

**TOWN OF DUCK
PLANNING BOARD
REGULAR MEETING
February 9, 2022**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, February 9, 2022.

Present were: Chair Joe Blakaitis, Vice-Chair James Cofield, Marc Murray, and Tim McKeithan.

Absent: Randy Morton.

Also present were: Council Liaison Sandy Whitman, Director of Community Development Joe Heard, Senior Planner Sandy Cross and Deputy Town Clerk Kay Nickens.

Others Present: None.

Chair Blakaitis called to order the Regular Meeting of the Planning Board for February 9, 2022 at 6:30 p.m.

PUBLIC COMMENTS

None.

NEW BUSINESS

Text Amendment: Civil Penalties in Flood Damage Prevention Ordinance

Director Heard stated that going forward, all public meetings would be livestreamed. Council Liaison Whitman asked if there would still be a 24-hour waiting period for comments on public hearings. Director Heard stated that this provision pertaining to public hearings expired with the recent Governor's Executive Order related to COVID accommodations.

Director Heard advised the Board that this text amendment proposal is a follow-up to the changes made in 2019. At the advice of its town attorneys in 2019, the Town Council modified dozens of sections in the Town Code to clarify that most types of violations are enforced by civil, rather than criminal, penalties. Subsequently, the Town adopted a new Flood Damage Prevention Ordinance (FDPO) consistent with State model ordinances which classified certain types of violations as misdemeanors, subject to a criminal penalty. Director Heard explained that recently adopted N.C. Session Law 2021-138 took additional steps to decriminalize certain sections of local ordinances by limiting local government authority for criminal enforcement. To comply with the new law, staff is proposing to amend these two penalty clauses in the FDPO. Chair Blakaitis clarified that those changes will not affect the terms of the FDPO to which Director Heard said that was correct; the biggest change has to do with the fines that are collected. Criminal fines go towards school boards whereas civil penalty fines go directly to the Town.

Vice Chair Cofield stated that this change aligns with the nature of the ordinance. Member McKeithan recommended the submittal of the draft ordinance to Council. Vice Chair Cofield seconded the motion. Chair Blakaitis called for a roll call vote.

Motion carried 5-0.

Review of Upcoming Issues/Potential Text Amendments

Director Heard explained that after running across issues with application of the Town Code in several situations, the Community Development Department has identified a number of potential text amendments to the Town Code that may be worthy of further study and consideration. At this time, staff is asking for the Town Council's authorization to work with the Planning Board, Town Attorney, Town Engineer, and other resources as necessary on the potential amendments that have been identified. These potential amendments are things that staff has run across that are worth of further consideration, such as Member Murray's concern with elevation certificates. Director Heard stated that some of the items would receive input from the town attorney and town engineer so that alternative solutions and options can be presented to the Board. Chair Blakaitis asked if any of the recommended amendments came from the town attorney and Director Heard stated that the amendments came from town staff and that Council has authorized staff to review the items that warrant reconsideration.

Chair Blakaitis questioned the timing of the amendment presentations. Director Heard stated that the next Board meeting included a large application to review so potentially one amendment would be presented to the Board at that time. The full agenda of meetings will determine the changes that are brought forward to the Board. Director Heard clarified that this item on this agenda is simply informational and no vote nor action is needed.

APPROVAL OF MINUTES

Minutes from the January 12, 2022, Regular Meeting

Vice Chair Cofield stated that the motion in Old Business was incorrect. The wording needed to be rewritten to say that the motion would be rescinded and reconsidered.

Vice Chair Cofield clarified the members of the Board that voted including the abstention. Director Heard stated that the voting is correct as reported.

Vice Chair Cofield made a motion to approve the minutes as corrected. Member McKeithan seconded the motion. After no further discussion, a roll call vote was taken and all members voted in favor.

Motion carried 4-0.

STAFF COMMENTS

Summary of February 2, 2022 Regular Town Council Meeting

Director Heard gave a short summary of the February 2, 2022 Town Council meeting.

Project Updates

Director Heard and Senior Planner Cross gave a short overview on various projects going on in Town.

BOARD COMMENTS

Vice Chair Cofield addressed the new Community Development hire and invited Director Heard to bring him to the next meeting to meet the board. Director Heard said he went to the meeting in December but would extend that invitation to Jim Gould for the next meeting.

ADJOURNMENT

Vice Chair Cofield moved to adjourn the meeting. Member McKeithan seconded.

The meeting was adjourned by consensus of the Board members.

The time was 7:08 p.m.

Approved: _____
/s/ Joe Blakaitis, Chairman