

MINUTES
KITTY HAWK TOWN COUNCIL
December 2, 2013
Kitty Hawk Town Hall, 6:00 PM

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Oaths of Office: Mayor Elect Gary Perry
Council Elect Craig Garriss
Council Elect Jeff Pruitt
5. Resolutions of Appreciation to and Remarks from Richard Reid and Clifton Perry
6. Break/Reconvene
7. Remarks from Newly Elected Officials
8. Public Comment
9. Consent Agenda
 - a.) Approval of November 4, 2013 Council Minutes
 - b.) Revenues and Expenses Report for October 2013
 - c.) Acceptance of Checks for Beach Nourishment in Memory of David R. Twiddy of Elizabeth City who passed away on September 15, 2013
 - d.) Fiscal Year 13-14 Inter-Local Agreement with Dare County for Solid Waste Collection Services
 - e.) Ordinance Amending Sections 18-6, 18-7, 24-53, 24-54 and 24-55 of the Town Code
10. Items Removed from the Consent Agenda
11. Public Hearing:
 - a.) Text Amendment: Application to amend Sections 42-250, 42-251, 42-252, 42-277, and 42-278 of the Town Code by permitting call centers in the BC-1, BC-2, BC-3, VC-2, and VC-3 zoning districts and establishing minimum parking standards for call centers.
12. Planning:
 - a.) Preliminary Subdivision Plat: Application to re-subdivide four (4) existing parcels totaling 22.31 acres into thirty (30) lots to be known as the West Village Subdivision. A new road connecting to Kitty Hawk Road, water lines, and underground electrical lines would be constructed as part of the subdivision.
 - b.) Call for Public Hearing - Zoning Amendment: Application to rezone all or portions of seven (7) parcels associated with the Shoreside Center to clarify and correct the official zoning map. A public hearing is requested to be scheduled for the January 6, 2014 Town Council meeting.
 1. 5400 N. Croatan Highway – BC-3/PCD/BR-3/BR-1 to BC-3/PCD
 2. 5406 N. Croatan Highway (two parcels) – BC-1/BC-3 to BC-1
 3. 5416 N. Croatan Highway – BC-1/BC-3 to BC-1
 4. 5424 N. Croatan Highway – BC-1/BC-3 to BC-1
 5. 5430 N. Croatan Highway – BC-1/BC-3 to BC-1
 6. 5440 N. Croatan Highway – BR-1 to BC-1

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- c.) Call for Public Hearing - Text Amendment: Application to amend Subsection 42-360(c)(2)d with standards allowing pier length to be measured from the furthest waterward point of the normal high water mark on any property. A public hearing is requested to be scheduled for the January 6, 2014 Town Council meeting.
- 13. New Business:
 - a.) Elected Officials Board and Committees:
 - Nomination/Oath of Office for Mayor Pro Tempore
 - Dare County Government Access Channel Committee
 - b.) Planning Board Appointments
- 14. Reports or General Comments from Town Manager
 - a.) Dare County Comprehensive Transportation Plan Meeting
- 15. Reports or General Comments from Town Attorney
- 16. Reports or General Comments from Town Council
- 17. Public Comment
- 18. Adjourn

COUNCIL MEMBERS PRESENT:

Mayor Clifton Perry, Mayor Pro Tem Gary Perry, Councilman Ervin Bateman, Councilwoman Emilie Klutz and Councilman Richard Reid

MAYOR AND COUNCIL ELECT PRESENT:

Gary Perry, Craig Garriss and Jeff Pruitt

STAFF MEMBERS PRESENT:

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

1. Call to Order

Mayor Clifton 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 Councilman Bateman and approved unanimously, 5-0.

**4. Oaths of Office: Mayor Elect Gary Perry
Council Elect Craig Garriss
Council Elect Jeff Pruitt**

Town Clerk Morris administered the oath of office to Mayor-elect Gary Perry and then administered the oath to Council-elect Garriss and Pruitt. Councilmen Garriss and Pruitt returned to the audience while the resolutions were read.

5. Resolutions of Appreciation to and Remarks from Richard Reid and Clifton Perry

Mayor Gary Perry: *As most folks know Richard was a planner before he became an elected official and his experience helped me understand some of the things we do. Particularly why we have a zoning that is different in one place than another and the rationale behind it. I can read the rule book but the understanding behind it was helpful so it would make sense why we were doing something.*

Mayor Perry read the Resolution of Appreciation for Richard and then presented him with a certificate of appreciation from Dare County for serving on the Government Education Access Channel Committee.

Mayor Perry then asked Clifton to come forward and presented him with the gavel and sound block he used as mayor for 20 years. He then read and presented to him the State of North Carolina's Order of the Long Leaf Pine certificate for his 26 years as an elected official of the Town of Kitty Hawk.

Mayor Perry then recognized Chairman of the Dare County Board of Commissioners Warren Judge.

Warren Judge: *It is my pleasure to be here tonight. As a resident of this wonderful town and in my service of the last 13 years on the Board of Commissioners we have had a great man sitting in that seat. He has represented Kitty Hawk well, very well. His guidance and wisdom at our monthly mayor meetings was beyond compare and I thank him for that. I have served with a lot of people over the years and I cannot think of anybody who has been more true to his oath of office and to his people and to the global picture of Dare County more than you have Cliff. You are a dear friend and I appreciate your public service. Go well into your retirement. He becomes a senior statesman now so you can go by and visit and, without agenda, you can learn from the wisdom that Clifton has.*

Mayor Perry: *This next award is a Resolution of Appreciation from the Town of Kitty Hawk. When I sat down to try to think how best to present this award it occurred to me that one of the things a person who runs for office is asked is what are you going to do for my town. So I sat down and made up a list. This is not all of them but highlights most of them. (There was laughter as a very long piece of paper unfolded to the floor.) Some of the things that were accomplished during Clifton's presence on council are The Woods Road multi-use path and the Twiford Road multi-use path. That path terminates at the graveyard so a person can literally, but safely, walk to their grave. Moore Shore Road multi-use path, the children's playground beside Dominion*

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Power and Sandy Run Park, a place you can see snakes sunning in a tree, feed frozen peas to the turtles or catch a fish. Kitty Hawk Park, dogs running free, a community garden, and kids on skateboards. How they keep their head above their hind I don't know, my vertical would be upsy daisy. Windgrass Circle Park, a quiet peaceful place with the bay swimming hole for generations of Kitty Hawk's and remaining available to future generations of yet unborn. Bob Perry Road Boat Ramp with a park and a Recycling Center, Lillian Street Beach Access with handicap capability, a bath house beach access with restroom facilities, Byrd Street Beach Access and large associated parking lot, a new town hall, a new police station, a new fire station, the Coastal Reserve, the Monument to Flight, a history lesson in 360 degrees, a new post office, a Wal-Mart for the average folks and a Harris Teeter for the upscale crowd. A Home Depot, my alternate home, a Garden Inn to class up the town and a Holiday Inn Express, which is all us old sailors could afford when we were on temporary additional duty assignments. And more banks than we can count. The old folks in this community will remember when you had to go to Elizabeth City or Manteo to be fleeced and now you don't have to leave home.

Mayor Perry read and presented the town's Resolution of Appreciation to Clifton and said there is one more item. He asked Norma Perry, "Mrs. Mayor," to come forth. He presented her with a resolution of appreciation for taking care of home and family while her husband was busy with town business, something every military person has had to do.

Mayor Perry thanked Clifton and concluded his remarks wishing him fair winds and following seas.

Clifton Perry: *Gary Perry has been mayor pro tem and he will do a fine job for Kitty Hawk. Craig Garriss and Jeff Pruitt have been on the planning board for the last couple of years, learned a lot, and they will do a great job for Kitty Hawk. The remaining two on council are experienced and everyone together will do excellent work for Kitty Hawk so I feel good about leaving. I want to thank the people of Kitty Hawk for supporting me all these years. I know I have made some mistakes but maybe we have done some good things and I appreciate it. One thing that Emilie alluded to was wisdom. I am going to tell you I have no wisdom but in James, if you go back to the Bible, in James he says if you lack wisdom, if you will ask me for wisdom, I will give it to you. I have asked, believe it, and he has given me the wisdom that I have. I have to give him thanks for that.*

6. Break/Reconvene

Mayor Perry announced a short break to allow the newly elected to take their respective place on the dais. Time was 6:22 p.m. Council reconvened at 6:29 p.m.

7. Remarks from Newly Elected Officials

Pruitt: *First of all I would like to express my thanks to my good friend Clifton Perry and also to Richard Reid. It is because of both of you, and your decisions over the years of your service, that we remain one of the top vacation destinations. And for the rest of us it is the greatest place we could ever ask to live in and I thank you for your service very much.*

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I would also like to thank my mother who is in the audience and my father. My father died in 2003. He was a councilman for the town from 1981 until 2001. My mom was an employee for the town for 15 years at the same time my father was on the council. With both of them being involved they taught me what it was like to give to the town that gave so much to them. My parents loved Kitty Hawk. We all knew it. They wanted to give back to the town and I thank y'all for that mom. I wish my dad was here to thank him personally. I would also like to thank my wife, my daughter Taylor, and my son Perry, who is not here, for giving me the green light to do this. I had to ask them first. Thanks to Lynne McClean who believed in me. When I went and asked her if she would help me on the adventure she said she would be glad to help. That meant a lot to me. It was great encouragement for me to keep moving forward. And lastly, I want to thank all the people that showed up on Election Day. I look forward to working for you. I urge you to be active in the issues we have coming up. We need to know how you feel. Please attend the public hearings we have on issues because if you don't show up we don't know how you feel and we are here for you. We work for you. Once again I thank all the Kitty Hawkiers for giving me this opportunity.

Garriss: *To say it is an honor to be sitting here ... it is wonderful to be sitting here. I too would like to thank Mayor Perry. I have known you for a long time and you have been wonderful. You have done everything possible that you could for the Town of Kitty Hawk. I have served the public for most of my adult life and it is a good feeling to be sitting here to continue serving the public, the citizens of Kitty Hawk. Jeff and I have a lot in common. His dad was a councilman and my father was also a councilman for 12 years in my hometown of Conway, North Carolina. I guess we are following in our dad's footsteps. It is in our blood.*

My family and I moved here in January of 1996. We met with a realtor who took us all over Dare County looking for somewhere to live. We chose to live in Kitty Hawk and I haven't regretted it for one minute. It is a wonderful place. I am going to do my best to do what is right for the citizens of Kitty Hawk and if I don't I am sure someone is going to let me know and that is what I expect you to do. Again, it is an honor and I am excited to be sitting with this group of people. Thank you all for coming out tonight. Thank you very much.

Perry: *Folks I sit here in the shadow of a legend. I do so with a specific purpose of providing continuity to a council that will transition to new faces over the next few years. With that in mind I want to speak to the generation of younger citizens that come after me. You are busy with work, you are raising families and a multitude of other endeavors but equally important is the impact of this local government on your daily life. If you want to have some control of how this community evolves it is fast approaching your turn to step up and help govern this community. I urge you to engage in boards, committees and public meetings. Learn what is required to represent this community and stand for elected office if you can. Local government is the one place your voice carries the most weight. It can also be the one place where a lack of interest can harm you the most. With the hope and belief that this council will represent the community with wisdom, respect and transparency I now open the meeting for public comment.*

8. Public Comment:

1. Jesse Hines, 1121 F Kitty Hawk Road, Kitty Hawk, NC: *My name is Jesse Hines and I want to say congratulations to Mr. Pruitt and Mr. Garriss. I live on Kitty Hawk Road and I am commenting on a piece of land they are proposing to put 30 homes on 22 acres which is not an acre each. It is going to completely change ... we are all talking about the village. We all know how special this place is. They are calling it "West Village" and even though it has a cute name I don't think it is going to be a cute change for our town. Mr. Perry (Clifton) you live right across the street from there and it is going to affect this small road that we have and more than that it is really like ... the opportunity to live in Kitty Hawk and to really call it a village and be able to leave the beach and the tourism and be able to go somewhere special. It is going to turn into, I am sorry if you live in Kill Devil Hills, but it is going to turn into something like that. We have something so special here. I encourage you all to really take a look at what they are planning on doing. I know they are going to make it cutesy and all that because Gordon is a smart man but it is going to ... it is going to dramatically affect our lifestyle. We live right behind it and there is a house that is basically ... it looks like it is going to be built on a canal which is our little creek. I am really sad that it is potentially going to happen and I encourage you to really take a look at it and think about all of the cars, the traffic, and everything else. There is going to be a lot more people here and I encourage you to think about what they are doing. My question is why 30 homes? I know why. We are trying to make money and money talks but can we think about what it is going to do and how it is going to impact our community before we think about money. I think all of you who live here in Kitty Hawk I hope you feel the same way. Thank you.*

2. Dr. Jean Forbes, PO Box 2462, Kitty Hawk, NC: *Good evening. I live on Carrenda Lane and this property is right beside me. The one he was referring to. I feel it is a complete misuse of the property. If one had to build on it, it should be 10 rather than 30 houses. There are 7 on Carrenda Lane and 7 on the street on the other side. I feel that 30 is just simply outlandish. In the 16 years I have been here Austin Cemetery has filled up twice. I think possibly that property could be taken over by the town and used as an extension for Austin Cemetery. I realize somebody has to make money somewhere but 40% of that property is wetlands and we are going to lose three white herons and the blue herons and hawks that are controlling the pests that would otherwise be running into our houses. It is also going to increase the flood potential quite considerably because the realtor wants to block off some of the wetlands and put the road through. If that is done the Carrenda Lane canal is not going to be draining properly through to the other canal. There is no drain at the end of our lane for the water to go into the state canal which takes a turn around there. I just see it as potentially a complete disaster for Kitty Hawk.*

3. JoAnn Eike, 1121 H Kitty Hawk Road, Kitty Hawk, NC: *Good evening. I live on Kitty Hawk Road as well, down the little dirt road. When we had the last hurricane there was approximately three feet of water down that whole entire road. Most of Kitty Hawk had a lot of water everywhere and I just feel that the impact of such a large subdivision, 30 homes, which will go way back into the wetlands back there ... I feel with all that construction the water is not going to flow like it normally does. It was very unusual during that hurricane but there were a lot of people affected by that hurricane and they are still reeling from it. I feel that you are really disrupting the wildlife there and I am more concerned about my neighbors having to deal with*

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other issues with 30 homes. That is a lot and I really cannot see how on that amount of wetlands in there that they are not going to fill. I realize that some of the rules around Kitty Hawk allow a certain amount of fill. I think a lot of these laws need to be looked at a little closer and made a little tighter. Thank you.

9. Consent Agenda:

a.) Approval of November 4, 2013 Council Minutes. *(An affirmative vote for the consent agenda will approve these minutes.)*

b.) Revenues and Expenses Report for October 2013. *(An affirmative vote for the consent agenda will acknowledge this report.)*

c.) Acceptance of Checks for Beach Nourishment in Memory of David R. Twiddy of Elizabeth City who passed away on September 15, 2013 – The town has received an additional memorial in Mr. Twiddy's name. In October and November council accepted a total of \$960. The grand total as of November 27, 2013 is \$990. *(An affirmative vote of the consent agenda will accept this donation.)*

d.) Fiscal Year 13-14 Inter-Local Agreement with Dare County for Solid Waste Collection Services - This agreement provides for the following: Twice a week residential collection from Labor Day through Memorial Day. On the beach side of the by-pass only a third pickup per week from Memorial Day through Labor Day. Residential collection services will be \$110.65/hour (\$110.21 last year). Commercial collection services will be \$92.87/hour (\$92.27 last year). Large item collection twice annually at the rate of \$250.00 per hour. These sums shall remain in effect until June 30, 2014. The Town is responsible for all tipping fees incurred for the disposal of its solid waste. *(An affirmative vote for the Consent Agenda will approve this Inter-Local Agreement.)*

e.) Ordinance Amending Sections 18-6, 18-7, 24-53, 24-54 and 24-55 of the Town Code – The state has made changes to State Statute 14-415.23 to prescribe a uniform system for the regulation of legally carrying a concealed handgun. These amendments will align the town code with state regulations. *(An affirmative vote of the consent agenda will adopt this ordinance.)*
Ordinance No. 13-09, Ordinance No. 13-10, Ordinance No. 13-11.

Councilman Bateman made a motion to approve the consent agenda. Councilwoman Klutz seconded the motion and it passed unanimously, 5-0.

10. Items Removed from the Consent Agenda

No items were removed from the consent agenda.

11. Public Hearing:

a.) Text Amendment: Application to amend Sections 42-250, 42-251, 42-252, 42-277, and 42-278 of the Town Code by permitting call centers in the BC-1, BC-2, BC-3, VC-2, and VC-3 zoning districts and establishing minimum parking standards for call centers.

Heard: What you have before you this evening is a proposed text amendment that would do two things. First of all it would create definitions for the terms call centers and workstations. It would also establish call centers as permitted uses in the BC-1, BC-2, BC-3, VC-2 and VC-3 zoning districts and set parking standards for call centers.

Recently the Planning and Inspections Department, with input from the town council and manager, made an interpretation to define a small call center as an office use and permit the establishment in the Quail Run Business Center. They had proposed fifteen employees but I believe the actual number they began with was nine. Staff noted that while a small call center is very consistent with an office use, on a larger scale it could become problematic. The main issue being this type of business has very small workstations for their employees and they can fit a lot more employees into a space than a typical office use can.

It was suggested that staff take a look at establishing some kind of standard for larger call centers. As the planning board looked this over there were really three main items of discussion. The first of which is should call centers be a use of right where it is permitted administratively if it is allowed or as a conditional use that would require it to come before the planning board and town council. After discussion the board decided to recommend that call centers, because of its consistency as a relatively low intensity office use, be considered as a use of right and therefore they have recommended this use in the districts outlined earlier.

The second issue is should the town differentiate between small and large call centers. After discussion and input from the town attorney the board decided to consider recommending consideration of all call centers equally whether they are small or large. Treat them all in a consistent manner.

Thirdly and maybe the one that generated the most discussion had to do with what should the minimum parking requirements be for call centers. The staff report has outlined a number of different standards from communities to give an idea of some different ways to look at those standards. After reviewing all of those standards and thinking about how it might apply in Kitty Hawk the planning board recommended a standard that is outlined in the proposed ordinance. The minimum standard would be one parking space for each workstation plus one parking space per 500 square feet of gross floor space. The intent is that each workstation would have one employee and the center might have multiple shifts and run throughout the night. There would not be any more than one employee at the workstation the way it is defined and the additional spaces would accommodate visitors or management who might visit the site.

At their meeting on October 17th the planning board voted unanimously to recommend approval of the attached text amendment to add call centers as permitted uses in the districts mentioned

earlier and to establish those minimum parking standards for that type of use. I would be glad to answer any questions.

Councilman Bateman, seconded by Councilwoman Klutz, made a motion to go into public hearing. The vote was unanimous, 5-0.

Mayor Perry asked if anyone wished to speak during the public hearing. No one came forward.

Klutz: *How does enforcement of one parking space per workstation work? Is it on an honor system? If they say they are going to have 15 workstations that is what you give them for parking?*

Heard: *That was actually one of the key considerations the planning board had. There was a lot of discussion about a one per employee standard. Consulting with the town attorney the board members ended up finding that the workstation approach was actually more enforceable. If you get a complaint you can walk in and count workstations. The planning board believed, and it is reflected in their recommendation, that it was actually an easier way to enforce it as opposed to employees. It is correct that someone could add stations but it is also easier to count them if someone does that.*

Klutz: *The only other option would be something with square footage where you can account for how many workstations could be allowed but I am satisfied with this. I think they came up with a good mix with the workstations and the square footage for the extras.*

Hearing no further comments or questions, **Councilman Bateman made a motion to leave public hearing. Councilwoman Klutz made a second and it passed unanimously, 5-0.**

Klutz: *I will make a motion and would like to add I really liked the way the planning board came up with this simplified approach. No messing with conditional uses and making it a use of right. That is what we like I believe. I move to adopt the proposed text amendment permitting call centers in the BC-1, BC-2, BC-3, VC-2 and VC-3 zoning districts and establishing appropriate parking standards. Town council finds that the proposed text amendment is consistent with the adopted CAMA Land Use Plan and finds this amendment to be in the public interest by allowing a compatible use in these commercial zoning districts. Councilman Garriss seconded the motion. (Ordinance No. 13-12)*

Perry: *I have a comment about one of the things I learned while serving on the Tourist Bureau. I have heard in county meetings and other places there is an attempt to diversify our economy. Our tourist based economy needs some other anchor besides just tourism. I don't know if a call center does that but it is a small step in the right direction I suppose and maybe this will encourage some other things to go along with it.*

Vote was 5-0.

12. Planning:

a.) Preliminary Subdivision Plat: Application to re-subdivide four (4) existing parcels totaling 22.31 acres into thirty (30) lots to be known as the West Village Subdivision. A new road connecting to Kitty Hawk Road, water lines, and underground electrical lines would be constructed as part of the subdivision.

Perry: I would like to state, because of the comments made during public comment, there are rules we have to follow. There are established rules that permit certain things to happen without a public hearing. At this point council is being asked to approve or deny a preliminary plat and with that Joe, please tell the audience what we are dealing with.

Heard: I will use a pointer to show some of the features of what is being shown on the screen. The applicant has submitted an application and a preliminary plat for the West Village subdivision. This plat outlines a proposal to re-subdivide four existing lots totaling over 22 acres into 30 lots. As part of the proposal there would be a new road connecting to Kitty Hawk Road as well as water lines and underground electrical lines. Council should also have, attached to the staff report, a letter and an analysis from the town's consulting engineer on this project, Joe Anlauf, and also information from Dr. Forbes.

The subdivision name is West Village and the road name is West Village Road. Both of these names were reviewed by town staff and Dare County E-911 to check for similarity with other names so there is no confusion in emergency circumstances. Both of the proposed names were deemed acceptable. The properties are zoned Village Residential One which is mainly a single family residential district. The VR-1 district allows the density that is proposed under this project for single family residences. In fact the minimum lot size in that district is 15,000 square feet which is about a third of an acre and under this proposal they range from just a little over that figure to a little over two acres in size for the largest lot so all of the lots proposed comply with that minimum lot standard.

One of the factors we take a hard look at when looking at lot sizes has to do with wetlands. Looking at the plat the hatching marks running through this property are all wetlands. In fact 42% of this property is wetlands of one form or another. The property is mainly a ridge with wetlands on each side. There is a canal on the east and the west side of the property. The road follows much of the highland and the applicants would not have to look at damaging or having to fill many areas of the wetlands. The only areas proposed to be filled are a few little areas toward the rear of the subdivision and they are submitting an application to the Army Corps of Engineers to fill those areas. It totals half an acre in size. The areas that are proposed to be filled are mainly to accommodate the development of the road through the property so the fill does not extend onto the properties themselves but is in the area of the right-of-way of the road.

Looking at the wetlands, one of the key components from the town standpoint is we count all wetlands that are Army Corps of Engineer wetlands toward the lot size. That is how our subdivision ordinance defines that. However we exclude all wetlands that are called coastal wetlands under the Coastal Area Management Act. The applicants in this case have done wetland delineations for both of those things. There are some areas where the canal runs along

the western side of the property and there are some minor wetlands associated with that canal. The State Division of Coastal Management has declared those to be coastal wetlands so those areas have been subtracted from the lot size calculations. The figures you see before you as far as the size of those lots have already excluded those coastal wetlands per our ordinance. All of those lots comply with the lot size even with those excluded. I also want to point out that those lot areas along the west side of the property, where the coastal wetlands are, encompass most of the properties going down that side.

The town has standards for road frontage. Each lot along a cul-de-sac has to have at least 25' road frontage. Each lot in other circumstances has to have at least 50'. All of the proposed lots comply with these standards.

The town standard for the width is a minimum of 75' for lots. Not all of the lots are 75' at the frontage of the road however all of them do widen to at least that width and have an area that is an appropriate building area where that setback complies. Lots 12, 20, 21, 22 and 24 do not meet the 75' requirement at the street front but increase in size as they go back. The minimum front setback does not begin until those lots achieve that width. For those lots it pushes back the building area toward the rear of the lots. That is a type of layout the planning board and council have considered before on other subdivisions.

In looking at the building setbacks all of the standard setbacks are shown correctly on the plat. The one item I want to point out that is a little bit different is that on Lot 1, to the west of the proposed road, there is a larger lot and the front setback is being shown along Kitty Hawk Road rather than the new road. All of the others the front setback would be off of the new proposed road. Lot 1 is off of Kitty Hawk Road because of the location of the main high ground.

Although this proposed subdivision meets the standards as a local residential subdivision street which has a requirement of only a 30' right-of-way the applicant has proposed to develop this subdivision to a higher standard consistent with that of a collector or secondary road. Under that standard the proposed right-of-way is 50' and the applicant has provided easements of 5' on each side outside of that 50' that would be dedicated to road maintenance. Toward the rear of the development with the cul-de-sac the town standard is a diameter of at least 100' as shown on the plat. This cul-de-sac right-of-way has a diameter of 102'.

An existing 60' wide right-of-way running along much of the western side of the property will be abandoned as part of the proposed subdivision. Looking at the width of the road the applicants are proposing to build the road to that higher standard where it would have a pavement width of 20' with 3' wide shoulders. The North Carolina Fire Prevention Code requires the cul-de-sac to have a 96' diameter and the applicants have proposed to construct it to that standard.

One of the main items for council to consider this evening is the road and its design. As the road comes in off of Kitty Hawk Road it is fairly straight and then makes a bend. This follows a contour of a very high portion of the ridge. The road follows the contour of that ridge. Relatively speaking that is a fairly tight curve and what the applicants have proposed and ask to be permitted is ... that curve and the other aspects of the road design is consistent with what is called a mountainous or hilly terrain with a 20 mile an hour design speed. With a slower design

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speed it allows someone to make a tighter curve than it would if someone is traveling faster. The other alternative the town ordinance presents is for a 25 mile an hour design speed for rolling terrain. There are areas of this property that do meet the criteria for a hilly or mountainous terrain. There are areas of this property where it meets the rolling terrain so that will be a decision the council will need to make if you agree with the proposed layout. That is all you would need to consider. If you want to look at that further we have the applicant's engineer as well as the town's engineer present this evening if you would like to go into that in a little more detail.

The applicants would also be installing an 8" water line that would come in off of Dare County's 6" water line at Kitty Hawk Road. There would be 5 new fire hydrants located in this subdivision spaced out approximately 400' apart along the road.

Regarding the septic, each of the lots is large enough to at least potentially accommodate a septic system. The property owner of an individual parcel would apply for and obtain a septic permit from the Dare County Environmental Health Department. The planning board spent some time and had some discussion with their engineer about building on these lots. The sketch plan shows a potential layout for houses with a 40 x 40 footprint as well as a potential location of septic systems on those lots. It is the belief of the board and staff that these lots would all be at least potentially buildable.

The applicants are proposing to install underground electric lines as part of the improvements and as far as stormwater goes they would have to apply for a low density stormwater permit from the North Carolina Division of Energy, Mineral and Land Resources. When issued that permit would likely reduce the amount of lot coverage that would be permitted on some or all of the lots being proposed.

In addition to the other easements I mentioned, there is an access easement on Lot 19. The applicant is required to provide access to an adjoining single parcel located behind this property and they are proposing a 20' easement. A 20' easement is not wide enough to allow for any further subdivision of that parcel behind it. It would allow the access per the contract but it would not allow the owner of the property to the south to develop and subdivide it into additional parcels. That is the significance of a 20' easement as opposed to 30' where they would at least potentially be able to develop it.

On Lot 18 there is an existing bridge that crosses over the canal. The applicants are proposing to preserve the right of people to continue to use that crossing so there is an easement, highlighted in dashed lines, that encompasses the bridge and then extends 10' in width down the northern property line. People would be able to come from Carrenda Lane, cross the canal and walk over to this subdivision.

I want to close by outlining the planning board's recommendation. At their meeting on November 14th the planning board voted unanimously to recommend approval of the preliminary plat for the West Village subdivision with the following conditions. The first condition is to update the legend of the plat with symbols and descriptions for bends and tees, gate valves and any other water line symbols shown on the plat. Number two is to clearly state the right-of-way

dimensions of the cul-de-sac. Number three is the easement granting access to the adjoining property to the south needs to be referenced by a note on the plat. Number four is the width of the pedestrian access on Lot 18 needs to be defined on the plat and added under easements in the notes on the plat. Those are the first four and all of those have been addressed in the copy of the plat you have before you tonight. The applicant submitted a revised plat addressing those four conditions.

The fifth condition is a geotechnical report must be prepared by a qualified company as part of the final design for the base course and road. A copy of the final road design submitted to the Planning and Inspections Department for review and approval prior to grading or construction of the road improvements. Number six is an erosion and sediment control permit must be obtained from the Town of Kitty Hawk prior to clearing and grading activities or installation of any improvements. Number seven is the applicant must obtain a permit from the Army Corps of Engineers for approximately half an acre of fill in the wetland areas designated on the preliminary plat and submit a copy to the Planning and Inspections Department prior to the issuance of an erosion and sediment control permit or any filling activity. Another condition is a copy of the stormwater permit from the North Carolina Division of Energy, Mineral and Land Resources must be provided to the Planning and Inspections Department prior to the installation of any improvements. The Dare County Water Department and North Carolina Division of Public Water Supply must grant approval of the plans and specifications for the water lines and a copy of such approval must be submitted to the Planning and Inspections Department prior to installation. All necessary paperwork must be submitted and recorded to properly abandon the existing lot lines and right-of-way. A limb height of 13' 6" must be maintained over the proposed roadway, and finally, addresses must be assigned to all properties.

With those conditions the board did recommend approval of this preliminary plat to the town council. A preliminary plat is approval of the design for the subdivision and it basically authorizes the applicant to proceed. As heard with the conditions there are a great number of other steps the applicant would need to take toward installation of all these improvements. If council approves of the design of this subdivision the applicant would get all those necessary permits and install all of the improvements being proposed this evening. The applicant would come back with a final plat and that would need to be approved by council before the applicant could actually go out and begin selling lots. That is all I have for you this evening.

Perry: *For the record, once the preliminary design is approved and he puts all the work into it then council will be asked to approve the work that has been done. Is that a correct statement?*

Heard: *That is correct yes. Basically the council would be documenting that all of the improvements were installed per the standards that you will be considering tonight.*

Perry: *Once he has put all the money into it, and he does it right, there is really not much choice for council but to accept it.*

Heard: *That is correct.*

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Perry: *I just want to make sure that is clear and on the record. This is a lot. I know two of our members have been through this and I appreciate that. This is the first time I have seen it.*

Klutz: *With the revisions they have made and with the other conditions, is everything consistent with the code and all of the rules for subdivisions at this point?*

Heard: *Yes and really the only standard the council is asked to consider is the road speed design standard as far as the mountainous, hilly or the rolling terrain. Which do you want to consider it under? That would really be the only standard that appears to be in question.*

Klutz: *I have a question about one of the comments made by the town engineer. "As additional lot specific information is collected and processed by the design engineer and lot development plans undergo revisions the location of these sloughs may become important as they relate to the ultimate and final configuration of the proposed wastewater systems." I interpret that as all of the septic systems are going to be approved one lot at a time and it is a concern of the engineer that those individual approvals could have a subdivision wide effect on the efficacy of the septic systems unless some records are kept about terrain or whatever. Is that correct?*

Joe Anlauf, Anlauf Engineering: *Good evening. I prepared review comments specific to this project. There was a report prepared by a licensed soil scientist, Kevin Carver, and in that report he identified a number of features that were of a concern. Low depressions that were not necessarily classified as wetlands but would have a high water table condition where the water table is close to the surface. He also identified other areas of sloughs which would be a drainage feature that could be in an upland area. This particular property is an undulating topography. It has a high sandy ridge like much of Kitty Hawk Village and there may be some small drainage features where an upland area drains water down towards the wetlands, sort of like a swale, in that upland area. He identified those areas as sloughs and indicated those areas may be unsuitable for onsite wastewater systems. What I thought was important, and wanted to have reflected in the record, was those sloughs identified on this plat. When individual site plans are brought before the planning staff for the location of the home, the driveway improvements and the onsite wastewater system, there is a record of those slough locations. It would really be easy to put some fill in there and make them go away.*

Klutz: *So it would affect the drainage.*

Anlauf: *If an area is unsuitable for an onsite wastewater system, as determined by a licensed soil scientist, then we want to keep a running record of that as they develop these lots. What we don't want is that onsite wastewater system to be located in one of these depressions or sloughs that the soil scientist identified as an area that is unsuitable or potentially unsuitable for an onsite wastewater system.*

Klutz: *Are you saying that perhaps we need to add another condition that talks about documenting those?*

Anlauf: *In my opinion the easiest way to keep a record would be to show those locations on the plat.*

Klutz: *On the plat. All right is that a condition we ...*

Perry: *Certainly it should be considered.*

Klutz: *On Lot 19 Joe said it was important that it was a 20' easement to prevent any further development as another subdivision on the adjacent lot. On the plat it says a minimum 20' wide access easement shall be provided across Lot 19. If the intent is to make that easement the reason why the adjacent property cannot be developed then I think the wording should be changed to a maximum 20' wide easement. If it were wider then development could take place correct?*

Heard: *If it was at least 30' wide then someone could potentially use that to develop a road within that easement. That is neither the intent of the easement in the contract nor would that be consistent with some of the other aspects of this subdivision. To add additional lots in an almost another phase if you will. There would be other factors that the town would consider if there was to be a second phase to this development, particularly as it relates to the North Carolina Fire Prevention Code.*

Klutz: *That is something we should also consider, change or make a condition.*

Perry: *What you are saying is it needs to have a minimum of 20' wide plus no more than 20' wide.*

Klutz: *I was concerned it could go bigger than 20' and that sounded like it was a problem. The only other thing I have to say is I think 20 miles per hour for a road through this kind of a residential neighborhood and a curve that is shown on this plat makes more sense than 25 miles an hour. That is all I have.*

Bateman: *Joe you mentioned the stormwater management. Did I hear you correctly in saying that might make some of the lots unbuildable?*

Heard: *That was not the intent of my comment. There is 30% lot coverage for the entire property. They are building a road through the middle that is using up some of that 30%. It might be 3% or 4%. As part of their proposal to the state they would set aside areas within the lots themselves where the lot coverage would actually be reduced to less than the 30% that the town typically requires. That can be done across the board. In First Flight Ridge every lot in that subdivision was divided evenly. It is about 3.3%. Every lot in First Flight Ridge can only have 26.7% lot coverage as opposed to the 30% that the rest of the town can build. In Hickory Ridge the developers chose to divide it up differently. They had a few larger lots where they actually limited those to as little as 15%, 17% coverage, but they were large lots. They were able to do that and still have an appropriate area for building. That will be a choice of the applicant on how to address it. It would not prevent them from developing or make any lot unbuildable but it would set aside some areas to accommodate the lesser lot coverage that will be permitted.*

Bateman: *Is the 13' height to accommodate for fire trucks, emergency services and so forth?*

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Heard: *That came from the fire department to the board.*

Bateman: *This is really an intense development in my opinion. It is putting a lot on this piece of property. I would go along with the 20 miles per hour.*

Perry: *How did the police department respond to the 20 miles per hour and trying to enforce it? There are other places in Kitty Hawk where we have problems with a higher speed limit and people complaining and here we are adding a sharp curve to boot. Did the police department have any input in that?*

Heard: *What is being proposed is not a recommendation for a speed limit although that is something the town could logically follow with a recommendation ... that they be able to design the road to that speed. I think it would be something the council would want to follow up with should this development move forward. To consider a speed limit consistent with the design of the road. We are really only dealing with the design of the road and not dealing with a speed limit at this point in time.*

Perry: *If we said no to the hilly design I guess you would have to use a flat land criteria at that point. What would it do to what is proposed to us today?*

Heard: *The developers would have to look at alternatives. That could include a case of where it goes straight up and over the ridge. They would have to take a look at how that impacts the lots as far as what they are proposing.*

Perry: *Going back to limb heights and having to trim them and that sort of thing. This is dense and we have had problems on Ride Lane where our public works has to go in and cut back bushes. Is that what is going to be expected of town resources in the future on this private road. Will this be a private road in the beginning?*

Heard: *It is my understanding from statements at prior meetings it would initially be a private road but it is being developed in a manner consistent with their being able to turn it over for a public road at some point in the future should they desire.*

Klutz: *There are roads that post a different speed limit on a curve. Does the whole road have to be designed to 20 miles per hour or just the curve?*

Heard: *It is my understanding that the rest of the road would comply with a 25 mile an hour design speed.*

Klutz: *If this is what winds up getting developed a road like this should not remain private because look at what has happened with Ride Lane and all of the problems associated with it. It has been my understanding that if the town does any kind of maintenance on a private road, and I don't know if that includes cutting tree limbs, they take on some responsibility for maintenance.*

Michael: *If it is a private road you do not have any obligation to do anything.*

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Perry: *It would be built to the standards with the understanding that eventually it would become a town road. The thing that bothers me about the sharp curve is that you are trucking along at 25 and people will not know to slow down if there is nothing there to tell them to do that. Are there any more questions?*

I want to make mention for the record that some of those lots would have what they call innovative septic systems. Not your standard drain field and those would probably be in areas that he spoke to that had questionable geology. Council, what do you want to do? Do you want to think on this or do you want to try to do something tonight?

Bateman: *May I ask the developer if there is a Plan B with less intensity? I know you have done a lot of work and you do a great project so I am not going there but this is really intense in my opinion. Is there a Plan B that comes back with 20 lots, that would be larger and ...*

Gordon Jones, Applicant: *We have not looked at 20 lots. The current price on the property would not work for 20 lots. I feel like we have met or exceeded all of the town requirements as this is presented. Does that answer your question?*

Bateman: *You have answered my question. I still have to say in my opinion it is intense. Thank you.*

Jones: *Any other questions while I am here? Thank you.*

Perry: *I guess the first question is do we need to think on this a little longer and take it up at the next meeting or are we ready tonight?*

Klutz: *I feel like it satisfies the requirements. I do not think we can do anything other than add a couple of conditions and the speed development standard for the road. They have crossed the T's and dotted the I's and it would not be fair to the applicant to delay.*

Perry: *All right. Do you want to make a motion?*

Klutz: *There are two conditions we have to address along with the road. Let me start with the recommended motion and add in what we need to say. I move for the approval of the preliminary plat for the West Village subdivision that divides four existing parcels off of West Kitty Hawk Road into 30 lots subject to the listed conditions recommended by the planning board and with the additional conditions regarding the width of the easement that progresses through Lot 19 to indicate a maximum as well as a minimum and provide for some documentation for the sloughs. I have learned now how to pronounce something I never heard of before and provide that documentation on the plat.*

Michael: *I think Emilie meant to include 20' is the minimum and maximum as well.*

Klutz: *Correct. There is a 20' minimum and adding a 20' maximum.*

Michael: *It has to be 20' wide.*

Klutz: *Right. I don't believe there were any other things we would have to add.*

Perry: *There are things we would like to see different but it is not going to happen.*

Perry: *Do we have a second?*

Garriss: *Second.*

The vote was 5-0 to approve.

b.) Call for Public Hearing - Zoning Amendment: Application to rezone all or portions of seven (7) parcels associated with the Shoreside Center to clarify and correct the official zoning map. A public hearing is requested to be scheduled for the January 6, 2014 Town Council meeting.

1. 5400 N. Croatan Highway – BC-3/PCD/BR-3/BR-1 to BC-3/PCD
2. 5406 N. Croatan Highway (two parcels) – BC-1/BC-3 to BC-1
3. 5416 N. Croatan Highway – BC-1/BC-3 to BC-1
4. 5424 N. Croatan Highway – BC-1/BC-3 to BC-1
5. 5430 N. Croatan Highway – BC-1/BC-3 to BC-1
6. 5440 N. Croatan Highway – BR-1 to BC-1

Councilman Garriss made a motion to set a public hearing regarding the proposed zoning amendment at the Shoreside Center, 5400, 5406, 5416, 5424, 5430 and 5440 North Croatan Highway at the town council meeting on January 6, 2014. Councilman Bateman seconded and it passed unanimously, 5-0.

c.) Call for Public Hearing - Text Amendment: Application to amend Subsection 42-360(c)(2)d with standards allowing pier length to be measured from the furthest waterward point of the normal high water mark on any property. A public hearing is requested to be scheduled for the January 6, 2014 Town Council meeting.

Councilman Pruitt made a motion to call for a public hearing for the text amendment application to amend subsection 42-360(c)(2)d with standards allowing pier length to be measured from the furthest waterward point of the normal high water mark on any property and the public hearing is requested to be scheduled for the January 6, 2014 town council meeting. Councilwoman Klutz seconded.

Mayor Perry: *Before I call for the vote there a couple of things I want the councilmembers to look closely at on this because it deals with the length of a pier from an existing landmark. Is the wording in the proposed ordinance strong enough to ensure that it affects only the lot that is being considered? Other lots farther up or down the shoreline cannot be at some point used to make the piers even further out. I want to bring to your attention section (d) where it talks about maximum length of all piers. If you read through to where it says waterward point of the normal high water mark consider adding some words "as measured" and "of the bay or a sound adjoining the property."*

All in favor of calling for the public hearing?

Vote was 5-0.

13. New Business:

a.) Elected Officials Board and Committees:

- Nomination/Oath of Office for Mayor Pro Tempore
- Dare County Government Access Channel Committee

Councilwoman Klutz made a motion to nominate Ervin Bateman as mayor pro tem for a two year term. Councilman Pruitt seconded the motion. Hearing no further nominations Mayor Perry called for the vote. It passed unanimously, 5-0.

Town Clerk Morris administered the oath of office to Councilman Bateman.

Mayor Pro Tem Bateman nominated Craig Garriss to serve on the Government Access Channel Committee. Councilman Pruitt seconded. Councilwoman Klutz asked if it is for two years or four years. MPT Bateman said it is for four years and it passed unanimously, 5-0.

b.) Planning Board Appointments

Councilman Garriss moved to appoint John Richeson to the unexpired term of planning board regular member Craig Garriss with a term to expire June 2015. MPT Bateman seconded the motion and it passed unanimously, 5-0.

Councilman Garriss moved to appoint Chuck Heath to the unexpired term of planning board regular member Jeff Pruitt with a term to expire June 2015. There was no second and the vote was unanimous, 5-0.

Councilman Pruitt made a motion to appoint Bryan Parker to the unexpired term of planning board alternate member Chuck Heath with a term to expire June 2015. MPT Bateman seconded and it passed unanimously, 5-0.

Councilman Pruitt made a motion to appoint Dylan Tillett to the unexpired term of planning board alternate member John Richeson with a term to expire June 2014. Councilwoman Klutz seconded and it passed unanimously, 5-0.

MPT Bateman moved to nominate Lynne McClean as Vice-Chair with a term to expire June 2014. Councilman Pruitt seconded the motion and it passed unanimously, 5-0.

14. Reports or General Comments from Town Manager

- a.) Dare County Comprehensive Transportation Plan Meeting – Manager Stockton announced that on Monday, December 16th, NCDOT will be holding an informational**

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meeting for the Dare County Comprehensive Transportation Plan at the Kitty Hawk Town Hall from 4 p.m. to 7 p.m. The purpose of this meeting will be to answer questions about the CTP and obtain input from the public. The CTP is a plan that addresses the long term transportation needs of Dare County by identifying existing and future transportation deficiencies.

Mayor Perry added this planning has been going on for a long time and it affects US 158, perhaps greatly. He encouraged citizens to go to the meeting and give input.

15. Reports or General Comments from Town Attorney

There were no further comments from the town attorney.

16. Reports or General Comments from Town Council

Councilwoman Klutz welcomed the new councilmembers and said a final farewell to former mayor Clifton Perry.

MPT Bateman welcomed the new members and said he is looking forward to working with them. He then thanked everybody for their help with the marathon. It was a great success

Mayor Perry thanked the new councilmembers for running for election and said he is sure everyone will work well together.

17. Public Comment

1. Dr. Forbes: *You talked a great deal about the 20 and 25 miles per hour on this new road and you never gave a thought to the road coming out onto West Kitty Hawk Road. It is an extremely bad corner. When we come out of Carrenda Lane we put our windows down and listen to make sure we are not going to get rear ended coming out. There has been one traffic death this year already just off of my property. I feel another 60 cars coming in and out of that property onto that corner is going to be big trouble.*

Council thanked Dr. Forbes.

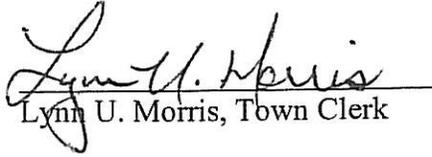
Perry: *Does anyone else wish to speak? Let the record show no one else came forward. Are we ready to adjourn?*

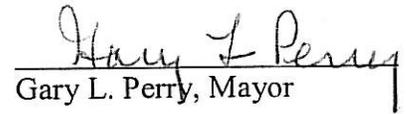
18. Adjourn

Councilman Garriss, seconded by Councilman Pruitt, made a motion to adjourn. It was approved unanimously, 5-0. Time was 7:56 p.m.

These minutes were approved at the *January 6, 2014* council meeting.

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Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor