

MINUTES
KITTY HAWK TOWN COUNCIL
Tuesday, September 5, 2023
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 August 7, 2023 Council Minutes
 - b.) FY 23-24 Budget Amendment #2
 - c.) FY 23-24 Budget Amendment #3
 - d.) Support of the National Flood Insurance and Reform Act of 2023
 - e.) Designated Official Resolution (for ABC Permits)
 - f.) Proclamation: Diaper Need Awareness Week
6. Items Removed from the Consent Agenda
7. Public Hearings:
 - a.) Text Amendments: 42-1.- Definitions; 42-247(d), 42-248(d), 42-249(d), 42-273(d), 42-274(d), 42-275(d). Proposed amendments would redefine how minimum lot sizes are calculated on new subdivisions, excluding all wetlands from the required minimum square footage. (*Ord. No. 23-07*)
 - b.) Land Use Plan Update. The draft document would replace the existing 2003-2004 plan as Kitty Hawk's CAMA Future Land Use Plan and Comprehensive Plan.
8. Planning:
 - a.) Schedule Public Hearing. Text Amendment: Sec. 42-581.- Proposed amendment would allow placement of digital message boards by, or on behalf of, a governmental body, in addition to the number of standard signage permitted by this chapter. It is requested that the public hearing be scheduled for the October 2, 2023 council meeting.
9. Possible New Business
10. Reports/General Comments from Town Manager
11. Reports/General Comments from Town Attorney
12. Reports/General Comments from Town Council
13. Adjourn

COUNCILMEMBERS PRESENT:

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

STAFF MEMBERS PRESENT:

Town Manager Melody Clopton, Town Clerk Lynn Morris, Town Attorney Casey Varnell, Planning Director Rob Testerman, ASD Laura Walker, Finance Officer Liliana Noble, Police Chief Mike Palkovics, Fire Chief Mike Talley and PWD Willie Midgett

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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 AGENDA

Councilwoman McClean made a motion to approve the agenda and it was seconded Councilwoman Walker. The vote was unanimous to approve, 5-0.

4. PUBLIC COMMENT

1. Greg Hamby, 1206 Harbor Ct., Kitty Hawk, NC: *I have asked DOT if they would lower the speed limit from at least the foot of the Wright Memorial Bridge all the way to the big traffic light when you turn to go to Corolla. I come out of Barlow Lane onto 158. Everybody and his brother are running that red light coming off the bridge. They are running the next one too and the next one and the next one. Everybody wants to go 60 miles per hour down there. Every other day I hear sirens coming up to that red light where somebody is cracking it up. There are too many traffic lights along there and too many businesses just as it is over in Currituck. If the speed limit is 50, they are going 60. They need to slow down and give us a chance to get out on the road. Not to mention the people in Martin's Point. They have another whole world there while trying to turn left coming out of there because people do not want to stop when going to the bridge.*

I would ask that they drop the speed limit to 45 miles an hour coming off the rise on the bridge, put up some signs that say 45 miles an hour speed limit and a flashing sign if you must have one. I moved here in 1976 and we did not need any of that stuff but there are a lot of people here now and they are just going too fast, and they are not paying attention to the traffic signals, and it is just dangerous almost. You do not take a green light for granted at Barlow Lane and neither do the people coming from out of Martin's Point. You had better make sure they are actually going to stop because if they do not ... and this is heavy trucks too. Dump trucks, 18 wheelers and really big cars. Everybody is just running it and then when you pull out and you are just trying to get up to 50 miles an hour the next thing you know is the people coming off the bridge, if you look in your rear-view mirror, they are right on your tail. I mean they are just ... I know they want to get here, have fun but it needs to be ... there is just too much traffic now to have it at what is the current situation. DOT told me if the Town of Kitty Hawk will go with telling them they would like to have this done that they will do it. So, I would request that we get something done before the next season comes around. Of course, you know it is just as bad in the off season. I appreciate your listening to me.

Garriss: *That is a DOT decision not the Town of Kitty Hawk's.*

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No one else came forward to speak during public comment.

5. CONSENT AGENDA

- a.) **Approval of August 7, 2023 Council Minutes.** *(Approval of the consent agenda will approve these minutes.)*
- b.) **FY 23-24 Budget Amendment #2.** This budget amendment, in the amount of \$100, is to recognize the donation to the police department from Joe Lamb Jr. & Associates. *(Approval of the consent agenda will approve this amendment.)*
- c.) **FY 23-24 Budget Amendment #3.** This budget amendment, in the amount of \$100, is to recognize the donation to the police department from a visitor to the Outer Banks. *(Approval of the consent agenda will approve this amendment.)*
- d.) **Support of the National Flood Insurance and Reform Act of 2023.** This resolution recognizes the importance of ensuring the sustainability of the NFIP through a long-term reauthorization and appropriate reforms to address the affordability of flood insurance and other problematic aspects of the program. *(Approval of the consent agenda will approve this resolution.)*
- e.) **Designated Official Resolution (for ABC Permits).** This resolution designates Police Chief Michael Palkovics as the official to make recommendations concerning the suitability of persons or locations for ABC permits. *(An approval of the consent agenda will ratify this resolution.)*
- f.) **Proclamation: Diaper Need Awareness Week.** On August 28, 2023, Mayor Garriss proclaimed September 18 – September 24, 2023, as Diaper Need Awareness Week as requested by the Children & Youth Partnership for Dare County. *(Approval of the consent agenda will acknowledge this proclamation.)*

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

6. ITEMS REMOVED FROM THE CONSENT AGENDA

No items were removed from the consent agenda.

7. PUBLIC HEARINGS

- a.) **Text Amendments: 42-1.- Definitions; 42-247(d), 42-248(d), 42-249(d), 42-273(d), 42-274(d), 42-275(d). Proposed amendments would redefine how minimum lot sizes are calculated on new subdivisions, excluding all wetlands from the required minimum square footage.**

Councilman Hines made a motion to go into public hearing. It was seconded by MPT Pruitt and the vote was unanimous, 5-0.

Planner Testerman reviewed the staff report.

Proposal
42-1.- Definitions

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Minimum lot size means the minimum lot area as required by the various zoning districts. Marsh and wetland areas, as determined by ~~CAMA and/or CRC regulations, which are contiguous with estuarine waters, sounds and bays, and areas waterward of the oceanfront vegetation line, as determined by CAMA~~ Federal, State, and Local Agency regulations, may not be used for the minimum lot size.

Background & Analysis

Currently, when subdividing new lots in Kitty Hawk CAMA and/or CRC wetlands cannot be counted towards your minimum lot size. However, other wetlands (404 wetlands for example) may be counted towards the minimum lot size square footage.

For example, if the minimum lot size is 15,000 sq. ft., and a proposed lot had 10,000 sq. ft. of upland area, and 5,000 sq. ft. of CAMA wetlands, the subdivision request would be denied based on the current definition of minimum lot size. On the other hand, if the proposed lot had 10,000 sq. ft. of uplands area, and 5,000 square feet of 404, federally designated wetlands instead of CAMA wetlands, the subdivision would be approved.

The proposed amendment would treat all wetlands consistently, and not allow any wetlands to count towards minimum lot sizes. Said another way, all newly created lots would be required to have enough uplands area to meet the minimum lot size of the zoning district in which the proposed lot is in.

It should be noted that a recent US Supreme Court decision has dictated a change as to what might be considered jurisdictional wetlands at the federal level by the US Army Corps of Engineers. The USACE is currently awaiting guidance on how to proceed. Additional concerns have been raised that should the proposed text amendment get approval, it may encourage a developer to get a fill permit from the USACE and fill the maximum allowable amount of wetlands prior to applying for a subdivision, which would circumvent the intent of the request. Staff have reached out to the USACE for comment and feedback on the proposal. At the time of this writing, there has not been a response, if any information is received, it will be reported on during the Public Hearing.

If the town were to make this change in definition, additional changes would be required throughout the ordinance, as each zoning district makes reference to the CAMA/CRC wetlands. Additional required amendments listed below:

BR-1; 42-247(d)1: The minimum lot size is 15,000 square feet. Marsh and wetland areas, as determined by ~~CAMA and/or CRC~~ Federal, State, and Local Agency regulations, ~~which are contiguous with estuarine waters, sounds and bays, and areas waterward of the oceanfront vegetation line, as determined by CAMA~~ regulations, may not be used for the minimum lot size.

BR-2; 248(d) (1) The minimum lot size is as follows:

- a. For single-family detached residences, a minimum lot size of 15,000 square feet. Marsh and wetland areas, as determined by ~~CAMA and/or CRC~~ Federal, State, and Local Agency regulations, ~~which are contiguous with estuarine waters, sounds and bays, and areas waterward of the oceanfront vegetation line, as determined by CAMA~~ regulations, may not be used for the minimum lot size.
- b. For duplexes, a minimum lot size of 25,000 square feet.
- c. For multifamily dwellings, for each acre or portion thereof, a minimum lot size of 15,000 square feet for the first dwelling unit and a minimum lot size of 9,520 square feet for each additional dwelling unit.

BR-3; 42-249(d) (1) The minimum lot size is as follows:

- a. For single-family detached residences, a minimum lot size of 15,000 square feet. Marsh and wetland areas, as determined by ~~CAMA and/or CRC~~ Federal, State, and Local Agency regulations, ~~which are contiguous with estuarine waters, sounds and bays, and areas waterward of the oceanfront vegetation line, as determined by CAMA~~ regulations, may not be used for the minimum lot size.
- b. For multifamily dwellings, a minimum lot size of 15,000 square feet for the first dwelling unit and a minimum lot size of 9,520 square feet for each additional dwelling unit.

VR-1; 42-273(d) The minimum lot size is 15,000 square feet. Marsh and wetland areas, as determined by ~~CAMA and/or CRC~~ Federal, State, and Local Agency regulations, ~~which are contiguous with estuarine waters, sounds and bays, and areas waterward of the oceanfront vegetation line, as determined by CAMA~~ regulations, may not be used for the minimum lot size.

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VR-2; 42-274(d) (1) The minimum lot size is as follows:

- a. For single-family detached residences, a minimum lot size of 15,000 square feet. Marsh and wetland areas, as determined by ~~CAMA and/or CRC~~ **Federal, State, and Local Agency** regulations, ~~which are contiguous with estuarine waters, sounds and bays,~~ and areas waterward of the oceanfront vegetation line, as determined by CAMA regulations, may not be used for the minimum lot size.
- b. For duplexes, a minimum lot size of 25,000 square feet for each acre.
- c. For multifamily dwellings, for each acre, a minimum lot size of 15,000 square feet for the first dwelling unit and a minimum lot size of 9,520 square feet for each additional dwelling unit.

VR-3; 42-275(d) (1) The minimum lot size is as follows:

- a. For single-family detached residences, a minimum lot size of 15,000 square feet. Marsh and wetland areas, as determined by ~~CAMA and/or CRC~~ **Federal, State, and Local Agency** regulations, ~~which are contiguous with estuarine waters, sounds and bays,~~ and areas waterward of the oceanfront vegetation line, as determined by CAMA regulations, may not be used for the minimum lot size.
- b. For duplexes, a minimum lot size of 25,000 square feet for each acre.
- c. For multifamily dwellings, for each acre, a minimum lot size of 15,000 square feet for the first dwelling unit and a minimum lot size of 9,520 square feet for each additional dwelling unit.

It should be noted that the existing language regarding minimum lot sizes in the BC-1, 2 and 3; VC-1, 2 and 3; as well as the BH-1 and BH-2 districts do not mention marshes and wetlands specifically. However, the proposed text amendment would be changing the definition of "minimum lot size", therefore, the new definition would still apply to the commercial districts, should there ever be a new subdivision of commercially zoned land.

Consistency with Land Use Plan

The following policies and objectives relevant to this application are stated in the CAMA Land Use Plan:

Policy #17a: Kitty Hawk will continue to adopt, enforce, and amend as necessary ordinances and procedures to regulate land use, development, redevelopment, and to protect the unique character of the Town and supports applicable State and Federal laws and regulations regarding building, land uses and development.

Policy #17d: Kitty Hawk will continue to regulate building intensity and oversized structures by enforcing, and amending as necessary, the zoning ordinance. The zoning ordinance regulates building intensity factors such as building height, lot coverage, and building setbacks for commercial and residential building development. The ordinance also specifies maximum and minimum building sizes for commercial development.

Objective #17b: Ensure future development is consistent with adopted goals, objectives and policies and regulations including building code requirements and is in character with existing develop with respect to features such as building size, lot coverage, architectural design standards, and construction materials and methods.

Objective #17c: Adopt regulations and procedures that provide clear direction to assist local decision making and consistency findings for zoning, divisions of land, and public and private projects.

Planning Board Action

At its July 27, 2023 meeting, the Planning Board recommended denial of proposed amendments regarding minimum lot size by a vote of 3-2.

Pruitt: *Who determines the difference between CAMA and the Corps of Engineers and 404. Who flags the property?*

Testerman: *404 is Army Corps of Engineers. I think typically a surveyor would have it delineated and if it is thought there are 404 wetlands, they would submit that to the field rep or they would have them come out and field verify. CAMA field reps have their own methods, different vegetation they look for to determine if it is the CAMA wetlands.*

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Pruitt: *It would be a state agency? Not private.*

Testerman: *Yes. If it is a private surveyor one of the agencies would verify.*

Pruitt: *The final say would be through a state or federal agency.*

Testerman: *Right.*

Hines: *If you have two lots that are ... 15,000 square feet is the minimum, correct?*

Testerman: *Yes.*

Hines: *If you have two lots let's just say they are 14,100 square feet times two. You can get a fill permit for that tenth, correct? So, will that prevent this zoning change ... prevent that scenario from occurring?*

Testerman: *I do not believe so because they can get a fill permit before they even come in for the subdivision application.*

Hines: *Right. So, it would not affect ... this amendment would not affect that scenario, right?*

Testerman: *Right. If I understood correctly.*

Hines: *In other words, if a lot is 15,000 square feet and one is 14,100 and the other 900 is wet ... 404 Army Corps wet.*

Testerman: *Right. The way it is proposed is they would have to get the fill permit in place or do the filling before coming in with a subdivision application because they would have to show that they meet the 15,000 square foot upland area.*

Hines: *Right but you understand ... what I guess I am asking is that what we are talking about tonight is this text amendment is not going to affect that small lot owner guy.*

Testerman: *Right.*

Garriss: *Casey, I see you shaking your head. That is correct?*

Varnell: *Yes. I agree with what Rob has stated based on what David said.*

Pruitt: *What I understand you are saying, David and Rob, is everybody is allowed to a certain percentage to fill on the 404. What we are doing now, if somebody does have a little section under their legal permit right now, they could fill it and add it to make their 15,000 square feet. They would have enough as long as they are under the whatever.*

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Testerman: *If it is a 404 wetland Army Corps jurisdiction, they could get a nationwide permit to fill a tenth of an acre. And like I said, if they do that prior to coming in for a subdivision application and do the fill and show 15,000 square feet of uplands under this proposal, then it would be fine. If they submitted an application and it still said 14,000 square feet of uplands and 1,000 square feet of wetlands, then it would not get approved, but they could go do that process and come back.*

Varnell: *Once it occurs Rob, there is no look back for your review purposes as to what existed prior to that initial fill occurring. There is no look back on it whatsoever.*

Pruitt: *And those permits are given out by the state or federal government. It is not up to us. We do not have jurisdiction, correct?*

Testerman: *404 wetlands are the Army Corps of Engineers.*

Pruitt: *We are not stopping anybody from filling any land that they are already allowed by the federal government is what I am getting at, and Dave is trying to relay to us.*

Hines: *I just do not want to have a negative impact on somebody that is trying to do just one lot.*

Pruitt: *I understand.*

1. Mark Perry, 1064 Twiford Street, Kitty Hawk, NC: *Good evening council. I was going to read all this, but I have already sent it to you and you have read it. The point of this text amendment is right now the way the rules read in this town is you can take a piece of land with a ton of wetlands on it, overlay a grid of 15,000 square foot lots, then you can get a nationwide permit and fill 1/10 of an acre on each one of those lots. That is what this aims to stop. You get a nationwide and you can fill 1/10 of an acre. But if you have 3 acres you can fill 1/10 of an acre so if you have 3 acres and there is 29,000 square feet of uplands you can get two lots out of that and you can fill, you can cut it and ... what you cannot do is go in and fill 30 lots on a tract of wetlands a 1/10 of an acre on every lot. Does that make sense?*

I could have spent more time on this mess, and I can complain, and I can do whatever but if you get what I am saying it makes sense. It is fiscally responsible for the town. The wetlands we have left are free infrastructure. Other states are having to buy wetlands from people for stormwater to go places.

Our town is getting rated one of the best beaches of a seaside town because the village maintains its feel. Just the density is coming. We have seen what has happened to our friends in Wanchese and our friends in Kill Devil Hills. We have lost a friend and a legend in our recreational waters this year because of bad water. Maybe it is naturally occurring, but they have just changed the septic rules where you can put a septic within 15 feet of a wetland. So those wetlands overflow during storms, the 404's or the adjacent, and some of the isolated, ... not trying to be gross here but if the land keeps selling and the water comes up, we are going to be sweeping crap under the

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rug. I mean we sit down for dinner and that is what smells ... there is just a lot of density and we are just trying to say hey, let's develop responsibly. It does not affect people's property rights. It does not keep people from filling. It does not keep them from subdividing. If it is legal, you can do it. But what it does keep out is irresponsible development and tons and tons of density. Do you have any questions for me about this?

Garriss: *Thanks for your emails, Mark.*

McClellan: *Thank you. They were thoughtful.*

Perry: *Miss Lynne, I know you are stepping down. I don't know if we are allowed to do this, but we have a lot of citizens ... can we give Lynne a hand? (The audience gave Councilwoman McClellan a round of applause.)*

2. Jamie Hines, 1148 W. Kitty Hawk Road, Kitty Hawk, NC: *I am not as good as Mark Perry at speaking, so I had to write mine down for you this evening. I am here in support of the text amendment as well. Good evening Mr. Mayor, Ladies and Gentlemen of the Council. I want to thank you for your time in consideration of the text amendment that has been submitted to you. I also want to thank each person who showed up this evening in support. Some of you may have heard the phrase "it takes a village" as a means of saying community comes together to help one another. Well, tonight, it appears it takes a village to save a village.*

As some of you may know my name is Jamie Hines. I am a lifelong resident and a native of Kitty Hawk. My family's lineage dates back over 7 generations in 200 plus years in this town. My family and I have always loved Kitty Hawk and supported its wellbeing which is why I am here tonight to express what I feel is in the best interest of Kitty Hawk and what the people of Kitty Hawk want.

In July of this year, we submitted a text amendment to the town to help alleviate the over-densification of our town which leads to the destruction of the natural landscape resources and wetlands. This issue was brought to light and magnified when we were informed of a large subdivision that the developer may be proposing near the area of Carrenda Lane. There are also several other large tracts of land that may become susceptible to development if our amendment is not passed. This text amendment proposes to exclude all wetlands from the minimum lot size. This proposal does not seek to redefine the definition of lot area, which would have an impact on existing lot coverage calculations throughout the town. The proposed revision would only be for the definition of minimum lot size for newly proposed lots.

I know there has been some opposition against this text amendment which was fully anticipated. As you can see by the turnout in support of the text amendment tonight, I think you know and understand what the people of this town want to see. We want to maintain our village and keep it from becoming like several other communities in our area that have overbuilt, overdeveloped, and destroyed the beauty that we have all been attracted to for so many years.

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As you decide to vote for or against this text amendment, I want to ask each one of you to consider what you love most about Kitty Hawk and what attracts you to this place and what keeps you living here. I know that for most of us we love the beauty of the town, the fact that we still have a small town feel and that we are not all living on top of one another. We also want to be able to maintain this feeling for future generations to come. Please remember that what you vote matters to us and when you are seated in the position of mayor or council your vote should be for the people and not for anyone's personal interest or that of a special interest group. We as citizens of Kitty Hawk refuse to allow this overdevelopment and over densification to occur. We are here asking for your help and consideration in passing this text amendment as a simple solution to keep what we the people see as best for Kitty Hawk. Thank you.

3. Wade Tillett, 4016 Poor Ridge Road, Kitty Hawk, NC: *Thank you all for letting me speak. My name is Wade Tillett. I am a native of Kitty Hawk village. Born and raised here and I really appreciate your time.*

I am a septic contractor for the State of North Carolina for the whole eastern North Carolina region and I am for development. But, to me, there are two developments. You have respectable development, and you have greed development. I would not have my house or my lot if a developer didn't subdivide the piece of land I am on. So, I am for them but in the same breath we must walk a line on greed and respectability. I do not see any problem with developing land. I am the most outdoors person in the world. I tell you if I could make a living off the water or woods, I would be doing it.

Riding down the beach road with my babies, I have four beautiful babies and an amazing wife, and riding down the Kitty Hawk beach road is amazing. We still have a lot of the old cottages, and then you start hitting Kill Devil Hills kind of area and you have those mini motels and all ... development is coming whether we like it or not. We just need to put a leash on it to an extent. I am not saying never build another house again don't get me wrong but we just ... this island is special. We are not up in Virginia Beach, we are not down in Myrtle Beach, we are not down in Wilmington. We are an island. You have water right here and here. We are only so big, and we are running out of good lots, that is what it boils down to. Now everybody wants to put a house on marsh, and I say a deer won't even sleep on it. It's the truth.

It is frustrating to me. I have done a lot of work for some really good ... I pick and choose who I work for, and I can tell them no I won't do that job. They say, well Wade, somebody else will and I say well there it goes. I do not care as far as it goes.

Getting back to the septic world. This water is coming up. I do not care what anybody says. This water is coming up. I work hand in hand with the Health Department every single day. Some of my good friends are there and we look at the permits from the '60's, '70's, that is getting back there, even the '80's and early '90's. This stuff is coming up.

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I was reading an article with my wife Chelsea, we read before we go to bed. I tell you, if you have any kids, bedtime, bath time, bedtime stories good gracious I go to work to get rest. I was reading an article and an oak tree that is 24 inches in diameter across at the base, and that is a big tree, it can drink, in the middle of August, first to the middle of August, can drink almost up to 500 gallons a day. In one day. So, you times that by roughly 30 days a month, that is a lot of water. You chop that tree down I don't know ... and then, too, we have city water. We are steadily putting water into the ground from septic systems. We do not have wells anymore; we are not pulling water out.

And another thing that kind of hits a nerve on me too is the dog on Airbnb rentals. I do not want to cuss them at all, but like all of you, when you are in the public eye, every single day trying to say the right thing, trying to please people, trying to prevent people's stuff, trying to do this ... I tell you this, when I get to my house I want to crawl in a hole. I mean I just do not want to see a sole. You know my wife loves the beach, but I just want to hop in my Privateer and get out in the sound where I do not want to hear anything. When we are sitting there it is amazing. I do not know why somebody would ever want to have a little hut for a stranger in his front yard, back yard, or side yard.

Then like somebody was saying a minute ago talking about the water. I was raised in the water. I learned to swim before, I think, I was even born. But to hear about the flesh-eating virus or whatever ... if you think about it our water table, anything in here is within inches or feet of the water table. Septic system, creosote pilings, salt treated pilings, all that stuff. It is a wonder you can even eat a fish out here if you really think about it. It is just a mess. I took my daddy and a bunch of little boys duck hunting this weekend (5-minute timer) ... well I thank you.

4. Craig Tillett, 4236 Carrenda Lane, Kitty Hawk, NC: *Hello council. I have not done this since high school. I had to write it down. I was raised here. Born and raised, along with Jeff. We had a heck of a good time being raised here. I want to try and keep it somewhat like that. It is getting harder to do. Kids cannot even ride their bike down the road anymore for the traffic because we are getting so intense, building. I know we must have progress like Wade said.*

I support adopting the amendment. We need to stop allowing buildings to be put in wetlands and septic put in highlands which I have seen numerous houses all through Kitty Hawk have been done like that. Let's try to increase the lot size to accommodate ... to keep from getting so intense in Kitty Hawk village. Do we want Kitty Hawk to be another Colington? If you take a ride back in Colington, you know what a mess it is. Let's try to keep Kitty Hawk a plain village for our grandkids. Thank you.

5. Andrea Windle (and daughter Violet), 1022 W. Kitty Hawk Road, Kitty Hawk, NC: *Good evening. I sent an email out over the weekend referencing an article I came across randomly that spoke of Kitty Hawk as being one of the best places to vacation because it is one of the oldest communities in the Outer Banks ... the original village has retained much of its charm and today remains a laid-back vacation destination.*

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I totally agree with Mark and what he is trying to propose here today. I am not lucky enough to be a native of the village. I grew up in Currituck and I would like to mention that tonight Currituck is voting on a very similar issue and Currituck has way more land than we do. They got to a point where they said it is going to be too much. It is too much. My husband and I have lived here for 15 years. We chose the village for its feel, for its sense of community, its lack of overdevelopment. Like I said, I grew up in Currituck and it was important for me to give my kids the best of both worlds. To be able to live at the beach but grow up like I did in Currituck. To be able to ride a bike to their friend's house to go fishing in the creek by their house, crab right down the street. We have chickens, we have goats. We have all kinds of animals, and we are lucky to be sheltered where we are in the village.

I am not saying development is wrong at all. I have friends that, like Wade and Dana, support themselves with this, but we must be responsible for what we are doing. Just go back to the last meeting with the residents of Kitty Hawk Landing. The flooding they are having. If we cannot put the pieces together, to see that filling these wetlands is destroying what we have, and we want to pump the brakes as a village and say we want to decide when too much is too much.

I just want to give you a couple of quotes from the '89 Land Use Plan. I feel like it still rings true today with people that live in the village saying that "policy should protect environment and allow guided growth." I think that is the biggest to come out of this and in 1989 if they thought of that then we certainly do not want to be our neighbors in Kill Devil Hills. We do not want to be Colington and have our sound beaches closed for the entirety of the season and not let our kids go in the water. Thank you all for your service and time. Thank you, Miss McClean, for responding to my email and my daughter's email as well. I appreciate that. I know it was the holiday. That is all I have to say.

Garriss: *Young lady, what is your name?*

Violet Windle: *Violet.*

Garriss: *Thank you for coming tonight. When you get to school tomorrow ask your teacher to give you some extra points for coming to a government meeting.*

6. Amy Wells, 5149 Herbert Perry Road, Kitty Hawk, NC: *I feel like I have been at the town hall a lot recently, but I never felt like I needed to come very much in the past. I grew up here, been here a long time. I always felt like our council in Kitty Hawk has had a long line of old timers, Kitty Hawk natives, and they did a lot to protect our village and follow our Land Use Plan and protect our resources and better the community and allow development too. It was a good mix.*

I think the article the lady just mentioned about Kitty Hawk being one of the best places to take a family vacation, I think that says volumes about what our councils in the past have done. I have watched them ruin Kill Devil Hills, Colington and I do not want them to ruin, or I do not want us

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to ruin Kitty Hawk, so I have sent plenty of emails. I am sorry if I have done too many, but it is important to me and so that is why I am here.

Also, I just want to let you know that because we feel like maybe the citizens need more of a voice or at least someplace to go if they have concerns, so it is not just all on you, I want to give you Articles of Incorporation from the Secretary of State. We have a nonprofit that will be the Kitty Hawk Civic Association. It will take me a little while to get everything together, but I have the paperwork done. Thank you so much for allowing me to speak.

7. Jesse Hines, 1121 F Kitty Hawk Road, Kitty Hawk, NC: *Thank you very much. Thank you for listening to us all. It sounds like the heart here is that everybody loves Kitty Hawk. I know you do too, and it really is a special place. The Outer Banks is a special place, but I feel like Kitty Hawk has that old time feel of, looking at that picture and the sand dunes, it just kind of embodies what the Outer Banks is to me.*

I moved here as a young boy, about 9, then my wife and I built a house in Kitty Hawk in 2006. And man, it is just a special place. We have trees and we are not surrounded by people and that is why people want to live in this town and so what Mark and everybody else is here to do is to prevent too many houses being too close together. Again, the resounding voice here is that everybody, we all survive off development. I do not build things for a living, but I survive off tourists coming here, and they must stay in a house here, so we need things built. But again, what we are trying to do is protect a very fragile environment here in Kitty Hawk from being overdeveloped. Again, just being sensible about what we are doing and really thinking about some of the fragile wetlands we have and so on and so forth.

I think it was about 10 years ago there was a similar development that was going behind Carrenda Lane which is right behind my house. That is why I am here mainly because I personally do not want to see 35 homes right behind my house. We live on the other side of the creek there and there are 6 houses down our road. So, the rumor has it that there could be over 30 houses in the same stretch of land right behind my house. That is 24 more houses. Everybody has two cars, everybody has dogs, so just think about that, 60 cars, however many people, 120 people, and we also live on a blind curve which is pretty dangerous. My son almost got hit by a car just because of the blind curve there.

There will be more traffic and so on and so forth and the wetlands. After Irene it used to be a little creek behind our house. Now it is like a, it is not a river, that is an exaggeration, but all I have seen the water do is rise behind our house. And there is no development happening behind our house yet. So, I cannot imagine if they did take that 26 acres or whatever it is and mow it down and push it over ... there would be nowhere for the water to go, and it would eventually come in my yard and everybody's yard around there. So, again I think it would be great if there were a few homes back there or 6. Obviously that is not profitable but I think what Wade was trying to say is there is development and there is greed and we are trying to ... I know you guys have the big decision to make and I hate that it lies in your hands but that is what you signed up for. We are

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encouraging you guys to really consider the citizens and not so much the money and the greed. I think there is enough of that in the world. We are all guilty of it, but I think we can stop something that is not sensible in that sort of arena. Thank you so much for your time. Really appreciate it.

8. Jimmy R. Scarborough, 4216 Carrenda Lane, Kitty Hawk, NC: *Well, the last thing I want to do is to stand up here and talk in front of everybody. Evidently, I am the enemy. I too am a native and I am here representing two families. The _____ and the Scarboroughs and I happen to be a landowner in Kitty Hawk. We only own 28 acres all totaled. I live on a piece, my daughter is going to live on a piece, and then we own the 26 acres that everybody is so worried about being developed. If you had ever walked that property, you would have been amazed at how much high ground there is in there.*

Also, several things have been said that were incorrect about that development. The houses to the east only come halfway down. We own that much further beyond them down into the _____. Nothing is going to be bulldozed and pushed over. Land will be cleared for the road and land will be cleared around the houses however each person that buys the lots so desires.

I guess the 404 wetlands law is the vehicle they are using to kill this development. It is not going to go away. The land is going to sell, and they are going to develop it. It is all up to Kitty Hawk and the developer and you. Whatever you approve on how many houses will go in there. That is not 35. I have seen the plat and there are 30 homes set in there.

Now I will not talk about the 404 wetlands law. It is wide open right now. You can use that as your square footage. There are a number of spots that may be either isolated wetlands or 404 wetlands on that property and I was surprised that you did not define the 404 wetlands exactly what it is, but it is a small pocket. Like if I had a pocket in my yard that was low, it is a small pocket that must have aquatic grasses in it but more or less a very small pond. Right? That does not connect to any ditch. There is nothing in this thing that is going to send water to the ditch in front, to the east, or to the west. It will be a very nice development. Yes, it would be better, it would be nicer, if it was not so expensive to put in the water and road to state specifications. All that is very expensive to do. With the road and the water and everything the developers want to cut up the sizes and make them smaller and fit more but, in this case, they could legally go to 33 on a dead-end road. The man is asking for 30 not 33. I know there is a curve in there that the Town of Kitty Hawk is not going to like, and I have been through this process about 5 times.

I looked at the taxes very quickly before I came up here. We have paid about \$40,000 approximately to Kitty Hawk in the last 40 plus years and we have not developed this land.

I did not know anything about any of this 3 days ago and I do not know but so much about it now because I do not work in this kind of thing. But the sewage is not going to be running off the hills and down into the ditch and at everybody else's house. There is plenty of high ground there. I would ask you that 404 wetlands have been wide open. You can count it as lot size and I understand that there are some problems in Kitty Hawk. I have seen them. I am not here to discuss those. I do

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not know how you folks will resolve those issues, but houses built in a swamp is no good. But that is not what this is and if I could walk you on the land, you would say this is the prettiest land in Kitty Hawk. Ask Jeff, he knows. He has been on it with me. I am hoping that this land will develop.

I grew up in Duck and the people that moved in up there worked with my dad at the fire company and the minute they got in they wanted to blow the bridges up and not let anybody else come across. I lived in Hawaii, same thing. That is how it went.

The 404 law right now, the door is open, you can use the whole thing. I would ask you to pass a law that finds middle ground. Let 50% (5-minute timer) of the wetlands count and 50 not. That would be an asset.

Garriss: *Your time is up Mr. Scarborough. Thank you.*

9. Eric Reece, 4147 Bob Perry Road, Kitty Hawk, NC: *I have been on Bob Perry for about 10 years. Before that I was in Colington, so I am familiar with a lot of the comments. All my kids were born, Tina and my kids were born in the house in Colington, so this place is obviously very special to us. As you can tell, probably from my accent, I did not grow up here like a lot of the speakers did. Like Mark, though, I do care a lot about my spot and thank you for your service.*

I know this is a difficult thing to face. A lot of folks that care deeply and you are getting pressure from the other side which is the money involved. I spent 20 some odd years in Kill Devil Hills running a fairly good size business so I came up in front of the town quite a bit often in these kinds of contentious situations. My only advice, if I could, I am in support of Mark Perry's amendment but my only advice here is you live here and in years to come a lot of people will say you cannot fight the money. Development has come down to ... but unlike some of the other towns you have an opportunity to extend the bliss for the people that grew up here. Now our kids, Andrea's kids, a lot of the kids are getting a very unusual experience in America and the states and when the suburbanization of everywhere in America looks exactly alike, like having a Target, Five Below and Marshall's ... the things you can get anywhere in the states, you cannot get the wetlands. You cannot get a lot of the things that we have that we see every day.

I grew up in a highly urban area, one of the biggest cities in America, and what we have here ... I want to live in the Kitty Hawk that Wade Tillett grew up in. I am jealous and my kids are getting a half step of that but still it is a huge step more than other people. I realize that in the last couple of years we have all seen an inflection point happening on the Outer Banks and the amount of ... things have changed. The amount of money that anybody's involved in _____ at all knows that things changed about pandemic time. And there is not a lot of pressure on people that may love to visit, may even love a second or third or fourth home here but in January it is probably just going to be the people in this room, and you will see us at the grocery store, at the post office, at the beach, everywhere. So, I just want you guys to take it in before you vote on that and really think about it. Thank you.

10. Violet Windle, 1022 W. Kitty Hawk Road, Kitty Hawk, NC: *Hi. It is me again. I would just like to say living in Kitty Hawk is a real treat. I would hate to see many of the places that I have grown up with gone and the houses that people were in and just think _____ to their houses where they live and how they can just stay here and then they go home and how the places I have in my heart are gone because I have been back here for as long as I can remember. I love it here. We have a swamp right by our house and they were talking about how the water rises and when the winds pick up the water rises so much higher, and I am just thinking about houses. How someone can stay here, and the water just rises right up. I mean sometimes it can get so high that it goes up to your door especially if there is a big, old strong hurricane that hits.*

I have gone crabbing, I have been kayaking, I have lived here my whole life. I have loved it here and I would just like to say that if you build houses here how tough it would be with the traffic. Miss Lynne, as I said in my emails to you, how hard it would be to get to school because of how busy the traffic is. As you remember last year the road work in Kill Devil Hills right by the school how hard it was to get there. I remember some days I was so late, and I got so many tardies last year and how it would be hard for kids that live back in the Landing to get to school. How they would be stuck in the traffic. How hard it would be to lose this place that I hold so close in my heart. I support the text amendment that Mark Perry has laid out. That is all.

Garriss: *Violet, this has nothing to do with being in favor or against this text amendment. I cannot tell you how proud I am of you. I am a lot older than you and there are times I do not feel comfortable with it either, but you have done an outstanding job. Proud of you, my friend.*

11. Email from Ralph Calfee, Martin's Point, NC (Mayor Garriss read it aloud): *Mayor and Town Councilmembers. I am not able to attend tonight's town council meeting, but I would like to share with you my thoughts with respect to the proposal to prohibit wetlands from being included in new subdivision minimum lot area.*

A recent court case apparently reduces a wetland area subject to regulation under the Clean Water Act. The impact of the court finding on such wetlands, which may have been considered for inclusion in subdivision lots is obscure. The logic is a bit convoluted, but I understand the planning board discussed during their deliberations that it is possible, and maybe even probable, that the adoption of the proposed regulation will result in additional wetlands being filled, and in some cases without apparent impact on the sizes or number of lots in a proposed subdivision.

I ask that the proposed total prohibition on inclusion of wetlands and minimum lot area of new subdivisions be denied. Consideration of a limit on wetland areas that may be part of minimum lot area in new subdivisions may be appropriate in the future after current changes to the wetlands under regulation of the Clean Water Act are resolved.

Not hearing any further comments, **Councilman Hines made a motion, seconded by Councilwoman McClean, to return to regular session. The vote was unanimous, 5-0.**

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McClean: *Rob you outlined a couple of other places where changes would have to be made to the town code. Is this going to have to come back up before us?*

Testerman: *No. It is all in the staff report.*

Not hearing any further discussion or questions, **Mayor Garriss made a motion to approve the proposed text amendment to the definition of minimum lot size Section 42-1 and relevant district regulations as presented in the staff report. The town council has found this proposal consistent with the town's adopted Land Use Plan. It was seconded by Councilwoman McClean and the vote was unanimous, 5-0. (Ordinance No. 23-07)**

b.) Land Use Plan Update. The draft document would replace the existing 2003-2004 plan as Kitty Hawk's CAMA Future Land Use Plan and Comprehensive Plan.

Councilman Hines made a motion, seconded by Councilwoman McClean, to return to public hearing. The vote was unanimous, 5-0.

Planner Testerman reviewed the following staff report and introduced Becca Mountz with Stewart, Inc. She provided a presentation on the steps taken during the process of updating this guiding document.

Over the past nine – ten months, Town staff has been working with Stewart, Inc. as a consultant to oversee the development and adoption of the updated/revised CAMA Future Land Use Plan, which will also act as the Town's comprehensive plan.

A reasonably maintained comprehensive plan is required by the state for a locality to legally practice zoning. Although it is a required document, it is an important tool to help the Town make development and policy decisions for the coming years. While the plan itself does not set enforceable policies, it provides direction, through visions and goals for the Town Council to base said policy and development decisions on.

The draft plan was developed through a series of stakeholder meetings, steering committee meetings, and public meetings, all aimed at gathering input from those who live in Kitty Hawk and have an interest in the future of the Town. Additionally, there was a public survey available for approximately 1.5 months, which received 276 responses.

The Planning Board was presented the revised plan at their July 27 meeting, no action was taken. The following morning, the draft plan was put on the website and made available for public comment. At its most recent August 17 meeting, the Planning Board was presented with a revised document, with edits made based on public comments received since posting the document online on July 28.

At its August 17 meeting, the Planning Board unanimously recommended approval of the presented document to serve as the adopted Comprehensive Plan/CAMA Land Use Plan. If the Council chooses to adopt the plan, it will next be sent to the Coastal Resource Commission for their review and approval.

Hines: *You use the word affordable quite a bit throughout your analysis. Do you mind letting me know more about how you came up with that word in certain areas?*

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Mountz: *When talking about affordable housing we are looking for housing for police officers, teachers, your residents who want to work here and want to live where they work. It is just any typical person; it is someone like me. Like someone who is trying to get by on a single income.*

Hines: *I know every landscape is different and every town, but did you make those same recommendations in Southern Shores when you were doing theirs?*

Mountz: *We make recommendations for any project where they are coming up to us and saying there is an issue for the common person and their ability to buy a home. Or find a reasonable property to rent because people do want to rent long term also. One-year, two-year leases so we provide that recommendation to different communities all across North and South Carolina.*

Hines: *A lot of the recommendations you made are based on town citizens giving you questions and their concerns, right?*

Mountz: *Yes. There are multiple people who came up and said I cannot afford to live here because I am a teacher and I love my students, but I cannot live here. I must move somewhere else where I will get paid more.*

Hines: *Thank you.*

Not seeing anyone wishing to speak or hearing any further comments, **Councilman Hines made a motion, seconded by Councilwoman McClean, to return to regular session. The vote was unanimous, 5-0.**

MPT Pruitt made a motion to adopt the presented Land Use Plan to serve as the town's comprehensive plan. It was seconded by Councilwomen McClean and Walker and unanimously approved, 5-0.

8. PLANNING

a.) Schedule Public Hearing. Text Amendment: Sec. 42-581.- Proposed amendment would allow placement of digital message boards by, or on behalf of, a governmental body, in addition to the number of standard signage permitted by this chapter. It is requested that the public hearing be scheduled for the October 2, 2023 council meeting.

Councilwoman McClean made a motion to schedule a public hearing at the town council meeting on October 2, 2023 to consider the proposed text amendment to Section 42-581. The motion was seconded by Councilwoman Walker and the vote was unanimous, 5-0.

9. POSSIBLE NEW BUSINESS

There was no new business.

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10. TOWN MANAGER

Clopton: *We are excited there is new toddler playground equipment at the Paul Pruitt Park on The Woods Road. It was just installed today I believe.*

We are in the process of removing the lifeguard stands. The town will be providing two to three roving ocean rescue guards each day through October 15th.

The last Saturday residential pickup between the highways is this Saturday, September 9th. We will resume our Monday and Thursday residential collection next week for the entire town.

On-demand large item pickup will resume on Wednesday, September 20th.

Fall chipping is scheduled for October 9th. For more information on chipping and on-demand pickup visit the town's website for more information.

The League of Women Voters is sponsoring a municipal election candidate forum. The town of Kitty Hawk's forum will be held on Tuesday, October 10th at 7:00 p.m. It will be here at the town hall. We will also be livestreaming on the town's YouTube page, and it will be recorded for viewing in the future.

And lastly the Outer Banks Hospital will be here on-site Wednesday, October 25th between 1:30 and 4:30. They will be providing free flu shots for community members and employees. This year they will also have their health bus and they can provide wellness screenings which include cholesterol, blood pressure, heart rate, blood sugar and body mass. Those are all free services and insurance is not required. That is all I have.

11. TOWN ATTORNEY

There were no comments from the attorney.

12. TOWN COUNCIL

Hines: *I would like to commend that young lady one more time if she is still here. I think Violet should get a day off from school now.*

McClean: *Violet stay involved. You can be on the council someday too.*

Pruitt: *Greg Hamby was here. We do not respond during public comment, we wait until our time now. I would like to suggest that the police chief look into whether this is something that might be a good idea for coming off the foot of the bridge or keeping it like it is. Maybe suggest it to DOT. Melody, you, and the chief can work together on seeing if that is something they would be willing*

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to work with. I know they have done it on the other side because of some wrecks over there. Maybe we could look into it.

Also, I would like to thank everybody from Kitty Hawk for showing up. I know almost every one of you sitting here. Violet, I love it just as much as you, trust me, or I would not be up here. Wade you think you have it figured out; the water is coming up. I don't know. Are you sure we are not sinking? Anyway, it is the same thing.

So, the point tonight for me is it wasn't about a single development. With me it was about our environment. It was about our water quality. It was about our runoff. It was about the changes that those of us that have lived here are seeing as we look across the street from our houses and see the changes. The change in the color of our water. The smell some mornings. I was a supporter of 404's because at the time 404's stayed dry 90% to 100% of the year. Now 404 holds water most all the time. Times have changed. With change come decisions we had to make tonight. And it was not over shutting down a development for me. Jimmy Ray and I are friends. Craig has been on that property; we have all been on it. It is beautiful land, but we all know how fragile that area is too. So, I just want everybody to know the reason for the way I voted. Mr. Scarborough as well as everybody else knows how I feel about it. It was about the water quality mainly. Density and height have always been an issue here and we battled that and had it under control for years.

It was mentioned a legend, as well as two of my best friends have passed away, in very quick time. Is it natural or are we a part of it? I am not sure. If we are I am sorry for those folks, but it is time. I heard the phrase "pump the brakes." I hope that is what we may have done here for you folks. That is all I have.

Walker: *I would like to echo Jeff's words about everybody coming out tonight. You make our job a lot easier when we know how you feel, and we appreciate that very much.*

We are getting ready to go into the hurricane season and I had an opportunity to go and get a tour of the Dare County Emergency Management Center. We are well prepared I believe. I was very impressed with the equipment and the staffing. The facility was amazing. It should give us some comfort to know they are on top of it.

Garriss: *Our summer is winding down. We have made it another year. Thanks to all the staff. Many people do not know we have the same number of staff in public works, fire fighters and police officers during the summer that we do in the winter. We do not increase in the summertime. They have done a fantastic job this summer. Even our town staff in this building have done an excellent job. Melody, you know what I think. You have been wonderful. Thank you.*

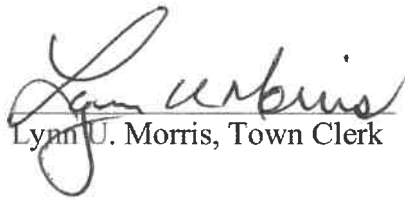
A passionate crowd is here tonight. Thank you for coming. Thank you for your enthusiasm and thank you again for your respect during this governmental meeting. I am getting ready to adjourn but Violet, after I adjourn, would you and your mother please come forward? I would like to shake your hand.

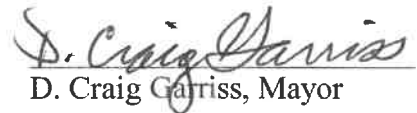
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13. ADJOURN

Mayor Garriss made a motion to adjourn. The motion was seconded by MPT Pruitt and the vote was unanimous, 5-0. Time was 7:25 p.m.

These minutes were approved at the October 2, 2023 council meeting.


Lynn U. Morris, Town Clerk


D. Craig Garriss, Mayor