



Minutes  
**KITTY HAWK TOWN COUNCIL**  
Monday, April 7, 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. **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.
5. **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 3, 2025, Regular Session Council Minutes** – Approval of the consent agenda will approve these minutes.
  - b) **Record Retention Plan**
  - c) **Child Abuse Prevention Month Proclamation**
  - d) **Fair Housing Month Proclamation**
  - e) **Financial Statements as of March 31, 2025**
  - f) **Budget Amendment #13 Grant award**
  - g) **Audit Firm Recommendation**
  - h) **Legislative Addition of Dare Governments Resolution**
6. **Items Removed from Consent Agenda:**
7. **Planning:**
  - a) **Schedule Public Hearing** – Special Use Permit – Parcel #:010399003, 0 The Woods Rd. Mini-warehouse self-storage facility.
8. **New Business:**
  - a) **Appointment of Board of Adjustment Member**
9. **Old Business:**
  - a) **Attorney Report:** White Street Beach Access Update
  - b) **Attorney Report:** Update on citizen request to designate the live oak as the official Town Tree and implement regulations on cutting live oaks
10. **Reports/General Comments from Town Manager**
11. **Reports/General Comments from Town Attorney**



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

## **13. Adjourn**

### **Council Members Present:**

Mayor Craig Garriss, Mayor Pro Tem Jeff Pruitt, and Councilwoman Charlotte Walker

**Council Members Absent:** Councilman David Hines and Councilman Dylan Tillett

### **Staff Members Present:**

Town Manager Melody Clopton, Finance Officer Liliana Noble, Police Chief Mike Palkovics, Chief Mike Talley, Public Information Officer/Town Clerk, Lauren Garrett, Administrative Services Director, Laura Walker, Lieutenant Jimmy Helms.

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

**Garriss:** Before we approve tonight's agenda, Jeff, I understand you have a motion.

**Pruitt:** Yes, Mr. Mayor, I would like to make a motion to approve tonight's agenda with a correction to Item 8A under New Business. The item stating Appointment of Board of Adjustment Alternate member, this should read Board of Adjustment full member.

**Garriss:** Thank you, Jeff. Do we have a second?

**Walker:** Second.

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

**Garriss, Walker, Pruitt:** Aye.

**Garriss:** All opposed? None. Thank you, Council. Do I have a motion to approve tonight's amended agenda?

**Pruitt:** So, moved, Mr. Mayor.

**Garriss:** Second?

**Walker:** Second.

**Garriss:** Thank you, Charlotte. All in favor?

**Garriss, Walker, Pruitt:** Aye.

**Garriss:** All opposed? None. Thank you. Public Comment, Lauren, is there anyone signed up for Public Comment?

### **4. Public Comment**

**Garrett:** No, sir.

**Garriss:** Is there anyone here tonight who would like to speak at Public Comment? Thank you, everyone. Council, I need a motion to approve tonight's Consent Agenda.

### **5. Consent Agenda**



**Pruitt:** So, moved, Mr. Mayor.

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

**Walker:** Second.

**Garriss:** Thank you, Charlotte. All in favor?

**Garriss, Pruitt, Walker:** Aye.

**Garriss:** All opposed? None. Thank you, Council. Item 6, we had no items removed from the Consent Agenda.

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

**Garriss:** Item 7A, Council we need to set a Public Hearing in reference to a special use permit for a mini warehouse.

#### **7. Planning:**

- a) Schedule Public Hearing – Special Use Permit – Parcel #:010399003, 0 The Woods Rd. Mini-warehouse self-storage facility.

**Pruitt:** Mr. Mayor, I move to set a Public Hearing at the Town Council Meeting on May 5, 2025, to consider the proposed special use permit for a mini warehouse in the PCD location at 6100 North Croatan Highway.

**Garriss:** Thank you, Jeff. Do we have a second?

**Walker:** Second.

**Garriss:** Thank you, Charlotte. All in favor?

**Garriss, Pruitt, Walker:** Aye.

#### **8. New Business:**

- a) **Appointment of Board of Adjustment Member**

**Garriss:** Item 8, we have the amended item that Councilman Pruitt talked about earlier. We need to make an appointment to the Board of Adjustment for a full member. Do I have a motion or a nomination?

**Walker:** Yes, Mr. Mayor, I would like to recommend and nominate Fran Dunn. She has lived in our Town for many years, raised her children here, and she came in on her own to submit her application to serve our Town.

**Garriss:** Thank you, Charlotte. Any further nominations? Would you like to make a motion?

**Pruitt:** Second.

**Garriss:** All in favor?

**Garriss, Pruitt, Walker:** Aye.

**Garriss:** All opposed? None. Thank you, Ms. Fran Dunn. Lauren, if you would make that notification tomorrow, we'd appreciate it.

**Garrett:** Yes, sir.

#### **9. Old Business:**

- a) **Attorney Report: White Street Beach Access Update**



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**Garriss:** Item 9, Old Business. Casey, you're up. Let's first talk about White Street Beach Access.

**Varnell:** We've got two parcels there. You all probably know that when we first brought it up last meeting, Melody, I think it was on your agenda or maybe it was just bought up. We've got two parcels, one being an oceanfront parcel that extends out in front of Kitty Dunes east subdivision. The other parcel is what we call the parking parcel and that's a little further west of the Beach Road with maybe one residential lot in front of it between it and the Beach Road. The title, first and foremost, we need to know that there's two routes as a Town we could possibly go to obtain ownership. We need that if we're going to go out there and start improving it as a beach access and making the other parcel parking or whatever the case may be. We could purchase the parcels, or they could be donated to us, either way we still need the owner to do either of those things or we could take them by imminent domain because this is for a public purpose which would be a totally separate process in terms of the analysis. If it's a public purpose the Town feels it is necessary, if you all as Council feel it is necessary then that's a potential avenue. We still must know who the owners are. If we are taking that type of action, we'll have to file a legal complaint serving all parties with interest in the property. Both parcels were shown on the plat as reserved. I was shocked to see that the oceanfront parcel was that way. When I was first looking at it, I assumed it was going to be old platted lots in the subdivision on the oceanfront that the ocean took away as we see so often. But no, it was reserved, and the other was reserved for parking. It said this on the plat. That's the interesting part, you would believe it was solely for Kitty Dunes. That's what any document would lead you to believe that's also what would lead you to believe the developer would deed the property over to a homeowner's association or something of that nature because it's common area for the benefit of all these owners. So, that didn't happen. What happened is Kitty Dunes Incorporated, not to be confused with Kitty Dunes Realty or Kitty Dunes Rentals, same folks involved but different companies, nonetheless, which is important, but I will come back to why, they held on, they never deeded it to any of the owners. Instead, they deeded it to another developer. I don't know if it was a property management scheme or if that developer ended up finishing out the subdivision, but a developer by the name of Anderson Stokes Incorporated. A Delaware company also did some work on the Eastern Shore of Maryland. They received a deed for both parcels from Kitty Dunes Inc. and they never conveyed it to anyone else. I will note that prior to that conveyance to this second developer company, Kitty Dunes Inc. did reserve via covenant and via restriction within deeds or allowed to be reserved the right of access to all of the of owners within Kitty Dunes east and south. Those owners do have a recognized property interest, it's just not in the form of ownership. They have a right to use for a particular purpose, to access the beach on the oceanfront parcel and parking on the ancillary parcel. Of course, when you go to find Anderson Stokes, good luck. But I was able to track down through the SEC to find out how the transactions occurred and Long and Foster, which is a national realty company, ended up buying Anderson Stokes. I was able to confirm that it was from the owners at the time of those two parcels. The good news there is that we've got ownership established. We also know we have owners in two subdivisions at this point that have easement rights at a minimum to the oceanfront parcel and for parking as far as Kitty Dunes east and south. If we were going to purchase from Long and Foster, I would say we could be met with some form of attack is now we're opening this for public use, their exclusive easement rights have been taken and now maybe they do have some form of inverse condemnation argument. I won't go as far as calling it my advice right now, but certainly something worth considering is with all of these other property interests out there, in the form of these easements, would it be better to go the route of imminent domain simply to make sure we foreclose on any and all rights that someone may have to attack our ownership or ability to use it at a later date. That obviously necessitates at some point deciding what reasonable values of the underlying ownership of the land are plus any potential exclusive easement rights. We've got the owners, and we've got two options that we can pursue. I'll



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stop there and ask questions if you have any.

**Garriss:** Council, you know we brought this up at the last meeting. We're getting a lot of inquiries, I think Lauren has dealt with a lot of calls and emails here. People think the Town owns the access and they want to know why we're not fixing it up like we have the other beach accesses, which look wonderful. What we've tried to convey is that it's not our property so we can't do that. After what Casey has shared, Jeff and Charlotte, do you have any thoughts?

**Walker:** I was a broker with Kitty Dunes when all of that happened and when Anderson Stokes came down here and did that. Those property owners were promised that parcel.

**Varnell:** There is no doubt that those property owners have a reserved right. It is an exclusive right. Exclusive in that it's a private easement. It's not something that was intended to be used by the entire public. That provides them with a property interest different from me, as an example, as someone who does not own a home in that subdivision. That's something to be considered, which is not just that, it's if there are other easements out there which would take an exhaustive title search, but are there other easements out there that the developer gave at some point in time to folks not a part of Kitty Dunes subdivision? Starkey, my law partner, has been practicing longer than I have been alive, recalls distinctly that there are other potential subdivision owners out there outside of Kitty Dunes east or south, that may have been granted an easement just for beach access over the course of time. That also tends to point you towards the route of imminent domain, which at least gets a judicial decree of ownership.

**Garriss:** You're aware right across the road on that corner, we could get maybe seven or eight parking spaces but that's about it. That would help a little bit if we were able to take possession.

**Walker:** It's not my thing to just take something.

**Pruitt:** I think that if there was a way to reach out and see if they want to sell it and get us a price.

**Varnell:** If nothing else, I think that would help us establish some form of value which we would need anyway.

**Pruitt:** Instead of taking it, and you do buy then can you establish imminent domain after you purchase the parcels?

**Varnell:** I agree with you, getting the underlying fee ownership would put us in a more beneficial position. I do agree with that, absolutely.

**Pruitt:** It just doesn't look good, then people will wonder when we'll be coming after my vacant lot. I certainly want to offer and then I would want to see the repercussions because I don't see it as a whole bunch of parking places. If it's going to cost hundreds of thousands of dollars legal fees for 6 parking spaces, then we might want to concentrate on doing like we did on other roads where we're seeking out easements and right-of-way to expand parking on shoulders of roads.

**Walker:** Is that parcel subject to the revaluation?

**Varnell:** You mean the tax revaluation. I didn't see if this parcel was on the latest update from last week, but my understanding is that the way these things have been taxed at least there's a potential. If you go in and look at the parcel that is used for parking, there's been no tax bills paid for a period of time, usually when we see that what they'll do since there's no HOA the tax office will take the value of the lot and divide it up over the number of lots in the subdivision and pass that value on pro-rata to each owner since they have the easement rights. It could even be that the Kitty Dunes subdivision owners have been paying the taxes as part of their bill. That's something I haven't confirmed.



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**Pruitt:** That's what I was thinking. It seems to me that if that was not the case it would have been auctioned off somewhere. Someone has been paying the taxes.

**Varnell:** If you go check the tax history for the last 10 years, it is going to show that taxes have not been paid. I agree with you, even though they are miniscule, you will see that hit the county's radar and you will see it passed along to the individual homeowners. They also know that Anderson Stokes isn't going to pay for it because Anderson Stokes doesn't exist anymore. They were purchased and merged into some other company. So, that is the way I see it done very often for tax office purposes. Regarding your point, I do think getting the ownership of the underlying fee doesn't cut off their easement rights, number one, but it puts us then dealing with easements rather than ownership. Moreover, if you logically think about it and practically think about that exclusive right of use, we're talking about, it's currently a dilapidated access. The benefit that the owners would perceive from us going in and maintaining it up to state standards and developing and putting in brand-new access there, there's a lot to be said for that.

**Pruitt:** Basically, you need a four-wheel drive to park in that lot. You can't just go there in a sports car. If a couple of big trucks get in there, it's too narrow. I'd like to see if they would donate it, but I'm not for condemning the property. If it was a different piece of property, like the Bonanza, a big piece of property and they were willing to sell.

**Varnell:** A lot of that was based on the safety of the structure.

**Pruitt:** People were starting to take up residence in there.

**Garriss:** Do you have what you need, Casey?

**Varnell:** I do, so I will reach out to the owner and we're not talking about easements right now. I'm talking about who I've determined to be the underlying fee owner. I've got some contact information for them, so we'll start that process.

### 9 Old Business:

- b) **Attorney Report:** Update on citizen request to designate the live oak as the official Town Tree and implement regulations on cutting live oaks

**Garriss:** Casey, back to you. You've done some background work on the live oak tree discussion. Before the meeting tonight, Mr. Gerahty, a concerned citizen, has brought us some information from the legislature. I think you have a copy of that, too.

**Varnell:** I do.

**Garriss:** If you would fill us in, please.

**Varnell:** What Mr. Gerahty has provided, I have found as well through some of the bill summaries. What is difficult right now is to determine due to the way our General Assembly's website will sometimes operate. There's no doubt that House Bill 496 that was presented back in 2021 had a goal to restrict municipalities to regulate removing trees, cutting trees, adopting any kind of ordinance concerning trees on private property. The real notion behind it, recognizing that there were already municipalities out there that had adopted tree removal ordinances or tree protection ordinances as they are referred to, and there were some exceptions put in. But even the exception to this general rule that cities can't do this, is if you had explicit authority from a state statute, meaning the state comes forward and adopts something. An example of that would be an itinerate merchants. The folks that operate mobile in tents or food trucks, things of that nature. There's an explicit ordinance that says it's not general police power. Municipalities may restrict, prohibit, and so on, then names something like a sexually oriented businesses come to mind. Without a state statute that says



municipalities can absolutely regulate trees on private property, number one, or a local bill, that in our case would have to be petitioned for and it would say Kitty Hawk can regulate the cutting or removal of trees on private property. The state doesn't have anything yet. So, outside of some local bill, there's certainly some argument whether this bill passed or not and everything that I read to include many of the cities out there. But not all, Nags Head doesn't have a local bill. There are several others in the report that do not have local bills necessarily, but there are many that did. Many of the articles I read refer to situations where it's okay for the municipality to do it if they have that express authority. Mr. Gerahty had mentioned to me prior to the meeting, this is not the last time this will come up. This same year in 2021, they tried to pass it as part of an omnibus bill, throw it into the back of a budget bill, and we've seen that. They may have gotten scratched because someone was paying attention. The bottom line is that if we went to court right now, we are not on the most solid ground. Any time I've seen bills like this trying to prevent things without explicit authority, there's a shift in the way the judiciary is looking at municipality's rights and expressing authority is something that shines in a lot of the cases that are out there. Without that or taking some move to go petition the state for some historic privilege or registration, or something of that nature, then our hands are tied outside of something in the public right of way like on the street, if we wanted to regulate that then we could regulate that. I don't want to go so far as to say we could get into the state right of way, but inside and on private property, even when you see it, it's blended into our zoning somehow or another. This was a standalone bill that was proposed. In other words, it was a bill that said tree protection and we're going to stick in this section of our ordinance, that is rarely done from what I've read. Ultimately, it comes down to the fact that we're going to need more from the state as far as the grant of authority before we go take action that I would feel we're on solid footing with.

**Walker:** Can we just make a motion to adopt the Live Oak as the Kitty Hawk Town tree?

**Varnell:** I don't see any problem with that. I don't know if there's anything we need to do first. Rob, what do you think?

**Clopton:** He's not here tonight.

**Varnell:** He may be better to speak to whether that needs to come back as an actual agenda item. But can we, do it? Yes. I would say let's bring it back as an agenda item.

**Garriss:** I would prefer to do that when all the Council is here at the next meeting. Councilman Hines called me to relay that he is in favor of exactly what Councilwoman Walker has suggested but not in favor of regulating private property.

**Pruitt:** Instead of waiting until the next meeting to suggest that, can we go ahead and ask Rob to move forward on designating the Live Oak as the Kitty Hawk Town tree?

**Garriss:** Yes, and have a presentation ready.

**Pruitt:** Then the full Council can be here for a vote on it. I would like to make a recommendation.

**Garriss:** Do we need a motion?

**Varnell:** No, by consensus you can give direction to Town staff.

**Pruitt:** I would like to make a recommendation for Town staff to bring forth a proposal to make the Live Oak the Kitty Hawk Town tree.

**Garriss:** I agree.

**Walker:** I agree.



**Garriss:** Lauren, please make note. Thank you, Casey. Thanks for your hard work. Item 10, report from Town Manager.

#### **10. Reports/General Comments from Town Manager**

**Clopton:** Good evening, everyone. I just want to let everyone know spring chipping started today. Once the chipper passes through your neighborhood, it will not return so make sure your stuff is out there. Just a reminder, the Town does large items on demand pick up, visit the Town's website or call Town Hall to schedule a pickup. Currently, Dare County is doing a pickup in unincorporated areas, but this does not include Kitty Hawk. If you put out items and you live in Kitty Hawk, please visit the Town's website or call us here at Town Hall so we can make sure your items get picked up. Just a reminder that the large item on demand pickup ends May 20<sup>th</sup> and will resume September 20<sup>th</sup>. The Bath House will be open on April 14<sup>th</sup> and the mobile restrooms at Byrd, Luke, and Bleriot will also be installed that day. Town offices will be closed in observance of Good Friday on April 18<sup>th</sup>. We will reopen with regular hours on Monday, April 21<sup>st</sup>. The police department is hosting their annual skate camp on Sunday, April 27<sup>th</sup> at the Kitty Hawk Skate Park from 12 pm to 2 pm. This is a free event designed for kids ages 6 to 13 but everyone is welcome. Please visit the Kitty Hawk Police Department Facebook page or contact the police department for more information or to register. I would also like to recognize Officer Aaron Nelson for being selected as the Officer of the Quarter. Officer Nelson is one of the longest serving and most proactive officers in the Town and is stepping up to new challenges as field training officer and is interested in becoming a supervisor in the future. He is a good listener and is open to identifying opportunities for improvement and trying to devise plans to implement positive things. We're lucky to have him on our team. Finally, the police station progress update. The construction of the police station is progressing well with noticeable improvements both inside and outside. On the exterior, the concrete work is nearly finished, and preparations will begin at the gate area for the curb and island cut. Once this step is complete, final grading for asphalt will begin. Within the next 10 days, Dominion Power will be on site to establish power for the building and connect the cable to the conduit for the lights in the rear parking lot. After these connections are made, the building will have electricity and will be climatized. Additionally, the fuel tank for the generator has been installed and the generator itself is going this week. Inside, the installation of the interior finishes is underway. The ceiling grid is being put in and the tilework in the bathrooms is nearly complete. In the coming weeks, lighting fixtures will be installed, and the drywall will be prepared for painting and finishing. Most of the network cabling is complete and the remaining work will be finished after painting and flooring is completed and electricity is operational. The project continues to be on budget.

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

**Garriss:** Thank you, Melody. Great report. Casey?

**Varnell:** I have nothing to add, I have talked enough.

**Garriss:** Thank you, Casey. Charlotte?

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

**Walker:** We've just been through extensive budget planning meetings, and I am very proud of our department chairman and Town staff. We really talked about a lot of good stuff. I'm very proud of what we've accomplished.

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

**Pruitt:** That was exactly what I was going to say. Once again, thank you everybody, thank you Liliana



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for all your hard work putting it together. All the department heads and we've work very hard to come up with a budget that fits our Town.

**Garriss:** Thank you, Jeff. Well, that's what I wrote about the budget meetings. A lot of good, hard work by the Council, a lot of good, hard work by the department heads. Liliana, great work. Council, we looked at our needs versus our wants and I think we made some great decisions. Thanks to the Council, thanks to everyone. Anything else, Council? If not, I will entertain a motion to adjourn this meeting.

**Pruitt:** So, moved.

**Garriss:** Motion by Jeff, second?

**Walker:** Second.

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

**Garriss, Pruitt, Walker:** Aye.

### 13. Adjourn

**Garriss:** All opposed? None. We are adjourned.

**Adjourned at 6:35 pm.**

The Minutes of the April 7, 2025, Kitty Hawk Town Council Meeting are approved at the May 5, 2025, Kitty Hawk Town Council Meeting.

  
D. Craig Garriss, Mayor

  
Lauren Fox Garrett, Town Clerk

