

MINUTES
KITTY HAWK TOWN COUNCIL
Monday, August 3, 2015
Kitty Hawk Town Hall, 6 PM

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Superintendent David Alberg, Monitor National Marine Sanctuary/Presentation on the Sanctuary's Current and Upcoming Activities
5. Public Comment
6. Consent Agenda
 - a.) Approval of July 7, 2015 Council Minutes
 - b.) Revenues and Expenses Report for June 2015 and Quarterly Beach Nourishment Project Report (as of June 30, 2015)
 - c.) Donation to the Police Department
 - d.) Request to Purchase a Ford Explorer for Police Department
7. Items Removed from the Consent Agenda
8. Planning
 - a.) Site Plan Review: Application for approval of a site plan proposing to demolish and rebuild the southernmost building at the Atlantic Dentistry site, within the same footprint, and a new 458sq ft. addition that would connect the southern building to the middle building.
 - b.) Call for Public Hearing/Text Amendment: Amendment to Section 42-621(15) of the Town Code which would allow trailers, as defined, to be located in a mobile home park, if certain requirements are met.
 - c.) Call for Public Hearing/Conditional Use Permit: Application for a conditional use permit to allow a 34 site mobile home park at The Preserve at Kitty Hawk Woods, in the VR-3 District.
 - d.) Call for Public Hearing/Conditional Use Permit: Gas station to be located at 4017 N. Croatan Hwy, in the BC-1 District.
9. New Business
 - a.) Amendment to Chapter 20, Sections 20-51, 20-52 and 20-54 of the Town Code: Section 20-51 will restrict overnight parking at the bath house. Sections 20-52 and 20-54 allow a mechanism to ticket trailers, semi-trailers and prefabricated cargo shipping containers (or similar containers) if they are parked in beach access parking lots and designated parallel parking zones but in emergency situations they may be allowed with the permission of the town manager. Consideration will be given to contractors working for the town to use the areas.
10. Reports or General Comments from Town Manager
 - a.) Status on Easement Agreements
 - b.) Compliments to the Police Department
 - c.) Coastal Planning and Engineering Update
 - d.) Winks Agreement
 - e.) Thank You to the Public Works Department

Kitty Hawk Town Council Minutes: August 3, 2015
Page 2

11. Reports or General Comments from Town Attorney
12. Reports or General Comments from Town Council
13. Public Comment
14. Adjourn

COUNCIL MEMBERS PRESENT:

Mayor Gary Perry, Mayor Pro Tem Ervin Bateman, Councilman Craig Garriss, Councilwoman Emilie Klutz and Councilman Jeff Pruitt

STAFF MEMBERS PRESENT:

Town Manager John Stockton, Town Clerk Lynn Morris, Town Attorney Steve Michael, Management Assistant Melody Clopton, Town Planner Rob Testerman, Police Chief Joel Johnson and Fire Chief Lowell Spivey

1. Call to Order

Mayor Perry called this meeting to order at 6 p.m. and welcomed everyone in attendance.

2. Moment of Silence/Pledge of Allegiance

After a moment of silence the Pledge of Allegiance was recited.

3. Approval of Agenda

Councilman Garriss made a motion, seconded by MPT Bateman. It passed unanimously, 5-0.

4. Superintendent David Alberg, Monitor National Marine Sanctuary/Presentation on the Sanctuary's Current and Upcoming Activities

Alberg: Good evening mayor and councilmembers. Thank you for allowing me to speak this evening. As you said I represent the Monitor National Marine Sanctuary which is located about 18 miles off of Cape Hatteras, North Carolina. We have been in existence for about 40 years and in fact this is the 40th anniversary of the site. Our offices are in Newport News, Virginia and over the last couple of years we have been trying to make a better effort of reaching out to communities.

I want to introduce ourselves to you as a town and as a community formally, give you a brief history lesson, talk about some of the things we do and will be doing in the next couple of years. The Monitor shipwreck was one of two ironclads in the Battle of Hampton Roads. It was a union warship and is considered by most to be one of the most historical warships in U. S. waters. In

Kitty Hawk Town Council Minutes: August 3, 2015
Page 3

1973 it was found by Duke University by a team led by Gordon Watts and John Newton. It was identified in '74 and in 1975 a law which had been passed allowed Congress to designate special places in the marine environment was used to protect the wreck of the Monitor.

Today it falls within federal waters and is about 235' in depth. Scuba was still sort of in its infancy then. There were people doing it but not as many as today. There was no way really to protect it except in what would become the sanctuaries act. In January of 1975 the Governor of North Carolina petitioned NOAA to designate it as the first marine sanctuary. Today we have 14 sites that NOAA manages under a group called National Ocean Service. In essence we manage 14 marine protected areas around the world from American Samoa to the Hawaiian Islands to Stellwagen Maine but it all started here off the coast of North Carolina with the Monitor.

In your packets there is basic information, brochures and background material. There is also a copy of a blue book which is good night time reading. It is a federal management plan and it has a good history of the Monitor in it.

Why are portions of the Monitor shipwreck in Newport News? When the shipwreck was identified and the sanctuary was established the question was how do we bring the ship out of the water to the public? During the '70's and early '80's we did not do much to be honest. It was sort of a purview of the archeological community and research community but in the late '80's NOAA began to petition museums around the country that could conserve it if we were to bring up portions of the wreck. The only entity in the United States that really could handle a project of that size was the Mariner's Museum in Newport News. So between 1998 and 2002 about 200 pounds of the shipwreck, the turret, the engine, about 1500 smaller artifacts and the remains of two United States sailors were removed from the shipwreck. The parts were brought to Newport News and conservation work was begun.

The sailors were sent to Hawaii to a facility called JPAC which is where the military identifies unknown fallen soldiers, airmen and sailors from wars as far back as the War of 1812. Our office petitioned the Navy to release those remains for burial in Arlington which we did in 2013. On the 151st anniversary of the Battle of Hampton Roads those two men, who remain unidentified, were buried in Arlington with full military honors. It was one of the highlights of my career. There were about 10,000 people there for the ceremony. It was a very moving experience to see the nation honoring men that had died so long ago.

We are involved in a lot of education and outreach projects and one of them is in your packet. This is a plastic dive card for a German U-boat. There are four of them located off Dare County. Working with partners like the university of North Carolina Studies Institute we have created a series of plastic dive slates that encourage access to these sites as part of heritage tourism. The dive community can take these underwater. It provides a map of the shipwreck and a little bit about the laws that protect the wrecks.

Kitty Hawk Town Council Minutes: August 3, 2015

Page 4

One of the programs we do is through a project called Anchor. We work with Roanoke Island Outfitters to develop a joint training program. Divers teach basic archeological so for folks that have been diving a while and are looking for a new angle to help keep their interest in it this is a way to get people in the water measuring shipwrecks and giving them something to do. Then we can put the information on the website and share with others.

In June, with the Roanoke Island divers, we put up an outreach tent on the beach and had hundreds of people over the course of the week come and learn a little more about our program. We also held a "meet your sanctuary" event at Kelly's Restaurant. People learned more about who we are and what we do. We also have a citizen advisory council and included in the packet is a sheet that lists the people on it. We meet several times a year and the meetings are public. The next one will be held down here hopefully in September. There are a number of folks from Dare County on it.

I want to point out this report we did working with the community and is also for NOAA's benefit to help understand the rich maritime history of the Outer Banks of North Carolina as it is for the public. What we tried to do is capture an overview of the maritime history of the region and to do that ... identify opportunities for NOAA to work within communities to do more things like the dive slates, maritime heritage trails and things like that.

Another thing we have been working on is listing the number of shipwrecks on North Carolina's National Historic Landmarks. This does not do anything in terms of legal ownership or access but what it does is it elevates their visibility on a national arena. Helping people outside of Dare County to recognize that the state's history and resources do not stop at the shoreline but goes into the surf and off the shore. National Register nominations have been a very effective way of trying to help that.

One thing that may be coming up and was identified in our management plan was the issue of potential expansion of the Monitor Sanctuary. Right now it is just a one mile column of water. It is our hope that NOAA gives a green light to issue a notice of intent to begin exploring that. If that happens it does not change anything in the sanctuary but it does require us to begin holding scoping meetings and public hearings to get information from the public, communities, federal and state agencies and local governments on what the impacts of an expanded sanctuary might be. What the rules might or might not be, what would be good or would not be good for communities. Hopefully we will begin to have those discussions.

One of the challenges we had in developing the management plan is NOAA was not in a position to have a position on expansion so people were asking questions. Would it change or how would it impact everything and we had no answers because we had not started looking into it but hopefully that will happen this year. One of my goals tonight is to just get in front of you and let you know there is somebody you can talk to if questions come up or if you want additional information. I am available to help. I don't want to take up too much more of your time but if you have any questions I will be happy to answer them.

Kitty Hawk Town Council Minutes: August 3, 2015
Page 5

Perry: *If we are asked why you want to expand beyond the one mile column what would be our answer?*

Alberg: *My answer, just Dave Alberg's answer, would be what we found is that there are about 3,500 shipwrecks off the coast of North Carolina between Hatteras and Lookout. Not all of those shipwrecks are significant and many of them may not even exist anymore but there are a few U-boats ... some of the places that serve as war graves today that quite frankly to some extent have been impacted by material being taken off them. People going down and removing artifacts. What we propose, I think, is ultimately a model that does not exclude access, does not require a permitting structure, but acknowledges that these sites are important. Try to find ways to keep artifacts from coming out of these war graves. Elevate the significance of these shipwrecks through protection under the sanctuaries act and through partnership with the community to find more ways to promote and give us the authority to work with you in even greater ways to facilitate greater access to more ships and reduce impacts to the wrecks. Right now we do not have the authority to do that because we do not manage them. They are out there and unfortunately no one, in some cases, is really looking after them even though they may be military wrecks. Because the Monitor has been operating here for 40 years we are kind of uniquely positioned I think to do that and we have a very rich history. If you look at some of our other sanctuaries, specifically Thunder Bay in Lake Michigan, it is really doing everything from a grassroots, community based management approach. It is not the government saying we are going to do this, this and this but trying to find a way forward that benefits and maximizes opportunities with the community and make decisions that way.*

Klutz: *If you raise the level of importance of all of this ... sometimes people are afraid to do something like that because of all of the other regulations and things that you don't know about that all of a sudden start proliferating. Sometimes I think people have a reluctance to take all of this at face value because of some of the experiences they have had, particularly off of the coast of the Outer Banks. I think that would be worrisome to some of the local people.*

Alberg: *Understood and I quite frankly could not agree with you more. We have tried to be sensitive, really try and understand the issues here and some of the history with other federal agencies that cause some concerns and irritations. Even within our own agency with the National Marine Fisheries Service there have been concerns with local communities. The sanctuary program has always been managed a little different and we at no point would be putting something in front of you that says this is the way it is. What we want to do is start with a clean sheet of paper through these scoping meetings and through the process. Really work from a community level, hear those concerns and respect them. Seeing how we have managed other sites within the system there is a way to make this come out if it goes forward as a real win for the community without any of the issues of fear that previous jurisdictions may have had.*

If we start with this and it ends up being something different ... if we work together from the beginning I think there is an opportunity. Just like the state in 1975 was out on the forefront of establishing these sanctuaries there may be new opportunities such as that.

Kitty Hawk Town Council Minutes: August 3, 2015
Page 6

Perry: *Thank you. This was very informative.*

Alberg: *At any point if there are other questions I would be happy to come back and talk to individuals or speak during another public meeting.*

5. Public Comment

No one came forward.

6. Consent Agenda

a.) Approval of July 7, 2015 Council Minutes. *(An affirmative vote for the consent agenda will approve these minutes.)*

b.) Revenues and Expenses Report for June 2015 and Quarterly Beach Nourishment Project Report (as of June 30, 2015). *(An affirmative vote for the consent agenda will acknowledge these two reports.)*

c.) Donation to the Police Department. Joe Lamb Realty has made a donation in the amount of \$100 and the police chief would like for it to be allocated for future purchases of AED's (automated external defibrillator). *(An affirmative vote for the consent agenda will accept this donation.)*

d.) Request to Purchase a Ford Explorer. The police chief requests permission to purchase a 2016 Ford Explorer to replace a 2005 Ford Crown Victoria. This vehicle will not exceed the FY 15-16 budgeted amount of \$26,900. *(An affirmative vote for the consent agenda will approve this request.)*

MPT Bateman made a motion, seconded by Councilman Garriss, to approve the consent agenda. The vote was 5-0.

7. Items Removed from the Consent Agenda

No items were removed from the consent agenda.

8. Planning

a.) Site Plan Review: Application for approval of a site plan proposing to demolish and rebuild the southernmost building at the Atlantic Dentistry site, within the same footprint, and a new 458sq ft. addition that would connect the southern building to the middle building.

Kitty Hawk Town Council Minutes: August 3, 2015
Page 7

Testerman: *A few months ago Atlantic Dentistry had a proposal for a 74 square foot breezeway addition between the middle building and the southernmost building on the property. In May of this year the applicant submitted an application to amend that site plan approval. The addition was going to be increased from 74 square feet to 396 square feet and it was also removing some concrete to keep the lot coverage under the 60% maximum. I approved that one administratively. Then the applicant and engineer reviewed the plans and realized where they had placed the addition it was going to require them to relocate a lot of electrical utilities and it started to get cost prohibitive.*

Since then we have received this new site plan application. This includes a 458 square foot addition and they are also proposing to demolish the existing southernmost building. Evidently it is not in the greatest of condition. Rebuild the building in the same footprint that it is currently in. To accommodate for the extra square footage for lot coverage, 343 square feet of concrete would be removed. Other than that there is really no other change from the previous approval. Required parking is the same. Two access points and widening the northernmost one which is on the earlier approval.

The property is 35,563 square feet and all the properties surrounding the subject parcel are all zoned BC-1 and contain various commercial uses. Across the bypass is BR-1 and there are some residences over there. The new proposal has been designed to still meet the lot coverage requirements of 60%. Currently 39.4% of the property is open space. This proposal will reduce lot coverage slightly so the open space will increase by a tenth of a percent or so. The proposed addition in the new building will be one story in height, well under the 35' height maximum. All the buildings comply with the setback requirements and the new one, as it is being rebuilt in the same footprint, will still meet the 10' side yard setback.

Perry: *The last time the owner of the lot to the north had a question about dumpsters and access to dumpsters and not moving gravel around. How did we accommodate his concern in this plan?*

Testerman: *There is a possibility of a future plan that is going to address that even further but as far as I know there is no issue. I think it is still a matter of getting the property line resolved between the two owners and it would not have anything to do with the site plan meeting the zoning requirements.*

Perry: *But if it winds up the property line is moved south a little does that affect what we are doing here?*

Carlos Gomez, Coastal Engineering and Surveying: *We have worked it out so should it go in the other direction and Atlantic Dentistry loses land then it still be under the requirements.*

Perry: *Okay. That was my concern. And right now the dumpster location, which was on the south end of the building, has been moved up underneath the oak tree in some fashion?*

Kitty Hawk Town Council Minutes: August 3, 2015

Page 8

Gomez: *No that is the current location. He was talking about the dumpster on the south end of the property and the garbage trucks going across from this property into this.*

Perry: *Is that a part of this site plan?*

Gomez: *No. What we need to make sure is that his dumpster is pushed to his property because now the garbage trucks put it onto their property and we want to make sure it is in there. It is a matter of writing to them.*

Perry: *All right. One last question. Where that relocated dumpster is there is a shadowed line to the south of what appears to be the property line. What is that shadowed line denoting?*

Gomez: *That is a drive.*

Perry: *So it is just showing a shared driveway.*

Gomez: *Yes.*

Hearing no further questions or concerns, MPT Bateman moved to grant approval of the revised site plan of the Atlantic Dentistry Office Building at 3764 North Croatan Highway. Councilwoman Klutz made a second and it passed unanimously, 5-0.

8b.) Call for Public Hearing/Text Amendment: Amendment to Section 42-621(15) of the Town Code which would allow trailers, as defined, to be located in a mobile home park, if certain requirements are met.

Councilwoman Klutz moved to set a public hearing at the town council meeting on September 8, 2015 to consider a text amendment to subsection 42-621(15) allowing trailers as defined to be located in a mobile home park if certain requirements are met. Councilman Pruitt seconded and the motion passed unanimously, 5-0.

8c.) Call for Public Hearing/Conditional Use Permit: Application for a conditional use permit to allow a 34 site mobile home park at The Preserve at Kitty Hawk Woods, in the VR-3 District.

Perry: *This is now called The Preserve but it is known to us as Dogwood Trailer Park. We also thought of trailers as mobile homes but now we have a different definition in the code entirely. It's a little confusing.*

Kitty Hawk Town Council Minutes: August 3, 2015

Page 9

Councilman Pruitt made a motion to set a public hearing at the town Council meeting on September 8, 2015 to consider a conditional use permit application to establish a mobile home park at 4352 The Woods Road. Councilman Garriss seconded the motion and it passed unanimously, 5-0.

Perry: Before we go onto the next item I am handing out a list of questions and concerns to council and staff. Our code is pretty specific on trailers, mobile homes and parks and I have some questions. I want to give staff time to research so that council has full knowledge when we have the hearing.

8d.) Call for Public Hearing/Conditional Use Permit: Gas station to be located at 4017 N. Croatan Hwy, in the BC-1 District.

Perry: This property has been dormant for a while and I need to explain to you why I told Rob to go ahead and put it on the agenda to schedule a public hearing before the planning board has reviewed it. There is a technical glitch in that it was out of business past the 180 day limit that a conditional use allows. There is no reason to believe that anything has changed and in the interest of trying to get that place back up and running quickly I told him to bring the call for a hearing to us.

Councilman Garriss moved to set a public hearing at the Town Council on September 8, 2015 to consider a conditional use permit application to reestablish a gas station at 4017 North Croatan Highway. It was seconded by MPT Bateman and passed unanimously, 5-0.

9. New Business

a.) Amendment to Chapter 20, Sections 20-51, 20-52 and 20-54 of the Town Code: Section 20-51 will restrict overnight parking at the bath house. Sections 20-52 and 20-54 allow a mechanism to ticket trailers, semi-trailers and prefabricated cargo shipping containers (or similar containers) if they are parked in beach access parking lots and designated parallel parking zones but in emergency situations they may be allowed with the permission of the town manager. Consideration will be given to contractors working for the town to use the areas.

Stockton: Now there is no provision for restricting overnight parking at the bath house located at 3840 North Virginia Dare Trail and an amendment to 20-51 addresses that. The police department presently has no way of ticketing trailers, semi-trailers and prefabricated cargo shipping containers if they are parked in beach access parking lots. However it is desirable to allow the trailers and/or containers in the beach access parking areas in emergency situations. Consideration will also be given to contractors working for the town should they need a staging area for construction work for the town. Section 20-52 addresses this issue. The police department also needs to have enforcement power to ticket trailers, semi-trailers and prefabricated cargo

Kitty Hawk Town Council Minutes: August 3, 2015
Page 10

shipping containers if they are parked in designated parallel parking zones and again in emergency situations it may be desirable to have the trailers and containers in the parallel parking zones. Again, consideration is given to allow contractors working for the town to be able to utilize the parallel parking zones when doing construction for the town. Section 20-54 will address this issue.

Perry: *Basically what we are doing is bringing the bath house to the same conditions in overnight parking as Lillian Street and Byrd Street. This will also allow the police department some control over who, what and how long they are parking in some of the parallel parking places.*

Klutz: *There is not a no overnight parking restriction between the highways is there?*

Johnson: *There is not but there is technically a 48 hour restriction if they are parked in the right-of-way and we will tag them. We do not like to tow cars and do not make a practice of it.*

Klutz: *I may be in a minority here but as far as the parallel parking places are concerned the overnight parking ... sometimes I think it is kind of a blessing because you get party time going on and it is nice to think they are leaving their cars there rather than getting in them after they have been celebrating. It's just when they park every which way in the parallel parking.*

Johnson: *Our main concern about that is they are not blocking a driveway or in the roadway.*

Councilwoman Klutz moved to approve the amendment to Chapter 20, Motor Vehicles and Traffic, Article III Stopping, Standing and Parking, Section 20-51- No parking zones; time restricted parking and Section 20-52-Parking of trucks or trailers on town beach access parking lots and Section 20-54-Parallel parking. The mayor is authorized to sign and the town clerk to attest the said amendment. Councilman Garriss seconded the motion and it passed unanimously, 5-0. (Ordinance No. 15-08)

10. Reports or General Comments from Town Manager

a.) Status on Easement Agreements – Manager Stockton reported 275 easement agreements for the beach nourishment project have been mailed and the town has received 104 signed agreements.

b.) Compliments to the Police Department – Staff received a compliment from Gray's Department Store thanking the town for allowing Sergeant Strickland to speak to their staff on July 14th concerning shoplifting and employee theft. Gray's employees 60-65 sales associates during the summer months and this training is helpful to the seasonal employees.

Also received was a compliment from Clay Richards who lives in Kill Devil Hills and works at The Home Depot. He is pleased to see the traffic control at the Visitor's Center intersection on Saturdays and said it seems to be working well.

c.) Coastal Planning and Engineering Update – Coastal Planning and Engineering is 99% completed in their scope of work pertaining to permitting and design. In May of this year CP&E continued to develop the CAMA major permit application as well as a notice to adjacent riparian property owners. Since June CP&E has continued to work on finalizing the engineering design report which should be available at any time. The final geo-technical report was completed on June 18th and was submitted to the town. It is available in case members of council wish to look it over. The town received a letter from CAMA regarding the permit application and they are requiring CP&E provide 48 additional beach samples. CP&E is proposing to provide the samples and will use funds initially authorized as contingency funds. The contingency fund was established in the event that more vibracore samples were needed. Since additional vibracore samples are not needed the funds can be used for the beach sampling which will cost \$13,245 and the town will not be required to authorize funds in excess of the existing agreement.

d.) Winks Agreement – Mr. Michael reached an agreement in the Winks case and the town is receiving \$500 per month for 27 months.

e.) Thank You to the Public Works Department – Staff received a note from Barbara Brown thanking the public works director for installing signs on the bike path asking speed cyclists to slow down on the path.

11. Reports or General Comments from Town Attorney

There were no reports or comments.

12. Reports or General Comments from Town Council

Recreation Committee Update - Councilman Pruitt reported he attended the annual Recreation Committee meeting on July 28th. The committee reappointed Christine Buckner as Chairwoman, Dusty Rhoads as Vice-Chairman and Rita Phillis as Secretary. He informed the committee of council's decision about some of the money in the fund will be used to help maintain facilities in the town and they were agreeable. The committee will be looking into how to make it safer for pedestrians to cross the roads in town perhaps using the flag system that was presented by high school students a while back. They will also be looking to see if any of the crosswalks need repainting.

Sandbar 5k Race – MPT Bateman thanked the fire department, ocean rescue and public works department for an outstanding job in helping with the race on August 2nd. He is proud of the job they did and a lot of money was raised for the Outer Banks Relief Foundation.

Beach Canopies – Councilwoman Klutz remarked she thought people were not leaving as many tents or canopies out overnight on the beach as in years past. The brochure that ocean rescue hands out now has pertinent information in it and the fact that other towns are throwing them away may be helping with the cause.

Kitty Hawk Town Council Minutes: August 3, 2015
Page 12

Upcoming Meetings – Mayor Perry informed council he will be attending a meeting on the 18th with CP&E and other officials that are doing beach nourishment. There is still a long way to go on this project especially with financing. He may also be going to Raleigh on Wednesday to meet with legislators.

He then asked how many easements have to be mailed out and Management Assistant Clopton replied 275.

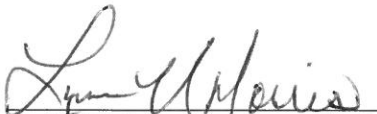
13. Public Comment

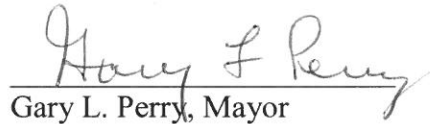
There were no public comments.

14. Adjourn

MPT Bateman made a motion to adjourn and Councilman Pruitt seconded. The motion passed unanimously, 5-0. Time was 6:46 p.m.

These minutes were approved at the September 8, 2015 council meeting.


Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor