



**Minutes
KITTY HAWK TOWN COUNCIL**

Monday, April 1, 2024
Kitty Hawk Town Hall, Smith Room
6:00 PM

1. **Call to Order**
2. **Moment of Silence/Pledge of Allegiance**
3. **Approval of Agenda**
4. **Introduction of New Town Staff Members**, Alsu Lewis, Administrative Planning Assistant, Drew Weston, Police Officer, Mark Everett and Nicholas Antonis, Public Works Technician.
5. **Public Comment** – The public is invited to address the Town Council on any topic. Please sign up with the Town Clerk before the meeting and when your name is called, come forward and speak into the microphone at the lectern. Please limit comments to 3 minutes.
6. **Consent Agenda** – Items on the consent agenda are considered to be non-controversial, routine in nature, or items not requiring a presentation to discuss by the Town Council in order to consider the items(s). Any item may be removed for discussion by the council or by any member of the audience who wants to hear the item presented and discussed.
 - a) **Approval of March 4, 2024, Council Minutes and March 19, 2024, Budget Meeting.** (Approval of the consent agenda will approve these minutes).
 - b) **Budget Amendment #11** – General Fund. Recognize reimbursement for payments to classes and dues for an employee no longer with the town.
 - c) **April Child Abuse Prevention Month Proclamation.** Mayor Garris has signed a proclamation declaring April as Child Abuse Prevention Month in cooperation with the Children and Youth Partnership for Dare County and Dare County Department of Health and Human Services, Social Services Division.
 - d) **Resolution** - Adopting Title VI Policy to Prohibit Discrimination in Programs and Services and Activities Receiving Federal Financial Assistance; and Non-discrimination Policy Statement.
 - e) **Amendment** - Article IV Recruitment and Employment – Section 1 Statement of Equal Opportunity Policy & Section 2 Implementation of Equal Employment Opportunity Policy, update of nondiscrimination language.
7. **Items Removed from Consent Agenda**
8. **Public Hearing**
 - a) **Special Use Permit & Site Plan**
4907 & 4911 Putter Lane – applicant proposes new EMS Substation
 - b) **Text Amendment**
Definitions Minimum lot size - The applicant proposes a revised definition requiring all uplands area used to fulfill minimum lot size requirements be contiguous.



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9. Old Business:
10. New Business:
11. Reports/General Comments from Town Manager
12. Reports/General Comments from Town Attorney
13. Reports/General Comments from Town Council
14. Adjourn

Council Members Present:

Mayor Craig Garriss, Craig, Mayor Pro Tem Jeff Pruitt, Jeff, Councilman David Hines, David, Councilwoman Charlotte Walker, and Councilman Dylan Tillett.

Staff Members Present:

Town Manager Melody Clopton, Town Attorney Casey Varnell, Administrative Services Director Laura Walker, Finance Officer Liliana Noble, Police Lieutenant James Helms, Fire Chief Mike Talley, Public Works Director Willie Midgett, Sergeant Anthony Edwards, Administrative Zoning Technician, Jessica Everett, Administrative Planning Assistant, Alsu Lewis, Public Works Technicians, Nicholas Antonis and Mark Everett, Police Officer Drew Weston.

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda

Garriss, Craig: Council I need a motion to approve tonight's agenda please.

Hines, David, David: So moved.

Garriss, Craig: Motion made by David. Second?

Tillett, Dylan: Second.

Garriss, Craig: Second by Dylan. All in favor?

All Council: Aye.

4. Introduction of New Town Staff Members,

Garriss, Craig: All opposed? Thank you. Introduction of new Town Staff Members. Laura?

Walker, Laura: I would like to introduce Alsu Lewis she joined the Town of Kitty Hawk in March 2024. She has over 20 years of customer service experience primarily in the banking industry. She has also worked in restaurants and non-profits. She holds a Bachelor's Degree in Business



Administration from NC Wesleyan University. She loves Outer Banks beaches and has been living here with her family of five since September 2004. She loves to give back to the community and you can often see her volunteering at local events. She has already made a positive impact on the Town here. Her role involves supporting the entire team from an administrative perspective, and she is the friendly voice you'll hear when you call. Additionally, she assists with planning efforts, including accepting, processing, and facilitating permits and other related activities. We encourage you to stop by and say hello!

Garriss, Craig: Welcome Alsu.

Lt Helms: Good evening, I am here to introduce our newest Police Officer, Drew Weston. Born in Virginia, raised in Currituck. Graduated from Currituck High School in 2005. Joined the Air Force 2009. After three years in the military, he joined the department of defense as a patrol officer. Drew has a total of 14 years in law enforcement with a background specializing in canine. Drew has been married to his wife for 13 years. They have three kids, one daughter and two sons ages are 8, 4 and 2 so he has his hands full there. Drew is extremely happy to be back in the area. On a side note, Drew and I actually went to High School together, it's goof for him to come back to the area.

Garriss, Craig: Thank you, Mr. Willie, you have two new members.

Midgett, Willie: We have two new people in Public Works this year. Nick Antonis, some of you may have seen him already, he has been here about a month. He is from Kitty Hawk. He has been doing plumbing and some real estate work. He has been a big help to us and has already shown what he has got. Mark Everett formerly worked with Dare County. If we need to spray for mosquitos we got it covered now. He lives in Manteo with his lovely bride Jessica who you all may know; she works here at Town Hall. We look forward to keeping our team strong this year and we are off to a good start.

Garriss, Craig: Thank you Willie. I guess you have already found out you are a member of a great team. We thank all of you for being here. Public Comment, Laura do we have anyone signed up for Public Comment?

5. Public Comment

Walker, Laura: We have Joe Heard from Manteo. Mr Heard?

Garriss, Craig: Good to see you Joe.

Heard, Joe: I just wanted to be brief. Two years ago, I recently had the anniversary of two years when I suffered a stroke and wanted to say Thank you to you the council and the staff here at Kitty Hawk for the care and compassion. The Council itself actually sent a card expressing its well



wishes and it meant a lot to me at the time. I wanted to just once again thank you. You are really caring people and it shows in your actions and I hope that people appreciate that as you make your decisions. You're not just good leaders but you are good people. That is the reason I am here today is to say thanks for bringing me through a very challenging time, so take care and have a good evening.

All council: Thank you Joe.

Garriss, Craig: Joe, you will continue to be in our thoughts and prayers.

Pruitt, Jeff: Take care my friend.

Hines, David: He was the planning director here for a few years.

Garriss, Craig: Anyone else signed up Laura?

Walker, Laura: No sir.

Garriss, Craig: Anyone like to speak at public comment about any topic tonight? Come on up Mr. House.

House, Steve: Thank you, mayor, I am coming to you once again regarding the Outer Banks Jeep Invasion as president of the Outer Banks Jeep Charities Group. Our Jeep invasion this year is going to be in September, and I am asking for permission again for a beach ride on the Kitty Hawk beaches from Eckner Street down to the bathhouse. This is for Friday and Saturday, which is the 20th and 21st of September like we have done in the past. About 100 jeeps per day, on the beach by 8 and off the beach by 9 escorted by Ocean Rescue and also with the police department as well. As has been in years past, a donation would go to both of those departments. We are asking for your permission for us to do that. Last year we had over 840 jeeps on the Outer Banks and only 200 got to ride the Kitty Hawk beaches. We are looking forward to doing that again if you will allow us to do that.

Garriss, Craig: Council I think can we make this approval right now?

Pruitt, Jeff: I make a motion for approval for the Jeeps on the Beach for the two-day event.

Hines, David: Second

Garriss, Craig: Second by David, all in favor?

All Council: Aye.



House, Steve: Thank you very much.

Garriss, Craig: Thank you very much. Look forward to seeing you. Once again what am I going to say?

House, Steve: Leave the beach like it was.

Garriss, Craig: Don't tear up my beach. Thank you, sir, anyone else signed up to speak at Public Comment?

Walker, Laura: No others are signed up.

6. Consent Agenda

Garriss, Craig: Laura let the record show no one else chose to speak. Council I need a motion to approve tonight's consent agenda.

Walker, Charlotte: So, moved.

Garriss, Craig: Motion made by Charlotte, second?

Tillett, Dylan: Second.

Garriss, Craig: Second by Dylan. All in favor?

All council: Aye.

Garriss, Craig: All opposed? Item 7 we had no items removed from the consent agenda.

8a. Public Hearing

Garriss, Craig: Item 8a, we have a special use permit and site plan, we need to go into a Public Hearing. Dylan?

Tillett, Dylan: Mr. Mayor before we begin with this item, I would like the council to recuse myself due to being employed as the applicants engineer.

Garriss, Craig: Very good, Dylan, David do you agree with that?

Hines, David: I am fine with that.

Garriss, Craig: Jeff?



Pruitt, Jeff: I am fine with that.

Garriss, Craig: Charlotte?

Walker, Charlotte: I am fine.

Garriss, Craig: I am fine, we are totally unanimous. Laura, Dylan is from this point recused from Item 8a. Anyone would like to speak for item 8a for the public hearing special use permit you need to come up and be sworn please. Rob, are you here?

Testerman, Rob, Rob: Yes Mayor, the engineer (Michael Strader) is here as well.

The Oath was administered by the Town Manager, a Notary Public, Melody Clopton for Robert Testerman, and Michael Strader. They responded in the affirmative.

Testerman, Rob: As mentioned this is for a special use permit request for an EMS Substation at 4907 & 4911 Putter Lane. The EMS stations are permitted in the MS1 zoning district as a special use. The ordinance does not list any specific conditions for approval. The proposed station will include a bay for Kitty Hawk to house a fire truck during storms or at other times it may be necessary. The subject property is presently zoned as emergency and governmental services, MS1 district. The site is currently unimproved. Directly abutting the subject property to the north is a vacant town-owned parcel it is also zoned MS1. To the west is the SeaScape golf course and to the east across 158 are a handful of single-family residences and are zoned BR1. To the south is BC1, a general beach commercial-zoned district containing a real estate office. You can see in the staff report, a staff analysis, the different zoning requirements are being met, building height, lot coverage. I won't read through all of them but if the council has any questions on any specific one we can talk about them. The following policy relevant to this application and the land use plan policy 6.1 states maintain to provide offer Ocean Rescue services emergency services and fire and police protection. As per section 42-100b8 in order to approve the application, council must make the findings that the proposed conditional uses meet what is in that subsection. I will go through that for you. The first one is does not materially endanger the public health or safety. All required State and other permits are obtained. The authorized agencies will have reviewed the permitted driveway designs and locations, septic systems, water lines, stormwater management. Therefore, we would presume that these improvements be made in a safe manner. B – that does meet all details and specifications as detailed in the staff report. The minimum requirements are met. C, that it will not substantially injure the value of adjoining property or be a public nuisance. The applicant has provided the following evidence that this condition is met. First architectural style of the building blends with and complements the existing and adjacent buildings and residences in the general area, the building is not located in a residential neighborhood, the building is on and would directly access north Croatan Highway which is a major thoroughfare. The same emergency vehicles along with emergency vehicles from other agencies already traverse this highway for



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emergency responses. The location of the station will provide quicker response times, benefiting residents. There are no existing residences in the direct line of sight to the side, in front of, or behind the new station. The residences behind the new station are separated by a golf course greenway and a line of dense trees and vegetation. The closest residence in this direction is approximately 400 feet from the proposed building. The existing residences across Croatan Highway are separated with dense trees and vegetation. These residential properties are accessed from a side road and not North Croatan Highway. The closest residence in this direction is approximately 230 feet from the proposed building. They have a night-time response protocol for siren use and the building and grounds will always be maintained in good condition by the county. The fourth requirement is that it will be in harmony with the area in which it is located and will be in general conformity with the comprehensive plan. The area in which it is located is zoned for emergency and medical services it is abutting a commercial zone which is in harmony with the area where it is located. It is located in the Invest and Improve areas of future land use map. A couple of recommended conditions on approval from staff, prior to issuance of any building permits that the parcels be combined into one parcel and be readdressed to North Croatan Highway instead of Putter Lane. The Planning Board in their February 15th meeting recommended approval with those recommended conditions. Is there any questions from the council and the engineer is on hand here from the county to answer any technical questions.

Garriss, Craig: Council, any questions for Rob or the county engineer? Charlotte, Jeff? No questions? Okay, thank you, Rob. With no further action from Rob, I will need a motion to leave the public hearing to go back into regular session, please?

Hines, David: So, moved.

Garriss, Craig: Motion made by David, second?

Walker, Charlotte: Second.

Garriss, Craig: Second by Charlotte, all in favor?

All Council: Aye.

Garriss, Craig: All opposed? None. Ok, Council what do you want to do in the matter?

Hines, David: I will make a motion.

Garriss, Craig: Go ahead, David.

Hines, David: I move to grant approval of the special use permit to allow an EMS substation at 4907 and 49011 Putter Lane with those conditions listed in the staff report Town Council finds the proposal meets the conditions of section 42-100(b)8 as described in the staff report.



Garriss, Craig: Motion by David, do I have a second?

Pruitt, Jeff: Second.

Garriss, Craig: Second by Jeff. Any further discussion? All in favor say aye.

All council: Aye.

Garriss, Craig: All opposed? Thank you, we want to thank Dare County once again for providing this service for the citizens of Dare County, the north end of Dare County, the south end of Currituck, and all around. We are certainly looking forward to this project kicking off very soon.

Hines, David: We need it.

Garriss, Craig: Will you relay that for us Mr. House. Thank you.

MR House: I sure will.

Garriss, Craig: Council, Item 8b, Text Amendment regarding definitions of minimum lot size. I need a motion to go into a public hearing, please.

Pruitt, Jeff: So, moved Mr. Mayor.

Garriss, Craig: Motion made by Jeff, second?

Tillett, Dylan: Second.

Garriss, Craig: Second by Dylan. All in favor?

All council: Aye.

Garriss, Craig: All opposed? NONE. Dylan, of course, you are back in voting mode on this text amendment. Ok, Rob?

Testerman, Rob: The proposal came in by application to add to our current definition of minimum lot size states minimum lot size means the minimum lot area as required by various zoning districts. Marsh and wetland areas, as determined by Federal, State and Local agency regulations may not be used for minimum lot size. The proposal adds a sentence at the end of that stating: All upland areas must be continuous, contiguous, and connected to meet the minimum lot size requirements. In addition to the proposed addition to the definition, I discussed with the applicant, since in each zoning district it specifically calls out the minimum lot size with that same



language, should be applied to all the districts so it is consistent throughout. Just for some background, recently a text amendment was adopted that excluded any type of wetland to be included in the minimum lot size calculations. It has been brought to staff's attention that the majority consensus of the council that the intent of the 15,000 square feet to be contiguous in nature. In other words, to be considered adequate square footage for the new lot during subdivision process. The 15,000 square feet upland area must be uninterrupted by wetlands marsh stream, roads what have you. During the previous text amendment, this desire was not relayed to staff so it was not included in the discussion, so that is why we are back here tonight. The applicant added into the subsection. During the planning board, there were concerns that were brought up during public comment as well as by a couple of the planning board members. The primary concern being that if the intent for the proposed text changes were to protect wetlands, that the adoption of the proposed language could have the opposite effect. I got a graphic that I will put on the screen. Should the amendment be adopted the concern are that potential developers would then obtain permits to fill as much of the wetlands as possible, or if they are non jurisdictional wetlands you might not need permits to fill in order to gain the 15,000 of contiguous uplands prior to applying for a subdivision. The resulting action could potentially result in more lots/developments on a tract as there would be greater amounts of non-wetland area to work with and would result in greater impacts on the wetlands. Additionally, there are no specifics as to what constitutes the uplands being contiguous, contiguous, and connected, meaning a developer could have a potential lot that contains 10,000 square feet in one area and 5,000 square feet in another. Then after obtaining fill permits or if it's non jurisdictional wetlands just go ahead and fill it in without permits. They could do a thin strip to just connect the two and disturb more wetlands, creating a funky parcel that has not much use to it. The following policies and objectives relevant to the application and the land use plan. Policy 3.1 Manage land use and development to minimize primary and secondary impacts on resources and existing residents through standards for development. Policy 3.4 Encourage residential that fit Kitty Hawk's character. Maintain zoning regulations that protect the character of Kitty Hawk's neighborhoods and Policy 4.1 Encourage the preservation of maritime forests, floodplains, marshes, and wetlands through development regulations and land protection initiatives. At the February 15th planning board meeting, there was a motion to recommend denial of the proposed text amendment, that motion failed by a vote of 2 to 3, so it comes to the Council with a recommendation of approval. To show what I was trying to get at with the wetlands, it is hypothetical I just found this area in Kitty Hawk and circled an area. If they had 10,000 square feet of uplands here to the right and another 5,000 square foot pocket over here, there would be nothing to prevent them from just filling the little strip there and connecting the two contiguous wetlands, that lot would be approved under the language that is being proposed. I will turn it over to questions and I know there are public comments as well. That is my interpretation but Casey if you have any insight.

Varnell, Casey: No, I do not disagree.

Garriss, Craig: So, let's just be clear. I am tied up with some of the thoughts of the planning board. And you just said it, if it is not continuous, contiguous and connected someone can get a



permit, or they do not have to get a permit. And haul in dirt and fill to make it continuous, contiguous, and connected, is that right?

Testerman, Rob: Correct.

Garriss, Craig: Casey, is that right?

Varnell, Casey: That is correct.

Garriss, Craig: I have a problem with that.

Hines, David: I have a comment on it as well. Jurisdiction being defined by 404. So, you can walk around it in a full circle, and it does not lead to another body of water it can legally be filled.

Garriss, Craig: Let me be clear, I understand the intent of this text amendment, but I have a problem with what I just said.

Walker, Charlotte: Doesn't this add another layer of protection for our town that CAMA would be, they don't just hand those out do they? You have to have a reason to want to fill that area, is that right?

Testerman, Rob: This does not just apply to CAMA wetlands. CAMA wetlands and 404 jurisdictional wetlands that don't permit up to a certain amount and then there is non-jurisdictional wetlands. Army Corps use to consider it used to be under jurisdiction but based on the recent Supreme Court case they do not have jurisdiction over it anymore. But even if it is still technically wetland, they would need permits from the Army Corps to go in and fill, I guess they would need a land disturb permit from the Town, but there would be nothing to prevent us from issuing that permit.

Garriss, Craig: Is the applicant here tonight? By any chance would you like to come up to be sworn and speak? Mr. Hines, David come on up.

Clopton, Melody: As it is not a special use they do not need to be sworn to speak.

Garriss, Craig: Mr. Hines, David, come up sir.

Hines, Jamie: The whole original intent behind all of this in this and now we are coming back around for a second time in front of you guys' tonight is basically what I would call more housekeeping just clarifying some things. But the whole point behind the text amendment was to discourage the over-densification of Kitty Hawk and from using every square inch of upland to build something on it. That's the whole intent behind all of this. When I came back to Rob with continuous, contiguous, and connected that was to keep someone from doing exactly what he has



basically drawn out, great diagram and I understand what he is trying to explain. Instead of someone using 10,000 square feet of high ground over here and 5,000 over here to make one lot. Try to build something on a smaller parcel of land, the whole reason behind this was to discourage like what you see in Kill Devil Hills, houses stacked on top of each other because obviously nobody enjoys seeing that as you drive down the road. We are just trying to help protect the way the village looks and to help maintain that for future generations to come.

Garriss, Craig: Any questions for the applicant? All right, thank you Mr. Hines.

Hines, David: Thank you.

Garriss, Craig: Jeff? Any comments, or questions? Remember council we are looking at text amendment only tonight, that's all we are looking at. Dylan?

Tillett, Dylan: So, I just want a little bit of clarification from Rob. So, it sounds like the intent of this was to prevent what you have shown, do you see any way that it could be tweaked to promote that intent?

Testerman, Rob: I am sure there is, I don't know if I would want to come up with a solution now.

Tillett, Dylan: I am just curious and trying to understand it all.

Garriss, Craig: David?

Hines, David: I am trying to follow along with Dylan. Are you saying you are or are, I am confused too, to be honest.

Tillett, Dylan: I am in favor of keeping the town's character which I feel requires the 15,000 of upland to be continuous. To me, that is what I see and it encourages a little bit larger lot size and more in tune with Kitty Hawk's character.

Testerman, Rob: I think if there is some way to specify in the amendment that it is approved disturbed area or something. I don't know, I am not proposing that to be the exact language. Some way to highlight that it is in its natural state before anybody goes and does anything it has to be 15,000 square feet of upland area or contiguous upland area.

Tillett, Dylan: Would the existing wetlands need to be contiguous?

Testerman, Rob: I will let Casey weigh in the legality of that.

Varnell, Casey: The issue I think of approving it like this but later trying to enforce it as, well that's not what we intended for example. You don't have a standing; the text amendment is in front of



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you. There is nothing that keeps your decision from being arbitrary, cause why is that not continuous, contiguous so I agree some type of limit, some standard by which you guys could rest your hats ultimately which is something to the extent of the connection point must be as wide as the lot is. There must be some kind of guiding standard that keeps you guys out of the fray of well is this enough to qualify as continuous, contiguous, and connected?

Hines, David: I guess for me too, so let's just say generational land we all know there is. Let's use this example right here and let's just say we will use the name Tom, he's got 3 acres, but he does not have 3 acres of continuous uplands, and that little portion right there can be legally filled because it does not lead to a body of water. So, he wants to give one acre to each one of his 3 kids. If we pass it the way it is written, you cannot do that is that correct? Cause I don't think that is right.

Testerman, Rob: If I followed you.

Hines, David: I am okay as far as what the residents want in certain areas, but I think we got to be careful of telling somebody they can't fill the little bit of an area that's no longer jurisdictional by the federal whether it's CAMA or Army Corps that was a US Supreme Court Ruling correct?

Testerman, Rob: Yes, correct.

Hines, David: I hate to see down the road somebody wants to divide some land off to their children and cannot do it. Of course, there could be a different council and change is all over again and it might not be an issue. But I am in favor of keeping Kitty Hawk the way, I don't want it to be like the other towns either, so I don't know how to.

Varnell, Casey: To answer what I think David, well not to answer but to help guide what I think David's question is, is there anything in our exempt subdivision ordinance that would take care of that problem?

Testerman, Rob: It only falls under the exemption if it is under 2 acres, possibly. It would not be the exact scenario that we had mentioned.

Hines, David: We are talking subdivisions, correct? This is for subdivisions.

Testerman, Rob: This has no bearing on any existing lots. There are hundreds of 7500 square foot lots between the highways.

Hines, David: So, that has non-conforming?

Testerman, Rob: It has the potential to create non-conforming lots, but non-conforming lots are still buildable.



Hines, David: Even if it is more than 50% damage?

Testerman, Rob: Yes. That's where you get into the non-conforming structures.

Hines, David: I just want to be clear for everybody.

Tillett, Dylan: Just something to take note of too, so we are talking wetlands with this also eliminates, you mention in your staff report crossing roads as well. Is that correct?

Testerman, Rob: That would correct yes.

Tillett, Dylan: And you can't fill a road.

Testerman, Rob: Right.

Tillett, Dylan: So that's a hard line there.

Hines, David: I agree with that.

Tillett, Dylan: Just something to note.

Garriss, Craig: Good point Dylan. Any more questions or comments for Rob or the applicant? If nothing else, I need a motion to leave the public hearing.

Clopton, Melody: Public Comment.

Garriss, Craig: Yes, on this matter, excuse me. Come on up sir. I knew you would be here tonight, good to see you.

Calfee, Ralph: For the record my name is Ralph Calfee, I am a property owner in Kitty Hawk. I think this is an excellent example of issues with or problems with what is proposed to be done. I agree that wetlands are valuable, there is no question about it. The protection of wetlands is well-established policy of the Town of Kitty Hawk Land Use Plan among other things. And wetlands protection clearly could be enhanced. I ask that especially in light of the example you see before that continuous wetlands are extremely important. If you have a wetland that is hundreds of thousands of feet long, that wetland, a primary function within that wetland is the habitants of that wetland will migrate and move all along that wetland. The amendment that you are proposing, or excuse me that is being proposed, an example being here is an amendment that is going to create strong pressure for applicants to put land bridges between uplands which will then bisect the wetlands just as this example does, and now the animals and all the other critters that live in the wetlands will not be able to migrate through the wetland will now be in a series of



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wetland pockets. That is a much lower-quality wetland than what you started with. I don't think you should be adopting something that encourages applicants to fill wetlands such as they are no longer continuous. The continuity of wetlands in my view is just as important as the continuity of uplands. My experience in being involved in wetlands subdivisions is that the wetland upland interface is really the hardest part of this. All the rest of it, the acreage requirements or anything else is pretty standard but that is the hard part. But if you impose this amendment, you are going to encourage applicants to create lots solely for the purpose of complying and/or being eligible for fill permits to create more and more isolated wetlands out of what were contiguous wetlands. I encourage you not to adopt this ordinance. Thank you.

Garriss, Craig: Thank you, Mr. Calfee. Anyone else here like to speak? Come on up here sir. State your name, please.

Garrity, Duke: Good evening, Mayor I am Duke Garrity I am the Government Affairs director with the OBX Home Builders. I don't know how I can add anything else to what Ralph just said. We all know wetlands should be contiguous, what we are trying to do here is make things harder and make things a little more expensive to build to slow down growth. Very easy to fill this in, just going to cost more money. I go to one meeting, and we are talking about affordable housing, I go to the next meeting, and we are talking about adding ten to twenty thousand dollars to the cost of the lot. Clearing it, clearing trees out. I don't know what we are looking to gain or what the intent is. If we have 15,000 square feet, it's not important to have contiguous. We have some wetlands, all kinds of wetlands this town is built around, there is no shortage, but you are losing it more and more all the time. Makes me think this is close tonight and I would recommend denial. Thank you.

Garriss, Craig: Thank you, sir. Does anyone else here tonight like to speak? Yes, ma'am come on up. State your name for the record please ma'am.

Hines, Carleigh: I am Carleigh Hines, 1148 West Kitty Hawk Road. I really did not intend to speak, and I am not going to give the details that everyone else is speaking on, I am going to speak from the heart and not so much the details of the text amendment the development, and everything you have heard over and over again. I wrote a couple of things down and I just want you to kind of reflect on them and to just to think about moving forward. I am not saying yeah or nay at all. I just want you to think about it. So, I have been alongside my husband the whole time and I have sat quietly. I have supported him and everyone else in this matter. I am not going to get into all of the details that you have heard over and over again that multiple people have said regarding the statistics, the wetlands, and everything that you already know. I am going to ask you to just think back. I am going to ask you to think back to what the Outer Banks was when you were growing up. I am going to ask you to take just a minute before you vote on this to think about what enjoyed doing here growing up. What did you love about this place? What did it look like? How did it feel? Did you love the freedom that it offered? Did you have space? Did you love running around with your family? With your friends? I am looking at this from a perspective not only as a child who grew up here but as a mother who has her own child who will grow up in this town that we call



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home. I don't have the same place that you grew up with. My husband does not have the same place that his parents grew up with or his grandfather grew up with. My daughter won't have the same place that I grew up with. This beach has changed so much. Development is inevitable, we know that. But over-development that is what makes my heart break for this one of kind village that we call home. My daughter deserves better. Your children, your grandchildren and your future generations deserve better. Remember why you were elected. Thank you, guys.

Garriss, Craig: Thank you, Ms. Hines, David. Does anyone else like to speak? Come on up sir.

Tillett, Wade: Good evening you all, my name is Wade Tillet born and raised in Kitty Hawk North Carolina, United States of America. Let me just say, if you can zoom out it's 15,000 square feet between the two little pieces in the middle. Say the next lot, if you made a land bridge, it's going to turn that into a bog, the next little bit like Mr. Calfee was saying. I mean the nutria are doing enough to our marsh already, but the second you get rid of that water flow, it is going to be contaminated, it's going to stagnate. It is going to kill everything in the middle of it. That water needs to come and go. I don't know, but the time you got to 10,000 square feet and a little piece on the side. You have the house and the driveway much less the access going to and from wherever in the world it comes from, nobody ever talked about that. That is that side, so where are they going to pump the septic? Across the other side like they all said. I don't know, culverts or whatever, the water's got to flow, that land is made the way it is and needs to stay that way. What it is we are running out of good lots in the Outer Banks. Got water right over here and we got water right over there. We are not Virginia Beach where you keep going in and in or Myrtle Beach. We are on an island it is just hard. I get it, it's just hard. I have four babies myself I don't know where they will live someday. I just want my babies to climb up a tree and shoot a squirrel in the woods that were there when I was there. I appreciate your time.

Garriss, Craig: Thank you, Wade. Anyone else like to speak? Ok, I have an email that came in late this afternoon to me and asked to be read into the record so I will do that now, that is appropriate that is correct Casey?

Dear Mayor & Council Members,

I hope the emerging Spring finds you all well. My family and I are out of town for spring break but I was informed of tonight's potentially impactful meeting and felt compelled to write. I'd like to reiterate our support of the Mark Perry's wetlands text amendment. I stand by all the sentiments contained in my previous email of 12/1/23 and feel they are even more poignant in light of rumors of developer thirst for the north end of Kitty Hawk. Decisions like this text amendment have the potential to benefit those who don't live in our town but greatly impact those who do. Open space is our most important non-renewable resource. We all know that these individuals are not above saying one thing but doing another then hiding behind empty phrases like "business is business" & "our hands are tied. "Our society is becoming infamous for making short-sighted policies that are exploitive for the gain of a few over the well-being of the many. Please consider us, your neighbors, and our collective future when you legislate tonight.



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Thank you once again for your continued service & your thoughtful consideration.
Eric, Tina, Allegra, Kai & Jasper Reece

Any more speakers? Come on up Katie.

Morgan, Katie: I am Katie Morgan. What I am going to read probably sounds like a tangent, but it all comes back.

Garriss, Craig: Three minutes now

Morgan, Katie: Okay. I would like to start off with reminding everyone that the House Bill 259 is still part of the State legislation and that by staying with the Coastal Affordable Housing, LLC who is looking at the land on 158 right there between the Woods Road coming all the way down to the ABC Store which is all marsh whose primary owner is Jordan Hennessey the same 29-year-old who owns the Miss Katie dredge. He can at any time build whatever he wants at whatever capacity he wants without any input from any of the local towns or its citizens and that by returning the states 35 million dollars that whole problem would go away. So, I would hope the Board of Commissioners would consider that. That would help a lot of this. With that said I have public records directly linking Hennessey to the development of the House bill. I have receipts showing that on 6/19/2023 there was a call he had for three hours, and forty-two minutes reviewing and revising legislation regarding the exemption of zoning requirements. There is another receipt for September 22nd, 2023 for a two and half hour call regarding the same thing. Kitty Hawk Estates LLC owns almost every lot lining the North Croatan Highway from the Woods Road to the ABC Store, which like I said is all marsh. On February 16th, 2023, Coastal Affordable Housing transferred \$25,000 to this company with the intention of purchasing this property. On the same date on February 16, 2023, its wiring instructions were sent from Sharp, Graham, Baker, and Varnell's office meaning they are handling the transaction. On January 31st, 2024, Sharp, Graham, Baker and Varnell's law office sent \$10,000 for the Whichard option fee which is also Kitty Hawk Estates LLC. Mr. Varnell which we all know is the Town Attorney for the Town of Kitty and the Town of Kill Devil Hills. I say this all to say that there are serious wheels turning and people need to be aware that things are happening fast. I say this all to shed light on the fact that someone in the Town of Kitty Hawk has known about this since it has been discussed since 2022. While Mr. Varnell's law firm has been helping since at least February of 2023. I say all this to shed some light on the local collusion and serious conflict of interest even in the Town of Kitty Hawk. I personally do not feel that Mr. Varnell should be allowed to weigh in any of the wetland text amendment language tonight or ever because his firm is intimately working alongside the very company who is trying to get rid of wetland protections. I have 35 more seconds but, I brought my kids back here too for the same reason. I just hope that you don't just look at this as a legal matter, this is a personal matter to everybody in here and there are people in this room that are intimately involved with things that are happening that should not have any kind of interaction with the amendment at all, they should know what is happening that is all. Thank you for your time.



Hines, David: I have a comment on that. I can't speak for half of that, but I can speak for myself that I know nothing about what was going on Woods Road regarding Affordable Housing, for the record. I understand where it is at, but you are making an accusation that somebody in here knew about it, and for the record I did not.

Morgan, Katie: Okay I understand.

Garriss, Craig: Okay anymore, speakers for this text amendment.

Walker, Laura: Mayor I have one more gentleman signed up, Jimbo Ward.

Garriss, Craig: Come on up Mr. Ward.

Ward, Jimbo: My name is Jimbo Ward. I do not want to follow Ralph Calfee, but basically, everything he said is exactly what I came to say. I guess everybody looks at development differently. I am 74 years old, and I grew up on this beach off and on, sporadically I guess you could say, and I could get in my truck and drive 5 minutes and get in my duck blind and go hunting. My kids can't do that, and they can't do that because we had kids and you had kids and Jeff had kids and Ms. Walker had kids. Those kids changed this beach. So, when we say the developer messed up, which developer? Daddy Perry, when he subdivided his chunk of land? The Walkers when they put in a trailer park? It's inevitable. The question to me is really more like what Mr. Calfee brought up. How do you handle development with doing the least amount of damage? What does the future hold in store for any of us at Kitty Hawk? People in this Town fought the medical center, and they got a candy store. I hope they are happy. Seems to me it would have been better with a new medical center. You fight the use of property to individual homeowners. Forty years from now, this board will probably be populated by two people from Ohio, somebody from Pennsylvania, somebody else from New Jersey, and one Kitty Hawker. They may look at that piece of land and go wow, we can get 22 multi-family units on that property. When that property is used for Jeff Pruitt, Jeff's house or Jimbo Ward's house, or Dylan Tillett's house, that's what it will be used for. I would rather have a family in Kitty Hawk. Well, I will be gone so it won't matter. And probably my kids too, but I would rather have a family there today because something like that will never happen again. We talk about and we get all upset about the cost of construction where people can live, by creating the 15,000 square foot lots and trying to make the uplands contiguous. You drive through Kitty Hawk and see for instance what Steven Lafrance has built. He is the only person in Kitty Hawk that somebody could actually afford. Under this new ordinance, that land would be unusable. It could never be recorded. A young family would never have the opportunity to move into a somewhat small home, but still, a nice-looking home that he is building. If you go right down Kitty Hawk Village Road you will see house after house that meets that criteria. It is up to you.

Garriss, Craig: Thank you Mr. Ward. Anyone else signed up Laura?



Walker, Laura: No sir.

Garriss, Craig: Anyone else like to speak? Come on up.

Sullivan, Sharon: I do not have prepared remarks, but in whether or not you guys vote for this text amendment that is up to you. But the intent to protect the wetlands is important to everybody. If you don't vote for this, then please work together. Don't make somebody pay another \$250 or whatever to put a text amendment. Get together and work on it and protect our wetlands. If this is not going to work, then find something that will.

Garriss, Craig: Thank you, Ms. Sullivan. Anyone else like to speak? Anyone else during this public hearing? Council I need a motion to go out of the Public Hearing, and go back into regular session, please?

Pruitt, Jeff: So, moved.

Garriss, Craig: Motion made by Jeff, second?

Hines, David: Second.

Garriss, Craig: Second made by David. All in favor?

All Council: Aye.

Garriss, Craig: Council what would you like to do. Any discussion? If not, I will entertain a motion.

Pruitt, Jeff: We are getting shown scenarios and that's really not what the job is tonight. Our job is we were given a text amendment and whether there is a loophole we are going to miss tonight, I am not really sure. If we do, we might have to come back and correct it, but we have the text amendment in front of us and not the ability to change it.

Garriss, Craig: That's all we have.

Pruitt, Jeff: So, whatever we decide tonight I think it just has to strictly be with what the applicant has proposed to us.

Garriss, Craig: All right? Thank you, Jeff, any further conversation?

Hines, David: Is it \$250 every time somebody brings in a new one, this board does not have the right to say okay let's waive that fee?



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Testerman, Rob: When anyone applies for a text amendment it is \$250 for them to bring it to the planning board and council. If the Council directs staff to draft a text amendment then it is not.

Walker, Charlotte: Both times, they paid that?

Garriss, Craig: Yes, because they changed it from the original.

Testerman, Rob: It was entirely a separate application, the first one got approved. This is a separate application. If the council wants to, if council maybe feels like this is not the right approach and wants to do something to try to resolve it, then you take what you have or we try to revise it or deny, recommend or direct staff to start drafting something to get at that intent which I have no problem reaching out and work with the residents and folks to get all input from all sides to get what council wants to see and best protect and preserve the wetlands. I have no problem with that.

Pruitt, Jeff: Once again, I think that would be up to the applicant. If the council is willing to entertain the thought. Or would the applicant prefer us to go ahead as scheduled on the agenda and then direct staff to look into this or something of that nature.

Testerman, Rob: We would have to ask the applicant about that. I think Casey, you can correct me if I am wrong but if make any changes to what they proposed they would have to agree to it. But if they want to proceed to get a yes, no vote tonight then we can go whichever way you need then we can do that or if we table it and direct me to work with the applicant and come up with something that addresses the concerns then we can do that too as long as that leads to the changes.

Garriss, Craig: There have been many people who have been very faithful coming to these meetings and speaking and I think they deserve an answer.

Hines, David: I do too, and I also don't think it is right for the applicant to have to keep spending money every time they want to come here to try to do what they want to do. The first time it got approved, correct? So, this is the second time. You mentioned tabling it; it would be up to Mr. Hines, David to agree to that, but if it is tabled, I don't think it is right he spends more money to come back in here.

Varnell, Casey: I don't think he would have to.

Testerman, Rob: If you table it is still part of the same application process. It is just going back to the planning board to improve the language. No additional fees. Again, if the council wants to make a decision tonight and it ended up being a no, but you wanted to direct me to work with them to come up with something else to address his concerns, then that is coming at your direction it would not be any burden on the applicant to submit an application.



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Hines, David: I would like to hear, Jamie, if you don't mind speaking again to what we are talking about. I want to help out but I just want to make sure we get it right.

Hines, Jamie: Absolutely, I think this diagram threw a little bit of a glitch in the way a lot of us had envisioned this going. I also wanted to see, and the input is, I think a lot of us want to see a instead of a little land bridge cutting off a continuous flow of wetlands, we wanted to see you need to have 15,000 square feet of uplands as in taking 10,000 and making it 15,000. That is together, not just making bridges. As Mr. Calfee said, you start cutting off contiguous wetlands we are not doing any good there.

Testerman, Rob: And I do think that is achievable, but today that is the way we are looking at it, but somebody is going to be looking at it and how can I work around it. So if as I mentioned earlier, not to start proposing language on the fly here in the meeting, but some way to figure that 15,000 square feet of contiguous naturally occurring wetlands or uplands, sorry. Something of that nature, that way somebody can't come in and say if I push a little dirt around here I can make this 15,000 square feet.

Walker, Charlotte: So, there is common ground we can find.

Testerman, Rob: Yes, I think there is definitely doable. In my position when bringing these things forward, I have to try to in talking with the Town Attorney as well I have to try and figure out all the loopholes that people are going to come at us with that we can try to identify with a photo lens and those in front of us and exploiting the loopholes that we create.

Hines, David: So, I want to be clear, one of the reasons I am concerned about this is I have been involved in different situations actually on a county board where that happened. We all know what happened in Wanchese and I don't want to see that happen again because we voted on something and then somebody else comes in and loopholes it.

Testerman, Rob: This area is just a random spot that I have picked out, but I have had a conversation with an engineer who is working with different area, so if it gets adopted, he has already drawn the plans to do something like this.

Pruitt, Jeff: I can see this for sure.

Hines, David: I want the residents to get what they want but I also want to make sure by them getting that, we do not have another replication of what happened in Wanchese.

Garriss, Craig: All right, are you ready to make a motion? Jeff?

Pruitt, Jeff: I want to go back to the applicant. Would you?



Hines, David: I am too.

Pruitt, Jeff: Would you be willing if I make a motion to defer this to the next meeting so that you get time to see if we could rewrite the language so that we can, when we vote on this time we can truly try to do the best we can to get you what you were trying to achieve? If you are I am willing.

Hines, David: And to add to it, I am happy to sit down personally as well with you, and maybe if it's allowed maybe Jeff if he is willing to sit down with me as well.

Varnell, Casey: Just not more than 2 council members.

Hines, David: I understand it would be myself and one other person, Jeff or whoever. We can sit down and make sure we get it right for them at the same time not helping someone else get it wrong. That is the only thing I am hung up on.

Walker, Charlotte: I was at the planning board meeting when this came up and it never occurred to me that it was not contiguous, but the word was not in there and so I learned that words matter.

Hines, David: So, I am going to go back to Jamie with what Jeffs request was, is that something you are okay with. Are you guys okay with?

Hines, Jamie: We need to find a way that we need to stop having to come to these meetings.

Hines, David: I agree.

Walker, Charlotte: We enjoy you coming to the meetings.

Hines, Jamie: At what point do we stop fighting every single loop hole?

Pruitt, Jeff: We can certainly vote on it this tonight and move forward. Later we can suggest you meet with Rob, and if we suggest it it does incur a fee.

Hines, Jamie: I think most of us like that and if there needs to be an amendment to this second text amendment then we can come back to the council.

Pruitt, Jeff: What I am hearing is you would like us to proceed with the text amendment as written.

Garriss, Craig: I think that is what I heard, is that right Jamie?



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Hines, Jamie: I think at this point what we have here I think it would be best let's just go ahead and vote on what we have for now. If changes need to be made to further clarify things then we can look at it.

Walker, Charlotte: Jamie, I commend you for sticking with this through two applications.

Garriss, Craig: All right council, would anybody like to make a motion? Jeff?

Pruitt, Jeff: I move to approve the proposed Text Amendment to the definition of minimum lot size section 42-1 and relevant district regulations, as presented in this staff report. The Town Council has found this proposal to be consistent with the Town's adopted land use plan.

Walker, Charlotte: Second.

Garriss, Craig: Motion, second by Charlotte. Any further discussion? All in favor aye.

Tillett, Walker, Hines, Pruitt: Aye.

Garriss, Craig: All opposed? Aye because of the way it is worded. So the motion passed, four to one. I voted against it, did you?

Hines, David: I did not because we can come back and fix it.

Garriss, Craig: Motion has passed, thank you for being here. Thank you, Mr. Hines, and David good work. No old business, any new business? No new business. Report council comments from the Town Manager, please.

15. Reports/General Comments from Town Manager

Clopton, Melody: Good evening, I have a few things. We had our initial bid opening for the Police Station Building on March 22nd. Unfortunately, the state statute requires a minimum of three bids for a successful process, and two bidders came forward at that time. Because the minimum bidder count was not met, we re-advertised the bid and will hold a bid opening tomorrow at 2:00 pm. Since this is a re-advertisement, the statute requires to only accept the bids that come. The minimum bid number is no in place for re-advertisement. So, we know we will have at least two bidders.

Walker, Charlotte: Will that be here?

Clopton, Melody: Yes, it will be here. Spring chipping Townwide will begin on Monday, April 8th. Please visit the town's website for all the details on what to do and where to put your stuff. The bathhouse is open, and I understand it was just in time. It was a beautiful weekend and very well



utilized. And just a reminder, we will be holding our first-ever community trash collection on Saturday, April 20th and we are accepting volunteers so again visit our website to register. Thank you.

Garriss, Craig: Thank you Melody, good report. Report from the Town Attorney?

16. Reports/General Comments from Town Attorney

Varnell, Casey: Mayor I have nothing.

Garriss, Craig: Report from Council? Charlotte?

17. Reports/General Comments from Town Council

Walker, Charlotte: I received a text from Pete Mantz today and he wanted me to pass along his gratitude to the Town of Kitty Hawk and the Volunteers who helped supporting the road race Black Beards Revenge last weekend. Through the crazy weather, the race route changed and we ended up running through Kitty Hawk twice. It was so nice to have a bathhouse as a food and aid station and many volunteers from Kitty Hawk made the event possible. It was cold and rainy with lots of changes in the race until the last minute. I know all the runners including myself were super grateful to have the opportunity to run up and down NC 12 last weekend. Please pass along a big thank you for me to the Council and city management as they appreciated everything that was done for them. Thank you.

Garriss, Craig: Thank you Charlotte.

Pruitt, Jeff: I don't have anything.

Tillett, Dylan: I want to welcome our new staff members. Thank you for putting your applications into the town and serving the town. It means a lot to all of us to keep things working the right way. I want to thank everybody for coming out tonight. Support in the room is always a wonderful thing. It's good to hear everybody's opinions either way. I enjoyed listening to everybody. And to we need to officially, this probably goes without saying. Do we need to officially task Rob with coordinating with Mr. Hines, and David or is that already talked about.

Garriss, Craig: Rob, you good with that?

Testerman, Rob: Yes.

Garriss, Craig: Okay, make contact.

Tillett, Dylan: That is all I have.



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Garriss, Craig: Thank you Dylan. David?

Hines, David: Talking a lot tonight, but how about that wolfpack?

Garriss, Craig: Again, I would like to thank the new staff members who have already started and they have already shown a positive impact to our town, thank you again to everybody who is here tonight, and thank you to everybody for coming out. Apologies for my trick-or-treat mistake at the beginning of the meeting, that is what it turned into. Thank you all for coming. Council I need a motion to adjourn.

Pruitt, Jeff: Motion to Adjourn Mayor.

Hines/Tillett: So, moved.

Garriss, Craig: Second.

Walker, Charlotte: Second.

Garriss, Craig: All in favor.

All Council: Aye

Garriss, Craig: We are adjourned.

18. Adjourned at 7:07 pm

The Minutes of the April 1, 2024, Kitty Hawk Town Council Meeting are approved at the May 6, 2024, Kitty Hawk Town Council Meeting.



D. Craig Garriss

D. Craig Garriss, Mayor