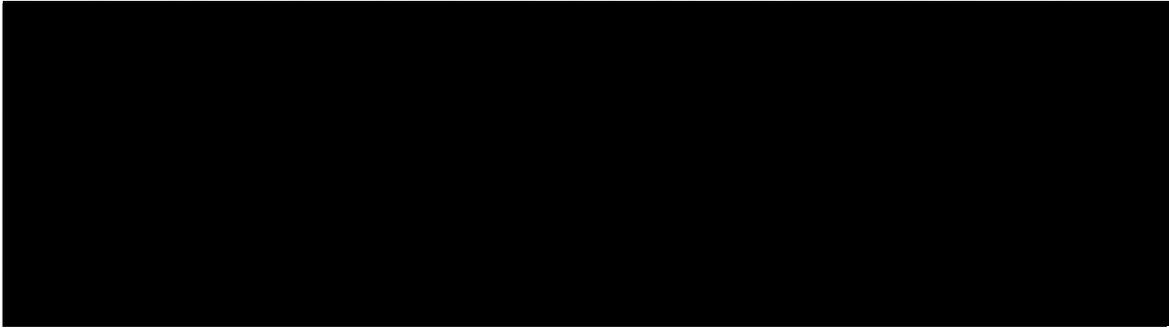
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These Closed Session minutes have been redacted to remove those portions of the minutes that still need to remain sealed pursuant to Section 143-318.11(a)(6).

At 3:48 p.m., Councilman Whitman made a motion to adjourn the closed session and return to open session. There was no discussion and the motion carried unanimously.

There was no other action taken in closed session.



Lori A. Ackerman, Town Clerk

