

MINUTES
Recessed Meeting
KITTY HAWK TOWN COUNCIL
Monday, June 8, 2020
Kitty Hawk Town Hall, 9 AM

Agenda

1. Call to Order
2. Business:
 - a.) Adopt FY 2020-21 Budget Ordinance, Position Classification Plan and the CIP
 - b.) Design and Environmental Permitting Services for the 2022 Beach Nourishment Project/Coastal Protection Engineering of NC, Inc
 - c.) Possible Discussion of Drainage Improvements in the Rabbit Hollow Area Project (approved at the June 1, 2020 meeting)
 - d.) Review/Action Related to the COVID-19 Pandemic
3. Adjourn

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, Public Works Director Willie Midgett

This meeting could be attended in person or listened to by telephone.

1. CALL TO ORDER

Mayor Perry called this recessed meeting from June 1, 2020 to order at 9:02 a.m. He announced all councilmembers, the town clerk, town manager and the public works director are present. Also, two members of the public. The town attorney needs to be in court and after speaking with him he does not think his attendance will be needed at this meeting.

2. BUSINESS

a.) Adopt FY 2020-21 Budget Ordinance, Position Classification Plan and the CIP

Perry: *The only reason the budget has not already been adopted is because we went above and beyond the new law adopted by the state in May.*

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(Clerk's Note: No further comments on the budget were received between the public hearing on June 1, 2020 and this recessed meeting.)

Councilman Pruitt made a motion to approve the budget for the Fiscal Year 20-21. Councilwoman McClean seconded and it passed unanimously, 5-0. (Ordinance No. 20-02)

b.) Design and Environmental Permitting Services for the 2022 Beach Nourishment Project/Coastal Protection Engineering of NC, Inc

Perry: This is an item we must have to be eligible for any FEMA reimbursements. It is also a planning document to get us in line for a re-nourishment along with the other towns and in concert with the county.

MPT Garriss made a motion to approve the design and environmental permitting services for the 2022 beach re-nourishment project by Coastal Protection Engineering of NC, Inc. Councilwoman McClean seconded and it passed unanimously, 5-0.

c.) Possible Discussion of Drainage Improvements in the Rabbit Hollow Area Project (approved at the June 1, 2020 meeting)

Perry: We approved this project in the Rabbit Hollow area at the June 1st meeting, but the property owner of CRT has some problems with it and I am going to ask him to come up and state his objections.

Nurrudin (Rudy) Noori, owner of CRT (Glass and Screen Services), 3600 N. Croatan Highway, Kitty Hawk, NC: *Good morning. Thanks for allowing me to speak this morning. I also want to thank you mayor. I sent out an email on Friday morning and within an hour or so you replied to let me know you were going to respond further a little later. I really do appreciate that, and it means the world to me as a resident and shows your leadership.*

On the Rabbit Hollow project, I am not so much opposed to the stormwater being pumped out. I think we all need help. My biggest issue is when it is contaminated sewage water being pumped. I am sure it is documented and has been documented based on my little research. Mr. Baskette himself said the sewage comes up in his yard. During the last storm, the water was pumped in front of 3600 North Croatan Highway to the ditch and that water sat there for a week. Not only was it very visible, the sewage itself, it smelled bad. It sat there for a week at which point I called Mr. Stewart and he and Mr. Midgett came out and inspected it. They saw for themselves. It seems

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to me we have an issue with the septic tank in one area and we are basically pumping it out to the greater community.

As you all know I run a business and most of my customers are my neighbors and my neighbors are my livelihood. As some of you know we have been here for 30 years. I am not sure if we have had an issue in the past 3 years ... three complaints and they were not really complaints. One of them was my issue and the other two were minor misunderstandings which was solved. So, I do value my neighbors and my customers.

We do whatever it takes to help but, in this case, I am afraid that I think due diligence needs to be done. We need to study the water. We need to know where the contaminated water comes from. Is the septic contained? If not, all that water pumps out in front of my shop and I have customers and employees. The mosquitos ... and as all of you know I think the coronavirus kind of woke us up that sewage issues create illnesses and problems. Not just for one but for all of us. If you pump this water to the beach there are kids on the beach, the young and old are on the beach. They lay down and sit on the beach. In my opinion this creates a huge problem. I think if we dig a little deeper and answer some of these questions then we can help the discussion on the drainage. Right now, the only thing we have not done, in my opinion, is to satisfy me that this is not someone's septic tank being pumped in front of my shop. Like I said this is not something that I make up. This is a known fact based on the little research that I have done. Mr. Baskette has himself told us that he is getting sick because of this. So now we are creating and getting one person's problem and pushing it out to the greater community. I am not so sure I feel comfortable with that.

Furthermore, it is almost the opposite of what our governments, Dare County and the towns have done. I think we are number one or two in the world for containing coronavirus. Congratulations to you on that but I think we are totally doing the opposite here. We are taking something and pushing it out to the greater community. I respectfully ask the town to do more study to make sure we are not pumping septic out from one place to the next. That is my biggest concern. And the health issues. It is a hazard. Again, it is a known fact.

I will appreciate your consideration on this issue, and I will really, really appreciate it if there is a study done of the quality of the water before and after. The actual inspection of the septic itself because that is all it is. The water stands there, and it is all septic, it is not stormwater. I mean it is stormwater, but it is contaminated stormwater. That is my issue.

Perry: *There are a couple of things that need to be stated for the record. One of the reasons the state allows us to pump so quickly is to remove the floodwater that is sitting on top of every septic tank of every house between the roads and including the west side of 158 where you have your*

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business along with Resort Realty. That whole stretch is under water. All those septic tanks are under the same influence as Mr. Baskette's and all the ones between the highways so we try to pump that as quickly as we can. The state understands we are trying to remove the contaminated water before it becomes really filthy.

In this particular case something different happened in that it was pumped in excess of what we normally pump or it was pumped later and I am not clear on that so I am going to ask the public works director that question. Before we discuss it any further, I want you to understand it is not just that one septic tank it is the whole town east of 158 and where you work. You seem to be forgetting that.

With that said I want to read for the record some of the questions you asked and the answers that our engineer gave.

Question 1: Will the town provide assurances and take liability that the water pumped into the ditch from the properties will not cause diseases or illness to employees or the public.

Answer: This system has no pump and will not completely evacuate all standing water at the affected area. Depending on the amount of time water stands will dictate how contaminated it could become.

Question 2: The property we are relieving of water is located in a wetland. Do we have approval to pump a wetland?

Answer: We are not pumping wetlands at all even when we use the pumps. We do not need any approval to do this as we will not degrade the wetlands by simply allowing some detrimental floodwater to drain away from the area more quickly.

Question 3: Can the town guarantee the water pumped will not contain sewage from the properties? You mentioned you sent an email after the town allowed this to take place previously. I will locate the email.

Answer: There are septic tanks and fields near to and possibly within the flooded areas that could leach into floodwaters so limiting the amount of flooded area and lowering the floodwater elevation should limit the leaching that could occur.

Question 4: Has the Department of Water Quality reviewed the plan?

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Answer: This is not a Department of Water Quality permit requirement, but it is listed in our Emergency Pumping Plan as an area where we have the right to lower floodwater after certain flooding events.

Question 5: Has the county health department reviewed the plan?

Answer: The county health department does not regulate stormwater systems but by running this new gravity pipe/French drain at the property line we are compliant with setbacks to the drain fields.

Question 6: How will the town control any other chemicals or substances that may be stored on private property from getting pumped into the ditch and into the ocean?

Answer: During a flooding event many different chemicals, oils, bacteria and other contaminants may be within the flooded areas. I am not sure how to answer this. It is illegal to dump any substances already.

The other thing I will bring to your attention is I answered your email and in that I told you we do not pump private property. That is a sink hole and we are just not financially going to get into it. If we did one, we would have to do everybody.

Another thing is we are only providing a drainage system that will seek the same level of floodwater mitigation for this particular group of properties and it is one that we give the rest of the citizens within this town. Nothing more, nothing less. What we are trying to do is the same thing we do for everybody and if somebody pumps beyond that then they have broken their own law. That would be taken care of in a different way, but it is not our responsibility and it is not something we are taking on.

Anyone else before I ask if Mr. Baskette wants to speak?

Pruitt: *Is the concern that this water is going through your property or the fact that it is being pumped out?*

Noori: *Thank you for the question. This is not about stormwater. This is strictly about sewage or contaminated stormwater. The town has a drain now that pumps to the ocean during the storm. If you look at the plans that drain is about 16", or somewhere along there, higher than where the water sits. Mr. Mayor I fully understand and appreciate because of the low-lying water the septic*

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comes up and that septic gets pumped in front of the ditch right next to the bypass. That 16" of water sits there after the storm and that is contaminated water and that is my biggest concern.

Perry: *Again, we are not pumping anything. It is a gravity feed over to that ditch where we can then discharge it along with everybody else's. The same amount. No more, no less.*

Pruitt: *Is your tank not doing the exact same thing that everybody else's is in that area? Is your tank contributing to the problem?*

Noori: *No sir. It is Mr. Baskette's property and one other property next to him but the other property next to him is really ... it is lower than Mr. Baskette's. If you look at Rabbit Hollow and if you take a video when the storm comes up ... the only one that it is really affecting the most is Mr. Baskette's. It is lower all around the houses. I am in front of him and there is another gentleman right next to it. We are about, I would say about 24", maybe 30", higher.*

Pruitt: *Was a pipe not put in to pull all the water from the south and the north to that central area? I am talking about Albemarle Eye, Seto's. That area in there. Was that not tied into it and didn't we clean the culverts?*

Perry: *That is what we did, and we added some culverts.*

Pruitt: *Under the road to get it so pretty much all the water is basically ... so we would have to include the Albemarle Eye septic and all of those if we were determining the water that is possibly going to end up at the same place as Mr. Baskette's. Your water is going to end up at the same place as Albemarle Eye. I have been there when they have been completely flooded and I am sure somehow their tanks must be leaching also.*

Noori: *I would love to invite everyone to look at it so we can go over it physically. I have never had that issue before until Mr. Baskette pumped his yard. If there was any issue from any other property or any other stormwater believe me, I would have known. Mr. Midgett, during every storm, dutifully comes out and looks at it. I see him all the time. You would have noticed it. We never had this issue before in the past 4 years that I have been there until Mr. Baskette got pumped out.*

Perry: *But he did that himself.*

Noori: *And that may be. If that is the case, then we really need to look at first and foremost Mr. Baskette's septic. Is it up to code? Is it contained properly? Why does the sewage come out? All*

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these questions, I think, need to be answered before we move forward. My neighbors are my livelihood. I am not here opposing any improvement within the town or helping any neighbor. My biggest concern is the health of the greater community because of this. The illnesses and the diseases it may cause.

Perry: *Mr. Baskette do you want to speak?*

2. Curt Baskette, 3605 Rabbit Hollow, Kitty Hawk, NC: *No. I think you have addressed all the issues.*

Perry: *Alright. I need Willie up here. We had a no name storm that flooded us. That is what this all comes around to correct?*

Midgett: *Yes. We had a large rain event that lasted about two weeks.*

Perry: *And you pumped.*

Midgett: *We did. As far as we could.*

Perry: *So how did we get in a position where we were pumping extra?*

Midgett: *We started pumping late because we had to have a certain amount of water to pump for the system to work properly. When it first rained there was rain standing in the ditch. We pumped for 10 minutes and it would dry it out. The water did get a little nasty. But that is from all the systems. It is not necessarily the tank, the drain fields themselves are going to leach no matter what. It is just the longer it sits ... and this particular storm it sat for probably a week before things started getting pumped out. That is why it had such a smell.*

Perry: *We pumped using the system that we have. We did not pump a private property. Is that correct?*

Midgett: *Yes sir.*

Perry: *In the future if we stick to our written document and that is all we pump and once we are finished pumping if we see somebody else pumping out of a yard into the ditch can we not control that? In other words, we have a code enforcement officer and we can actually stop that kind of pumping to another person's ditch line if you want to call it that.*

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Midgett: *My understanding is if they pump into a public right-of-way, unless it is something illegal, such as oil, fuel and possibly even sewage to a certain point, it is okay. The county would have to make that call.*

Perry: *The county.*

Midgett: *The health department should be able to do that yes sir. This pipe, if it flows, is only going to get to an elevation of 6 to 7' according to the engineer and that is the same elevation as the ditch and the top of the grate. I understand what Rudy is talking about. To the north of the drop inlet is the ditch itself. It is a little lower, so water does lay in there. When the state begins repaving the bypass, they are supposed to re-ditch everything. That could fix a lot.*

Perry: *The engineer has a check valve proposed?*

Midgett: *He has a check valve, so nothing comes from the bypass to go back into Rabbit Hollow.*

Perry: *If we put a valve in there then we have total control over somebody that might want to pump into our pipe and use it in a way that would flow back in a direction we do not want.*

Midgett: *We could put a manual valve along with a check valve because even with the system we need a check valve to make sure nothing goes in there. And we could lock it and open it as needed. If we know a storm event is coming and water starts to come up, we can open the valve when we start pumping.*

Pruitt: *Willie when that rain came do you think the majority of the drain fields in that area were influencing the water or was it certain ones.*

Midgett: *It came from all of them. There are 5 houses in the Rabbit Hollow area and one on Tateway. His drain field is right next to a bulkhead that runs beside Mr. Baskette's, but it will still leach through. Resort Realty, next door to Rudy, theirs was flooded the whole time. And it also picks up from Ascension properties as well.*

Pruitt: *So, to make somebody go check their tanks and everything we would have to ask everybody in that area? Not just one person.*

Midgett: *Right. I think it is actually coming from the fields themselves. The tanks have lids and the weight should hold the water in pretty much. Really it is the fields and I do not think there is any way around it.*

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Pruitt: *My point is the contamination is not just coming from one particular drain field.*

Midgett: *Yes sir.*

Garriss: *Just to be clear. This rain event we are talking about, Mr. Baskette pumped his property and you pumped at the same time?*

Midgett: *Yes. And when we stopped pumping, he stopped pumping.*

Pruitt: *Will this new system make it so he does not have to pump off his property?*

Midgett: *He should not have to because if he does that is putting it below what is the average 6 to 7' height elevation.*

Pruitt: *We are kind of eliminating that problem. Hopefully, that is the whole idea here.*

Midgett: *He will almost always have water standing behind his house except in the summertime when it is dry. But considering it is a 404 wetland it is going to stay wet. We are not going to dry anything out and we are not trying to. We are trying to keep it from where it gets into houses and flooding inside.*

McClean: *The culverts along the highway are DOT's?*

Midgett: *Yes*

McClean: *Basically, the water is going to seek a consistent level throughout. Because of the difference in the depth of the culverts it is going to be deeper here than it is there and there is going to be more water here longer than over there until this whole basin called Kitty Hawk gets to a level and drains. Right? DOT has the key to why in front of CRT there is always more standing water.*

Midgett: *Like I said because that section ditch is a little bit lower than our sump drain we cannot make it dry.*

McClean: *But that is DOT's ditch.*

Midgett: *When they do the road work, they may fix that.*

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McClean: *But we are not creating any other issues. We are not adding additional collection areas for the water. All we are doing is making it easier for the water to get from point A to point B.*

Midgett: *Yes.*

McClean: *On Kitty Hawk Road there are culverts where the water comes off the sound, goes back into the land and sometimes it flows easier than others. We make sure the culverts under the road are kept clean and when they are not allowing the water to go through DOT cleans them out. That is DOT's passage for the water. We are putting in a pipe that is not open to collection like a culvert.*

Midgett: *Yes. It is speeding up the process a little. It is all going to soak in the ground and it will seek its own level.*

McClean: *Eventually. We are just giving it a faster route to get there.*

Midgett: *We can pump them down as well just like we do at Goosander, Poseidon and everything else between the highways. It will all go down at the same time instead of water sitting over there. The idea is to get it off those drain fields because it will turn nasty.*

McClean: *But unfortunately, in front of CRT the culvert has a low spot and the water remains on top of the surface longer.*

Midgett: *Yes. Between the grate and the culverts, the invert elevation is lower than the existing pipe. Just one section.*

Hines: *The health department must decide if somebody's septic is bad. That is not up to the town. I think the town is doing everything it can to try and help everybody.*

Perry: *Equally.*

Hines: *Equally. It will not be perfect especially with stormwater. I do not know if there is anything else we can do.*

Perry: *It would be expensive. You would have to literally manage the groundwater 24/7 and pump it somewhere with a permit.*

Noori: *As Willie said we can never get it all dry. But if you look at Mr. Baskette's property it is higher than Resort's and everybody else. If you are doing everybody equally, I think it would make*

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more sense to pump from Resort and lower the water table there. I think there needs to be more study to understand the height of the problem. If we were to hold the stormwater from all of the people Resort's property is lower so we should pump from further up. Again, it might be a septic issue. All I am asking is the state and the county look into the quality of the water that is going to get pumped in front of my property.

The other issue was pumping at the same time. I am not sure if I agree with that because Mr. Baskette sat there almost all night and day pumping and at that point the pump was not running again. It is about a good 16 to 20" of water that sits below the drainage pipe.

Perry: *What we are trying to do is something for the future. What we need to decide is whether we move forward with this or are we held up because of a problem that is in the past. We know what happened. Public works knows how to contain that situation if we add a valve to this proposed pipe. Then we can manually control it under all circumstances. If Mr. Baskette continues to pump beyond what we are doing, then it becomes a health department problem. That is when they should be called.*

Stewart: *The town has purchased two pumps. Now we have the capability to pump a little quicker. That has been an issue in the past when we did not have the pumps. Looking in the future, maybe we should plan for more pumps. This has been trial and error but without the pumps the system is useless. The quicker we can pump I think the less contaminated the water will be. That is what happened in this situation. The water sat for about a week before we allowed it to be pumped into the ditch.*

Perry: *We were having to rent pumps because it was cheaper and then we realized during Hurricane Michael that FEMA had all the pumps. We have purchased two pumps, and you are probably right, we need to start planning for even more as we have already had three storms this year. Also, it was an unnamed storm and that presents us with an odd problem. If it is a named storm, we can get permission under our plan quickly. If it is an unnamed flood event, then Willie must go to the state and ask for permission and it is easier to get if it is a named storm.*

Hines: *Talking about water quality. That would literally change between every storm.*

Noori: *I totally agree with you. It depends on the weather and everything else. I am simply asking that the state and the county look at this issue, so it does not cause further problems in the future. I am sorry Mr. Mayor for going down this path. I am just trying to state a proven fact that the town knows it can cause health issues. This has been stated by Mr. Baskette himself. My biggest concern is I do not want to bring that issue to the greater community. All I am asking is if the town would*

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be kind enough to do some more due diligence with the state and the county to study this, so it does not cause a problem in the future. That is all I am asking. Please.

Perry: *Council I want us to discuss and make a decision. The bottom line is we have had an engineer study it and make a recommendation. The state understands standing water over septic tanks throughout the town. They gave us a way to try and mitigate it. That is really what we are doing is mitigating it. We are not correcting all of it because we do not pump all the way to a dry level anywhere in the town. We cannot do that. And we cannot do it under our permit. My recommendation is we proceed with the plan the engineer laid out and add one thing. I have talked with him about it. Add a manual valve with a lock on it so that public works has complete control over which way the water is flowing, when it is flowing, if it is flowing at all. That is my recommendation. The floor is open for discussion.*

Pruitt: *I personally want to get the water out of there. I understand the concern about the quality, but I also agree that standing water is going to be more of a problem than removing it. As far as the quality of the water and whose tanks are leaching into the system, I am not sure we will ever know the true answer to that one. Some of the businesses were not even able to operate. Their parking lots were completely underwater.*

I do not want anybody pumping their water on anybody else's property and I do not think it is right to pump into a town system that we have designed. I am not sure if we can have an ordinance that says you cannot pump into our system but I would like to see it so we do not have to run around day and night catching people.

I agree we should make John aware of the concerns and I think we should move forward. That is my recommendation.

Garriss: *I agree with your recommendation Mr. Mayor.*

McClean: *I think we are going the right way to get this issue under control.*

Hines: *I think we have a consensus.*

Mayor Perry made a motion for council to continue with the plan as laid out by the town's engineer with the addition of a mechanical valve that can be controlled and locked by the town's public works director. MPT Garriss seconded and it passed unanimously, 5-0.

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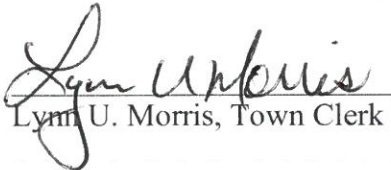
d.) Review/Action related to the COVID-19 Pandemic

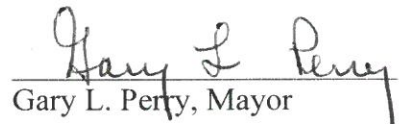
Perry: *Do we have anything related to the Covid virus? From what I understand restaurants are doing a bang-up business. They cannot keep up with both indoor and outdoor seating. It sounds like we are going to have a robust summer and that is a good thing.*

3. ADJOURN

Mayor Perry made a motion, seconded by Councilwoman McClean, to adjourn. It passed unanimously, 5-0. Time was 9:45 a.m.

These minutes were approved at the August 3, 2020 council meeting.


Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor