

**TOWN OF DUCK  
TOWN COUNCIL  
SPECIAL MEETING  
August 26, 2020**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 3:00 p.m. on Wednesday, August 26, 2020.

**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:** Interim Town Manager Joseph Heard; Police Chief Jeffrey Ackerman; Fire Chief Donna Black; Director of Marketing and Special Events Christian Legner; Attorney John Leidy; Assistant to the Town Manager Alyson Flynn; Permit Technician Kay Nickens; and Town Clerk Lori Ackerman.

**OTHERS ABSENT:** Town Attorney Robert Hobbs.

Mayor Kingston called the meeting to order at 3:01 p.m.

He stated that he wanted to amend the agenda to include a closed session.

Mayor Pro Tempore Thibodeau moved to amend the agenda to include the closed session.

Motion carried via roll call 5-0.

Mayor Kingston stated that this was a special meeting that was called by the Mayor to discuss the RFP responses that were received with regard to the search for a Town Manager. He noted that there were no public comments for this meeting; however, seven public comments were received. He added that those comments will not be read at this time, but Council was in possession of the comments that were received.

Mayor Kingston stated one common theme of the public comments that came to Council was suggesting that the Town hire a separate fiscal manager in addition to the Town Manager as well as asking how the finances were being managed. He noted that the previous Council had approved an incremental position – the Assistant to the Town Manager with the express intent to delegate fiscal understanding responsibility to a second individual within the Town. He added that the process had been expedited with the absence of the Town Manager.

Mayor Kingston stated that in July, the Mayor, the Mayor Pro Tempore, the Interim Town Manager, the Assistant to the Town Manager and the Town Clerk met with Lisa

Murphy of Johnson, Mizelle, Straub and Murphy, LLP to reconcile and ensure the Town's financial books were in order and up to date. He added that the Town has also engaged Teresa Osborne of Dowdy and Osborne, LLP to work with, support and train Assistant to the Town Manager Alyson Flynn as required. He noted that Ms. Osborne was very familiar with North Carolina governmental financial systems and regulations.

Mayor Kingston pointed out that every Town check requires two signatures, so every disbursement is co-signed by either the Mayor or Mayor Pro Tempore as well as the Interim Town Manager. He stated that there was a question regarding the Town's audits. He explained that the State requires an annual independent audit and Lisa Murphy has initiated that activity for this year. He noted that there was a new requirement for a Yellow Book Audit, which must be completed by an independent third party, which Teresa Osborne has been engaged for that activity. He stated that a further requirement of the audit was the submission to the North Carolina Local Government Commission, which every audit of the Town of Duck has been certified through the LGC. He stated that the Town's financials were in very good order and responsibility in the future will be shared by the new Town Manager and the Assistant to the Town Manager.

Mayor Kingston stated that the search process that Council would be discussing was for the Town Manager as the second position – the Assistant to the Town Manager – was already in place.

### **DISCUSSION/CONSIDERATION OF RFP PROPOSALS TO SOURCE FOR THE TOWN MANAGER POSITION**

Mayor Kingston stated that after the opening for the Town Manager position occurred for the Town, Ellis Hankins of The Mercer Group and Steven Strauss from Developmental Associates, LLC contacted him to introduce their respective services. He stated that he told them that the Town would be issuing an RFP in the future. He stated that he had asked Town Clerk Lori Ackerman to inquire to the Towns of Southern Shores, Nags Head and Manteo for preliminary search firm information as all three towns were either in the process or had gone through recent searches for a Town Manager. He added that he contacted Town of Southern Shores Mayor Tom Bennett and Town of Nags Head Mayor Ben Cahoon as well as emailing Town Manager James Ayers from the Town of Manteo.

Mayor Kingston stated that the Town of Southern Shores chose The Mercer Group and also considered Developmental Associates, LLC as well as another firm. He stated that the Town of Nags Head was still considering five firms. He noted that Attorney John Leidy had informed him that the City of Elizabeth City would be utilizing Development Associates, LLC.

Mayor Kingston stated that he contacted Paul Meyer, Executive Director with the North Carolina League of Municipalities as well as Hartwell Wright, Human Resources Consultant with the League, with respect to their knowledge and recommendations on search firms.

Mayor Kingston stated that on August 10, 2020, the Town issued an RFP to Baker-Tilley, Colin Baenziger & Associates, Developmental Associates, LLC, The Mercer Group and Slavin Management Consulting. He noted that all firms responded with the exception of Baker-Tilley. He stated that the purpose of this meeting was to review the proposals that were received and deciding on the next steps. He didn't expect Council to make a decision at this meeting as there will be more steps with regard to selecting the search agency to be used. He added that Council would be reviewing each proposal with him outlining each proposal and then opening it up for comments and questions from Council.

Mayor Kingston stated that Colin Baenziger of Colin Baenziger & Associates responded directly, adding that Mr. Baenziger was the Owner and Principal of the firm that was headquartered in Daytona Beach, Florida. He stated that they were established in 1997 and were a nationally recognized executive search firm that conducts business in 34 states. He stated that among many, 11 City Manager searches were done by them, including Fayetteville and Greensboro, North Carolina and they worked with North Topsail Beach in 2017-2018. He stated that there were eight City/County Manager searches completed in 2020 and 20 completed in 2019, but none were in North Carolina. He stated that there were four current searches for Town/City Manager, but none in North Carolina.

Mayor Kingston stated that Colin Baenziger & Associates used a traditional approach as follows:

- Information gathering and needs assessment
- Recruit candidates – networking, advertising and email
- Screening and final selection. Resume review, screening, reporting and evaluations. Written introductions, disclosure statements, references, legal checks, internet searches and verifications of education and work history
- Coordinate the interview process and Town Manager selection. Includes reception and Mayor/Council interviews
- Negotiation and continuing assistance

Mayor Kingston stated that their timeframe was normally 60-90 days, plus time for negotiation and assistance. He added that they had a fixed fee of \$26,500, which did not include expenses for final candidates to travel to the Town and work beyond the scope would be billed at \$150.00/hour. He noted that the only identified recent clients in North Carolina were Fayetteville and Greensboro, with prior work with North Topsail Beach and Mooresville. He pointed out that they were based out of Florida but had a good warranty with a replacement in the first year and no fee except for expenses.

Mayor Pro Tempore Thibodeau appreciated the spreadsheet that Mayor Kingston provided to Council as it was a good approach. She thought Colin Baenziger's proposal had a lot of in-depth information that Council could get into. She stated that she didn't have any questions about the company at this time.

Mayor Kingston noted that he had copies of all of the proposals in front of him if any Council member wished to view them. He noted that Colin Baenziger & Associates had the largest proposal.

Mayor Pro Tempore Thibodeau confirmed that Colin Baenziger & Associates' proposal was the last one in Council's packets. Mayor Kingston stated she was correct. Mayor Pro Tempore Thibodeau noted that they got into a lot of background information and background checking for the candidates. She added that it seemed to be their strength and what they wanted to focus on in their proposal. She reiterated that they were trying to show their in-depth investigation into the history of a candidate. Mayor Kingston agreed, pointing out that they had a history track of a candidate through the whole process included in their proposal. He stated that they also included some interesting advertising. He thought it was a good proposal, but he was concerned that the contact is out of state and, to an extent, limited work in North Carolina with respect to what Council was looking for. He added that they had a lot of work in Florida with respect to similar type towns and cities with beaches. Mayor Pro Tempore Thibodeau agreed.

Councilor Caviness clarified that Colin Baenziger & Associates have done a lot of work with cities and counties in North Carolina. Mayor Kingston stated that they have completed searches in over 34 states. Mayor Pro Tempore Thibodeau noted that although they don't have a lot of North Carolina experience, they do have coastal experience, which would be critical for the right candidate for Duck since the Town does not equate to a town such as Fayetteville or any interior town.

Mayor Kingston stated that Steven Straus of Developmental Associates, LLC was the President and Cofounder of the company that was headquartered in Chapel Hill, North Carolina. He stated that they have over 25 years of experience with local government and North Carolina universities. He added that in the last eight years, Developmental Associates partnered with over 150 local governments to fill over 150 positions. He noted that in the last three years, they have hired over 40 managers in North Carolina, Georgia and Virginia and 32 of 39 recent clients were North Carolina based organizations.

Mayor Kingston stated that Developmental Associates was not a traditional "headhunting firm" and utilized identification and assessment. He added that they required several sessions with the Mayor and Council as well as the following for their approach:

- Job and organizational analysis
- Customized application
- Build a candidate profile
- Identify candidates and conduct initial screening
- Second level screening
- Design hiring process
- Recruit assessors
- Administer their Emotional Intelligence Inventory
- Facilitate final evaluation process

- Facilitate background investigation
- Provide coaching for top candidates

Mayor Kingston stated that their timeframe was normally 65 days up to the final candidate selection process with the total timeframe to be determined. He added that they had a basic fee of \$18,500, which equates to screening at \$70.00/candidate (up to 12 candidates); analysis at \$100.00/candidate (up to five candidates); coaching and feedback at \$250.00/candidate; and background checks at \$2,250/candidate. He stated that the maximum total fee was \$19,840 and did not include coaching and that ad fees would be a Town expense. He noted that they were a North Carolina based firm and was the firm that was selected to conduct a search for the City of Elizabeth City Manager. He added that they were still under consideration with the Town of Nags Head and were considered by the Town of Southern Shores. He pointed out that they had a two-year guarantee with no fees except expenses.

Mayor Pro Tempore Thibodeau thought they had an interesting approach to go with emotional intelligence. She stated that she could see the benefit of taking that approach in terms of getting to know the candidates. She stated that she was intrigued with regard to several sessions that would be held with the Mayor and Council, but thought it was equally important to have staff included. She stated that she wasn't sure what the emotional intelligence piece was, because analyzing the organization was important and she wasn't sure if it was strictly from the Council's perspective or people that the manager would work with. She stated that it would be a question she would have for them as to where Town staff came in with regard to the job and organizational analysis. She wondered if it was simply what was in the proposal. She stated that the other question she had was on the coaching and feedback portion where they state that it was \$250.00/candidate but then they have a maximum total that did not include the coaching and feedback. Councilor Caviness stated that she had the same question with regard to the coaching and feedback.

Attorney John Leidy was recognized to speak. Attorney Leidy understood that it was an additional service Developmental Associates would provide following the placement of the new Town Manager to the extent that the Town would need some orientation or coaching of the final candidate once they were placed. He explained that the \$18,500 basic fee was the inclusive fee for the search, but then they have a menu of options that they offer.

Mayor Kingston thought all of the firms would be coming in to meet with the Mayor and Council to develop a case for the job requirements and the job position questionnaire. He added that they would need to know the specifics of the Town with respect to what was important and what would be happening in Town. He thought there would be a lot of involvement up front with respect to that.

Mayor Pro Tempore Thibodeau understood Council being involved, but the emotional intelligence part was different and how it related to Town staff. She agreed that there definitely needed to be preliminary conversations with Council and they could also

receive input from the community as well as Town staff, but it was ultimately Council's decision. She added that there should be a lot of input from anyone that was interested in giving it.

Mayor Kingston agreed with Mayor Pro Tempore Thibodeau's comments. He thought Developmental Associates was different from the other firms because of the emotional intelligence aspect.

Councilor Caviness thought it was really interesting and intriguing to her. She clarified that Mayor Kingston had followed up with the Towns of Southern Shores and Nags Head. She asked if they had offered any perspective in terms of their consideration. Mayor Kingston stated that the Town of Southern Shores has hired a new Town Manager and they had selected The Mercer Group for their search. He thought they were interested in Developmental Associates, LLC, but wasn't sure if it was cost as to what drove their decision. He added that they had also considered another search firm and had an open discussion and decided they were most comfortable with The Mercer Group. He stated that he did not ask them for specifics.

Mayor Kingston noted that the Town of Nags Head was still under consideration. He stated that The Mercer Group supplied them with a complementary Interim Town Manager, but they were still under consideration with respect to five firms they had received proposals from.

Councilor Mooney stated that he liked Developmental Associates, LLC and thought the emotional intelligence inventory could be a very valuable tool as well as something that Council will probably need.

Mayor Kingston stated that S. Ellis Hankins of The Mercer Group was the Senior Vice President of the company that was located in Raleigh, North Carolina, but headquartered in Atlanta, Georgia. He stated that they were the largest and most active nationwide public sector search firm, which started in North Carolina. He stated that they have over 30 years of experience with an average of 65 public sector searches per year. He noted that in the last five years, they completed 87 City Manager searches with nine in North Carolina and had 13 recent successful North Carolina consulting engagement searches. He added that they have 48 clients in North Carolina.

Mayor Kingston stated that The Mercer Group was a traditional search firm as well as noting the following for their approach:

- Position analysis
- Recruitment process. Regionally and national
- Resume review and candidate screening
- Background investigation
- Interview and decision-making process
- Lack of viable candidate, will reopen search
- Negotiation and follow up on final candidate

Mayor Kingston stated that their timeframe was normally 120 days from contract to final selection. He added that they had a basic fee of \$17,500, with expenses not to exceed \$3,500. He stated that the maximum total fee was \$21,000 and did not include final candidates' travel, which was normally between \$750 and \$1,000. He added that their billing for the basic fee entailed a third at the contract, a third upon delivery of semifinalist and a third at delivery of the interview guide and final candidate information, with expenses billed monthly. He noted that they had conducted more successful searches in North Carolina than any other firm and provided 10 guarantees including a two-year replacement warranty with no fee except for expenses. He stated that they recently assisted in Town Manager searches for three coastal communities – Emerald Isle, the Town of Southern Shores and the Town of Manteo. He added that they were currently working with the Town of Nags Head and had placed their Interim Town Manager there at no fee. He pointed out that S. Ellis Hankins was the former Executive Director of the North Carolina League of Municipalities.

Mayor Pro Tempore Thibodeau pointed out that they have a lot of local experience. She wondered how the Mayors of the Towns of Southern Shores and Manteo found The Mercer Group and asked if references could be obtained from them since they used their services. She added that S. Ellis Hankins' background in the State of North Carolina was a plus with regard to his connections and his affiliation with the North Carolina League of Municipalities. She stated that she could see the strengths of The Mercer Group for those reasons. She asked if it would be appropriate to ask the Mayors of Southern Shores and Manteo for references. Mayor Kingston thought Council could do that when they perform a reference check with regard to the firm they would select. He added that all of the firms provided Council with references and based upon his involvement with the League of Municipalities, he recognized one or two names in all of the proposals.

Councilor Whitman stated that he liked The Mercer Group, adding that he reviewed the list of people that they worked for and there were quite a few resort/coastal communities.

Councilor Caviness thought for a lot of Council, S. Ellis Hankins was a known quantity because of his position in the State of North Carolina and his involvement with the Institute of Government trainings that Council has attended over the years. She thought S. Ellis Hankins will have a basic understanding of the Outer Banks as well as North Carolina government and how it operates that a firm from out of state may not have. She thought it was a big plus.

Mayor Kingston noted that The Mercer Group had recruited the Deputy City Manager of Nashville for the Town of Manteo. He added that for the Town of Southern Shores, The Mercer Group was able to get the Town Manager from the Town of Nags Head. He noted that the second candidate for the Town of Southern Shores was the Interim Town Manager for the Town of Nags Head. He stated that he was from the west coast. Attorney Leidy stated that the Interim Town Manager for the Town of Nags Head had retired from Eureka, California and was in the process of relocating to the Piedmont area

of North Carolina, looking for a position and the Interim Town Manager position became available, which he has accepted on an interim basis.

Mayor Kingston thought The Mercer Group had included in their proposal their advertisement for the Town of Southern Shores. Councilor Caviness stated that they did.

Mayor Kingston stated that Robert Slavin of Slavin Management Consultants was the Owner and President of the company that was headquartered in Norcross, Georgia. He stated that they have eight affiliate organizations including one in Burlington, North Carolina as well as operations in Ohio, Texas, Connecticut, Kentucky, California, and Arizona. He added that they were an independent management consulting firm that was founded in 1991 and have placed over 850 local government executives including several in North Carolina, placing executives in Buncombe, Mecklenburg, and Wake Counties as well as Cary, Carrboro, Chapel Hill, Charlotte, Durham, Greensboro, Greenville, Huntersville and Winston-Salem.

Mayor Kingston stated that Slavin Management Consultants utilizes a “critical path” search process, allowing the Town to focus on the selection process rather than the candidate process. He noted that their approach was as follows:

- Develop job qualifications and requirements for the position with Town Council and others
- Identify and recruit qualified candidates
- Evaluate prospective candidates including preliminary screening and progress reports
- Make recommendations, help in the selection process and facilitate employment. Generally, 12 candidates are presented and five are presented for interviews
- Establish evaluation criteria and follow up

Mayor Kingston stated that their timeframe was estimated at 45 to 60 days to the final report and selection. He added that more time may be required to finalize the selection and agreement. He noted that their total cost was \$15,580 and that the expenses would be all the necessary consultant travel, which would be billed to the Town at the actual cost. He stated that they had office costs at a flat fee of \$350.00 billed in two installments with the average advertising costs being approximately \$2,500 and additional expenses would not exceed 55% of the fee or \$8,569. He stated that the total cost would not exceed \$24,149 and would not include final candidates’ travel to Duck. He added their billing would be 30% every 30 days and 10% on candidate acceptance. He pointed out that they have a good warranty and will redo the search if the candidate leaves for any reason within two years of being hired. He noted that their local affiliate was located in Burlington, North Carolina.

Mayor Kingston stated that Council needed to discuss the next steps with regard to selecting a firm. He suggested interviewing all four firms and further suggested that they each give a presentation, specify a time period and then be open for additional questions from Council. He thought before Council selected any of the firms, they should visibly



see them either in person or virtually. He thought if Council wanted to do something like that, it could be done any time after their September 2, 2020 meeting.

Councilor Caviness liked Mayor Kingston's suggestion. She thought one of the themes that was emerging from all of the proposals was that the candidate would look one way on paper but would present very differently. She thought it was true and would like to meet the individuals at each firm to get a better sense of who they are and how they approach things beyond the written word. Councilor Whitman agreed with Councilor Caviness' comments.

Mayor Pro Tempore Thibodeau thought it would be a public meeting. She asked if Attorney Leidy had experience with this in that the firms would give a short presentation. Attorney Leidy stated that he had, adding that he saw it recently via Zoom instead of in person. He stated that the City of Elizabeth City did it recently with three or four companies which helped flesh out what their Council was thinking as well as what the companies may present and the kind of relationship the forged as they worked on the search.

Mayor Pro Tempore Thibodeau stated she was in favor of having each company give a 20-30 minute presentation. Councilor Mooney agreed. Mayor Kingston thought it could be a 30-minute time slot for each firm and have them make a presentation and then take questions from Council. Mayor Pro Tempore Thibodeau agreed, noting that each firm did not have to fill the whole 30-minute time period. Mayor Kingston agreed.

Mayor Kingston thought the fees were reasonable and not a big cost issue. He thought all four firms were pretty close together with regard to the fees they were charging.

Councilor Caviness clarified that most of the firms were 90 days with The Mercer Group longest at 120 days. Mayor Pro Tempore Thibodeau stated that they were 60, 90 and 120 days. She added that Zoom may reduce the timeframe but thought it would take a bit of time to get everything accomplished. She asked once Council met with the firms, they would have to reconvene to make a decision. She further asked if a decision was expected on the day that the firms made their presentations. Mayor Kingston thought it would be four presentations, a question and answer period and then deliberate afterward and come back with a decision. Mayor Pro Tempore Thibodeau clarified that the decision would be about a week later. Mayor Kingston agreed, adding that it would probably be hard to make a decision on the spot. Mayor Pro Tempore Thibodeau thought Council could have their regular meeting and then have a special continued meeting for the presentations, then they could reconvene mid-September to come to a decision. She thought Council would be off the timeline by about two weeks, but it would be worth it.

Councilor Whitman stated that he didn't want to rush making a decision. He noted that most gave a timeline of September to start. Mayor Pro Tempore Thibodeau agreed, noting that she was mindful of Town staff and that they want things to move forward.

Councilor Caviness thought another thing that Council would be dealing with was the upcoming holidays. She thought there could be a disruption in the final weeks because of the holidays.

Mayor Kingston pointed out that they all have been in business for many years and they all have databases available. He added that once they get a contract, they're going to be up and running because they already had their databases and contacts. He noted that they would not be starting from scratch and would be ready to go rather quickly.

Mayor Kingston suggested having a meeting on Wednesday, September 9, 2020. Interim Town Manager Joe Heard was recognized to speak. Interim Town Manager Heard pointed out that the Planning Board has their regularly scheduled meeting for Wednesday, September 9, 2020 at 6:30 p.m. He noted that they may not have to meet if they didn't have any agenda items.

Mayor Pro Tempore Thibodeau thought the meeting could be held during the day. Mayor Kingston suggested that it be held at 1:00 p.m. Mayor Pro Tempore Thibodeau agreed. Interim Town Manager Heard stated that there weren't any agenda items, so the Planning Board may not be meeting. Mayor Kingston stated that if Council gave each firm 30 minutes, the meeting would take approximately two hours. He thought the meeting would finish between 3:00-4:00 p.m. Mayor Pro Tempore Thibodeau stated that she had a flood insurance webinar on September 9, 2020 but could probably miss it.

Councilor Caviness asked if Council would continue this meeting to September 9, 2020 and then make a decision at the mid-month meeting. Mayor Pro Tempore Thibodeau pointed out that Council had an upcoming meeting on Wednesday, September 2, 2020. Councilor Whitman thought the meeting on September 2, 2020 could be continued to September 9, 2020. Councilor Mooney stated he would be fine with September 9, 2020 but would be available via Zoom.

It was *consensus* of Council to hold the meeting on Wednesday, September 9, 2020 at 1:00 p.m.

Mayor Kingston stated that he would put something together for the four firms that will lay out Council's expectations for the meeting. He added that he would provide them with time slots so they can come at different times. He asked if 20-30 minutes would be sufficient for each firm. Councilor Whitman suggested 30 minutes for each firm. Mayor Pro Tempore Thibodeau thought it should be 30 minutes with time factored in for questions. Councilor Whitman suggested a 15-minute break in between each firm. Councilor Caviness thought it could be 20 minutes for the presentation and 10 minutes for a discussion.

Councilor Mooney asked Attorney Leidy if he thought it was a good timeframe. Attorney Leidy stated that it was. Councilor Whitman thought Council could also discuss what they heard from each firm.

Mayor Kingston stated that he would give the firms the same order that was just discussed with a time and see if it works for them. Councilor Caviness asked if they could present in person. Mayor Kingston stated that they could. Councilor Caviness asked if Council would make a decision at their mid-month meeting on Wednesday, September 16, 2020. Mayor Kingston stated that they would.

**CLOSED SESSION**

Mayor Pro Tempore Thibodeau moved to enter closed session in accordance with Section 143-318.11(a)(3) in order to confer with the Town Attorney regarding a matter within the attorney/client privilege and to preserve that privilege.

Motion carried 5-0 via roll call.

The time was 3:44 p.m.

Upon return from closed session, Attorney Leidy stated that Council conferred with the attorney and no action was taken.

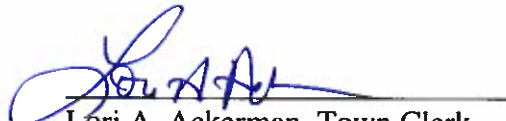
Mayor Kingston stated that the next meeting would be a Regular Meeting on Wednesday, September 2, 2020 at 7:00 p.m.

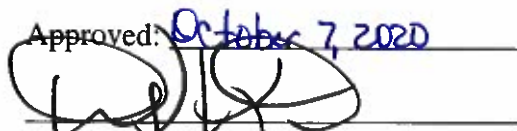
**ADJOURNMENT**

Councilor Whitman moved to adjourn the meeting.

Motion carried 5-0 via roll call.

The time was 4:58 p.m.

  
Lori A. Ackerman, Town Clerk

Approved: October 7, 2020  
  
Don Kingston, Mayor

