

**MINUTES**  
**KITTY HAWK TOWN COUNCIL**  
**Monday, December 1, 2014**  
**Kitty Hawk Town Hall, 6:00 PM**

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Presentations/Recognitions
  - Police Department: Longevity, Promotion, Introduction of New Hire
  - Comprehensive Transportation Plan (Following the presentation comments from the public will be welcomed.)
5. Beach Nourishment – FAQ's
6. Public Comment
7. Consent Agenda
  - a.) Approval of November 3, 2014 Council Minutes
  - b.) Revenues and Expenses Report for October 2014
  - c.) Police Department Request to Purchase New Patrol Vehicle
8. Items Removed from the Consent Agenda
9. Public Hearings
  - a.) Text Amendment: Application to amend Section 42-445 of the Kitty Hawk Town Code to allow "Veterinary hospitals and clinics" as a conditional use, subject to certain conditions, in the Emergency and Governmental Services (MS-1) zoning district.
  - b.) Conditional Use Permit: Application for a conditional use permit to construct three 2,520 square foot buildings to contain medical offices and a veterinary clinic at 5121, 5125, and 5129 Putter Lane. Although each building will be on its own separate lot, the development will share a common parking area, drive aisles, and access drives onto Croatan Highway and Putter Lane. Specifically, approval for the following types of conditional uses is being sought as part of this application: licensed physician offices, chiropractor offices, optometrist offices, and veterinary hospitals/clinics.
  - c.) Zoning Amendment: Application to rezone the remaining portions of the properties at 103 First Flight Run and 3732 N. Croatan Highway from Beach Residential (BR-1) to Beach Commercial (BC-1).
10. Planning
  - a.) Site Plan Review: Application for approval of a site plan proposing to relocate the existing septic system and expand the existing parking area at Barefoot Bernie's, 3730 N. Croatan Highway. The proposed expansion will add 28 new, paved parking spaces in the area of the existing septic system to the west of the restaurant.
11. New Business
  - a.) Resolution Accepting a Comprehensive Transportation Plan for Dare County
  - b.) Resolution in Support of Including US 158, NC 168 and the Mid-Currituck Bridge on the Strategic Transportation Corridors Network Map
  - c.) Police Department TASER Grant *(added during the meeting)*

## **Kitty Hawk Town Council Minutes: December 1, 2014**

### **Page 2**

12. Reports or General Comments from Town Attorney
13. Reports or General Comments from Town Council
14. Public Comment
15. 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 Clerk Lynn Morris, Town Attorney Steve Michael, Town Planner Rob Testerman, Finance Officer Charlene Allen, Management Assistant Melody Clopton, Police Chief Joel Johnson, Fire Chief Lowell Spivey, Public Works Director Willie Midgett and Joe Heard, Planning Consultant

### **1. Call to Order**

Mayor Perry called the meeting to order at 6:00 p.m. and welcomed everyone in attendance.

### **2. Moment of Silence/Pledge of Allegiance**

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

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

Mayor Perry called for a motion to approve the agenda with the addition of 11(c), police department TASER grant. It would normally be placed under consent but it was not received before the agenda was published.

**MPT Bateman made a motion to approve the agenda as amended. Councilman Garriss seconded the motion and it passed unanimously, 5-0.**

### **4. Presentations/Recognitions**

- **Police Department: Longevity, Promotion, Introduction of New Hire**

Police Chief Johnson awarded Sergeant Brian Strickland his 20 year longevity plaque and announced Police Officer Jeff Elkie has been promoted from PO II to PO III. Chief Johnson then introduced Chris Simpson as the newest officer with the police department.

- **Comprehensive Transportation Plan**

**Kerry Morrow, Statewide Plan Engineer, NCDOT - Transportation Planning Branch:**

*Good evening. I am here to talk about the Dare County Comprehensive Transportation Plan that was recently completed. The objective in tonight's presentation is to give you an explanation of the process and let you know what the next steps will be and hopefully get the resolution adopted tonight.*

*DOT took the lead and we worked closely with the Albemarle Rural Planning Organization as well. For this steering committee we have representation from the county all of the municipalities as well as some interested citizens and some other agencies.*

*The Comprehensive Transportation Plan is a long range, multi-modal plan for the entire county but it can be done for cities at times. It is a conceptual plan and we are looking at a 25 to 30 year horizon. We are not looking at immediate needs but are looking for long range needs. The plan is not fiscally constrained. There is no funding attached to any of the recommendations that come out of the plan and looks to identify potential solutions for transportation issues. It was developed cooperatively between NCDOT, the region and the local stakeholders. We have incorporated local Land Use Plan's and there is a goal to take into account community goals and visions. Since it is multi-modal we are not looking at just highways, we are also looking at bike and pedestrian trails, and in the case for Dare County we looked at ferries and waterways.*

*This slide shows a comparison of a CTP and the TIP, Transportation Improvement Program. The TIP is more of an immediate set of projects that is fiscally constrained.*

*The base year for the plan is 2012. We analyzed and projected data to identify deficiencies, we developed different alternatives to address those deficiencies and then we are recommending the plan that you have tonight.*

*When I refer to the plan what you are really adopting are just the maps. The set of maps you have for each of the modes of transportation is what you will be adopting. There is a report that goes with it but what you are adopting is the set of maps.*

Ms. Morrow reviewed the following facility types in the report and their definitions: freeways, expressways, boulevards, major and minor thoroughfares.

*The first map that you have in front of you is the adoption map and shows the dates when all the adopting parties adopt the plan. The second map is the highway map and shows US 158. To talk a little about the recommendations for 158. This facility is projected to be over or near capacity by the year 2040 all the way from Currituck County to US 64. As you know it is the primary north/south connector through this area and there is an identified safety issue. Eighteen sections of the road, as well as fourteen intersections, have been identified as high crash locations. It provides access to many businesses and the recommendation we have made is to make it a four lane boulevard with a median in between. This recommendation will likely reduce congestion. It*

## Kitty Hawk Town Council Minutes: December 1, 2014

### Page 4

*is consistent with something called the Strategic Highway Corridor Vision Plan. I know later during your meeting you have a resolution for the Strategic Transportation Corridor. That is the old version of that but it is currently in place since the Strategic Transportation Corridors are not adopted yet. Furthermore in the documentation you may have noticed the steering committee recommended US 158 for further study in the form of a corridor study. That will help us to figure out what cross sections are appropriate in what places since we know it is not a uniform facility.*

*The next set of maps is for the transit mode and we are showing a connector. It is a bus route and is shown in green. It would be fixed bus routes which differ from the current on-demand bus service that you have now. This slide shows the Duck and Southern Shores connector which would go along NC 12. In Insets A and B we show at the top of the slide the loop services and those would go along NC 12 and 158. In Inset B there is a connector to Roanoke Island as well. Also on this map with Insets A, B and C at the top you will see there are a number of park/ride locations and those are represented with a P inside of a box. The park and ride locations are intended to be used by private water transportation companies and not operated by NCDOT. It would just facilitate that type of transportation if desired. The park and ride location at Whalebone Junction would be to serve beach goers that may want to go to Roanoke Island and leave their car. At the bottom is the Hatteras ferry park and ride. That one is intended to serve passengers who want to take a passenger ferry. There currently is not a passenger ferry but there is a study to see how well that would work in the future and we wanted to put it there to facilitate that transportation in the future.*

*On the draft bicycle map there are numerous bike and pedestrian recommendations in the plan. Probably too many to count and let me know if you have questions on any of those. The insets show Hatteras as well.*

*The pedestrian maps are very similar. Most of the places where we have bike routes recommended, pedestrian sidewalks are also recommended. I will point out that the yellow symbols, which are both on the bicycle and the pedestrian maps, they all show up on both maps because they are intended for both bike and pedestrian usage. They are multi-use trails and are intended for both. The green lines represent off-road trails, and again, that would be intended for both bikes and pedestrians and they would not be along the side of a roadway necessarily.*

*Duck adopted this on November 5<sup>th</sup>, Southern Shores did not adopt it when presented but has subsequently adopted the plan. We go to Manteo on Wednesday and Nags Head will vote on Wednesday. Kill Devil Hills will see it next Monday and then the Dare County Board of Commissioners meeting is on the 15<sup>th</sup>. If all goes as planned we will proceed and go to the Albemarle RPO for endorsement in January and then to NCDOT for adoption by the Board of Transportation in February. This is my contact information and at this point I am happy to take any questions you may have.*

**Perry:** *You said we were only adopting the maps tonight?*

**Morrow:** *That is right.*



**Kitty Hawk Town Council Minutes: December 1, 2014**

**Page 5**

**Perry:** *We thought we were adopting a Comprehensive Transportation Plan. Is that coming later?*

**Morrow:** *The plan in this case is actually the maps. The report is something that documents the plan and clarifies some details. But legally the set of maps is the term we use for the CTP.*

**Perry:** *We still need to talk about the resolution which we are going to do towards the end of the meeting. We are going to have a busy night and I hate to hold you up. I think what is going to happen is we will adopt the resolution accepting the plan because there is a question about the bus plan. Several of us do not think it will work. Also there was another part I brought up at an earlier time that was never adopted and had to do with flooding. What I was told was you folks think horizontally and not vertically. In a 25 year plan there is no provision to really fix flooding like we have from 7-11 to the Kill Devil Hills line on 158. Those will be the things we put into the minutes to address it. Beyond that I think it will be accepted if you don't want to stay.*

**Morrow:** *I am fine either way. If you want me to address any of your questions I am happy to stay.*

**Klutz:** *Can we change the agenda to move the resolution up?*

With a consensus of council Mayor Perry announced 11(a) would be discussed.

**11 a.) Resolution Accepting a Comprehensive Transportation Plan for Dare County**

**Klutz:** *I was a part of the Dare County Transportation Task Force and we studied a bus plan for two years. The results of that effort resulted in learning buses for Dare County would not be self-sustaining. There were so many obstacles in terms of bus stops, where to put bus maintenance facilities and there was an understanding the buses would not do anything to help with traffic congestion. During that time we actually ran a pilot program for several weeks and for one of those weeks there was a total of three people that used the van service. It was well publicized in the newspaper, on the radio and it was transmitted to all of the employers of workers from foreign countries. In the end the Dare County Commissioners, with budget priorities, decided the next step would not be funded. I personally am not in favor of adopting a plan that is still pushing for a bus system.*

**Morrow:** *I understand. I guess a couple of things to keep in mind is we are not necessarily pushing for it but we are including it as a possibility. Again, this is a 25 to 30 year plan so a pilot program that did not work a few years ago may work in 25 to 30 years and we just want to keep that as a possibility. We actually consulted that plan to get these recommendations.*

**Klutz:** *I know I wrote a lot of comments about the plan and another member talked about the price that would be required for a ride. I think during that time there was a decision that anything on the beach road was infeasible. There were all kinds of issues about bus stops requiring traffic lights and the spacing of traffic lights. As you know they are pretty far apart and putting additional traffic lights on 158, which is going to be a boulevard in your plan, is*

**Kitty Hawk Town Council Minutes: December 1, 2014**

**Page 6**

*probably not a really good idea either. What I am concerned about is so many things get left in a plan as a possibility and then resources get applied to those where resources could be applied perhaps to better road improvements. Everything is a trade-off and you say this is not funding constrained but as long as it stays in there, there is an expectation that it is something that is desirable.*

**Angela Welsh, Albemarle Commission, Planning Director/RPO Coordinator:** *May I touch on this? Hopefully it will clarify. DOT does not implement this plan. The projects will not be developed unless the town comes to the RPO and says they want to put this in the DOT Division I for funding. No one is going to say you have to do it. I understand your concerns but DOT is not going to come in and say this is in your plan you have to do it. At one point they were thinking it would be a private type of bus service so it would not really have anything to do with NCDOT.*

**Morrow:** *That is a good point. Keeping it in the plan opens the possibility for it to ever happen and if it did get programmed there would be many more opportunities to give input on design.*

**Klutz:** *We changed the words "adopt" to "accept" and "should be" to "is" in the resolution. This is something council can discuss and see whether we want to make those changes. The plan is accepted as a guide and not anything more than that. One other change I would like to make is in the last sentence of the resolution. Change "adoption" to "action". Would you like me to read the resolution?*

**Morrow:** *Yes.*

Councilwoman Klutz read aloud the resolution. When she got to the date of the plan, June 23, 2011, Ms. Morrow said that is not the correct date and suggested the date on the revised maps be used which is October 30, 2014.

**Morrow:** *I think this language is fine as far as I know. I am not familiar with what the difference legally is between adopted and accepted but if that is your wish that is fine. I also want to point out that you will be adopting only the town's portion of the map and not someone else's.*

**Garriss:** *I agree with the changes and when it is appropriate I would like to point out some corrections that need to be made to the other resolution.*

**Perry:** *It is appropriate now because we are about to make a motion.*

**Garriss:** *A number of times in the correspondence and in the resolution 168 is incorrectly identified as a US highway. From somebody who has traveled that road many times over the years it is a NC highway.*

**Morrow:** *Is this in the report?*

**Garriss:** *The resolution under 11(b).*

Councilwoman Klutz made a motion to approve the resolution accepting the Comprehensive Transportation Plan for Dare County and further authorized the mayor to sign and the town clerk to attest said resolution as modified. MPT Bateman seconded and the vote was unanimous.

**11 b.) Resolution in Support of Including US 158, NC 168 and the Mid-Currituck Bridge on the Strategic Transportation Corridors Network Map**

*Perry: We have one more that deals with this subject matter and it is 11(b). It has to do with a resolution supporting upgrades to US 158, NC 168 and getting the mid-Currituck Bridge back on track.*

MPT Bateman made a motion to adopt the resolution in Support of Including US 158, NC 168 and a mid-Currituck bridge on the Strategic Transportation Corridors Network Map and authorize the mayor to sign and the town clerk to attest the resolution. Councilman Garriss seconded the motion and it was unanimous, 5-0.

**5. Beach Nourishment – FAQ's**

*Perry: I asked to have this put on the agenda so that as we get questions concerning beach nourishment we can try to answer them. I have had some questions asked of me that are not always picked up on the news or our broadcast.*

Mayor Perry read aloud the following:

**Question:** *Is the 60 foot beach berm width a finished construction width?*

**Answer:** *No. The 60 foot beach berm width is the projected width remaining after 5 years. The beginning width will be in excess of 100 feet immediately after construction.*

**Question:** *Why isn't the question of whether the community wants beach nourishment being put to a vote?*

**Answer:** *The question is being put to the vote of every property owner in the Town of Kitty Hawk via the Municipal Services District hearing process. Property owners will be directly responsible for paying the tax and need to be fairly represented. Voting via registered voting process would leave out multiple non-resident property owners.*

**Question:** *Where on the beach will sand filling start?*

**Answer:** *Generally east of beach front homes. That may mean at the base of pilings for some extreme exposed homes.*

**Question:** *Why did the cost to nourish Kitty Hawk beach rise so much higher than originally predicted?*

## Kitty Hawk Town Council Minutes: December 1, 2014

### Page 8

**Answer:** *The slope of Kitty Hawk beach is very steep with little to no natural berm left in numerous areas. That also means deeper water to fill close to the existing surf line in order to get the projected 6 foot berm height further out to seaward. In order to get any reasonable benefit from nourishment more sand is required which translates to more cost.*

**Question:** *What will be my complete tax rate under each proposed Municipal Service District?*

**Answer:** *The current town-wide tax rate is 32 cents per \$100 of property valuation. Council intends to remove 2 cents of that to reduce the base rate to 30 cents. This means that MSD or Municipal Service District (A) will pay 30 cents base rate plus 15 cents for a total tax rate of 45 cents per \$100 property valuation. Municipal Service District (B) will pay 30 cents base rate plus 4 cents for a total tax rate of 34 cents per \$100 property valuation.*

*As we get questions we will try to answer them at each council meeting. These questions I answered tonight will be in the minutes. Clerk Morris does an excellent job of capturing what goes on in a council meeting. We have a good crowd tonight so please pass that along as best you can. For those folks that are watching pay attention and we will try and make sure you get all you need.*

*Next we have time set aside for public comment. I realize we have a couple of public hearings also and I want to point out we generally ask you to confine your comments to 3 minutes during public comment and 5 minutes during a public hearing.*

### **6. Public Comment**

**1.) Rita Phillis:** *Good evening. It has been a while since I have been to a meeting and I hope everyone is well. My husband is currently recovering from six broken ribs on his left side due to a work related accident. Last Tuesday I was taking him to Urgent Care and while on the way he started gasping and I thought he was going to die. I pulled right into the fire department and yelled for help. Three men materialized and immediately started helping him. Chief Spivey, Ben Alexander, a couple of police officers and an ambulance arrived. It was one of the most amazing things I have ever seen. He was eventually transported to The Outer Banks Hospital where he was treated for a plural effusion of the left lung. He is now home and is supposed to make a full recovery.*

*I want to let you know how awesome the fire department is. Chief Spivey is an inspiration to everyone and the three young men were awesome. These kids just jumped in and saved my husband's life and I want you to be very, very proud of Lowell Spivey and all of the people that are associated with the Kitty Hawk Fire Department. Thank you.*

**Perry:** *That just points up that fire is not the only thing that those folks do. They do a lot of different things.*

**Kitty Hawk Town Council Minutes: December 1, 2014**

**Page 9**

**2.) Matt Spencer:** *I had signed up for the public hearing but I think it is appropriate for me to make my comments now if it is okay. I am a lawyer in Nags Head and what I have to say is going to seem very insignificant compared to what we just heard.*

*My comments concern what I'll refer to in the short hand as the Barefoot Bernie's rezoning. I represent the Homeowner's Association of First Flight Ridge and I have been asked to speak tonight simply to make the council aware, if you are not already, that there are private use restrictions on the residential lots in First Flight Ridge. They are restricted to residential use.*

*The board asked me to speak so the council would not be under any misunderstanding as to whether or not the intended use has been approved by the board. It has not. At present the lot that Mr. Vlahos would like to convert to commercial is restricted through restrictive covenants with deed restrictions to residential. I do not suggest that those private restrictions would prevent you from granting the rezoning that has been requested I simply want you to be aware that at present Mr. Vlahos's intended use conflicts with the restricted covenants in the neighborhood. We are working with Mr. Vlahos through his attorney Mr. Merrell, who it has been my great pleasure of working with, to try and work this out but at present we have not done so. Please keep that in mind and give it what weight you think it deserves as you consider the matter further.*

*Thank you very much for your time.*

There were no further public comments.

**7. Consent Agenda**

**a.) Approval of November 3, 2014 Council Minutes.** *(An affirmative vote for the consent agenda will approve these minutes.)*

**b.) Revenues and Expenses Report for October 2014.** *(An affirmative vote for the consent agenda will acknowledge this report.)*

**c.) Police Department Request to Purchase New Patrol Vehicle.** The FY 14-15 budget includes \$53,800 for the purchase of two police department vehicles. One vehicle has been purchased and the remaining balance of \$29,266.02 will purchase and equip the second vehicle. *(An affirmative vote for the consent agenda will approve this request.)*

**Councilman Garriss made a motion to approve the consent agenda. Councilman Pruitt provided a second and it was unanimously approved, 5-0.**

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

No items.



**9. Public Hearings**

**a.) Text Amendment: Application to amend Section 42-445 of the Kitty Hawk Town Code to allow "Veterinary hospitals and clinics" as a conditional use, subject to certain conditions, in the Emergency and Governmental Services (MS-1) zoning district.**

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

Mayor Perry called for the first speaker.

**1. David Ryan, Creative Engineering Solutions:** *I am representing the applicant on this text amendment and would like to thank staff for working with us in crafting the language. The language within this amendment mirrors that within the existing BC-1 district. It is almost identical, being very restrictive in nature, the acoustics of the proposed facility, the outdoor activities, what is and what is not permitted, as well as the disposal of waste. We wanted to ensure that in moving forward this is very similar in nature to what currently exists within the BC-1 district. I'll be glad to answer any questions you may have pertaining to this amendment.*

Mayor Perry asked if Joe Heard had anything to add.

**Heard:** *Mr. Ryan touched on one of the basic tenants of the proposal which is the fact that it does mirror the language that the town already has for the BC-1 zoning district. The Emergency and Governmental Services (MS-1) district was established back in 1996 for the purpose of allowing larger medical facilities and related medical and governmental uses. It focuses on the provision of medical services to the community and does not allow many other types of uses. The only area where this district is presently located is the area where we swing around the corner of highway 158 including the Aycock Brown Visitor Center, Sentara Regional Medical Center, as well as a handful of properties to the south of there. There are only a handful of properties that will be directly impacted by this change.*

*I will note that at their meeting on October 16<sup>th</sup> the planning board unanimously recommended approval of this text amendment to the council.*

**Perry:** *Thank you Joe. If we approve this, anywhere within that governmental district a veterinary clinic could be established regardless of Lot 1, 2, 3 or whatever, is that correct?*

**Heard:** *With a conditional use permit and as long as it complies with all of the conditions of the district as proposed by the applicant.*

**Perry:** *You will see why I ask that question later. In looking at the maps there is a reason. Anyone else have a question?*

**Pruitt:** *Are we setting the conditions on this or just allowing it as a conditional use? Are we looking at the conditions? It talks about no animals shall be kept or boarded outside the*



**Kitty Hawk Town Council Minutes: December 1, 2014**

**Page 11**

*principal building and there shall be no structures, runs or pens used for boarding, holding or restraining animals located upon the site outside of the principal building. Will there be boarding inside of the building?*

**Ryan:** *As currently proposed there are no plans for interior boarding. Only in the cases of an emergency where there is a surgery that may be performed and they keep them but that would be the only allowance that is currently on the board for the proposal.*

**Klutz:** *And it could be more than one night.*

**Pruitt:** *But is that what this says?*

**Heard:** *Pet boarding is a separate distinct use from a veterinary clinic and if somebody wanted to engage in that type of activity they would need to come to the planning board and council to have it added just as the applicant is doing tonight with the veterinary clinic proposal. There will be sporadic occasions where an animal is not in good shape and might need to stay overnight following a surgical procedure or something like that. It would not be a boarding thing where someone is dropping off their pet for a week while they go on vacation.*

**Pruitt:** *Thank you Joe. That clears it up.*

**Klutz:** *Under conditional use findings, the paragraph that says per the standards of Section 42-99(b)(7) in order to approve this application the town council must make findings that the proposed conditional uses, and this is what we are basically going to be doing tonight, under (d) it says if the accompanying text amendment for veterinary clinics is approved all of the proposed uses will be compatible with the commercial district in which they are located. This is not a commercial district.*

*It also reads per stated policies in the town's adopted land use plan the development of these businesses will be located on existing, commercially zoned properties. I do not think they are accurate. If we pass this do we need to change it?*

**Heard:** *You are over on the conditional use application now.*

**Klutz:** *I'm sorry. We are in the zoning to put the text amendment in.*

**Perry:** *Any other questions?*

**Councilman Garriss made a motion, seconded by Councilman Pruitt, to go back into regular session. The vote was unanimous, 5-0.**

**MPT Bateman made a motion to adopt the proposed text amendment to Section 42-445 of the Kitty Hawk Town Code to allow veterinary hospitals and clinics as a conditional use subject to the recommended conditions in the Emergency and Governmental Services MS-1 zoning district. The town council finds that the proposed text amendment is consistent**

with the town's adopted CAMA Land Use Plan and finds this amendment to be in the public interest by allowing a compatible use in the MS-1 zoning district. Councilman Garriss seconded the motion and it passed unanimously, 5-0. (Ordinance No. 14-12).

**9(b.) Conditional Use Permit: Application for a conditional use permit to construct three 2,520 square foot buildings to contain medical offices and a veterinary clinic at 5121, 5125, and 5129 Putter Lane. Although each building will be on its own separate lot, the development will share a common parking area, drive aisles, and access drives onto Croatan Highway and Putter Lane. Specifically, approval for the following types of conditional uses is being sought as part of this application: licensed physician offices, chiropractor offices, optometrist offices, and veterinary hospitals/clinics.**

**Councilman Pruitt made a motion to go into public hearing. MPT Bateman seconded and it passed unanimously, 5-0.**

Town Clerk Morris swore in Joe Heard, David Ryan, Bobbi Wells and Tony Cirillo

*Heard: This is a proposal for a conditional use permit to construct three new buildings each one will be 2520 square feet in size. The buildings will contain medical offices and a veterinary clinic. Each building will be on its own separate lot and if they were combined all of them would be 7,560 square feet in size. Though each building will be on its separate lot the development will share a common parking area, drive aisles and access drives onto Croatan Highway and Putter Lane. There is a proposed veterinary clinic that would go on the middle property and is designated as Lot 4 on your site plan.*

*The properties are presently 5121, 5125 and 5129 Putter Lane and were developed as part of Sea Scape as residential properties along the highway. They have frontage on the highway but they are oriented inward and it was probably anticipated they would gain access solely from Putter Lane. However with the subsequent rezoning to the MS-1 district that made the properties more desirable for a commercial/office type of use that is permitted in that district. Should this development be approved these properties would be reassigned new addresses of 5120, 5124 and 5128 North Croatan Highway.*

*In addition to the permit for a veterinary hospital and clinic the applicant is seeking approval for a licensed physician, chiropractor and optometrist offices as a part of this conditional use permit. Those are some of the potential types of uses that could go in here and rather than coming back to the council each time for a permit they are seeking to get all of that array of medical related uses approved up front rather than having to come back to put a new use in an existing building and go through the three month process.*

*Directly abutting the subject properties to the north is an undeveloped parcel zoned MS-1 owned by Sentara Medical Center. Further to the north is a group of medical offices, medical clinics and pharmacy comprising the Sentara Medical Center, also zoned MS-1. To the south are two undeveloped properties zoned Beach Residential One and owned by the town. To the west across*

**Kitty Hawk Town Council Minutes: December 1, 2014**

**Page 13**

*Putter Lane is a portion of the Sentara property and several single family residential properties split-zoned. To the east across Croatan Highway are several commercial properties zoned BC-2.*

*Together each parcel is 100 feet in width along the highway and Putter Lane and 200 feet in depth. Each parcel is 20,000 square feet in size and totals 60,000 square feet or a little over one and a third acres.*

*The staff report goes into detail on a variety of issues and I will touch on a few we felt were important. Looking at the lot coverage, whether we are looking at it as each individual lot or whether as a whole, the proposed development complies with the maximum lot coverage standard of 60%. If you add it all up it is actually less than 50% total. Building setbacks also comply with all of the town standards, setbacks of 20 feet on each side, 40 feet from the rear of the property, 110 feet from the front.*

*One of the interesting discussions the planning board had relates to the access to this property, to it and within it. It would be served by two 20 foot wide ingress/egress drives off of Croatan Highway. One at the northern end of Lot 3 and one near the southern end of Lot 5 and the drive aisle runs through the property connecting all three properties. Coming off the rear of the property is a 20 foot access drive that straddles the property boundary between Lots 4 and 5 that will connect this parcel back to Putter Lane to the rear. The access drive as it comes through, in addition to providing access to all of the parking on the site which is located in the front, the drive also serves a purpose as a fire lane for meeting the NC Fire Code standards.*

*Following the planning board meeting, in addition to what is being shown here, the applicant extended the access easements connecting the end of the drive to the property to the south as well as on the other end to the north. Those are not planned to be built at this point in time. The building would only include what is shown on the site plan however there would be easements there if and when those properties to the north and south develop there would be an opportunity to have an internal connection where people are not being required to pull out on the highway to go down to the next lot. They could do that internally and have a safer means of travel.*

*There are 41 parking spaces required to serve this development and this shows a total of 44 spaces. Two of those spaces will be required to be ADA handicap accessible and the applicant is showing three with one in front of each building.*

*Our ordinance has standards related to loading zones however it does make note that if the planning board in the review determines a loading zone is not needed then one does not have to be provided. In this case the planning board determined a loading area is not needed to accommodate the proposed development. Information provided at the meeting was the types of delivery vehicles servicing these offices would typically be able to fit in a regular parking space.*

*The applicant is proposing to use individual roll carts for trash collection. They had conversations with Dare County in that regard and they agreed that it was an acceptable method of trash collection.*

**Kitty Hawk Town Council Minutes: December 1, 2014**

**Page 14**

*The applicants are proposing a single free standing sign on the site plan located near the northern drive. They would potentially be allowed to have a sign on each separate property and should the business owners someday choose they could have a free standing sign on each property.*

*Dare County Health Department has issued an improvement permit noting that each of the three parcels is suitable for a septic system to accommodate the proposed building and uses. There would be a separate permit required if the development is approved and they get to that phase.*

*The planning board also reviewed the town's adopted CAMA Land Use Plan and in the plan, on the future land use map, it notes that the northern most property in this proposed development, Lot 3 is designated as a commercial shopping and working area. Curiously the other 2 lots was actually the dividing line. The other 2 lots to the south were designated as a lower density residential area. As the properties are already zoned MS-1 in some ways it is sort of a moot point. They are already zoned commercially for that type of medical office use but we did want to point that out as something the board looked into.*

*In the staff report there are a variety of conditional use findings. Councilwoman Klutz mentioned one previously so I suspect we can talk about those to see if there are any changes or additions the council would like to make.*

*I will conclude with the planning board's recommendation. At their meeting on October 16<sup>th</sup> the board voted unanimously to recommend approval of the proposed conditional use permit for the establishment of medical offices and a veterinary clinic subject to the following conditions: **First**, the associated text amendment allowing veterinary hospitals and clinics as a conditional use in the MS-1 district must be approved in order to permit the proposed veterinary clinic. That occurred earlier this evening. **Secondly**, information about how solid waste will be managed needs to be provided. Solution noted on the project narrative and reflected on the site plan. As mentioned earlier the applicant has followed up on that and determined the roll carts would be the solution.*

*The following are things that have not been addressed. **Three**, a construction permit for each septic system must be obtained from Dare County Environmental Health Department prior to issuance of a building permit for each building. **Four**, an encroachment permit must be obtained from NCDOT for the proposed access drives, waterline extension and other features within the rights-of-way for North Croatan Highway prior to issuance of a building permit. **Five**, a stormwater management permit must be obtained from the North Carolina Division of Energy, Minerals and Land Resources prior to issuance of a building permit. **Six**, North Carolina Division of Public Water Supply and the Dare County Water Department must permit and approve installation of the proposed waterlines and fire hydrant prior to issuance of a building permit. **Seven**, an erosion and sediment control permit must be obtained from the Town of Kitty Hawk prior to issuance of a building permit. **Eight**, a separate sign permit must be obtained for all signs to be erected on the site. **Nine**, all exterior site lighting must be included in the calculations for a final lighting plan to be approved prior to the issuance of a building permit. **Ten**, as recommended by the board, the applicant must construct an inter-parcel connection to*

**Kitty Hawk Town Council Minutes: December 1, 2014**

**Page 15**

*the property line or at least provide access easements to the parcels to the north and south of the subject property along North Croatan Highway. **Eleven**, easements must be recorded to insure that the shared access parking and stormwater improvements will be maintained among the three properties and number **Twelve**, an as-built survey of the subject properties, height certification for each building, and elevation certificate for each building must be submitted and approved prior to the issuance of a final certificate of occupancy.*

*I want to note that upon receiving a revised site plan from the applicant following the planning board meeting, the site plan you have before you this evening, condition number 10 was the one regarding the inter-parcel connection or easements. The applicant did address that through providing access easements to the parcels to the north and south so at this point, rather than negating condition number 10, staff is recommending that it be changed to say the easements connecting the parking area with the adjoining parcels to the north and south must be recorded prior to the issuance of a building permit. That is a follow up to the requirements since the applicant did agree and complied with the board's condition by providing the easement.*

**Garriss:** *Joe do we know since the October 16<sup>th</sup> planning board meeting if the applicant or anyone has been in contact with NCDOT regarding the driveways to see if they would approve these? If they are considered to be safe ingress and egress off of US 158?*

**Heard:** *The applicant's engineer is prepared to speak to that. He has had conversations with NCDOT.*

**Klutz:** *I have the question about should it be changed to the Emergency and Governmental Services as part of the findings.*

**Heard:** *Rather than saying commercially zoned properties you want to put the name of the district?*

**Klutz:** *Either that or just leave it as a district. I don't know which would be required.*

**Heard:** *Yes. It would be more specific than just the general term commercial. The council is certainly welcome to make that change when talking about your findings during the motion.*

**Klutz:** *Is that MS-1 district actually considered a commercial district?*

**Heard:** *It is. It is not full blown where it allows everything that the BC districts do but it does allow a variety of commercial uses of a lesser scale. You are right that it is a more general term and if you prefer that change can be made.*

**Klutz:** *Only if it is necessary.*

**Heard:** *Mr. Michael do you see a concern with that?*

**Michael:** *I think the change is fine. To make it the MS-1 district.*



**Kitty Hawk Town Council Minutes: December 1, 2014**

**Page 16**

**Perry:** *Craig had a question that needs to be addressed while we are in this part of the public hearing.*

**David Ryan, P.E., Creative Engineering Solutions:** *There have been two subsequent conversations with the North Carolina Department of Transportation regarding this application. One with Brent Bass of the Elizabeth City department. He reviewed this plan and has given it a preliminary approval and then there was a conversation with Jerry Jennings, Division Engineer, and he has given verbal approval to this.*

*One of the things in planning this development was the critical nature of ingress and egress and access to this site, especially from the north. It is noted there is a horizontal curve which may limit visibility for access to this site. When this was planned we looked at the northern entrance and put an abbreviated deceleration lane in in order to accommodate easier access into the site. There is also a right turn only out at this location. Again, just wanting to limit the amount of vehicles in and out of this point of access. There is also a southern point of access and note we tried to expand the distance between the northern and southern access as much as possible in order to allow that distance to be expanded as much as possible from the horizontal curve in order to limit the potential for any vehicle conflicts and maximize the visibility for that south bound traffic from the north.*

*In addition there is a separate point of ingress and egress as Mr. Heard had indicated off of Putter Lane. We wanted to maximize access to this site as well as the ease of internal traffic circulation within the interior of this site. There have been provisions made for the inter-parcel connections. As Mr. Heard pointed out this is recommended within the Land Use Plan. It is not a requirement but it is something we thought was important and we are complying with it. There have been other recommendations and we have complied in every aspect.*

*During our feasibility study one of the concerns was fire flow to this location. As it stands right now there is a 6" waterline that terminates to the north and we are going to extend and provide a hydrant at the corner of Lot 3. This is to get us within 400' which is the distance required by the North Carolina Fire Code in order to provide fire access to each one of the buildings. There is also a secondary means that is existing off of Putter Lane. So we have two means of access to fire flow in the case of an emergency. In addition, we had contact with the Dare County Water Department about the provision of the potential for the extension of this waterline south and then an easement for a connection to that existing waterline to provide a loop connection. This may potentially improve water flow in this area as well as water pressure and water quality. We saw the need to go ahead and look at not only the immediate and short term needs of this project but also the long term and future needs that this project could serve and the potential benefits for that.*

*There have been other challenges we have faced with this project. One being the undulating topography of the site. We have elevations as high as 22' above mean sea level and as low as 12' above sea level and the grading is critical. We provided the access easements but we did not provide the physical driveway surface all the way to the property lines and that is due to the topography. If we were to do that then we would be encroaching on not only the town property*



*but also the adjoining undeveloped property to the north. So in order to make it cleaner we went ahead and provided the access easements up to that property line so should those sites be developed in the future we would have the means for that inter-parcel connectivity.*

*There was also a challenge with the wastewater and serving not only the medical use but also the veterinary use. There are specific guidelines within the wastewater rules that specifically govern the design of those systems and we will go through that process prior to the issuance of a building permit. Likewise for stormwater management as Mr. Heard indicated. There is the state requirement for approval of the stormwater management facilities for this application. Some of the other unique aspects that Mr. Heard pointed out was also the shared facilities on this site. The access and parking, based upon the uses, it generates a lot of parking spaces so the most efficient plan in moving forward was to maximize the parking and this was one way of doing it through shared facilities. Same thing with the stormwater management. Again, maximizing the efficiency of having shared facilities among the three separate buildings and we are willing to go ahead and provide the necessary legal mechanisms in order for those facilities to be recorded in order to have shared use and maintenance of those facilities.*

**Perry:** *The plan I am looking at shows the veterinary office on the left, not the middle. Which is it?*

**Ryan:** *It is on the left. That was pointed out in the review at the planning board stage. When the lot evaluations were performed by the Dare County Health Department it was noted that Lot 5 was the specific use for the veterinary use and that is now reflected on the updated plan which is this plan that I have on the screen. As far as the layout of these lots they could be interchangeable. It is not critical that it is on Lot 5.*

**Perry:** *None of these, as I understand it, have an owner yet. This is all proposed so the veterinary office could go in any one of those three?*

**Ryan:** *That is correct.*

**Perry:** *That is what I thought. In the proposed wording it says a vegetative or constructed visual buffer may be required. Joe, who would determine whether it would be required? How does that work when you use the word "may" in a place like that?*

**Heard:** *That was under the criteria the council just approved related to the veterinary clinic. If we look at the general standards for buffers found in the town's ordinance, and when they would be applied, this project would not be subject to any buffer requirements. In other words there is already a sufficient distance between this property and others that would not kick in a buffer requirement. There is commercial zoning across the whole back of the property, to the north, to the east across the highway. And then the only properties to the south are the town's that are undeveloped.*

**Perry:** *So in this case council may or may not.*

**Kitty Hawk Town Council Minutes: December 1, 2014**

**Page 18**

**Heard:** *Under the conditional use for the veterinary service you have it gives you that option as part of conditions should you see the need for it.*

**Perry:** *Okay. Back to the engineer. In the wording we were given it says an additional water main will be extended approximately 100' but it does not, in the information we have, state that the water main will be at least 6". It could be something less than that. What is the water main size? Is 6" a standard that must be used in this case?*

**Ryan:** *Yes. Since we are putting a fire hydrant on the end it must be 6" in diameter.*

**Perry:** *I want to make sure we are not downsizing even though you are on ... and then my final question goes to the back of the sheet where it says large vehicle pathing exhibit. It looks to me as if you are pushing large vehicle traffic off onto Putter Lane. Is that correct?*

**Ryan:** *No. In some of the commentary provided by the town engineer he indicated he would like to see the vehicle pathing. If large vehicles were able to access this site how that would look within the interior of the site and how that would match with the proposed radiuses that I had for the curbing. This was an exhibit to demonstrate there was adequate radii on the curbing within the interior site in order to accommodate large vehicles whether it be emergency vehicles such as fire trucks, sanitation trucks or any other similar type of vehicle. It was just an exhibit in order to address the town engineer's comments.*

**Perry:** *So we are not pushing heavy traffic onto Putter Lane which we do not want to do. Does anyone else have questions of the engineer or Joe before I start calling for people to speak?*

There were no further questions.

**2. Bobbi Wells, 5105 Putter Lane, Kitty Hawk, NC:** *Good evening. I am a resident on Putter Lane. As you probably can imagine I am very concerned with this proposal, about property values with this being constructed. I am more concerned for the traffic on Putter Lane. It is already a small road and I would like to know if it's ... I don't know if it's still private. Is it still a private road? Is Kitty Hawk going to take over that as one of their roads if this happens?*

*I am concerned about the waste. The proposal said it is going to have rolling cans but can it change over to dumpsters? Is that going to be allowed?*

*I am concerned about at the end of Putter Lane. There is a one way stop sign that goes into Regional or Sentara so I am a little confused why Putter Lane narrows down and has a stop sign but is not permitting traffic from, or supposedly not permitting traffic from, Beach Medical although it happens. I mean there are people flying down that street non-stop from Beach Medical. I have two young boys in elementary school and I put out watch for children signs that sort of thing. I have even bought orange cones to try to prevent the speeding. I have called the police department and they said it is a private road. It is up to the residents to post their own signs about children or to gather funds to create a speed bump or that sort of thing in the road.*

**Kitty Hawk Town Council Minutes: December 1, 2014**

**Page 19**

*My other concern is the delivery trucks. Yes it is not going to be the proposed route but as we've seen with Beach Medical we have delivery trucks going up and down Putter Lane as it is.*

*I am concerned about the additional lighting outside as well. We are used to being able to go out and have a pleasant starry gaze at the sky and to have the additional lighting at night I think distracts from the ambiance.*

*We purchased this property to retire, to relax, and I just ask that the council take into consideration if this was your home or you were living near this area how you would feel after investing your money in property and then this comes along.*

*I would also like to know if the businesses can change. Can the businesses change in this proposal to different types of businesses?*

*I am also interested in what you brought up Mayor. About the buffer. If it is appropriate I would like to know why Kitty Hawk owns or what is the position with Kitty Hawk's property on Putter Lane? Is that to create a nice park or something pleasant? Why does Kitty Hawk own that property?*

**Perry:** *One lot was originally purchased by the volunteer fire department before we had our own fire department and they were planning to put a fire station there. The second lot was acquired because ... are you on one of the deep triangular lots?*

**Wells:** *No sir.*

**Perry:** *The town had a triangular piece in there and in order to develop those there was a trade so we wound up with two lots.*

*To answer your question on the width of Putter Lane. When that section was developed and the road was put in it was widened to accommodate more traffic but it stopped basically at the medical center because that was not a part of what was being done. That is how it got wider in that particular part of Putter Lane. It is still private as far as I know. Is that correct?*

**Michael:** *Yes.*

**Perry:** *It is still a private road and your question about how this interacts with that private road I am going to ask the attorney here shortly. It is a valid question and we want to know as well.*

**Wells:** *If I think of something else can I step back up or am I done? Once I leave.*

**Klutz:** *Would you tell me where your home is relative to this?*

**Wells:** *I am on the other side of the Kitty Hawk property. I am not the next house which is apparently a rental. I am the one next to them.*

**Kitty Hawk Town Council Minutes: December 1, 2014**

**Page 20**

**Klutz:** *So you are south of the Kitty Hawk property with one lot in between. The Kitty Hawk property, just to refresh my memory, is in the MS-1 district?*

**Perry:** *No. Joe is saying residential. If a fire station were going to be built there we would have to do something about it.*

**Klutz:** *We as the owners of that residential property are the decision authority on whether a buffer is required.*

**Perry:** *Steve can you help us out? I am really curious to know how that interacts too. As far as these three lots and if Putter Lane is a private road then these three lots own half of it.*

**Michael:** *Access to it. Correct.*

**Perry:** *Does that answer your question?*

**Wells:** *Does that mean they are going to provide maintenance for that road as well?*

**Perry:** *Yes. They would have responsibility just like you have for that road. Not the town.*

**Klutz:** *And just half of it. So who has the other half? The lots on the other side?*

**Michael:** *I have never looked at those properties so I am not sure how it is set up.*

**Wells:** *Another question I have is how tall can these facilities be?*

**Perry:** *Not more than 35'.*

**Wells:** *Is that not any taller than what the medical facilities are next to it?*

**Perry:** *Yes. The town standard is 35'.*

**Wells:** *If I have any other questions am I allowed to come back?*

**Perry:** *We will let you come back.*

**Tony Cirillo, 5108 Putter Lane, Kitty Hawk, NC:** *Good evening. Thank you for the opportunity. Bobbi is a neighbor of mine and I live almost across the street from her on Putter Lane. I have many of the same concerns. I don't know if they are objections they are just concerns about many of the things that she brought up.*

*One of the things that struck me in some of the earlier conversations here is you have a medical center with, I don't know, thousands of square feet and people coming in and out and there is one egress and one ingress to the whole complex. Now you are proposing three, little, one story buildings. I am assuming they are smaller than the house I live in and you have this massive way*

**Kitty Hawk Town Council Minutes: December 1, 2014**

**Page 21**

*to get in and out from the bypass. What purpose does it serve to have a road that connects these buildings to Putter Lane which is a tiny little road?*

*As Bobbi said she has small children. I have grandchildren visit every year, our other neighbor has children that visit. There are no sidewalks. Those kids play in the street. They are up and down the street with bikes and all sorts of things. You are creating a situation here on Putter Lane with the potential for a lot of traffic with, at least in my judgment, no reason for it. You have a 30' entry on the south and you have a 30' entry on the north with a lot easier way to get in and out of that than the existing medical center which is closer to the curve in the road. I guess my biggest concern is, over and above what Bobbi is talking about, why do you need access to Putter Lane?*

*We just talked about the fact that you are going to put in fire hydrants and access to emergency vehicles. Why complicate a nice little private street that has very nice homes on it with the potential for more by putting an egress and ingress to a small private street. You have plenty of access from the bypass. I forget the number but you don't have as much parking or buildings as the medical center and that has one way in and out.*

Clerk Morris noted there were no more speakers signed up and Mayor Perry asked if anyone wished to speak. Mr. Waddell walked to the lectern and Clerk Morris swore him in.

**4. James Waddell, 5102 Putter Lane, Kitty Hawk, NC:** *Are the buildings one story or are they more?*

**Perry:** *Joe do you know the answer to that? They are allowed to go to 35' so it could be two but I don't know about these.*

**Waddell:** *That was a residential area. I know when we purchased the lot on Putter Lane I visited with staff and they told me that area was residential and now it is commercial.*

**Perry:** *This was changed to medical quite some time ago. At one time there was thought that a hospital would go there. It is something slightly different but in the sense of residential that you are thinking, not in my tenure here. It was a medical facility and set up and set aside for that.*

**Waddell:** *Riding around Kitty Hawk, which is a beautiful town, there are a lot of vacant buildings now. There was going to be a farmers' market but it is still vacant. The other side of the street has a Mobile gas station that is vacant. Why do we have to pick on a little small piece of property with residential homes? I mean isn't there another part of Kitty Hawk better suited for this?*

**Perry:** *Property owners have rights and that is what we are considering tonight. Just as we would consider your rights as well.*

**Waddell:** *Thank you.*

**Kitty Hawk Town Council Minutes: December 1, 2014**

**Page 22**

**Bateman:** *Steve, the question about access to Putter Lane. Because you own the property you have access to Putter Lane?*

**Michael:** *I am assuming they do but I have not done any title work on the property. I am assuming they checked that when they designed it so that they would have access onto Putter Lane.*

**Klutz:** *Joe, earlier we heard that the access onto Putter Lane was to support the fire trucks and trash trucks. Can they be accommodated by using the ingress and egress onto 158? Is it absolutely necessary to have that connection to Putter Lane?*

**Heard:** *I can speak on behalf of the fire trucks. As part of the original review there is no particular need for the fire trucks that I am aware of from conversations we have had.*

**Klutz:** *If the drive lane supports the fire trucks sufficiently wouldn't that kind of include the trash trucks? I don't see where they would be ...*

**Heard:** *I don't know if they have any different requirements or not to be honest.*

**Perry:** *The engineer is here so let's ask the question. The owners have land that abuts Putter Lane and we are assuming they have a right to access Putter Lane. The one objection we are getting from the public is they do not want Putter Lane accessed by heavy duty trucks and things of that nature.*

**Ryan:** *When we went through the preliminary testing of the fire flow in the surrounding area Mr. Alexander said that unless there was access given to Putter Lane then the flow from this hydrant could not be considered. The hydrant that is being proposed, and is an extension of the existing 6" waterline, that flow is only 1,100 gallons per minute. As per the fire code it is required to have 1,500 gallons per minute. When you look at the fire flow from this hydrant from 158 and the flow from the fire hydrant off of Putter Lane, when you add the two then you meet that 1,500 gallon per minute requirement. If you don't have access then that other fire hydrant cannot be considered. There would be substantial cost that would be required to extend that waterline along the frontage of the property and then take it down along the southern property line to connect to the existing waterline on Putter Lane. You would effectively be adding a factor of 6 to the cost of that proposed waterline extension.*

**Perry:** *Thank you. That answers the question for me.*

**Klutz:** *Can the access to Putter Lane be limited to the fire department requirements?*

**Michael:** *I would think you probably cannot.*

**Ryan:** *This may help. You will notice I have an arrow and that is just for egress from Putter Lane. Primarily we are trying to limit traffic because this is a secondary access. Our main,*



**Kitty Hawk Town Council Minutes: December 1, 2014**

**Page 23**

*primary access is from 158 and we can indicate that as a one-way access from Putter Lane in order to reduce the amount of traffic onto Putter Lane from this site.*

**Klutz:** *You are saying you could make it one way from Putter Lane into there?*

**Ryan:** *One way from this site out to Putter Lane. And that is what is indicated on the plan and that is what the intent was.*

**Perry:** *Any further questions before I ask for any other speakers? Hearing no further questions from councilmembers Mayor Perry asked if anyone else wished to speak during this public hearing.*

**Wells:** *I would like to ask one more question. As we are speaking about access into or out of Putter Lane is there a way that we could only have a partition where they can only go one direction like to the right?*

**Perry:** *Which would put them going out ...*

**Wells:** *Into the Regional Medical parking lot and not letting them go left down Putter Lane.*

**Perry:** *Is Putter Lane two way now at that point?*

**Wells:** *I guess. I have never understood it because ...*

**Perry:** *It is. When it was widened it was made two way at that point. Before it was one way in the other direction. It is something for us to consider. Anyone else? Let the record show no one else came forward.*

**MPT Bateman made a motion to go back into regular session. The motion was seconded by Councilman Garriss and it passed unanimously, 5-0.**

**Perry:** *What does council want to do? Do you want to take this up tonight or wait until the next meeting?*

**Bateman:** *I want to ask a question of the attorney. Could you put a sign that says no entrance so no one could go from the interior parking lot to Putter Lane but it would still be able to be used there for the fire department use?*

**Michael:** *The developer can do that.*

**Bateman:** *We could make it a part of the conditions.*

**Klutz:** *Emergency access or something of that ...*

**Bateman:** *I can understand her concerns.*

**Kitty Hawk Town Council Minutes: December 1, 2014**

**Page 24**

**Klutz:** *Absolutely. If they are willing to do that as a condition.*

**Michael:** *If they are willing to do that you certainly can impose that condition. You can't ask them now though. You have closed your public hearing.*

**Perry:** *We either have to make a decision now or we can wait and make the decision next month. If you want to make a decision now I need to hear a motion.*

**Klutz:** *I would rather wait until next month to see if we can work out some of the issues that have been brought up tonight which I think are very valid.*

Councilmembers concurred.

**Michael:** *You need a motion to continue it to a specific time and date.*

**Councilwoman Klutz made a motion to consider this proposal at the next regularly scheduled meeting in January 2015 so that in the interim the concerns that have been brought up here by the residents on the access to Putter Lane can be addressed. Attorney Michael provided January 5<sup>th</sup> for the council meeting. Councilman Garriss seconded the motion and it passed unanimously, 5-0.**

**Wells:** *Does that mean we come back and restate what we said?*

**Perry:** *No. It means we come back and make our decision based on all of the information that has been put to us tonight. Consider property owner rights and neighbor rights and then we make a decision that makes some people happy and some not so happy.*

**9(c.) Zoning Amendment: Application to rezone the remaining portions of the properties at 103 First Flight Run and 3732 N. Croatan Highway from Beach Residential (BR-1) to Beach Commercial (BC-1).**

**Councilman Garriss made a motion to go into public hearing. Councilwoman Klutz seconded and it passed unanimously, 5-0.**

**Heard:** *This item is a proposal to rezone a portion of the properties at 103 First Flight Run and 3732 North Croatan Highway from Beach Residential (BR-1) to Beach Commercial (BC-1). During the review by the planning board it was noted that a small area in the northwest corner of the adjoining property at 3732 North Croatan Highway is also zoned BR-1. The small area is also proposed for rezoning to BC-1 in order to resolve the split-zoning of the parcel and create a more rational, consistent boundary for the commercial district.*

*Created as part of the First Flight Ridge subdivision in 2004, the property at 103 First Flight Run was split-zoned at the time of its establishment. The property lines did not match up with the*

*existing zoning lines. The southeastern half of the subject property is presently zoned BC-1. The remaining half of the property is presently zoned BR-1.*

*Also created as part of the subdivision is the property at 3732 North Croatan Highway and was intended for commercial use but was also split-zoned approximately 97% BC-1 and 3% BR-1. This property was developed with a three story bank and is now Outer Banks Blue Realty.*

*The Town of Kitty Hawk's adopted Land Use Plan designates both of the properties partially as a commercial shopping/working area and partially as a low density residential area consistent with the existing zoning. In other words the recommendation appears to follow the existing zoning line through the properties.*

*After looking at this at their meeting on October 16<sup>th</sup> the planning board voted unanimously to recommend approval to rezone the remaining portions of both of these properties to the BC-1 district.*

Hearing no questions from council and noting no one from the audience came forward to speak, **Councilman Pruitt made a motion, seconded by Councilman Garriss, to go back into regular session. The vote was unanimous, 5-0.**

**MPT Bateman made motion to grant approval of the application to rezone the remaining portions of the properties at 103 First Flight Run and 3732 North Croatan Highway from Beach Residential BR-1 to Beach Commercial BC-1. Councilman Garriss seconded the motion and it passed unanimously, 5-0.**

## **10. Planning**

**a.) Site Plan Review: Application for approval of a site plan proposing to relocate the existing septic system and expand the existing parking area at Barefoot Bernie's, 3730 N. Croatan Highway. The proposed expansion will add 28 new, paved parking spaces in the area of the existing septic system to the west of the restaurant.**

**Heard:** *This site plan is for a parking expansion and relocation of the septic system at Barefoot Bernie's, 3730 North Croatan Highway. Under this proposal the expansion would add 28 new paved parking spaces in the area of the existing septic system located to the west of the restaurant. A new septic system would be located on the newly acquired property to the northwest which is the property regarding the rezoning in 9(c). On the screen is a potential layout for the proposed septic lines and the remaining area is a repair area.*

*Presently the subject property is three different parcels of land. There is actually a lot line that runs through the existing building. There is also a separate third parcel and the applicants would seek to combine the three parcels of land and would be getting rid of an existing non-conforming situation.*

*The existing restaurant is a little over 5,000 square feet in size and the improvements are limited to the site improvements of the septic and parking. It is very similar to a project council reviewed a year or so ago for Hurricane Mo's. With the rezoning that just occurred the property is now entirely zoned Beach Commercial One. The subject property currently contains 43 marked parking spaces. With the size of the restaurant presently there would be a minimum requirement of 51 under the current standards so it is a non-conforming situation. The proposed project would add 28 new parking spaces but there would be a loss of a handful of spaces as a new driveway is put in. As a net there would be 24 new parking spaces and the total number of spaces would be brought up to 67 parking spaces for the site which would be significantly more than the requirements. It would bring the site into conformity with the parking standards the town has. By increasing the number of spaces to 67 it creates a need for a third ADA accessible parking space. The applicants have proposed to establish one on the south side of the drive aisle on the eastern side of the lot. There will be a striped access way across the drive aisle in order to make people aware of it.*

*As part of this project the dumpster will be moved to the northern side behind the restaurant and will be better shielded and buffered in that location.*

*There is a buffer requirement and the buffer is what you see on the site plan. The applicant's engineer shows where that buffer was located prior to the council's decision to rezone this property and where it is after the rezoning. The key thing to remember about the buffer in this case is that the buffer prevents buildings, structures, parking, and an access drive but it definitely allows underground improvements such as the proposed septic lines. Even though the buffer would extend onto that property for 50' it does not matter because the only improvements being put on that property are underground septic lines. Those are not subject to the buffer.*

*With regards to stormwater management there is a basin running along ... to be honest the engineer has actually improved it once this is constructed. It will improve the existing stormwater drainage on the property in addition to accommodating any of the additional stormwater management needs brought on by the expansion of the parking area. Town engineer consultant Joe Anlauf has reviewed the stormwater management plan and found it to be in compliance with the town's standards.*

*At their meeting on November 13<sup>th</sup> the planning board voted unanimously to recommend approval of this site plan with the following conditions for council consideration: **First**, the three parcels be combined into a single parcel prior to initiating construction of the proposed improvements; **Second**, as it was stated by the board, if the property at 103 First Flight Run is rezoned entirely to the BC-1 zoning district a revised site plan showing the new zoning boundary and buffer line must be submitted to the Planning and Inspections Department; **Third**, the applicant must obtain a permit for the proposed septic system from the Dare County Environmental Health Department prior to initiating the construction of the proposed improvements; and, **Fourth**, the applicant must obtain an erosion and sediment control permit from the Planning and Inspections Department prior to initiating any clearing or grading activities.*

**Kitty Hawk Town Council Minutes: December 1, 2014**

**Page 27**

**Perry:** *Normally people think a buffer is a fence or vegetation but a buffer can be an open space which is what would happen here. They could put a fence but it doesn't necessarily mean a fence has to be put there when you say buffer.*

**Heard:** *That is correct.*

**Klutz:** *I don't understand what was said during the public comment period regarding this. Is it appropriate to ask a question about it?*

**Michael:** *It is and what I understood Mr. Spencer to say is there are private covenants that affect this piece of property. Even though you have rezoned it, and you may approve this site plan, until they resolve the issue between the parties this is not going to happen.*

**Klutz:** *The private covenants trump our rezoning?*

**Michael:** *They trump your rezoning.*

**Perry:** *And trumps the site plan.*

**Michael:** *Trumps that also. If you approve this site plan they are going to have to find a way to resolve it.*

**Spencer:** *There is an issue of the restrictive covenants. When First Flight Ridge was created the developer made this entire subdivision subject to certain restrictions. The most pertinent of which in this case is that the interior lots in First Flight Ridge were to be restricted to residential use. Mr. Merrell is going to ask the community to amend the covenants to allow in this specific case, this specific use. That may occur but as it stands right now this proposed use violates the restrictive covenants in our view.*

**Councilman Garriss made a motion to grant approval of this site plan for the expansion of the parking area for Barefoot Bernie's Restaurant at 3730 North Croatan Highway subject to the conditions recommended by the planning board. Councilwoman Klutz seconded the motion and it passed unanimously, 5-0.**

**11. New Business**

**a.) Resolution Accepting a Comprehensive Transportation Plan for Dare County**

This resolution was adopted under agenda item (4).

**b.) Resolution in Support of Including US 158, US 168 and the Mid-Currituck Bridge on the Strategic Transportation Corridors Network Map**

This resolution was adopted under agenda item (4).

**c.) Police Department TASER Grant**

Mayor Perry said this item did not get on the consent agenda before it was published. The police department was approved for a Governor's Crime Commission grant in the amount of \$12,308.25 to obtain new TASERs. The current TASERs in use are outdated and have exceeded their life expectancy. This is a 25% match grant and the town's portion is \$3,076.95. The money is in the budget according to the manager.

**Councilman Garriss motion to approve the TASER grant. Councilwoman Klutz seconded the motion and it passed unanimously, 5-0.**

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

No comments.

**13. Reports or General Comments from Town Council**

Mayor Perry announced the town manager is out of town and that is the reason for going straight into town council comments.

**Bateman:** *I have received three telephone calls from people asking about temporary signs. Two of them were not happy and thought the signs were in the right-of-way. The other caller was asking me if they could put a sign up. My concern is eventually we are going to have the whole length of Kitty Hawk covered with a temporary, free standing, 48 square foot sign and according to the code enforcement officer you can put it up for 30 days and then at the end of that 30 days get an extension for another 30.*

**Heard:** *It is actually 50 and 50.*

**Bateman:** *That's even worse. I want to see what council thinks about reviewing the ordinance.*

**Perry:** *It has become a problem. I noticed it and spoke with Ben Alexander and got the same answer you did. For one thing a banner to me is something different than what we are seeing out there. The question before council is do we want to direct the planning department to start looking at revising the ordinance to have a little better control over it?*

Council agreed to have the planning department start the review process.

**14. Public Comment**

**1.) Joe Heard:** *I really would have liked to have made this introduction earlier but it did not feel appropriate to do it during a public hearing. Since the manager is not here I was asked to welcome the town's new Director of Planning and Inspections, Rob Testerman. Everybody was kind enough to shake hands with him before the meeting and introduce yourselves but I would*



**Kitty Hawk Town Council Minutes: December 1, 2014**

**Page 29**

*like to let everyone know Rob is a native of Chesapeake, Virginia, graduated from Virginia Tech with a Bachelor's Degree in Public and Urban Affairs, concentrating in Urbanization Planning and Policy with a Minor in Industrial Design. He has spent the last seven years working on the Eastern Shore of Virginia for Accomack County and the Town of Cape Charles and holds an AICP designation. In Virginia he was certified in erosion and sediment control and will continue that here as well.*

**Perry:** *Welcome Rob, and before you go Joe, thank you for all you have done for the town. We appreciate the service.*

**Heard:** *Thank you so much. I appreciate it.*

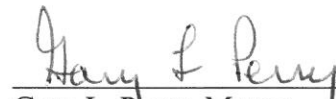
There were no further comments.

**15. Adjourn**

**Councilman Garriss made a motion, seconded by Councilman Pruitt, to adjourn. The vote was unanimous, 5-0. Time was 8:32 p.m.**

These minutes were approved at the January 5, 2015 council meeting.

  
Lynn U. Morris, Town Clerk

  
Gary L. Perry, Mayor