



Minutes
KITTY HAWK TOWN COUNCIL
Monday, July 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 June 2, 2025, Regular Session Council Minutes** – Approval of the consent agenda will approve these minutes.
 - b) **Inter-local Agreement for Solid Waste Collection Services**
 - c) **Planning Board Work Plan**
 - d) **Interfund Transfer from Capital Reserve Beach Nourishment to the General Fund Beach Nourishment**
 - e) **2027 Beach Nourishment Project Contract for Design and Environmental Permitting Services**
6. **Items Removed from Consent Agenda:**
7. **Planning:**
8. **Public Hearing:**
 - a) **Zoning Text Amendment – Sec. 42-1 & Residential district regulations.** Clarifying language related to lot coverage, lot coverage physical area, and permeable pavement.
 - b) **Subdivision Ordinance Amendment- Sec. 38-1, 38-5, 38-48.** Proposed language to create definition and review process for “minor subdivisions”.
9. **New Business:**
 - a) **Appointment of Board of Adjustment Alternate Member**
10. **Old Business:**
11. **Reports/General Comments from Town Manager**
12. **Reports/General Comments from Town Attorney**



13. Reports/General Comments from Town Council

14. Adjourn

Council Members Present:

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

Staff Members Present:

Town Manager Melody Clopton, Finance Officer Liliana Noble, Police Chief Mike Palkovics, Fire Chief Mike Talley, Public Information Officer/Town Clerk, Lauren Garrett,

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

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

Tillett: So moved, Mr. Mayor.

Garriss: Motion made by Dylan. Second?

Pruitt: Second. Second by Jeff. All in favor say aye.

All Council: Aye.

Garriss: All opposed? None, thank you. Public Comment. Lauren, do we have anyone signed up for public comment?

4. Public Comment

Garrett, Lauren: Mr. Mayor, we do not.

Garriss: Okay. Is anyone here tonight who would like to speak during public comment about any topic? Anyone? Okay. Lauren, let the record show no one chose to speak. Consent Agenda. Council, I assume you had a chance to look over those items. If they meet with your approval, I need a motion to approve tonight's consent agenda, please.

5. Consent Agenda

Pruitt: So moved, Mr. Mayor.

Garriss: Motion made by Jeff. Second?

Tillett: Second.

Garriss: Second made by Dylan. All in favor?

All Council: Aye.

6. Items Removed from Consent Agenda:

Garriss: All opposed? None, thank you. We had no items removed from the consent agenda. We've got two public hearings. Council, Rob is not here tonight, but Casey is very familiar with these matters and will speak on Rob's behalf. So, Council, I need a motion to go into public hearing, please.

Walker: So, moved.

Garriss: Motion made by Charlotte. Second?

Tillett: Second.

Garriss: Second by Dylan. All in favor?

All Council: Aye.



Garriss: All opposed? None. We are in public hearing reference zoning text amendment uh 42-1 residential district regulations. Casey.

8. Public Hearing:

a) **Zoning Text Amendment – Sec. 42-1 & Residential district regulations.** Clarifying language related to lot coverage, lot coverage physical area, and permeable pavement.

Varnell, Casey: Thank you, Mayor. Since this is a zoning text amendment, tonight's hearing and decision is a legislative decision. So, it's a little different than quasi-judicial, but what it means essentially is that you're allowed to consider public comment and any opinion on the matter as to anyone who wants to speak. Rob has written a detailed report on this amendment to highlight it. Essentially, there are some definitions that staff are proposing to change as shown and noted in your report. The red text is the proposed new language. The black text is existing and anything struck through is proposed for deletion. The definitions we're talking about are in chapter 42-1 and those are lot coverage. Lot coverage, physical area, and permeable pavement. There is also some cleanup, if you will, as to other sections of Chapter 42 wherein Rob is simply referring to any definitions of these terms that you guys would be changing. It's a reference. It's a cleanup tool. The issue and the reason for the proposal is that due to lack of clarity in the original amendment, questions have arisen about how these exempted features should be treated. This ambiguity, Rob finds, could lead to inconsistent interpretations during permitting and planning reviews. So, as a result, staff is proposing a follow-up amendment to clarify that while uncovered open slatted decks with permeable materials below are exempt from lot coverage calculations, they are still to be included in the lot coverage physical area. Staff propose to continue to allow artificial turf and features such as landscaping gravel to not count towards either lot coverage or lot coverage physical area. It is staff's opinion that these features do not increase the intensity of the development of a lot while a deck which is a physical structure does increase the intensity of the development even if uncovered or permeable beneath. I will note that landscaping gravel was mentioned there is in terms of the definition of lot coverage Rob is proposing to add in that gravel how landscaping gravel used for driveways and parking shall be improved and would go towards lot coverage calculations. I have spoken with the citizen prior to this meeting who had posed the question ultimately of whether someone who for example currently has gravel as a driveway or some concrete some gravel as a driveway whether they would be grandfathered. To answer the question, yes. What this is essentially applying to is any site plan submits that comes forward after the date of adoption. So, it's not a mechanism or a tool to go out and police people's existing property. This is a mechanism to address and clarify any new proposals that come in and how this ordinance is to be interpreted. So just wanted to get that out there uh for the sake of the concerned citizen.

Garriss: Thank you, Casey. The Council is aware but for the public, both items I guess you could say the time is the applicant Rob in the time both items the this is Rob felt like some language needed cleaning up so that's the reason he brought it before the Council. Council, do you have any questions for Casey during this Public Hearing before I go to the public?

Hines: Didn't we already vote on the uncovered decks not counting as storm water? Jeff, you and I discussed cantilever decks not counting because you have got to have something below them to make it usable.

Pruitt: I do remember something about that.

Hines: So that confuses me.

Varnell, Casey: Which portion are we at, David? Open slatted decks that allow water to penetrate. I remember something about the overhangs. So, he's striking that and that's where your confusion comes in.

Hines: We already passed that. So why is it coming back? I just want to make sure I'm not misunderstanding something.

Varnell, Casey: I believe it was moved and do please bear with me, but I believe it was moved into lot coverage physical area or into some other portion of what you're seeing is a revision there. So, it didn't change. It was just put another way.



TOWN OF KITTY HAWK

Hines: The state counts it one way and we count it another way. We're trying to be in sync with the state.

Varnell, Casey: Correct.

Tillett: So, it's saying uncovered epic slide would be exempt from lot coverage.

Varnell, Casey: That's correct.

Tillett: That's how this the current the proposed language is stating that.

Varnell, Casey: Yes. So, in other words, again, I'll read to clarify. Uncovered open slatted decks with permeable materials below are exempt from lot coverage.

Hines: I thought we had already put that one to bed, but that's fine. My second question is, it doesn't talk about where the decks are cantilevered. It just says a deck is considered a space.

Varnell, Casey: I believe this is referring to any deck whether you can believe it or not. Correct.

Hines: So then that reverts me right back to my first question. And I know you can't, I'm not trying to. I'm going to do right here. But does that make sense what I'm asking? We're going right back to my first question because it doesn't specify cantilever. I have a two feet cantilever deck right over top of a 10 feet deck then the cantilever is two more feet which the state would count but we don't right. My question two goes back to question one, does that make any sense?

Varnell, Casey: It does it make sense. I wish we had Rob here to go through his intentions as to why. I mean I the only thing I would say again, and I know this doesn't and perhaps maybe it's even answered better with a question. So, cantilevered, your position would be that you've already you guys have already voted on cantilevered decks being excluded whether permeable is beneath it or not permeable materials are beneath it or not. Is that what I'm hearing?

Hines: Right. So, number three right here says single family resident applications uncovered open slatted decks that allow water to penetrate through to open pervious material are calculated as lot coverage.

Varnell, Casey: Physical area, not lot coverage. As if you've covered 40% of your lot, 60% of your lot, that's where the lot covers physical area the next definition comes into play.

Hines: Right, this thing is over complicated.

Varnell, Casey: I agree and the idea I believe in the two the separation of the two definitions is that um lot coverage physical area includes both permeable and impermeable whereas lot coverage the definition of lock coverage only goes to items that are impermeable which are not otherwise exempted for being permeable. So, yes, I agree. It but it's the code we've got currently that Rob's trying to clarify.

Hines: No, I appreciate Rob doing what he's doing. I just think it's because I do it for a living and it's confusing to me.

Varnell, Casey: Well, I'm sitting here trying my best to answer this question. And then my third question I'm probably going to stand for until we come out of Public Hearing. Thank you.

Garriss: Thank you, David. Dylan, did that clear up your question?

Tillett: Yes, sir.

Garriss: Any questions for Casey during Public Hearing? All right. Is there anyone here tonight that would like to speak during this Public Hearing? Anyone at all? Okay, Lauren, let the record show no one else chose to speak. If there are no more questions, I need a motion to go back into regular session, please.

Hines: So, moved.

Garriss: Motion made by David.

Walker: Second.

Garriss: Second by Charlotte. All in favor?

All Council: Aye.

Garriss: All opposed? Okay, we are back in regular session. Council, ready for discussion. David, do you have another question?

Hines: I do. I have an issue with the rock following the driveway being no longer allowed or being counted. It's movable. You can take a number two rock. You can take pea gravel. I've seen it many times where a driveway is poured. You know, it's a good filtration. Sometimes it helps protect your driveway when you're



TOWN OF KITTY HAWK

off the edge of it. I'm not in favor of counting rock beside a driveway. There are also times, you know, right, wrong, or indifferent, somebody's driveway is poured too big, and you must cut it out, so you must put something back. So that's my third comment on that. I don't know if it's a time or place, but I'm not in favor of counting that as lot coverage.

Garriss: Thank you, David.

Tillett: Did our ordinance before count gravel as lot coverage?

Varnell, Casey: I do not believe so.

Tillett: The way I think it was any part of the driveway, whether it was sand, gravel, or concrete, right, was coverage and the entire length. So, if you had a full-blown sand driveway, it was my understanding that was all coverage because it says driveway on there without any other.

Varnell, Casey: I think that's precisely what Rob is trying to clarify here as opposed to the generic driveway which as you said could be sand.

Tillett: In my mind, I see your point and I understand it but this helps a little bit instead of calling the sand coverage. It clarifies a little bit more. It's still saying that gravel's coverage. I get that. But it is an improvement, too. That gives you a little bit more understanding of it.

Hines: We talk about storm water all the time and put water runoff. We're creating it with concrete. So, like the way Dare County does where it's 50% of this and you can put grass, rock, gravel, whatever you want. But that's neither here nor there. It's just my opinion. I don't understand what the big deal is. I can pick rock up with a wheelbarrow and a shovel. Why should it count as lot coverage? As hard as we've worked over the years to add, you know, 500 square feet of pool water, not counting towards lot coverage. And now we're like just working, in my opinion, we're working backwards and just squeezing people in lot coverage. So, nothing else.

Garriss: Anything else, David? No.

Hines: No, sir.

Garriss: Okay, Jeff.

Pruitt: I have nothing.

Garriss: Charlotte?

Walker: I don't have anything.

Garriss: Council, I will entertain a motion if you see fit.

Hines: I have a question for Casey.

Garriss: Go ahead.

Hines: If I'm good with everything but the rock on the driveway, is there a way to separate everything out or is it all or none?

Varnell, Casey: So, no. Given this is a staff proposed recommendation or application for text amendment, you guys have liberty to strike provisions you don't agree with and leave in the provisions you do. We don't need anybody's permission because it's the Town proposing it. You guys are the decision makers. To answer your question, yes, if you're not okay with a particular addition, then it could be it could be struck. I think I will note that in the event gravel, for example, let's just say gravel used for driveways and parking should be improved. If the provision is going to be stricken, I would be specific that driveways covered in concrete or asphalt are to be counted as and there is no other type of driveway. Do you get my point there? Because that way we're not right back at well what is it the driveway area no matter what it is made of or is it just particular materials?

Hines: Well, I guess another way I'm trying to say is if I want to take what parking well, we'll see what happens with parking in general come general assembly time on that. But for now, if I wanted to take, I guess if I wanted to take my regular by code driveway and I wanted to make it half rock and half concrete because I wanted that water to filter and not create storm water. It doesn't matter if I do it this much or 8 feet, right? So, I could be by myself on that, but I don't. So, we could cut it out if we wanted to. One second. Yes.



TOWN OF KITTY HAWK

Pruitt: Since we don't have the planner and I didn't want to defer this because we had scheduled a Public Hearing. We have done this. We've gone through it. We've asked the public. So, at this point, I don't have a problem of deferring it at this point until the next meeting and for Rob to give us his rationalization of why he wants to do this. You can ask him instead of putting Casey in the spot. The only reason that I wanted this to be heard tonight as I sent the email was because I would have hated somebody to show up tonight and not get the opportunity to speak.

Hines: I appreciate that and that's why I'm doing my best not to do that for those reasons, but I want to make sure we get it right.

Pruitt: By deferring it, if somebody comes back and that is here tonight that or hears us that doesn't like your proposal, then they'll have an opportunity at the next meeting. But we didn't completely advertise, you know, that we were going to do this and not bring it up tonight. So, I'm good with deferring it now. I'll do whatever.

Gariss: Can we have a consensus?

Pruitt: Does that need a motion, Casey, to defer?

Varnell, Casey: No. On that issue, just a consensus. At the end of the day, this is making Rob's job easier in explaining to citizens what and why as far as lock coverage. As big of a deal as lock coverage can be in in well, not just Kitty Hawk, all over these barrier islands, I think it's worth maybe hearing some background on why gravel landscaping is not included, but gravel used as driveway or parking is included. I think it's worth hearing Rob's two cents. Yeah.

Pruitt: So, I know I would like to do if it's motioned or whatever.

Garriss: We've already got a consensus. Good idea. Lauren, please note that, thank you.

Varnell, Casey: Thank you, Mayor. That's for the August meeting, is that correct, Mayor Pro Tem?

Garriss: Yes, that is correct. Council, Item 8B, another Public Hearing subdivision ordinance, reviews the process for minor subdivisions. Do I have a motion to go into Public Hearing?

Hines: So, moved.

Garriss: Motion made by David. Second?

Pruitt: Second.

Garriss: Second by Jeff. All in favor?

All Council: Aye.

Garriss: All opposed? Okay, we are in Public Hearing. Casey.

b) Subdivision Ordinance Amendment- Sec. 38-1, 38-5, 38-48. Proposed language to create definition and review process for "minor subdivisions".

Varnell, Casey: No matter which way the vote goes on this, I think this one is a lot more straightforward. So, with what's happening here, and maybe I don't present it the way Rob does, but the proposal here is being brought, and Rob and I have discussed this at length. It's his intent to try to bring our code more in line with what you see not by statute or something like that, but what other municipalities generally do with subdivisions. Many times, even major subdivisions frankly can be staff approved administratively. Whenever I say that that means it can be approved by Rob. There's been those talks in the past. Rob's not proposing that here. What he's trying to do is take a little bit of onus off you guys, get us into, let's say, more comparable to other municipalities by creating what's known as a minor subdivision by definition. That definition is a division of a parcel into five or fewer lots. That division is going to have no new public or private roads and no dedication of new rights of way. The idea being that this definition is going to be administratively approved if it meets those items. Now, what he's also done is he's amended our section 38 which is reports from other agencies to specifically state that the following agencies state streets state highways related drainage systems the agencies that manage those DOT for example the county water department for any proposed water systems county environmental health as to any proposed septic or sewage systems. Those approvals obviously still must be given prior to Rob in the event of administrative approval, issuing that approval. So, I'll stop there. I would note just because it's in here that the Planning



TOWN OF KITTY HAWK

Board voted I do believe it was 4 to 1 to deny the basis of that being their preference was to have the additional layer of review by the Planning Board and Council to catch any potential conflicts with ordinances noting that interpretation issues may exist and if I recall Rob correctly. Rob stated, "Well, it's that point. If it's administrative, it's only my interpretation." So, you know, that's kind of what I'm hired to do. So, anyway, having said that, unless you have questions obviously, I'm going to turn it over to you guys.

Garriss: Thank you, Casey. Any questions? So, Charlotte, I'll start with you this time.

Walker: No.

Garriss: Jeff?

Pruitt: No.

Garriss: Okay, Dylan?

Tillett: No questions. Yes, sir.

Garriss: David?

Hines: I'm good.

Garriss: Thank you. Okay. Anyone here tonight would like to speak during this Public Hearing? Anyone at all? Thank you, Lauren. Let the record show no one chose to speak. Council, if you have nothing yesterday in Public Hearing, I need a motion to go back into regular session, please.

Hines: So, moved.

Garriss: Motion made by David. Second?

Pruitt: Second.

Garriss: Second by Jeff. All in favor?

All Council: Aye.

Garriss: All opposed? Okay, Council discussion on this matter. What would you like to do? Got a motion before you approve or deny.

Pruitt: Mr. Mayor, I personally don't think it's a load on me as a Council member to review a subdivision site plan. I do agree with the four on the Planning Board that an extra layer would be helpful. The reason is the Land Use Plan that we go by has a lot of areas that has to do with the Planning Board usually looking at the facts where the Council can weigh in on the Land Use Plan and other factors and determine whether these fit. A lot of areas don't have as fragile of wetlands and low areas as Kitty Hawk. I mean, a lot of Kitty Hawk is in a low area. To pull the Land Use Plan to make sure that we're not being in harmony with nature, not causing a significant impact of value to the adjacent property. All the factors that are in the Land Use Plan are factors that the Town Council uses to make their determination and to whether it fits in the location that it's being proposed and for that reason I support the Planning Board in their actions and their vote.

Garriss: I agree with you Jeff. Any further discussion? Would you like to make that a motion, Jeff?

Pruitt: I move to deny this proposed text amendment to Chapter 38. Town council finds that the proposal is inconsistent with the Town's adopted Land Use Plan.

Garriss: Thank you, Jeff. You have a second?

Tillett: Second.

Garriss: Second by Dylan. Any further discussion?

Hines: I have some discussion before I vote. Casey, can I ask you a question? Are we doing everything correctly by bypassing or allowing the Planning Board to not vote on something that's by right?

Varnell, Casey: Well, I think I will wait to not let them vote because if it's denied then they will be voting.

So, if that's the motion on the table then the Planning Board will still be voting. I think I get your question though that would be the end all be all. It's well so some jurisdictions do it fully administratively. Some jurisdictions go to the Planning Board for the first time or in a nuanced situation instead of making a recommendation they make a final decision and then you have this scenario which we're not the only one, but they have scenario where it goes to the subdivision will go to the Planning Board and then it'll come to Council. But to your point when it comes to the right thing many times and we've discussed it in subdivisions. If the ordinance itself allows for that subdivision to be created and they meet all the



TOWN OF KITTY HAWK

conditions of the ordinance, then you must approve it. I think to Mayor Pro Tem's point, I don't want to put words in your mouth, but you would like the oversight to look into whether or not those conditions after taking into account the proposed again or not proposed but the Land Use Plan and development within a particular area whether or not the conditions of the ordinance are met and that that's what you would what you're asking.

Hines: If all the conditions are met, Council must approve it right?

Varnell, Casey: That's correct.

Hines: It still would just be a formality of making sure making sure the Planning Board didn't miss something.

Varnell, Casey: Correct; to say it in another way you guys would not be considering anything other than what Rob would be considering, that's why it's called an administrative type of decision but doesn't mean that your opinion or interpretation may not differ from Rob's, which is why that extra layer that the Planning Board discussed would maybe come in. But yes, David, yes, there is no, let's come in and let's set all these conditions and no, that that's not that's not what.

Pruitt: This is just a matter of just making sure it's just another protective layer that we can say that we did everything that that that Rob, the Planning Board, and everybody's looked at and we just reviewed it. It's another set of eyes. Just another set of eyes on that second because if it you know if it you know if it meets the criteria then you know if we deny it then they can sue, and they'll win. Yeah. So, I mean it but we this does allow where in subdivisions but they're greater than this but it's still very similar to where the roads were caught at too steep of an angle or there's something that hey this you know that was caught at Council that wasn't caught earlier. It was a state, you know, the state has a radius of a curve and at the incline it didn't meet it, you know.

Garriss: So, any further discussion, Council? We've got a motion and a second to deny the proposed text amendment. All in favor of that signify by saying, aye.

Garriss, Pruitt, Tillett, Hines: Aye.

Garriss: All opposed?

Walker: Aye.

Garriss: Very good, 4 to 1 so motion to deny carries. Thank you, Council. Item 9A, we have an opening for an alternate opening on our Board of Adjustment. We need to fill that opening tonight, Council, if you so choose. Does anyone have a name to come before Council?

9. New Business:

a) Appointment of Board of Adjustment Alternate Member

Hines: I have a name. I make a motion to appoint Jamie Hines as an alternate member to the Board of Adjustment with a term of office to expire June 30th, 2026.

Garriss: Thank you, David. Are there any other names to come before Council? All right, we have got a motion. Do we have a second?

Tillett: Second.

Garriss: Second made by Dylan. All in favor?

All Council: Aye

10. Old Business

Garriss: All opposed? None. Very good. Mr. Jamie Hines is our alternate member. Lauren, if you would make that notification tomorrow, I'd appreciate it. We have no old business. Item 11, Melody, Town Manager report.

11. Reports/General Comments from Town Manager

Clopton, Melody: Good evening, everyone. First off, I have some staffing news to talk about. I hope you will join us in congratulating Christian Antonis on his promotion to Chief Building Inspector for the Town of Kitty Hawk. Christian joined the town in 2019 in a Public Works role and for the last year and a half, he's been working alongside our Chief Building Inspector, David Lewis, who recently retired. He is now certified level



TOWN OF KITTY HAWK

one in all trades, and in 18 months, he can start on level two and go from there. So, please congratulate Christian. We look forward to his contributions. I want to recognize Liliana Noble, the Town's Finance Officer, for passing the financial planning and budgeting exam, one of four needed for the certified Finance Officer designation through the North Carolina Government Finance Officers Association. She has one exam left. She's already passed three, so she's well on her way to becoming a Certified Finance Officer. So again, I hope you will congratulate her on this achievement and we're very lucky to have her in our Finance Department. Finally, I'd like to recognize Sergeant Police Sergeant Tara Poulin for earning officer of the second quarter. We thank her for her service to our community and the Town. She has been a very loyal officer to the Town of Kitty Hawk, and she is also currently instrumental in mentoring and training all of our new officers. So, she's been very busy. I'm happy to say the Police Department has officially moved into its new station. During the two hottest days of the year, police staff along with Public Works and Laura from Administration relocated to the third to the new building. By the third day, the department was operational. We're still addressing a few minor tasks and plan to hold an open house and ribbon cutting ceremony sometime in August or September and we hope everybody will come out. We're very excited. Lastly, I have been asked by a citizen to read something tonight. Um, it says, "Dear Kitty Hawk Town Council, my husband and I have vacationed with our children, family, and friends in Kittyhawk for 40 years. The last 15 years in the house we built on Rod Lane. We want to compliment the safety personnel in Kitty Hawk. They are incredibly good. Over the years, we've seen the beach patrol go to the rescue of three of the children and one adult friend who got caught in a rip current. They were all safe thanks to the swift action of the loaf guards. On two other occasions, we called the police when our security cameras detected a possible break-in, and when our daughter arrived with her three children to open the house for a family visit, only to find a strange car in the driveway. She parked down the street, called the police, and not only arrived quickly, but also then searched the house and grounds thoroughly to reassure everyone that all was safe. We've called 911 when a contractor was injured after he fell down a flight of stairs and again when we had a family member struggling to breathe. Most recently on July 4th, we called for help from the fire department when a propane tank malfunctioned in flames as my husband turned on the grill. Though the flames were extinguished, we called the fire department for advice. They sent a truck and four firefighters who cleared and checked the house and drained the problem tank. They also did a remarkable job of working with and reassured us all waiting outside. Three adults, three teenagers, three dogs, and a guinea pig on what must have been one of their high alert days. Our thanks to all of them and our thanks to Kitty Hawk for their fine job selecting and hiring good people. We would greatly appreciate you sharing our thanks at your meeting. Phyllis and Walt Spidell.

Garriss: What a great positive email. Thank you, Melody. Casey, I know you got a couple of items. If you could give us an update on White Street Beach Access. It just so happens today we had an email come in from a very concerned citizen about this matter and hopefully she'll hear something tonight that will make her happy.

12. Reports/General Comments from Town Attorney

Varnell, Casey: So, I do I have a call scheduled. Finally got some response uh to the letter I sent out. I've got a call scheduled with the representative from the owner of the underlying fee title, not easement owners, but the essentially who purchased and merged out and bought the developer from the original developer of that subdivision. I've got a call later this week. I think that'll go well, but I'll have some options for you guys after that call as to whether number one, they're willing to give us title and if they're willing to give us title, are they going to ask for money or what is it that they really want? I don't foresee it, but we'll see. Bottom line is that's a good starting point. Next meeting and obviously I will update Council as soon as I find out, but next meeting we may very well be coming back with some open discussion about what to do. So, I would note one thing though, just again for I guess I'm not an elected official and I don't like to talk to the Town that way. I'm paid to talk to you guys, but right now it's not the Town's property and because of that, if you know something's going on that piece of property that folks don't like, well, it's not the Town's



TOWN OF KITTY HAWK

responsibility right now to go and cure that or to fix that or whatever the case may be. Now, somebody's trespassing and you call the cops and say, "Well, they're trespassing." Well, okay. But as far as you know, the shape of it, I mean, is not public property. It's private property until we've got a scenario where we own it. I know that the Town does receive calls, and I don't claim to know the nature of every single one of them but just want to make sure everybody does understand that right now we are not the owners, and we can't police it as if it were our own property. So, I just wanted to put that out there.

Garriss: Thank you for your work on that.

Walker: Who built the structure that's on there?

Varnell, Casey: I have no idea. I don't know if it was the original developer. I don't know. We didn't build it. But certainly, my understanding was not the town. That was years ago. Okay. I just wanted to be sure that was a great question. That's a great question.

Hines: I was just saying to everybody, I asked Willie if we could put some screws in it and he didn't want to touch it at all. It's not ours.

Clopton, Melody: That's what the nature of the complaints have been, especially recently, is the safety issues.

Walker: There are two steps missing at the bottom. So, that's quite a step down.

Pruitt: Theoretically, they're trespassing who unless I mean whoever's on those steps, it's not the Town's steps and it belongs to somebody. So, they're trespassing. Is that correct?

Varnell, Casey: If they wish they don't have authorization or permission from someone who does then absolutely.

Walker: But it has an appearance just like the dog park in Kitty Hawk. It's not ours. We can't do anything about that because it belongs to Dare County. So, people have the appearance that it's ours.

Clopton, Melody: The lady that called last week, I mean, they've been renting the same house for 20 years and using it for 20 years. Whether she has permission or not or deeded access, I have no way of knowing that. Again, I couldn't help her with their injuries, but she was very concerned.

Pruitt: I do know that there's some things memorializing people that have passed away and there was a thing one time that came up, hey, do we allow it to be put on the side of the road? That's when it came out. This is being allowed by the person that owns the property. That's correct. They can put whatever they want, and once again, that's why they're there and the steps are theirs also.

Hines: So, what we do is the right of way on the street. So, would it be legally smart for us to put a sign that this is not town property there at your own risk or something like that to alleviate?

Clopton, Melody: I don't think it's posted. It doesn't say I'm saying we post it to say I know, but it doesn't say no trespassing on the beach access. It does say no trespassing in the parking area, but the plants are so overgrown you can't see it.

Hines: Or is that just a waste of time?

Varnell, Casey: Not my call to make, but whatever we do, we need to put it in the right of way.

Hines: From a legal opinion to alleviate the Town staff being called or us potentially getting sued.

Garriss: We sure can't put up a no trespassing sign.

Hines: We can do it in the right of way. It says that doesn't say no trespassing. It says it is not owned by the Town of Kitty Hawk on beach access. That's what's in question right now.

Pruitt: We have like when we allowed, we've allowed them at certain places and when they were allowed to be put over at that time, I remember I don't remember the scenario, but it had to be open to the public. I think it was at um the one right at the bath access, the one that they put across the street, and they wanted permission from the town. Do you remember something like that? We approved whatever it was if you would let the public, you couldn't gate it like Kitty Hawk Landing, and I think that they wanted to put it across public property. I think it's on the right of way and then on the beach public just like we would do ours and the thing was if you get the permits and put it up, but you can't block that one off like the other ones.



TOWN OF KITTY HAWK

Varnell, Casey: If there are public property rights involved, any approval would have had to have absolutely and that's the way we've handled some.

Pruitt: I don't know if White Street was done that way or if different ones were done that way.

Varnell, Casey: That would be something we'd have to do, and certainly I will say we know that we don't have anything in the Town's records that says there was ever any such agreement that it had to be open to the public. There was certainly nothing in our records. Now, I don't know what occurred that long ago, but I know we've got nothing in document form that we could rely on, which anybody knows if you're dealing with real estate, better have it written or it doesn't matter.

Garriss: Thank you, Casey. You got another matter for us?

Varnell, Casey: Yes, I do. This is going back to a the special use permit hearing that we had for the mini warehouses and the obviously at that hearing which was quasi-judicial with a 4-1 vote which I've noted in the order that I had previously sent to you guys voted to deny their special use permit main basis and again I'm just kind of summarizing here but the ultimate basis which had certain prongs that stemmed from it was that we require a commercial site plan. No commercial site plan was presented and as a result could not you guys could not determine whether the specifications and conditions of our ordinance of our Land Use Plan of any and everything that you guys were entitled to consider whether those conditions and specifications were met. Also, whether it was one of the factors is whether it was in harmony with the Land Use Plan and that was something else that of course you felt you couldn't make the decision on. The reason I propose this, and consensus, is fine but because it was quasi-judicial there does have to be an order that has findings of fact and conclusions of law. That's what I've sent for you guys. If there are any questions, I will obviously stand for them. If not, then I just seek consensus. I don't even need a vote. I just need to have something that I can let the opposing counsel know that this is the order. It's been approved and once done, the Mayor will sign this. The only change I made, guys, was and I did it this afternoon and Lauren was gracious enough to print out the revised copy. The opposing counsel requested no changes to my order except for the addition and its number nine which was prior to the hearing subject of this order. So, prior to the hearing you all conducted that the Planning Board did vote to recommend approval of the special use permit. Now, I will note to you guys that the reason I did not put that in there, and I think this was discussed at the hearing under 160D, the way it's now, well, 160D is brand new. Let's just say under the way the statutes governing special use permits can be considered by the Planning Board, but you guys are not allowed to deny, for example, based on the Planning Board's recommendation, which is somewhat counterintuitive, frankly, if you're saying that you're basically sending it to this board for no reason. But again, it's the way the law is currently written. So, I did not even mention the Planning Board, but it doesn't hurt in my opinion to mention it. The opposing counsel asked, so I don't see any problem with it. No basis of you all's decision revolved around that Planning Board decision.

Garriss: Thank you, Casey. Council, you had a chance to look at it. Everybody good with especially with the number nine change? That's the only change that was made and if the council is okay with it, I will sign it at the conclusion of this meeting tonight.

Hines: You did the order by vote right?

Varnell, Casey: So, you wanted it to be on record who voted for and against.

Hines: Correct.

Varnell, Casey: That's typical and that's why in the order it's got the four that voted for and then the one name which was you, Mr. Hines?

Pruitt: Do you want us to confirm that that's what we did or are we good just the way we are?

Varnell, Casey: Oh, no. In drafting this I went back through the minutes that Lauren typed up. So, some of my things that you'll see in quotes came from either the staff report or the minutes of the hearing. So, I'm positive on exactly how exactly why things were done and on the votes. I just wanted to make sure everyone's recollection was the same as what the minutes said.

Pruitt: Do you want a head count or are you good with raising your hands?



Varnell, Casey: Just raise your hand if you are all good with it.

All Council members raised their hands, indicating consensus with approving the signed order denying the special use permit for the mini warehouse.

Garriss: Thank you. Good job. Town Council comments. Charlotte let's start with you.

13. Reports/General Comments from Town Council

Walker: I'm good.

Garriss: Everything good? Jeff?

Pruitt: I'd like to bring up just a little bit of sometimes on the Consent Agenda we kind of move quick and uh last month in the Consent Agenda we approved that the Live Oak to be the Kitty Hawk Town tree. I just wanted it out to the public that Ron Tumolo I hope I'm pronouncing that correct spearheaded an effort to recognize the Live Oak tree in the town of Kitty Hawk and a designated as our town tree. I'd like to thank Ron, and I'd also like to tell the public that now Kitty Hawk has an official Town tree. It's our Live Oak. Also, as a commercial fisherman, I'd like to extend a great thanks to our County Commissioners, our state House of Representatives, and our Senator, our State Senator, as well as all of the residents and citizens of Dare County and all the counties in North Carolina that stood up for the commercial fishermen that make a good, honest living. I just like to thank those people. That's all I have.

Garriss: Thank you, Jeff. David?

Hines: I don't have a whole lot. I'd like to congratulate the Building Inspector for getting slowly but surely through his steps. I think Tara is a fabulous officer and we're glad we have her. I mean, we have a lot of good officers, but those two were mentioned tonight so I wanted to echo the Town Manager's comments.

Garriss: Thank you, David. Dylan?

Tillett: I want to echo that Congrats to Christian and Liliana for your exams. Big achievement. You're making us proud. So, thank you. Welcome, Tara. That email you got, Melody, makes us all proud. Thank you to all the first responders in Kitty Hawk. You guys make a heck of a difference, we really appreciate every one of you. That's all I have.

Garriss: Thank you, Dylan. I too would like to thank Liliana. I bother Liliana just about every Monday morning and she's eager to show me some facts and numbers and figures and she does an awesome job. So, thank you Liliana. Sergeant Poulin again, you do a great job. We're very fortunate to have you with our department. Christian has done an outstanding job. He had a lot to learn, and he's come on board and he's doing great already. We still miss David of course, but Christian is here. Summer is here. I've been to the beach a couple of times, and I've seen our Ocean Rescue in action. Thank you so much for everything you do. We could not do it without you. Council, is there anything else tonight?

Pruitt: Yes, we have a young man in our audience who is working on his Eagle Scout. If you would, please stand up and introduce yourself.

Carter, Noah: My name is Noah Carter with Troop 117 and I'm working on my Eagle Scout.

Pruitt: Thank you for coming. I'm sure you're working hard for your badge, and I understand you are interviewing the Mayor after this meeting. I wanted to encourage you to keep going and thank you for coming tonight.

Garriss: If nothing else Council, I will entertain a motion to adjourn this meeting.

14. Adjourn

Pruitt: So, moved.

Garriss: Motion by Jeff. Do I have a second?

Tillett: Second.

Garriss: Second by Dylan. All in favor?

All Council: Aye.

Garriss: Thank you, we are adjourned.

Adjourned at 6:58 pm.



TOWN OF KITTY HAWK

The Minutes of the July 7, 2025, Kitty Hawk Town Council Meeting are approved at the August 4, 2025, Kitty Hawk Town Council Meeting.

Handwritten signature of Craig Garriss in cursive script.

D. Craig Garriss, Mayor

Handwritten signature of Lauren Fox Garrett in cursive script.

Lauren Fox Garrett, Town Clerk

