

MINUTES
KITTY HAWK TOWN COUNCIL
Monday, August 6, 2018
Kitty Hawk Town Hall, 6 PM

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Public Comment
5. Consent Agenda
 - a.) Approval of July 9, 2018 Council Minutes
 - b.) Quarterly Financial Statements as of July 31, 2018
 - c.) FY 18-19 Budget Amendment #1
 - d.) Hurricane/Disaster Debris Removal Interlocal Agreement (*added during the meeting*)
6. Planning:
 - a.) Schedule Public Hearing/Text Amendment, 42-251(c)34. Multi-family dwelling developments. 42-419(1) PCD minimum size of site. The applicant has requested a text amendment that would allow multi-family dwelling developments in the BC-2 district. The amendment would also reduce the minimum site size for a PCD from 10 acres to 5 acres. It is suggested the public hearing be scheduled for the September 4, 2018 council meeting.
 - b.) Schedule Public Hearing/Rezoning: 4907, 4911, 4915, 4919 Putter Lane from BR-1 to MS-1. The four town owned properties are being requested to be rezoned to MS-1 to be more appropriately zoned for governmental services. It is suggested the public hearing be scheduled for the September 4, 2018 council meeting.
7. New Business:
 - a.) Grant Application to Dare County Tourism Board for Kitty Hawk Park Connection to Birch Lane Trail Project
8. Reports/General Comments from Town Manager
9. Reports/General Comments from Town Attorney
10. Reports/General Comments from Town Council
11. Public Comment
12. Adjourn

COUNCILMEMBERS PRESENT:

Mayor Gary Perry, Mayor Pro Tem Craig Garriss, Councilman Ervin Bateman, Councilwoman Lynne McClean and Councilman Jeff Pruitt

STAFF MEMBERS PRESENT:

Town Manager Andy Stewart, Town Clerk Lynn Morris, Town Attorney Casey Varnell, Planning Director Rob Testerman, Finance Officer Liliana Noble, Management Assistant Melody Clopton, Police Lieutenant Wade Styons, Fire Chief Mike Talley and Public Works Director Willie Midgett

1. CALL TO ORDER

Mayor Perry called this meeting to order at 6 PM.

2. MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE

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

3. APPROVAL OF AGENDA

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

Remembering a change to the consent agenda, Mayor Perry noted the Hurricane/Disaster Debris Removal Interlocal Agreement with the county needs to be added.

Councilwoman McClean made a motion to approve with the change. It was seconded by MPT Garriss and passed unanimously, 5-0.

4. PUBLIC COMMENT

1. Carl Classen, 5204 Winsor Place, Kitty Hawk, NC: *I have the pleasure of knowing a number of you and it is a pleasure to be here. I served in the local government capacity in my prior life and am now enjoying a life afterwards. There is hope Andy.*

Thank you all for your time. During the recent rains Andy talked with me and we traded emails and Craig, thank you so much. It is becoming more and more common to talk about drainage. We are not going to sit here and say we can solve it overnight. We cannot. We all know that.

Our situation, Kitty Hawk Estates, especially in front of our specific home, with heavy rains on saturated soils the water had nowhere to go for quite a while. Just no place to drain to. At one point we had over a foot of water in the roadway in front of our home. I sent Andy a copy of a picture of the kids skim boarding down there. I guess when you are young you do not care what is in the water.

We did not have mail service for a week until the water lowered, and the postal carrier could see the asphalt to get to the mailbox. It was a bad situation. We borrowed a pump and pumped for about 96 hours to try and get it lower. We are going to install a permanent pipe to go to the pond behind us. Having to do that is our responsibility as property owners with homes in low areas. That is life. But the problem is the drainage ditches and the culverts in the neighborhood. They are all in the town right-of-way and really have not been cleaned or maintained for many years and thus the water could not go there when the flood waters began to recede.

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Common sense is, if the water table goes up because it rains for 10 days, goes up a foot or two ... in 2004 it went up four feet in Southern Shores ... until the water table goes down the water has no place to go. You can pump but you cannot get anything done or it is just going to come back in and it is going to hurt somebody else especially in our low area.

So, my request to you all is a little bit different. This problem did not occur overnight. It took decades to get where we are. It is going to take a while to get past it, but I am hoping the council will consider setting up a structure for addressing drainage town-wide. It is not that you have not in the past, you may well have. In my opinion, the road flooding appears to be far more frequently, at least in our neighborhood. Two to three times per year. Where once it was every two to three years it is occurring multiple times a year. Not to the extent it just did but three, five, six inches.

My request to the town is to work proactively with property owners to build and maintain ditches and culverts throughout the town. This may be a cost sharing arrangement, but it needs to be done so that if a person fills in a ditch or has a plugged culvert it does not back up the water to all the neighbors. I cannot do that as an individual property owner. I will do my part, but I am asking the town to help in the town rights-of-way. What we are talking about is basically the ditches. In some places they fill them in. I just came down the bypass to come here and you can see all the filled in ditches. There is no place for water to go. Work with the property owners and develop a system. I am not saying it must be done immediately but just fixing and maintaining the ditches will not solve the future problems

My suggestion to you also is an administrative function. Setting up an item in the budget. It is going to be a year-round process and it is going to take money. It is something that affects every property. We are all in this together, whether between the highways or across from Noland.

Second thing is, it is a big issue for the long run. My recommendation is establishing a council committee to work with the engineer, the town manager, public works and come up with a plan for dealing with drainage. Nobody is going to ask you to do it overnight. Well some people might but it is going to take a while. There must be a commitment to deal with drainage issues. Drainage is a big deal. It is a really big deal for those of us who just dealt with it and poor drainage causes property damage, it reduces property values, it causes health problems, mosquitos are just starting, isn't that fun. It impacts emergency services delivery.

It is a big problem if we do not address it as a community. I am asking you to take some action and form the council committee. Direct the staff to come up with a process whether you contract it out or whatever. Come up with an idea of how to maintain our ditches and culverts in the town rights-of-way. These may belong to private property owners, but they are in the public rights-of-way and they affect everybody if they are not maintained. Thank you very much.

Council thanked Mr. Classen.

No one else came forward to speak.

5. CONSENT AGENDA

- a.) **Approval of July 9, 2018 Council Minutes.** *(An approval of the consent agenda will approve these minutes.)*
- b.) **Quarterly Financial Statements as of July 31, 2018.** These reports include revenues, expenditures and Beach Nourishment Capital Project Fund revenues and expenditures. *(An approval of the consent agenda will acknowledge these statements.)*
- c.) **FY 18-19 Budget Amendment #1.** This amendment will recognize and appropriate a donation to the police department in the amount of \$100 from Joe Lamb Realty. It is intended for the future purchase of an AED's (automated external defibrillator). *(An approval of the consent agenda will approve this amendment.)*
- d.) **Hurricane/Disaster Debris Removal Interlocal Agreement with Dare County.** This annual agreement will allow the county to coordinate the collection of disaster related debris in the event it is needed. *(An affirmative vote of the consent agenda will approve this agreement.)*

Councilman Bateman moved to approve the consent agenda as amended. Councilwoman McClean seconded and it passed unanimously, 5-0.

6. PLANNING

a.) **Schedule Public Hearing/Text Amendment, 42-251(c)34. Multi-family dwelling developments. 42-419(1) PCD minimum size of site. The applicant has requested a text amendment that would allow multi-family dwelling developments in the BC-2 district. The amendment would also reduce the minimum site size for a PCD from 10 acres to 5 acres. It is suggested the public hearing be scheduled for the September 4, 2018 council meeting.**

MPT Garriss moved to set a public hearing at the town council meeting on September 4, 2018 to consider the proposed text amendment to add Section 42-251 34 regarding the allowance of multi family dwelling developments in the Beach Commercial BC-2 district as a conditional use and amending Section 42-419, Subsection 1, regarding the minimum size site of a PCD. Councilwoman McClean seconded and it was a unanimous vote, 5-0.

b.) **Schedule Public Hearing/Rezoning: 4907, 4911, 4915, 4919 Putter Lane from BR-1 to MS-1. The four town owned properties are being requested to be rezoned to MS-1 to be more appropriately zoned for governmental services. It is suggested the public hearing be scheduled for the September 4, 2018 council meeting.**

Councilwoman McClean moved to set a public hearing regarding the proposed zoning map amendment at 4907, 49011, 4915 and 4919 Putter Lane for the Town Council meeting on September 4, 2018. Councilman Pruitt seconded and the motion passed unanimously, 5-0.

Perry: *Why do we need the "M" since it is governmental? Is there some reason it has to be medical and governmental?*

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Testerman: *We do not have a separate governmental zoning district. It is lumped together as MS-1, emergency and governmental service.*

Perry: *I just wanted to make sure we are clear on why we must put medical also. It sounds like we are extending medical but that is not really what we are doing.*

7. NEW BUSINESS

a.) Grant Application to Dare County Tourism Board for Kitty Hawk Park Connection to Birch Lane Trail Project

Perry: *This is to get financial assistance for a proposed walkover to a part of our town owned coastal reserve and we do not have any access to it. Do I hear a motion to approve the submission to the county tourism board?*

Councilman Bateman so move and Councilwoman McClean seconded. The motion passed unanimously, 5-0.

8. TOWN MANAGER

Manager Stewart reminded council the next council meeting will be **September 4th** which is a **Tuesday**. He then showed a video made for CURRENTTV featuring the town's **fire department**.

Mayor Perry thanked him for showing the video and said he has observed much training and activity in the department since Chief Talley has been hired. He is very pleased. Councilmembers concurred.

9. TOWN ATTORNEY

No comments.

10. TOWN COUNCIL

Flooding:

Pruitt: *We have had a lot of rain. Everybody knows it and I hope everybody in town realizes that we have done everything to try to do the best we can to get the water out where it was possible. I want to thank the staff for answering all of the phone calls and dealing with the public.*

Moore Shore Living Shoreline Project:

McClean: *I heard a while ago that the Living Shoreline Project is going to be pushed to the first of the year to start. Now I understand it is going to be starting soon?*

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Stewart: *The schedule has changed. Last week they received the permit from CAMA to start so I think they will go ahead with the bids. They say probably by December of this year.*

Flooding:

Bateman: *Willie, I have a question. It seems back in the archives of my memory at one time there was some kind of drainage pipes that went from Kitty Hawk Estates under the highway. Is that true?*

Midgett: *I am not aware of any.*

Garriss: *I was told they were there and no longer workable after they widened the bypass. Mr. Classen you may know more. That is what I was told.*

Bateman: *I think a long time ago they were opened one time. We might want to call the former mayor and find out.*

Perry: *Where would they drain to?*

Bateman: *Over to the pond in Southern Shores.*

Perry: *But that pond and the ponds on your side were all full at the same time. At that point they would not drain. Of course, the Southern Shores pond does go to the sound. That is what that would be all about.*

Bateman: *The problem at Kitty Hawk Estates ... it used to be really, really bad. It stayed damp all the time and I think that solved the issue.*

Perry: *I drove back there and I did not see any place for the swales that exist to go to. That said, Andy have public works have a look at the drainage ditches and culverts to see if they need cleaning, things of that nature and bring it back for us to perhaps budget for. If you determine it is needed. We are talking rights-of-way and not private property.*

Bateman: *The other thing I want to say is about what this council has done over the last few years. Establishing stand pipes and drains within the town has made it a lot easier to pump. I give Mayor Perry a lot of credit for the planning of this. When we have a major storm, along with the beach nourishment we just did, hopefully it will help mitigate some of the problems we have had. I was at the county commissioners meeting today and there are some areas on Roanoke Island that are a mess and we would have the same in a lot of places if we had not had that planning.*

Garriss: *Mr. Classen, everyone knows I live in your neighborhood and everything you said is exactly right. You were emailing back and forth to the town very respectfully asking for help. Andy*

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was very helpful in replying. You probably did not see me, but I rode by your house a number of times. Once I rode by on my bicycle. I had to stop pedaling to get through it, but I made it. I have lived there for 22 years and it has always been a problem, but it seems to have gotten worse. With that being said that is not the only area in Kitty Hawk that has problems. One question. Do you remember it being that bad in your area before things were built up in your back yard, back that way?

Classen: *I do not know the timing of when that development occurred. Common sense says the more development we have the more runoff which increases the speed of the flow if not the volume. So those of us in low lying areas are going to be impacted more. The goal is to get it out. When the water table goes down the goal is to move the water into the Kitty Hawk Coastal Reserve or into Southern Shores. Those ponds kind of serve as equalization basins between the two and that works out really well. That is my recollection.*

Garriss: *What the mayor said is exactly right. I have a pond behind my house and it was way up in my back yard so there was no where for the water to drain to if there had been drainage. We should check on those pipes under the road to see if that would help us at all.*

Classen: *It is also all over town. Just driving around if you keep your eyes open there are a number of ditches that people either deliberately or inadvertently filled in over the years. And when was the last time any of us had our culverts blown out? Either as individuals or as a community?*

Perry: *They will have a look at it and give us a recommendation.*

I expected more people to be here, especially from the Rabbit Hollow area, but that is not the case. Staff has had numerous calls and I had some regarding the flooding. I want to read something into the record. Then I will ask council for concurrence.

Begin prepared statement. Some current issues over pumping floodwater in the Rabbit Hollow area of town requires the following response:

1. Town responsibility regarding removal of water in town is established by a procedure approved by NCDEQ. The limiting factors are: pumping shall cease when roadways are passible by all emergency vehicles with not more than three inches of inundation or water levels at the concrete sump locations preclude additional pumping.

2. Because the town installed pump out facilities and worked with NCDEQ the policy is far more lenient than was possible in past flooding events. It would be terribly wrong and place us in danger of losing beneficial compromise should the town illegally attempt pumping in excess of agency requirements.

3. With regard to past pumping of the Rabbit Hollow area, the water levels on road and public infrastructure met the criteria for pumping but the town had no way to pump across 158. That necessitated pumping on the west side and use of private property as a discharge site. To remedy that NCDOT allowed the town to install a new line under 158 with connection to the Tateway pumping site.

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4. Unfortunately the pumping system on Tateway has been problematic since installation which has prevented pumping at that station during the current flooding event. The contractor responsible for installing that piping was brought to the scene and has been fixing numerous leaks ever since.

5. The pump was not relocated to Rabbit Hollow because town roadway and public infrastructure at that location were not impacted to the level dictated in the approved NCDEQ plan. That said NCDEQ did grant permission to test the new pipe and for that reason the pump at Tateway remains at NC 12 in order to keep the contractor working on the problem and have a mechanism to test completed repairs.

6. Additionally the pump and hose supplier has informed us that all remaining pumps and hose had been sent for work on the Currituck Outer Banks. End of prepared statement.

Perry: So, we could not have moved it anyway. Now Casey a question for you. If a town commits to pumping an individual yard does that not commit the town to pumping any and all that ask for it?

Varnell: It sets one heck of a precedent. There is zero doubt in my mind that there is no obligation, number one, for the town to go and do so and there is also zero doubt that if we did, I think a lot of people would come and ask for that same courtesy.

Perry: Unless somebody here dissents, we do not pump private property.

Garriss: I agree.

Perry: Rights-of-way are our obligation. During the conduct of looking at trying to pump the Tateway area it became obvious to me that we need a culvert across Tateway. Andy and the public works director said that they have talked about that for a while. I said let's stop talking and do it. Do you consent to that?

Councilmembers agreed.

Perry: A culvert underneath Tateway will give us access across to the side where NAPA was. I am not sure about the one where Gateway Bank used to be located. I looked at it and I am not sure if that is a culvert or some sort of sluice box.

Midgett: They have a box. The culvert is twelve inches which is not big. It needs to be a larger pipe.

Perry: So, we need to do two.

Civility:

Perry: For those who might be listening to this meeting later I want to speak to what might ... at some point when you are calling and complaining about something and town staff says they cannot help you and they are being nice, they are listening to you ... they do not have to take everything

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you give them. At some point that can turn into verbal harassment. Casey can you give us some advice?

Varnell: *I can give you an example from the Town of Kill Devil Hills, who I also represent. A stop work order was issued on a man who was working without a building permit. He began calling the town ten times a day if not more and there were some harassing and condescending comments and remarks. It continued to the point where that gentleman now has a no contact order in favor of the entire town. It was a first for me. The man is no longer allowed to contact town officials or come onto town property. Badgering is what I usually refer to it as. It does not have to be taken.*

Perry: *Town staff works really hard and tries to do everything they need to do to get you what you want and serve you but there is a point at which you cannot be served. They do not need to take it. I would like for people to be civil. I felt I needed to say something in a public forum. They do not need to take some of the stuff you are giving them.*

Points of Interest Map on the Town Website:

Mayor Perry said he likes the points of interest map and thanked staff for making it. He believes it should show all attractions and facilities in the town whether town, county or state owned. Councilmembers agreed.

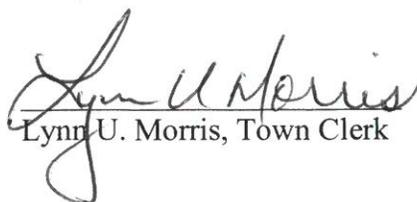
11. PUBLIC COMMENT

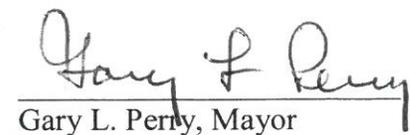
There were no public comments.

12. ADJOURN

Mayor Perry made a motion, seconded by Councilwoman McClean, to adjourn. The vote was unanimous, 5-0. Time was 6:33 p.m.

These minutes were approved at the September 4, 2018 council meeting.


Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor