

MINUTES
KITTY HAWK TOWN COUNCIL
March 3, 2014
Kitty Hawk Town Hall, 6:00 PM

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Police Department Annual Report 2013/Chief Joel Johnson
5. Public Comment
6. Consent Agenda
 - a.) Approval of January 6, 2014 and February 3, 2014 Council Minutes
 - b.) Revenues and Expenses Report for January 2014
 - c.) Recreation Master Plan.
 - d.) Government Education Access Channels (GEAC) FY 2014-15 Budget
 - e.) Amended Government Education Access Channel Interlocal Agreement
 - f.) Ridge Road and Worthington Lane Roadway Improvements
7. Items Removed from the Consent Agenda
8. Public Hearings:
 - a.) Text Amendment: Application to amend Article V, Division 2, *Extraterritorial Area* by eliminating statements regarding a list of commercial recreational uses in the Sound Waters ETJ zoning district.
 - b.) Text Amendment: Application to update Sections 42-72, 42-73, and 42-99 of the Kitty Hawk Town Code with standards for the Board of Adjustment, constructive notice for appeals, and decision-making process for conditional use permits.
9. Planning:
 - a.) Site Plan Review: Evans & Meads Law Office, 106 Ascension Drive - Application for site plan approval to construct a law office at 106 Ascension Drive. The proposed office building would be 3,250 square feet in size and contain up to ten (10) employees.
 - b.) Call for Public Hearing: Text Amendment/Application to add Subsection 42-7(c) creating an exemption from the 35 foot maximum height requirement for roof access structures in all Beach Commercial zoning districts, subject to certain conditions. A public hearing is requested to be scheduled for the April 7, 2014 Town Council meeting.
 - c.) Call for Public Hearing: Text Amendment/Application to amend the Kitty Hawk Town Code by adding Subsection 42-250(c)(34) allowing "vehicle rentals" as a conditionally permitted use in the Beach Commercial (BC-1) zoning district, subject to certain conditions. A public hearing is requested to be scheduled for the April 7, 2014 Town Council meeting.
10. New Business:
 - a.) Amendment to the Town Code/Section 24-53/Windgrass Circle Park and Multi-Use Path
 - b.) Albemarle Rural Planning Organization Transportation Advisory Committee Appointment
 - c.) Vacant Police Officer Position
 - d.) Fire Apparatus Bid Award
 - e.) Tentative Schedule for Approval of Municipal Service Districts
11. Reports or General Comments from Town Manager
 - a.) Poseidon and Goosander Streets Emergency Pumping Facility Project
 - b.) Lillian Street Access Parking Project

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12. Reports or General Comments from Town Attorney
13. Reports or General Comments from Town Council
 - a.) Recreation Committee Update
14. Public Comment
15. Closed Session:
 - a.) NCGS 143-318.11(a)(1) Approval of Closed Session Minutes from April 16, 2012
 - b.) NCGS 143-318.11(a)(6) Town Manager Review
16. Return to Regular Session
17. Recess to Monday, March 17, 2014, 9:00 a.m., FY 14-15 Budget Workshop

COUNCIL MEMBERS PRESENT:

Mayor Gary Perry, Mayor Pro Tem Ervin Bateman, Councilman Craig Garriss, Councilwoman Emilie Klutz and Councilman Jeff Pruitt

STAFF MEMBERS PRESENT:

Town Manager John Stockton, Town Clerk Lynn Morris, Town Attorney Steve Michael, Finance Officer Charlene Allen, Management Assistant Melody Clopton, Planning Director Joe Heard, Police Chief Joel Johnson, Fire Chief Lowell Spivey and Public Works Director Willie Midgett

1. Call to Order

Mayor Perry called the meeting to order at 6 p.m. and welcomed everyone in attendance.

2. Moment of Silence/Pledge of Allegiance

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

3. Approval of Agenda

Councilwoman Klutz made a motion to approve the agenda. It was seconded by MPT Bateman and approved unanimously, 5-0.

4. Police Department Annual Report 2013/Chief Joel Johnson

Following the annual report presentation Council thanked Chief Johnson for the information.

5. Public Comment

There were no public comments.

6. Consent Agenda

a.) Approval of January 6, 2014 and February 3, 2014 Council Minutes. (On the February 3, 2014 agenda it stated the February 3, 2014 minutes were to be approved. It should have stated the January 6, 2014 minutes were to be approved.) *(An affirmative vote for the consent agenda will approve these minutes.)*

b.) Revenues and Expenses Report for January 2014. *(An affirmative vote for the consent agenda will acknowledge this report.)*

c.) Recreation Master Plan. The updates to this plan are administrative or were made to reflect current project status. There are no changes affecting policy or requiring planning board or council approval. Council action will replace the previously accepted plan with the revised version, which will also be made available on the town's website. *(An affirmative vote for the consent agenda will accept this revised plan.)*

d.) Government Education Access Channels (GEAC) FY 2014-15 Budget. The GEAC committee has submitted its FY 14-15 budget and requests the Kitty Hawk Town Council approve it. *(An affirmative vote for the consent agenda will approve the GEAC FY 14-15 budget.)*

e.) Amended Government Education Access Channel Interlocal Agreement. This agreement includes four amendments (Introduction on page 2, Indemnification in Section 7(b), Programming in Section 8(a) and Standard Operating Procedures Addendum Purpose Statement on page 15) and approval is requested by the Kitty Hawk Town Council. *(An affirmative vote for the consent agenda will approve the amended GEAC Interlocal Agreement.)*

f.) Ridge Road and Worthington Lane Roadway Improvements. The widening of a portion of Ridge Road and resurfacing of Worthington is not to exceed \$76,000 and staff is recommending the low bid be granted to RPC Contracting. *(An affirmative vote for the consent agenda will approve this recommendation.)*

Councilman Garriss made a motion to approve the consent agenda. Councilman Pruitt seconded the motion and it passed unanimously, 5-0.

7. Items Removed from the Consent Agenda

There were no items removed from the consent agenda.

8. Public Hearings

a.) Text Amendment: Application to amend Article V, Division 2, Extraterritorial Area by eliminating statements regarding a list of commercial recreational uses in the Sound Waters ETJ zoning district.

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MPT Bateman made a motion, seconded by Councilwoman Klutz, to go into public hearing. The vote was unanimous.

Heard: You may recall at the January 6th meeting council considered and granted approval for a text amendment related to the length of piers going out into the sound in Kitty Hawk Bay. During that discussion there were other statements in the ordinance that did not seem to make a lot of sense. Council asked staff to work with the planning board on a proposal to eliminate those statements and that is what this amendment does. It eliminates a couple of statements that refer to commercial recreational activities. The planning board reviewed this on January 16th and voted unanimously to recommend approval of the text amendment.

Perry: Does anyone have a question of Joe before I ask if there is any public comment? (There were no questions from council.) Does anyone wish to speak? Let the record show that no one came forward.

Councilman Garriss made a motion to go back into regular session. It was seconded by Councilman Klutz and approved unanimously.

MPT Bateman made a motion to adopt the proposed text amendment to Article V, Division 2, of the Town Code which eliminates statements regarding a list of commercial recreational uses in the sound waters ETJ zoning district. The town council finds this amendment to be consistent with the town's adopted CAMA Land Use Plan and in the public interest by clarifying the standards of the Town Code. Councilman Pruitt seconded the motion and it passed unanimously, 5-0. (Ordinance No. 14-02)

b.) Text Amendment: Application to update Sections 42-72, 42-73, and 42-99 of the Kitty Hawk Town Code with standards for the Board of Adjustment, constructive notice for appeals, and decision-making process for conditional use permits.

Councilwoman Klutz made a motion to go into public hearing. Councilman Pruitt provided a second and it passed unanimously.

Heard: What council is reviewing tonight is a proposed text amendment to update the standards in Sections 42-72, 42-73 and 42-99 of the Town Code that deals with the Board of Adjustment appeals and conditional use permits. A substantial amount of what needed to be amended was done in the fall at the time the state legislature adopted changes to the statutes regarding Boards of Adjustment and the different procedures they deal with. The council moved forward and adopted those changes on October 7, 2013. Subsequently, the School of Government has put together some written materials explaining other changes. It turns out some of the necessary changes are a bit broader than what you might think upon reading the act titled "An Act to Clarify and Modernize Statutes Regarding Zoning Boards of Adjustment."

What that does not say is it also effectively does the same thing for town councils who are hearing conditional use permits because that is a quasi-judicial procedure. I want to point out a couple of things that effects the council regarding conditional use permits and those are the last

two things in the draft ordinance that are going to apply to council and the decision making during a conditional use permit. They are under subsection 7 and 9 and in particular the way decisions are made and the way we are required to notify people after the fact are going to change based on the new standards. The planning board at their meeting on January 16th voted unanimously to recommend these changes to council.

Perry: *The written decision has to be signed by the mayor. Do the minutes cover that or are we talking a separate ...*

Michael: *It is a separate document. We will have a draft format for you and the facts and conclusions and what you have decided are in the format.*

Perry: *So this is new and will be done for every conditional use?*

Michael: *It is not really new it just that they have formalized everything. We are going to be a lot more formal about how we do these than we have in the past.*

Perry: *Every time there will be two separate documents. A set of minutes and a decision.*

Michael: *The minutes will reflect everything that goes on in the council meeting and the separate document will have your decision and will be facts specific as to that one hearing.*

Klutz: *Will we have something to go by that will look like the document we have to produce?*

Michael: *Yes, you can have that document.*

Heard: *Typically the way we work this with the Board of Adjustment is we would produce a draft document following the meeting. The document is then sent to the chairman of the board who reviews it to be sure he feels it is consistent with what happened. In this case we would presumably send it to Mayor Perry. He would review and if comfortable with it he would then sign it. If he feels there needs to be changes we would make the changes.*

Perry: *That was a good discussion and glad you brought it to light so thank you for doing that. Any other councilmember have questions for Joe? Hearing none he asked if anyone in the audience wished to speak. He asked for the record to show no one came forward.*

MPT Bateman made a motion to go back into regular session. Councilwoman Klutz seconded the motion and it passed unanimously, 5-0.

Councilwoman Klutz made a motion to adopt the proposed text amendment to Section 42-72, 42-73 and 42-99 of the Kitty Hawk Town Code which updates the standards for the Board of Adjustment, constructive notice for appeals and decision making process for conditional use permits. Town council finds that the proposed text amendments are consistent with the adopted CAMA Land Use Plan and finds these amendments to be in the public interest by bringing the town's standards into compliance with recent changes to state law. Councilman Pruitt provided a second and it was unanimously adopted, 5-0. (Ordinance No. 14-03)

9. Planning

a.) Site Plan Review: Evans & Meads Law Office, 106 Ascension Drive - Application for site plan approval to construct a law office at 106 Ascension Drive. The proposed office building would be 3,250 square feet in size and contain up to ten (10) employees.

Heard: Council may recall this property came up during a discussion of a proposed rezoning on the adjoining property at 108 Ascension Drive. The owner of the property at the time, as well as those who had it under contract, presented information that led council to a decision not to move a zoning line on the adjoining property.

The proposal is moving forward as planned and is to be the law firm of Evans and Meads. The building is approximately 3,250 square feet in size and the property is presently zoned BC-1. It is almost 2/3's of an acre in size and is somewhat "L" shaped, widening out to the rear of the property. Most of the development is occurring in the front part and the bulk of the rear of the property is mostly undeveloped.

The two abutting properties to the east are also zoned BC-1 and have frontage on North Croatan Highway. The southern of these properties contains the Sweet Frog yogurt shop and the northern of these properties contains Atlantic Dentistry and other commercial and office uses. Two parcels abut the northern, rear property line. One of these parcels has frontage on North Croatan Highway, is zoned BC-1 and contains the Harbour Bay South Shopping Center. The other lot fronts on Harbour Bay Drive, is zoned BR-1 and contains a playground for the Harbour Bay neighborhood. The adjoining property to the west is split-zoned BC-1 and BR-1 and contains a single family residence. Located to the south directly across Ascension Drive is another undeveloped parcel zoned BC-1.

As a professional office this is a permitted use therefore what the planning board and council is doing is a technical review to be sure this complies with all of the standards. This project only covers 31% of the lot, barely more than what would be allowed for a residential use in a BR-1 district. In this commercial district it could actually cover up to 60% so they are well below what they would be permitted to do otherwise. We looked at building setbacks and looking at that the required front setback is 15' and they are proposing 98' back off of the road to the closest corner. From the rear it requires a 20' setback and they are proposing 76' from the rear of the property. The area where it is tightest is on the sides. The requirement is 10' and this building is 14' on the east side and 10' on the west. They meet all of the setback requirements.

Accessing the property is a single 20' wide drive at the front of the property and that drive then extends into the property and provides access to all of the property. We have outlined in the report how the calculations are broken down for parking and to summarize they are required to have 16 parking spaces on site and they have provided 16 parking spaces. There is only one ADA accessible handicap space required but the applicants have chosen to provide two spaces.

Buffers were a key issue when we had the rezoning discussion half a year ago so let me explain how that works on this property. Due to the extension of the BC-1 zoning onto the adjoining residential property to the west the only area of the subject property subject to a buffer is a small

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triangle located in the southwest corner of the property. As all structures and parking areas have been located outside of this buffer area the proposed development is in compliance with the buffer requirements.

After looking at this and looking at how their project would potentially impact the adjoining single family residence the applicants added in landscaping in order to soften the effect of their building even though their building is a fairly typical residential size. There is not a dumpster site due to the nature of the business and they are able to accommodate their needs of trash removal with a typical roll cart. The storage location for the carts is next to the building and screened.

Other aspects of the project such as lighting and signs would be reviewed by staff at the appropriate time. Water service and waste water would be reviewed by the appropriate agencies with Dare County. The applicants have obtained their septic permit already so we know there will not be an issue as the project moves forward.

Looking at the stormwater management for the property we retained Joe Anlauf with Anlauf Engineering to conduct a review of the project generally and asked him to focus on stormwater management calculations and the design of the proposed system. The applicants have broken that up and they may speak in more detail but basically there is a pond in the back and then another by the parking lot. There is a copy of Mr. Anlauf's final letter in the packet where he has said he feels the applicants have complied with all of the town's standards and is comfortable with moving it forward.

The Planning Board reviewed this project at their meeting on February 13th and voted unanimously to recommend approval of the site plan. They had a list of conditions they approved and are outlined in the staff report. On February 19th, following that meeting but before we distributed the packets to council, the applicants submitted a revised site plan that was in your packet. It is what you have before you and addressed conditions 1, 2, 4 and 5. What the council is looking at as far as the remaining conditions would be number 1 that the Dare County Water Department approve the proposed waterline connection prior to issuance of a building permit. Number 2 is an erosion and sediment control permit must be issued by the Planning and Inspections Department prior to obtaining a building permit. Number 3 is an exterior lighting plan must be approved by the Planning and Inspections Department prior to issuance of a building permit. Number 4 is a sign permit must be obtained from the Planning and Inspections Department prior to installation of any new signs and number 5 an as-built survey, building height certification and flood elevation certificate must be submitted and approved prior to the issuance of a certificate of occupancy. Those would be the remaining conditions that are recommended by the planning board.

Perry: On the recommended motion all five of those a germane?

Heard: Yes sir.

Perry: I don't have any questions. It looks like a decent building, in a nice place, with a lot of setbacks. Anyone else have any questions, comments?

Bateman: *I don't. It looks like it belongs in a neighborhood and is great.*

Councilman Pruitt made a motion to grant approval of this site plan for development of Evans and Meads Law Office at 106 Ascension Drive subject to the following conditions: Dare County Water Department must approve the proposed waterline connection prior to the issuance of a building permit, an erosion and sediment control permit must be issued by the Planning and Inspections Department prior to obtaining the building permit, an exterior lighting plan must be approved by the Planning and Inspections Department prior to the issuance of the building permit, a sign permit must be obtained from the Planning and Inspections Department prior to the installation of any new sign and an as-built survey, building height certificate and flood elevation certificate must be submitted and approved prior to the issuance of a certificate of occupancy. Councilman Garriss seconded and it passed unanimously, 5-0.

b.) Call for Public Hearing: Text Amendment/Application to add Subsection 42-7(c) creating an exemption from the 35 foot maximum height requirement for roof access structures in all Beach Commercial zoning districts, subject to certain conditions. A public hearing is requested to be scheduled for the April 7, 2014 Town Council meeting.

Councilwoman Klutz moved to set a public hearing for the town council meeting on April 7, 2014 regarding the proposed text amendment to add subsection 42-7(c) to the Kitty Hawk Town Code creating an exemption from the 35 foot maximum height requirement for roof access structures in all Beach Commercial zoning districts, subject to certain conditions. MPT Bateman seconded the motion and it passed unanimously.

c.) Call for Public Hearing: Text Amendment/Application to amend the Kitty Hawk Town Code by adding Subsection 42-250(c)(34) allowing "vehicle rentals" as a conditionally permitted use in the Beach Commercial (BC-1) zoning district, subject to certain conditions. A public hearing is requested to be scheduled for the April 7, 2014 Town Council meeting.

Councilman Garriss made a motion to set a public hearing for the town council meeting on April 7, 2014 regarding the proposed text amendment to add subsection 42-250(c)(34) allowing "vehicle rentals" as a conditionally permitted use in the Beach Commercial (BC-1) zoning district. MPT Bateman seconded and then asked if the town had not already done this. Councilwoman Klutz said it was similar and in a different place. The vote was unanimous.

10. New Business

a.) Amendment to the Town Code/Section 24-53/Windgrass Circle Park and Multi-Use Path - This amendment will make the ordinance comply with a 2006 consent judgment by adding skateboards and launching of motorized boats and personal watercraft are prohibited in the park. The attorney also suggested adding language to make it clear vehicles cannot be parked in the park after closing.

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Stockton: *This is an amendment to Chapter 24, Parks and Recreation, Section 24-53 Windgrass Circle Park and Multi-Use Path. We had a complaint not long ago and as a result we investigated our present ordinance for Windgrass Circle Park and found we needed to update it. In 2006 the town was issued a consent judgment that indicated certain signage would be placed at the park to provide public notice of the town ordinance relative to noise, dogs, skateboards, motor vehicles, boats, use of drugs and alcohol, commercial operations and the hours open to the public. After reviewing the existing ordinance it was found it did not contain regulations relative to skateboards and boats. The proposed additions to this ordinance are item 15 skateboards and item 16 boats. In addition Mr. Michael suggested the language under #10 speed limit and parking be modified so it is clear that vehicles cannot be parked in the park after closing. I also would like to comment that based on information received from members of the council, our clerk and Mr. Michael it has been determined that the gates at Windgrass Circle Park will now be closed in the evening and opened in the morning. Signs have been posted to warn persons that vehicles left in the park at night will not be able to exit the park until the gates are opened in the morning.*

Perry: *For the new members and the people who might watch this meeting later on television I would like to give some history. When Windgrass Circle Park was first envisioned there was a lawsuit brought against the town. I think the problem was Kitty Dunes residents were worried about covenants being breached and some other factors, noise levels and things of that nature. The original ordinance was written to satisfy that judgment and then when the multi-use path was later envisioned another lawsuit was initiated. That was done by the town to clear up any rights of covenants and other problems that was occurring in order to get the path put in place to join up with the Windgrass Circle Park. All of this came about as a judgment. We really do not have any choice but to close and reopen the gate. It does not stop people from walking, jogging and bicycling on the multi-use path up through the park itself. You are still free to do that. There is a way around the gate you just cannot park in it at certain times. One of the complaints had to do with possible drug dealing going on down there in the middle of the night and we do not want that either.*

As far as personal watercraft it is talking about motorized watercraft not being allowed. You are still allowed to canoe and kayak. I just wanted to make sure we had that clear for the public and especially the reason behind it. I happened to be in the mediation on the second part of this and that was no fun. We do not want to go back there. Do I hear a motion to adopt this amendment?

Councilman Pruitt made a motion for the adoption of the amendment on Chapter 24, Parks and Recreation, Section 24-53, Windgrass Circle Park and Multi-Use Path and authorized the mayor to sign and the town clerk to attest said amendment. Councilwoman Klutz seconded.

Bateman: *I am a 10 year old kid and I am standing at the top of the hill and I have my skateboard. I am going to go down that hill. Why are we not allowing a skateboarder to go down that hill and get on the path and continue where he's going?*

Perry: *You can ride down the hill you just cannot use the skateboard in the park.*

Bateman: *I don't understand. The mediation said we could not have a skateboarder in there?*

Perry: *That is correct.*

Bateman: *I am not going to fuss but that is about the dumbest thing I have ever heard.*

Perry: *Well it is not as dumb as it sounds because there used to be a boardwalk there and the skateboarders were using it. It was right next door to the house that is adjacent to the park and you know what a skateboard does on a wooden deck. That is what was happening and is what prompted it. Now, since we have gotten rid of the boardwalk ... but the judgment is still out there and unless you do something legally you have to abide by it. Am I going to go down there and stop that kid? Probably not. Technically he can go down the hill, stop, pick his skateboard up and get on the multi-use path. All in favor?*

Vote was unanimous to approve the ordinance. (Ordinance No. 14-04)

b.) Albemarle Rural Planning Organization Transportation Advisory Committee (TAC) – The TAC committee is composed of elected officials from each county and municipality in the Albemarle area.

Perry: *We have to have an elected official on this and we have to have nominations every two years. Do I hear a nomination for an elected official on the TAC?*

Klutz: *I would like to nominate the elected official who was previously involved with this and that is the mayor. I would like to volunteer the mayor for this.*

Perry: *Not much difference in a nomination or a volunteer.*

Garriss: *I will second that very quickly.*

Perry: *All in favor? The vote was 5-0. We have a very important meeting coming up. The RPO is being tasked by the legislature and the word the paper used was the RPO "must" vote for ferry tolls. I am not sure exactly how they can tell us we have to do that but at the meeting on the 10th we will see how that fleshes out. I have word there are so many people expected they had to choose a bigger site.*

c.) Vacant Police Officer Position – Permission is sought to hire an experienced officer at Grade 61/Step 6.

Perry: *We normally have this on the consent agenda but I thought this one needed a little explanation by Chief Johnson.*

Johnson: *We posted the vacant position that council approved at the base rate. We were looking for an entry level officer but we did not find any candidates. Later a candidate approached me from an adjoining agency. He is very well qualified and has over 7 years of experience, a*

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tremendous amount of training and he is a property owner and resident of Kitty Hawk. He has family in the area, cares about the community and is well respected by other law enforcement officers. I think he would be a great fit and a tremendous asset to our community.

Perry: *Thank you chief. We are going a couple of steps above the entry level but it sounds like from what the chief has said it will be worth it. Do I hear a motion to approve this?*

Councilman Bateman “so moved” to approve hiring an officer at Grade 61/Step 6. Councilman Garriss seconded the motion and it passed unanimously.

Chief Johnson added that hiring the officer at a higher step will not exceed the police department’s budget.

d.) Fire Apparatus Bid Award – Staff is recommending purchasing a new fire pumper from the lowest responsible bidder Atlantic Coast Fire Trucks/Smeal Fire Apparatus in the amount of \$534,990.

Stockton: *The town has been putting money aside for quite some time for the possibility of purchasing a new fire pumper apparatus. Finance Officer Allen and Fire Chief Spivey have worked together on this and they sent out bids on January 31st. Three bids were received and opened on February 21st. Not including equipment the bids were: Atlantic Coast Fire Trucks \$534,990, C.W. Williams \$619,002 and Atlantic Emergency Solutions \$625,886. After reviewing all of the specifications it was found that Atlantic Coast Fire Truck was the lowest responsible bidder.*

Perry: *Chief you had originally bid for both the truck and some equipment.*

Spivey: *Yes sir we did.*

Perry: *But we are not going to buy the equipment. We are just going to buy the truck from this company?*

Spivey: *That is correct. We would like to purchase the equipment ourselves because we believe we can do a better job and get a better price.*

Perry: *And that was true with all three of the bidders?*

Spivey: *Yes sir.*

Perry: *You are going to buy new equipment, not just shifting off of other trucks?*

Spivey: *Some of both.*

Perry: *If you had bought the new equipment that you put out in the spec would that have all been new instead of shifting some around or were you going to do that anyway?*

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Spivey: *We are going to buy all the new equipment in the spec and we are still going to be shifting some around.*

Perry: *All right. The other item was concerning the 304 stainless steel compartment but this particular company bid 409 stainless. You said the 304 was a superior product. In what way?*

Spivey: *It is the make up ... again I am probably not the best person to try to explain it but it has more metallic in it and it is supposed to be stronger and a little more corrosion resistance. But what we found is all the companies are going to use a Line X type of material regardless of whether it was the 409 or 304 and we are going to get the same warranty. We thought that maybe going with the cheaper product, since we had the same warranty and both of them are being coated, we should get the same life out of both.*

Perry: *And the concern with stainless steel?*

Spivey: *The salt ... our environment. The way it was explained to me is aluminum flexes and becomes weaker and stainless steel flexes and maintains its strength. Down the road if we ever needed to change out the cab and chassis we would have something to work with. We are buying a cab and chassis and we can take it out just like with the 2001 Saulsbury we talked about. It gives the town at least another option to look at later down the road.*

Bateman: *The three companies bid three different fire trucks ... manufacturers?*

Spivey: *There are three different manufacturers and they bid from our specifications. Two of the companies are bidding a truck that they are going to build the cab and chassis themselves. It is cheaper with the Smeal. We are buying another Spartan cab and chassis which matches two of the apparatus we already have in service. In a sense we are standardizing our fleet.*

Bateman: *The difference in price of the three companies. I don't mean to be confusing but we are not looking at a Cadillac, Ford ... because of the price difference in the bids.*

Spivey: *The truck we are buying is the Cadillac? Not in my opinion. No sir. It is not the Cadillac but I think it is the lowest responsible bid and I think it is the best price for our community.*

Perry: *We are getting a Ford.*

Bateman: *And that's fine. I mean most of the time when we put something out for bid you get three people to bid on the same identical truck. That way you get the best price.*

Spivey: *That is what we did.*

Perry: *Basically you put out specs for what you wanted in a truck ... and they came back whether it would be a bigger cab on one truck or a smaller cab or you want to seat "x" number of people, pump so much water, hold so much water and then they bid on however they want to build it. Is that correct?*

Spivey: *That is correct.*

Perry: *So it is really not a Ford, Cadillac or a Mazda ... it is a specification.*

Klutz: *All I need to hear is that this satisfies the requirement.*

Spivey: *This definitely satisfies the requirement. We think we will get a long life and use out of it and I think the community is going to get value for every dollar spent.*

Perry: *Well at this price you are not going to get another one anytime soon. You better get a long life out of it. Do I hear a motion to ...*

Michael: *Mr. Mayor I have a couple of items to clear up with the chief and the finance officer. I know we have to pay for the chassis when they order it which is two hundred and some thousand dollars. When do we pay for the rest of it? It does not say in the contract.*

Spivey: *On delivery. After they do all of their tests and we accept the truck ... we check the truck against our specifications and against theirs and then we will be okay to spend the rest of the money.*

Michael: *I think that needs to be in the contract and the other thing is the warranty. When you look at the warranty it starts 30 days after the original invoice date which I do not know how you determine that since they can issue an original invoice any time they want. Charlene asked them about it because I asked her to and they say it starts from delivery. I think we need to revise the contract to say the warranty starts from delivery to the town.*

Perry: *Please make the motion and one of these councilmembers is going to say "I do" or something similar to that.*

Michael: *And we also have to have the e-verify affidavit that is part of the formal bidding statute. Do you have it now?*

Allen: *I have it.*

Michael: *Okay so we are good with that. I read these warranties and all I know is that the stainless steel warranty is only good if it has a hole in it.*

Spivey: *And I will add that the pump warranty itself is a full five and a half year warranty.*

Perry: *Is there anything in the specifications that says how long parts have to be available? The reason I ask is when I was stationed in Alaska I was in a volunteer fire department and the state was going to buy them a new truck. It was in the spec and I was surprised. Any company that bid had to have parts available for that vehicle for 20 years.*

Spivey: *I cannot say that was in this spec. With technology and the way things change today I don't know that we could get them to put that in there.*

Perry: *I am not trying to change the spec. Steve would you give us a proposed motion?*

Michael: *I would suggest the motion be that the council approve the purchase of the new fire pumper from the lowest responsible bidder, Atlantic Coast Fire Trucks/Smeal Fire Apparatus, in the amount of \$534,990 and the contract would include the terms that the warranty will run from the date of delivery and the balance of the purchase price would be due on the date of delivery to the Town of Kitty Hawk. As we have the e-verify affidavit they are in compliance with that portion. Councilman Garriss said he approves of the motion as proposed by Attorney Michael and it was seconded by MPT Bateman. It was unanimous, 5-0.*

e.) Tentative Schedule for Approval of Municipal Service Districts – This schedule begins in August 2014 with council reviewing the material to be mailed to every property owner. The mailing is scheduled for September 2014 for a public hearing in October 2014.

Heard: *The council had expressed an interest in looking at approval of the municipal service districts this fall and in looking at the council dates coming up we saw October 6th as being a logical date for consideration. I worked backwards from there based on the state requirements for notifications to the public. In working backwards from October the date begins August 8th of this year. The staff would complete the development of a draft of the information to be mailed to property owners. It would be distributed to the council for review and in early September it would be mailed to property owners about the public hearing. Notification would also be included on the town's website and manager's newsletter. The next key date comes in advertising in the newspaper and that would be September 25th. At that point the council could hold the public hearing on October 6th and if adopted on that date or a subsequent date it would not become effective until July 1, 2015.*

Perry: *Thank you. Anyone have any questions? Do I hear a motion to approve this?*

MPT Bateman made a motion to proceed with the schedule for establishing Municipal Service Districts as outlined above. Councilwoman Klutz seconded the motion and it passed unanimously, 5-0.

11. Reports or General Comments from Town Manager

a.) Poseidon and Goosander Streets Emergency Pumping Facility Project – Stockton advised council that the Poseidon and Goosander Streets Emergency Pumping Facility Project was advertised on February 25th. A pre-construction conference will be on March 14th and bids will be received until March 26th. The bids will be presented to the council on April 7th and upon approval a pre-construction meeting will be on April 11th. The project should take about 30 days for completion.

b.) Lillian Street Access Parking Project – Stockton said the CAMA matching funds for the Lillian Street Access Parking Project would be available on September 30th of this year. However construction would probably not start until January 2015 because of the engineering, advertisement and the bid award. Construction could begin with town funds or staff could apply

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for matching Tourist Bureau funds in the fall with a possible award in February. There would only be a month's difference in starting the project and recommended waiting and applying for funds from the Tourist Bureau.

Mayor Perry offered he thought the town would have a very good shot at the funds but added the caveat that with the decline in the economy the Tourist Bureau has many requests for different things now that they did not have before. This type of request is somewhat a priority however and at the front of the list. He suggested not using town funds unless necessary.

Council concurred.

12. Reports or General Comments from Town Attorney

Michael: Nothing else for you tonight.

13. Reports or General Comments from Town Council

a.) **Recreation Committee Update** – Councilwoman Klutz reported the following:

- The committee met on the 4th of February and they reviewed and accepted the changes to Recreation Master Plan that was approved on this consent agenda.
- Developed their work plan recommendations for the upcoming budget discussions.
- Noted vegetation needed to be clipped along the shoulder of Kitty Hawk Road and along the bike path in the village and public works has already taken care of it.
- Discussed some pedestrian safety issues with people walking along the beach road when they are going from the bath house to the crosswalk. Public works will take care of it with proper signage
- Suggested bike racks be placed at the public beach accesses and asked they be included in budget discussions.
- Discussed a proposal from Premiere Contracting, Inc. to pay for the rental and maintenance of porta-potties at the Wilkins Street beach access. In a recommendation to council the committee declined to support this proposal. Their discussion included concerns related to storm preparation and vandalism but primarily they were concerned about the potential for unwanted proliferation of porta-potties along the beach road. They also asked to convey thanks to Mr. Henriques of Premiere for his generous offer.
- Asked council if she could turn over the job as liaison with the Recreation Committee to Councilman Pruitt effective immediately. Jeff has agreed to serve and she thinks he will do a great job. Councilmembers approved of this change.

14. Public Comment

There were no public comments.

15. Closed Session

- a.) NCGS 143-318.11(a)(1) Approval of Closed Session Minutes from April 16, 2012
- b.) NCGS 143-318.11(a)(6) Town Manager Review

Mayor Perry announced council is going into closed session and stipulated that council does not anticipate any action being taken after the session.

Councilwoman Klutz made a motion to go into closed session in accordance with North Carolina General Statute 143-318.11(a)(1) to approve closed session minutes from April 16, 2012 and North Carolina General Statute 143-318.11(a)(6) for the town manager personnel review. Councilman Pruitt seconded the motion and it was passed unanimously, 5-0. Time was 7:25 p.m.

16. Return to Regular Session

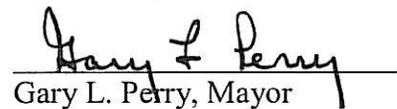
MPT Bateman made a motion, seconded by Councilman Pruitt, to return to regular session. The vote was unanimous, 5-0. Time was approximately 7:55 p.m.

17. Recess to Monday, March 17, 2014, 9:00 a.m., FY 14-15 Budget Workshop

Councilman Pruitt made a motion to recess this meeting until March 17, 2014 at 9:00 a.m. The motion was seconded by MPT Bateman and passed unanimously, 5-0. Time was approximately 7:55 p.m.

These minutes were approved at the April 7, 2014 council meeting.


Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor