

MINUTES
KITTY HAWK TOWN COUNCIL
February 3, 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:
 - POIII Chad Pennell and POIII Bryan Tyler/Law Enforcement Advanced Certification
 - Sergeant Brian Strickland/Master's Degree in Criminal Justice
5. Public Comment
6. Consent Agenda
 - a.) Approval of February 3, 2014 Council Minutes
 - b.) Revenues and Expenses Report for December 2013
 - c.) FY 13-14 General Fund Transfer #1
 - d.) FY 13-14 Budget Amendment #4
 - e.) FY 13-14 Budget Amendment #5
 - f.) FY 13-14 Budget Amendment #6
 - g.) FY 13-14 Budget Amendment #7
7. Items Removed from the Consent Agenda
8. Planning:
 - a.) Call for Public Hearing: Text Amendment/Application to amend Article V, Division 2, *Extraterritorial Area* by eliminating statements regarding a list of commercial recreational uses in the Sound Waters ETJ zoning district.
 - b.) Call for Public Hearing: Text Amendment/Application to update Sections 42-72, 42-73, and 42-99 of the Kitty Hawk Town Code with standards for the Board of Adjustment, constructive notice for appeals, and decision-making process for conditional use permits.
9. New Business:
 - a.) Public Comment on Public Parking at the Lillian Street Beach Access
 - b.) Resolution in Support of a Public Beach and Coastal Waterfront Access Grant for Expansion of the Public Parking Area at the Lillian Street Beach Access
 - c.) Municipal Service Districts Discussion
10. Reports or General Comments from Town Manager
 - a.) Widening a Section of Ridge Road Report
11. Reports or General Comments from Town Attorney
12. Reports or General Comments from Town Council
13. Public Comment
14. Adjourn

COUNCIL MEMBERS PRESENT:

Mayor Gary Perry, Councilman Craig Garriss, Councilwoman Emilie Klutz and Councilman Jeff Pruitt

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COUNCIL MEMBER ABSENT:

Mayor Pro Tem Ervin Bateman

STAFF MEMBERS PRESENT:

Town Manager John Stockton, Town Clerk Lynn Morris, Town Attorney Steve Michael, Finance Officer Charlene Allen, Management Assistant Melody Clopton, Police Chief Joel Johnson, Fire Chief Lowell Spivey and Public Works Director Willie Midgett

1. Call to Order

Mayor Gary Perry called the meeting to order at 6 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

Councilwoman Klutz moved to approve the agenda and it was seconded by Councilman Garriss. The vote was unanimous, 4-0.

4. Presentations & Recognitions:

- POIII Chad Pennell and POIII Bryan Tyler/Law Enforcement Advanced Certification
- Sergeant Brian Strickland/Master's Degree in Criminal Justice

Police Chief Johnson presented Officers Pennell and Tyler with their Law Enforcement Advanced Certification. He then announced Sergeant Strickland has obtained his Master's Degree in Criminal Justice from East Carolina University and was recently named the regional "Law Enforcement Liaison of the Year" through his work with the Governor's Highway Safety Program.

Mayor Perry and Councilman Garriss congratulated the officers on their accomplishments.

5. Public Comment

1. Erika Bleier-Harmon, 4533 Ridge Road, Kitty Hawk, NC. *I have a question. I thought of something since we have all of these lovely law enforcement people here. We have been fortunate enough to meet a lot of the wildlife officers back on Ridge Road because of the constant rifle and gun shots and I just wanted the town council and everybody to know that yesterday, on a Sunday, and I think it has been a week after hunting season, that we had rapid gunfire on Ridge Road. Somewhere within, I want to say, 200 or 300 yards from my house. All the neighbors heard it but nobody wanted to go find out who was doing it. It wasn't just a pop, pop, it was much faster. I would like to know as a citizen ... you do not want to call 911 every single time you hear a*

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gunshot because we are not against guns we are just against them hitting our house, our children, or our dogs. So we would like to know what the town council ... and I know that the Nature Conservatory has put in signs saying you have to be 300 feet away from residential homes. Now since Ridge Road has continued on with Twiddy's houses ... but there is something going on back there. It is constant so I would just like to know from the police end of it what can we do as citizens, not to panic everybody, but what can we do to prevent somebody from getting shot?

Perry: *The first answer I am going to give you is it is 300 yards and not 300 feet. The second thing I would suggest, and Chief Johnson you support this one way or the other, the police department has a non-emergency number and if you cannot reach that then call 911.*

Johnson: *There is a non-emergency number through the dispatcher also and if you call the police department it is routed to the dispatcher non-emergency number.*

Bleier-Harmon: *Did you all get any calls yesterday?*

Johnson: *I just asked the sergeant and we did not receive any calls.*

Bleier-Harmon: *It went on for hours.*

Johnson: *Call the police is what I recommend and they will take care of it. As council knows we have been trying to figure this out and there is no target shooting allowed in the town.*

Bleier-Harmon: *Oh cool because that is what all the neighbors thought. Perhaps it was somebody target shooting but it was with a ... what do you call it? An automatic something or other because it went so fast.*

Perry: *It is not permitted by ordinance. Shooting only during hunting season is when gunfire is permitted.*

Bleier-Harmon: *I thank you for the clarification and we will follow that. Thank you.*

6. Consent Agenda:

a.) Approval of February 3, 2014 Council Minutes. (Clerk's Note: This should have been January 6, 2014 minutes. The January 6, 2014 minutes will be placed on the March 3, 2014 agenda for approval.) *(An affirmative vote for the consent agenda will approve these minutes.)*

b.) Revenues and Expenses Report for December 2013. *(An affirmative vote for the consent agenda will acknowledge this report.)*

c.) FY 13-14 General Fund Transfer #1: Interfunds transfer of \$15,273.00 to Capital Reserve for future parks and trails improvements from unspent funds from Sandy Run Capital Project at close of FY 12-13. *(An affirmative vote for the consent agenda will approve this transfer.)*

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d.) FY 13-14 Budget Amendment #4: To recognize the \$1,500 donation to the police department from SAGA Construction approved at the January 6, 2014 council meeting. *(An affirmative vote for the consent agenda will approve this budget amendment.)*

e.) FY 13-14 Budget Amendment #5: To cover expenditures and provide funding in the amount of \$619,773 for the Coastal Planning & Engineering Service Agreement approved at the January 6, 2014 council meeting for engineering services. *(An affirmative vote for the consent agenda will approve this budget amendment.)*

f.) FY 13-14 Budget Amendment #6: To recognize and appropriate Capital Reserve funds in the amount of \$1,150 for the Albemarle & Associates Professional Services Agreement approved at the January 6, 2014 council meeting for the Lillian Street beach access parking extension. *(An affirmative vote for the consent agenda will approve this budget amendment.)*

g.) FY 13-14 Budget Amendment #7: To recognize and appropriate Powell Bill funds in the amount of \$8,500 for the Albemarle & Associates Professional Services Agreement approved at the January 6, 2014 council meeting for stormwater management design. *(An affirmative vote for the consent agenda will approve this budget amendment.)*

Councilman Garriss “so moved” to approve the consent agenda. The motion was seconded by Councilman Pruitt and was unanimously approved, 4-0.

7. Items Removed from the Consent Agenda

There were no items removed from the consent agenda.

8. Planning:

a.) Call for Public Hearing: Text Amendment/Application to amend Article V, Division 2, Extraterritorial Area by eliminating statements regarding a list of commercial recreational uses in the Sound Waters ETJ zoning district.

Councilwoman Klutz made a motion to call for a public hearing for the application to amend Article V, Division 2, Extraterritorial Area by eliminating statements regarding a list of commercial recreational uses in the sound waters ETJ zoning. The public hearing would be set for March the 3rd 2014. Is that the date? Councilman Pruitt seconded the motion and it passed unanimously, 4-0.

b.) Call for Public Hearing: Text Amendment/Application to update Sections 42-72, 42-73, and 42-99 of the Kitty Hawk Town Code with standards for the Board of Adjustment, constructive notice for appeals, and decision-making process for conditional use permits.

Councilman Pruitt made a motion to call for a public hearing for a text amendment and application to update Sections 42-72, 42-73 and 42-99 of the Kitty Hawk town code with standards for the Board of Adjustment, construction notice for appeals and decision-making process for conditional use permits for March 3. Councilman Garriss seconded the motion and it passed unanimously, 4-0.

9. New Business:

a.) Public Comment on Public Parking at the Lillian Street Beach Access – Albemarle & Associates has prepared a conceptual design for the expansion of the public parking area at the Lillian Street beach access. Public comment is being sought on the proposed design of the parking area and a grant to assist with funding the project. Each grant application is to be reviewed and approved by the local governing board.

Stockton: The purpose of this grant application is to apply for CAMA funding so we can extend the parking at the Lillian Street Beach Access. The conceptual drawing has been prepared by Albemarle and Associates and adds 16 additional parking spaces angled on the north side of the existing Lillian Street right-of-way. Lillian Street would also be opened up to US 158 as a result of the project. The estimated cost \$70,588. We would like to apply for a Public Beach and Coastal Waterfront Access Grant from the NC Division of Coastal Management. They will provide 75% of the funding which is \$52,941 to construct the parking area. The town would be required to come up with 25% of the total amount which is \$17,647. The grant application deadline is February 28th and we are asking council to go ahead and pass a resolution supporting the application and confirming the commitment to provide necessary funds. These are requirements of the grant application.

Klutz: I do not have any questions but have a few comments. Trying to get a few extra parking places at the Lillian Street Beach Access has been a topic for the Recreation Committee for some time and the reason why this is coming to council now is because of the Fast Track grant process. I would also like to mention this is in the Recreation Master Plan and in the past the committee has endorsed and recommended this project. In addition, we had some high school students come to a meeting and share their research on how many parking places could be added. They had obviously done their homework and I think it is nice that perhaps they will actually see something come of what they brought forward to council.

Perry: Does anyone in the audience wish to speak during this public comment time regarding the possible extension of Lillian Street parking? Let the record show no one came forward. With that in mind I have a question for Willie. There is a big sand hill there and what would happen to it?

Midgett: That sand belongs to NCDOT and we would have them relocate it. Hopefully back on the beach.

Perry: That is what I wanted to hear. We have several spots that could use it. I think we are ready for a motion.

b.) Resolution in Support of a Public Beach and Coastal Waterfront Access Grant for Expansion of the Public Parking Area at the Lillian Street Beach Access – This resolution is required as part of the Town's grant application. If approved the grant would cover 75% of the cost of the proposed project to expand the existing parking area by 16 spaces.

Councilwoman Klutz made a motion to adopt this resolution in support and authorize the town manager to proceed with submission of the application for a Public Beach and Coastal Water Access Grant in the amount of \$52,941 for expansion of the Lillian Street beach access parking area. Councilman Garriss seconded the motion and it passed unanimously, 4-0.

c.) Municipal Service Districts – Discussion on establishing the districts to develop a special tax for each district that can be applied to the Storm Damage Reduction Projects.

Perry: Municipal Service Districts has to do with the eventual beach nourishment we are trying to get for Kitty Hawk and the purpose tonight is to give enough direction to staff to enable them to put together the actual package for the proposed MSD's that will be the subject of a required hearing in the future. Staff has to identify and notify every property owner with any proposed map by mail of the date and time of any hearing. We are not setting that date and time at this meeting. I do propose to discuss probable hearing dates and times and the correct time to present any proposed tax rates associated with a future municipal service district hearing after we decide on the proposed map.

Stockton: We have had several discussions with council pertaining to the map for Municipal Service Districts and this map tonight shows Districts A, B, and C. District A consists of beachfront properties and properties between the highways and commercial properties along the west side of US 158. District B includes what we call the ridge properties and then west of that is District C which is commonly referred to as the village.

Perry: Thank you. This is a proposed map and once the hearing occurs we are going to listen to what the people say and the map could change depending upon the feedback. Staff has a lot of work to do and we are trying to give them something to work with in preparation of that. If no one else has a comment I will entertain a motion to approve the proposed map.

Councilwoman Klutz moved for approval of the Districts A, B and C as being designated as the proposed Municipal Service Districts for the purpose of establishing special tax districts that will provide the revenue for the storm damage reduction projects. Councilman Pruitt seconded and it passed unanimously, 4-0.

Perry: As a follow up I want to clear up some apparent confusion over when a proposed municipal district must take effect, the maximum amount of time allowed before contracts or construction must start and when to present the proposed tax for each proposed district. As we speak to each issue I ask the attorney and planning director to confirm as correct or incorrect each item before council discussion.

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First, as quoted from the law "the resolution defining a service district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by city council." I understand this to mean council can hold a hearing, for example, in the year 2014 but designate the beginning to start at a future fiscal year date of our choosing. Steve is that correct?

Michael: *That is correct.*

Perry: *The second part is as quoted from the law, "no ad valorem tax may be levied for a partial fiscal year." Beyond that statement, the section dealing with establishment of a Municipal Service District does not establish when the governing body must propose or establish a tax rate for the district(s)." Is that correct Steve?*

Michael: *That is correct. The rates get established as part of your budget making process and would be part of your budget ordinance when you are going to impose one.*

Perry: *But as a practical matter when we hold the hearing to establish a district ...*

Michael: *You are not going to be talking about the tax in the scenario you are proceeding with now.*

Perry: *But when we hold the actual hearing it would be foolish not to have a proposed tax rate.*

Michael: *You can talk about it but you will not adopt the tax rate until you do your budget ordinance.*

Perry: *Understood but the people will want to know what we are thinking.*

Michael: *Right. Okay.*

Perry: *Third. Once the fiscal year start date of a municipal service district is set by council then actual contracts or construction must begin within one year of that start date. Is that also correct?*

Michael: *That is correct. Kara Millonzi with the School of Government says it has to be within a year of when you levy the tax and that would be at the beginning of your fiscal year.*

Perry: *My question to council is when should we direct staff to prepare for the MSD hearing? Steve I know you think we are a little ahead of schedule on this but I like to get in front of things.*

Michael: *I don't think you are ahead of things. I had some misunderstanding about what you were going to do tonight as far as the maps go and staff does have to prepare the report and get everything ready. They have to get the notice out so you will need to let them get to work on everything. There is no reason not to proceed.*

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Perry: *If we give staff direction tonight or maybe at the next meeting ... for example set the hearing for the fall of this year with the thought we would be looking at setting the actual start date in fiscal year '15-'16 and have the hearing this year '14-'15.*

Michael: *Correct. You can do that.*

Perry: *That gives staff time to prepare because there is quite a lot of work. Every property owner in each district has to be notified of the map, date and time of the hearing and since we have included the whole town that is every property owner in the Town of Kitty Hawk. That is a lot of work and we need to give them time to do it.*

Klutz: *I would ask that at our next meeting Joe give us a rundown on what all that entails and how long he thinks it would take for the staff to be ready to take the next step. At that point we can have a better idea when we could set a public hearing. I think it is important for us to make sure the letter contains everything a citizen would need to make comments if they are unable to attend the public hearing. Who to send comments to, an email address and a deadline to return them in terms of getting them into the record. These are the kinds of things when people open up an envelope like that they need to know. I would like to hear from him how long he thinks it will take.*

Perry: *The short answer to what Em is asking is council needs to "Emilize" it before it goes out. And I agree with her. We are in Phase I of this beach nourishment process and phase I basically is a situation where the engineer has all three of the towns involved under contract. The funding is coming from the county for this phase and it is for exploring for sand sources, permitting and engineering. We will know whether it is feasible, how much it will cost and those sorts of things. At this point that is all we are obligated to. Phase II is when the town starts obligating money in addition to what the county has. At that point we are going to have to have the municipal districts set up and taxing for this project. We will have a better idea of how much we need to tax.*

10. Reports or General Comments from Town Manager

a.) Widening a Section of Ridge Road Report – Manager Stockton said at the last meeting there was a question about the possibility of widening a section of Ridge Road. Staff had the section surveyed and it was determined there is enough easement to do it. The roadway can be widened one foot on either side allowing a 20' pavement width. There are some mailboxes along the roadway that will have to be moved back and this can be a part of the overlay contract and there will be no cost to or responsibility for the homeowner. Estimates will be obtained and will be presented to council for consideration at the March meeting.

b.) Compliments to Town Staff - Manager Stockton thanked the public works department for the fine job of snow removal from the town parking lots and also complimented the police and fire departments for their work during the snowstorm.

11. Reports or General Comments from Town Attorney

There were no comments from the town attorney.

12. Reports or General Comments from Town Council

Councilman Pruitt thanked town staff for their efforts during the snow storm and especially for the fire department that checked on his mother and other residents in town.

Councilman Garriss thanked the police, fire and public works departments for their work. He then mentioned he attended his first Government Education Access Channel committee meeting on January 16th. New officers were elected and new projects were discussed for the future. There is an orientation coming up to tour the studios and he is glad to be a part of this committee.

Mayor Perry and Councilwoman Klutz also thanked staff for their work during the "snowmageddon."

13. Public Comment:

1. Erika Bleier-Harmon, 4533 Ridge Road, Kitty Hawk, NC: *I live on Ridge Road and I am here to talk about the widening of it. I believe many, many months ago before "Twiddyville" was built we asked for the road to be widened so we are looking forward to having it widened. Right now you cannot get two tiny Toyotas together much less a dump truck, a van, a police cruiser, an ambulance and another car. It is very hard so we look forward to the widening but we also would like to request two things. The public works department needs to come and cut some of the shrubbery down around the curves. The reason I say this is every day when I come home between 4:00 and 4:20 there are little kids on skateboards right at the crest of the hill and you cannot see them and there are cars flying through there at 50 miles an hour. I know our wonderful policemen have put that little sign there saying you are going so fast but it doesn't ... at the end of the hill it makes no difference. They have already escalated up to the speed they are going. I am not going to point any fingers because I do not know who they are unless I step in front of the car and I probably wouldn't be here. So I just need the public works to get some of the shrubs around the corners for the safety of the children and then at the cul-de-sac, which I understand ... the Ridge Road expansion is going to stop at the cul-de-sac, at Beacham Lane. Is that correct?*

Councilman Pruitt and Manager Stockton replied yes.

Bleier-Harmon: *If you could put a stop sign there that would stop 90% of the speeding people because they go from the stop sign down at the cemetery and escalate all the way up. We have asked for a stop sign before and I am asking again even if it is a double stop sign coming from the new road. I don't care if there is a stop sign in front of my driveway. It has to be done. If somebody could just spend one day there and see the amount of traffic and the amount of speed that goes through there they would be very concerned. I believe there are 19 homes that Mr.*

Twiddy has put in there and they all have little children. They are all playing in the road. They are all out there playing with their basketballs or little kids on their tricycles. Do we have to wait until one of those kids is killed before we do something? I am not trying to make it dramatic I don't have any children all I have is dogs and they are in my yard. If someone, Jeff, if you would come out one day and just sit at the end of my driveway and watch the activity of the children and the activity of the cars. It is unbelievable and very scary. I believe my neighbor will attest to how fast they start off at the bottom of Ridge Road so in respect with widening the road we are concerned that it is going to widen the problem and the speed. There are neighbors that are shaking their heads wondering why you are taking half of their front yards but it is a right-of-way. I know everything is for a purpose and we will stand by you and we know that Mr. Twiddy is planning to put more homes on that road and we hope now it is proven we have more traffic than we thought we would. It is even going to be more with the houses he plans to put on the south side. If the board and whoever wants to come down there I will put a bench up for you so you can watch. Thank you.

2. Gail Reilly, 4356 Ridge Road, Kitty Hawk, NC: *I just have one question. When we were here about a year or a year and a half ago before "Twiddyville" we expressed concern about how that road should be widened and we were told it was wide enough and there was no cause for concern. So my question is what prompted all of a sudden we need to widen it? There has to be some motive why it is getting widened now and not before the development was built.*

Perry: *The only answer I can try to give you is when the plans for the development came before council it only was about the development. Not anything external to the development so at that particular time it was not under consideration by council. Since then we have had comments from police and persons like you that have brought it to our attention. We have one end of it fixed and the other end is wide but somewhere in between we need help. Council has kind of got its feet on the ground now and has been able to say it is time to do something. I know some of those survey markers look like they are in somebody's yard but they are not. If the state were to mark West Kitty Hawk Road you would be surprised how many of the older homes, that have been here forever, do not have a yard. On the subject of speeding and cutting brush Chief Johnson and Public Works Director Midgett should be called.*

Bleier-Harmon: (from the audience) *We are not contesting the markers. We want the larger road. We just want you to think a little more about the protection of the people that are walking their dogs, the kids playing ...*

Perry: *That will be done.*

Bleier-Harmon: *Thank you.*

Mayor Perry asked Chief Johnson and PW Director Midgett to report their findings to council with regards to the Ms. Bleier-Harmon's comments.

3. Donny King: *I am Donny King and I own Ocean Boulevard Restaurant and represent a group called Better Beaches OBX. In consideration of the creation of the new wastewater pump stations and the coordination with the broader community regarding beach nourishment I want*

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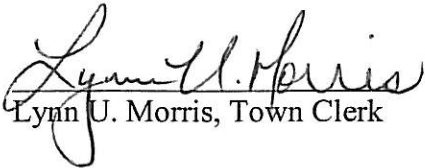
to thank you all for carrying on the efforts to help mitigate storm damage and also for helping secure a better future for our community. Thank you.

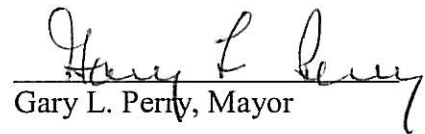
Council thanked Mr. King for his comments.

14. Adjourn

Councilman Garriss moved to adjourn the meeting. The motion was seconded by Councilman Pruitt and unanimously approved, 4-0. Time was 6:43 p.m.

These minutes were approved at the March 3, 2014 council meeting.


Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor