

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
October 3, 2018**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 7:00 p.m. on Wednesday, October 3, 2018.

COUNCIL MEMBERS PRESENT: Mayor Don Kingston; Mayor Pro Tempore Monica Thibodeau; Councilor Nancy Caviness; Councilor Chuck Burdick; and Councilor Jon Britt.

COUNCIL MEMBERS ABSENT: None.

OTHERS PRESENT: Town Manager Christopher Layton; Police Chief John Cueto; Fire Chief Donna Black; Director of Community Development Joseph Heard; Town Attorney Robert Hobbs; Director of Marketing and Special Events Christian Legner; Public Relations Administrative Assistant Betsy Trimble; and Town Clerk Lori Ackerman.

OTHERS ABSENT: None.

Mayor Kingston called the meeting to order at 7:03 p.m. He asked Police Chief John Cueto to lead the Pledge of Allegiance. Mayor Kingston led the moment of silence.

PUBLIC COMMENTS

Mayor Kingston opened the floor for public comments.

Robert Ragsdale of 105 Ruddy Duck Lane was recognized to speak. Mr. Ragsdale stated that he would like the Town to consider using aggregate instead of asphalt on the Duck Trail for a smoother transition.

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

SPECIAL PRESENTATIONS

Employee Recognition Program Recipient

Town Manager Christopher Layton was recognized to speak. Town Manager Layton presented Permit Coordinator Sandy Cross with her 15-year service recognition certificate and \$150 gift certificate.

Police Chief John Cueto was recognized to speak. Police Chief Cueto introduced the Police Department's newest officers – Justin Naquin and Timothy Armstrong – to Council and the audience.

CONSENT AGENDA

Minutes from the August 1, 2018, Regular Meeting and Minutes from the September 5, 2018, Regular Meeting

Councilor Caviness moved to approve the consent agenda as presented.

Motion carried 5-0.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

Discussion/Consideration of Revoking the Purchase Agreement related to the Acquisition of Property at 101 and 103 Scarborough Lane and 1165 Duck Road

Town Manager Layton stated that in June 2018, Council authorized Mayor Kingston to execute a purchase agreement related to the property at 101 and 103 Scarborough Lane and 1165 Duck Road in the amount of \$1,222,000 to be funded through the Town's unassigned fund balance. He explained that the intent of the use of the property was for additional park facilities with features to be determined through the development of a master plan by a citizen and staff committee. He added that the purchase agreement required the signatures of several co-owners of the property and due to a disagreement with two of the required signatories and the others, not related to the properties, the execution of the purchase agreement by the sellers has remained dormant. He stated that there was no indication that the current disagreement amongst the sellers will be resolved in the near future and recommended that Council revoke the purchase agreement.

Mayor Kingston moved to revoke the agreement as presented.

Town Attorney Robert Hobbs was recognized to speak. Town Attorney Hobbs stated that he had prepared a resolution that could be delivered to the property owners that would revoke the purchase agreement. He went on to read the resolution to Council and the audience.

Mayor Kingston moved to amend his motion to include the resolution.

Mayor Pro Tempore Thibodeau thought it made sense to withdraw the agreement as it would be definitive action by Council. She noted that it gave Council the opportunity, if there was a chance to revisit the issue, to bring the community in on the discussions.

Mayor Kingston stated that it was disappointing because Council had some interesting ideas on how to use the property. He thought it may come back around again.

Motion carried 5-0.

NEW BUSINESS

Discussion/Consideration of Authorizing the Town Manager to Execute a Contract with RPC Contracting, Inc. for Phase II of the Comprehensive Pedestrian Plan Improvements

Town Manager Layton stated that on September 25, 2018, bids were accepted and opened for Phase II of the Comprehensive Pedestrian Plan improvements. He noted that this phase of the project included the installation of a bicycle lane, sidewalk and other improvements on the west side of NC 12 from the Aqua Restaurant north to Resort Realty. He added that four bids were received for the project from RPC Contracting, Inc. for \$771,890; Hatchell Concrete for \$774,249.35; Barnhill Contracting Company for \$847,200; and Whitehurst Sand Company for \$878,632.79. He stated that since RPC Contracting was the low bid for the project, he recommended that Council authorize him to execute a contract with the company for the project. He added that it would be necessary for additional funds to be appropriated for the project to cover the engineering/project management expenses and vegetation costs. He stated that a budget amendment will be prepared for the November Council meeting for the costs.

Councilor Burdick asked who completed the work on the east side of Duck Road. Town Manager Layton stated that Barnhill Contracting had completed the work.

Mayor Pro Tempore Thibodeau clarified that the engineering was included because the Town already paid for it. Town Manager Layton stated that the engineering and contract management were already paid for, adding that the bid price did not include additional engineering. He explained that there was engineering that staff expected as part of the \$790,000 originally; however, one of the items that added to the cost of the project was extending it to Resort Realty, so that added to the cost. He stated that no one expected the cost from CenturyLink to be \$31,000. He stated that if those two items were not part of the project, the Town would have still needed to transfer money, but it wouldn't have been as much.

Mayor Kingston asked how much the tourism grant was for the project. Town Manager Layton stated that it was approximately \$307,000.

Councilor Burdick asked if there was some reason why Barnhill Contracting came in higher than RPC Contracting. Town Manager Layton stated that he wasn't sure. He guessed that it was because they could not fit the work into the timeframe, so they bid higher. Councilor Burdick asked Town Manager Layton if he was comfortable with working with RPC Contracting. Town Manager Layton stated that he was. He added that some of the items would be addressed at Council's Retreat. He explained that for Phase III of the project, staff will be proposing what they consider to be minor changes in the grand scheme of things that will substantially reduce the cost. He stated that staff was going to recommend narrowing the current five-foot concrete, which will require less concrete and bulkheads, which will reduce the cost. He added that the Town already paid for the removal of the transformers, which lowered the estimated costs at this point to \$700,000 from \$1,200,000. He stated that the main part of the recommendation will be

that the engineers will be able to fit in a sidewalk from Sunset Grill to Resort Realty on the west side. He stated that if that could be completed, then a fifth phase would be added, but it would be the least expensive of the entire project. Councilor Burdick stated that it will be interesting to see the engineering that will be completed. Town Manager Layton agreed.

Councilor Caviness noted that there have been comments that have come forward as to the first phase of the project with regard to what worked and what didn't. She asked if some of those suggestions would be taken into consideration in designing the west side. Town Manager Layton stated that they would.

Councilor Burdick stated that it will be a good item for the Retreat. Town Manager Layton agreed, adding that he will provide an update at that time.

Councilor Burdick moved to authorize the Town Manager to enter into a contract with RPC Contracting, Inc. for Phase II of the Comprehensive Pedestrian Plan Improvements, as presented.

Motion carried 5-0.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Town Attorney Hobbs stated that he prepared and delivered permanent easements to staff for acquisition as part of Phase II of the pedestrian plan project and was also working on temporary easements.

Mayor Kingston asked if there were agreements for the easements or if it was a matter of signatures. Town Attorney Hobbs thought it was the case as far as permanent easements.

Director of Community Development Joe Heard was recognized to speak. Director Heard stated that there was a total of six permanent easements and there were eight temporary easements. He added that he received three of the six permanent easements and the other three have been distributed. He stated that all of the property owners were aware of the easements and familiar with the project.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Update on Departmental Activities

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

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

Police Chief Cueto gave a brief overview of the past month's 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.

Update on the Public Safety Building

Town Manager Layton stated that he had reported at Council's September 5, 2018 meeting that he expected to have a Memorandum of Agreement from the Corps of Engineers in addition to an environmental assessment contract with VHB for the work to be done in order to obtain a final determination from the Corps on whether they would approve the land swap. He stated that Hurricane Florence hit, and the Memorandum of Agreement did not come through. He added that they did not have a timeline for it and he hoped to have something at Council's November 7, 2018 meeting so he could keep pushing forward with the project.

Update on the Land Use Plan

Town Manager Layton stated that as per the budget discussions, money was provided to start the process of updating the Land Use Plan. He stated that now that the Pedestrian Plan bid process was taken care of, Director Heard would be developing a Request for Quotes for the consultants for the project. He stated that in addition to that, he would be coming forward with a recommendation to Council with a timeline for the RFQ as well as a recommendation for a Land Use Plan Advisory Committee. He noted that staff would be recommending developing a separate Land Use Plan Advisory Committee that was separate from the Planning Board, but included Planning Board members, a Council member, a member from the Board of Adjustment, and others from the community that would be appointed by Council to assist the consultants and staff with the project. He hoped to have something for Council at their November 7, 2018 meeting.

Financial Statement for month of September for FY2019

Town Manager Layton reviewed the financial statements with Council and the audience.

MAYOR'S AGENDA

Mayor Kingston stated that he has his mayors lunch on October 16, 2018 in Kitty Hawk. He stated that he has a League of Municipalities Board meeting on October 18-19, 2018 in Raleigh. He stated that CityVision has been rescheduled to May 2019 due to Hurricane Florence. He stated that he would be hosting a roundtable in Duck on November 27, 2018. He noted that Town Manager Layton's annual evaluation was coming up next month and asked Mayor Pro Tempore Thibodeau to head up the review

process. Mayor Pro Tempore Thibodeau stated that she would be happy to. Mayor Kingston stated that he had brought up the issue of parking enforcement on private roads at Council's September 5, 2018 meeting. He stated that he would like to ask staff to look at the issue and bring back some recommendations at the Council Retreat as to whether or not the Town should be policing private roads.

Councilor Burdick thought it was a good idea. He didn't think it was a yes or no question and if Council does look at it, whatever staff comes up with, it should include how people on private roads could handle the situation effectively. He added that a mechanism was needed and not telling people it was their problem. He suggested that as part of staff's presentation, that they come back with options as to what they think would be workable for the different homeowner associations.

Mayor Pro Tempore Thibodeau clarified that Mayor Kingston was only referencing private roads and not public roads. She thought that distinction would be referenced and would be kept in mind so that people can remember there was a difference. Mayor Kingston stated that the current ordinance distinguished between the two.

Mayor Kingston asked Town Manager Layton if he and Chief Cueto would take on the task. Town Manager Layton stated that as long as there was consensus, staff would bring something back to the Retreat. Councilor Burdick stated that he was concerned about leaving the homeowner associations on private roads hanging in terms of if they have an issue, they will feel like they have no back-up at all. He stated that he wanted to know what conditions the Town would be willing to do things as well as suggesting how the homeowner associations can be prepared to respond to the complaints.

Mayor Kingston stated he was looking forward to the upcoming jazz festival.

COUNCIL MEMBERS' AGENDA

Mayor Pro Tempore Thibodeau stated that she serves on the CurrentTV committee and Bobby Dobbs has stepped down. She stated that he has done a great job over the years. She added that Dare County was now looking for his replacement and Skip Wallace was the interim until they find someone permanent. She thanked Town Manager Layton and staff for how much they have done with the Town.

Councilor Caviness thanked staff and the public for volunteering for the upcoming jazz festival.

Councilor Britt stated that he was looking forward to the jazz festival. He added that he spent the last week with the new firefighters and felt it was time very well spent.

Councilor Burdick stated that it was interesting to watch the last Council meeting while vacationing in Scotland and appreciated that Council wanted to wait on some issues until he returned. He congratulated Town Manager Layton on the latest First Flight cross

country team win. He thought it showed that he not only has a winning team with the school, but also with his staff.

OTHER BUSINESS

Additional Public Comments

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

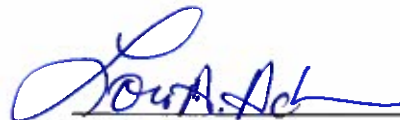
Mayor Kingston noted that the next meeting will be the regular meeting on Wednesday, November 7, 2018 at 7:00 p.m.

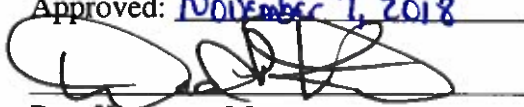
ADJOURNMENT

Councilor Caviness moved to adjourn the meeting.

Motion carried 5-0.

The time was 8:20 p.m.


Lori A. Ackerman, Town Clerk

Approved: November 7, 2018

Don Kingston, Mayor

