

**TOWN OF DUCK  
TOWN COUNCIL  
REGULAR MID-MONTH MEETING  
May 22, 2019**

The Town Council for the Town of Duck convened at the Paul F. Keller Meeting Hall at 1:00 p.m. on Wednesday, May 22, 2019.

**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; Director of Community Development Joe Heard; Police Chief John Cueto; Fire Chief Donna Black; Attorney Andrew Howle; Director of Marketing and Special Events Christian Legner; Public Relations Assistant Betsy Trimble; and Town Clerk Lori Ackerman.

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

Mayor Kingston called the meeting to order at 1:03 p.m. He welcomed Attorney Andrew Howle. He stated that earlier in the month he attended a Dare County Board of Commissioners meeting and the Town received an award for one of the Best 2018 Restored Beaches from the American Shore and Beach Preservation Association. He noted that the Towns of Duck, Kitty Hawk, Kill Devil Hills and Southern Shores share in the award.

Town Manager Chris Layton was recognized to speak. Town Manager Layton went on to read a letter that was received recently applauding the Town on a great job making visitors have an enjoyable time with all of the amenities available.

Director of Community Development Joe Heard was recognized to speak. Director Heard gave a short update on the existing pedestrian plan project to Council and the audience.

**PRESENTATION BY STEWART ON THE CAMA LAND USE PLAN UPDATE**

Town Manager Layton stated that Jay McLeod and Elizabeth Alley with Stewart were contracted with the Town for the CAMA Land Use Plan update. He stated that they have been busy meeting with staff and other stakeholder groups and would continue to meet others. He stated that he was happy that Stewart was on board and he looked forward to a great Land Use Plan.

Jay McLeod and Elizabeth Alley of Stewart were recognized to speak. Mr. McLeod and Ms. Alley went on to give a short presentation to Council and the audience on what their

company does and how the update to the Town's CAMA Land Use Plan will be done, noting that the process was customized to the Town and involves extensive community input, which will take close to one year to complete and would culminate with a review and adoption of the plan in the Spring of 2020.

Mayor Pro Tempore Thibodeau stated that she was glad that there were so many ways for people to engage in the process. She asked if Jay McLeod and Elizabeth Alley had worked with a vision before. She added that she was curious how the Town's Vision, independent of the CAMA Plan, would play into what Stewart was doing. Jay McLeod stated that they have worked with visions as it has been a starting point for their work.

Mayor Kingston asked how Stewart's relationship was with the Coastal Resources Commission and CAMA with respect to the adoption of a Land Use Plan. Jay McLeod stated that it was pretty good. He added that they recently had a Land Use Plan approved in another town as well as another one up for certification in August/September for the Town of Carolina Beach. He explained that the CAMA certification process was a legislative mandated process and they work with staff and representatives to make sure all boxes are checked off that are needed.

Councilor Caviness asked if Stewart worked with demographics similar to Duck's. Jay McLeod stated that Duck was a unique town, especially when meeting with some of the stakeholders earlier in the day and hearing their perspective on things. He stated that they recently worked with the Town of Cullowhee, which was similar in demographic makeup to Duck. Councilor Caviness asked when Stewart worked with the Town of Cullowhee, if social media was used and if it was successful. Elizabeth Alley stated that it was very successful. She explained that they have used on-line surveys and received a lot of feedback.

Mayor Kingston thanked Jay McLeod and Elizabeth Alley for their presentation.

### **DISCUSSION OF PROPOSED FY 2020 BUDGET**

Town Manager Layton stated that there were no surprises in the budget and all of the items that were included were things that Council has discussed at some level. He noted that there was no tax increase proposed and the tax increase that was implemented last year was still adequate to fund the services and operations for the next year or two. He stated that there were always complicating factors in the future that the Town has no control over, such as whether other towns will be increasing their taxes. He noted that if they did, it would not impact Duck next year, but would the year after that. He stated that at some level, Council has to be cognizant of the decisions being made, not just how they impact the year being discussed but also moving forward. He stated that he tries to do so with the Five-Year Forecast.

Town Manager Layton stated that there was a Harry Brown sales tax bill out there. He explained that each year, Harry Brown puts forward a bill to redistribute the sales tax revenue and if it were to happen, Dare County would be hit the hardest. He added that,

depending on how and when it would be implemented, it would be approximately \$300,000 in lost revenue, specifically to the Town. He noted that the bill has not “grown feet” and advanced over the last several years, but it was just a few votes away from something like that happening. He reiterated that it was not something Duck could control but was something that Council needed to be aware of as they go forward.

Town Manager Layton stated that the Public Safety building was working its way through the process and may become an item this year if the Town was able to get through to the engineering phase. He stated that if that were the case, this budget would have the funding pulled from the Fund Balance to fund the engineering and architectural fees to get the Town to final construction. He added that another item Council needed to be aware of was beach nourishment. He pointed out that Council had discussed the implications of where the rate would be set and was not something that would need to be addressed today but would have an impact moving forward. He stated that there was a revaluation that will be coming up with revenue rates having to be discussed. He noted that there were a lot of unknowns in the out-years that decisions made today could impact those.

Town Manager Layton stated that one item for final adoption that would need an adjustment would be that RPC Contracting has moved forward with repaving or putting concrete in the northern area of Duck. He reminded Council that RPC Contracting had originally thought they would not have enough time to put that in before the summer started; however, they have started that process and staff expected it to be completed this fiscal year. He stated that in the Streets and Highways for the Duck Trail Repaving, funding would be pulled out of that which would be reflected as going into the Fund Balance for this budget. He noted that it would be done at the final adoption of the budget. He stated that, because staff was told they would not get to it until the fall, he had already budgeted the money into next year.

Town Manager Layton stated that he was pleased with the budget he presented and thought it adequately reflects the goals as he knows them from Council and he was happy to discuss it further.

Mayor Kingston suggested that Council review the budget by category.

Mayor Kingston directed Council to review the Revenues section of the budget. Councilor Burdick asked if there was any impact on the draft budget with regard to the other towns announcing what they were doing for the coming year. Town Manager Layton stated that it would not for this fiscal year. He explained that he always includes a fudge factor in his five-year forecast knowing that some kind of change could be made. He added that with the rumors that he has heard, until he saw what was in writing and what was adopted, it was all guesswork. He stated that what he has included in the budget with the percentages for the out-years, does compensate for it. Councilor Burdick asked Town Manager Layton if he was comfortable with the five-year projection that it was reasonable. Town Manager Layton stated that he was.

Mayor Kingston noted that the Town usually receives \$10,000 from the Government Access Channel Grant. Town Manager Layton stated that he would appropriate it once the Town applies for it.

Mayor Kingston directed Council to review the Expenditures section of the budget.

Mayor Kingston directed Council to review the Governing Body section of the budget. Mayor Pro Tempore Thibodeau thought Town Manager Layton had laid out a pretty comprehensive look at the 2020 budget. She stated that the budget was weighing heavy on her mind from lifeguard requirements to personnel costs as well as overall changes that will be happening. She asked when the Town would be looking at revaluation. She asked if it was for the Fiscal Year 2021-2022 budget. Town Manager Layton stated that he was told that Fiscal Year 2020 would be when the work would be done and then in Fiscal Year 2021 would be when the Town would see the revaluation implementation. Mayor Pro Tempore Thibodeau asked if it would be possibly the next budget cycle. Town Manager Layton stated she was correct, adding that it would be revenue neutral.

Mayor Kingston thought by law that the revaluation had to be completed by Fiscal Year 2021. Town Manager Layton agreed. Councilor Burdick thought for planning purposes, it should not be counted as it would not be significant. Town Manager Layton agreed.

Councilor Burdick pointed out that the big cost to the Town was personnel. He stated that the budget assumed some growth, especially with regard to the Assistant to the Town Manager position. He asked if beyond that, if Town Manager Layton was assuming any other significant growth. Town Manager Layton stated that he did not include any additional positions in his projections. He explained that even though there were thoughts that additional employees for the Police and Fire Departments may be needed, he had not been convinced of it. He added that he could put in a fudge factor but was not comfortable doing that. Councilor Burdick clarified that Town Manager Layton was planning to keep it level at this point. Town Manager Layton stated he was correct. Councilor Burdick clarified that the increases should be around 3% per year. Mayor Pro Tempore Thibodeau added that it would include the new position. Town Manager Layton stated they were correct. He stated that the factors that would go into the salaries were merit increases, merit bonuses, health insurance, and any changes that may happen.

Mayor Pro Tempore Thibodeau clarified that Town Manager Layton was estimating \$1.5 million for Sanitation. She asked if it was because of some unprecedented expenses. Town Manager Layton stated that the previous year included disaster cleanup. Mayor Pro Tempore Thibodeau clarified that Town Manager Layton was not accounting for disaster cleanup. Town Manager Layton stated that he was not.

Mayor Kingston directed Council to review the Administration section of the budget. He asked if it included the new position. Town Manager Layton stated that it did. Councilor Burdick asked when the Assistant to the Town Manager position would be filled. Town Manager Layton stated that he was not going to rush it as he wanted to work diligently for it. He guessed it would be filled after the first of the year. Councilor Burdick asked if

it would be a good idea to make sure to have the new employee in place sooner so that they would be involved in the budget process. Town Manager Layton thought it would be ideal if it could be worked out, but he felt that he wanted to work diligently to fill it and not just fill the position.

Mayor Kingston directed Council to review the Finance section of the budget. There were no comments.

Mayor Kingston directed Council to review the Legal section of the budget. Councilor Burdick asked if the Town was done with the easements for the pedestrian plan. Town Manager Layton stated that staff was still working on some of them. Director Heard stated that the preliminary estimates were based on some of the surveys for the redesign of the width of it. He noted that the Town was anticipating obtaining two easements. Councilor Burdick noted that the Town was expecting a significant increase. Mayor Pro Tempore Thibodeau disagreed, noting that it was the same as last year. Councilor Burdick disagreed. Mayor Pro Tempore pointed out that it was budgeted for \$70,000 and the same figure was also requested for the budget. She added that even if it was budgeted, it didn't mean it would be totally spent. Town Manager Layton stated that he would like the figure to decrease, but with Legal, it never seems to happen. Mayor Kingston stated that it's been a flat budget year after year. Councilor Burdick stated that it has been flat for years. Mayor Pro Tempore Thibodeau noted that there was an increase at one point.

Mayor Kingston directed Council to review the Public Buildings section of the budget. Councilor Britt asked if the boardwalk repairs were repairs that were anticipated. Town Manager Layton stated that he was anticipating normal wear and tear.

Mayor Pro Tempore Thibodeau asked what the estimate would be for engineering for the new Public Safety building. Town Manager Layton stated that the estimate he was working with was \$450,000. Mayor Pro Tempore Thibodeau asked if the Town expected that for this year, which was unpredictable, it would be put in this section of the budget. Town Manager Layton stated that he would, and it would be under Professional Services.

Councilor Burdick clarified that Town Manager Layton was looking at \$450,000. Town Manager Layton stated he was correct. Councilor Burdick clarified that it would be in the budget, but the year was an unknown. Councilor Britt stated that it would be between this year and next year. Mayor Pro Tempore Thibodeau added that it would be if the Town gets the green light for the project. Councilor Burdick noted that Fiscal Year 2022 showed debt service. Town Manager Layton agreed.

Mayor Kingston directed Council to review the Information Technology section of the budget. Town Manager Layton stated that the significant item for this line item were the server upgrades and associated cleanup.

Mayor Kingston directed Council to review the Police section of the budget. Councilor Burdick asked what the vehicle life was for the Police vehicles. Town Manager Layton stated that it was approximately seven years.

Councilor Caviness asked if the overtime was due to staffing shortages, injuries or bad timing. Town Manager Layton stated that there were some people out, which was a significant factor and the other reason was he changed how overtime was coded for staff that works holidays. Councilor Caviness clarified that this year's projection was normal. Town Manager Layton stated that it was.

Mayor Kingston directed Council to review the Fire section of the budget. He asked if there was a plan to replace Deputy Chief William Walker. Town Manager Layton stated that there was. Mayor Pro Tempore Thibodeau asked what would happen to his vehicle. Town Manager Layton stated that the request to replace it would still move forward. He noted that there would not be any additional vehicles purchased, just the replacement of that one.

Mayor Kingston directed Council to review the Inspections section of the budget. There were no comments.

Mayor Kingston directed Council to review the Ocean Rescue section of the budget. Town Manager Layton reminded Council that the Ocean Rescue section included the whole package for the additional lifeguard increase and the H2B Visas. He stated that the projection only included a factor based on this and did not include additional stands or anything in the out-years. He stated that he did not include those because he was not convinced that it was needed yet since he could not comfortably justify it. He noted that he felt comfortable with the request that was made and the additional expenses for this year but thought a more incremental approach to future additions of lifeguards was something that needed to be looked at on an annual basis.

Councilor Burdick asked if the international recruiting process was a one-time expense or something that would be repeated each year. Town Manager Layton stated that it will have to be renewed, but the initial year would be the largest expense. He anticipated coming back with a cost of living expense adjustment each year, which would not include those additional costs.

Mayor Pro Tempore Thibodeau clarified that the estimates did not have lifeguard stands and lifeguards included. Town Manager Layton stated she was correct.

Councilor Burdick asked if Ocean Rescue Director Mirek Dabrowski was putting the total cost for the international lifeguards on the Town. Town Manager Layton stated he was. Councilor Burdick stated that if that was the case, then Council needed to see some decrease proportionate to the number of lifeguards in place compared to the total. Town Manager Layton thought it was reasonable to expect that there could be a decrease in the out-years.

Mayor Kingston noted that the Town of Southern Shores did not have the extended period for lifeguards like Duck has and the increase in stands and lifeguards was just for Duck. Councilor Burdick didn't understand why that was the case. Town Manager Layton stated that Ocean Rescue Dabrowski's thinking was that the big issue was finding lifeguards that could be here when the others go back to school in the fall, which were mainly the international lifeguards.

Mayor Pro Tempore Thibodeau thought Ocean Rescue Director Dabrowski has been under-estimating his expenses, which was the reason for the jump in cost. Councilor Britt noted that the salaries were also being adjusted to be competitive. Town Manager Layton stated that a lot of it was being pushed by Nags Head.

Mayor Kingston directed Council to review the Streets and Highways section of the budget. Town Manager Layton explained that Capital Outlay Over \$5,000 will have a \$60,000 decrease in the final budget because it reflects the improvements to the north. Councilor Burdick clarified that it reflected expenditures and not any grants received. Town Manager Layton stated he was correct.

Mayor Kingston asked if Phase I of Phase III was just the west side of the road. Town Manager Layton stated that it was just the east side of the road from Duck Deli to Ship's Watch. He added that Phase IV would be the west side of the road.

Councilor Burdick asked if it would be in the area of the inlet. Town Manager Layton stated that it was in that area. Councilor Burdick asked if there was enough space. Town Manager Layton believed there was but was still verifying it. Councilor Burdick stated that if the Town moved forward with Phase III and discovered there isn't enough room, then Phase III would have to move inward toward the ocean. He pointed out that Council needed to know if there was enough space before going into Phase III. Town Manager Layton stated that at this point, it was believed that there was space. He added that for Phase IV, he believed there was enough right-of-way space to get the sidewalk and bicycle lane installed.

Councilor Caviness asked if Council would have the opportunity to examine the next two phases together before moving into Phase III. Town Manager Layton stated that Council could, but if Council wanted to do that, it would need to be done immediately because the timeline for bids was getting shorter. He stated that if there was a specific concern about design or something of the like, then he suggested Council speak to him or Director Heard before they work with VHB. He added that if there was a larger concern about rocks or the type of vegetation, they could be dealt with without having to slow down the specifications. Councilor Burdick pointed out that he gave his concerns as he would really like to see that the path would not be very narrow near the inlet. Town Manager Layton agreed. He added that for Phase IV, a concept would be brought to Council at their Retreat and go over it then as well as seek comments.

Councilor Caviness noted that the Town was about to start its land use planning and over the last several years there has been a lot of flooding in that area. She stated that she was

concerned about the resiliency of that area because it's so vulnerable. She wasn't sure what the solution was, but until the sound side resiliency is looked at and assessed, she was concerned about any kind of infrastructure on either side of the road in that area. She added that she wasn't as worried about having enough width, but more worried if it was so vulnerable in that area. Town Manager Layton explained that resiliency was the ability to recover. He stated that on the east side, he wasn't concerned about losing the infrastructure there. Councilor Caviness agreed, noting that it may get flooded. Town Manager Layton agreed. Councilor Caviness stated that it could get damaged but would not get taken out. Town Manager Layton stated that on the west side, if the question was whether he was concerned about a wash out that would cause the concrete to collapse, he was not. He added that there may be water and debris in that area due to a storm. He stated that as part of the budget, \$15,000 was for permitting for the sills, which included locating the subaquatic vegetation. He stated that it was added to that area, so the process can be started; however, the complication was that it was not the Town's property, so at some point the Town would have to get into riparian rights and what could be done. He didn't think it was an issue that could not be overcome, but staff's thought was that the work would need to be done in order to know what was available to come up with a design.

Councilor Burdick stated that he asked the question because he knew it would be years. He stated that he watched that area get closer and closer over time. Councilor Caviness pointed out that Hurricane Irene knocked out that area. Councilor Burdick disagreed, adding that half the road disappeared, which caused the road to be closed for a few days. He thought the Town could anticipate that there will be a worst case in the future. Town Manager Layton agreed. Councilor Burdick stated that if the sidewalk is put in in that area, then there could be a time where a storm takes it out and it will need to be put back. He asked again if there was an adequate amount of space in that area for a sidewalk. Town Manager Layton stated that he was satisfied that the sidewalk can be put in that area. He stated that with regard to the possibility of having it adjusted slightly, he was factoring in six inches or a foot in some places and if the Town could obtain easements from property owners. He added that staff has been told there is enough room and he was confident with that. He stated that he would be happy to provide Council with something from the engineers saying as such.

Councilor Britt stated that he has watched the sound get closer every day and it was definitely a problem. He stated that he did not want to rush things on Phase III of the pedestrian plan. He reiterated that the area in question has slowly eroded over the years and would continue to erode. Mayor Pro Tempore Thibodeau stated that the Town was saving money in Phase III by not installing the bulkheading. She wondered if everything could be pushed further west. She stated that if the Town were to forgo Phase IV and make Phase III wider, the bulkhead on the east side would not be encroached upon. Town Manager Layton stated that it was an NCDOT decision and would cause a delay in the project. Mayor Kingston noted that the Town had a few months to work on the issue and thought VHB would be the one to address it. Councilor Burdick stated that he did not want to redesign anything but wanted to see if the Town was comfortable with the plan. Town Manager Layton stated that it could be done. Mayor Kingston thought it was



important to re-engage VHB to be sure what will be done on the west side will be satisfactory and feasible.

Mayor Kingston directed Council to review the Sanitation section of the budget. Mayor Pro Tempore Thibodeau asked why disaster debris removal was not in this section. Town Manager Layton stated that there were many years where it was not needed. He added that if the Town has an issue with storm clean up, the funds would be there and available.

Councilor Burdick stated that he did not see the FEMA contribution. Town Manager Layton stated that it was shown on the Revenue side. He stated that the Town expected to receive approximately \$107,000-\$110,000 from FEMA, which was already shown in the projections.

Mayor Pro Tempore Thibodeau stated that it was a contract, so the Town knows what was going on contractually, which was helpful. She clarified that this budget was what was estimated. Town Manager Layton stated that it was his estimate for commercial, residential, solid waste and recycling.

Councilor Caviness asked if the park cleanup would be in this section. Town Manager Layton stated that it was.

Mayor Kingston directed Council to review the Beach Protection section of the budget. There were no comments.

Mayor Kingston directed Council to review the Community Development section of the budget. Town Manager Layton noted that there were two major studies that the Town was working on – the CAMA Land Use Plan and Western Carolina University. He added that since they were starting so late, he would be re-appropriating funds into it in the next year. Councilor Burdick clarified that Fiscal Year 2019 included the estimate. Town Manager Layton stated that it did.

Mayor Kingston directed Council to review the Parks section of the budget. Councilor Burdick asked about the increase under Miscellaneous Events. Town Manager Layton stated that it was the costs for the events that were held.

Mayor Kingston clarified that Parks was another area that was set off by FEMA, i.e., the repairs to the boardwalk. Town Manager Layton stated that those repairs were reflected under Public Buildings. He noted that the \$15,000 under Professional Services was for the permitting for the erosion project.

Mayor Kingston directed Council to review the Transfers to Other Funds section of the budget. There were no comments.

Mayor Kingston directed Council to review the Budgetary Accounting section of the budget. Councilor Burdick clarified that there was nothing in Transfers for

renourishment in the later years. Town Manager Layton stated that it was in there. Councilor Burdick asked if it included the MSD revenue. Town Manager Layton stated that it was the MSD revenue.

Mayor Kingston directed Council to review the Capital Reserve – Beach Fund section of the budget. Town Manager Layton stated that he tries to do an estimated budget for the Capital Reserve.

Mayor Kingston called for a five-minute recess. The time was 2:53 p.m. Mayor Kingston reconvened the meeting.

Mayor Kingston directed Council to review the Appendices sections of the budget. There were no comments.

Mayor Kingston directed Council to review the CIP section of the budget. He directed Council to look at the Project Cost Summary.

Mayor Pro Tempore Thibodeau asked if the Police Department was replacing the police vehicles every two to three years. Town Manager Layton stated that there would be three vehicles replaced this year, next year will not have any replacement vehicles, Fiscal Year 2022 will have three vehicles replaced, Fiscal Year 2023 will have one vehicle replaced, and Fiscal Year 2024 would have three vehicles replaced. Councilor Burdick asked how many police vehicles were in the fleet. Town Manager Layton stated that there were 13.

Mayor Kingston directed Council to look at the General Fund Impact Summary. Councilor Caviness asked if the replacement of Engine 111 was correct. Fire Chief Black stated that it was.

Councilor Burdick asked how much the Town was spending per year for the Public Safety Building. Town Manager Layton stated that it was \$600,000.

Councilor Burdick moved to authorize the Budget public hearing for Wednesday, June 5, 2019 at 7:00 p.m.

Motion carried 5-0.

Mayor Kingston stated that the next meeting would be the regular meeting on Wednesday, June 5, 2019 at 7:00 p.m.


### **ADJOURNMENT**


Councilor Britt moved to adjourn the meeting.

Motion carried 5-0.

The time was 3:12 p.m.

Approved: July 3, 2019

  
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Don Kingston, Mayor

  
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Lori A. Ackerman, Town Clerk

