

Proposed Agenda
KITTY HAWK TOWN COUNCIL
Monday, June 6, 2022
Kitty Hawk Town Hall, 6 PM

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Public Comment
5. Consent Agenda
 - a.) Approval of March 28, 2022, April 5, 2022 and May 2, 2022 Council Minutes
 - b.) FY 21-22 Budget Amendment #14
 - c.) FY 21-22 Budget Amendment #15
 - d.) Nondiscrimination Policy
 - e.) Conflict of Interest Policy
 - f.) Acceptance of Grant from Streamflow Rehabilitation Assistance Program (StRAP)
6. Items Removed from the Consent Agenda
7. Public Hearings
 - a.) FY 22-23 Budget
 - b.) Land Use Plan
8. Planning:
 - a.) Schedule Public Hearing: Zoning Text Amendment: Proposal to amend Sec. 42-250, BC-1, to allow tattoo studios as a special use, with specific conditions of approval. It is requested the public hearing be held on July 5, 2022.
 - b.) Schedule Public Hearing: Special Use Permit: 3608 N Croatan Hwy – Applicant requests special use permit for tattoo studio in BC-1 district. It is requested the public hearing be held on July 5, 2022.
9. New Business:
 - a.) Appointments to Town Boards and Committee
 - b.) Update on the New Police Station/EMS Substation/Fire Bay
10. Town Manager
11. Town Attorney
12. Town Council
13. Closed Session: 143-318.11(a)(5)
14. Adjourn

COUNCILMEMBERS PRESENT:

Mayor Craig Garriss, Mayor Pro Tem Jeff Pruitt, Councilman David Hines, Councilwoman Lynne McClean and Councilwoman Charlotte Walker

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STAFF MEMBERS PRESENT:

Town Manager Andy Stewart, Town Clerk Lynn Morris, Town Attorney Casey Varnell, Planning Director Rob Testerman, Management Assistant Melody Clopton, Finance Officer Liliana Noble, Police Sergeant Tara Poulin, Fire Chief Mike Talley and Public Works Director Willie Midgett

1. CALL TO ORDER

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

2. MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE

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

3. APPROVAL OF AGNEDA

Councilwoman McClean made a motion, seconded by Councilman Hines, to approve the agenda. The vote was unanimous, 5-0.

4. PUBLIC COMMENT

There were no public comments.

5. CONSENT AGENDA

a.) Approval of March 28, 2022, April 5, 2022 and May 2, 2022 Council Minutes. *(An approval of the consent agenda will approve these minutes.)*

b.) FY 21-22 Budget Amendment #14. This amendment, in the amount of \$27,200, will recognize the funds received for the sale of the police department's military surplus Ford 350. The funds will purchase new firearms, firearms equipment and a radar trailer. *(An approval of the consent agenda will approve this amendment.)*

c.) FY 21-22 Budget Amendment #15. This amendment, in the amount of \$3,125, is to recognize the police department grant from the NCLM Safety Program. The funds were used to help with the purchase of knee and elbow protectors and gear bags. *(An approval of the consent agenda will approve this amendment.)*

d.) Nondiscrimination Policy. The town has received funds from the Coronavirus State Fiscal Recovery Fund or Coronavirus Local Fiscal Recovery Fund and is subject to the U.S. Department of Treasury regulations including the adoption and following of this policy. *(An approval of the consent agenda will approve this policy.)*

e.) Conflict of Interest Policy Applicable to Contracts and Subawards of the Town Supported in Part or In Whole by Federal Finance Assistance. This policy establishes conflict of interest standards to protect the fairness in treatment of individuals who receive government services, face regulations or seek government contracts. *(An approval of the consent agenda will approve this policy.)*

f.) Acceptance of Grant from Streamflow Rehabilitation Assistance Program (StRAP). This grant, in the amount of \$154,000, will be used to pay for vegetative debris removal in the town's canals. *(An approval of the consent agenda will accept this grant.)*

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MPT Pruitt made a motion to approve the consent agenda. It was seconded by Councilwoman Walker and then unanimously approved, 5-0.

6. ITEMS REMOVED FROM CONSENT AGENDA

No items were removed from the consent agenda.

7. PUBLIC HEARINGS

a.) FY 22-23 Budget

(Clerk's Note: An oversight was made, and council did not go into a public hearing for the budget and the Land Use Plan until after agenda item 8(b). For ease in reading the minutes the motions have been moved under their proper heading.)

Councilman Hines made a motion to go into public hearing for the Fiscal Year 22-23 Budget. It was seconded by Councilwoman Walker, and passed unanimously, 5-0.

Stewart: Our community, I feel, has gotten busier over the past several years. We are going to continue to provide services based on existing personnel. That is important and is going to allow us to put any increase in revenues that we receive towards some other projects for the community. The health insurance for the town came back at, I believe, a 5% increase and we are going to receive about a \$30,000 refund being that we are in a semi-self-insured plan. We are going to utilize that refund to cover the increases in premiums for dependents so there will be a zero increase to the health insurance premium for employees.

That is really the highlights in the budget for the fiscal year. You have a budget ordinance that has a balanced budget of \$11,033,617 million. I will stand for any questions you may have. I appreciate the finance department's efforts and all the department heads this year. We had some pretty large decisions moving forward into this current budget year and we were able to do so with no increase in taxes to the residents. So, I appreciate the staff for continuing to be fiscally responsible and because of the town council we continue to have strong reserves, money saved up for projects. The town continues to be on a good financial path. With that I will stand for any questions.

Mayor Garriss asked Clerk Morris if there is a problem with programming the meeting. After checking on it, Clerk Morris said there had been an audio glitch, but everything is working now.

Mayor Garriss asked council if there are any questions for Andy on this year's budget. He agreed that everybody has done a great job on the budget and council appreciates it.

There were no comments from the public.

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Councilwoman McClean made a motion, seconded by MPT Pruitt to return to regular session. The vote was unanimous, 5-0.

Councilman Hines made a motion to adopt the Fiscal Year 22-23 Budget. It was seconded by Councilwoman McClean and approved unanimously, 5-0.

b.) Land Use Plan

Councilman Hines made a motion to go into public hearing for the Land Use Plan. It was seconded by Councilwoman McClean and passed unanimously, 5-0.

Planner Testerman reviewed the following staff report.

Background

In 2005 Kitty Hawk Town Council adopted the current 2003/2004 CAMA Core Land Use Plan Update that the Town has used as a guiding document in land use and development decisions. CAMA does not have any specific requirements on frequency of plan updates, however, the recent adoption of Chapter 160D into the NC general statutes requires that localities adopt and “reasonably maintain” a comprehensive plan/CAMA Land Use Plan. There is no specific definition in 160D of what constitutes a “reasonably maintained” plan, however guidance from the School of Government has suggested that plans be updated every 5 to 10 years.

The Town is planning to begin the process a full CAMA Land Use Plan review and update within the next few months. The plan update will not be done in-house due to staffing limitations and time constraints; instead, an outside firm will be contracted, after the appropriate process has been completed.

The purpose of this report and review is to provide Town Council a recommendation to reaffirm the existing CAMA Land Use Plan as valid and until such a time where a fully updated Land Use Plan is ready to be presented to the Planning Board, Town Council and submitted to the Coastal Resource Commission for review and approval. To be clear, no changes to the plan are being proposed at this time, any updates or revisions will be included in the full review/update. Even though no changes are proposed to the existing plan at this time, it is staff and Town Attorney opinion that the Planning Board and Council reviewing the plan constitutes the plan being “reasonably maintained”.

Council members should have been provided a copy of the 2003/2004 CAMA Core Land Use Plan Update when first elected to the Town Council. If you do not have a hard copy of the plan, you can find a digital copy at the website listed: <https://www.kittyhawknc.gov/wp-content/uploads/2019/02/Kitty-Hawk-LUP-ADOPTED-4.6.05-1.pdf>

Planning Board Recommendation

At its April 14, 2022 meeting, the Planning Board unanimously recommended approval of the proposed action on the existing CAMA Core Land Use Plan.

Hearing no questions or comments from council or the public, **Councilwoman McClean made a motion to go out of public hearing. It was seconded by Councilman Hines and passed unanimously, 5-0.**

Mayor Garriss moved to adopt the existing 2004 CAMA Core Land Use Plan update to be the valid comprehensive plan for the Town of Kitty Hawk until such a time that the fully updated CAMA Core Land Use Plan is presented to this council. Councilwoman McClean seconded and it passed unanimously, 5-0.

8. PLANNING

a.) Schedule Public Hearing: Zoning Text Amendment: Proposal to amend Sec. 42-250, BC-1, to allow tattoo studios as a special use, with specific conditions of approval. It is requested the public hearing be held on July 5, 2022.

Councilwoman McClean made a motion to set a public hearing at the town council meeting on July 5, 2022 to consider the proposed text amendment to amend Section 42-250 to allow tattoo studios as a special use in the BC-1 district. It was seconded by Councilman Hines and the vote was unanimous, 5-0.

b.) Schedule Public Hearing: Special Use Permit: 3608 N Croatan Hwy – Applicant requests special use permit for tattoo studio in BC-1 district. It is requested the public hearing be held on July 5, 2022.

MPT Pruitt made a motion to set a public hearing at the town council meeting on July 5, 2022 to consider a special use permit application to allow a tattoo studio at 3608 North Croatan Highway. Councilman Hines seconded and it passed unanimously, 5-0.

9. NEW BUSINESS

a.) Appointments to Town Boards and the Recreation Committee

Planning Board:

Councilman Hines made a motion to reappoint Bryan Parker, Dusty Rhoads and Blair Meads. MPT Pruitt seconded and it passed unanimously, 5-0. All terms of office to expire June 30, 2024

MPT Pruitt made a motion to reappoint John Richeson to serve as chair and Bryan Parker to serve as vice-chair of the planning board for a one-year term. Councilwoman McClean seconded and it passed unanimously, 5-0. Both terms of office to expire June 30, 2023.

Board of Adjustment:

Councilman Hines made a motion to reappoint Timothy Fish, Abby Berquist and William Yetzer. It was seconded by Councilwoman McClean and the vote was unanimous, 5-0. All terms of office to expire June 30, 2025.

Recreation Committee:

Garriss: For the Recreation Committee there are two terms expiring. Paul Henriques and our good friend Tom Heffner who is not seeking reappointment. Lynne I was hoping Tom would be here tonight. Would you please tell Tom how much this council appreciates his serving?

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McClean: *I will pass it on.*

Garriss: *He is a dedicated member who does not mind speaking up and says what he has on his mind. That is what I like.*

Councilwoman McClean made a motion to reappoint Paul Henriques. It was seconded by MPT Pruitt and the vote was unanimous, 5-0. Term of office to expire June 30, 2026.

Councilwoman Walker made a motion to nominate Peter Mantz for this position. MPT Pruitt seconded and it passed unanimously, 5-0. This term of office expires June 30, 2026.

b. Update on the New Police Station/EMS Substation/Fire Bay

Stewart: *A brief update is all I have this evening. The town is about 50% complete with the construction documents. We have received some preliminary estimates from the construction manager Whiting-Turner, and we will discuss those later. The project, as far as the design and everything, continues to remain on schedule.*

10. TOWN MANAGER

Stewart: *I would like to thank the staff for applying for grants. We received \$154,000 from the Streamflow Rehabilitation Assistance Program to clean our ditches and remove vegetative debris that has fallen into them. We also received a \$3,000 grant from the North Carolina League of Municipalities that will be used to purchase needed elbow protectors and gear bags for our police officers. We always like free money and I think our staff has done a good job at trying to do what we can with any available grant funding that is available to us.*

There is a "Monday with the Mayor" next Monday at 9 a.m. This will be an opportunity for business owners and residents to come and watch a presentation outside of a formal meeting on things that are going on in the town. I have done some presentations for Rotary and things like that, and the mayor will participate as well as a councilmember for each of those meetings.

Garriss: *Show up folks if for nothing else the free coffee and bagels.*

Stewart: *It is a community outreach we are trying to do.*

Garriss: *Because of the meeting laws, I can only invite one councilmember. I have invited Jeff to meet me here next Monday. For the next one I will be contacting Charlotte. We will see what happens, who shows up, if anybody. If not, we will drink coffee. Thank you, Andy.*

11. TOWN ATTORNEY

There were no further comments from the town attorney.

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12. TOWN COUNCIL

Garriss: *Rob I have noticed a few food trucks sitting around here and there. I know we have an ordinance. Could you look and make sure we are up to date and if you need to bring anything back to council later feel free to do so.*

Testerman: *I can give a quick rundown. Our ordinance prohibits sales of goods or merchandise or whatever from rights-of-way or parking lots that abut public rights-of-way or private rights-of-way. The town has interpreted in the past to allow the owner of a commercial brick and mortar location to set up a food truck or a vendor site if they own that food truck or vendor as well as their commercial use. I recently looked at other towns and found a few years ago Carolina Beach enacted an ordinance that pretty much codified the way we have been interpreting it. They were quickly sued by some local food truck owners, and they removed it from their ordinance before going to court. I talked with Casey, and I think we have come up with it is best to enforce the ordinance as it is written.*

Garriss: *Council I am okay with letting Rob look at it to see if anything at all needs to be done. What are your thoughts.*

Hines: *I do not have a problem with it. If the restaurant owner wants to utilize a food truck on their property and it takes some pressure off the staff in the kitchen and everywhere else and it is their stuff, I personally say go for it.*

Varnell: *David if it was not what would be your thoughts? If it were a separately owned vendor on site.*

Hines: *I think it drives competition keeps everybody ...*

Varnell: *So hypothetically if a commercial establishment wants to contract with someone, some vendor that they have no ownership of you would be okay with them bringing outside vendors on.*

Hines: *Yes. We have dealt with it on a county level, and we noticed that with this particular issue it works itself out.*

Varnell: *Just trying to get thoughts so Rob and I can talk moving forward.*

Hines: *And I may be in a minority on this.*

Garriss: *Because if that is the case, we are going to need to rewrite our ordinance.*

Varnell: *That is correct and that is part of the reason I was asking.*

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Pruitt: *My thing is ... kind of like David. If you are a restaurant and have the room and they are not open at that time of day, but they just want to have tacos out there and it is their business and their food truck that does not really bother me. But it would bother me if a whole separate business set up ... it is happening in another town. Say they set up a yard sale for instance in a parking lot. I do not see how the town can receive any money from this whatsoever. Sales tax ... I just do not know how. If you have a vendor out in the parking lot of a business how does the town end up taxing all that? It is almost like a free business, tax free.*

Varnell: *I suppose they would still have to come get any license they needed correct Rob?*

Testerman: *I have not put any kind of language together but if the town wants to permit it and regulate it, I can put some together. They would come in and get some type of permit from the town and we would see where they are located and probably charge an annual fee.*

Pruitt: *The reason I brought it up is a business in another town is setting up in Kitty Hawk. They are using one of our local businesses to set up. I am interested to see how Kill Devil Hills and all of that ... it is a pretty hot topic. It is local artists trying to sell some stuff in a parking lot. I do not blame them but if somebody is selling, say surfboards, and they just come from another town and set up in a parking lot and sell them I feel like they are competing against Whalebone and everybody else that is in the business who are paying town taxes and operating from a concrete building. It just seems like a way of undermining our local established businesses.*

Hines: *And to be clear I do not disagree with Jeff. I mean as long as it is not just somebody coming in and setting up shop and the town gets nothing out of it. That I am not okay with but if they are able to do it properly and follow the guidelines, I do not have a problem with it.*

Garriss: *Council it sounds like we have some good and different ideas here. Would you like Rob to make a presentation for us at a future council meeting?*

Varnell: *And we can address legalities since Rob brought it up. I will give you my thoughts on that and they can be part of the decision you make.*

Garriss: *Think you can do it for the next meeting Rob? If not, we will go to the August meeting.*

Testerman: *That should be okay.*

Hines: *And not that we are Dare County, we are a part of Dare County, but I would say go back and look at all the ordinances we created on the county level in the last couple of years as kind of a footprint. We are allowing it, but we are regulating it.*

Walker: *Does the Health Department license them, come in and inspect?*

Hines: *They do.*

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McClellan: *I would think they would.*

Hines: *Absolutely.*

Walker: *I would think they should.*

McClellan: *I have seen, not here, other food trucks that display a health department's blessing on their food truck. Most health departments are pretty standard on what is acceptable and what is not. If it is good enough in Virginia Beach, then it is good enough in Kitty Hawk.*

Hines: *You basically cannot serve anything outside of a packaged pretzel without the health department going in and making sure it is safe and the temperatures of the everything is being kept ... you know what I mean ...*

Walker: *I know that is the way it should be.*

Hines: *That is why I say if they are doing it, it will work itself out or that truck will move. That is the other thing we talked about. Not to hold us up tonight but I would just look at what we did on a county level.*

Garriss: *Very good. Thank you. I have one more thing. Yesterday our Kitty Hawk Police Department, and David showed up in time to eat a hotdog, held a Youth Fishing Tournament at the Kitty Hawk Pier. It was wonderful. They did an outstanding job. I showed up and the first thing they did was assign me a job of cooking the hotdogs. Officers were handing out stickers, they had door prizes, they were helping bring in the fish and measuring them. It was a wonderful event and is spearheaded by Officer Caleb Macon. Thanks to the entire police department for working on that project. It was a great, good time. Charlotte?*

Walker: *We are getting closer every day on the museum. I have been able to send in 8 of the 9 resolutions that we requested. I was wishing for 9 out of 9 but that is okay. It has truly been an honor to work on this and try to bring it to Kitty Hawk. I thank you for the confidence you have had in me to take this project on. We have sent in the maps, pictures and video to the Department of Transportation, everything they requested. It is in their hands, and we will see what they say.*

Garriss: *You are doing a wonderful job Charlotte. Thank you. Jeff?*

Pruitt: *Our summer season is here. Chief Talley invited us over to the fire department to welcome our lifeguards for the season. We had an excellent cook out and I would like to thank everybody that participated and helped cook the great food. It was unbelievable. I am glad our lifeguards are here, and I am sorry they started out on a bad week. They have had some rough weather and I hope they have a safe summer.*

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Also, I would like to thank Willie for getting us another grant to keep our waterways cleaned out. Willie has been doing this for a while now and it helps. We have trees that fall in our waterways, and this keeps them safe for our visitors. One of our main canals is the boat ramp off Bob Perry Road and it is in constant need of maintenance.

Garriss: *I have one more thing. I had some friends in town a couple of Sundays ago and they wanted to see a fire truck. So, I checked with Chief Talley and took them to the fire station. They were waiting for us, and they were excited to give out free fire helmets to the kids, pictures standing on the fire truck with the red lights on, t-shirts. Your staff was very, very positive. The kids loved it. When the kids got back to where they were staying, they had on their little fire helmets. It was very good. Thank you again chief.*

McClellan: *There is a lot of traffic out there and loads of people in the stores. Be safe everyone.*

Hines: *I really want to give my compliments to all the staff. Firefighters, police officers. They have their hands full out there. It seems like it comes earlier every year, and I cannot thank all of you enough for what you do. It seems like I have heard a lot more fire trucks in the last week than I heard all last year. And of course, the fishing tournament. The hotdog was good. I think it is a great thing that the police department is doing for kids. It is a great outreach. I appreciate it.*

Is the new fire truck on the way yet?

Talley: *Probably August.*

Pruitt: *I have one more thing mayor. Tom has been on the Recreation Committee and attended every town council meeting that I have ever been to. I served with Tom and Charlotte has. You will never find anyone more dedicated and loved Kitty Hawk and looked out for the people on recreational needs. If you go to Sandy Run, there have been changes made there over the years and we can thank Tom. Tom would notice something that was not being used and he would bring it to our attention and suggest things that would probably suit that place better. Most of them are in place and being well used. Please tell Tom thank you very much for his service to the Town of Kitty Hawk. We are going to miss him. He is going to be hard to replace. Thank you.*

McClellan: *It was a hard decision for him. He has some health issues, and it is time to get the younger ones working on the same things. I was pleasantly surprised when the man with no children, and no acquaintances who are children, decided that he had to have a playground at Sandy Run Park.*

Pruitt: *He did a good job.*

McClellan: *He sees a need and decides even if it is something he personally is never going to use he is going to make sure it is available for everybody else. I will pass it on to him.*

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13. CLOSED SESSION: 143-318.11(a)(5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract.

At 6:35 p.m., **Mayor Garriss made a motion that council go into closed session pursuant to statute 143-318.11(a)(5). Councilman Hines seconded and it passed unanimously, 5-0.**

Garriss: *We will not have anymore business for those that are here or watching at home. With that being said thank you everyone and we need to clear the room.*

14. RETURN TO REGULAR SESSION

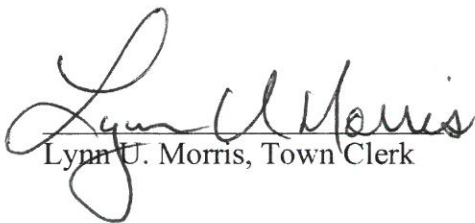
Councilwoman McClean made a motion to go out of closed session. It was seconded by MPT Pruitt and the vote was unanimous, 5-0. Time was 7:16 p.m.

Attorney Varnell stated that council met in closed session for the purpose of 143-318.11(a)(5) and a report will be given when something has been finalized.

15. ADJOURN

A motion to adjourn was provided by Councilman Hines and seconded by Councilwoman McClean. It carried 5-0. Time was 7:17 p.m.

These minutes were approved at the July 5, 2022 council meeting.


Lynn U. Morris, Town Clerk


D. Craig Garriss, Mayor