

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
June 2, 2021**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 6:00 p.m. on Wednesday, June 2, 2021.

COUNCIL MEMBERS PRESENT: Mayor Don Kingston; Mayor Pro Tempore Monica Thibodeau; Councilor Nancy Caviness; Councilor Sandy Whitman; and Councilor Rob Mooney.

COUNCIL MEMBERS ABSENT: None.

OTHERS PRESENT: Town Manager Drew Havens, Director of Community Development Joseph Heard; Police Chief Jeffrey Ackerman; Fire Chief Donna Black; Town Attorney Robert Hobbs; Director of Marketing and Special Events Christian Legner; Deputy Town Clerk Kristiana Nickens; and Town Clerk Lori Ackerman.

OTHERS ABSENT: Public Relations Administrative Assistant Betsy Trimble.

Mayor Kingston called the meeting to order at 6:00 p.m. He asked Director of Marketing and Special Events Christian Legner to lead the Pledge of Allegiance. Mayor Kingston led the moment of silence.

Mayor Kingston thanked everyone that was viewing the meeting remotely and to ensure an orderly meeting, he asked the audience to follow the guidelines for those that wished to submit comments during the Public Comment period. He noted that if the comments were submitted via email, it would be read into the record and if comments were submitted for a later comment, it could be done through the question-and-answer function in Zoom and would be read into the record. He stated that the meeting recording would be available on the Town's YouTube channel as soon as possible after the meeting.

Mayor Kingston noted that with Council's July 7, 2021, meeting, the Town will no longer have Zoom capability as it was moving to YouTube. He added that the meetings would be recorded, but they will no longer be live for participants other than out of town speakers. He reiterated that the Town's Zoom capability will be eliminated by the end of June. He noted that if anyone wished to make public comments beginning in July, they would need to be present for the meeting.

PUBLIC COMMENTS

Mayor Kingston opened the floor for public comments. He asked that any comments regarding the public hearings be held off.

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

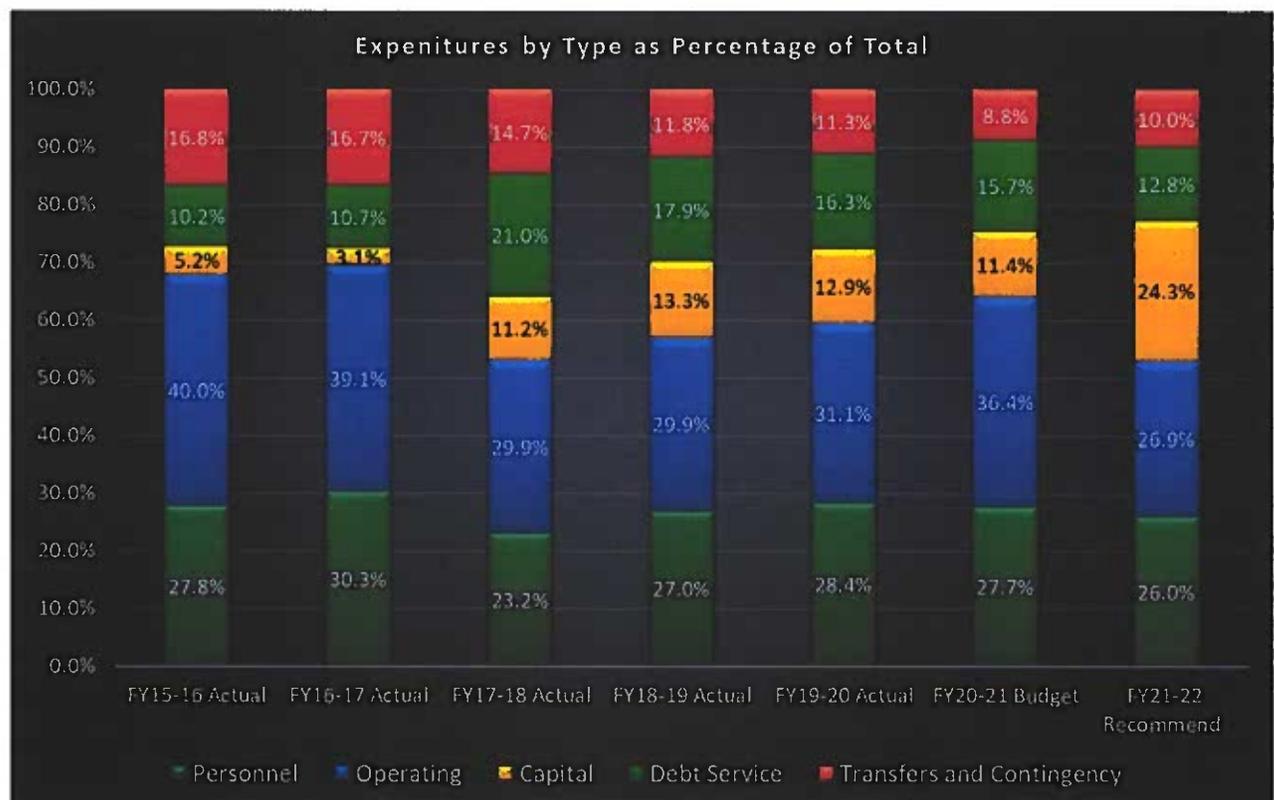
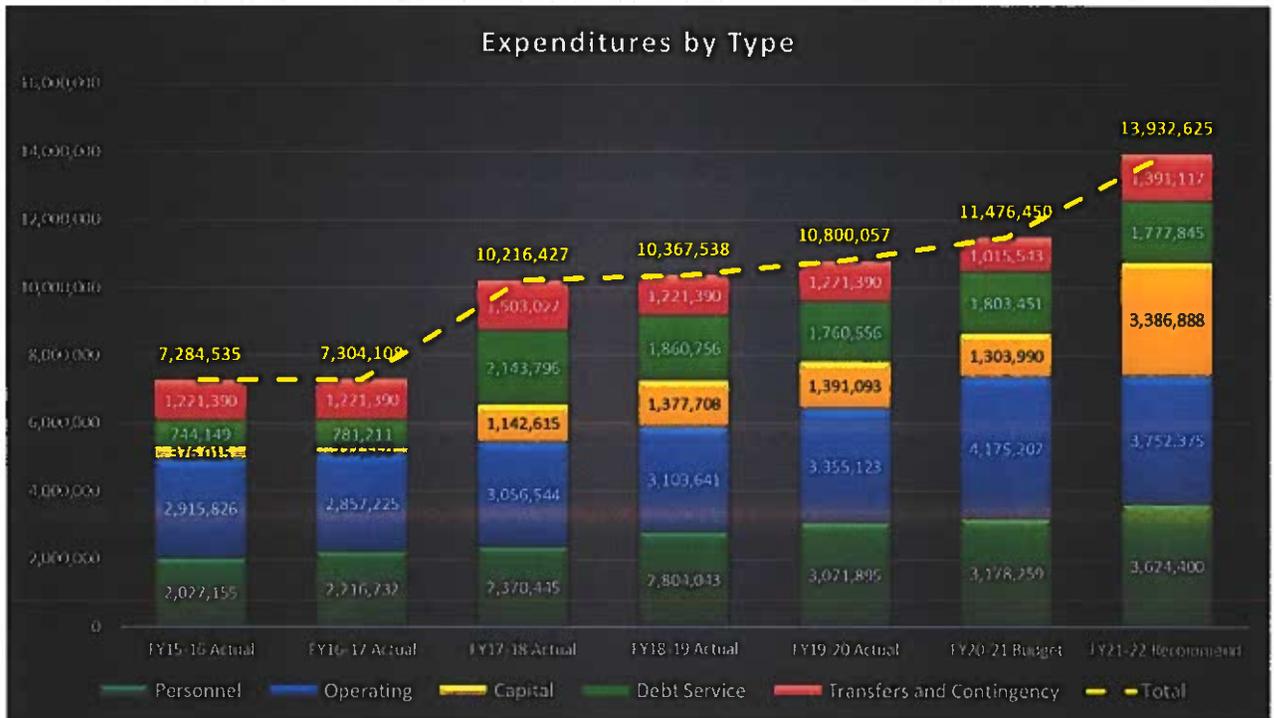
John Park of 109 Waxwing Lane was recognized to speak. Mr. Park wrote the following: “Mayor Kingston and Council Members, I want to commend Jay Blose to you for approval as a member of the Town of Duck Planning Board. You should already be aware of Jay’s excellent professional qualifications as an architect with decades of experience. I want to commend him to you as a dedicated and service-oriented member of the Sanderling community. He has been chairman for our new Government Relations Committee for more than a year now. Jay was already famous for attending all of the Town of Duck Planning Board and Town Council meetings, so we asked him to form a small committee to capture and convey items of interest to the Sanderling Property Owners Association Board of Directors and its members. Jay’s reports have been comprehensive, timely and without personal bias. He and his wife, Karen, are active throughout our community, and Jay is always willing to help us identify safety and property concerns (as we hope all of our neighbors will do), so our Association can respond promptly to eliminate hazards and maintain community standards to the benefit to all our members. I am impressed that Jay is solid in his thinking and convincing in his dialogue, but he is also quick to listen to other perspectives to incorporate them into his own - all the marks of a great communicator. He and Karen have a beautiful home – which seems unrelated to a recommendation for the Planning Board – but it is an indication of the pride that he takes in his personal life and work, and we are thankful for that as his only full-time neighbors on our street. I confidently recommend Jay for your favorable consideration as a member of the Town of Duck Planning Board. Respectfully, John Park, President, Board of Directors, Sanderling Property Owners Association, 109 Waxwing Lane.”

Patti Bossert of 102 Pelican Way was recognized to speak. Ms. Bossert wrote the following: “My question is directed toward the budget planning. The safety and security of residents, property owners and visitors to the northern portions of Duck are adversely affected by the following significant issues: – lack of acceptable coverage by the Dare County EMS ambulance. – lack of lifeguards beyond Ocean Pines. In the past, Sanderling Homeowner’s Association, Sanderling Property Owner’s Association and Palmer’s Island beaches do not have lifeguards. Last year a NOAA scientist drowned in front of 104 Pelican Way in Sanderling Homeowner’s Association. – police radios do not function well in the northern sections of Duck. We pay the same taxes as other Duck residents, and it is the responsibility of the Council to ensure the safety and security of all Duck residents is administered equitably. We are aware of the J1 issues this year regarding COVID restrictions impacting employers; however, when these restrictions are lifted, we are requesting lifeguards for next year to be deployed to all of our beaches. Why haven’t these beaches had lifeguards assigned? Patti Bossert.”

Mayor Kingston noted that the following public comment came in from Ron Blunck of 1356 Duck Road, Bob Hasteadt of 112 Jasmine Court, and Jim Duffield of 138 Seabreeze Drive. He added that Town staff responded to their questions (which are listed in red):

1. "Property Owner Perspectives."
 - a. The total cost of ownership of property in Duck includes the cost of government, significantly funded by real estate taxes. Non-resident property owners represent about 90% of the property owners. Many of them do not feel represented by the Town. *Town staff and elected leaders show equal respect for the input from all who desire to be part of the process. While the law prohibits non-residents from voting, Town elected leaders value input from all who live in, own property in, or own/operate a business in Duck.*
 - b. Real estate tax is a significant expense each owner faces each year.
 - c. All owners seek services (government and non-government) at reasonable costs.
 - d. Owners can usually switch vendor services but usually can't switch government services.
 - e. Owners want to be convinced government services are adequate and not excessive. *We remain open to suggestions relative to right-sizing services. Our proposed changes in staffing levels, as explained later in this document, reflect a desire to have the right number of public servants to provide effective and efficient services without sacrificing the safety of those who provide them.*
 - f. Owners want to be convinced government services are productively provided and not too expensive. *We will continue to provide information, through the annual budget process, about how we steward the tax revenue we receive to be efficient and effective in providing services. Future work on performance goals and measures will help illustrate where we are efficient and where additional improvement is needed.*
 - g. Owners, resident and non-resident, want to have a voice in government priorities, government services and establishment of tax levels. *See 1.b above.*
 - h. Town expenditures have increased over time as follows.
 - i. 2016: \$7,284,535
 - ii. 2017: \$7,304,108
 - iii. 2018: \$10,216,427
 - iv. 2019: \$10,367,539
 - v. 2020: \$10,566,112
 - vi. 2021: \$13,932,625

The numbers you provide are correct but should be viewed in the context of what made/makes up these totals. The two charts below show the make-up of the total both in actual dollars and the percentage of the total for each of the five expenditure "types" we track.



- i. Town Council largely makes budget requests to itself and then reviews/approves them. *The Town staff develops and presents a budget based upon the priorities set by the Council through a public process. The Council then has conversations, a public hearing, and hears informally from citizens during the process. All of the Council's meetings about the budget are open to the public, streamed live, and recorded for viewing from our website. Council members' e-mail addresses are on the website to allow citizens to contact them directly at any time about the budget.*
 - j. The annual government budget process presents a way to communicate Town priorities, explain proposed levels of government services and to convince property owners that Town Council members are spending their tax money wisely. *The newly formatted and expanded budget and CIP document does just this. This high level of transparency is to allow for the free flow of information so all who are served can have a fuller understanding of how their tax dollars are stewarded by the Town. This year's public hearing on the draft budget had one in-person speaker, and one written comment which was read into the record at the hearing. This inquiry was the only other public comment received by Council regarding the draft budget.*
2. Manager's Letter (starting on page 7).
- a. Unifying Principles. *These were developed, through a public process, as part of the Vision 2027 effort undertaken in 2016. Additions/changes should come as part of a similar public process focused on things such as this.*
 - i. We think a 7th principle should be added entitled 'DUCK RESIDENTIAL COMMUNITIES.' There are over 60 subdivisions/communities in the Town. Since most of the residential property owners in these subdivisions are non-resident owners, the unifying principles should also address how their voices should be included in Town affairs.
 - ii. Regarding the 'ENHANCES MOVABILITY' principle, there's a reference to the Town being able to 'optimize traffic flow.' Everyone knows there's terrible traffic congestion in the Town on turnover days. The focus on pedestrian traffic is too high; vehicular traffic flow needs more attention. *A public process to develop the pedestrian plan and provide safe and appropriate crossings of Duck Road led to the improvements in infrastructure now seen. These improvements include sidewalks, bike lanes, marked (and lighted) crosswalks and some pedestrian refuge islands.*
 - iii. We believe traffic vehicular flow should be balanced with pedestrian flow for safety and flow, and both should be optimized. The Town should create and fund a specific plan to investigate

improvements in traffic flow on turnover days. This was part of the pedestrian planning effort mentioned above. Here is the link to a page on our website containing information about this effort: <https://www.townofduck.com/community-development/comprehensive-pedestrian-plan/>

When this same concern was raised by Mr. Blunck during the Council's Retreat this year, the following information was sent to him and posted on our website regarding this concern:

Traffic congestion during turnover days is a problem that reflects the Town of Duck's and Outer Banks' success in creating a desirable destination for visitors to our community and beyond. Although certainly challenging for residents of the Town, the economic activity generated by these visitors substantially supports our Town, businesses, and local economy. Traffic statistics generated from the Automated License Plate Reader (ALPR) system show that the vast majority of vehicles traveling into Duck on turnover days pass through to Corolla and beyond.

In 2014, the Town of Duck adopted a Comprehensive Pedestrian Plan that evaluated the balance between the needs of vehicles traveling in and through Town and the needs and safety of pedestrians in our community. The Town conducted a comprehensive public input effort that resulted in over 600 responses to a questionnaire from residents, property owners, business owners, and other stakeholders, as well as many additional opportunities for public participation throughout the planning process.

The resulting document, Duck's Comprehensive Pedestrian Plan, places greater emphasis on vehicular and pedestrian safety, particularly in Duck Village. The Plan includes a great deal of background information and recommendations for improvements to public facilities and policies. These include recommendations concerning where crosswalks should and shouldn't be located throughout the Town of Duck. Over the past 5-6 years, the Town has prioritized and partially funded many of the projects identified in the Plan, including the recently installed sidewalks, bike lanes, landscaping, crosswalks, signage, and crosswalk lighting throughout Duck Village.

Pedestrians crossing the highway can create a chain reaction that slows traffic. However, pedestrians crossing at marked crosswalks only account for a portion of the

pedestrians crossing the highway. North Carolina General Statute 20-174 addresses pedestrians crossing a highway. That law, as written, only restricts a pedestrian to crossing a highway in a marked crosswalk if the crosswalk is located at an intersection controlled by a traffic-signal. As no such crossing exists in Duck, this creates a challenge for law enforcement. Additionally, many motorists voluntarily stop to allow pedestrians to cross the highway at other points along the highway. You may recall that prior to installation of many of the Town's current sidewalks, crosswalks, and landscaping, pedestrians frequently attempted to cross Duck Road nearly everywhere in Duck Village, causing traffic disruptions in numerous locations. The crosswalks have helped define safer locations for crossing that are identified for drivers.

Additionally, the Town has worked to educate pedestrians, cyclists, and drivers about safe roadway use in Duck. These educational efforts occur weekly during the summer season as visitors come and go in our community. This information can be found in our brochures, on our website, and shared on social media. If you would like educational material for your home or rental property, please contact Christian Legner: clegner@townofduck.com.

...and don't forget that we have a significant project on the horizon that should alleviate a substantial amount of vehicular traffic through the Town once it's complete. Although presently in the process of resolving a lawsuit, design and engineering are proceeding on the Mid-Currituck Bridge that will allow travelers to the northern Outer Banks to bypass most of the traffic issues on change-over days.

- iv. Regarding the 'ACTIVE, ENGAGED COMMUNITY' principle, many non-resident property owners feel they are second class residents, and the Town mostly ignores them. If this is not the case, these residents need to be convinced. Changing the language in this principle to specifically reference non-resident property owner engagement would set the stage to improve this. *The elected leaders of this community value the input of all residents, property owners, and business owners. We are one community and have a demonstrated commitment to serve all equally and effectively.*

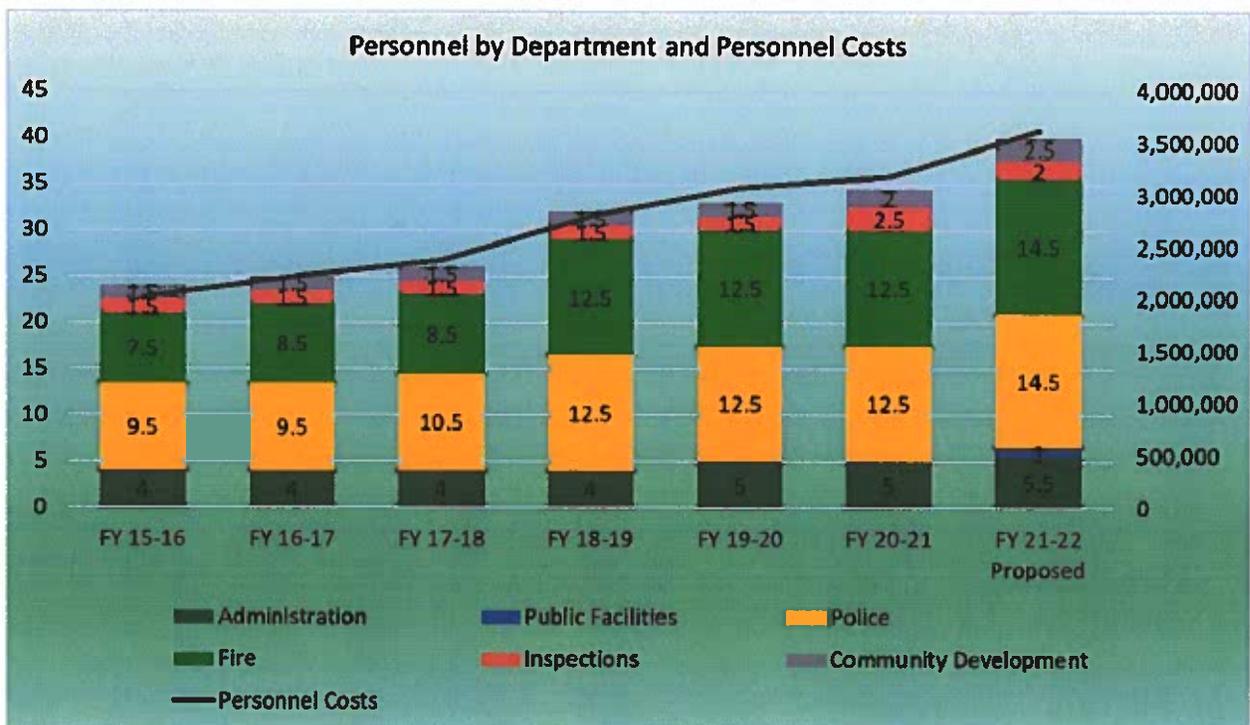
b. Recommended Budget.

i. The recommended budget is \$13.9 million, 21.4% higher than last year and 93.1% higher than 2016! Bluntly put, these increases are too much. This is a major issue for property owners based upon feedback we have received. *The significant changes are explained in the budget document and mainly focus on capital improvements and adequate staffing.*

c. Expenditures.

i. One of the largest expenditures in the budget is for staffing. The recommended budget calls for \$3.6 million, 26% higher than last year. That's also too much of an increase. Adding full-time staff (5.5 FTEs next year) when the Town has a large off-season with greatly reduced needs doesn't make sense. *The need for these additional positions was explained, by department directors, during the Annual Retreat earlier this year. This link: <https://www.townofduck.com/town-council/retreat/> will take you to the Retreat page of our website. Clicking on the video segments for police, fire, and community development will allow one to view the presentations by the directors which include rationale for the requests for additional personnel. Additionally, the Police request is summarized on Page 111 of the budget document, the Fire request on Page 117, and Community Development on Page 135.*

The chart below shows total personnel costs (line) and the number of personnel per department to give an idea of the changes over time.



As noted on Page 11, we do not anticipate adding positions in the coming years unless service demands change.

d. COVID Revenue.

- i. How much revenue was received or will be received from the US government and from the NC government due to COVID? We don't see any references to that, except \$56K in 2019-2020. *The Town anticipates receiving approximately \$120,000 in funding through the American Recovery Program with the first \$60,000 coming late this fiscal year, or early next fiscal year and the second \$60,000 coming one year later. We are still receiving and reviewing guidance on how these funds may be spent and will ensure they are accounted for, as required by the law, in a separate budget line/fund. Once we know how much will be received, a budget amendment will be proposed to recognize the revenues and the funds accounted for separately from regular General Fund Revenue.*

3. Kingston & Ackerman Ordinance Letter (starting on page 14). *This is the Budget Ordinance that is signed, like all ordinances, by the Mayor and attested by the Town Clerk.*

a. Real estate taxes (ad valorem taxes).

- i. This is what property owners pay each year and is a bottom-line issue for most property owners. Your budget should specifically estimate how much the average real estate tax bill will increase. The recommended ad valorem tax revenue is \$4.0 million, an 11.7% increase from last year. We think this means the average real estate tax bill will then increase by 11.7%. If correct, that would be too high. This is a major issue for property owners. *There is a table on Page 56 of the document that shows the impact of the proposed tax rate change on properties of many different assessed values.*

1. We understand that the real estate tax bill for each property is mostly calculated by multiplying the assessed value of the property by the tax rate and that assessed values vary by property. The tax rate does not. *The property tax bill is calculated solely by multiplying the tax rate by the number of hundreds of dollars of assessed value. State law requires that the rate be uniform for all taxpayers (MSD rates are permitted to be different).*

2. We estimate there are about 3,000 residential properties in Duck, and we estimate there are about 600 resident property owners, and we therefore estimate about 90% of the residential properties are owned by non-resident

property owners. Given this estimate, non-resident owners should be actively involved in determining the Town budget and establishing the real estate tax rate to fund the budget. This is a major issue for property owners. *Our budget process is open to all who wish to participate, and all Council meetings are available live and recorded. The elected leaders and staff remain available to respond to inquiries, and the elected leadership values the input of all who choose to participate.*

- b. The MSD-A and MSD-B tax rates also get added to the real estate tax bills for residential properties in the beach nourishment area. The MSD rates are additive to the regular tax rate for these owners. The recommended MSD rates are slightly lower than the current rates. That's good on the surface, but the 2023 nourishment project will likely increase the MSD rates in 2022-2023. If so, maybe it doesn't make sense to decrease these rates 2021-2022. What are your 2023 nourishment MSD rate assumptions? *The proposed MSD rates are unchanged from the rates in the current fiscal year. MSD-A \$0.1296 and MSD-B \$0.285. Please refer to the budget ordinance. Thank you for pointing out the error in the text on Page 57 of the document. This will be corrected prior to publishing the final document.*

Unless the scope of the project changes, we do not anticipate that the upcoming renourishment project will require any increase in MSD rates. Once the final project scope is finalized and bids received, we will know how much we will need to borrow for the project and thus what our debt service expenditures will be. This will allow a more detailed review of MSD rates as we work on the FY 2022-23 budget, but, again, as of now we do not anticipate any rate increase.

- 4. Staff Salary Schedule Table (page 28).
 - a. There's a reference to a MAPS Group who provided data in this table.
 - i. What is the MAPS Group and what other towns use them? *MAPS is the Management and Personnel Services Group, a consulting firm located in Cary, NC and a NC League of Municipalities approved vendor. Since 1983, this firm has been providing cities, counties, and other entities with HR services including extensive experience in pay and classification studies. This link is to the video of the Council meeting on May 19th at which MAPS presented their report including explaining their experience and process. The presentation begins at approximately 16:45. <https://www.youtube.com/watch?v=Ur7RrgkBUqg&list=PL575D0B24F61A8FC1&index=1&t=11210s> Their services have been used*

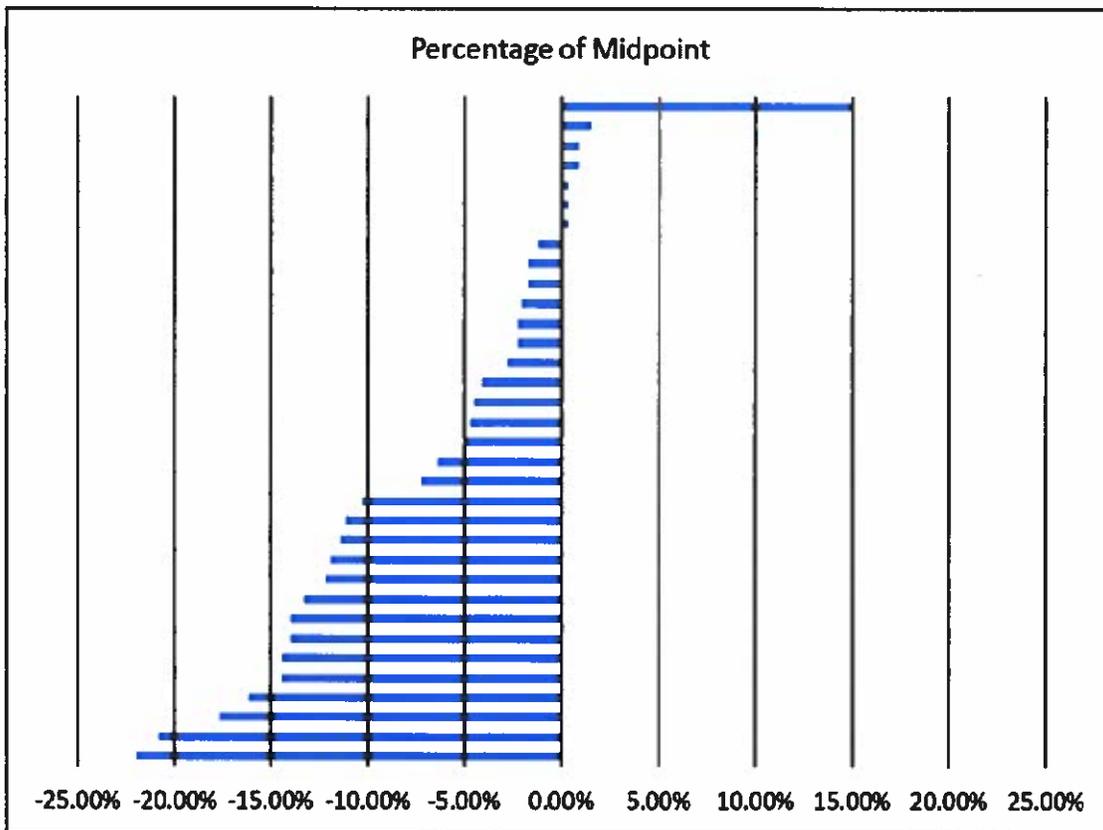
by over 100 entities in North Carolina representing cities from small to large, and counties from small to large. Here is link to their website for more information:

<https://www.themapsgroup.com/>

- ii. How much of a salary increase is in this Table over the salaries in the MAPS table used last year? *The table in the document is the first prepared by MAPS as this was the first time the Town engaged them to provide this service. Their work involved reviewing each position, creating a classification specification and then placing that position in a pay grade. This is a link to the FY 2020-21 pay plan: <https://www.townofduck.com/wp-content/uploads/Appendix-C-2.pdf>*

The FY 2021-22 proposed pay plan is shown on Page 28 of the draft budget document.

- iii. What % of the staff is close to their Minimum Salary? Mid-Point Salary? Maximum Salary? *Not wanting to presume what "close" is, this graph shows where each current employee's salary (in the FY 21-22 budget) is in comparison to the proposed pay plan midpoint. For reference, the midpoint is approximately 21% above the minimum and 22% less than the maximum of the ranges.*



- iv. How long has it taken, on average, to fill vacant staff position over the past year? *While we do not capture this data point, our typical turnaround from job posting to filling the position runs between 30 and 60 days. With the majority of the positions being filled in police and fire, there are several steps to complete during recruiting, selection, and subsequent to a conditional offer of employment. One position last year, that of Town Manager, was vacant for over seven months.*
- 5. Demographics (page 32).
 - a. There are useful demographics presented in this section for resident owners.
 - b. Can similar demographics be presented for non-resident owners? *This data is from the US Census Bureau and accounts for residents of the Town independent of whether they own or rent. The Census does not capture data specific to non-resident property owners.*
- 6. Budget Details (starting on page 52).
 - a. Budget Summary Revenue Table.
 - i. Ad valorem taxes are increasing by 11.7%. Again, these are the real estate taxes property owners will pay. That's too high.
 - ii. Grants are increasing by 220.2%. That's terrific and the Town deserves good recognition and credit for this! Grant money allows the Town to provide services and amenities without having to rely upon ad valorem taxes from property owners. *As noted in the budget document (Page 70) only 36.6% of revenue in the draft budget is from property taxes (including MSD taxes). 28.8% comes from shared revenue sources such as sales tax, land transfer tax, and occupancy tax.*
 - b. Budget Summary Expenditure Table.
 - i. Streets and Highways are increasing by 106.3%. Since the Town doesn't own/maintain any streets/roads, this is mainly for the bike trail, pedestrian walkways and maybe the park areas. This is a large increase, maybe too large, if tax bills will be increasing by 11.9% to fund this. Maybe some of this money should be re-allocated to investigating traffic congestion and identifying ways to balance vehicular traffic with pedestrian traffic for improved traffic flow on turnover days without sacrificing safety. *Please refer to Pages 126-128 for details related to this increase. Most of the increase is attributable to the Highway 12/Living Shoreline project for which we are hoping to receive substantial grant revenue.*
 - ii. Public safety is increasing by 28.3%. We need to know what this will be spent on and how much is really needed during the off-season, but public safety is always a priority. *Please refer to Pages 110-115 for a description of Police expenses, and Pages 116-120*

for Fire expenses. It will be helpful to listen to both Chief Ackerman's and Chief Black's presentations at the Retreat to get more details. The link is shown above in response to number 2.C of your inquiries.

c. Ad valorem property tax (page 55).

- i. While you provide lots of descriptive information about this, many owners find it confusing. Can you add a simple table that shows the residential real estate tax bill amount for next year and the residential real estate tax bill amounts for past 5 years for hypothetical properties in Town assessed at \$400K, \$600K, \$1MM, \$1.5MM and \$2MM? Residential property owners can then easily see what the trend in their actual real estate tax bills has been. *There is a table on Page 56 of the document that shows the comparison between the current and proposed tax rates for a variety of assessed values. The prior year should be quite close to the FY 2020-21 as the tax rate was set to be revenue neutral.*

d. General Fund Expenditures (page 73).

- i. Who owns, maintains, funds, and manages the DVFD? Is there a separate DVFD organization that has some responsibility for this, or does the Town completely oversee the DVFD? There's a significant perception that too much money has been spent on shiny new equipment that may not be truly needed. *Please refer to Page 116 of the document for this information and to Chief Black's presentation at the Retreat where she provided a good history of Duck Fire and the current operational model. It is worth noting that, aside from two light duty vehicles and two command vehicles, the newest piece of fire apparatus in the fleet is Engine 111 which is a 2014 Pierce. The other two large vehicles are Truck 11, a 2002 Pierce, and Engine 11, a 2005 Pierce. The remaining piece of response equipment, Brush 11, is a 2011 Ford. Our full-time Fire personnel, and Duck Fire's dedicated volunteers do keep the apparatus "shiny" not only to show pride in the department, but to help preserve the equipment in the harsh environment caused by salt in the air.*

e. Expenditures by Department (page 74).

- i. Administration is increasing by 16.9%, Finance by 41.3%, Streets & Highways by 106.3%. These increases seem high for these departments. Maybe Town priorities are too high for these departments. *Please refer to the Administration section (beginning on Page 91) and the Finance section (beginning on Page 97) for details about the increases. Much of the change is due to correcting how personnel and other expenses are allocated. The Streets department is referenced in the reply to 6.B above.*

- f. Personnel by Type (page 77).
 - i. Staff is increasing by 5.5 Full-Time-Equivalents (FTEs), on a base of 34.5 FTEs. That's a 15.9% increase in staff. The estimated fully loaded cost of adding 5.5 FTEs somewhere between \$433.1K and \$439.6K. We're a small town. That's a lot. *This is addressed in 2.C.i above.*
 - ii. Staff salary management questions:
 - 1. The recommended budget provides for merit (1.5%) and bonus (3%) increases.
 - a. Does each staff member have a set of goals and is each staff member's performance formally evaluated? *Yes.*
 - b. How many staff members will likely get a full 1.5% merit increase? *We budget for all to receive this merit increase, but it is not automatic. We will be doing more work on our performance evaluation system in the coming year to ensure that a fair and accurate performance assessment is done each year.*
 - c. How many staff members will likely get a full 3% bonus increase? *Same as above.*
 - 2. Do the department managers have productivity goals whereby the departments increase their services without just relying upon staff increases? *There are no formal productivity goals established. Each request for a new position is scrutinized in the light of current workloads, service demands, and the overall needs of the organization.*
- g. Capital Projects (page 81).
 - i. There are \$2.9 MM capital projects listed.
 - 1. There is no capital project listed for beach nourishment in 2023. *The table includes projects in FY 2021-22. Depending on timing, the beach nourishment project, with revenues and expenditures, will come into the FY 2021-22 budget in the form of a proposed amendment or be fully accounted for in the FY 2022-23 budget. Refer to Page 196 for a description of this project and note that it is shown as a FY 2022-23 project.*
 - 2. There is no capital project listed for a potential new Fire station/Public Safety building. *We opted to remove this from the current budget due to the continued uncertainty surrounding acceptable lease terms for property upon which to construct the facility. Should we be able to get an acceptable lease worked out, we have the ability to amend the budget, using reserves, to begin design work.*

3. There's no capital project listed for improvement in ambulance services. *Emergency Medical Services (EMS) are the purview of Dare County and not the Town. The County determines where to locate resources, the appropriate level of resources, and how the system operates. We will include Dare EMS in our discussions relative to a new Public Safety building once we get to that point in case they want to locate an ambulance there for more than just peak inbound traffic times.*
4. There's no capital project listed for traffic flow improvements on turnover days and on other days of the week. The Mid-Currituck Bridge, when completed, should improve (but not eliminate) traffic congestion on turnover days. It is not likely to improve congestion very much on other days of the week for owners, visitors and service vendors. *We remain open to suggestions to improve traffic flow that do not compromise the safety of all who use roadways, including bicycles and pedestrians. The response to 2.III above contains information relative to this same inquiry.*
5. There's no capital project listed for potentially providing public access to the ocean beach via the Army Pier property. *This comment is similar to one expressed during the Council's Retreat earlier this year. Here is what was sent to Mr. Blunck following the Retreat and posted to the Town's website:*

The Town of Duck Comprehensive and Land Use Plan (LUP) contains topics and goals required by the NC Coastal Resources Commission for approval as a CAMA Land Use Plan. One of the required topics is how the community seeks to address public access to the beach and sound.

The Town's adopted statement relating to beach access can be found in Goal 1.1 on page 30 of the LUP and reads, "Remain open to partnerships and opportunities for increasing public access to the ocean." This goal is further clarified by an additional statement, "This will require partnering with willing HOAs or other private property owners, seeking assistance from county, state, or Federal government, or encouraging third-party partnerships that enhance beach access for homeowners, renters, or vacationers."

The Town's prior Land Use Plan contained the following goal: "Provide public access opportunities to beaches and public trust waters." An initial draft of the current LUP contained a similar statement. During review of the draft by the LUP Advisory Committee, concerns were expressed about the statement encouraging a proactive, assertive approach by the Town to obtain public beach access. As a result of these comments, the goal in the adopted Plan takes a more passive approach, suggesting that the Town work with willing property owners as opportunities for beach access arise.

While recognizing the importance of public beach access, the Town's leadership understands that it is a complex and challenging issue. There are many different opinions and perspectives on how to consider providing greater public beach access in the future.

Some of the constraints and considerations the Town faces as it seeks to obtain property for public beach access include:

- Nearly all oceanfront lots in the Town are already developed.*
- Nearly all access to the beach is through public or private neighborhood streets.*
- Over 95% of all properties already have dedicated beach access.*
- Many homeowners' associations have covenants or deed restrictions that prevent use of property for public beach access.*
- Owning and maintaining a public beach access is not as simple as providing a walkway to the beach. Provisions must also be made for a substantial amount of public parking and associated facilities, potentially including showers, bathrooms, trash cans, etc.*
- Access and facilities must comply with ADA standards for handicap accessibility.*
- The U.S. Army Corps of Engineers (USACE) Field Research Facility conducts military and environmental research.*

Providing public beach access is not consistent with its mission and could interfere with ongoing operations and research.

To date, neither the USACE nor any HOAs or landowners have agreed to deed appropriate property to the Town or provide easements to further pursue a municipally owned and maintained public beach access. The Town remains committed to exploring options with interested parties.

- a. Note: The last two approved CAMA Land Use Plans contained a major Town goal to provide public access to the ocean beaches in Duck.
 - b. We know that Army management has not been willing to provide access over their property, but maybe this issue needs to be escalated politically at both the state and national levels.
6. We think the capital projects should be reviewed with property owners on a periodic basis and then updated with property owner input. *The annual budget process, which includes the Capital Improvement Plan, provides opportunity for public input. The annual Retreat contains a significant amount of information/discussion about capital projects and members of the Town Council remain available and willing to hear from citizens regarding their thoughts about needed projects.*
- h. Three to Five Year Goals (starting on page 228). *The goal setting process will be revisited in the coming years, and we welcome any and all input as the elected leaders decide relative priorities.*
 - i. Goal to continue to advocate for traffic improvements. We think this goal needs to be given a high priority and reworded so it is an immediate goal with action items and not just a statement of intent to 'continue to advocate' for improvement in traffic congestion.
 1. Traffic congestion adversely impacts visitors, renters, and all property owners in Duck.
 2. Traffic congestion adversely impacts vendor servicing property owners in Duck. Nearly all service vendors complain about traffic congestion, and many would prefer to avoid/limit servicing property owners in Duck.
 3. Duck businesses employ people, most of whom do not live in Duck. These employees are adversely impacted when

driving to work. Anecdotally, we understand some Duck business hours, notably restaurants, have reduced hours of operations due to this and labor market shortages.

- ii. Goal to explore strategies/forums for HOAs to connect and engage with the Town and each other, including the use of technology. This a new goal and a very good one, especially for inclusion of non-resident property owners. The Duck HOA Forum is becoming a voice for property owners, especially non-resident owners.

7. Wrap Up

- a. We know we have asked many questions and provided a lot of commentary. Please don't interpret these as a criticism of anyone or anything. As property owners, we don't always have the same background knowledge and awareness of past Town perspectives/discussions on issues. *We appreciate the perspectives and will endeavor to keep improving our budget process and document to be even more inclusive and clear so that all will have information available to them.*
- b. The proposed budget format contains much useful information. It's 228 pages long and is not easy to read without spending a huge amount of time. Furthermore, the recommended budget was just released. Given that, it's pretty unrealistic to assume that property owners would be able to review the budget and provide rational input in a short period of time, which you should seek. We would recommend you provide a short, abridged version of the budget in a 1-2 hour Zoom meeting for property owners, including non-resident owners. The focus of such a meeting should be on (a) what are the key Town priorities and how does the recommended budget focus on them and (b) what will the Town be doing to keep expenses and real estate taxes down. *Mayor Kingston and Town Manager Havens are available to meet with you to further discuss your concerns.*
- c. We ask that you respond to us on each of our items and that you include our items and your responses in the minutes to the Town Council meeting(s) where you will be reviewing/discussing the recommended budget. *These inquiries and responses will be made public on our website and included as written public comment in our records.*

Thank you.

Ron Blunck, 1356 Duck Road, Carolina Dunes HOA, Duck HOA Forum

Bob Hasteadt, 112 Jasmine Court, Tuckahoe HOA, Duck HOA Forum

Jim Duffield, 138 Seabreeze Drive, Sand Dollar Shores HOA, Duck HOA Forum"

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

CONSENT AGENDA

Minutes from the April 21, 2021, Mid-Month Meeting; Engagement Letter for Bond Counsel; and Budget Amendments

Councilor Whitman moved to approve the consent agenda as presented.

Mayor Pro Tempore Thibodeau asked about the budget amendment regarding unforeseen expenses. She asked if it was Contingency expenses that went along with the contract. Town Manager Drew Havens was recognized to speak. Town Manager Havens explained that when the budget was created for Fiscal Year 2020-2021, hiring Developmental Associates was not anticipated for a Town Manager search.

Motion carried 5-0 via roll call.

PUBLIC HEARINGS

Public Hearing/Discussion of the Proposed FY 2022 Budget

Mayor Kingston turned the meeting over to Town Attorney Hobbs.

Town Attorney Robert Hobbs was recognized to speak. Town Attorney Hobbs stated that the public hearing was open, and that Town Manager Drew Havens would be giving a presentation.

Town Manager Havens gave a short presentation on the draft budget, noting that the budget was balanced, to Council and the audience. He pointed out that the budget included a tax increase, but even with the increase, Duck will still be the lowest in Dare County as far as the tax rate.

Mayor Kingston suggested having the Public Safety graph superimposed on the personnel chart. He assumed that most of the growth in Duck over the years has been in the Public Safety department and thought it would be an interesting item. Town Manager Havens stated he would do that for Council. Mayor Kingston asked if the same Capital Reserve fund would be used or if a new one would need to be established. Town Manager Havens stated that it would be the same one, adding that Council needed to adopt the budget to recognize revenues and make the expenditures. Mayor Kingston clarified that a new fund will not need to be established. Town Manager Havens stated he was correct.

Mayor Pro Tempore Thibodeau stated that it was helpful to have a history on where the Town was with regard to the balance of the Capital Reserve fund because of the fact that the Town was one year ahead. She felt it would be beneficial to the public, particularly since the Town was not changing the MSD rate from what it had. Town Manager Havens stated that he would provide that information at Council's June 16, 2021, meeting.

Councilor Mooney stated that a lot of resident and non-resident property owners were asking questions about the budget including the budget increasing by 50% in the past five years. Town Manager Havens stated that it could be true, but he didn't have that information available at this time. He added that Town staff will respond to the email that Council had received. Councilor Mooney noted that it wasn't just the email that was received, but other people that he had spoken to were asking similar questions. He added that the Town was spending so much money under Streets and Highways while there were parts of the Duck Trail that need a lot of maintenance. He thought the Town was spending a lot of money on something new while ignoring areas that need attention. He thought Council needed to pay attention to the maintenance to take care of what currently existed instead of considering new projects. Town Manager Havens thought if one looked at the CIP, there was some maintenance included in Fiscal Year 2022 for the Duck Trail and was a recurring expenditure. He noted that it may not be at the level that Council wanted moving forward in the future and if that was case, staff could look at it.

Councilor Mooney asked if the section of the road that was proposed to be raised just south of Sunset Grille would be the Town's responsibility even though it was a state highway. Town Manager Havens stated that it was the big question with regard to the BRIC grant from FEMA. He explained that a large portion was contingent upon receiving funding from FEMA for the elevation of the highway. He added that the living shoreline portion of the project has funding from other sources and the sidewalk has funding from other sources.

Director of Community Development Joe Heard was recognized to speak. Director Heard explained that the approximate cost for the overall project, the Town would be responsible for \$240,000 of a \$2.6 million project for those three components. He added that if the Town does not receive the BRIC grant, then the Town would likely not proceed with the elevation project but would move forward with the other components since there were other funding sources for them.

Councilor Mooney asked what the percentage was for the other components. Director Heard explained that the Town has a 50% match on the living shoreline, which was \$384,000 from the National Fish and Wildlife Foundation and \$170,000 grant from Dare County Tourism Board for the sidewalk portion of the project. He noted that it wasn't as high a figure as the Tourism Board has given the Town in the past but was still substantial in that the Town would be looking at another \$300,000 for a total of approximately \$650,000 to \$700,000 in costs if the Town does not receive the BRIC grant in order to pursue those projects.

Mayor Kingston pointed out that the Town has the multi-use path, which was an ongoing project from the standpoint of improvements each year. He stated that it has been funded this year as well as in future years. He added that there was a new project that would restart rebuilding some of the retaining walls. He stated that the living shoreline was always an approved project as well as Phase IV of the Comprehensive Pedestrian Plan. He stated that the Town was moving forward with everything that has been previously approved and budgeted by Council; the only difference was the BRIC project, which was

a once-in-a-lifetime opportunity if the Town gets approved for it. He added that if it wasn't, then the Town would go back to the original project and costs. He stated that Council was not ignoring something old for something new. Councilor Mooney understood that there were times where things have to be altered. He thought the issue was something that needed to be discussed in a more present context since everyone was concerned about revenue. He added that even though things were previously approved, they may no longer be relevant now.

Mayor Pro Tempore Thibodeau pointed out that Council has been approving projects annually. She added that Council did table the Phase IV sidewalk and the living shoreline projects because of the BRIC grant opportunity. She explained that if the Town receives the BRIC grant, the allocation of expenses would go down from \$600,000 - \$700,000 to \$200,000. She noted that the Town would really benefit, adding that the budget was increasing due to the BRIC grant. She pointed out that it was similar to the beach nourishment project where it looks like the budget was increasing even though they were projects that the public has been in favor of.

Councilor Whitman thought Town Manager Havens and Mayor Pro Tempore Thibodeau did a great job of explaining the grant money. He stated that in the last five years, the Town's budget has increased due to beach nourishment. Mayor Pro Tempore Thibodeau agreed, adding that she has always advocated for sidewalks in Town since there was a need for pedestrian access before the Town incorporated. She added that she pushed for extra funding for continuing an additional project in the Sanderling subdivision, but the Town did not receive consensus on it. She thought the area Councilor Mooney was referencing was next on the list to be worked on as well as improving the stormwater issue.

Mayor Kingston pointed out that Council has made decisions in the past for items such as Phase IV of the sidewalk project. He explained that it affected Phase III because the width was cut down from five feet to four feet because the Town was going to move forward with the west side of the sidewalk in Phase IV. He stated that Council made decisions in the past that affect future projects. He stated that there was a lot of consideration given to the BRIC grant as well as the impacts on other projects.

Town Manager Havens stated that he appreciated Council's input and discussion, adding that as staff works through the process with Council, they wanted to continue to reinvest in what currently existed. He stated that he wanted to continue to make the improvements and ask the Council to set their priorities in terms of capital funding if they wanted to put more towards that as opposed to new projects.

Mayor Kingston reiterated that the only new project was the one that would be raising the road, which was a one-time opportunity as well as the retaining walls on the multi-use path. He added that everything else were established projects moving forward.

Mayor Pro Tempore Thibodeau thought another new item was the addition of the full-time maintenance person as it goes to maintaining what the Town has. She hoped that it

would save the Town money in the future instead of using contracted help. Councilor Mooney agreed. He pointed out that the retaining walls weren't new but were being replaced. He added that it wasn't new but was maintenance. Mayor Pro Tempore Thibodeau agreed. She added that the Public Safety requests for new employees would round out the additional cost of the increased budget.

Town Attorney Hobbs asked if anyone wished to comment on the proposed budget.

Ben Vorndran of 104 Sea Hawk Drive West was recognized to speak. Mr. Vorndran hoped that the draft budget would not be passed at this meeting as he had tried to look at the budget document to check things from year to year. He stated that he went to the Town's website and noted that there was a 2021 budget with links that can be clicked on. He pointed out that one has to back out from the link in order to click on another link and could not jump from one link to the other. He added that he had a very hard time looking for previous budgets. He stated that he liked to fact check and was relying on one document to look at the facts for the previous year, but people make mistakes. He stated that when a new document is being created, there could be a number missing by \$50,000 - \$100,000, which was a lot of money. He stated it was hard for him to swallow trying to figure out how to find the previous budget document that showed what was paid as well as to fact check what was in the draft budget to see if there were factual numbers in it that were being presented to the public. He thought they were to the best ability of the people that created the document, but it was hard for him to fact check.

Ben Vorndran stated that he started looking at one budget and noticed that Public Safety and Streets and Highways were hard to swallow, but with the project that was mentioned, he thought it made sense. He stated that he was looking at only one department due to his time constraint and one thing that stood out to him was the Actual, Requested and To Date. He noted that there was a \$400,000 difference between what was asked and what the actual amount was. He pointed out that the Fire Department was \$1.2 or \$1.3 million, which was a third or fourth of the total budget. He added that there was a big difference between Actual and Requested. He wondered how one got from that number down to \$400,000 as it stood out to him. He stated that budgets that he had to do in the past, if he had asked for 37% more, his boss would have questioned him as it would have been a red flag. He stated that he had a short time to look at the budget and it had too much information, but it was one of the things he had picked out.

Ben Vorndran stated that he was very happy to see the other homeowner associations making comments as it helped him direct his fact finding to make sure that what was put out was true, but it was very exciting, and he was happy to hear the homeowner associations get together and looked forward to seeing answers from Council. He wished the Council good luck, adding that he hoped everyone had patience and understanding.

Mayor Kingston clarified with regard to the Fire Department on Actual and Requested, it was split between personnel and radios, which made up the \$400,000. He pointed out that there will be new radios because Dare County changed the system. He added that that was where the \$400,000 jump came from. Ben Vorndran stated that it was \$400,000

in the last budget. Mayor Kingston understood, explaining that the increase was due to new radios and personnel as well as an adjustment of personnel salaries.

Mayor Pro Tempore Thibodeau asked if some of the Requested was where Council included the new Public Safety building and then had it subsequently removed. She thought that could have been a big difference. Ben Vorndran stated that in a previous year there was \$500,000 listed for Public Safety. He thought there was another big expense the Town spent on architecture. Mayor Kingston stated that the Town didn't spend the money, adding that there was \$450,000 in anticipation of spending it, but Council did not put it in this year's budget as it was left in the General Fund. Mayor Pro Tempore Thibodeau noted that it has been in the budget for years but was removed this year.

There being no one wishing to speak, he closed the public hearing. He noted that Council would be having a budget work session at their June 16, 2021, meeting and could resume further action at that time or some other time prior to July 1, 2021.

Mayor Pro Tempore Thibodeau pointed out that people would be able to watch the meeting via Zoom at the June 16, 2021, meeting even though they will not be allowed to make public comments. She added that the questions that came in from the homeowner association would be addressed by Town Manager Havens with input from Council and would be posted on the Town's website.

Mayor Kingston explained that, in the future, the public will still be able to watch Council meetings on the Town's YouTube channel even though Zoom will be shut down. Mayor Pro Tempore Thibodeau asked if the YouTube would be live. Mayor Kingston stated that it would be.

Mayor Kingston stated that Council would readdress the budget and will receive additional information from Ken Willson on the beach renourishment project at Council's June 16, 2021, meeting.

Public Hearing/Discussion/Consideration of Ordinance 21-01 Amending Chapter 156, Zoning Ordinance for the Town of Duck, North Carolina, for Consistency with NCGS Chapter 160D

Mayor Kingston turned the meeting over to Town Attorney Hobbs.

Town Attorney Hobbs stated that the public hearing was open and that Director of Community Development Joe Heard would be giving a presentation.

Director of Community Development Joe Heard was recognized to speak. Director Heard asked if the public hearing on Ordinance 21-01 and 21-02 could be completed as one public hearing since they were related. Town Attorney Hobbs suggested having two public hearings but have the presentation only during the first public hearing and then for the second public hearing it could be indicated that a presentation was made, and Council

and the audience could refer back to that presentation for purposes of the second ordinance.

Director Heard stated that the two public hearings were related to ordinance changes that were coming up as a result of changes the state legislature made with the creation of Chapter 160D of the North Carolina General Statutes. He explained that the change recodified all of the municipal and county development regulations, which was an effort that had not been completed in many decades and resulted in cleaning up a lot of things as well as trying to make things consistent across the board for all municipalities and counties throughout the State that deal with zoning and development issues.

Director Heard stated that the legislature went through this process that involved input over a period of close to half a decade from its inception to the time it was finally adopted by the state legislature. He noted that it included input from a variety of stakeholders, such as the UNC School of Government, the municipalities and the counties in North Carolina, attorneys, planners, contractors, and developers. He stated that the way it worked, the proposed changes were the ones that the State Bar Association could reach consensus on. He added that when they spoke with the various groups, these were the changes that all agreed would be positive ones and would help clarify things. He pointed out that anything that was controversial or if there was dissention or differing opinions, was put to the side and was no longer a part of the process. He stated that municipalities and counties were given an extension after they were adopted, but now are required to have them adopted by July 1, 2021.

Director Heard stated that the changes accomplished uniform terminology and procedures. He stated that an example was that the Town currently has conditional use permits and special exception permits, which were two different type of quasi-judicial processes. He stated that those terms and processes would no longer exist and would become a special use permit. He stated that some of the changes to the ordinance reflect that change to the common wording. He stated that with regard to procedures, the changes established a consistent set of procedures and would be how municipalities across the state would have to treat this type of issue.

Director Heard stated that there were three different types of decisions that the Town would make – administrative, legislative, and quasi-judicial. He explained that the amendments were that conditional use permits were no longer allowed; CUPs, waivers, special exceptions would be converted to special use permits as a quasi-judicial process; and subdivision approvals would be converted to an administrative process.

Director Heard stated that with regard to the zoning updates, the following would apply:

- All references from “G.S. 160A” changed to applicable “G.S. 160D” and other amendments for consistency.
- Updated and added all applicable definitions per G.S. 160D-102.
- Clarified language for bona fide farm exemptions.
- Incorporated regulatory map references and maintenance standards.

- Replaced all references from Conditional Use Permit and Special Exceptions to Special Use Permits.
- Clarified development review hearing and decision types (administrative, legislative, or evidentiary).
- Updated conflicts of interest provisions for board voting.
- Updated variance findings per G.S. 160D-705.
- Updated public hearing notification procedures for timing of posting signs.
- Updated comprehensive plan consistency statement language.

Director Heard stated that there were similar changes within the subdivision ordinance, which were as follows:

- All references from “G.S. 160A” changed to applicable “G.S. 160D”.
- Updated and added all applicable definitions per G.S. 160D-102.
- Updated current Planning Board & Town Council “legislative review” process to an “administrative review” process by Subdivision Administrator.
- Corrected discretionary review provisions to the responsibility of the Subdivision Administrator.

Director Heard stated that Ordinance 21-01 deals with changes to the zoning ordinance. He noted that during their consideration of the proposed amendments at their April 14, 2021, meeting, the Planning Board voted unanimously to recommend approval of the text amendments to ensure consistency with standard development practices to bring the Town Code into compliance with NC G.S. Chapter 160D. He added that, should the ordinances be adopted, there will be additional steps Council will have to take in future months, such as appointing a Subdivision Administrator and a Zoning Administrator. He stated that it would likely be his position or a designee. He stated that Council will also need to re-adopt an official zoning map as well as minor tweaks to the wording of the fee schedule.

Mayor Pro Tempore Thibodeau asked if the counties in North Carolina also have to pass ordinances. Director Heard stated that they do, adding that the section consolidated the municipal and county chapters into one.

Councilor Caviness asked if two lots were to be combined, it would be an administrative issue. Director Heard stated that it was currently administrative. Councilor Caviness asked if a reclassification or rezoning would come before Council. Director Heard stated that nothing would change with regard to rezoning and text amendments other than the wording. He noted that the standards and processes were identical to what currently existed.

Mayor Kingston asked if Council did not adopt the ordinances, the Town would be out of compliance with the state law. Director Heard stated he was correct. He explained that the Town would be required by law to enforce the state law, as Duck could not supersede state law. Mayor Kingston asked if this was looked at as streamlining the process by alleviating the Town Council, Planning Board and possibly Town staff of some of the

burden they currently dealt with. Director Heard stated that with regard to subdivisions, it would be more streamlined as there was no longer a multi-step process with regard to the other aspects of it.

Town Attorney Hobbs asked if anyone wished to comment on the proposed ordinances.

Ben Vorndran was recognized to speak. Mr. Vorndran clarified that Director Heard had commented about an additional assignment of someone to watch over the subdivisions. Director Heard stated that he did not make the comment, explaining that they were infrequent so there wasn't a significant burden on Town staff.

Councilor Caviness thought Ben Vorndran had heard that there would be a requirement to designate someone on the Planning staff to be the Zoning Administrator and Subdivision Administrator, adding that it was not a new position, but a member of Town staff that would be in that position.

There being no one else wishing to speak, Town Attorney Hobbs closed the public hearing and reminded Council that they were sitting as a legislative body and in order to adopt the ordinance on the first read, it would require a super majority vote, which was four members. He turned the meeting over to Mayor Kingston for deliberation.

Councilor Whitman moved to approve Ordinance 21-01 as presented.

Motion carried 5-0 via roll call.

Public Hearing/Discussion/Consideration of Ordinance 21-02 Amending Chapter 155, Subdivision Ordinance for the Town of Duck, North Carolina, for Consistency with NCGS Chapter 160D

Mayor Kingston turned the meeting over to Town Attorney Hobbs.

Town Attorney Hobbs stated that the public hearing was open and that Director Heard would be giving a presentation.

Director Heard stated that, at the advice of Town Attorney Hobbs, he noted that the presentation for Ordinance 21-02 was incorporated in the presentation he did for Ordinance 21-01. He added that the Planning Board did review and unanimously voted to recommend approval of the ordinance at their April 14, 2021, meeting to ensure consistency with NC G.S. Chapter 160D.

Town Attorney Hobbs asked if anyone wished to comment on the proposed ordinance. There being no one wishing to speak, Town Attorney Hobbs closed the public hearing and reminded Council that they were sitting as a legislative body and in order to adopt the ordinance on the first read, it would require a super majority vote, which was four members. He turned the meeting over to Mayor Kingston for deliberation.

Councilor Caviness moved to approve Ordinance 21-02 as presented.

Motion carried 5-0 via roll call.

Public Hearing/Discussion/Consideration of Ordinance 21-03 Amending Subsection 156.124(C)(1) of the Zoning Ordinance by Establishing Allowances for the Installation of Post-and-Rail or Post-and-Rope Structures on Dune Walkovers in the Beach Nourishment Area

Mayor Kingston turned the meeting over to Town Attorney Hobbs.

Town Attorney Hobbs stated that the public hearing was open and that Director Heard would be giving a presentation.

Director Heard stated the proposed ordinance was seeking to maintain prior allowances for beach access matting and permit the installation of post-and-rail structures and post-and-rope structures over the top and down the eastern side of the primary dune to provide greater physical support for people with limited mobility accessing the beach in the beach nourishment project area. He added that the proposed ordinance requires removal of any portion of the post-and-rope or post-and-rail structures that extend eastward of the toe of the dune or would potentially interfere with a beach nourishment or dune maintenance project.

Director Heard stated that sand added during the beach nourishment project in 2017 buried many existing dune walkover improvements and substantially changed the profile of the top and east side of the frontal dune system in the project area. He explained that in recognition of these changes, the Planning Board had a considerable discussion about accessibility concerns at their June 14, 2017, meeting. He added that the Planning Board members discussed alternatives such as allowing post and rope barriers, railings, or wooden walkways down the eastern side of the dune. He stated that the Board members acknowledged that there may be individual situations requiring these alternatives but opted to recommend a less obtrusive approach with beach access matting instead of hardened ramps or stairways, which was viewed as a better initial approach until the Town could observe how the dune and beach were reshaped over time. He noted that in July 2017, Town Council adopted a gentler approach recommended by the Planning Board for beach access matting.

Director Heard stated that in October 2017, the Planning Board recommended ordinance revisions allowing post-and-rope and post-and-rail structures to be constructed on the east face of the primary dune; however, after receiving a number of public comments and reviewing current conditions in the project areas, Town Council opted against making any amendments to the previously adopted standards. He stated that in response to several recent public comments, Community Development staff brought the beach access concepts back to the Planning Board for further consideration. He added that after discussing different scenarios, the Planning Board opted to recommend allowing the installation of a second post-and-rail structure at neighborhood beach accesses.

Director Heard stated that at their April 14, 2021, meeting, the Planning Board voted unanimously to recommend approval of the proposed text amendment permitting the construction of beach access improvements in a manner that minimizes impacts to the dune system, provides reasonable public access to the beach, and ensures public safety.

Mayor Kingston asked if the post-and-rail at the Station Bay access could be extended further down the beach. He further asked how the toe of the dune was determined as it could recede over time. He asked if Director Heard established that or if it was done on trust. Director Heard stated that he and Sandy Cross were designated CAMA Local Permit Officers and would make the determination on where the toe of the dune was. He stated that there were instances where a dune would grow outward for a period of time in certain areas as well as times where it may erode, depending on storms or what was happening offshore.

Mayor Pro Tempore Thibodeau clarified that the process would be that a subdivision or entity would come to the Town to obtain a permit for construction of it and would be subject to a fee. Director Heard stated she was correct.

Town Attorney Hobbs asked if anyone wished to comment on the proposed ordinance.

Ben Vorndran was recognized to speak. Mr. Vorndran understood that there was a problem with the beach nourishment project in that all of the sand was piling on top of the walkways, adding that 16 inches of sand were allowed to be removed. He pointed out that someone could not move the sand toward the ocean, but towards the side or away from the ocean. He noted that he was confused, clarifying that sand was taken from above and brought toward the ocean with regard to where the access was located. He stated that he was confused as to why one was allowed while the other wasn't. Director Heard explained that where the escarpments were, the Town graded out the access points to bring it down so there would not be escarpments at those accesses. Ben Vorndran asked if the sand came from a beach push. Director Heard stated that it did not. Mr. Vorndran stated that his concern was that he thought the sand could not be moved toward the ocean due to contaminants. Director Heard stated that he would be happy to show Mr. Vorndran examples at another time as his concern did not relate to the proposed ordinance.

There being no one else wishing to speak, Town Attorney Hobbs closed the public hearing and reminded Council that they were sitting as a legislative body and in order to adopt the ordinance on the first read, it would require a super majority vote, which was four members. He turned the meeting over to Mayor Kingston for deliberation.

Mayor Pro Tempore Thibodeau moved to approve Ordinance 21-03 as presented.

Motion carried 5-0 via roll call.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

Discussion/Consideration of Planning Board Appointment

Mayor Kingston stated that at Council's May 19, 2021, Mid-Month meeting, Council were notified that the term of Joe Blakaitis on the Planning Board had expired as of May 1, 2021. He stated that Council was asked to consider reappointing Mr. Blakaitis and following a discussion on the appointment process, Council request staff to advertise the position, check with prior applicants, and obtain applications from interested parties. He noted that five applications were received from the following individuals – Joe Blakaitis, Bill Miozzi, Jay Blose, John Pucciano, and David Flowers. He pointed out that Mr. Blakaitis had expressed an interest in being reappointed to the Planning Board; Mr. Blose, Mr. Miozzi and Mr. Pucciano had previously applied for positions and expressed an interest in having their applications considered again; and Mr. Flowers was a new applicant for the position. He opened the floor for nominations.

Councilor Mooney nominated Jay Blose. He stated that Mr. Blose has over 40 years of experience doing the kind of work that Council would require from him. He noted that he didn't have an issue with Joe Blakaitis but pointed out that he has been on the Planning Board for the past 14 years. He stated that how he got there was not his concern, but in reading through the applications that were received, he felt that Jay Blose was clearly more qualified for the position. He stated that the other applicants either worked in education or were not full-time residents with an interest in what goes on in Duck as Jay Blose was. He stated that he didn't want to make a mistake by not taking advantage of who was the most qualified candidate, which was Mr. Blose.

Councilor Whitman nominated Joe Blakaitis. He stated that Mr. Blakaitis has been a part of the community for over 15 years as well as being the existing Planning Board Chair.

There being no other nominations, Mayor Kingston closed the nominations and called for a roll call vote.

Councilor Caviness voted for Joe Blakaitis. Councilor Whitman voted for Joe Blakaitis. Mayor Pro Tempore Thibodeau noted that Jay Blose has a lot to offer but voted for Joe Blakaitis due to his experience on the Planning Board as well as his institutional knowledge that she thought was consistent with the Town. She added that his willingness to want to continue to serve will serve the Town well. She hoped it didn't discourage any of the other candidates from reapplying for other positions as she believed there was a great bit of experience that all could benefit from. She reiterated that she would be voting for Joe Blakaitis. Councilor Mooney voted for Jay Blose. He stated that he was disappointed in the rest of Council with the thought that just because it was how it was always done, this was how it should continue. He noted that this was what this vote amounted to, which was a disappointing position in his opinion. Mayor Kingston agreed with Mayor Pro Tempore Thibodeau's comments that good candidates were received, adding that he was in favor of experience versus being new to the Board. He noted that there will be plenty of opportunities for turnover in all of the boards. He added that his vote was for Joe Blakaitis.

Town Attorney Hobbs stated that Joe Blakaitis was appointed to the Planning Board by a vote of 4-1.

Councilor Caviness stated that volunteerism was at the heart of the Town and was how the Town came into existence. She stated that before that, it was the glue that held the Town together, whether it was the Duck Civic Association, the Fire Department, or for people who had an active property owner association. She stated that for 19 years, the Town has been able to advance so much of what Council dreamed of accomplishing, thanks to volunteers. She added that Council owes the people who have been willing to step up and contribute and collaborate an enormous debt of gratitude as the Town would never have accomplished what has been done without them. She thought part of who Duck was, was due to having an open process, asking people to introduce themselves and express their willingness to contribute their time and talent. She thought it was a great process and was appreciative of it. She added that she was very thankful of the individuals that have volunteered in multiple capacities. She thanked the individuals that submitted their applications for the Planning Board position as it was a lot to step up as well as willing to contribute, which was an extraordinary amount of time. She stated that she wanted to emphasize the importance of length of service, adding that it was invaluable. She stated that Council could not underestimate or devalue in any way the invaluable wealth of experiences and context that was gained by having someone serving on an essential board like the Planning Board. She commended Joe Blakaitis for his length of service, which was why she was supportive of him continuing in his role on the Planning Board. She thought Council owed Mr. Blakaitis thanks for his service and leadership in the community.

NEW BUSINESS

There was no New Business to discuss.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Town Attorney Hobbs stated that he did not have anything to report.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Departmental Updates

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

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

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

Director of Marketing and Special Events Christian Legner was recognized to speak. Director Legner gave a brief overview of activities to Council and the audience.

May 2021 Financial Presentation

Town Manager Havens gave a short presentation on the May 2021 financials to Council and the audience.

MAYOR'S AGENDA

Mayor Kingston stated that the mayor/chairman COVID-19 meetings continue to be held, adding that they are now held monthly or as required. He stated that the trends were down significantly with 300 tests per week and active cases have been in the 10-15 range. He noted that only 50% of people in Dare County were fully vaccinated, adding that he was surprised that the number wasn't higher. He stated that he attended his first League of Municipalities Finance Committee meeting the previous week and was reappointed for the fourth year to the committee. He stated that the first board meeting would be held on June 3, 2021. He congratulated Town Manager Havens for getting re-elected to the board.

Mayor Kingston reminded Council that he was also re-elected to the League of Municipalities Local Leadership Foundation, which was getting reinitiated, and he would be serving as president of that board. He noted that the biggest challenge would be funding for the foundation, adding that it would be focused on economic development and education.

Mayor Kingston stated that Town Manager Havens was able to set up a meeting with Senator Tom Tillis on June 3, 2021, at the Sanderling Inn. He pointed out that they hoped to leverage him with respect to supporting the BRIC project. He added that he signed three letters to Senator Burr, Senator Tillis and Representative Murphy in response to Director Heard's request for support.

Mayor Kingston stated that Town Manager Havens' review needed to be completed by July 31, 2021. He added that he gave Town Manager Havens an outline of the process and asked him for input before giving it to Council for their review.

COUNCIL MEMBER'S AGENDA

Mayor Pro Tempore Thibodeau clarified that Mayor Kingston was meeting Senator Tillis personally at the Sanderling Inn. Mayor Kingston stated that he was. Mayor Pro Tempore Thibodeau thought it was interesting because he would be passing the project area and would see it firsthand. She went on to give a Visitor's Bureau meeting update to Council and the audience.

Councilor Mooney had nothing to report.

Councilor Whitman had nothing to report.

Councilor Caviness gave a Government Access Channel Committee meeting update to Council and the audience.

OTHER BUSINESS

Additional Public Comments

Mayor Kingston opened the floor for public comments.

Ben Vorndran was recognized to speak. Mr. Vorndran thanked everyone for what they have been doing. He stated that a lot of people are on edge and felt that patience and understanding were important for this year. He stated that he noticed people were not stopping at the crosswalks and wasn't sure if it was because there was a new group of people coming into town or if it was the education aspect. He stated that he has stopped for pedestrians, but oncoming traffic doesn't always stop. He hoped that people would have patience and understanding.

There being no other comments, Mayor Kingston closed the time for public comments.

Mayor Kingston noted that the next meeting would be the Mid-Month Meeting on Wednesday, June 16, 2021, at 1:00 p.m.

ADJOURNMENT

Councilor Whitman moved to adjourn the meeting.

Motion carried 5-0.

The time was 8:40 p.m.


Lori A. Ackerman, Town Clerk

Approved: July 7, 2021

Don Kingston, Mayor

