

**TOWN OF DUCK
TOWN COUNCIL
REGULAR MEETING
August 5, 2020**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 7:00 p.m. on Wednesday, August 5, 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; Deputy Fire Chief Clarence Batschelet; Town Attorney Robert Hobbs; Attorney John Leidy; Director of Marketing and Special Events Christian Legner; Assistant to the Town Manager Alyson Flynn; Permit Technician Kristiana Nickens; and Town Clerk Lori Ackerman.

OTHERS ABSENT: Public Relations Administrative Assistant Betsy Trimble.

Mayor Kingston called the meeting to order at 7:08 p.m. He asked Planning Board Vice Chair James Cofield 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 they 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 asked for consensus to move the Closed Session up on the agenda due to technical difficulties with the Zoom software. It was consensus of Council to move the item up on the agenda.

CLOSED SESSION

Mayor Pro Tempore Thibodeau moved to enter closed session in accordance with Section 143-318.11(a)(3) and (6) in order to confer with the Town Attorney regarding a matter within the attorney/client privilege and to discuss a confidential personnel matter in accordance with NC General Statute 160A-168, including but not limited to considering the qualifications, competence, performance, character, fitness, conditions of

appointment, or conditions of initial employment of an individual public officer or employee and to discuss the lawsuit by Mark Burbic.

Motion carried 4-0 via roll call as Council Mooney did not vote due to technical difficulties.

The time was 7:22 p.m.

Upon return from closed session, Attorney Leidy stated that Council discussed the lawsuit by Mark Burbic with the Town attorneys. He added that Council received information from the Town attorneys regarding matters within the attorney/client privilege and discussed personnel matters, but no action was taken by Council.

PUBLIC COMMENTS

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

Assistant to the Town Manager Alyson Flynn was recognized to speak. Assistant Flynn went on to read the following public comment from John Park of 109 Waxwing Lane: "Members of Council, I want to publicly thank Mayor Don Kingston and Chief Donna Black for meeting with me regarding Advanced Life Support (ALS) ambulance services for the residents, property owners, visitors and businesses in the Town of Duck. I also want to thank Mayor Pro Tempore Monica Thibodeau for giving almost an hour of her time to talk with me on a variety of issues earlier this week. The willingness of council members and staff to listen to citizens and consider their inputs as they govern and provide services for the Town is commendable and invaluable."

"I am pleased to see that the agenda for the August Town Council meeting includes a proposed resolution regarding ALS ambulance service for the Town. I am hopeful that the resolution will provide a continuing emphasis to the Council and staff to drive toward excellence in this area of service that is on par with or exceeds the level of excellence we as citizens, property owners, and business owners have come to expect and the Town has provided in so many other areas of service. In this regard, I encourage the Town to coordinate with Dare County in developing a standard for ALS response times that we (corporately) can use to hold one another accountable to reach as soon as possible. The National Fire Protection Association (NFPA) standard for ALS level of service requires that travel time will be less than eight minutes for 90% of the responses. Data I received from Dare County EMS indicates that the service provided out of the Southern Shores station at East Dogwood Trail and Duck Road in 2019 met the eight minute travel time for only 65% of the responses in their north travel area, which I assume equates roughly to the Town of Duck. The response time met the eight-minute standard for less than 60% of the responses in 2018. Dare County EMS apparently does not use the NFPA standard, but it has also not been able to provide me with the standard they do use. An agreed upon standard that the Town and County consider excellent should provide a mark the County can use to direct the appropriate resources toward EMS until they meet that standard.

Reducing the standard to account for insufficient resources is not acceptable. I encourage the Council to advocate with the County for this support. The Town must also include plans for an ambulance on a full-time basis in any future Public Safety building or renovations to the current building. This planning and expenditure of resources will indicate to the County the seriousness of the Town's commitment to ALS ambulance service that meets the yet to be determined standard for the Town. Thank you for your time and thoughtful consideration."

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

CONSENT AGENDA

Minutes from the June 10, 2020, Reconvened Meeting; Minutes from the June 17, 2020, Mid-Month Meeting; Minutes from the June 18, 2020, Reconvened Meeting; FY 2020 Audit Contract; Resolution 20-05, a Resolution of the Town Council of the Town of Duck, North Carolina, Honoring and Thanking John R. Cueto for his Service to the Town of Duck; Interlocal Agreement between Dare County and the Town of Duck, North Carolina, for Hurricane/Debris Removal Monitoring; and Temporary Maintenance Contract with Coinjock Lawn Care

Councilor Caviness moved to approve the consent agenda as presented.

Motion carried 5-0 via roll call.

SPECIAL PRESENTATIONS

Presentation of Resolution 20-05, a Resolution of the Town Council of the Town of Duck, North Carolina Honoring and Thanking John R. Cueto for his Service to the Town of Duck

Mayor Kingston stated that former Police Chief John Cueto was unable to attend the meeting. He went on to read the resolution to Council and the audience. He added that former Chief Cueto will have his badge and sidearm delivered to him from the Town.

Swearing in of Jeffrey Ackerman as New Chief of Police

Mayor Kingston stated that Police Lieutenant Jeffrey Ackerman would be sworn in as the new Chief of Police.

Police Sergeant Melissa Clark was recognized to speak. Police Sergeant Clark gave a short presentation on Police Lieutenant Ackerman's rise from Police Officer to Police Chief to Council and the audience.

Town Clerk Lori Ackerman was recognized to speak. Town Clerk Ackerman went on to swear in Police Lieutenant Ackerman as the new Chief of Police.

Police Chief Ackerman introduced Jaclyn Kiene as the Duck Police Department's newest officer to Council and the audience.

PUBLIC HEARINGS

Public Hearing/Discussion/Consideration of Resolution 20-06, a Resolution of the Town Council of the Town of Duck, North Carolina, Adopting the Town of Duck Comprehensive & CAMA Land Use Plan

Mayor Kingston turned the meeting over to Town Attorney Robert Hobbs.

Town Attorney Robert Hobbs was recognized to speak. Town Attorney Hobbs opened the public hearing.

Town Attorney Hobbs stated that Interim Town Manager Joe Heard would be making a presentation.

Interim Town Manager Joe Heard was recognized to speak. Interim Town Manager Heard stated that the current CAMA Land Use Plan for the Town was adopted in 2005 and over the past 15 years, many of the plan's original recommendations have been implemented, new issues have arisen, and changes in the Town's leadership, vision and policies have occurred. He stated that as the Land Use Plan serves as a significant policy document, guiding decisions by the Planning Board and Town Council, the Town Council members found it important to update the existing Land Use Plan to better address the issues and opportunities facing the Duck community in the future.

Interim Town Manager Heard stated the North Carolina General Statutes lists elements required for any adopted CAMA land use plan and to address those requirements as well as additional topics of interest to the Duck community, the draft Duck Comprehensive & CAMA Land Use Plan contains a great deal of information in the following manner:

- The adopted Duck Vision 2027 provides a general framework for the goals and information to follow.
- A variety of "character areas" are described, defined, and categorized by distinct functions and characteristics. A Future Land Use Map shows where changes may occur in the future, although it substantially reflects existing zoning and development patterns.
- Listed goals and recommendations provide guidance for Town standards, policies, projects and expenditures concerning issues of importance to the Duck community.
- An outline of background information used during the planning process is provided. Information includes population trends. Demographics, housing/building trends, habitat, environmental issues, flooding/sea level rise, water/septic systems, cultural resources, and transportation systems.
- Appendix A outlines the planning process.

- Appendix B summarizes stakeholder survey responses.
- Appendix C covers the Advisory Committee's SWOT analysis.
- Appendix D provides public survey results.
- Appendix E summarizes information and feedback provided at public open houses.
- Appendix F outlines the review and analysis of other adopted plans and documents reviewed during development of the Land Use Plan.
- Appendix G discusses peak seasonal population projections.
- Appendix H provides a matrix of topics required for a CAMA land use plan.

Interim Town Manager Heard stated that development of the Land Use Plan involved an extensive public participation process with the public offered a variety of ways to provide input regarding community issues and the draft plan throughout the planning process. He stated that stakeholder meetings were held on May 22-23 and June 25, 2019 with representatives invited to participate and share their thoughts about issues facing the Town, defining what the Town does well, what it needs to improve, and opportunities for the future.

Interim Town Manager Heard stated that between July 24 and August 23, 2019, 803 respondents participated in an online survey to share their backgrounds, perspectives, concerns, priorities, and experiences. He noted that the survey was also available in a hard copy format at the Town offices, adding that in part, the survey questions were designed based on input and insight gained during the initial stakeholder interviews and the first Advisory Committee meeting. He noted that the information allowed the survey to be tailored to focus on key, local needs and issues.

Interim Town Manager Heard stated that on September 17, 2019, 66 people attended a public open house to view information and provide input about a variety of key issues facing the Town. He stated that following the development of the initial draft Land Use Plan, the Town distributed the plan to the public through its website and printed copies. He added that members of the public were invited to review the draft Land Use Plan and submit comments over a five-week period from February 14 – March 18, 2020. He noted that website data showed 395 unique page views and 145 downloads of the draft document. He stated that twelve people submitted several dozen comments that were provided to the Advisory Committee for review and consideration.

Interim Town Manager Heard stated that updates on the Land Use Plan project and public notice of the opportunities for plan review and public comment were presented at the Town Council's Retreat on February 20, 2020. He stated that on March 3, 2020, dozens of people attended a public open house to receive information about the draft plan and provide feedback about the initial draft recommendations and other issues of importance to the Town. He noted that the meeting format included a presentation of plan highlights followed by an open question and answer session with the planning consultant and Town staff. He stated that the final draft of the plan was posted on the Town's website on July 1, 2020 with the public given an additional opportunity to review the final draft and submit comments prior to and during the Planning Board meeting on July 8, 2020. He

pointed out that since July 13, 2020, the final draft plan has been available for public review and comments prior to the Duck Town Council meeting. He stated that website data shows 86 unique page views and 28 downloads of the final document.

Jay McLeod of Stewart Engineering was recognized to speak. Mr. McLeod stated that the Plan was a very well attended and well-reviewed plan and the Town was fortunate to have a really informed and dynamic steering committee. He stated that there were debates, sometimes vigorous, but the entire time it was a room full of adults that were willing to debate and come up with real answers and solutions.

Jay McLeod stated that one of the things that struck him was the uniqueness of Duck where it was a tourism economy but didn't have the high rises that are associated with it. He stated that there wasn't a strict commercial district up and down NC 12 as it was basically in the Village area. He stated that there was the seasonal population surge with people staying in homes that look like the homes they came from but with a beach at the end. He stated that it was interesting as Duck is a small-town looking beach cottage community, but it functioned as a multi-owner, timeshare, vacation, seasonal rental and permanent resident area, which was a unique environment.

Jay McLeod stated that the Town had an existing Land Use Plan that they used to categorize the Town as a tool to investigate the distribution of land uses as well as using tax parcel data. He noted that Duck was residentially driven from a tax base perspective by single-family detached structures.

Jay McLeod stated that one of the first things his firm did as part of the process was to check in with the community to make sure that the goals and Vision that were affirmed at the previous Vision session were still on target and what they found was that they were. He stated that they asked people for their top priorities and what came out was responsible/responsive leadership in terms of the Council leadership; environmental stewardship; and Duck Village. He noted that the reaffirmation of the goals and the Vision was what drives all of the recommendations in the Land Use Plan.

Jay McLeod stated that the future land use map that was developed had descriptive character areas and it was based on the public input in that they did not want to see big changes or major expansions of commercial uses on the north side past the U.S. Army Corps of Engineers property. He noted that the transitional area from the previous Land Use Plan had disappeared because they introduced the boardwalk character area district since the boardwalk was an asset to the Town. He stated that they developed more in-depth character area descriptions for each area in Town so it wouldn't box in future decision makers or staff as new plans were developed for Duck.

Jay McLeod stated that with every CAMA Land Use Plan, the State requires land use management topics, which generally fall into five categories:

- Land Use Compatibility
- Infrastructure Carrying Capacity

- Natural Hazard Areas
- Public Access
- Water Quality

Jay McLeod stated that since it was a comprehensive as well as a CAMA Land Use Plan, he wanted to be sure that they included the goals the community had as well as projects that they felt were important that didn't necessarily fall under the five topics. He stated that there were recommendations for the land use management topics. He stated that they were as follows:

- Atlantic shoreline – beach renourishment and open to public access partnership opportunities
- Currituck sound – restore wetlands and eroded areas and enhance boardwalk use and connections
- Coastal ecosystems – protect dunes and habitat and tree preservation
- Duck Village experience – preserve and enhance; local, boutique businesses; coordinate parking; enhance pedestrian experience; and workforce housing
- Protect coastal residential character – appropriate standards
- Flooding and stormwater – ensure Duck Road is safe; study localized flooding; and protect water quality
- Community resiliency and climate change – study, elevate, adapt and prepare
- Enhance transportation – bicycle/pedestrian connections and Mid-Currituck Bridge
- Public safety – new Public Safety building and appropriate staffing
- Community connections – communicate/partner with citizens, businesses, etc.
- Water resources – protect water quality and monitor/study septic systems

Interim Town Manager Heard stated that there was a recommendation from the Advisory Committee after a number of work sessions where the drafts were reviewed. He noted that the Planning Board reviewed the plan and recommended approval at their meeting on July 8, 2020. He added that Council was requested to consider Resolution 20-06 which would adopt the Plan. He stated that if it happens and it moved forward, it would be sent to the Coastal Resource Commission, Division of Coastal Management and they have a period where they will do a review and certification to check that the Plan contains all of the required elements that it has to. He pointed out that after that, it would come back to Council for a final formal adoption.

Interim Town Manager Heard stated that Council appointed an advisory committee that was purposefully set up to include people from a variety of different backgrounds, interests and connections. He thanked the members of the committee and Town staff for their work over the past year.

Town Attorney Hobbs asked if Council had any questions. There were none.

Town Attorney Hobbs asked if any members of the Planning Board wished to make a presentation. There were none.

Town Attorney Hobbs asked if any members of the public wished to make a presentation.

James Cofield of 101 East Bias Lane was recognized to speak. Mr. Cofield stated that Council had in their agenda packet a companion report from him and Ed Sadler as well as comments from them about certain items. He stated that his comments were designed to supplement and add to the report, which was entitled "Comprehensive and CAMA Land Use Plan Companion Report". He stated that Duck has a number of assets that enhance the character of the coastal community and for the most part, residents and others appreciate the community as it was, which was to preserve the character of Duck. He added that the best way to achieve the goal was to develop strategies that recognize and build on the rich assets that make Duck the attractive community that it was.

James Cofield stated that the Outer Banks stands out from other coastal communities and there was little doubt that Duck stood out from other communities on the Outer Banks. He noted that Duck has the right mix, together with the strength, character and rich history of its residential neighborhoods to make it work. He stated that in the companion report, the numbers tell the story – 65% of Duck's land area was composed of single-family residential properties. He pointed out that on Page 78 of the report there were two pie charts that show that 65% of Duck's land area were composed of single-family residential properties. He added that 87% of the total tax value was based on single-family residential properties. He noted that, clearly, the economic driver in Duck was the single-family residential properties. He stated that 13% of Duck's total tax revenue came from other sources, adding that it was not an exaggeration that Duck's single-family residential properties support the Town's budget.

James Cofield stated that a challenge to the taxpayers becomes the unmistakable challenge to the Town. He stated that if the Town's tax base was enhanced, it would also enhance the Town. He stated that the point of his comments were that the report needs a robust discussion of Duck's residential neighborhoods, which will assist the Town in establishing a forward-looking Vision and goals that reflect the Town's assets; give the Town guidance in protecting and enhancing its most valued asset; give the Town guidance in developing strategies from a planning standpoint both near-term and long-term; give the Town guidance in attracting resources that will build upon the Town's essential asset; assist the Town in understanding where improvements can be made; give the Town guidance in working with and assisting the infrastructure of Duck's single-family neighborhoods, chiefly the homeowner associations; and give the Town guidance in identifying and understanding the risks, challenges and concerns that lie ahead.

James Cofield stated that Page 78 of the report showed the essential nature of Duck's single-family residential properties. He stated that Page 8 of the report lists the goals and Vision for the Town. He pointed out that nowhere in the Town's Vision and goals was a statement of the residential neighborhoods in Duck. He reiterated that 65% was the land area and 87% was the Town's revenue but was not listed in the Vision and goals. He stated that Interim Town Manager Heard had mentioned in his presentation, among other things, that the Plan identified important issues to guide future planning, including budget issues. He reiterated that the Town's Vision and goals on Page 8 did not mention

residential single-family properties. He stated that there was some discussion at a few of the planning sessions and he thought the Town should clearly call for a more robust discussion of the Town's residential neighborhoods. He added that the easiest way of doing that was to adopt the companion report along with the actual report.

Mayor Kingston stated that James Cofield was a member of the Planning Board and was also on the Advisory Committee and had voted for the adoption of the Plan. He stated that what Mr. Cofield had presented was more of a suggestion moving forward, more in detail versus what was covered in the Land Use Plan. James Cofield stated he was correct. Mayor Kingston asked if James Cofield was suggesting that after Council adopts the Plan, that they should make some items action plans moving forward. James Cofield disagreed, adding that he was suggesting the Council adopt the Plan along with the companion report so it would travel with the report.

Mayor Kingston pointed out that Council was at the last step in the approval process. He added that this was all discussed coming through the process and James Cofield was giving his opinion which may or may not be shared by others. He asked if it wasn't incorporated by the Advisory Committee and/or the Planning Board, why it should be inserted now other than looking at it as a forward suggestion. James Cofield stated that the Advisory Committee had a discussion and it ended in a tie vote 4-4 as to whether or not it should be included. He stated that the Planning Board also discussed it and the conclusion was that the report should be presented as a public comment and, rather than it making a decision on the report, the Planning Board decided it should be the Town Council that makes that decision, which was the vote by the Planning Board, as well as having the companion document presented.

Mayor Kingston stated that he was confused with forwarding the Land Use Plan to CAMA and adding the companion report. He thought CAMA would come back and ask why it wasn't included in the Land Use Plan. He stated that he was having a hard time with it.

Mayor Pro Tempore Thibodeau wondered how the next steps on the report would be incorporated and if the companion document, which was a summary, was all that there was to the companion report, which was pointing out 87% of the revenue. James Cofield stated that it was and felt it was important because 65% of the land mass in Duck was residential properties and 87% of it was the tax base. He reiterated that Page 8 of the report did not mention anything about the residential neighborhoods, which someone could take it as the Town being remiss in not including it. He stated that it calls out to anyone reviewing the report that the Town Council thinks that the residential neighborhoods were an important feature in the Town.

Mayor Pro Tempore Thibodeau pointed out that it looked from the survey responses that there was an overwhelming participation by non-resident property owners and residents. She stated that what James Cofield was calling attention to was actually when Council did the Vision and not necessarily the Land Use Plan, so that could be where the deficiency may be. She thought it may need to be corrected the next time the Town

updates its Vision. She agreed with James Cofield that it could be pointed out further, both the character and economic drivers that the homes provide, but it seemed like there was a lot of good participation, which also went back to the Vision. She noted that the Plan did not create the Vision. James Cofield stated that he tried not to draw more attention to it than needed. He agreed with Mayor Pro Tempore Thibodeau's comments. He stated that if the Plan was to identify important issues of guiding the future planning and if there wasn't a robust discussion of 65% of the land mass, then the Town was being remiss. He stated that if he was a CAMA person, he would question why there was something missing as there wasn't more discussion on the 65% because it was a land use plan and 65% of the land in the Town was not called out more than it was, as well as 87% of the tax base. He stated that it was the way he would look at things if he was on Council. He thought it was least disruptive and the least that the Town could do to help fix it. He agreed with the comments about the goals and Vision but felt that Council needed to do something about it at some point. He added that it seemed like now would be the time. He noted that when the Plan identifies important issues to guide future planning, this would be the time to do it.

Ed Sadler of 161 Buffell Head Road was recognized to speak. Mr. Sadler stated that he believed that the Land Use Plan did an effective job of describing Duck and highlighting the development of sidewalks, bike paths, and boardwalks. He stated that it recognized many of the advancements that the Town has made in the last 18 years. He didn't think that the Land Use Plan did an effective or acceptable job in identifying the risks that the Town has. He stated that the way the risks were in the report, one would have to read the report in detail and really think about it since they come up in different places.

Ed Sadler stated that the Plan states that the ocean will rise 1.74 feet in the next 20 years. He noted that in the last 20 years, properties on the sound have eroded two feet per year and in the last 25 years, it's been 50 feet. He stated that he lives on the oceanfront and went through the beach nourishment project, which made a huge difference. He noted that if it had not been completed, most of the homes on Buffell Head Road would not exist today. He pointed out that there wasn't a plan for the sound side properties, adding that vertical blinds would create more marshland and wetlands, but would not create or protect the dry land.

Ed Sadler stated that nowhere in the report did it state how many houses on the sound would lose their property and disappear in the next 20 years. He stated that he tried to estimate it, but he couldn't tell how many there would be. He thought it was about 15% of the homes, which was a lot of properties as well as a large tax base to the Town. He stated that the other issue was the septic systems. He explained that the septic systems for those homes will eventually go into the sound. He stated that they were raising the water level in Town, adding that even the septic systems that were on hills would eventually end up in the sound. He wasn't sure if a sewer system was needed, but thought it was a risk to the water quality of the Town.

Ed Sadler stated that the northern end of Duck was 400-500 feet wide and very flat. He stated that George Caffey bought 140 acres in that area in 1788. He stated that in 1790,

Mr. Caffey lost most of it to an inlet. He added that there was an area of Town called Caffey's Inlet, which was not where the inlet was and that George Caffey closed up in 1828 and got his land back, but it was 30 years later. He reiterated that the report did not address any risk to another inlet opening up in Duck in the next 20 years.

Ed Sadler noted that there have been six inlets between the Currituck Sound and the Atlantic Ocean and with the ocean rising two feet and storms getting stronger, there was an unknown risk. He wondered if there would be an inlet in Duck where Duck would become an island in the next 20 years. He thought it was a high probability. He thought that was where the report has fallen short as it doesn't call out what the risks were. He added that no one liked sewer systems or installing bulkheads. He thought both may have to be done, adding that there were ways to prevent having another inlet created in Town, which was very expensive. He stated that not only should Duck be concerned about this, but the State should as well because Duck Road will disappear.

Mayor Kington understood the sea level rise concern. He asked what the Advisory Committee did about it. Ed Sadler stated that they ignored it. He stated that he tried to bring up inlets, but couldn't have a discussion, adding that Interim Town Manager Heard would not discuss it with him. He stated that he brought up multiple issues but there was never a discussion about them. He wasn't sure why, which was the reason he was bringing things up now. He didn't think the report was complete in that it needed to call out the risks and they needed to be highlighted as risks.

Mayor Pro Tempore Thibodeau thought that Council hearing from James Cofield and Ed Sadler showed dedication to the process. She stated that she appreciated everything that has been brought up. She wasn't sure if she felt that she could insert anything to the process, like Mr. Sadler was suggesting. She stated that she was understanding that the information was there but not spelled out. She thought another piece she picked up from the report was that Duck was pretty much fully built out in that there wasn't a lot of room for new development. She agreed that there was sea level rise and changes that may happen due to a natural disaster. She stated that at that point the Town will be looking at reacting to what happened. She wasn't sure what good it would do to have all of the "what ifs" when the Town was already built out and will have to deal with things eventually. Ed Sadler stated that the Town needed to protect what it has, which the report does not do. He added that he had a problem with that.

Town Attorney Hobbs asked if any public comments had come in. Director Legner stated that no comments had come in.

Town Attorney Hobbs asked if there were any remaining questions from Council.

Mayor Kingston stated that based on the last two conversations, he asked Interim Town Manager Heard and/or the two Council members that were on the Advisory Committee if they had any comments regarding what was just heard.

Councilor Caviness stated that she did not have the expertise that Jay McLeod or Interim Town Manager Heard had, but with respect to Ed Sadler's comments, she felt he made some really good points about identified risks in the future. She thought that when something was in the Land Use Plan, it was generally a signal that it was something that needed to be worked on or focused on. She thought it may be worth it for Council to pull out all of the things in the Land Use Plan that they deem as threats or environmental risks and look at them separately in an additional study or similar type of report. She pointed out that there were mitigation reports and threat assessments and it could be done separately. She added that they already noted what the important aspects were in the land use planning and if Council wanted to examine things further, they could do that as a side piece. She didn't think things needed to go back to the drawing board with the Land Use Plan in front of Council.

Councilor Caviness stated that with regard to the residential issue, she noted that she held a different opinion than James Cofield about how much the residential aspect was discussed in the Plan. She thought it was discussed as there were several pages in the Plan that describe the type of building and structures that existed residentially. She thought that enough weight had been given to the description of the Town's residential nature and the Vision Statement could not be rewritten to fit the Land Use Plan. She stated that it was an integral part of the Plan and was a good focus as the Town moves forward into the next planning phase. She reiterated that Council could not rewrite the Vision for the purpose of the Land Use Plan. She thought that there has been adequate inclusion of the residential character and built-out character, which is what the Plan was about. She added that it didn't get to all of the human pieces, adding that she didn't think that was the point of a Land Use Plan.

Councilor Whitman agreed with Councilor Caviness' comments. He stated that he saw no sense in trying to change it now, adding that parts of it could be discussed at a future Council or Planning Board meeting.

Interim Town Manager Heard stated that comments were submitted previously so everyone had a chance to look them over thoroughly and review. He stated that with regard to Ed Sadler's comments who felt that the Plan needed to have more study and analysis of some of the issues related to rising sea levels and potential impacts to septic systems, this Plan was not intended to do detailed studies on every issue in the Plan. He explained that the purpose of the Plan was to identify where and what studies need to be done. He thought the Plan accomplished that. He stated there were at least six different pages in the Plan that contained comments related to the issues that Mr. Sadler had brought up. He noted that there was a specific recommendation for a study of septic systems and their impacts as well as a specific recommendation for a study related to sea level rise. He thought all of the elements were in the Plan and it was recognizing the issues that were brought up by Mr. Sadler and saying that the Town needed to give them further detailed studies in the future. He stated that when that occurs, it would be discussed at future Council Retreats.

Interim Town Manager Heard stated that once the Plan was adopted, the next step was to come back to Council with the recommendations and find out which ones Council wanted staff to prioritize. He noted that some may happen sooner due to the availability of funding while some may be real priorities that Council may feel were extremely important. He thought the Plan captured the issues that Ed Sadler brought up but did not go to the level of detail that Mr. Sadler had hoped it would in terms of coming up with some solutions or further analysis of issues.

Interim Town Manager Heard stated that with regard to the inlet issue, there were 900 total public comments submitted and that was not an issue that was identified regarding the creation of new inlets. He stated that it didn't make it less of an issue, but as far as looking what went into the Plan, it was the topics and items that many people in the community agreed were important. He stated that the public comments were not bearing that as an issue that seemed to be important across the board to the people that responded to the surveys.

Interim Town Manager Heard stated that with regard to James Cofield's comments, there were a number of issues related to residential development that were in the Plan. He pointed out that there were recommendations that spoke to the residential character, development standards, residential areas having septic systems, flooding requirements, building more resiliently, the interface between residential and commercial uses as well as a variety of ways that the Plan addresses issues related to the residential neighborhoods. He thought that during the process, the Committee struggled with the fact that the comments didn't identify what to add.

Interim Town Manager Heard stated that with regard to the companion report and something that would be formally adopted as part of the Land Use Plan, he wasn't sure how that would work. He noted that he's been doing this for 30 years and never run across anything of that nature. He pointed out that there was a plan that makes recommendations and then there was a report that says something different. He wondered how it could be applied. He wondered how Council would reconcile which one would take precedence over the other. He stated that it would be a complicated and confusing issue if it was formally adopted. He added that he respected all of James Cofield and Ed Sadler's comments with regard to them highlighting the issues.

Councilor Mooney asked if there was some type of time constraint for adopting the Plan. Interim Town Manager Heard stated that there wasn't. Councilor Mooney suggested that if the time was right, he wanted to make a motion to adopt the companion report to move forward with the Land Use Plan. He added that if Interim Town Manager Heard's comments were correct, then he suggested that Council discuss those later on with regard to what the priority they needed to be in.

Town Attorney Hobbs stated that the comments could be included while Council deliberates.

There being no other public comments, Town Attorney Hobbs closed the public hearing and turned the meeting back over to Mayor Kingston. He noted that since Councilor Mooney was watching the meeting remotely, this would be characterized as a vote being under Senate Bill 704 and as a result, the Town was required to keep public comments open for 24 hours after the public hearing has been closed. He stated that Council had in front of them a sample motion where it could be approved, but if the Town received any public comments during that 24 hour time period, then the action taken at this meeting would be suspended and delayed until Council's next meeting to consider the public comments. He stated that if no other public comments were received, then the action would be affirmed with no further action needed by Council.

Councilor Whitman asked if the companion report could be included only as public comments. Mayor Kingston thought it was up to Council.

Mayor Kingston thanked Stewart, the Advisory Committee and Town staff in putting the Land Use Plan together. He thanked James Cofield and Ed Sadler for their comments and input. He stated that he would not be endorsing the companion report and thought Council should move forward with the Land Use Plan that was presented to them. He stated that he would be supporting the approval of the CAMA Land Use Plan as presented.

Councilor Caviness stated that she would support the CAMA Land Use Plan as presented. She stated that she appreciated Ed Sadler's comments with pointing out some action items that could rise high on the list. She stated that she was not in favor of submitting a companion report that hasn't been vetted by the community.

Councilor Mooney didn't think James Cofield was talking about the descriptions of residential neighborhoods but was talking about enhancement or assistance by the Town of the enhancement of residential neighborhoods. He stated that that was the part that was missing from the Land Use Plan that was in front of Council. He added that it didn't degrade the plan as it existed but added to it.

Mayor Pro Tempore Thibodeau felt that the important points that Council heard from James Cofield and Ed Sadler were not to be discounted, but that the Plan that was prepared was comprehensive in what it does. She thought Council could take those recommendations that were heard regarding ways to dig into the report as priorities and work to get the data and science in order to have it as an agenda item at the annual Retreat or have special meetings about it so Council could address things that were important. She did not see where the points have been ignored in the Plan to the extent she heard in the comments. She thought they were identified and needed to be explored more, but this didn't necessarily have to be the place for it. She added that she would be supporting the Land Use Plan as presented.

Councilor Whitman moved to adopt Resolution 20-06 as presented, provided, however, that if the Town receives any written public comments on the subject of the public hearing within 24 hours after the time that the public hearing was closed, the action taken

under this motion shall be suspended and delayed until the next meeting of Council for consideration of the written comments and further action if necessary; otherwise absent the receipt of any further written public comments, no further action by Council will be necessary.

Motion carried 4-1 via roll call with Councilor Mooney dissenting.

OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS

There was no Old Business items to discuss.

NEW BUSINESS

Appoint PNC Bank Money Market Signatories

Interim Town Manager Heard stated that while meeting with representatives from PNC Bank, he was informed that sole authorization for accessing the Town's money market accounts was still in the name of former Town Manager Christopher Layton. He stated that the Town has two money market accounts and while the accounts are not accessed frequently, there may be occasional transfers to the checking account for payments or transfers of funds to a more flexible account in times of need. He stated that he was recommending Council appoint him and Assistant to the Town Manager Alyson Flynn as the signees to access both Town money market accounts when needed.

Mayor Pro Tempore moved to add Interim Town Manager Heard and Assistant to the Town Manager Flynn as signatories for the PNC Bank money market accounts.

Motion carried 5-0 via roll call.

Discussion/Consideration of Authorizing the Interim Town Manager to Execute a Debris Removal Monitoring Contract with Thompson Consulting Services

Permit Coordinator Sandy Cross was recognized to speak. Permit Coordinator Cross stated that Dare County conducted a full Request for Proposal process and selected Thompson Consulting Services as the firm best qualified to conduct the debris removal monitoring services. She stated that under the terms of Dare County's contract with Thompson, the Town can enter into an agreement with Thompson through the Dare County contract. She stated that the Town has used Thompson Consulting Services for similar services in the past and has been very satisfied with the quality of their work.

Mayor Pro Tempore Thibodeau moved to authorize the Interim Town Manager to execute a contract with Thompson Consulting Services as presented.

Motion carried 5-0 via roll call.

Discussion/Consideration of an Interlocal Agreement between Dare County and the Town of Duck, North Carolina, for Management of Funds from the Coronavirus Relief Fund

Interim Town Manager Heard stated that the Coronavirus Aid, Relief, and Economic Security Act established the Coronavirus Relief Fund. He stated that the State of North Carolina has directed counties to allocate at least 25% of the CRF funds received for use by municipalities within Dare County for necessary expenditures incurred due to the public health emergency. He noted that the Town was seeking reimbursement in the amount of \$56,534 for the Police Department payroll expenses.

Mayor Pro Tempore Thibodeau moved to authorize the Interim Town Manager to sign the interlocal agreement with Dare County as presented.

Motion carried 5-0 via roll call.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY

Town Attorney Hobbs stated that he had no report.

ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER

Duck Sweep Volunteer Activities

Permit Coordinator Cross and Planning Intern Savannah Newbern gave a short presentation on the recent Duck Sweep volunteer activities to Council and the audience.

Departmental Updates

Director Legner gave a brief overview of activities to Council and the audience.

Permit Coordinator Cross gave a brief overview of the past month's permit activities to Council and the audience.

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.

Discussion/Consideration of Resolution 20-07, a Resolution Supporting Dare County Ambulance Service in Duck

Interim Town Manager Heard stated that Resolution 20-07 supports Dare County ambulance service in Duck. He explained that the intent of the resolution was to formalize a request to Dare County and express Council's support as a Town Council as well as the Fire Department's support for this.

Fire Chief Black stated that there were some concerned citizens that wanted Council and staff to look at this a little closer. She noted that it's been eye opening to her as well in talking to some citizens and Mayor Kingston. She added that she has sat with Chief Jennie Collins a few times. She stated that she thought it was appropriate to put the resolution forward to keep Duck on Dare County's minds as they look at the future as to how they will staff. She stated that she met with Chief Collins to discuss how the strategies were working, which was working very well. She added that they discussed the possibilities with the new Public Safety building and Chief Collins already had a needs assessment with regard to the types of things she will need. She added that Chief Collins will provide the Town with that information when the Town gets to that point.

Mayor Pro Tempore Thibodeau moved to approve Resolution 20-07 as presented.

Motion carried 5-0 via roll call.

Update on Beach Nourishment/Maintenance

Interim Town Manager Heard stated that Council received a copy of information from Coastal Protection Engineering North Carolina, which was the firm the Town retained to do a variety of engineering tasks. He stated that as a result of Hurricane Dorian, the Town lost 170,000 cubic yards of sand, but thankfully, the Town was now eligible for reimbursement of that loss. He stated that the estimated loss was a little under \$3 million. He stated that that information along with Coastal Protection's study have been submitted to FEMA representatives and will be the amount the Town would be seeking in order to repair the dune. He noted that the Town was incorporating that into the anticipated cycle it would have had for renourishment of the dune.

Interim Town Manager Heard stated that the Town has an annual construction monitoring service that evaluates the Town's dunes and beach and in mid-June they collected all of the data and will be providing Council with the document in the near future.

Interim Town Manager Heard stated that work was already starting for the Town's 2022 beach renourishment project. He stated that Coastal Protection Engineering has begun developing the environmental documents that were associated with the initial permitting for that project. He added that there were three different projects underway with Coastal Protection Engineering.

Financial Statement for the Month of July for FY 2021

Assistant to the Town Manager Alyson Flynn was recognized to speak. Assistant Flynn reviewed the financial statements with Council and the audience.

MAYOR'S AGENDA

Mayor Kingston stated that he attended three Mayors and Others Group meetings for the previous storm. He stated that he has been attending weekly meetings to discuss COVID-19 with a second death reported for Dare County. He stated that he has a League of Municipalities Board of Directors meeting on Monday, August 10, 2020. He stated that he and Mayor Pro Tempore Thibodeau have had some discussions regarding the search for a new Town Manager. He noted that it will be an activity by the Town Council, and he would be leading the effort. He added that he has been approached by a couple of firms and the next step will be to draft a letter requesting information from approximately three to four search firms, which he will be doing in the next few days. He stated that once the firms respond, there will be a Council and legal review and then a decision on which firm to select. He noted that it will be an extensive process.

COUNCIL MEMBER'S AGENDA

Mayor Pro Tempore Thibodeau stated that she was grateful that the recent storm did not cause the Town any damage. She thanked Mayor Kingston for his leadership and Town staff for keeping the Town functioning. She thanked former Police Chief John Cueto for his service to the Town for the past five years.

Councilor Caviness thanked Town staff for their commitment and hard work to the Town and community. She congratulated Chief Ackerman for being promoted to Police Chief.

Councilor Whitman thanked Town staff for keeping things together. He congratulated Chief Ackerman on his promotion.

Councilor Mooney told staff to keep up the good work.

OTHER BUSINESS

Additional Public Comments

Mayor Kingston opened the floor for public comments.

Director Legner stated that no additional public comments had come in.

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


Mayor Kingston noted that the next meeting would be the Regular Meeting on Wednesday, September 2, 2020 at 7:00 p.m. He noted that there may be a special meeting before then regarding the Town Manager search if responses are received.


ADJOURNMENT

Councilor Whitman moved to adjourn the meeting.

Motion carried 5-0.

The time was 11:32 p.m.


Lori A. Ackerman, Town Clerk

Approved: October 7, 2020

Don Kingston, Mayor

