

MINUTES
KITTY HAWK TOWN COUNCIL
Monday, June 1, 2020
Kitty Hawk Town Hall, 6 PM

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Introductions:
 - Police Officer I Kyle Hubbs
 - Fire Captain Brad Antons
5. Public Comment
6. Consent Agenda
 - a.) Approval of May 4, 2020 Council Minutes
 - b.) FY 19-20 Budget Amendment #8
 - c.) FY 19-20 Budget Amendment #9
 - d.) FY 19-20 Budget Amendment #10
 - e.) FY 19-20 Budget Amendment #11
 - f.) FY 19-20 Budget Amendment #12
 - g.) FY 19-20 Budget Amendment #13
 - h.) FY 19-20 Budget Amendment #14
 - i.) Drainage Improvements in the Rabbit Hollow Area Project
 - j.) Resolution Adopting the Outer Banks Hazard Mitigation Plan
 - k.) Fiscal Years 2019-20, 2020-21 and 2021-22 Audit Contract/Commitment with Dowdy & Osborne and Anna McGinnis, CPA.
7. Items Removed from the Consent Agenda
8. Public Hearing:
 - a.) Fiscal Year 2020-21 Budget (Adoption of the Budget Ordinance and Related Documents is scheduled for June 8, 2020)
9. New Business:
 - a.) Appointments to the Planning Board and Recreation Committee
 - b.) Retiree Spouse Health Benefit
10. Reports/General Comments from Town Manager
11. Reports/General Comments from Town Attorney
12. Reports/General Comments from Town Council
13. Public Comment
14. Motion to go into Closed Session concerning:
 - a.) NCGS 143.318.11(a)(3) To consult with the town attorney regarding Joseph E. and Linda C. Blackburn and all similarly situated individuals v. Dare County, Towns of Duck, Kitty Hawk, Nags Head, Kill Devil Hills, Manteo and Southern Shores
15. Motion to Return to Regular Session
16. Recess to June 8, 2020, 9 AM, Kitty Hawk Town Hall

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COUNCILMEMBERS PRESENT:

Mayor Gary Perry, Mayor Pro Tem Craig Garriss, Councilman David Hines, Councilwoman Lynne McClean and Councilman Jeff Pruitt

STAFF MEMBERS PRESENT:

Town Manager Andy Stewart, Town Clerk Lynn Morris, Town Attorney Casey Varnell, Town Planner Rob Testerman, Finance Director Liliana Noble and Police Chief Joel Johnson

Due to the COVID-19 pandemic declared on March 11, 2020, gathering and social distancing guidelines, anyone could listen to this meeting by telephone, view it by live stream or watch it later on demand if they did not want to attend in person.

1. CALL TO ORDER

Mayor Perry called this meeting to order at 6 p.m. He announced this meeting is being streamed live and people can listen by telephone. All councilmembers, a member of the public and staff members are present. Everyone is social distancing.

2. MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE

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

3. APPROVAL OF AGENDA

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

4. INTRODUCTIONS

Chief Johnson informed that the introductions need to be postponed because both are at a structure fire on the beach road.

5. PUBLIC COMMENT

1.) Curt Baskette, 3605 Rabbit Hollow, Kitty Hawk, NC: *Good evening. It is a happy occasion for me tonight. I have been working with council for a number of years to try and get a fix for the flooding problem that a number of residents and commercial establishments have in the Rabbit Hollow area. I am so happy we have something on the agenda (Item # 6i) tonight that will hopefully provide some relief to the persistent flooding. Again, I really thank the council and staff for working with us for such a long time. Hopefully, this will be passed tonight.*

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I have, however, one additional request. We have already had a lot of rain; hurricane season is amongst us and they are calling for an unusually high hurricane season. If this is approved can the work be done as soon as possible? Again, thank you for your help in making this thing happen.

Perry: *In answer to your question about as soon as possible. That is our intent. Even though we held off on capital purchases until later in the year we did buy another pump. I do not know if it is here yet, but it has certainly been purchased and that will give us two pumps. Putting that line in is also high on the agenda and will be paid for once we approve our budget. It will not be a fix all, but we hope it will give you the same advantage everyone else gets in town with regards to flooding.*

Baskette: *We understand the situation and appreciate it.*

Perry: *Is there anyone on the telephone that wants to speak during this public comment section?*
(No one answered.)

6. CONSENT AGENDA

a.) Approval of May 4, 2020 Council Minutes. *(An approval of the consent agenda will approve these minutes.)*

b.) FY 19-20 Budget Amendment #8. This amendment, in the amount of \$25,015, will recognize and appropriate expenditures incurred for Hurricane Dorian CAT B (Emergency Protective Reimbursement). *(An approval of the consent agenda will approve this amendment.)*

c.) FY 19-20 Budget Amendment #9. This amendment, in the amount of \$75,000, will appropriate additional funds to the General fund to cover the change orders to the Bath House remodeling contract with Godfrey Construction, LLC. *(An approval of the consent agenda will approve this amendment.)*

d.) FY 19-20 Budget Amendment #10. This amendment, in the amount of \$19,563, will appropriate additional funds in the General fund to cover the expenses incurred for the demolition of 3 cottage court structures located at 4240 N. Virginia Dare Trail (Parcel #011071000). *(An approval of the consent agenda will approve this amendment.)*

e.) FY 19-20 Budget Amendment #11. This amendment, in the amount of \$17,500, will appropriate additional funds in the General fund from the Capital Reserve Fund (Storm Damage/Beach Nourishment) for the purchase of an 8-inch dewatering pump. *(An approval of the consent agenda will approve this amendment.)*

f.) FY 19-20 Budget Amendment #12. This amendment, in the amount of \$29,315 will appropriate additional funds in the General fund to purchase the license plate reader authorized by council on January 27, 2020. *(An approval of the consent agenda will approve this amendment.)*

g.) FY 19-20 Budget Amendment #13. This amendment, in the amount of \$7,700, is to recognize the Unauthorized Substance Tax distribution allocated to the Town for this fiscal year. *(An approval of the consent agenda will approve this amendment.)*

h.) FY 19-20 Budget Amendment #14. This amendment, in the amount of \$50,000, will appropriate additional funds to the General fund to cover the contracts with Coastal Protection Engineering for: (grant application \$4,960), (post-Hurricane Dorian repair project design report and initial permit for FEMA \$21,867.50), (Year 3 post-construction monitoring \$51,496). *(An approval of the consent agenda will approve this amendment.)*

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i.) Drainage Improvements in the Rabbit Hollow Area Project. This project, estimated at \$24,000, entails installing approximately 300 feet of drainage pipe between 3600 and 3608 N. Croatan Highway to mitigate the amount of standing water on the east side of Rabbit Hollow to divert rainwater to the ditch line and outfall along Croatan Highway. *(An approval of the consent agenda will approve this project.)*

j.) Resolution Adopting the Outer Banks Hazard Mitigation Plan. The Town has been involved in the creation of this multi-jurisdictional plan, which replaces the previous regional hazard mitigation plans. The plan can be found at www.obx-hmp.com. *(An approval of the consent agenda will approve this plan.)*

k.) Fiscal Years 2019-20, 2020-21 and 2021-22 Audit Contract/Commitment with Dowdy & Osborne and Anna McGinnis, CPA. This 3-year audit/commitment with Dowdy & Osborne, LLP is in the amount of \$18,500 each year with a separate contract with Anna McGinnis, CPA in the amount of approximately \$2,000 each year to write the financial statements for the town. *(An affirmative vote for the consent agenda will approve these 3-year audit/commitments with Dowdy & Osborne and Anna McGinnis.)*

Councilwoman McClean, seconded by Councilman Pruitt, moved to approve the consent agenda. It was unanimously approved, 5-0.

7. ITEMS REMOVED FROM THE CONSENT AGENDA

No items were removed.

8. PUBLIC HEARING

a.) Fiscal Year 2020-21 Budget (Adoption of the Budget Ordinance and Related Documents is scheduled for June 8, 2020)

Mayor Perry made a motion, seconded by Councilman Hines, to go into public hearing. It was approved 5-0.

Stewart: Tonight, we are holding the public hearing for the Fiscal Year 20-21 budget ordinance and related documents. On May 11, 2020, the town council met to review and discuss the proposed budget. It includes a tax rate of .30 cents per \$100 valuation which represents the revenue neutral tax rate calculated for the new property re-evaluations that were conducted by Dare County. As you recall our current tax rate is .34 cents per \$100 valuation. The reason it went down to 30 cents is that is the same tax rate that will produce the same amount of revenues as we currently receive. While it looks like a tax reduction it is a revenue neutral tax calculation. The properties located within the Municipal Service District will pay an additional .10 cents per \$100 valuation.

The budget before you is balanced with revenues and expenditures of \$9,344,401. The proposed budget includes allocations for expenditures and estimates of revenue in each of the town's general fund and capital reserve funds and the five-year Capital Improvements Plan.

The budget continues to place an emphasis on fiscal management and operations and decision making in accordance with the goals and objectives established by the citizens, town and staff. As

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you know we are going into the budget cycle with a lot of uncertainty due to the COVID-19 pandemic. We have greatly reduced the revenues from the Occupancy and Sales taxes. We did that to give ourselves a buffer in case there happens to be a second wave of infections that causes a disruption to our tourism season. We hope it does not, but we budgeted for those revenues at a 50% level. We plan to bring the budget back to council in the fall once we see how our summer season has gone.

This budget is bare bones. We do not have any additional benefits for our employees. We believe that is appropriate given the circumstances we all face around the nation. It utilizes \$744,000 of unrestricted fund balance to balance it. The town, over the past 5 years, has done a great job at positioning itself to combat these type of emergency situations. We continue to maintain the \$3.5 million emergency reserve. The budget also postpones the 5-year Capital Improvements Plan.

In summary there is not much in this budget as far as extras. The staff has done a great job of staying within the budget over the past several years and that has allowed us to not have a financial crisis on our hands. Council has done an excellent job of building up a good cushion for situations like we face today. I will stand for any questions. Thank you.

Perry: *When we revisit this around October, if we have as robust a season as it is looking like it might be, and we do not have any setbacks, I want to look at the step plan. Make sure you bring that to us.*

Mayor Perry made a motion to present the budget at the June 8, 2020 recessed council meeting for final adoption. MPT Garriss seconded and it passed unanimously, 5-0.

(Clerk's Note: Effective May 4, 2020 a new state law (SB 704) was enacted because of the COVID-19 pandemic. It is only in effect while under a declaration of a state emergency and modifies some of the laws of meetings of public bodies. One modification is regarding public hearings when a remote meeting is held. (A remote meeting is when one or more members is not physically at the meeting and uses electronic means such as a telephone or computer to attend.) If a remote meeting is held there must be at least a 24-hour comment period allowed after the hearing. While the town council meetings have been open to the public, and all the councilmembers have attended every meeting, there were times no members of the public attended during the Governor's *Stay at Home Order* and *Safer at Home* recommendation. Voting on the budget at this meeting may have met the letter of the law but not the spirit. (Delaying the vote also allowed for a council member to attend this meeting remotely if he or she had to or chose to do so.)

Perry: *Are there any comments from anyone listening on the telephone? (There were no comments.)*

9. NEW BUSINESS:

a.) Appointments to the Planning Board and Recreation Committee

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Perry: The people currently serving on the planning board wish to continue.

Councilman Pruitt made a motion to reappoint Bryan Parker and Dusty Rhodes as a regular member of the planning board with a term of office to expire June 30, 2022. Hearing no other nominations Councilwoman McClean seconded and it passed unanimously, 5-0.

MPT Garriss made a motion to reappoint Gary Muir as an alternate on the planning board with a term of office June 30, 2022. Hearing no other nominations, Councilwoman McClean seconded and it passed unanimously, 5-0.

Councilwoman McClean made a motion for reappointment of John Richeson as the chairman and Bryan Parker as the vice-chairman of the planning board for a one-year term. Hearing no other nominations, MPT Garriss seconded and it passed unanimously, 5-0.

***Perry:** Now the Recreation Committee. There are three terms expiring in June, Christine Buckner, Linda Barnhart and Rita Phillis and they have all said they would like to be reappointed. They have been on the committee for quite a while and they have done a good job especially with bringing the Master Plan up to date. We also have others that would like to serve and have been waiting for a chance to do so.*

Mayor Perry appointed Charlotte Walker, Kip Tabb and Timothy Fish to the Recreation Committee with a term of office to expire June 30, 2024. Hearing no other nominations, Councilman Pruitt seconded and it passed unanimously, 5-0.

b.) Retiree Spouse Health Benefit

Proposal: Approve a revision to Article X, Section 3 – Retiree Spouse Coverage of the Town Personnel Policy.

Background Information: Council Approved a revision to Article X. Section 3 – Retiree Health Benefits on May 11, 2020. This revision allows pre-Medicare Retirees to remain on the Town's Health Plan up to Medicare eligibility.

At that time, Council asked staff to explore Dependent Coverage for Retirees, providing the cost was paid in full by the Retiree.

The Town's Insurance provider has agreed to allow Retirees to continue coverage for a Spouse on the Town Plan with no impact on premiums to other employees. If approved by Council, this change would be effective July 1, 2020.

Currently Cigna has not authorized Retirees to add dependent children to the plan. The matter is currently under review with CIGNA and we can provide additional information on the impact of such a change in the future. We currently do not have pre-Medicare Retirees who wish to add dependent children.

Staff Analysis: Town Staff is recommending that pre-Medicare Retirees, have the option to add a Spouse when they elect to continue with the Town's plan. If approved this change would be effective July 1, 2020. The cost of coverage for the Spouse would be paid by the Retiree in full.

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Perry: *Andy, at the workshop we were asked if there had been discussion of allowing dependents on a retiree's health plan and I said I did not recall any. I guess the reason is it used to be in the policy and was not discussed. Did it get deleted when we went with Cigna? Is that what happened.*

Stewart: *That was prior to me coming on board but my understanding is it got dropped whenever we stopped allowing retirees to participate in our plan and we started going to the reimbursement schedule.*

Perry: *It did not get discussed in a way that I would have made an association with it.*

Garriss: *It was in the policy at one point. You are right.*

MPT Garriss made a motion to approve the revision to Article 10, Section 3, Retiree Spouse coverage of the Town Personnel Policy. Councilwoman McClean seconded and it was unanimously approved, 5-0.

10. TOWN MANAGER

Stewart: *I would like to recognize and thank Vicki Thompson, a resident of the Town of Kitty Hawk. A while back she dropped off 60 masks for the town staff. They are nice handsewn masks and we appreciate her doing that. We have some really good residents that care a lot. Once everything has died down, perhaps we will invite her to a council meeting and publicly recognize her.*

11. TOWN ATTORNEY

There were no comments from the attorney.

12. TOWN COUNCIL

Garriss: *We have been through some trying times in this town and we are still going through some as we speak. I would just like to thank all the departments for everything they have done and everything they will continue to do. Who knows when this nightmare will be over but let's hope it is soon.*

Hines: *I echo the same appreciation to the staff. It must be unique for police and fire to keep at a distance and try to control all the stuff that is happening now that the bridges are open.*

13. PUBLIC COMMENT

There were no public comments.

14. CLOSED SESSION

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Mayor Perry made a motion to go into closed session for the purpose of NCGS 143.318.11(a)(3) To consult with the town attorney regarding Joseph E. and Linda C. Blackburn and all similarly situated individuals v. Dare County, Towns of Duck, Kitty Hawk, Nags Head, Kill Devil Hills, Manteo and Southern Shores. Councilwoman McClean seconded the motion and it passed unanimously. Time was 6:24 p.m.

15. RETURN TO REGULAR SESSION

Mayor Perry made a motion, seconded by MPT Garriss, to return to regular session. The vote was unanimous, 5-0. Time was 6:56 p.m.

Attorney Varnell announced council is now back in regular session and they went into closed session to discuss the pending lawsuit filed by Joseph E. and Linda C. Blackburn and all similarly situated individuals in the form of a class action versus Dare County and the applicable municipalities within Dare County.

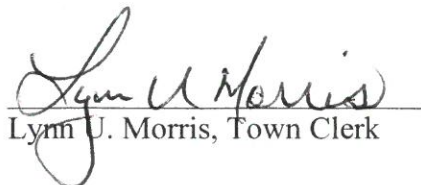
Philip Ruckle (Reporter for The Coastland Times): *Only discussion and no action?*

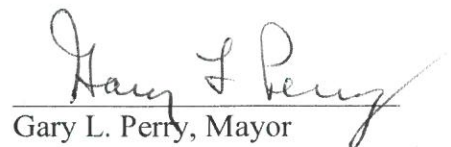
Varnell: *No action taken.*

16. RECESS TO JUNE 8, 2020

Mayor Perry made a motion to recess to June 8, 2020, 9 a.m., Kitty Hawk Town Hall for the purpose of officially adopting our Fiscal Year 20-21 budget ordinance and related documents, design and engineering agreement with Coastal Protection Engineering for the 20-22 beach re-nourishment project and review of and possible action on any COVID-19 pandemic matters. Councilwoman McClean seconded and it passed unanimously, 5-0. Time was 6:57 p.m.

These minutes were approved at the July 7, 2020 council meeting.


Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor