

MINUTES
KITTY HAWK TOWN COUNCIL
Monday, September 16, 2019
Kitty Hawk Town Hall, 6 PM

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Presentation to the Police Department
5. Public Comment
6. Consent Agenda
 - a.) Approval of August 5, 2019 Council Minutes
 - b.) Demolition Bid for 4240 N. Virginia Dare Trail
 - c.) Pre-Event Contract for Emergency Facility Repair
 - d.) Town Code Amendment to Article II – Abandoned, Nuisance and Junked Vehicles. Ordinance No. 19-06.
7. Items Removed from the Consent Agenda
8. New Business
 - a.) Recreation Master Plan
 - b.) Funding Option for a New Police Station and Fire/EMS Substation
9. Reports/General Comments from Town Manager
10. Reports/General Comments from Town Attorney
11. Reports/General Comments from Town Council
12. Public Comment
13. Motion to go into Closed Session per:
 - a.) NCGS 143-318.11(a)(1) Approval of Closed Session Minutes of May 6, 2019
 - b.) NCGS 143-318.11(a)(6) Town Manager Review
14. Return to Regular Session
15. Adjourn

COUNCILMEMBERS PRESENT:

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

STAFF MEMBERS PRESENT:

Town Manager Andy Stewart, Town Clerk Lynn Morris, Town Attorney Casey Varnell, Planning Director Rob Testerman, Finance Officer Liliana Noble, Police Chief Joel Johnson, Fire Chief Mike Talley and Public Works Director Willie Midgett

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1. CALL TO ORDER

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

2. MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE

A moment of silence was held and then the Pledge of Allegiance was recited.

3. APPROVAL OF AGENDA

Mayor Perry said he would like agenda item 6(d) moved to #7 because he has some questions about the ordinance. **MPT Garriss made a motion to approve the agenda with the amendment. Councilwoman Tice seconded and it passed unanimously, 5-0.**

4. PRESENTATION

Mr. Michael Tillett presented Police Chief Johnson with a certificate of appreciation and thanked him and the department for all their assistance during the inaugural OBX Rod & Custom Festival.

5. PUBLIC COMMENT

1.) Curt Baskette, 3605 Rabbit Hollow, Kitty Hawk, NC: *Mayor Perry, Town councilmembers, Mr. Stewart and Mr. Midgett, first I want to thank you for implementing the successful stormwater drainage system that was constructed on both the east and west side of the bypass in the Rabbit Hollow area. It helped our area immensely, the system being in place and the pumping. I, and some of the other neighbors in that area, also got pumps and pumped 24 hours straight trying to keep up with you. The standing water ponded in what I call the Kitty Dunes pond area on the west side of the bypass. We pumped 24 hours until Mr. Midgett said they were going to stop their operations, so we stopped as well.*

Unfortunately, we still have some standing water in the back. We do not mind standing water as long as it is within control levels in the pond but some of it is still above some of the septic fields we have so there is a little bit of an odor right now. We are trying to put up with that for the time being.

For those of you who are not familiar there was a study done a number of years ago. All the stormwater and ocean overflow problems in Kitty Hawk were looked at and an engineer came up with several plans. I believe all the plans were implemented, monies obtained, and the projects constructed except for the Kitty Dunes pond area and the reason for that was at that time the plan the engineer came up with was just too costly.

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Now the situation has changed. You have this system in place, in fact I understand you have even expanded it, put in culverts underneath both the bypass and under West Tateway connecting the south end ditches. That just leaves us. Anytime the streets flood and the ditches flow over some of that water starts coming back to our pond. In fact, in the most recent occasion, water crossed Tateway once it got up above the street level. Started flowing over the adjacent property into the pond area so that area does serve as a little bit of a retention area in your retention drainage systems.

The only thing we are asking now is to go back and revisit the plan for that area. I think the elaborate plan that was drawn up is no longer practical and not necessary. All we need is a connection between the pond and the drainage areas on either 158 or West Tateway. I have discussed this with the local property owners in that area. All of them will be in favor of that except for one and I think the mayor and Mr. Stewart knows who that is.

I think a pipe, just a simple pipe going ... we are not asking for the pond to be drained down. We are asking that when you have to pump out in these unusual situations it can be lowered down to a level where it is not on top of people's septic fields. I think this can be done cheaply.

I am just asking the council to get the engineer or whoever to restudy that particular system and see if there is not a more simplified way of getting the work done.

Perry: *We can do that.*

Baskette: *Thank you sir. That is all I ask.*

2.) Kristine Lewis, 3620 Poseidon St., Kitty Hawk, NC: *I am on East Tateway and just came from having my septic system pumped. The gentleman looked at me and said it is all rainwater, no solids in it. We are having the same problem on the east side of the highway between Tateway and White. I just want to reemphasize that because this is a climate change issue. It is a water table issue and it is something that needs to be addressed so that we do not have continuing problems of standing water and septic issues.*

Perry: *I will get with Willie. We did change a sump over there, so I don't quite know...*

Lewis: *That is two houses south of ours across an empty lot and I know it was pumping the whole time and there is still standing water underneath that house.*

Perry: *There is a limit to what the state will let us do and he reached that. We came back and they let us go a second time. I will get with him and we will look and see if there is anything else that can be done. We cannot pump individual lots.*

Lewis: *We understand. The water level was rising, and our septic was in question. I emailed Mr. Stewart just to make sure everyone was aware that it is a concern to us. Thank you very much.*

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3.) Craig Halsell, Patriots' Roofing: *Thank you for allowing me to speak. We had a couple of minor issues with some of the gated communities we were going into. Some would allow us to help and we would let their neighbor know we are going to be doing a roof next door to them.*

I guess there is an ordinance or policy against solicitation. We would stop to let the neighbor know we were doing work next door and if they had any problems, nails in the street, too much noise, the guys did anything, here is our business card and give us a call. On occasion we would get a call saying this is a non-solicitation area.

We have more business than we can shake a stick at. When I returned to the roofing industry there were 40 or 50 times the number of roofers than when I left and not all of them were quality contractors. We will leave it at that. So, the industry had gotten a tainted name. What we did to circumvent that is we do not take any money until the job is finished and we do all inspections for free.

Perry: *Public comment is not for advertisement of your company.*

Halsell: *I apologize. I did not mean to do that.*

Perry: *The Town has an ordinance that does not allow soliciting a business in a roadway. If I understand it correctly if you pull into a driveway and talk to somebody that is not controlled by the Town. Is that correct?*

Varnell: *That is private property.*

Halsell: *Thank you.*

No one else came forward to speak.

6. CONSENT AGENDA

a.) Approval of August 5, 2019 Council Minutes. *(An approval of the consent agenda will approve these minutes.)*

b.) Demolition Bid for 4240 N. Virginia Dare Trail. It is recommended that the bid be awarded to Sunshine of Elizabeth City. Their bid of \$12,395 was the lowest out of ten submitted. *(An approval of the consent agenda will approve this recommendation.)*

c.) Pre-Event Contract for Emergency Facility Repair. The Town is required to have a Memorandum of Agreement with a qualified facility repair contractor to make repairs to Town owned facilities. This is mainly done to ensure compliance with FEMA guidelines for reimbursements of funds expended after a federally declared disaster. Staff advertised for bids in July and August 2019 and did not receive any proper proposals. Having done due diligence to get this contract in place staff does not believe there will be any problems regarding reimbursements from FEMA. *(An approval of the consent agenda will acknowledge this information.)*

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d.) **Town Code Amendment to Article II – Abandoned, Nuisance and Junked Vehicles. Ordinance No. 19-06.** Staff discovered discrepancies in this ordinance and has rewritten it to make it easier to understand and enforce. *(An approval of the consent agenda will approve this amendment.)* Removed to number agenda item #7.

Councilwoman Tice made a motion to approve the consent agenda with 6(d) removed. Councilwoman McClean seconded and it passed unanimously, 5-0.

7. ITEMS REMOVED FROM THE CONSENT AGENDA

a.) *(formerly 6(d)).* **Town Code Amendment to Article II – Abandoned, Nuisance and Junked Vehicles. Ordinance No. 19-06.** Staff discovered discrepancies in this ordinance and has rewritten it to make it easier to understand and enforce.

Following some clarifying remarks on deletions and movement of text in the proposed ordinance Mayor Perry asked staff to include a non-marked up copy in the future as well as a copy showing the changes.

8. NEW BUSINESS

a.) Recreation Master Plan

Perry: *The volunteer Recreation Committee does a good job and they have done a nice job with the revised plan. Some of the things in the plan have been looked into and may or may not be possible. A future council might be asked to do some of them and they may not know the history so I want to point those out and get them on the record.*

On page 2, the last sentence of 1.5 states, "According to state standards the recreation needs of the town are met by recreation opportunities within the county." The town is very fortunate that Dare County has a lot of different parks and recreational opportunities not even counting the ocean and sound. We actually exceed what the state would ask a town or county to have but we need a master plan if we are looking to build additional parks or accesses or something like that. This helps us get grant money, so this plan is important and the work they have done is important.

The next item is on page 11, vi, "Coordinate with NC Department of Transportation (NCDOT) for construction of connecting bike paths from Windgrass Circle to the boundary with Kill Devil Hills on Bay Drive." This is important to bring up for corporate knowledge and future councils because we looked at that hard and extensively. A plan was engineered and there were two things that were just almost impossible to overcome. One of them was the topography. When you go to the west side of that road it drops straight down. So that was one problem.

The engineer went back and suggested putting it across the road and then cross back to tie it in. Council said crossing a road twice for a multi-use path does not make any sense. Then when the people living along Bay Drive got wind that we were looking at trying to do this the fight became

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real. They went to the media and every avenue available to them to put a stop to it. Some of them did not have any driveway except for what they are using in the right-of-way. So, topography, crossing the road, it just became unfeasible to put it there. Also, it is not a heavily travelled road so council dropped it. There is a plan out there if anyone wants to look at it.

The last thing over on page 12, 3.1.4, i, "Plan and execute Heritage Day annually when funding is available." Where will it be held? The place it was held at previously, I had a meeting with the owner of that property, and he is actually planning to do something with it and all of the adjoining land so that is not going to be available. A place that is big enough, has all the venue space and those sort of things does not exist today. I just wanted to point that out. It is a nice thing and would be wonderful if you could have it because I know people enjoyed it. But if anybody is thinking it will be at The Promenade it probably will not be. I expect a future council will be seeing some kind of plan from him. He does not know what it was yet but has hired somebody to look at it and give him suggestions.

Do you want to approve the plan or make any adjustments? If you are satisfied make a motion.

MPT Garriss made a motion to approve the Kitty Hawk Recreation Master Plan for FY 2019-20 as presented. Councilwoman Tice seconded and it passed unanimously, 5-0.

b.) Funding Option for a New Police Station and Fire/EMS Substation

Manager Stewart reviewed the following memo with council:

Proposal: At the August 5, 2019 the Town Council requested the manager to bring back funding options for the proposed construction of a new Police Department and possible Fire/EMS substation on US 158.

Background Information: On August 5, 2019 heard a needs assessment and feasibility study presentation from Cahoon and Kasten Architects for a future Police Department Building in addition to a possible Fire/EMS substation. It was determined that the four (4) lots owned by the Town on US 158 would accommodate the needs of the Police Department, Fire Department, and Dare County EMS.

The Town Council requested the Town Manager to present possible funding options without acquiring debt. The proposed funding also includes a timeline that would give all participants a general idea of proposed construction dates for internal planning purposes. The funding option for the entire project is contingent on many factors including changes to the economy and unexpected expenses such as storm damage. This construction of a Fire/EMS substation is also contingent on participation and cost sharing from Dare County EMS. Dare County has shown interest in this location during the initial planning phase however no formal funding commitments have been made by Dare County.

The proposed funding option provides for construction in FY 2021/2022 in the amount of \$2,625,000 with funds being utilized from future operating revenues in the amount of \$725,000 and \$1,500,000 being borrowed from the Town's \$3,500,000 emergency reserve along with a County cost share of \$400,000. The funding option would require the Town to repay the emergency reserve until FY 2029/2030 or earlier until the full amount is paid back to the emergency reserve. The emergency reserve would be reduced from \$3,500,000 to \$2,000,000 on FY 2021/2022. This amount still significantly exceeds the reserve requirement as required by the NC Department of State Treasurer Local Government Commission.

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If the Town Council desires to move forward with the funding option/schedule it is recommended that this be established by Resolution at a future date to ensure future operating revenues are utilized to repay the emergency reserve.

Staff Analysis: Staff is requesting approval of the proposed funding option for the Police Department and Fire/EMS Substation contingent on any unforeseen circumstances.

Town Council Recommended Motion: Approve the funding option and direct staff to continue budgeting amounts specified in the funding option as presented.

Perry: *I was here when the \$3.5 million was set aside. It was a percentage of the budget at that time and it was done in that fashion because Governor Perdue was in office and word came to us the state government was saying municipalities were holding back too much money and was going to change the equation. We are only required 8% which is very little. It is not enough and everybody knows that. It has been a comfort to have that much given all the storms we have.*

Casey, if council enacts something of this nature and we want future councils to have an obligation to pay the money back to the Town can that be done?

Varnell: *Absolutely. Adopting an ordinance would go a long way and we can incorporate the payment schedule into the ordinance.*

Perry: *I know one council cannot bind another unless there is some sort of contract and I wanted to know that it could be paid back. Council your thoughts please.*

Tice: *Is language already in place it could be borrowed from by the Town for future development?*

Stewart: *The resolution says if it drops below \$3.5 million the council will adopt a plan to bring the balance back up within 24 months.*

Perry: *But council can change that language anytime we want.*

Varnell: *Correct. You can change the language.*

Perry: *Right now we have a bond obligation for beach nourishment and that ends next year. Then we must start thinking about re-nourishment. We will need to borrow money again and we do not want to disrupt that potential.*

Stewart: *This could change. It is two years out and if the economy tanks or there is another unexpected event then I may be back before you saying we need to hold off. But this does give us an idea.*

Perry: *And let me add I am probably responsible for pushing this out a couple of years because we are going into a big election next year. It is already a mess. We do not know what is going to happen so we will work along this direction and then if the country comes out unscathed, the economy does not go south, then this is something we can do. At what point do you need a decision from council?*

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Stewart: *I am going to continue to budget the money and we will probably start looking at the design and bid in 2020-2021.*

Perry: *Okay. Council has the rest of this year to look at it and we will address it next year. We will also have at least one new councilmember to help deal with it. Does that work?*

Garriss: *Just thinking ahead a little ... furnishings and other expenses is budgeted at \$75,000. Security cameras, magnetic door locks, I am involved with that in my current job and \$75,000 is not going very far. Is security included in that number?*

Stewart: *No but I estimated on the high side for the construction estimates. These are just ballpark numbers.*

Perry: *Thanks Andy. I appreciate this.*

Varnell: *And in the interim I will research options on how we can contractually put something in place that is binding.*

Perry: *I think we would all feel better knowing the money goes back for the citizens.*

9. TOWN MANAGER

Hurricane Dorian Vegetative Debris Pickup:

Manager Stewart said to continue putting out vegetative debris in the right-of-way. The town will suspend the chipping services for October due to it being picked up now.

Mayor Perry added there is a delay with the vegetative pickup because it has not been determined if FEMA will declare the storm. All the towns and county are in a quandary until a decision is made.

10. TOWN ATTORNEY

No comments or reports.

11. TOWN COUNCIL

Councilman Pruitt thanked staff for the quick cleanup of trees and limbs in the streets that were knocked down by Hurricane Dorian.

Councilwoman McClean said she is glad everyone made it through without any major problems.

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MPT Garriss said Kitty Hawk is lucky and very blessed to have survived the storm like we did. Staff and the mayor did a fantastic job.

12. PUBLIC COMMENT

No one came forward to speak.

13. CLOSED SESSION

Mayor Perry made a motion, seconded by Councilwoman Tice, to go into closed session per the following:

- a.) NCGS 143-318.11(a)(1) Approval of Closed Session Minutes of May 6, 2019**
- b.) NCGS 143-318.11(a)(6) Town Manager Review**

The vote was unanimous, 5-0. Time was 6:47 p.m.

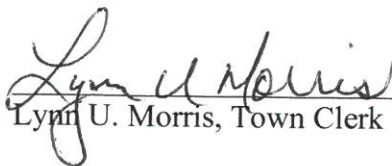
14. RETURN TO REGULAR SESSION

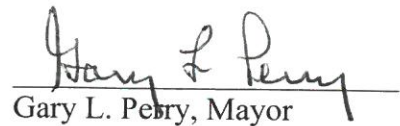
Mayor Perry made a motion to return to regular session. It was seconded by Councilwoman McClean and the vote was unanimous, 5-0. Time was 7:09 p.m.

15. ADJOURN

Mayor Perry made a motion, seconded by Councilman Pruitt, to adjourn. The vote was unanimous, 5-0. Time was 7:09 p.m.

These minutes were approved at the October 7, 2019 council meeting.


Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor