

MINUTES
KITTY HAWK TOWN COUNCIL
Monday, December 4, 2017
Kitty Hawk Town Hall, 6 PM

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Oaths of Office:
 - Mayor-Elect Gary Perry, Council-Elect Craig Garriss and Jeff Pruitt
 - Nomination(s) for Mayor Pro Tem
 - Oath of Office for Mayor Pro Tem
 - Remarks from Governing Body
5. Presentations:
 - Fire Captain Bob Bent/15 Years of Service
 - 2017 Dare County Motorcycle Toy Run
6. Public Comment
7. Consent Agenda
 - a.) Approval of November 6, 2017 Council Minutes
 - b.) FY 17-18 Budget Amendment #6
 - c.) Approval of Website Redesign with Outer Banks Media
 - d.) Beach Maintenance Plan
 - e.) Multi-Use Paths Repair and Resurfacing Bid Award
 - f.) Re-award of the Bid for Stream/Ditch Debris Removal
 - g.) Bid Award for Tateway Road Emergency Pumping Facility
8. Items Removed from Consent Agenda
9. Public Hearings:
 - a.) Text Amendment: Sec. 42-1, Definitions and proposed 42-528, Accessory Dwelling Units. The proposed text amendments would permit accessory dwelling units on residential lots provided certain requirements are met.
10. New Business
 - a.) Governing Body Appointments to Boards and Committees
 - Dare County Tourism Board
 - Appointment to the Government Education Access Channel Committee
 - b.) Beach Nourishment Budget Breakdown Information
11. Reports/General Comments from Town Manager
12. Reports/General Comments from Town Attorney
13. Reports/General Comments from Town Council
14. Public Comment
15. Adjourn

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COUNCILMEMBERS PRESENT:

Mayor Gary Perry, Mayor Pro Tem Craig Garriss, Councilman Ervin Bateman, Councilwoman Lynne McClean and Councilman Jeff Pruitt

STAFF MEMBERS PRESENT:

Town Manager Andy Stewart, Town Clerk Lynn Morris, Town Attorney Casey Varnell, Finance Officer Liliana Noble, Management Assistant Melody Clopton, Town Planner Rob Testerman, Police Chief Joel Johnson, Fire Chief Mike Talley and Public Works Director Willie Midgett

1. CALL TO ORDER

Mayor Perry called this meeting to order at 6:00 o'clock p.m.

2. MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE

Following a moment of silence, the Pledge of Allegiance was recited.

3. APPROVAL OF AGENDA

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

4. OATHS OF OFFICE

- **Mayor-Elect Gary Perry, Council-Elect Craig Garriss and Jeff Pruitt**
- **Nomination(s) for Mayor Pro Tem**
- **Oath of Office for Mayor Pro Tem**
- **Remarks from Governing Body**

Town Clerk Morris provided the oath of office to Mayor-Elect Gary Perry and Council-Elect Garriss and Pruitt. Standing with Mayor Perry during his oath was his grandson, Kyle Jolley, Kyle's wife Hayley, and their 10-month son, Noah.

Councilman Bateman nominated, seconded by Councilwoman McClean, Craig Garriss as Mayor Pro Tem. There were no other nominations and the vote was unanimous, 5-0. Town Clerk Morris provided the oath of office for Mayor Pro Tem-Elect Garriss.

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Councilman Pruitt thanked the residents of Kitty Hawk and said it has been a fast first four years. It has been exciting and he believes council has accomplished quite a bit with the completion of the storm water management project, or as other call it, beach nourishment, and the storm water standpipes that have been installed. He thanked staff for making his job as a councilmember easier by providing the information that is needed. He is very proud to serve the people of Kitty Hawk and thanked the voters for letting him have four more years to do so.

MPT Garriss thanked everybody that voted for him and agreed with Councilman Pruitt on how fast the first four years went. It is an honor to sit on council. Mayor Perry is excellent to work with and he looks forward to the next four years. Much has been accomplished and he cannot wait to see what can be done during his next term.

Mayor Perry stated he does better if he writes his statements beforehand and then read aloud the following: *Thank you for allowing myself and fellow councilmembers to continue representing the citizens of Kitty Hawk on this local government council. It is an honor beyond anything I could have imagined while growing up in what would become a Town. Since coming on council my entire purpose has been to ensure fair, balanced and transparent representation. Council has attempted at all times to become educated with regard to what we needed to know and pass that knowledge on to the public by open debate, media outlet and answering questions when placed before us. We have attempted to use your tax dollar for only those things required, needed, or where you desire something, always ensuring the taxpayer understood who pays for it. Given the lack of turmoil in this past election, I conclude that the governance previously provided meets with your approval and state here tonight you can expect that to continue.*

Now I have a different message for the younger generation. To the children of my generation. Those not so old, yet not too young, whom have been raised in this Town. The time for you to start getting involved in local government is now. If you value the Town as it is, as it has grown slowly but deliberately, then you need to become part of the closest thing to personal involvement in government that exists today. This council and the various committees that make the whole thing work is where you make a difference in Kitty Hawk. Volunteer for a board or committee with an eye towards running for a council seat. Periodic change on boards, committees and council is healthy for the community and educational for you personally. Ladies of the generation to which I speak you can do this. Every participating woman on council or board has brought enormous value to governance of this Town. While continuity has value, new faces bring fresh perspective. That said please know that I do not intend to run for a council seat in the future. It will be time for new leadership. Thank you for allowing me to represent you one last time. God bless America and especially Kitty Hawk. Thank you.

5. PRESENTATIONS

a.) Fire Captain Bob Bent/15 Years of Service – Manager Stewart presented Captain Bob Bent with a plaque and he and council thanked him for his service.

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b.) 2017 Dare County Motorcycle Toy Run – Mr. Terry Gray introduced the board of directors for this event. The run is a private foundation dedicated to raising money to help make sure the underprivileged children in Dare County have a merrier Christmas and holiday season. This is their second year holding this event and they raised \$25,042.

Following a video of the toy run he presented a plaque in appreciation to Police Chief Johnson for escorting the motorcycles while they were in Kitty Hawk.

6. PUBLIC COMMENT

There were no public comments.

7. CONSENT AGENDA

a.) Approval of November 6, 2017 Council Minutes. *(An approval of the consent agenda will approve these minutes.)*

b.) FY 17-18 Budget Amendment #6. This amendment will appropriate additional money (\$919,752.00) to the General fund to pay off the Fire Station loan approved at the November 6, 2017 council meeting. The payoff amount is \$1,177,977.33. *(An approval of the consent agenda will approve this amendment.)*

c.) Approval of Website Redesign with Outer Banks Media. In August 2017 staff asked for approval to update the existing website using GovOffice Web Solutions in the amount of \$9,700. Upon further investigation, staff is asking for approval to hire Outer Banks Media in the amount of \$10,000 which is the amount budgeted for in FY 17-18. *(An approval of the consent agenda will approve this request.)*

d.) Beach Maintenance Plan. This plan has been in effect since the beach nourishment project ended in October 2017. The Town must have a maintenance plan to receive reimbursement from FEMA if the project is impacted by a presidentially declared disaster or emergency. *(An approval of the consent agenda will officially accept this plan by council.)*

e.) Multi-Use Paths Repair and Resurfacing Bid Award. The Town received one bid for repairs on the Pruitt, Twiford and the US 158 Multi-Use Paths in the amount of \$93,890.00. Staff recommends approving this bid from RPC Contracting, Inc. Grant funding will contribute \$59,518.16 towards the project costs for the Pruitt and Twiford paths. The Town funds will come from State Street-Aid (Powell Bill) funds. *(An approval of the consent agenda will approve this recommendation.)*

f.) Re-award of the Bid for Stream/Ditch Debris Removal. The original bid winner was unable to begin work on the project in accordance with the specifications. Staff is recommending the bid be awarded to RW Bell and Sons, Inc. in the amount of \$154,761. The grant amount has increased to \$216,380 from the original allocation of \$190,050 which will allow the Town to complete additional streams and ditches as appropriate and approved by the state. *(An approval of the consent agenda will approve this bid award to RW Bell and Sons, Inc.)*

g.) Bid Award for Tateway Road Emergency Pumping Facility. Two bids were received for this project. Staff is recommending the low bid of \$64,916.00 be awarded to HHLD, LLC. *(An approval of the consent agenda will approve this bid award to HHLD, LLC.)*

MPT Garriss made a motion to approve the consent agenda. It was seconded by Councilwoman McClean and passed unanimously, 5-0.

8. ITEMS REMOVED FROM CONSENT AGENDA

There were no items removed from the consent agenda.

9. PUBLIC HEARINGS:

a.) Text Amendment: Sec. 42-1, Definitions and proposed 42-528, Accessory Dwelling Units. The proposed text amendments would permit accessory dwelling units on residential lots provided certain requirements are met.

Councilman Bateman made a motion, seconded by Councilwoman McClean to go into public hearing. The vote was unanimous, 5-0.

Planner Testerman reviewed the following staff report with council and the audience:

Proposal

The applicant has proposed a text amendment that would add the following language, allowing for an accessory dwelling unit on a residential lot.

42-1

Accessory dwelling means a secondary dwelling unit established in conjunction with and clearly subordinate to a principal single-family dwelling unit, whether part of the same structure as the principal dwelling unit, or as a detached structure on the same lot. The use of manufactured or mobile homes, travel trailers, motorhomes, campers or similar vehicles as an accessory dwelling unit is prohibited.

Article VI. Supplemental Regulations

Sec. 42-528 Accessory dwelling units.

- (a) Accessory dwelling units may be attached (located within the principal residence) or in a detached structure on the lot, provided requirements for lot coverage and setbacks for the district are met.
- (b) Accessory dwelling units shall not be larger than 50 percent of the living area of the primary residence, or 800 square feet, whichever is lesser.
- (c) A detached accessory dwelling unit shall be located in the established rear or side yards, provided that the detached accessory dwelling does not extend beyond of the front of the primary residence.
- (d) Accessory dwelling units shall not be served by a driveway separate from that serving the principal dwelling.
- (e) One additional off-street parking space shall be provided for the accessory dwelling unit.
- (f) No more than one accessory dwelling unit shall be permitted on a single residential lot.
- (g) Detached accessory dwelling units shall not exceed 28 feet in height, measured from average original grade, or the height of the principal dwelling on the property, whichever is lower.
- (h) The owner must obtain a permit from the Dare County Environmental Health Department that indicates the septic system is sufficient for the increased occupancy.
- (i) Accessory dwelling units may be used for home occupation uses, in compliance with Sec. 42-522, but in no instance, shall more than one home occupation be conducted or permitted on a single lot. Additionally, the accessory dwelling unit is not permitted to used entirely for commercial purposes.

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(j) Before obtaining a building permit for an accessory dwelling unit, the property owner shall file with the county register of deeds a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner stating that the accessory dwelling unit shall not be sold separately from the primary residence.

Background

The applicant has proposed the above language be added which would create a definition for, and allow accessory dwelling units to be located on residential lots, in association with a primary single-family residence. As noted in the definition, manufactured or mobile homes, trailers, campers, motorhomes, etc. would not be permitted as an accessory dwelling unit.

Accessory dwelling units are a relatively simple idea, that has been around for years. The concept became less popular in the mid-20th century, but in recent years has begun to see an increase in usage across the country. Examples of an accessory dwelling unit would include an apartment over a garage, a separate smaller house located in the rear or side yard, or a lower level apartment.

The popular reasons for building accessory dwelling units appear to mainly be for a rental income for the property owner, or to provide a place to live for aging parents, or grown children who cannot afford a home of their own yet. Accessory dwelling units help increase housing supply, and allow for greater options for moderate-income earners, caregivers, etc. An additional benefit is while ADU's increase housing stock, there is no need for new infrastructure, as they can be connected to existing utilities.

According to the attached case study, "communities find that allowing accessory dwelling units is advantageous in many ways. In addition to providing practical housing options for the elderly, disabled, empty nesters, and young workers, ADUs can provide additional rental income for homeowners. ADUs are smaller in size, do not require the extra expense of purchasing land, can be developed by converting existing structures, and do not require additional infrastructure. They are an inexpensive way for municipalities to increase their housing supply, while also increasing their tax base." The case study goes on to state that providing this housing option also allows communities to retain population groups that might otherwise be priced out of the housing market.

As currently written, any accessory dwelling unit, if approved, would still be required to comply with minimum setback standards on the rear and side yards, and as noted in the proposed language would not be permitted to extend beyond the front of the primary residence. The lot owner wishing to develop an ADU would also have to work within current lot coverage requirements, 30%. Therefore, allowing an ADU might increase the amount of people living on a single lot, but it would not affect the allowed intensity of development on the lot. Potential issues that allowing ADUs could create would be a small increase in residential density and traffic in residential areas.

One additional concern with ADUs that could be built attached to the primary dwelling would be, by our ordinances definition, a duplex, which are only permitted in certain zoning districts. Sec 42-1 states "*dwelling, two-family (duplex)*, means a detached building divided horizontally, or vertically, and designed for or occupied by two single-family housekeeping units contained entirely under one roof and having one dividing partition common to each unit, or having the ceiling structure of the lower unit the floor structure of the unit above." This issue could be resolved by amending the definition of "*dwelling, two-family*" to include a statement that a single-family home with an attached ADU meeting the size restrictions of 42-528(b) is not considered a two-family dwelling (duplex).

dwelling, two-family (duplex), means a detached building divided horizontally, or vertically, and designed for or occupied by two single-family housekeeping units contained entirely under one roof and having one dividing partition common to each unit, or having the ceiling structure of the lower unit

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the floor structure of the unit above. **A single-family home with an attached ADU meeting the size restrictions of 42-528(b) is not considered a two-family dwelling (duplex).**

Additionally, it should be noted that our flood damage prevention ordinance dictates that accessory structures cannot have habitable space, or be temperature-controlled. The definition of "accessory structure" in the flood damage prevention ordinance states that the structure's use "is incidental to the use of the principal structure." It is staff's interpretation that these accessory dwellings would not fall under the definition of "accessory structure", as the use is not incidental to the primary structure, rather it is a secondary residential structure. Staff has reached out to FEMA for confirmation on this interpretation, however at the time of writing, no confirmation has been received. Staff anticipates having more information before the meeting.

Currently, the town has been permitting a variation of "mother-in-law" suites in accessory buildings, typically done as living space over a detached garage. One stipulation currently in place is that the accessory living space cannot have any stoves, or connections for stoves. The Town's definition for "dwelling unit" is "one room, or rooms connected together, constituting a separate, independent housekeeping unit for owner occupancy, or rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities for a single family." By prohibiting any stove or stove connections, the living space is not considered a dwelling unit because it has no independent cooking facilities.

Staff was requested to contact the Dare County Department of Environmental Health for their input regarding septic systems and whether the proposed language is compatible with their policies. According to Jack Flythe, Environmental Health Supervisor, accessory dwelling units are permissible, if the existing septic system has the capability to handle the increased usage, or if the existing system is not sufficient, they would be required by the health department to upgrade their system. In either case, the Town would require a permit from the Health Department stating that the system is sufficient, or that the owner is upgrading their system to handle the new usage. Mr. Flythe also noted that if someone requests to add an apartment or detached structure that has an additional dwelling unit it, based on current NC rules that govern on-site wastewater systems, the minimum daily flow rate will be at least 240 gallons per day for a one or two-bedroom apartment/unit. This is viewed as more than just an increase in bedrooms, as an accessory dwelling unit would typically have kitchen and laundry facilities included. To clarify, there are no rules or regulations from the health department that would prevent an accessory dwelling unit, but the system would need be able to handle the increased demand, or be upgraded.

Consistency with Land Use Plan

The following policies and objectives relevant to this application are stated in the CAMA Land Use Plan:

Policy #17a: Kitty Hawk will continue to adapt, enforce, and amend as necessary ordinances and procedures to regulate residential development and redevelopment. The town supports applicable state and federal laws and regulations regarding building, land uses, and development.

Policy #17b: Detached residential structures are the preferred type of residential development.

Objective #17a: Ensure the continuance of established residential development patterns.

Objective #17b: Ensure future development is consistent with adopted goals, objectives, and policies and regulations including building code requirements and is in character with existing development with respect to features such as building size, lot coverage, architectural design standards, and construction materials and methods.

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Planning Board Recommendation

At the October 26 Planning Board meeting, the proposed text amendment was recommended for approval by a vote of 3-2 in favor.

Perry: *Does everything that is built, whether separated or attached, have to be raised to base flood elevation?*

Testerman: *Not necessarily. If it is below base flood elevation it is restricted to parking, storage, or dry entry and must have flood vents installed. It must be built of flood resistance materials so no drywall or anything like that may be used.*

Perry: *Any ADU would have to be built above flood plain to be inhabited?*

Testerman: *Right. As an aside, currently the Town permits a variation of the mother-in-law suite. Our current stipulation is that it cannot have stoves or stove connections. Our definition of a dwelling unit is it must have independent cooking and sleeping facilities. Without the cooking facility it does not meet the dwelling unit definition.*

Perry: *They still must have septic correct?*

Testerman: *The existing septic system must be able to handle the increased load. If an additional bedroom is added, we require a new septic permit from the health department.*

Perry: *But no stove.*

Testerman: *Right.*

Perry: *The reality is anybody that is going to build a garage and put something over top of it may wire it for a stove.*

Testerman: *It probably does happen and if the space is above base flood we cannot tell them they cannot finish it out.*

Perry: *Just wanted to make the point on the record thank you.*

Testerman: *Last month it was requested that staff reach out to the Dare County Health Department for input. According to Jack Flythe, Environmental Health Supervisor, accessory dwelling units are permissible if the existing septic system has the capability to handle the increased usage. If the existing system is not sufficient, they would be required by the health department to upgrade their system.*

Currently Dare and Currituck Counties and the Towns of Duck and Kill Devil Hills allow ADU's. Southern Shores is discussing a similar text amendment and I have been told Nags Head may consider it soon also.

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The planning board recommended approval 3 to 2.

Pruitt: *Can these be used for commercial purposes?*

Testerman: *Someone may have a home occupation, but they would not be permitted to have one in the primary residence at the same time.*

Bateman: *This is Town wide?*

Testerman: *It would be for any residential lot.*

Bateman: *So, if they met the criteria, every lot in Kitty Hawk Landing could have an additional dwelling?*

Testerman: *Yes, if they could meet all the requirements.*

Perry: *If the new flood plain regulations force us to lower the base flood elevation to 4 feet those in the Landing could probably do this. Is that about the only way they could do this?*

Testerman: *Potentially. I plan on making a presentation to council in January on the flood ordinance. The progress we have been making county wide. We have been discussing the potential of implementing a, what we are calling, a local elevation standard. The number we are talking about right now is 8 feet. Restricting any kind of building below 8 feet because that is what we have seen as a flooding level in the past. No one is comfortable with the 4-foot based flood elevation.*

1. Jim Olcheski, 5121 Lindbergh Avenue, Kitty Hawk: *I have one of the few legal duplexes in the Town. One of the things that verifies that is I have two meter bases so I get separate electric bills for upstairs and down which is good because I can see who is using what. I was just wondering if that is something you would know about or would it be something the power company would have to decide or the building inspector because I mean you are almost always going to have to have a secondary panel to feed whatever alternative additional building that you have. It would work out a lot better to have separate meters but then that basically puts you in a duplex status.*

I have had my house since '97 and it has always been a duplex. I was told another requirement for this is no interior stairs. I live upstairs and there are no interior stairs from upstairs to down and the two meter bases, which is my understanding is most of the criteria for what they consider a duplex.

I am just wondering if this does go through if you could get the second meter base and if then would it be considered a duplex status?

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Perry: *The planner would determine what it is you want to do, and the building inspector would determine whether it met the code. You would almost not want to do it any other way than with two meter bases. I do not think that is a problem. Now whether it would be called a duplex that is a question I will ask before we get into actual voting to see if we must add something to the amendment.*

Olcheski: *What exactly defines a duplex? Is that what you are shooting for?*

Perry: *Our central purpose here tonight is to determine whether an ADU is a fit for Kitty Hawk.*

Olcheski: *As a landlord I can tell you there is definitely a shortage of year 'round rentals. We get calls all the time. I am sure you know.*

Perry: *We know, and we also know that people start hollering about being too dense so we have to meet a balance.*

Olcheski: *I understand and if you do pass this I understand there have to be requirements. Thank you very much.*

2. Karen Brown, CEO, Outer Banks Chamber of Commerce: *Good evening and thank you for the opportunity to be here. I am here to speak on behalf of the chamber board as well as our newly formed community housing initiative that we have.*

The Outer Banks Chamber of Commerce is speaking in support of text amendment 42-1 and 42-528 that will allow an accessory dwelling on a residential lot. The Outer Banks is facing a crisis in community housing availability for our year 'round, as well as, seasonal workforce. This crisis is evident in the lack of qualified workers to fill vacant jobs in our region. Accessory dwellings are an ideal solution for many communities as it allows for the creation of smaller, modestly priced housing units for our workforce while preserving the character of the surrounding community.

Several benefits of accessory dwellings include the following: promotes workforce housing on a small scale, provides workforce housing at no expense to the public, establishes conveniently located housing for the local workforce, allows opportunities for extended families to live together, offers companionship and assistance for older and less mobile citizens, provides additional income for property owners, offers modest increases in property, sales and occupancy tax revenues for the community and creates potential for more year 'round residents increasing the vitality of the towns and county, added public safety by having more eyes in neighborhoods. This text amendment is one small step that may help alleviate some of the shortfalls that we are currently experiencing. The chamber is working side by side with many organizations, business owners, business members and concerned citizens on this issue and we will be reaching out soon to our towns and counties to hopefully engage in a more in depth conversational topic. Thank you for your time.

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3. Craig Merrill, 4227 Lindbergh Avenue, Kitty Hawk: *I am a fairly new resident and one of the questions I have and maybe I missed it in the discussion. I love the idea and I think it is a great solution but how do we make sure the ADU's are dedicated for the long term, possibly lower income residents that need them and are not just used as another way to get big money for summer rentals? Is there any way that they are restricted so they are used for teachers and the workers we need to populate our area? Otherwise it just seems we are opening it up for more business for people and not addressing our low priced rental market that we need to increase.*

Perry: *That is a good question and unless our lawyer tells me we can do something I do not think we can. That issue has been raised several times. The VRBO (Vacation Rentals by Owners) issue is here and I do not think you can stop it. If people want to use it in something other than designed, then they are going to do it. They are already doing it. If they have an extra room they are renting it anyway. It is already happening. The question is do we allow it? Knowing it might be abused. But it happens in everything we do so I cannot give you a definite answer. I do not see the ability to put a restriction onto what we might do here tonight.*

Merrill: *We would have to find some other way to incentivize people. I do not know what that way would be, whether it is some sort of tax benefit or something but some other way to incentivize them to do the right thing.*

Perry: *That is correct.*

Merrill: *Thank you.*

There were no other speakers.

Mayor Perry made a motion, seconded by MPT Garriss, to go back into regular session. The vote was unanimous, 5-0.

McClean: *A number of things have been brought up tonight that I do not think was addressed sufficiently in putting this ordinance together. I gathered a collection of Land Use Plans since the Town was started and spent time doing some light reading. Kitty Hawk prides itself on being low density single family dwellings. Granted, per Rob's comments, there are not necessarily going to be more people per acre, it is more dwelling units to put them in. That is one of the things that I am working around in my head and I do not feel comfortable with the way things are.*

Bringing up the electric meter situation. Is someone going to rent the units out and have no separate utility connections? Are they going to be safe? Are we going to require something more? Does the building inspector, looking the premises over, constitute what we need to have done to make this work for the Town?

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These are questions rolling through my mind and I am not able to come up with something clear cut right now. This is Town-wide, every neighborhood. The golf course community, the beach community, between the highways community, this is the village and this is the conservation area. These are distinct, different pockets of Kitty Hawk. Different neighborhoods with different personalities. I do not feel comfortable tonight deciding that this is totally right for all of Kitty Hawk. If nothing else I would like to see it go back to the planning board. I would like to see them work a few things out or I would like to see us give it another month.

Pruitt: *We talk about an accessory dwelling for a loved one and in reality, I do not know this for sure, but I have a funny feeling there is going to be a high percentage of this in the Airbnb market. We are opening up for everybody to have a rental income on their property and I just do not think that is what the Land Use Plan intended for our community. When you have them separate and start renting it out we have no way of knowing if there is going to be ten people in there or one. There are no restrictions. You could have pockets of a lot of people where it used to be just one house. It basically seems to me like we are turning Kitty Hawk into a kind of rental community where everybody can go establish a rental income on their property if they have enough room.*

Bateman: *A landlord from Manteo and I were talking and I asked him how it was going because they allow this in Manteo. He said at one time he had thirteen people living above his garage. We need to do something to create housing for individuals and I do not know if this is doing that. I do not want to have teeny, tiny houses on every residential lot in Kitty Hawk that has thirteen people in it. Not that that would happen but the point being it is going to be abused. It is going to happen and as Jeff said, I think we are creating Airbnb's all over the place. Not that that is a bad thing but the way this is ... if it was restricted. If there were some restraints that said you could not have multitudes of individuals in one dwelling. I think it took him two and a half months to get those thirteen people out in Manteo.*

Perry: *And Duck allows this too which I found interesting.*

Bateman: *It is what it is and it is a big money maker. If you have a big house you can rent a bedroom for \$625 a week. There is economics involved and we are doing this because we want to help people out. There was a gentleman in Nags Head that just got the ability to rent a large dwelling out. At one time this summer he had 32 people and he was getting \$650 a person. We need to take that into consideration when we decide what we are going to do in the Town of Kitty Hawk.*

Garriss: *Some great conversation and I think the opposite from the way you all are thinking. Rob just got through reading 10 regulations that must be met. Set back coverage, lot coverage, health department restrictions. There are probably not that many lots in Kitty Hawk that would comply.*

I just see, if all of the conditions and regulations are met, my thinking is it complies with the CAMA Land Use Plan and thereby we cannot deny it. If this comes to a vote tonight I am going to vote in favor.

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Perry: *It says you need to add at least one parking space, but it does not restrict the number of people that can occupy a dwelling.*

Testerman: *That would be done by the septic permit.*

Perry: *Even if all the conditions are met for the septic system and it is sized for one or two people we know some property owners will cram them in just like Ervin said. Is there something to restrict the number of people that could be added to this?*

Varnell: *I believe we could add a limit on occupancy.*

Perry: *And that would give us a better enforcement.*

Garriss: *I like that.*

Perry: *Based on the conversation you have heard here tonight, and the concerns expressed, if we sent this back to the planning board could you work on that?*

Testerman: *Absolutely.*

Bateman: *I agree with the lady from the chamber of commerce. Being in the restaurant business we have people that apply for jobs then do not take them because they have no place to stay. They go back to Virginia Beach, Richmond or Raleigh. We are losing good quality people because there is no place affordable for them to stay. I am not against what we are trying to do here I am just saying there has to be regulation to limit some of the things that are not enticing. I am optimistic and open minded enough to know there needs to be change if it does good and does not bring houses jam packed with people.*

Varnell: *Along with Rob we will wrap our heads around it and see if we can come back with something.*

Councilman Pruitt made a motion to send the proposed text amendment back to the planning board for further consideration with the input that was provided tonight. Councilwoman McClean seconded and the vote was unanimous, 5-0.

10. NEW BUSINESS

a.) Governing Body Appointments to Boards and Committees

- **Dare County Tourism Board**

Mayor Perry noted the Board of Commissioners requires three nominees. Councilman Bateman nominated Councilman Pruitt. Councilwoman McClean nominated Mayor Perry and he declined.

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Councilman Bateman nominated Councilwoman McClean. Councilman Pruitt nominated MPT Garriss. **A vote was taken on approving the three nominees (Councilmembers Pruitt, McClean and Garriss) and the vote was unanimous, 5-0.**

- **Appointment to the Government Education Access Channel Committee**

Mayor Perry asked MPT Garriss if he could serve on this committee again and he replied he would be glad to. **Mayor Perry made a motion for Craig Garriss to serve on the access channel committee. It was seconded by Councilwoman McClean and approved unanimously, 5-0.**

b.) Beach Nourishment Budget Breakdown Information

Manager Stewart reviewed the following beach nourishment budget breakdown with council. Mayor Perry said it is very informative and thanked him for putting it together.

Kitty Hawk Beach Nourishment Budget Breakdown

Revenues:	(4ct & 12ct)	Local Option Sales Tax	
FY 2015	\$224,903.00		
FY 2016	\$954,745.00		
FY 2017	\$968,687.00	\$162,354.00	
FY 2018	\$968,687.00	\$162,354.00	
FY 2019	\$968,687.00	\$162,354.00	
FY 2020	\$968,687.00	\$162,354.00	
Total Revenue:	\$5,054,396.00	\$649,416.00	<u>\$5,703,812.00</u>
Expenditures Estimates:			
Debt Service Payments	\$4,818,169	(5 year obligation)	
Beach Maintenance Plan	\$11,136	(Change Order #1)	
Turtle Trawling	\$300,000	(Change Order #1)	
Dune Realignment	\$6,868	(Change Order #3)	
Hot Spot Survey	\$6,300	(Engineer Recommendation)	
Annual Surveys	\$200,000	(4 years of surveys FEMA)	
Beach Plantings	\$100,000	2018 Planting	
Sand Fence Maintenance	\$100,000	(Est. \$20,000 per year)	
Total Expenditures:	\$5,542,473		<u>\$5,542,473</u>
Total Excess Projection:			<u>\$161,339.00</u>

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11. TOWN MANAGER

Manager Stewart invited Captain Bent forward to let everyone know what has been and will be going on at the fire department.

Santa Claus:

Captain Bent announced Santa Claus will be arriving at the Fire Station on December 9th for his annual visit. Light refreshments will be served and he invited everyone to come visit.

Shop with a First Responder:

This will take place on December 12th and he thanked Kitty Hawk Police Officers Billy Deaton and Chris Simpson for doing an excellent job of planning this event. Dare County Social Services recommends the underprivileged children in Dare County to them and the first responders take them to dinner and then shopping at Wal-Mart.

Toys for Tots:

On Black Friday Kitty Hawk Fire Fighters and Dare County EMS were at Wal-Mart where in a 12-hour period 626 toys and 75 stocking stuffers were collected. They returned on Sunday, and as of today, they have close to 900 toys. Their goal is 1000 toys by December 10th. These will be given to Dare, Currituck and Tyrrell County Social Service Departments. They hope to help approximately 700 children with the donated toys.

Mayor Perry commented it is a shame that there are so many families in need and Councilman Bateman asked if this is aside from Terry Gray's efforts with the motorcycle toy run. Captain Bent said it is separate from his event.

Councilman Bateman asked if money or toys are needed and Captain Bent said at this point toys are needed. Any new unwrapped toy may be placed in the box at the fire station in the front foyer. They will transport it to where it needs to go.

New Fire Chief Mike Talley:

Manager Stewart announced this is Fire Chief Mike Talley's first day of work with Kitty Hawk. He joins us from the City of Norfolk Fire Department where he has been since 1994. His combined years of service are 26 with 12 years in a leadership role. He has a Bachelor's Degree in Fire Administration and is in the process of obtaining a Master's Degree in Organizational Leadership. He also provides instruction at fire academies and everyone looks forward to working with him.

Mayor Perry informed Chief Talley he is arriving in the Town of Kitty Hawk with a new fire station and some new trucks. All the equipment and the building, everything he is coming to, is paid for. That is the way this council operates.

Chief Talley thanked him and said it is a good fresh start.

12. TOWN ATTORNEY

Congratulations:

Attorney Varnell congratulated the newly elected and said it has been a pleasure getting to know and working with them. He has a high respect for this governing body and thinks they perform their jobs and tasks at a very high level.

Duplexes:

With condominiums, townhomes and duplexes, the difference is in ownership. The reason the language in the ADU text amendment was added is it will not be considered a duplex and then it cannot be sold separately. You cannot parcel out your lot, even if it is big enough, and sell things separately. A duplex is separated by a common boundary and one cannot have access to another. They can be owned by two separate people. Under the proposed text amendment that would not be allowed. It would have to stay under the same ownership and that is a huge difference with a duplex and an ADU. The separate meter idea will not rise to the level of creating a duplex scenario as long as we can limit ownership and restrict it.

13. TOWN COUNCIL

Welcome and Thank You:

Councilman Pruitt welcomed Chief Talley and said he looks forward to working with him. He thanked Captain Bent for keeping the toys straight and for stepping in as interim fire chief. He thanked Terry Gray and everyone he works with for what they are doing with raising toys and donations. He also is surprised there are so many children in need. He suggested if anybody is out and about to go by the fire station and drop something in the box.

Councilwoman McClean welcomed Chief Talley and thanked Captain Bent for keeping the fire department going in the interim. She also thanked him for the work he has been doing for the children. She thanked the police department in helping with the motorcycle toy run and wished everybody a wonderful holiday season.

Councilman Bateman thanked Captain Bent and congratulated him on his 15 years of service. He welcomed Chief Talley and said he is coming to a good Town with great people. He thanked everybody for participating and cheering the marathon runners on as they ran through the Town. It was a very, very successful marathon and the numbers were up from last year. Money was raised for charity and it will be disbursed in about another month or so. The money goes to the Dare Education Foundation and to the Outer Banks Relief Foundation, two great causes on the Outer Banks. He thanked Police Chief Johnson and appreciates all he is doing.

He asked the town manager about the ditch cleaning and Manager Stewart replied since it was approved earlier in tonight's meeting a contract with RW Bell and Sons will be entered into and they will get started soon. They also discussed which ditches are scheduled for clearing out of debris.

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MPT Garriss thanked everyone and welcomed Chief Talley. He said he was talking to Mrs. Talley earlier and hopes she can find them a house in Kitty Hawk. He congratulated Captain Bent on 15 years of service. He thanked all the town staff and wished everyone a Merry Christmas.

Site Steward:

Mayor Perry announced the Kitty Hawk Woods Reserve is looking for site stewards. A steward will be a trained volunteer to monitor site conditions and will document and respond to visitor use issues at the Kitty Hawk Woods Reserve. If anyone is interested, please contact Kate Jones at the Kitty Hawk Woods Reserve building on Kitty Hawk Road.

Devil's Curve/Indian Graveyard:

Mayor Perry said he has had inquiries about the house being built across the street from the Dare County Park, named Kitty Hawk Park, on Kitty Hawk Road. Locals call the location Devil's Curve or the Indian Graveyard. It was always the spooky place and all the kids feared the area. Word is there was a graveyard up there at one time. He asked Rob to make sure everything is in order with the permit and consider what should be done if something is discovered.

Planner Testerman said when the property owner came in to get his land disturbance permit he performed a site evaluation. After talking with the mayor about this subject he made another site visit with CEO Alexander. They did not see anything that indicated burial or grave sites.

State Statute, Section 70-29(a) states that any person knowing or having reasonable grounds to believe that unmarked human burials or skeletal remains are being disturbed shall notify immediately the medical examiner of the county in which the remains are encountered. Section 70-29(b) states that if human burials or skeletal remains are encountered as a result of construction or agricultural activities disturbance of the remains shall cease immediately and shall cease immediately and shall not resume without authorization from either the county medical examiner or the State Archeologist under the provisions of G.S.70-30(c) or 70-30(d).

The property owner building the home is aware of these regulations. He has been informed there are rumors something might be there and if he comes across anything he needs to stop and call the appropriate people and not continue working.

Councilman Bateman asked if he is taking the oak tree down and Planner Testerman replied he is not sure but believes he is only clearing out where the house pad is going to be. Mayor Perry said he believes half of the oak is in the right-of-way and that will prevent him from cutting it.

Councilman Bateman said he will check the book *Sacred to Their Memory* by Lois Meekins and Amy Gamiel. It has every graveyard in Dare County dating back to the 1700's.

14. PUBLIC COMMENT

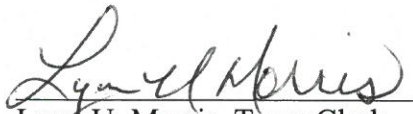
There were no public comments.

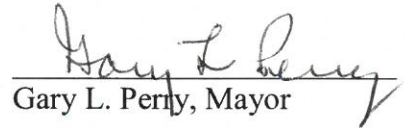
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15. ADJOURN

MPT Garriss made a motion to adjourn. Councilman Bateman seconded and it passed unanimously, 5-0. Time was 7:34 p.m.

These minutes were approved at the January 12, 2018 council meeting.


Lynn U. Morris, Town Clerk


Gary L. Perly, Mayor