

**MINUTES**  
**KITTY HAWK TOWN COUNCIL**  
**Monday, July 1, 2019**  
**Kitty Hawk Town Hall, 6 PM**

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Presentation
  - Police Lieutenant Wade Styons/20 Years of Service
5. Public Comment
6. Consent Agenda
  - a.) Approval of June 3, 2019 Council Minutes
  - b.) Acceptance of Donation to the Fire Department
  - c.) 2018-2019 NCLM Safety Grant
  - d.) FY 19-20 Budget Amendment #1
  - e.) Town of Kitty Hawk Emergency Preparedness, Response and Recovery Plan
  - f.) Software Service Agreement with Tyler Technologies
  - g.) Kitty Hawk Estates Subdivision and Tarkel Ridge Road in Kitty Hawk Landing Subdivision Culvert Replacement and Drainageway Improvements
7. Items Removed from the Consent Agenda
8. New Business
  - a.) Consideration of Condemnation of Property Located at 4240 N. Virginia Dare Trail (Ordinance No. 19-04)
  - b.) Cahoon and Kasten Architects Bathhouse Conceptual Drawings
  - c.) Board of Adjustment Appointment(s)
9. Reports/General Comments from Town Manager
10. Reports/General Comments from Town Attorney
11. Reports/General Comments from Town Council
12. Public Comment
13. Adjourn

**COUNCILMEMBERS PRESENT:**

Mayor Gary Perry, Mayor Pro Tem Craig Garriss, Councilwoman Lynne McClean, Councilman Jeff Pruitt and Councilwoman Tina Tice

**STAFF MEMBERS PRESENT:**

Town Manager Andy Stewart, Town Clerk Lynn Morris, Town Attorney Casey Varnell, Planning Director Rob Testerman, Code Enforcement Officer Ben Alexander, Finance Officer Liliana Noble, Management Assistant Melody Clopton, Police Chief Joel Johnson, Fire Chief Mike Talley and Public Works Director Willie Midgett

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**1. CALL TO ORDER**

Mayor Perry called this meeting to order at 6 p.m.

**2. MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE**

Following a moment of silence, the Pledge of Allegiance was recited.

**3. APPROVAL OF AGENDA**

**MPT Garriss made a motion to approve the agenda. It was seconded by Councilwoman McClean and approved unanimously 5-0.**

**4. PRESENTATION**

- Police Lieutenant Wade Styons/20 Years of Service. Police Chief Johnson presented Lt. Styons with a plaque for his twenty years of service with the Town of Kitty Hawk. Council thanked him for his service.

**5. PUBLIC COMMENT**

There were no public comments.

**6. CONSENT AGENDA**

**a.) Approval of June 3, 2019 Council Minutes.** *(An approval of the consent agenda will approve these minutes.)*

**b.) Acceptance of Donation to the Fire Department.** Golden Strand Interval Owners Association, Kill Devil Hills, NC made a \$170 donation to the Kitty Hawk Fire Department. *(An approval of the consent agenda will approve this donation.)*

**c.) 2018-2019 NCLM Safety Grant.** The fire department has been awarded a reimbursable safety grant for the purchase of (2) Rescue Belays MPD (multipurpose device) and (2) Y-shok Lanyards (maintains fall protection while climbing or traversing structures) through the NC League of Municipalities. Once the equipment has been purchased in the amount of \$2,050 the Town will be reimbursed one half of the purchase price: \$1,025. *(An approval of the consent agenda will approve this grant.)*

**d.) FY 19-20 Budget Amendment #1.** This amendment, in the amount of \$1,025, is to recognize the safety grant from the NC League of Municipalities to the fire department for the purchase of two rescue belays and two Y-shok lanyards. *(An approval of the consent agenda will approve this amendment.)*

**e.) Town of Kitty Hawk Emergency Preparedness, Response and Recovery Plan.** Staff has reviewed the plan and made minor updates. *(An approval of the consent agenda will approve this plan.)*

**f.) Software Service Agreement with Tyler Technologies.** The Town Council approved up to \$90,000 for this software purchase in the FY 19-20 budget. *(An approval of the consent agenda will acknowledge this agreement.)*

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g.) **Kitty Hawk Estates Subdivision and Tarkel Ridge Road in Kitty Hawk Landing Subdivision Culvert Replacement and Drainageway Improvements.** Three bids were received and opened for this project on June 14, 2019. RPC Contracting, Inc. was the low bidder of \$124,580. *(An approval of the consent agenda will accept this bid.)*

**Councilman Pruitt made a motion, seconded by Councilwoman Tice, to approve the consent agenda. It was approved unanimously, 5-0.**

**7. ITEMS REMOVED FROM THE CONSENT AGENDA**

Mayor Perry questioned why the fire department received a donation from Golden Strand owners in Kill Devil Hills. Manager Stewart said they more than likely donate to all the fire departments. He will find out and a thank you letter will be sent.

No items were removed.

**8. NEW BUSINESS**

**a.) Consideration of Condemnation of Property Located at 4240 N. Virginia Dare Trail (Ordinance No. 19-04)**

*Perry: I have some comments leading to the possible condemnation of an unsafe structure at 4240 North Virginia Dare Trail. The discussion that will follow is intended to show the public that council and staff have not, nor will we ever take, condemnation lightly where private property is concerned. Further, this possible action is not, I repeat not, a taking for public use but a forced action by local government to ensure that an unsafe condition existing within the community is corrected. As the last councilmember still present who remembers the 13 existing lawsuits against the Town when I came on council in December of '05 the possible action tonight is not something any of us ever wanted to see. That said, we hope to provide the public with enough information to show that sometimes there is a need for government to use certain powers to ensure safety and harmony exist within the community.*

Manager Stewart reviewed the following memorandum with council.

**Proposal:** Consider condemnation of property at 4240 N. Virginia Dare Trail due to dilapidation and unsafe structural conditions.

**Background Information:** The Town of Kitty Hawk Building Official has been working on getting improvements made to this property in order to bring the building into compliance with NC Building Code.

**Staff Analysis:** The Town has notified the property owners of the unsafe conditions at this property. Multiple letters were mailed to the owners and to date the buildings are still out of compliance. The next step in the process is for the Town Council to consider condemning the structure. Upon approval of Staff's recommendation for condemnation the Town Attorney will conduct a title search and a condemnation order would be drafted accordingly.

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Code Enforcement Officer Ben Alexander showed photographs of the 3 structures on the property that are in disrepair. The pictures showed holes in the roofs, unsecured doors, and plants/weeds covering large portions of the structures and growing inside.

**Pruitt:** *The building in the back of structure #3. Is that attached?*

**Alexander:** *No.*

**Pruitt:** *That building seems to be ok?*

**Alexander:** *It has some problems, but it is nowhere near the condition of the others. It is still serviceable and weather tight.*

**Tice:** *Am I correct that there is someone living in the other building on the property?*

**Alexander:** *The small building in the back has power and there is someone living in it now. That is not part of the condemnation. The daughter of the lady that owns the 3 that are in the condemnation was staying in the 2 story at one time. It has been relayed to me through the building inspector that her brother and her mother have told her to move her stuff out. She does not need to be in the building with the shape it is in.*

**Tice:** *The only building that has utilities, active electric and water, is the building in the back?*

**Alexander:** *There is still electricity in the white 2-story building, building #2 that is in the condemnation but if this goes through that will be removed.*

**Tice:** *When this was brought to my attention you thought they may have had an offer to purchase this parcel and that was kind of holding the process off.*

**Stewart:** *They have discussed it. I do not know where they are with that process. If we do not go through with this and it were to exchange hands, then we would be back at square one with the new owner.*

**Tice:** *If council decides to move forward a lien needs to be placed immediately so the Town is protected.*

**Varnell:** *The statute we are proceeding under has certain notice requirements and those parties that own the property have the right to be heard. So, yes, the process would ultimately start all over.*

**Tice:** *Is it one parcel? How is it deeded?*

**Varnell:** *I have not done the title work yet.*

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**Alexander:** *It is two parcels that have been comingled through the family. There are two parcels and two pin numbers. All the buildings you are talking about are on one parcel. The other two buildings are leasehold agreements to the second parcel which is also deeded to the lady that owns the 3 buildings.*

**Perry:** *A title search will take care of whatever issues there are, and a search will not be done unless we approve the start of condemnation.*

**Varnell:** *When I was asked to look at this issue, I found the Town has the authority to move forward and the standards that must be followed. There are various avenues by which a municipality can proceed on condemnation. What we are proceeding under is General Statute 160A-426. This statute does not require the adoption of any minimum housing standards.*

*The statute reads every building that shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, shall be unsafe. There is a door, as Ben said, that would not shut. Now obviously they can get out, but it is not securing the property or anybody.*

*If the inspector deems these to be unsafe then he shall follow the procedure set forth in the statute. The procedures and notices were followed. The inspector has had conversations with the owners and with the heirs even and nobody has tried to bring the property into compliance. That is ultimately why we are here now.*

**Perry:** *Thank you Casey. Chief Johnson can you add anything? Complaints or anything?*

**Johnson:** *I had the records clerks do a search 10 years back. We received seven calls for service there. Four of the calls were generated by officers detecting a suspicious male(s) standing in between the structures. I did a little more research and the small building that is inhabited now was subject in a narcotics investigation. We had some narcotics activity years ago in that building but nothing in the last two years.*

*We do have quite a population of squatters in this area now and it is a matter of time before they find that location. My biggest concern about that facility is the decaying. Small children possibly getting into them because none of the doors are secure. If you walk through you can open almost every door.*

**Pruitt:** *I received a complaint a few years ago about activity there which I relayed to Andy's. I also heard from a semi homeless person that there is an abandoned motel in Kitty Hawk with people staying in it. This is the only one I can think of. I cannot back this up as a fact, but I heard it from a person that is pretty reliable.*

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**Perry:** *I will say, from personal experience, walking in Kitty Hawk Park we do have homeless people in the Town and one of them was camped out there. There is a bathroom and everything you need. It is just a matter of time for that or narcotics or whatever. I would like to call on the Fire Chief.*

**Talley:** *Many of the hazards have been stated. The disrepair does increase the risk in terms of fire. Not only in catching on fire but the spread of fire inside the buildings and more importantly, in my opinion, to adjacent structures. I think that is the true concern.*

*We have already had instances where fireworks have caused fires on the beach. Even though we try and stop it, it is still going to happen. With the disrepair it is going to be easier for fireworks to get in the buildings and start a fire and I am really worried about the spread. Without being compartmentalized in there, to contain some of the fire, it is going to spread to those adjacent structures. We can see how close they are and that is a big concern. That is an ideal spot for wind coming off the water. It really could get away from us quickly.*

**Perry:** *Probably before you get there. I think we have covered most everything. Before I ask for some sort of a motion a note of interest for the public. Are there other rundown properties in the Town of Kitty Hawk? The answer is yes. There is no question. However, at this time they do not pose the same danger to adjacent properties as the structures located on this property. Primarily because they are standalones, and they are also in different kinds of areas of the Town. You like to see properties kept up but sometimes that cannot be done or won't be done. In this case we are doing this for reasons of safety of life, property and that sort of thing.*

*With that said do I hear a motion?*

**Councilman Pruitt made a motion to approve staff's recommendation for condemnation and/or demolition for the property located at 4240 North Virginia Dare Trail. MPT Garriss seconded the motion and it was unanimously approved, 5-0. (Ordinance No. 19-04)**

**b.) Cahoon and Kasten Architects Bathhouse Conceptual Drawings**

Manager Stewart reviewed the following report with council.

**Proposal:** Approve Cahoon and Kasten Architects conceptual drawings for the Bath House renovation project scheduled in the FY 2019/2020 budget.

**Background Information:** The Town of Kitty Hawk is currently in need of making major renovations to the Bath House facility located on NC 12.

**Staff Analysis:** Town Staff requested Cahoon + Kasten Architects to draft a proposal to develop a set of design and construction plans to renovate the Kitty Hawk Bath House.

The project is currently scheduled for FY 2019/2020 and the Town will need a set of constructions plans for permitting and to allow the Town to bid the renovation project appropriately. The Bath House needs extensive repairs since it was constructed in 2003. The renovations will include utilizing more durable materials, improving plumbing, new roof and a

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slight addition in square footage to the Ocean Rescue garage. In addition, the proposed drawings provide for shower facilities that are unattached to the building which will reduce the possibility of wood rot to the structure.

The approval of the proposed drawings by the Town Council will allow the Architect to complete the final construction plans and allow Town Staff to formally bid the proposed renovation. The Town is proposing a budget of \$100,000 in the FY 2019/2020 budget for these improvements.

**Town Council Recommended Motion:** Approve the conceptual drawings for the Kitty Hawk Bath House renovation project.

Not hearing any questions or comments, **MPT Garriss made a motion to approve the conceptual drawings for the Kitty Hawk Bathhouse renovation project. It was seconded by Councilwoman Tice and unanimously approved, 5-0.**

**c.) Board of Adjustment Appointment(s)**

**Perry:** *We learned the chairman has asked not to be reappointed, so we need to move people around. With that in mind do I hear a nomination for chairman of the Board of Adjustment?*

**MPT Garriss made a motion to appoint Charlotte Walker as Chairman of the Board of Adjustment for one year or until a successor is named. Councilwoman McClean seconded the motion and it passed unanimously 5-0.**

Mayor Perry suggested holding off on appointing a Vice-Chairman until he talks with the board members.

**Councilwoman McClean made a motion to appoint Tim Fish as a regular member on the Board of Adjustment with a term of office to expire June 30, 2022. Councilwoman Tice seconded the motion and it passed unanimously, 5-0.**

**Councilwoman McClean made a motion to appoint Kip Tabb as an alternate on the Board of Adjustment with a term of office to expire June 30, 2021. Councilwoman Tice seconded the motion and it passed unanimously, 5-0.**

**9. TOWN MANAGER**

**Moore Shore Road Living Shoreline Project**

This project is nearing completion. Last week there were over 100 volunteers from the Coastal Federation and Better Beaches OBX helping to plant about 7,000 grass plugs along the shoreline.

**Sandy Run Park Fit Stations**

Council has been copied pictures of what was built by Mike Davison of public works. Tom Heffner of the Recreation Committee spearheaded this project and it turned out very nice.

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**Administrative Offices Closed July 4th**

**Public Works Building Repainted**

Mayor Perry said he attended the Moore Shore Road planting on the first day and thought it was a very interesting process.

**10. TOWN ATTORNEY**

There were no comments from the Town Attorney.

**11. TOWN COUNCIL**

Councilmembers wished everyone a safe and happy 4<sup>th</sup> of July.

MPT Garriss thanked staff for all their hard work on the condemnation and Mayor Perry reiterated he hopes the public understands what they are doing and why.

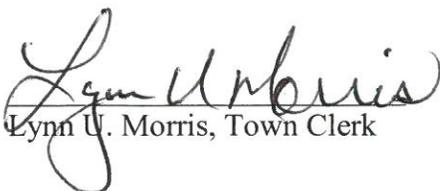
**12. PUBLIC COMMENT**

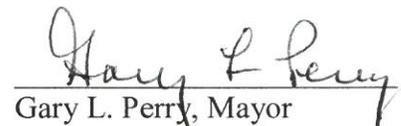
There were no public comments.

**13. ADJOURN**

**Councilwoman Tice made a motion to adjourn. It was seconded by Councilwoman McClean and unanimously approved, 5-0. Time was 6:38 p.m.**

These minutes were approved at the August 5, 2019 council meeting.

  
Lynn U. Morris, Town Clerk

  
Gary L. Perry, Mayor