



## TOWN OF KITTY HAWK

### PROPOSED AGENDA

#### KITTY HAWK TOWN COUNCIL

Monday, January 6, 2025

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. **Staff Introductions- Police Department new hires- lateral hires Ryan Lowry and Matthew Newton, recruits Charles Bailey, Jack Frisoli, Jesus Reyes. Announcement of swearing in of Ben Elko.**
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 December 2, 2024, Regular Session Council Minutes** – Approval of the consent agenda will approve these minutes.
  - b) **Budget Amendment #6- Donation to Fire and Police Department**
  - c) **Budget Amendment #7- Donation to the Police Department**
  - d) **Budget Amendment #8- Interfund Transfer from Reserve to the General Fund**
  - e) **Budget Amendment #9- Capital Project Fund 41 Police Station Furniture**
  - f) **Budget Amendment #10- General Fund Balance Appropriation**
  - g) **Budget Amendment #11- Donation to the Police Department**
  - h) **Amendment to the Fund 41 Capital Project Ordinance Remodeling Building at 5200 N Croatan Hwy**
7. **Items Removed from Consent Agenda:**
8. **New Business:**
  - a. **Appointment of Board of Adjustment Members**
9. **Reports/General Comments from Town Manager**
10. **Reports/General Comments from Town Attorney**



**11. Reports/General Comments from Town Council**

**12. Closed Session-** N.C.G.S. § 143-318.11(a)(3) to consult with the town attorney regarding matters protected within the attorney-client privilege and to preserve that privilege; and as allowed by N.C.G.S. § 143-318.11(a)(6) to discuss one or more confidential Board of Adjustment matters.

**13. Adjourn**

**\*To Watch Livestream on YouTube:** <https://youtube.com/live/mYFSxWGWQMg?feature=share>

The meeting will also be available to watch on the Town's YouTube channel on demand the next day.

**\*\*Send Comments and/or Questions via email:**

You may always send comments or questions at any time to [info@kittyhawktown.net](mailto:info@kittyhawktown.net). If you would like your question or comment read at this meeting, please send it by 2:30 PM on January 6, 2025, and note that you would like it to be read at the meeting. Be sure to include your full name and address. Please keep your comments to three minutes.

*Si habla español, los servicios de asistencia lingüística están disponibles de forma gratuita. Llame al 252-261-3552 para obtener ayuda.*



Draft Minutes  
**KITTY HAWK TOWN COUNCIL**  
Monday, December 2, 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. **Staff Introduction-** Dave Zimnick, Public Works
5. **Presentation- 2025 Dare County Property Revaluation  
OBX Jeep Invasion Presentation**
6. **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.
7. **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 November 4, 2024, Regular Session Council Minutes** – Approval of the consent agenda will approve these minutes.
  - b) **Resolution-** 2025 Town Council Meeting Schedule
  - c) **Fee Schedule, Limited Edition Kitty Hawk License Plate**
  - d) **Fund 41 Financial Report-** Police Department Construction update
  - e) **Personnel Manual Updated 2025**
8. **Items Removed from Consent Agenda:**
9. **Planning – Public Hearing:**
  - a) **Zoning Text Amendment – 42-360.- Sound waters district.** Scheduling a new public hearing on previously heard proposal due to procedural issues. Proposal to reclassify piers as permitted use, and amend maximum pier length
10. **New Business:**
  - a) **Commercial site plan review – 4600 N Virginia Dare Trail – Motel/Restaurant**
  - b) **Senate Bill 382** – Information on recently passed bill and its impacts on zoning amendments

**11. Reports/General Comments from Town Manager**

**12. Reports/General Comments from Town Attorney**



### **13. Reports/General Comments from Town Council**

- 14. Closed Session-** N.C.G.S. § 143-318.11(a)(3) to consult with the town attorney regarding matters protected within the attorney-client privilege and to preserve that privilege; and as allowed by N.C.G.S. § 143-318.11(a)(6) to discuss one or more confidential personnel matters.

### **15. Adjourn**

#### **Council Members Present:**

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

#### **Staff Members Present:**

Town Manager Melody Clopton, Administrative Services Director Laura Walker, Finance Officer Liliana Noble, Police Chief Mike Palkovics, Chief Mike Talley, Public Works Director Willie Midgett, Planning Director Rob Testerman, Public Information Officer/Town Clerk, Lauren Garrett

- 1. Call to Order**
- 2. Moment of Silence/Pledge of Allegiance**

**Garriss:** Council, before we approve tonight's agenda, Item 7A under the Consent Agenda and Casey maybe you can weigh in on this, in our November meeting notes we referred to some property as VC as in V for Victor and C for Charles. This should be BC, correct?

**Varnell, Casey:** Yes, that was regarding the text amendment regarding mini warehouses. Something that has been brought to our attention is that the minutes reflected VC as opposed to BC. However, all the packet materials and everything else referenced BC. It's the Town Clerk who brought that to our attention and she is who types the minutes. She had either misheard or mistyped and asked that we amend the minutes to reflect the correct designation and there's certainly nothing wrong with that if Council would like to amend the minutes. A motion would be to amend a particular meeting's minutes to reflect the term BC instead of VC when referring to the zoning text amendment.

**Garriss:** Should we have it amended to where it is or removed?

**Varnell, Casey:** That's certainly up to you, I'm fine with it being amended where it's at.

**Pruitt, Jeff:** Instead of it being moved from the Consent Agenda, we can go ahead and add this in as part of the consent agenda?

**Varnell, Casey:** Yes.

### **3. Approval of Agenda**

**Garriss:** Do I have a motion?

**Hines:** So, moved.

**Garriss:** Motion made by David. Second?

**Walker, Charlotte:** Second.

**Garriss:** Second by Charlotte, any further discussion? All in favor, say aye.

**All Council:** Aye.



**Garriss:** Thank you, Council. Staff introduction, Willie. Please come to the podium.

#### **4. Staff Introduction- Dave Zimnick, Public Works and Greg Sellers, Fire Department**

**Midgett, Willie:** Mayor and members of Council, I would like to introduce the newest member of Public Works, Dave Zimnick. He has come to us from Cabarrus County where he has worked with local government. He comes with a pesticide application license which is something we require so he's ahead of the game there. Dave is experienced with running heavy equipment and has a background in general construction. He fits in very well in our department, so we'd like to welcome Dave as he's already been an asset to us.

**Garriss:** Thank you Willie and Dave. Next, we have a new member of our Fire Department, Greg Sellers who is a master firefighter.

**Walker, Laura:** Good evening, Council, I am stepping in for Chief Talley tonight to introduce you to Greg Sellers. Greg has been with us part-time since September 2023 and he comes to us from the City of Chesapeake's fire department with over 20 years of experience so we're very happy to have him here as a full-time firefighter.

**Garriss:** Thank you both, you've come to a great town. Okay, Liliana, Dare County property revaluations.

#### **5. Presentation- 2025 Dare County Property Revaluation**

**Noble, Liliana:** Good evening, Council. This presentation is for informational purposes for all property owners in the Town of Kitty Hawk to make all aware of what is coming with the 2025 Dare County Property Revaluation. The last county-wide revaluation was completed in 2020, and the next revaluation will occur this January 2025 with a new appraisal every five years. Properties must be valued at the fair market price which is defined as the price agreed upon by a knowledgeable buyer and seller. What is the goal of the appraisal? The goal of the county-wide revaluation is to create greater uniformity in the property tax assessments of thousands of properties by readjusting the appraised value to reflect fair market value and redistributing the burden of ad valorem taxes fairly and equitably among property owners. How is this done? To accomplish this in an orderly, cost-effective, and accurate manner, it is necessary to use mass appraisal methods that analyze properties grouped by similar market influences and characteristics. Why is this done? Regular property evaluations ensure that homeowners pay their fair share of taxes. This helps support essential public services like fire protection, law enforcement, and community services. We encourage Kitty Hawk property owners to log onto Dare County website which will be available on the Town's website as well. They have listed all the common questions that property owners may have. They have done a tremendous job logging all the information here. How does the revaluation timeline work? In January, the appraisals will take place, in February, the assessment notices will be mailed. There will be an informal appeal period within 30 days after notices are received. Between March and April, the informal appeals are reviewed. If the owner does not agree with the assessment, the appeal goes to the Board of Equalization for review. In June, Dare County Board of Commissioners sets the tax rates for the budget. The new tax bills will be sent between July and August, and the taxes will be due in September. This is the schedule; it is available on the Dare County website. Again, this is to inform Kitty Hawk property owners, we encourage everyone to go to the Dare County website for more information. Thank you.





**Garriss:** Thank you, Liliana. This is something for the Council to keep in mind with our next budget discussion in 2025. Thank you, Liliana. Next, we have an OBX Jeep Invasion presentation by Chairman Steve House. Come on up folks, always glad to see you here.

#### **5. Presentation- OBX Jeep Invasion Presentation**

**House, Steve:** Town Council, I appreciate you all giving us time to come before you today. If you can recall, we asked this past spring if you could give us permission for a Jeep run on the beach. You did grant us that request and I wanted to introduce a few folks from part of our planning committee, we have John and Linda, and Tracy, and our charity board group members we have myself and Carrie, our treasurer, and Jerry, one of our presidents. We want to come before you again to say thank you for your gracious efforts and letting us use the beach. This year was a little bit different because right before the beach ride we had some severe erosion on the south end of the beach. We came on at Byrd Street and we came off at Eckner so it's only about a one-mile stretch. We explained to all our Jeepers the reason why it had been changed, and they understood, and they understood why we are trying to protect our beach. I cannot say enough about the police department and the fire department for helping us put this stuff on. Officer Morris was excellent leading us on the beach, also with the five-ton truck in front of us it was a hit, and everyone had a great time. What we would like to do is to say thank you and let you know this past year we had approximately 500 Jeeps. This is a little less than what we've had in the past but we're glad it was a little slower since it was getting out of control so we've made it a little more manageable and hopefully we can grow from there. We would like to continue to do this thing and hopefully come back to you next year to see if we can do it again. As we've promised, and we would like to fulfill our promises, we'd like to present a check for the police department and ocean rescue each for \$3,500. I cannot say enough about your staff, your ocean rescue team knows the beach inside and out, one thing I was telling the participants, these are the guys that are going to lead us out, they not only know the beach, but they know every grain of sand and they know it on a first name basis. So, we came to the beach, and we came off the beach, and Mayor you said just don't hurt the beach and the only thing we left were tracks, tire marks. For the ocean rescue staff, they are always saying always have a floatation device so one of the Jeeps had a six feet tall rubber duck inflatable on the top. We want to say thank you again and we have some checks for you, and we appreciate you. Thank you.

**Garriss:** Thank you. Have a good evening, folks, thank you. Alright, Public Comment. Lauren, has anyone signed up for Public Comment?

#### **6. Public Comment**

**Garrett, Lauren:** Yes, sir. We have Judith Fearing.

**Garriss:** Come on up, Judith. Please remember to keep comments to three minutes.

**Fearing, Judith:** Good evening, Council. My name is Judith Harris Fearing and when Mayor Garriss told me I had three minutes he forgot my dad was Bill Harris who was a former Mayor of Kitty Hawk, and he was very long winded. The purpose of my visit this evening is to share with you the very special and long-awaited book that my dad wrote and finished prior to his death. The book is called Up the Road Down the Road, Kitty Hawk Village from the beginning. My dad began the research for this book when he was a student at Guilford College in 1961 and it was his college thesis. He went to college thinking he would be a history teacher but after spending some time in the classroom, he decided that really wasn't the path he wanted to take. I've taken that path for thirty years, so I know how he felt. He went on to join the National Park



Service and he also joined the United States Coast Guard. Through 59 plus years, he researched every obituary, every deed, every courthouse record he could find, and he created the map that is over there on the wall, the smaller of the two from the 1900 census. That map is on the cover of this book. This book contains several Council members' families, including the Tilletts and the Pruitts. Jeff, your mother is there on page 288 and Dylan, your grandparents, are mentioned in this book. Sandford Corbell, your father is pictured on page 88. Brad and Margie Tillett received this book, they were the first Kitty Hawk residents to receive this book. Ms. Margie told me that she has just finished the book, and she said she learned some things that she said she didn't know before reading this book although she has lots of stories. You will recognize names and pictures throughout the book. I would like to present this copy to the Town of Kitty Hawk, in memory of my dad, Bill Harris. Thank you.

**Pruitt:** Where can we purchase this book?

**Fearing, Judith:** Locally, these books are currently for sale at Downtown Books in Manteo and Island Duck Bookstore in Duck as well as on Amazon.

**Garriss:** Very nice, thank you. Is there anyone else signed up to speak at Public Comment?

**Garrett, Lauren:** No, sir.

**Garriss:** Let the record show, Lauren, that no one else chose to speak. Consent Agenda, Council I need a motion to approve tonight's Consent Agenda with amended items.

## **7. Consent Agenda**

**Hines:** So, moved.

**Garriss:** Motion made by David. Second?

**Tillett:** Second.

**Garriss:** Second by Dylan. All in favor?

**All Council:** Aye.

**Garriss:** All opposed? None. Thank you. We had no items removed from the Consent Agenda.

## **8. Items Removed from Consent Agenda**

**Garriss:** Item 9, we need to go into Public Hearing, Rob? Council, can I have a motion to go into Public Hearing?

**Pruitt:** So, moved.

**Garriss:** Motion made by Jeff. Second?

**Walker, Charlotte:** Second.



**Garriss:** All in favor?

**All Council:** Aye.

**Garriss:** All opposed? None. Thank you. We are in a Public Hearing. This may sound familiar to us.

**5. Planning – Public Hearing:**

- a. **Zoning Text Amendment – 42-360.- Sound waters district.** Scheduling a new public hearing on previously heard proposal due to procedural issues. Proposal to reclassify piers as permitted use, and amend maximum pier length

**Testerman, Rob:** This is for Zoning Section 42-360 Sound Waters District for matters to be re-heard due to a procedural issue during the October 7<sup>th</sup> Town Council meeting. Comments on this matter were made at Public Comment instead of the Public Hearing. I don't plan on going through the entire staff report today, but I can answer any question. I will note that I added one sheet where I added in length of current piers for Council to reference. It was brought to my attention with the staff report being put together and ready for distribution that we referenced during the last meeting that we had to issue a variance for a 300-foot pier. As shown on Google Maps now, you can see how far that extends out into the water. I will note that this staff report was presented back in October, so it's still written as 300 feet if Council is still comfortable with that. That's really all that I have for this evening.

**Garriss:** Rob, so there are no changes from the October meeting? I will say the procedural error was on my part, that's the reason this is coming before Council again.

**Hines:** Rob, I have a question. Where is this 399-foot pier? It's in your report right here.

**Testerman, Rob:** Those are hypothetical.

**Pruitt:** But this says the length of existing piers.

**Testerman, Rob:** Yes, that list is existing piers, but the Google images are hypotheticals last month's meeting to show what 200 feet or 400 feet will look like.

**Pruitt:** Where this says existing piers in Kitty Hawk is this an actual?

**Testerman, Rob:** Yes, that is the Promenade property.

**Garriss:** Any questions for Rob, Council?

**Pruitt:** I have one more. Rob, back when the 423 feet was given to the Promenade, was that prior to when it was brought to 100 feet? Did that come first and then there was an application for another very similar and that's when it became required to make a variance.

**Testerman, Rob:** I think so but that would be speculation on my part, the current language is that for commercial piers and docking facilities would be 200 feet so to get approved that likely would have been before. It was before my time.





**Pruitt:** I'm assuming that the answer is no, but I don't think that went through a variance process. If you're seeing 423 feet that's prior to any ordinance about lengths of piers when it was constructed. It fell under the CAMA and Corps rules, at that time it wasn't in the adopted ordinances so that Town at that time wasn't in the dock business.

**Testerman, Rob:** That would be my assumption.

**Hines:** I'm going to add that too. I think it's easier to get that depth of water over there than you're going to get in Kitty Hawk Bay. Are we going into discussion on this?

**Garriss:** Yes, we will. Are there any further questions for Rob?

**Testerman, Rob:** I would like to mention that there was a Public Comment that was mentioned in the Staff Report that was made during Public Comment instead of the Public Hearing that was in support. The statement was copied and pasted from the November minutes.

**Garriss:** Thank you, Rob. Any more questions for Rob? Is there anyone here tonight who would like to speak at this Public Hearing regarding the piers? Come on up. State your name and address, please sir. You have five minutes to speak during the Public Hearing.

**Stone, John:** Good evening, my name is John Stone. I live at 3617 Windgrass Circle. I have been following this matter very closely for the last 6 or 7 months and even a few years before that. I spoke at the August Planning Board meeting, and I was here for the October Council Meeting to express my support. My family has lived on the sound for the last 17 years and I want to point out that the 100-foot restriction puts us in only a few inches of water. When the wind blows frankly it's unusable. Even with a pier out 200 or 230 feet, it's only usable about 50 percent of the time so again I want to express my support and my appreciation for you taking up this issue. Thank you all. I understand there was a procedural issue, but we need a solution for those of us who live on the sound.

**Garriss:** Thank you, Mr. Stone. Is there anyone else here tonight who would like to speak during this Public Hearing? Anyone else? Okay, Lauren, let the record show that no one else chose to speak during the Public Hearing. If there are no further questions for Rob, I need a motion to go back into regular session.

**Hines:** So, moved.

**Garriss:** Motion made by David. Second?

**Tillett:** Second.

**Garriss:** Second by Dylan. All in favor?

**All Council:** Aye.

**Garriss:** All opposed? None. Okay, we are back in regular session. David?

**Hines:** I have a lot of questions. All the red in the Staff Report, is this the same as last month, Rob? None of it has changed whatsoever.



**Testerman, Rob:** Yes, none of that has changed. The only thing that is different is the existing ordinance and all the language prohibiting social activities and parties that's all currently in there and it's proposed to stay. It's just moving it from a special use permit to a permitted use under these conditions.

**Hines:** I must have misunderstood because the language in red is super restrictive but that's not what we are going to discuss, it is what it is. I have a question for Jeff, we were at 300 feet at the last meeting, and I believe I made the motion because we already have a pier at that length. In your opinion, in that Kitty Hawk Bay area, right behind my house, do you think 250 feet would be better for commercial fishermen?

**Pruitt:** I do but I totally agree that 100 feet is not enough. I'm trying to look at both sides, I certainly want people to be able to get to their dock but also worry about commercial and recreational fishing. There can be a little bit of conflict around the ends of the docks. I know it has happened at the Promenade; I know for a fact. There have been confrontations with people fishing with gill nets.

**Hines:** For example, I can go out to my pier and walk 400 or 500 yards and still be waist deep. But my question is as a commercial fisherman, is that area right there affecting you guys?

**Pruitt:** I would not use that as a total reason that would run commercial fisherman out, I can't go there but I do believe you're pushing the commercial fisherman out further. With that said, I don't do nets, but I do know they like to work the shallow edge. They love that edge. If suddenly, all the piers are further out, I do not know how they would be able to do that.

**Hines:** In my mind, there are two ways of doing this. If you get into some of these areas, I don't think you'll get approval by CAMA anyway. I'm willing to retract the 300 feet if it's going to take away from commercial fishing. I'm not trying to put you on the spot.

**Pruitt:** Personally, I like 200 feet then let them go to CAMA, but we were at 300 feet and now you're saying 250 so I'll be glad to support that. Either way, if we go the full distance then it will be in the way. Even at 200 feet we've double what was already previously allowed and at 300 feet we've tripled it. That's a big difference from the existing 100 feet that the Town has had since incorporation. I don't have commercial fishermen here to say if we do that it would be a problem. Crabbers usually run right along the edge but the way we work, we can navigate around it. But for someone who does other forms of fishing, like commercial crabbing and trout fishing, it could affect more people. The further the piers, the closer contact people will have on the water and higher instances of confrontation. Some areas with a lot of grass are not as workable.

**Garriss:** I'm leaning towards the 300 feet we had the first time.

**Walker, Charlotte:** The thing is that they can still go to the Board of Adjustment. From there it could be 300 feet or 400 feet or whatever they will allow then CAMA tells them exactly what they can have.

**Hines:** After 200 feet, the Town has no more jurisdiction, correct Rob? Please remind me, is it after 200 feet?

**Testerman, Rob:** CAMA will issue a general permit up to 200 feet, well the general permit goes up to 400 feet but to go up to that you must show that for every additional 100 feet of length you get a foot of depth. They will give up to 400 feet then it's a major permit after that, but they won't look at it unless it passes zoning.



**Hines:** But they are not going to do anything unless we approve a certain distance first, with or without a variance.

**Testerman, Rob:** Right.

**Hines:** That was my point. I made a motion for 300 feet and I'm fine with that. I can go 250 or 300 feet; I just don't want it to affect anyone making a living on the water. I don't know if you can section it out. Can you allow it there and not in other areas?

**Pruitt:** I don't know if you can do that. I have a question for Casey. We keep going back to this variance and Board of Adjustment, I really have a huge problem with this. I don't see the difference in my dock doesn't reach deep enough water then I can't see the ocean from my porch. What stops someone from going to the Board of Adjustment and saying I can't see the ocean; I want 5 more feet of height, and the Board of Adjustment says sure. Can they supersede the code of building heights? What would stop a builder from doing that? How do you get to go to the variance committee?

**Varnell, Casey:** You would apply but then you must meet certain criteria. I think under your example the difference would be, they have the waterfront and the ability to build a pier, many times they already have a pier, and they are trying to lengthen it, for example. It's a matter of which they can use their length because in this scenario, the water depth. That works in a variance because it can't be a problem that you create. It must be unique to your property. In this case, what the law says is that all waterfront properties are unique because a large percentage of homes are not waterfront. In our area, most homes are not waterfront as well as most properties across the state of North Carolina. The issue with heights is that you fail to demonstrate how that is different from any of your neighbors. You don't run into that and then ultimately that is a personal preference to be able to see the ocean which is not a consideration for variance here whereas the ability to use a pier that you could otherwise rightfully have been a valid consideration for variance given the impact of nature, that's where the unique scenario comes into play. You're just trying to use the property you already have; you're not trying to gain an advantage over someone else.

**Pruitt:** That's where someone could come where they don't like their square footage number. Then they can go to an appeal and go before variance.

**Varnell, Casey:** They would be subject to all the characteristics of it being a hardship, not created by them, unique to their property, unlike others in Kitty Hawk. Meeting those criteria is very difficult. The reason this issue becomes so obvious in a variance, is because if it were not for mother nature or the Town's ordinance, for example, they could go and build their pier. But they need more than the 100 feet that the Town currently allows without a variance just because of our typical water conditions. The inability to use your property in the way that it was originally intended due to natural characteristics is what separates from square footage, or height, or a setback.

**Tillett:** To Jeff's point on that, if a tree grew up and blocked the ocean view of the same house, now that's another mother nature event that is no different than the water being shallow. Is that not the same hardship?

**Varnell, Casey:** You can go cut the tree, you can do something about that. We can't fill the sound up.



**Tillett:** You could dredge the sound.

**Varnell, Casey:** But that's something that would have to come to a vote.

**Tillett:** I'm not sure you could dredge the sound.

**Varnell, Casey:** Right, but there that would be governmental action. Whether it's at the state level or not, but if there's a tree on your property then there's an action that you can personally take. You could top a tree.

**Tillett:** The action couldn't be raising the height?

**Varnell, Casey:** In my opinion, that would not be a reason for a variance.

**Pruitt:** Casey, who owns that?

**Varnell, Casey:** The Board of Adjustment.

**Pruitt:** Whether they take it on or not?

**Varnell, Casey:** No, every application is going to be heard. The question is whether it will be granted.

**Pruitt:** Can anyone go and apply if they are denied? For just about anything?

**Varnell, Casey:** Yes, it's kind of like I've got this contract here and it's bulletproofed so I can't be sued? Well, yeah. A monkey can sue a giraffe. The idea of the contract is to protect you in the event of being sued. To answer your question, anyone can make an application to the Board of Adjustment using Dylan's hypothetical. The question would be if the Board of Adjustment would grant that height deviation because of the tree growing.

**Hines:** We don't have our own variance ordinances, that's a state law.

**Pruitt:** Right, I just want to see how you're able to apply. Does Rob say you need to go to variance or does Casey say it? Do they say I don't like the way that Council treated me last night so I'm going over their head to try to apply for variance and try to beat them this way.

**Hines:** You file for a variance, and you advertise for it. If the Board of Adjustment denies then it goes to Superior Court.

**Varnell, Casey:** Generally, the way a variance arises is that someone comes to Rob, they make an application for some improvement to their property. Rob would say unfortunately, what you have proposed does not meet the Town's ordinance. They would then make the decision as to either revise the plans or make the application. Now, Rob's not going to advise them on whether a variance is likely but that's an option for them.

**Pruitt:** That explains it, that got me there and now I know that's the answer. I wanted to make sure everyone knows how it works. I've talked to Dylan and wondered if we do something here as elected officials and they don't like it, then the next thing you know then we don't even know it's gone to variance.



We wouldn't know that someone came here for an application to build their pier. The next thing you know, it's already moved past Council and right on to a variance. I was wondering how that procedure works. You go to Rob and the applicant has the right to submit it.

**Varnell, Casey:** The very idea of the variance is to vary from our code. If some part of any improvement someone wants to make to a property or land does not meet our code or some portion, you can vary from that by meeting some characteristics or factors. I also wanted to say something else for information, there is a safety net, I guess you could call it, to your proposition of they're just going to bypass Council and next thing you know, they are building their pier. The Board of Adjustment and Town Council sit as two separate bodies, two different legislative bodies for local government purposes. Usually what you see with an applicant appealing a Board of Adjustment ruling not in their favor to Superior Court to see if the court will say no, they actually did meet these factors that the State requires but if the applicant prevails, then the Town can appeal what the Board of Adjustment decided if they think it is in violation of the Town ordinance, but, they did not meet those factors. Clearly, they did not meet the ordinance because they are asking for a variance, but the Town did not meet the factors of the variance which is why they must exist as two separate bodies, but they could be adversarial.

**Pruitt:** The Council does have the opportunity to refute the Board of Adjustment ruling.

**Varnell, Casey:** Yes, through an appeal.

**Pruitt:** So that's not the end game.

**Varnell, Casey:** Yes, that's why I thought I would bring it up.

**Hines:** There is a town on the Outer Banks that has sued their Board of Adjustment, but you must prove an undue hardship.

**Walker, Charlotte:** There's also a practical matter with this, every time we go to the Board of Adjustment, it costs Kitty Hawk money. You must pay those people to investigate the issue, meet about it, advertise it. There's a practical side and if you go below 300 feet for piers and you already have existing piers at 300 feet, then that removes another step for Kitty Hawk. CAMA will already come out and say if you could only have 250 feet then that's all they're going to get even though the Town's ordinance would allow up to 300 feet but if it doesn't meet the qualifications for that then it won't be approved.

**Hines:** I'm going to say that since the last meeting, I have physically gone into the sound with waders and have measured 200 feet and 250 feet and 300 feet. There's not that much difference between 250 feet and 300 feet. I've put a lot of thought into being prepared for this conversation, my hang up is that I don't want to hurt any working watermen. Outside of that, I do think 300 feet is a good number, but I don't want to push anyone out of making a living.

**Walker, Charlotte:** That channel could change with the next storm. The cut off, the depth, all of that could change with the next storm.

**Hines:** I will say that the living shoreline has affected the piers. If you want to talk about variance, we also don't do flag lots anymore. If there's a flag lot someone is getting ready to build on and they should be granted a variance if they have a restriction of 30% lot coverage because the flag lot will eat up all the



coverage. With that being said, I don't know what you all would like to do but I do worry about the working watermen.

**Garriss:** Alright Council, any more discussion?

**Hines:** Jeff, do you have anything?

**Pruitt:** No, but I'm going to throw this out there. I move to approve the text amendment to Section 42-360 to allow piers up to 250 feet in length. Town Council has found this proposal to be consistent with the Town's adopted land use plan.

**Garriss:** We have a motion made by Jeff. Do I have a second?

**Tillett:** I will second that.

**Garriss:** Second by Dylan.

**Hines:** I'm going to go with the 250 feet.

**Garriss:** All in favor signify by saying, "aye".

**Pruitt, Tillett, Garriss, Hines:** Aye.

**Garriss:** All opposed?

**Walker, Charlotte:** Aye.

**Garriss:** Motion passes 4 to one.

**Stone, John:** Was the prior motion rescinded?

**Garriss:** Yes, that is correct. We started the whole process over again due to a procedural error at the last meeting. The hearing was publicized again.

**Stone, John:** But you already have piers that are 300 feet.

**Hines:** Someone can still apply for that.

**Walker, Charlotte:** But you must go to the Board of Adjustment.

**Stone, John:** Do you know how all of that works?

**Hines:** You go see Rob and pay \$500, he advertises it, and it comes before the Board of Adjustment for consideration.

**Garriss:** We've already had the discussion about how to do that.

**Stone, John:** But CAMA has the final say and a resident can go through all of that.





**Garriss:** Sir, you can come to the microphone if you have some more comments, but this matter is over. We have voted. The Public Hearing is over. If you have something additional to say, we'll hear it, but this matter is over, and we are no longer in Public Hearing. We're back in regular session.

**Stone, John:** Just so I understand the process then, what?

**Garriss:** You can start with Rob.

**Stone, John:** In my experience, you can go through all of this with the Board of Adjustment and CAMA has the final say. You can spend a lot of time and money including the Town's money, although CAMA has the final say. It's two governing bodies on the same matter complicating what residents must do.

**Garriss:** The Town's Planning Director Rob Testerman can advise you directly on the process.

**Hines:** I would like to verify something, even at 300 feet you would have to be subject to CAMA.

**Walker, Charlotte:** Not the Board of Adjustment.

**Hines:** Correct. That's the only difference in what we just did.

**Stone, John:** Yes, but CAMA won't speak to you unless you meet the ordinance criteria first.

**Hines:** Correct, and we have rescinded the previous vote and now it's 250 feet versus 300. If you want a 300-foot pier, you need to speak to the Planning Director. From that point forward, he will direct you from there, which is the Board of Adjustment.

**Stone, John:** Right, but even if you get approval on all of that, CAMA can say no. So, it would be great to start with CAMA, as a resident, and avoid all the other processes.

**Garriss:** I will say again that you need to speak to Mr. Testerman, this matter is over. If you would like to come to other meetings and speak at Public Comment, you are welcome.

## **6. New Business:**

### **a. Commercial site plan review – 4600 N Virginia Dare Trail – Motel/Restaurant**

**Garriss:** Item 10 A, commercial site plan review. If you remember, this was before the Council a long time ago. Rob?

**Testerman, Rob:** Before you we have a commercial site plan review for 4600 North Virginia Dare Trail. The proposal is for a motel and restaurant, the site at 4600 North Virginia Dare Trail is the former Sea Kove Motel. The current owners are proposing to redevelop that site as a new motel with a restaurant attached as well. The parcel is zoned BC 1 and restaurants are permitted by right in the district. Currently, motels are not permitted however, in Section 42-258 special use would apply in this scenario and that section says any hotel, motel, inn, or cottage court in BC 1 may rebuild structures with one or more rental units and/or freestanding structures used for rental purposes which were in existence on August 18, 1986. Notwithstanding such reconstruction, with density standards in this chapter an expansion of the business with the addition of more rental structures shall comply with the standards of density of this chapter. The



proposed site plan does not add additional rental structures than what was previously on the site, while the structures proposed are larger than what was previously there, the overall density of occupants proposed is decreased from what was previously advertised and housed on site. It does mention that the structures proposed are larger, a couple of them with building height, the maximum permitted height is 35 feet, portions of this development are proposed to be 32.6, those are buildings 2, 3, and 4. Proposed building 1 is a single-story structure. I won't go through all the different zoning requirements and lot coverage and all that but if you have any specific questions, we can go over them afterwards but through my review it appears that because of Section 42-250 H appears that zoning requirements are being met by the proposal. As I mentioned, the site is zoned BC 1 and currently it is 8 separate lots that were combined with the previous development so alternative development than the proposal would be 8 single family residences or in the staff report of BC 1 permitted uses, any of those would also be permitted by right with commercial site plan. This is what they have put forward, the current owners, some of the conditions proposed with conditional approval of the staff. Currently, there have been no outdoor lighting plans submitted so prior to any outdoor lighting being installed the plans would have to be submitted and approved by staff. Copies of stormwater permits, and septic permits would have to be submitted to staff as well, submit documentation of engineer verifying that permeable pavers are compliant materials to be considered permeable pavement. The Planning Board reviewed this proposal at the November 14<sup>th</sup>, 2024, meeting and unanimously recommended approval. The applicants are on hand here if there are any questions for them. The applicant did provide me with lists of several other approvals that they have in place indicating that they hadn't been sitting on the plans but working while it's been vacant. They currently have 3 septic permits, one for each of the proposed septic systems, a CAMA permit has been issued, a stormwater permit has been issued, commercial pool permit, sprinkler system permit, water flow, pressure testing, and fire hydrants approved. Architectural drawings have been completed, plumbing, electrical, mechanical, dumpster locations approved by Dare County sanitation. This oceanfront house is part of the Sea Kove property as well.

**Garriss:** Council, just for the record, we have seen this before, but it was a while back. The property has been sitting with nothing done and when Rob received word that they may be getting close to moving forward and because of the time that had elapsed we felt it best to bring it before Council again.

**Varnell, Casey:** Rob and I have met in detail one or two times with the applicant so I'm familiar with how this thing got back in front of us. There was an ability to extend the issuance of a building permit for a six-month period, it's just asking Rob for that extension and by mistake, that never happened. The site plan has expired and that's why they are back here, but it could have been extended and still be under that extension, so Rob wanted it to come back to Council.

**Pruitt:** I have a question about the site plan. One of my biggest concerns was parking, especially since the Town has done a lot of work on Bleriot Street to provide day parking at the beach. I see a set of steps that appear to be leading from the motel into the parking lot. Why would that be?

**Testerman, Rob:** I don't know if it's necessary.

**Pruitt:** It's a red flag to me.

**Testerman, Rob:** I think the applicant would have to speak to that. I think the Council would be able to, and Casey correct me, if necessary, could issue a conditional approval if whatever beach parking would not be allowed for this site.



**Jones, Randy:** I'm Randy Jones and I'm one of the applicants/owners. Jonthan St. Leger knows 99 percent of these questions as he's the builder for this project. The easiest reason is because we have a restaurant there and in the evening as people are coming, and I feel it's needed as I live right near there. It was made very clear at the beginning of the project that the public beach parking cannot count at all for this project. We do have sufficient parking but if people do want to access the property, then we think it would be helpful, so it just made sense. But, as Rob said, it is not necessary.

**Pruitt:** Are you thinking about nighttime entertainment?

**Jones, Randy:** In part of this we'd love to bring back entertainment to Outer Banks, like there was historically with music but it's going to be early since it's in Kitty Hawk. I live just down the road, and I know all of you have been here 30 years or more and it's also a hotel so we're not going to have music playing late at night but early evening with some sort of entertainment, we'd love to have that.

**Hines:** Can't be any different than Art's.

**Pruitt:** That's why parking is so crucial. Art's bought Winks and now they have sufficient parking for what they have there. I would like separation, personally, between the hotel and the beach parking so that it will discourage people from using short-term parking to go eat. I would consider parking for the people who go to the beach. It's not for them to park and go to Art's. I believe businesses need to have their own parking and not put steps into the Town's parking lot. I also see a proposed Town sidewalk, is that something we are going to put in, Melody?

**Clopton, Melody:** I don't think so.

**Pruitt:** Where does this concrete sidewalk come from? When I approve a site plan, I have to look at these things that I am approving. It says right here there is to be constructed a sidewalk by the Town of Kitty Hawk. Rob, if we approve this is that not in some way saying the Town must construct a sidewalk?

**Garriss:** So, you were saying you were told to put it on there and it would happen?

**Jones, Randy:** We simply liked the idea for safety reasons. I live on the beach road there, we need a sidewalk desperately. When you say the parking is just for the beach, I don't necessarily agree. Kitty Hawk is a great community and on the beach road if Towne Bank has something going on we must figure out where to park. Going to Art's or somewhere else, parking can be tough in this town.

**Pruitt:** But this is something that CAMA considers for beach access. If you look at the sign, that's what it says. That's its design and purpose.

**Testerman, Rob:** The zoning ordinance does have parking requirements and the parking spaces on the site plan do meet the minimum required.

**Pruitt:** Yes, the minimum but if your restaurant is full and your motel is full, and you have a band and there's a great big parking lot with a set of steps to it with obviously a nice concrete walkway that the Town's getting ready to provide on the site plan. I was hoping that we would have total separation because my concern about this whole project has been all the work the Town has gone through to provide this lot and to see it just go away.



**Testerman, Rob:** I understand your concern. From a procedural standpoint, I want to state that commercial site plan review is an administrative decision. If it meets the zoning ordinance, then it is entitled to approval, and this plan meets the minimum parking requirements.

**Pruitt:** But when we've done a medical building, we've also said that you need a buffer or a separation. We've had the ability to modify a site plan to offset the repercussions of what it might bring.

**Testerman, Rob:** When they come for special use permits, we can do that.

**Pruitt:** But here you don't?

**Testerman, Rob:** On a commercial site plan it's administrative and it either meets requirements or it doesn't.

**St. Leger, Jonathan:** Good evening, I'm the other half of the operation. I want to point out two things. Number one, the proposed sidewalk is not on our site or property at all, it's on the Town's. Site plan approval would not require the sidewalk.

**Varnell, Casey:** I agree. If the applicant adds it there and it was on their property, that's not mandating that we do that. In this case, it's within the Town's right-of-way.

**Pruitt:** How about the steps? Are they in the Town's or is that yours?

**St. Leger, Jonathan:** The idea with that was the previous town manager had suggested that as we had a crosswalk coming across Lindbergh and a crosswalk coming across the beach road. It seems like it would be safe to have a path for pedestrians to walk there to access the beach, that was the original intent. The steps are no problem, we can remove them. So, it's going to be raised up a little, while there currently isn't a fence or vegetative buffer, there will be a landscaping wall. It's about pedestrian safety and the safety of our guests.

**Pruitt:** If you are proposing some kind of set wall and having that one area open for the steps from them to go so, they're not coming into the parking lot unless they are jumping over a retaining wall? It does make sense. I do see what you're saying now, that was my only concern. People will park where they want, but I do want to make sure we clarify our concerns. I have no more questions.

**Garriss:** The sidewalk is not going to happen, guys.

**Hines:** I will make a motion. I move to approve the commercial site plan with conditions in the staff report for the proposed motel/restaurant located at 4600 North Virginia Dare Trail, minus the concrete sidewalk to be provided by the Town of Kitty Hawk.

**Garriss:** Motion made by David; do I have a second?

**Pruitt:** I'll second.

**Garriss:** Second by Jeff. Any further discussion? All in favor?

**All Council:** Aye.



**Garriss:** All opposed? None. Alright gentlemen, get busy. Item 10 B, Rob is going to brief Council regarding the new Senate Bill 382.

**10 New Business:**

**b. Senate Bill 382 – Information on recently passed bill and its impacts on zoning amendments**

**Testerman, Rob:** I added this item to the agenda for informational purposes and I have emailed you over the past couple of weeks, but I wanted to present the information here as well. On November 19<sup>th</sup>, staff was made aware of language that had been added to a pending bill, Senate Bill 382, as I've learned since then that was the first day that language was made public as well. That same day, the bill was voted on and passed by the House, and it then moved to the Senate where it was also passed. The omnibus bill titled Disaster Relief III, in the time since the first section was written a few things have happened. On November 26<sup>th</sup>, the Governor vetoed the bill, the State Senate reconvened today to override the veto. The House will reconvene on Thursday where it will take up the matter at that point. The part that is relevant to the Town is the section that is related to downzoning with no amendment related to downzoned property shall be initiated, enacted, or enforced without written consent of all property owners whose property is subject to the downzoning. For this section, downzoning means the zoning ordinance that affects the area of land. There are three ways that they are considering downzoning, in the report I wrote out each one that could affect us, the first one is downzoning is decreasing the density of the land to be less dense. Recently, I believed it was last month, we were discussing the development patterns in the Village, some concerns were raised with density of development in that area. Some of the things that were talked about were the text amendment that would reduce the density or increase lot sizes that would also have the effect of reducing the land density. Should this bill become law, to do an amendment like that, we would have to get the written consent of every property owner in VR 1 to enact that ordinance that would reduce density. The second definition of downzoning says that by reducing the permitted uses of land that are specified in the zoning ordinance, relegating it to fewer uses than previously allowed. With that one I don't believe we've had a specific discussion recently but any of the currently permitted uses in the BC 1 district, if Council decided maybe that isn't appropriate there then we would have to get the written consent of all property owners in that district before we could remove the use from the district. It would be the same for residential districts as well. The third, this is new language being proposed, by creating any kind of non-conformity on land not in a residential zoning district including non-conforming use, non-conforming lot, non-conforming structure, non-conforming improvement, or non-conforming site development. One of the other discussions we've had is a staff report with direction on plan with commercial architectural design standards or architectural review. Most likely any language that we would come up with in terms of regulating any kind of architectural design would create non-conforming structures that wouldn't meet the regulations we'd draft. If this becomes law, then we'd have to get consent from every affected commercial property owner before we could move forward with that. This is all for informational purposes, the North Carolina and American Planning Associations have been sending emails for the past couple of weeks and everyone is learning as we go with it. If the Council wanted to consider drafting a resolution to go to the state, I believe they are encouraging localities to do so. The effect of this portion of Senate Bill 382 would greatly impact how localities and towns are able to manage growth in development how they see fit in the future. The State House will reconvene on Thursday, and they will have until they adjourn on December 13<sup>th</sup> to decide to override the Governor's veto.

**Hines:** So, if I understand you correctly, doing an architectural standard would help with that?





**Testerman, Rob:** It would most likely create non-conforming structures.

**Hines:** Which is something we're working on anyway.

**Varnell, Casey:** One thing as well, if the House vetoes as it's anticipated, there's still supermajority until the new representatives take office, they approved it the first time so it's more than likely they override it. It will be signed into law, and it will become law at that point. One thing that this amendment also does, and Rob touched on it in the report, it is not just effective as of the day it becomes law. They have made it retroactive to 180 days prior to it becoming law. Any ordinance adopted would otherwise violate this particular provision. So, we will see what happens.

**Pruitt:** So, the Governor has vetoed, then it goes where?

**Varnell, Casey:** It goes to the Senate first, then the House.

**Pruitt:** And they have already passed it?

**Varnell, Casey:** The thing about this is it's politically based and not because of this downzoning provision. This was just thrown in there. What this was is a bill couched as something to provide relief to the Western part of the state due to the recent hurricane however, if you read through the bill, it was a grab taking away the Governor's power, whether that be Republican or Democrat, to appoint the State Board of Elections and give it to the State Auditor. That's what 130 pages of this bill is about, then you add this one section.

**Garriss:** There's a lot in here other than this.

**Varnell, Casey:** Correct, a lot more that matter more to Congress. The biggest difference, to put it plainly, downzoning is generally allowed if it is the government entity proposing it. In other words, it was very hard to downzone a property. If a citizen proposes a text amendment to downzone, then that citizen would have to go get permission from all the other affected property owners. What they've done is put the government in the place of the private citizen. Now we're all the same, if we want to downzone, we must get permission from all property owners in that zoning district. Then the non-conforming use with commercial zones is another big deal.

**Garriss:** This hit us all last week, it came out of nowhere.

**Varnell, Casey:** Now, I would love to get together to file a lawsuit, nothing would make me happier. But in this case, unlike that local bill with Dare County, it did not affect the entire state. It was the locality of the bill that made it potentially unconstitutional. We alleged it was unconstitutional; it worked itself out on other grounds. This is effective state-wide so we're in the arms of the sovereign, they gave us the power and they can take it away and they are not doing it in a discriminatory fashion. They are not doing it per county or exempting certain things, so there's no constitutional attack. This is politics, unfortunately.

**Pruitt:** So, if someone has a big commercial lot and they decide they want to sell it to somebody and have it zoned residential, is that downzoning. Would that require all signatures or not?

**Varnell, Casey:** That's a good question. I don't know if that would be considered downzoning or not.





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**Testerman, Rob:** Even if it was a group of however many properties or a 10-acre site, if they were trying to rezone commercial to residential, if they are applying for it and all owners are on board then that is the written consent.

**Varnell, Casey:** Actually Rob, and correct me if I'm wrong but, you can also go to residential in any zone?

**Pruitt:** But my property that I'm thinking about it when I purchased my property it was commercial, VC 1. Now somewhere in the procedure, and they did come and ask but whether they got everyone, I don't know. Would it make a difference to me, in some ways I thought it might hurt me, but my property value went way down, and my taxes went way down because commercial waterfront is different from residential waterfront. Would that be considered downzoning?

**Varnell, Casey:** Yes, so taking an entire commercial district and making that residential.

**Pruitt:** It had a concrete plant and that's what made it commercial, but it also had a lot of single-family dwellings.

**Varnell, Casey:** Yes, I would have to think so if nothing else because you are taking away a use that is already there.

**Testerman, Rob:** We could do that, if we get the written consent of every property owner.

**Pruitt:** But if we have just one commercial block, like Barg Landing at the end of Bob Perry, if they all decide they want to downzone, they can still do that?

**Hines:** There are more than commercial, there's Agriculture, there's General Business. It's always easier to go from commercial to residential than from residential to commercial.

**Pruitt:** The only time since I've been on the board is there was a commercial lot that really wasn't a part of the commercial. I'm sorry, it was residential in the middle of a commercial area. We upgraded that to a commercial lot.

**Testerman, Rob:** And from what I'm reading here, that would be fine. There's no restriction on upgrading.

**Tillett:** Rob, are you aware of any other municipalities that have drafted resolutions?

**Varnell, Casey:** I know that Kill Devil Hills has.

**Pruitt:** Mr. Mayor, I would like to see us move forward with a resolution from the Town of Kitty Hawk in opposition to Senate Bill 382.

**Garriss:** Thank you, Jeff. That will be done. It's not right, but it's happened and now we must deal with it.

**Hines:** It's like 160 D when they changed that and there was a lot of stuff we had to deal with.

**Garriss:** Thank you Council, thank you Rob. Okay, report from Town Manager.

### 7. Reports/General Comments from Town Manager



**Clopton, Melody:** Yes, I have a Police Department building update. The window frames have arrived, and the contractors will install the windows and siding. The electricians are nearly halfway through the rough-in and are finalizing the fire alarm system. HVAC installation is nearly complete pending the arrival of the last few pieces of equipment. The project continues to be on track with both schedule and budget. I want to commend Laura Walker on taking on the employee policy manual, it was a beast of a project, and she did an excellent job. She's the exact right person to do this. Also, Rob celebrated 10 years with the Town yesterday. Congratulations, Rob. I know everyone feels the same as me when I say we are very glad you're here. Lastly, Santa's Motorcade will be traveling through Kitty Hawk again this year. We've added more stops along the way and hope everyone can join the fun. It will be held on Wednesday, December 18<sup>th</sup>. That's all.

**Garriss:** Thank you, Melody. Great job and thank you, Laura. Casey?

#### **8. Reports/General Comments from Town Attorney**

**Varnell, Casey:** I have nothing, thank you.

#### **9. Reports/General Comments from Town Council**

**Garriss:** Council, David?

**Hines:** I'm done, thank you.

**Garriss:** Dylan?

**Tillett:** I want to welcome Dave and Greg. Congrats again to Rob for 10 years. Thank you, staff, for a wonderful 2024. All the department heads are making that happen as well as every individual with the Town and Merry Christmas!

**Garriss:** Thank you, Dylan. Jeff?

**Pruitt:** I would like to thank OBX Jeep Invasion and Steve House for the great opportunity for us to work together and it's been nice of them to give back to the Town. We really appreciate it as much as they say they appreciate us. Also, I'd encourage everybody to go get Up the Road Down the Road. Bill Harris was a good friend of mine and we both loved politics and the history of Kitty Hawk. I can't wait to get this book, and I'd like to thank Judith for putting it all together. Also, Rob, thanks. 10 more! That's all I got.

**Garriss:** Charlotte?

**Walker, Charlotte:** Laura, I was very impressed with your work on the employee handbook. It was well overdue and thank you for doing that. Rob, congratulations on 10 years. I can only imagine the changes you might have seen. Welcome to our new employees, that's about all.

**Garriss:** Thank you Charlotte. It's all been said but I will say it's been fast and busy 2024. This is our last meeting for the year, so I want to wish everyone a happy New Year. We've got a lot to look forward to in 2025. We're going to keep doing bigger and better things and I think we're all excited about it. So, thanks to



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all the staff and thank you everyone. Currently, we're getting ready to go into a closed session so I will have to ask everyone to leave the room. Thank you for coming.

- 10. Closed Session-** N.C.G.S. § 143-318.11(a)(3) to consult with the town attorney regarding matters protected within the attorney-client privilege and to preserve that privilege; and as allowed by N.C.G.S. § 143-318.11(a)(6) to discuss one or more confidential personnel matters.

### **11. Adjourn**

**Garriss:** For the record, during Closed Session we had a discussion to consult with the town attorney regarding matters protected within the attorney-client privilege and to preserve that privilege; and to discuss confidential personnel matters. No action was taken. Motion to adjourn?

**Pruitt:** So, moved.

**Garriss:** We are adjourned, thank you.

Adjourned at 8:46 pm.

The Minutes of the December 2, 2024, Kitty Hawk Town Council Meeting are approved at the January 6, 2025, Kitty Hawk Town Council Meeting.

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D. Craig Garriss, Mayor

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Lauren Garrett, Town Clerk

AGENDA ITEM # Consent

**DATE: January 6, 2025**

**SUBMITTED BY: Finance Director**

**SUBJECT: Budget Amendment #6- Donation to Fire and Police Department**

**REF: From OBX JEEP**

**BACKGROUND:**

**OBX Jeep Invasion donated \$3,500 to the Police Department and \$3,500 to Ocean Rescue.**

**This Budget Amendment recognizes the revenue donation to each department's budget.**

**The police Department will use the donation for employee engagement and Ocean Rescue for maintenance and repairs of equipment**

**DISCUSSION:**

**RECOMMENDED MOTION:**

Consent Agenda Item

\_\_\_\_\_

**DECREASE**

<u>Account Number</u>	<u>Description</u>	<u>Amount</u>	<u>Account Number</u>	<u>Description</u>	<u>Amount</u>
	FUND 10- GENERAL FUND				
<b>REVENUES</b>					
10-4310-3434-0000	Donation to Police Department	\$3,500			
10-4340-3434-0000	Donation to Ocean Rescue	\$3,500			
<b>EXPENDITURES</b>	<b>Outstanding</b>				
10-4370-5352-0000	Maintenance & Repairs Equipment	\$3,500			
10-4310-5220-0000	Employee Engagement	\$3,500			
TOTAL			TOTAL	\$ -	-

Explanation: to recognize the donation from OBX Jeep Invasion Organization to the Police and Fire Department .

**Recommended by :**

Filipino Noble

**Liliana Noble- Finance Director**

Approved by:

**D. Craig Garriss- Mayor**

Date:

AGENDA ITEM # Consent

**DATE:** January 6, 2025

**SUBMITTED BY:** Finance Director

**SUBJECT:** Budget Amendment #7- Donation to the Police Department

**REF:** From Mr. Marcus

**BACKGROUND:**

**Mr. Marcus Gaul donated \$50 to the Police Department.  
This Budget Amendment recognizes the revenue donation to the department's budget.  
The police Department will use the donation for employee engagement.**

**DISCUSSION:**

**RECOMMENDED MOTION:**

Consent Agenda Item



\_\_\_\_\_

DECREASE

Explanation: to recognize the donation from Mr. Marcus Gaul to the Police Department

*Liliana Noble*  
Liliana Noble- Finance Director

D. Craig Garriss- Mayor

Date: \_\_\_\_\_

AGENDA ITEM # Consent

**DATE:** January 6th, 2025

**SUBMITTED BY:** Finance Director

**SUBJECT:** Budget Amendment #8- Interfund Transfer from Reserve to the General Fund

**REF:** Fire and Police Website \$15,600

**BACKGROUND:**

Transfer funds from the IT Reserve to design the Police and Fire department websites. These two will be subsites of the Town's website

**DISCUSSION:**

**RECOMMENDED MOTION:**

Consent Agenda Item

**Town of Kitty Hawk-Capital Reserve Fund  
Budget Amendment Number #8 (FY 2024-2025)**

<u>INCREASE</u>			<u>DECREASE</u>		
<u>Account Number</u>	<u>Description</u>	<u>Amount</u>	<u>Account Number</u>	<u>Description</u>	<u>Amount</u>
<b>FUND 10- GENERAL FUND</b>					
<b>REVENUES</b>					
10-0000-3900-0000	Interfund Transfer in from Capital Reserve Fund	\$15,600			
<b>EXPENDITURES</b>					
10-4100-5321-0000	Service an Maintenance Contracts	\$15,600			
<b>FUND 21- GENERAL FUND</b>					
<b>REVENUES</b>					
21-0000-3991-0000	Unreserved Fund Balance	15,600			
<b>EXPENDITURES</b>					
21-4100-5921-0000	Interfund Transfer out to General Fund	15,600			
<b>TOTAL</b>			<b>TOTAL</b>	\$	-

Explanation: Transfer funds from the IT Capital Reserve to the General Fund for the Police and Fire Department website project, they will be subsites of the Town's website in addition to meet new ADA compliance guidelines.

Recommended by :

  
Liliana Noble- Finance Director

Approved by:

D. Craig Garriss- Mayor

Date:

AGENDA ITEM # Consent

**DATE:** January 6<sup>th</sup>, 2024

**SUBMITTED BY:** Finance Director

**SUBJECT:** Budget Amendment #9- Capital Project fund 41 Police Station Furniture

**REF:** Budget allocation to the police station project for the furniture

**BACKGROUND:**

**This budget amendment allocates the funding necessary to enter into a contract with the bidder who won the furniture RFP.**

**DISCUSSION:**

**RECOMMENDED MOTION:**

Consent Agenda Item

**Town of Kitty Hawk-Capital Reserve Fund  
Budget Amendment Number #9 (FY 2024-2025)**



**INCREASE**

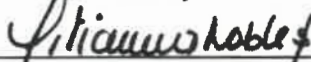
**DECREASE**

<u>Account Number</u>	<u>Description</u>	<u>Amount</u>	<u>Account Number</u>	<u>Description</u>	<u>Amount</u>
<b>FUND 10- GENERAL FUND</b>					
<b>REVENUES</b>					
10-0000-3991-0000	Fund Balance Appropriated	\$241,662			
<b>EXPENDITURES</b>					
10-4310-5940-0000	Transfer out to the Capital Project Fund 41	\$241,662			
<b>FUND 41- GENERAL FUND</b>					
<b>REVENUES</b>					
41-0000-3911-0000	Interfund transfer in from General Fund	241,662			
<b>EXPENDITURES</b>					
41-4100-5550-0000	Capital Outlay Equipment - Furniture	241,662			
<b>TOTAL</b>			<b>TOTAL</b>	\$	-

**Explanation:** Transfer out from the General Fund to the **Capital Project 41** for the Police Department Furniture Packet

Recommended by :

Approved by:

  
Liliana Noble- Finance Director

D. Craig Garriss- Mayor

Date:

AGENDA ITEM # Consent

<b>DATE:</b> January 6 <sup>th</sup> , 2024
<b>SUBMITTED BY:</b> Finance Director
<b>SUBJECT:</b> Budget Amendment #10- General fund balance appropriation <b>REF:</b> NCDOT sidewalk project on the west side of US158
<b>BACKGROUND:</b>  The purpose of this budget amendment is to allocate the additional funds required by the NCDOT.  The Town previously allocated \$320,000; this new allocation will bring our total matching contribution to \$1,440,000. Town Council approved the additional funding at the October 7 <sup>th</sup> , 2024, meeting.
<b>DISCUSSION:</b>  .
<b>RECOMMENDED MOTION:</b> Consent Agenda Item





AGENDA ITEM # Consent

**DATE:** January 6th, 2025

**SUBMITTED BY:** Finance Director

**SUBJECT:** Budget Amendment #11- Donation to the Police Department

**REF:** Donation by Joe Lamb Jr \$100

**BACKGROUND:**

**The purpose of this budget amendment is to recognize the revenue donation. The Police Department will use the donation for employee engagement.**

**DISCUSSION:**

.

**RECOMMENDED MOTION:**

Consent Agenda Item

Date:

## AGENDA ITEM # Consent

**DATE:** Monday, January 6<sup>th</sup>, 2025

**SUBMITTED BY:** Finance Director

**SUBJECT:** Amendment to the Fund 41 Capital Project Ordinance Remodeling Building at 5200 N Croatan Hwy

**REFERENCE:** The capital Outlay Furniture requires an additional \$241,622, while the contract calls for \$211,662. The town manager requested \$30,000 in additional funds for unexpected items. The Town Manager will report to the Town Council on whether and how the extra \$30,000 is used for furniture.

### The current budget with the additional funds

	Original Budget Sept 6, 2022	Amendment Budget May 1st 2023	Amendment Budget May 6, 2024	Amendment Budget August 5, 2024	Amendment Budget January 8th, 2025	Fiscal Year 22/23	Fiscal Year 23/24	Current Fiscal Year 24/25	Project to Date Activity	Budget Remaining
<b>REVENUES</b>										
Interfund transf from General Fund	1,926,144.00	4,426,143.00	4,656,450.00	4,868,850.00	5,110,512.00	4,426,143.00	230,307.00	212,400.00	4,668,850.00	0.00
Interfund transf from Capital Reserve	1,203,583.00	1,203,583.00	1,203,583.00	1,203,583.00	1,203,583.00	1,203,583.00			1,203,583.00	0.00
Interfund transf from Capital Project 40	2,620,274.00	2,620,274.00	2,620,274.00	2,620,274.00	2,620,274.00	2,620,274.00			2,620,274.00	0.00
<b>Total Revenues</b>	<b>5,750,001.00</b>	<b>8,250,000.00</b>	<b>8,480,307.00</b>	<b>8,692,707.00</b>	<b>8,934,369.00</b>	<b>8,250,000.00</b>	<b>230,307.00</b>	<b>212,400.00</b>	<b>8,492,707.00</b>	<b>0.00</b>
<b>EXPENDITURES</b>										
Professional Services Legal	5,000.00	0.00							0.00	0.00
Special Agent Inspections			32,574.00	32,574.00	32,574.00			5,070.00	5,070.00	27,504.00
Pre Construction Schematic Design			49,872.00	49,872.00	49,872.00	49,872.00			49,872.00	0.00
Design and Construction Management			354,679.00	354,679.00	354,679.00	15,703.70	246,881.70	27,861.29	290,446.69	64,232.31
Maintenance & Repairs B&B Ground		236,481.00	236,481.00	236,481.00	236,481.00	236,480.55			236,480.55	0.45
Capital Outlay Equipment			159,079.00	159,079.00	159,079.00				0.00	159,079.00
Capital Outlay Equipment (Furniture)					241,622.00				0.00	
Capital Outlay - Land Purchase	4,100,000.00	4,105,000.00	4,307,622.00	4,307,622.00	4,307,622.00	4,307,622.00			4,307,622.00	0.00
Capital Outlay - Building Remodeling	1,645,000.00	3,908,529.00	3,540,000.00	3,540,000.00	3,540,000.00			1,177,328.97	1,177,328.97	2,362,671.03
Budgetary Contingency				212,400.00	212,400.00				0.00	212,400.00
<b>Total Expenses</b>	<b>5,750,000.00</b>	<b>8,250,000.00</b>	<b>8,480,307.00</b>	<b>8,692,707.00</b>	<b>8,934,369.00</b>	<b>4,426,676.25</b>	<b>246,881.70</b>	<b>1,205,260.26</b>	<b>5,886,820.21</b>	<b>2,825,886.79</b>
<b>Net balance</b>										<b>2,825,886.79</b>
<b>Pool cash balance</b>										<b>2,865,041.19</b> available
12/31/2024										
										<b>196,154.60 RETAINAGE</b>

## Capital Project Ordinance Fund 41 For the Town of Kitty Hawk

**BE ORDAINED** by the Governing Board of the Town of Kitty Hawk, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance adopted initially on September 6<sup>th</sup> of 2022, amended on May 1<sup>st</sup>, 2023, May 6<sup>th</sup>, 2024, and August 5<sup>th</sup>, 2024, is hereby amended as follows:

**Section 1:** The project authorized is remodeling the property located at 5200 N. Croatan Highway for the relocation of the Police Department. The project is to be funded from various sources. The project life is estimated to be through July 2025; it can be amended from time to time throughout the project as deemed necessary by the Town.

**Section 2:** The authorized officers of the Town are hereby directed to proceed with the capital project within the appropriate amounts and utilizing the proposed funding sources named directly below.

**Section 3:** The following amounts are appropriated for the project:

Maintenance and Repairs Building	\$236,481
Pre- Construction Schematic Design	\$49,872
Design and Construction Management	\$354,679
Special Agent Inspections	\$32,574
Capital Outlay Land Purchase	\$4,107,622
Capital Outlay Equipment (Security System)	\$159,079
Capital Outlay Equipment (Furniture)	241,662
Capital Outlay Building Remodeling	\$3,540,000
Budgetary Contingency	\$212,400
<b>Total Appropriations Expenses</b>	<b>\$8,934,369</b>

**Section 4:** The following revenues and funding sources are available to complete this project:

Transfer from Capital Reserve Fund designated for Police	\$1,203,583
Transfer from Capital Project Fund 40	\$2,620,274
Transfer from General Fund	\$5,110,512
<b>Total Estimated Revenues</b>	<b>\$8,934,369</b>

**Section 5:** The Finance Director is directed to report quarterly on the financial status of each project element in Section 3 and the total revenues received or claimed.

**Section 6:** The Finance Director is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission to this Council.

**Ordinance No. 25-12**

**Section 7:** The Town Manager, with the appropriate staff input, may execute change orders or contract amendments in amounts up to \$50,000 when the capital project ordinance contains a project contingency or available budget from other project line items.

**Section 8:** The Town Manager will report to the Council if and how the additional \$30,000 requested for furniture not included in the bid package is used.

**Section 9:** Copies of this capital project ordinance shall be furnished to the Clerk, the Governing Board, and the Finance Director for direction in this project.

Adopted on the 6th day of January 2025.

\_\_\_\_\_  
D. Craig Garriss, Mayor

\_\_\_\_\_  
Lauren Garrett- Town Clerk

**AGENDA ITEM: 8A**



January 6, 2025

**To:** Mayor and Town Council  
**From:** Town Manager, Melody Clopton  
**Subj:** Appointment to Board of Adjustment

Following the passing of Christine Buckner and the resignation of Natalie Smith, the Council needs to appoint new members to complete their terms on the Board of Adjustment. Currently, we have two alternate members: Kip Tabb and Bill Yetzer. If the Council wishes, these alternates can be promoted to regular members, and we can appoint two new alternates.

**I make a motion to appoint \_\_\_\_\_ as a member/alternate member on the Board of Adjustment with a term of office to expire June 30, 2026.**

**I make a motion to appoint \_\_\_\_\_ as a member/alternate member on the Board of Adjustment with a term of office to expire June 30, 2026.**

Attached is the volunteer list. We have crossed out the names of applicants who are no longer available or have already been appointed. The terms of office sheet, with the expiring terms highlighted, is also included. If you would like to review an application, please let me or Lauren know, and we will email it to you.