

MINUTES
KITTY HAWK TOWN COUNCIL
Monday, February 4, 2013
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 & Announcements:
 - a.) Police Officer Chad Pennell Promotion from POII to POIII
 - b.) Police Officer William "Billy" Deaton Promotion from POI to POII
 - c.) Police Officer III Jimmy Ray Watts: Lifesaving Award
5. Public Comment
6. Consent Agenda:
 - a.) Approval of Minutes
 - b.) Revenues and Expenses Report for December 2012
 - c.) Resolution Requesting State Legislation Clarify Municipal Authority on the State's Ocean Beaches
 - d.) Resolution to Support the 2013-2015 Funding for Clean Water Management Trust Fund
 - e.) Resolution Supporting GAP Funding for the Mid Currituck Bridge
 - f.) Resolution in Support of North Carolina Coastal Caucus
 - g.) Request to Fill Vacant Public Works Tech Position
 - h.) Request to Purchase Two Police Vehicles
7. Items Removed from the Consent Agenda
8. Public Hearing
 - a.) Text Amendment: Proposal to amend Section 42-527, *Small Wind Energy Facilities*, by allowing up to four (4) wind turbines with a maximum height of 70 feet on a single property for an electric public utility research project.
9. Unfinished Business
 - a.) Conditional Use Permit: Application for a conditional use permit to expand the existing motor vehicle service and repair business in Units I and J of the Quail Run business center at 500 Sand Dune Drive. The applicant is also seeking approval to add a small vehicle rental service.
10. Reports from Town Manager
 - a.) Proposal for Use of C & D Dumpster by the Towns of Southern Shores and Duck
 - b.) Winks Fines
 - c.) E. Kitty Hawk Road & Lillian St. Dune Crossover Signed Contracts Received
 - d.) Police Department Compliment
 - e.) Planning Department Compliment
 - f.) Foreman's Controlled Burn
11. Reports/Comments from Town Attorney
12. Reports/Comments from Town Council
 - a.) Recreation Committee Update – *Klutz*
13. Public Comment
14. Adjourn

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COUNCIL MEMBERS PRESENT: Mayor Clifton Perry, Mayor Pro Tem Gary Perry, Councilman Ervin Bateman, Councilwoman Emilie Klutz and Councilman Richard Reid

STAFF MEMBERS PRESENT: Town Manager John Stockton, Town Clerk Lynn Morris, Attorney Steve Michael, Planning Director Joe Heard, Finance Officer Charlene Allen, Police Chief Joel Johnson, Fire Chief Lowell Spivey and PW Director Midgett

1. CALL TO ORDER

Mayor Perry called this 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

MPT Perry "so moved" to approve the agenda. The motion was seconded by Councilman Bateman and approved unanimously, 5-0.

4. PRESENTATIONS & ANNOUNCEMENTS:

a.) Police Officer Chad Pennell Promotion from POII to POIII

b.) Police Officer William "Billy" Deaton Promotion from POI to POII

Chief Johnson introduced Officer Deaton and Officer Pennell and presented them with their certificate of achievement. Chief Johnson also commented on an email he received about Officer Deaton's kindness in helping an elderly couple in the Wal-Mart parking lot and an appreciation letter about Officer Pennell displaying superb proficiency and calm in helping a woman whose husband was found un-responsive.

c.) Police Officer III Jimmy Ray Watts and citizen Stuart Bell: Lifesaving Award

Chief Johnson introduced Stuart Bell and Officer Watts and read the certificate: *On April 20, 2012 PO III Watts responded to a call of a man down from an apparent heart attack. The victim was an 82 year old man that was in full cardiac arrest. PO III Watts and a companion civilian, Stuart Bell, provided the victim with CPR to sustain life until EMS units arrived on scene. Due to the efforts of PO III Watts and Stuart Bell the victim was able to reach the hospital and recovered from the cardiac arrest episode. PO III Watts and Mr. Bell recognized the need for quick and decisive action and immediately and selflessly responded to save the life of another.*

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5. PUBLIC COMMENT. The General Public is invited to address the Town Council on any topic. Please sign up with the Town Clerk before the meeting and when your name is called, come forward and speak into the microphone at the podium. Please limit comments to 3 minutes.

1. Earl Snyder, 103 Sonny's Lane, Kitty Hawk, NC: *Members of council I appreciate the opportunity to once again address an issue coming before council. I refer to the matter of the Quail Run Business Center which was held over until this meeting. I and my wife own a home at 103 Sonny's Lane and last month I spoke to council in opposition to the request of Beach Ready Auto. While I am not in favor of such an enterprise at this location, it makes little sense for me to oppose the ongoing success of the business and only ask that sensible oversight of the repair activity be continued.*

I am concerned, however, with the request to expand the scope of the operation to include a vehicle rental activity. Such activity at this location can only add substantially to the parking, traffic and noise implications for the impacted areas. A rental business must necessarily incorporate storage of vehicles as well as the public access to the business. As the Quail Run Business Center is only accessible by way of the two residential streets, this is a significant impact on the neighborhood served by those streets and on the appearance of the gateways to those neighborhoods.

If the intent of such rental activity is for the convenience of the repair customers of Beach Ready Auto, and not as a second and distinct business at the same site, it would seem that such would be permissible without the requested conditional use permit. However the granting of the use permit would appear to give Beach Ready Auto free reign to advertise and operate a rental business as essentially a separate enterprise. Such proliferation of the business operations is what I find objectionable.

I therefore beg council, at all costs, to not allow the expansion of Beach Ready Auto to include a vehicle rental agency or activity at this location. Such activity should be limited strictly to locations with direct highway access and away from residential streets. I thank you for your time and your consideration.

Mayor Perry asked if there were any other speakers. No one came forward.

6. CONSENT AGENDA. Items on the Consent Agenda are considered to be non-controversial, routine in nature or items not requiring a presentation to or discussion by the Town Council in order to consider the item(s). Any item may be removed for discussion by council or by any member of the audience who wants to hear the item presented and discussed.

a.) Approval of Minutes. January 7, 2013 Regular Meeting Minutes. *(An affirmative vote for the consent agenda will approve these minutes.)*

b.) Revenues and Expenses Report for December 2012. *(An affirmative vote for the consent agenda will acknowledge this report.)*

c.) **Resolution Requesting State Legislation Clarify Municipal Authority on the State's Ocean Beaches.** This resolution asks the General Assembly to approve legislation to clarify the authority of oceanfront municipalities to regulate activities in the public trust areas of ocean beaches in order to promote and protect the health, safety and welfare of the public. It also has suggested language for the general Assembly to consider. *(An affirmative vote for the consent agenda will adopt this resolution.)*

d.) **Resolution to Support the 2013-2015 Funding for Clean Water Management Trust Fund.** This resolution supports the Clean Water Management Trust Fund and for the fund to receive and increase in recurring funding from the Governor and the General Assembly. *(An affirmative vote for the consent agenda will adopt this resolution.)*

e.) **Resolution Supporting GAP Funding for the Mid Currituck Bridge.** This resolution asks for the General Assembly to move forward with "Gap Funding" which has been authorized and included in previous N.C. budgets as a matter of economic development and public safety. *(An affirmative vote for the consent agenda will adopt this resolution.)*

f.) **Resolution in Support of North Carolina Coastal Caucus.** This resolution supports and encourages the formation and aggressive engagement of a bi-partisan Coastal Caucus who will labor diligently and cooperatively to ensure that coastal North Carolina continues to be an integral and vibrant component of "The blessed land, the best land, the Old North State." *(An affirmative vote for the consent agenda will adopt this resolution.)*

g.) **Request to Fill Vacant Public Works Tech Position.** Public Works Director Midgett is requesting permission to fill this position. *(An affirmative vote for the consent agenda will grant this request.)*

h.) **Request to Purchase Two Police Vehicles.** The amount of \$51,933.00 is requested and will cover the purchase, markings, transfer of equipment and replacement of any non-compatible equipment. *(An affirmative vote for the consent agenda will grant this request.)*

Councilman Bateman moved for approval of the consent agenda. MPT Perry seconded and it passed unanimously, 5-0.

7. ITEMS REMOVED FROM THE CONSENT AGENDA

No items were removed.

8. PUBLIC HEARING

a.) Text Amendment: Proposal to amend Section 42-527, *Small Wind Energy Facilities*, by allowing up to four (4) wind turbines with a maximum height of 70 feet on a single property for an electric public utility research project.

Councilman Reid made a motion to go into public hearing. The motion was seconded by Councilwoman Klutz and passed unanimously, 5-0.

Heard: *Under consideration this evening is a text amendment. There is not an actual project at this time but an amendment to the zoning ordinance to accommodate changes to the small wind energy facility section. Presently the ordinance allows a maximum of one wind turbine per property. The applicants are proposing to allow up to four wind turbines on a single property for a public utility research project. Secondly, the ordinance currently requires a maximum height of 35 feet and the proposed text amendment would allow turbines up to 70 feet in height, again, only if they are associated with a public utility research project.*

Klutz: *Excuse me. Would it be appropriate, since I would like to change what is in the text amendment ... is it now or when he is finished?*

Michael: *I think when Joe finishes.*

Heard: *There would be a couple of definitions added to the ordinance that would define who is classified as a public utility and what type of project would be classified as a public research project. If this is adopted it would create a little more flexibility for this type of project and it is important to note that the way it is proposed is it would still be a conditional use permit. The council and planning board would have the opportunity to review any proposal if this change is made. You would still have the opportunity to review a project and if there would be significant negative impacts for example the council would have an opportunity to either deny, or place conditions on that proposal in order to mitigate some of the impacts you might find.*

The applicant in this is Dominion North Carolina Power and should this text amendment be approved Dominion plans to follow up with a conditional use permit in short order for consideration by the council. The planning board reviewed this proposal at their meeting on December 13th and voted unanimously to approve the proposed text amendment.

Klutz: *I was going to request we consider a change to this text amendment and it involves inserting a phrase in item (1). I would insert "on land owned by a public utility" after the word "installed." Everything else the same and make the same change to item (2). Small wind energy facilities installed "on land owned by a public utility" as part of the research project etcetera. The reason I am suggesting this is that it at least keeps projects of this nature on the property which is owned by the utility. Without it the way I read the text amendment is land could be leased or any commercial property ... it would really, I think, kind of make a pretty big*

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expansion of what we are considering having seen what the project is that Dominion Power wants to do. I think everybody is probably looking at that but not considering that any commercial property in the Town of Kitty Hawk could then be subject to a conditional use that comes before council for a project of this nature.

Mayor Perry: *I had sort of assumed that that was the case but it did not read like that so ...*

Klutz: *No, it does not. And I do not think there is anything that would really prevent a project anywhere on a commercial property if the public utility decides to lease a piece of land and have one of these demonstration projects. Is that ...*

Heard: *Under the current wording that is correct and actually it would not even have to be a commercial property. We permit turbines on other types of property as well.*

Klutz: *It says up to four wind turbines may be installed on a single non-residential property. I was assuming if it is non-residential ...*

Heard: *You are talking about the existing, under the proposed ordinance ...*

Klutz: *Under the proposed one okay. Would that cover my concern of the public utility owning the property that they want to have the project on?*

Heard: *It would certainly limit the area where it would be applicable.*

Klutz: *That is my recommended change.*

Mayor Perry: *Mr. Attorney?*

Michael: *That certainly limits it to the land they own. It does not mean they cannot acquire some other property.*

Mayor Perry: *That could acquire other property but they would have to own it and not just have a lease or so on and so forth.*

Michael: *That is correct.*

Mayor Perry: *And that would not change the advertisement sufficiently would it?*

Michael: *Let me think about that for a minute.*

Reid: *Another general question. When I read the electric company utility definition it makes reference to a person and it goes on and makes some other definitions. My question is as I read through this it sounds like an individual could theoretically, under this definition, construct a*

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generating facility and sell electricity. What I am wondering is because all of these facilities that have excess electricity generated sometimes they sell it back or they get credit for it on their bill but what ... would this open the door for a lot of individuals doing this or does State law already define what is a public utility under the State Utilities Commission and is that sufficient?

Michael: *I am not familiar enough with the utility laws but I do not think you can just set one up to sell to the public ... that if you have excess power you can sell it back to the utility but you cannot sell it to the public.*

Reid: *But a condo association or somebody like that could not then generate their own utility company unless they went through a State law and did ...*

Michael: *When the Dominion Power people step up here you can ask them.*

Klutz: *Yes. That definition with the word "person" got to me also.*

Mayor Perry: *Do we have anybody signed up to speak?*

Morris: *No sir. No one has signed up.*

Mayor Perry: *Does anyone wish to speak? Come up and give your name and address to the clerk.*

1. Wesley Carter, 1002 West Clamshell Drive, Kill Devil Hills, NC: *I am Wes Carter with Hart Power Solutions. We have installed multiple wind turbines in our area including Jennette's Pier, Jockey's Ridge, First Flight Middle School, JP Knapp, the Hatteras Secondary School at Buxton and we recently did a wind and solar project for North Carolina State University at their fishery research station at Smyrna in North Carolina by Harper's Island. One of the things I would like to say is that if you need any information on any turbines or anything of that nature we are available and we can provide you with everything from data on bird kills, to noise levels, to height and output requirements for wind turbines.*

Also, what I have read is they are proposing a 70 foot height limit. What I would like to do and respectfully ask is for you to look into making it 100 feet because the higher you go the more power you are able to produce. We have in our documents and data where we can see the difference between the two heights. The one we put up at Jockey's Ridge compared to what we put up at Jennette's Pier there is a tremendous difference in power output. The one at Jockey's Ridge is only a 60 foot tower and that particular turbine from the base of the turbine to the top of the blade is 13 feet so if we put it on a 60 foot tower we are already past the point of your 70 foot height. I would like to see if you can look into maybe bringing that height limit up to 100 feet.

Mayor Perry: *This only pertains to this particular utility group because we have a 35 foot height limit on personal property.*

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Carter: *Yes and most of the personal property in this area could not handle a taller tower but there are one or two in the area that can because of the fall radius that you have to have for the installation of a turbine. But if they are going to do some research then they may need that option to be a little taller. And if you need any answers, if you have any questions about turbines, how they are produced, how they are producing power, please feel free to give us a call.*

Mayor Perry: *Thank you. Anybody else wish to speak?*

2. Warren Judge, 4016 Ivy Lane, Kitty Hawk, NC: *Good evening mayor and town council. We know we do not know what tomorrow brings and the demands that are placed on us and I am here tonight to speak in favor of Dominion's request for a text amendment. Experimentation is a grand thing and where it will lead us we do not know but I do know that we have to pursue these efforts. It is only fitting that 110 years after Elijah Baum greeted Orville Wright, mayor, you and the council, are greeting Michael Thompson and Dominion Power to play around with wind and air so I give it my heartfelt support and hope you act favorably. Thank you.*

3. Travis Giese, 207 Harbour Bay Drive, Kitty Hawk, NC: *My name is Travis Giese and I oppose the amendment because the council has already expressed it is supportive of renewable energy by having its existing amendment that covers turbines and everyone is treated equally. Not just a particular parcel or entity and also there is software that can be used that can project for either utility scale or residential within one percent accuracy using satellite data so nothing actually ever has to be built to test the output for any location. It is already known because it is highly standardized. And I kind of do not like Dominion proposing it because they are the main opponent of energy efficiency and renewables universally in Raleigh at utilities commissions and at the State legislature so no matter what a representative proposes a renewable energy law they are in opposition to it. And I think it is misleading to the public to have them be exclusively given permission to do something when they do the opposite when you are not watching. I guess that is it unless you have questions. Thank you.*

4. Michael Thompson, 295 Wax Myrtle Trail, Southern Shores, NC: *Thank you Mr. Mayor, members of the town council. The terms public utility and electric power supply are defined terms with the North Carolina Utilities Commission and no, no one can just start up a utility and do what is being asked for in this text amendment change.*

Reid: *Thank you.*

Bateman: *I have a question of the attorney. I guess where Richard and Emilie were trying to go with this is, and my concern is, do you feel pretty confident that the way this ordinance is written no one else can do this but Dominion?*

Michael: *A public utility and if you accept the amendment and the condition of land owned by that public utility.*

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MPT Perry: *And would it not be applicable to ask the applicants if the change is acceptable?*

Thompson: *We have reviewed it among ourselves and we have no objection whatsoever to the change that Councilwoman Klutz has indicated.*

Mayor Perry: *That was my understanding in the beginning that that was what this was for but it really was not clear.*

Thompson: *Just make sure all members of the council understand there are other parcels of land that Dominion owns. Kitty Hawk substation here in town, we have the office, we have the substation in Corolla, we have a substation in Colington, Nags Head, etcetera. While we would not want to have these wind turbines in those specific facilities like substations especially because of the fall zone. We do not want them to fall into the lines and knock the power out. I just want to make sure you knew that we do have other areas that we own on the Outer Banks.*

Mayor Perry: *Understand that and if you were to come in we would have the option of regulating what you want to do in those cases.*

Thompson: *Absolutely.*

Klutz: *If the definition of a public utility is as you say controlled by the North Carolina Public Utilities Commission wouldn't it be more appropriate in our definition to not say electric public utility means a person. Would it be more appropriate to just reference the definition of a public utility as it exists in the State ...*

Thompson: *... as defined by the North Carolina Utilities Commission. I do not see where that would be ... Andy Flavin would like to answer that.*

5. Andy Flavin, North Carolina Dominion Power: *The definition of electric public utility was actually taken from the North Carolina General Statutes so it is defined through State law. If you want to remove that definition and refer to it as "defined in State law" we would not have any objection to it because it is the same definition really. It was cut and pasted in place but ...*

Klutz: *The State statute calls it a ... it means a person?*

Flavin: *Yes ma'am. It defines it. If you delve back into State law of a definition of a person it includes corporations so on and so forth and ...*

Klutz: *If this came from the statute then I am fine with it. I did not want us inventing a definition for a public utility.*

MPT Perry: *I have one more thing and it comes from serving on the Governor's Panel for Offshore Energy which was all phases of energy. You did a good job of documenting what you*

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are trying to do education wise so everybody can see what you are doing and those sort of things. I like that but will you also compare what you generate with alternatives of coal, oil, natural gas, and those sorts of things. A true comparative of what is reasonable, economical, doable and can be shown in the same educational phase that you are, let's say, pushing wind for example, so that our children who are going to see this in the school systems do not get brainwashed, pardon the word. But I want them to have a balanced approach and to understand all the avenues and not just be pushed in this direction. Will that happen?

Thompson: *The short answer is yes. Mr. Mayor Pro Tem your town clerk has in her possession a copy for each you our generation portfolio which lists all of the different generations that we have. We are sorry we did not get it to you prior to the meeting. Your town manager was very astute in asking for it. We have those available and you are welcome to take it home or read it as we do our presentation. We will offer that at the kiosk and elsewhere on the website for people to view and see that there are many different ways to generate electricity. We call it economic dispatch. The most economic generation of electricity is what we dispatch to our customers.*

MPT Perry: *Thank you.*

Mayor Perry: *And will it show how one relates to the other price wise and so on?*

Thompson: *What we have does not have it broken down to that degree. It has it in megawatts etcetera and the different types of plants, biomass, gas, etcetera but we have four sets of ears here and we hear exactly what you are saying Mr. Mayor and we can put that into the presentation.*

Mayor Perry: *Anybody else before we go back to regular session? A motion to go back into regular session?*

MPT Perry "so moved" to go into regular session. Councilman Bateman seconded and it passed unanimously, 5-0.

Councilwoman Klutz made a motion to adopt the proposed amendments to section 42-527 of the town code as amended with the change to subparagraph (1), to insert "on land owned by a public utility" after the word "installed" and on subparagraph (2) "on land owned by a public utility" inserted after the word "installed" and with that revision moved to adopt the proposed amendments to section 42-527 of the Town Code small wind energy facilities which would allow up to four wind turbines with a maximum height of 70 feet on a single property for an electric public utility research project. The town council finds this amendment to be consistent with the Town's adopted CAMA Land Use Plan. Council finds that this amendment is in the public interest by providing an opportunity for interested persons to learn about wind energy alternatives while setting appropriate

standards and safeguards for this type of project in the Town of Kitty Hawk. MPT Perry seconded the motion and it passed unanimously.

Mr. Thompson asked if council would like to hear their presentation and council replied they would wait until Dominion came back before council with their proposal.

9. UNFINISHED BUSINESS

a.) Conditional Use Permit: Application for a conditional use permit to expand the existing motor vehicle service and repair business in Units I and J of the Quail Run business center at 500 Sand Dune Drive. The proposed expansion would add one service bay (with two lifts), office space, and employee bathroom in Unit K (adjoining the north side of the existing business). The business would continue to service and repair vehicles for the applicant's other business (Wild Horse Adventure Tours) and the general public. The applicant is also seeking approval to add a small vehicle rental service.

Councilman Reid offered the following motion for discussion and **moved to grant approval for a conditional use permit application to expand the existing motor vehicle service and repair business into Unit K of the Quail Run Business Center at 500 Sand Dune Drive subject to conditions outlined in the zoning ordinance for this type of use and the conditions placed on the original conditional use permit by the town council in December of 2011 with two additional comments: one, there be no rental car operation; number 2 that one loaner car or one shuttle could be provided. And then the town council concurs with the conditional use findings in the staff report and finds approval of this conditional use permit is consistent with the town's adopted CAMA Land Use Plan and finds that granting approval of this is in the public interest by allowing a compatible business to operate in this location. Councilman Bateman seconded.**

Klutz: *The only question I have is are we talking about a single vehicle? No more than one vehicle for a loaner. One loaner or one shuttle?*

Reid: *I think that would be appropriate. I definitely think a rental car operation, which was alluded to, is unlimited and I do not think that is compatible. I do not think it is necessarily an accessory to this use but something like a loaner car or a shuttle service ... I think a shuttle probably only needs to be one. If we get into two cars then you are taking up two additional parking spaces and that might become a problem.*

Klutz: *I would definitely have a problem with running a separate car rental business but I think maybe more than one loaner car might be appropriate for this business. With capability for a loaner as an accessory use does that mean it is limited to a single vehicle?*

Bateman: *I do not think we can really ... you cannot limit the guy ... say you can only loan one car out. My concern ...*

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Klutz: *I am not wanting to do that ...*

Bateman: *My concern is the fact that I do not want rental cars there. If we have no rental cars and I go get my car fixed there, which I do not, nice folks but if I did and he wants to loan me a car that is great. I am going to take the car and go about my business. Gary goes there and he wants to loan Gary a car whatever he does is fine but you know I ...*

Klutz: *I was just asking because what I heard Richard say sounded like one and what I would rather do is just say that as an accessory use he may provide a loaner vehicle for ...*

MPT Perry: *Question for the attorney. Would a loaner car be a part of the business rather than an accessory? Not going with the rental because of the mixed parking. That just will not work but a loaner car looks to me like it is a part of his basic car repair business and therefore he should be able to loan cars as he sees fit. Here's what I am concerned about folks. If you start making limitations you have to enforce those limitations and how do you do that. You have to be careful about what you are doing and putting onto the code enforcement and make it reasonable so that it is something that can be enforced if you get complaints and I can assure you we will get complaints. If it is a part of his business it is not an accessory then we do not need to deal with that it is what I am saying.*

Michael: *Lots of businesses provide loaner cars for car repairs. If you go to some of the car dealerships they obviously would do that to serve the customers. As a matter of fact a lot of the new cars that you buy come with the provision from the dealership if you bring it back they will give you a car to drive while your car is being repaired. That is just part of what they do. And you do not have a limitation on how many loaner cars they are going to have. Business is going to dictate how many loaner cars you are going to have. And again, if you end up with 12 loaner cars then you have a parking issue. If he has two based on what you have heard, that is not an issue, or even three. The car rental business was going to have three or four cars.*

Mayor Perry: *He did not know how many and it could expand to who knows how many. That is not an accessory use. To me that is something totally different. That is a different business. But this is an accessory or part of the business. New cars, where you are selling cars, they have extra cars anyway that they can let somebody use. A repair shop would have to have a number of special cars waiting for somebody while they were repairing their car. I kind of would like to see a number put on it because it could get stretched out but I think one may be a little bit confining. I will go along with ...*

Klutz: *To add to what Gary said would it be easy to enforce something that became a rental car business? If you went over there and saw a couple of loaner cars, and I have seen their loaner car with their business name on it, and all of a sudden you saw a sign that said "rent this vehicle for a day or two" and this is how much it is going to cost, that is clearly somebody running a rental car business. Whereas if there are a couple of loaners parked at the location I think that*

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would be fairly easy to enforce. I guess the question comes down to what Gary asked is can you not deal with it in terms of what we are doing here and just have that be part of their business?

Michael: *You certainly can take that interpretation.*

Klutz: *And if it is in the minutes we will have a record of what the intent was.*

MPT Perry: *Right and not only will the intent be there but we will not be placing staff in a position where it is very difficult to enforce something. We leave off the rental but if I understand it correctly you do not have to mention a number of loaner cars at all.*

Reid: *What you are saying is there will be no rental car operations (Mayor Perry, MPT Perry and Councilman Bateman agreed) and loaners will not be discussed.*

Mayor Perry: *You will want to amend your motion.*

Councilman Reid amended his motion to exclude the discussion of loaner car or shuttle service and just include the statement of no rental car operations. Councilman Bateman seconded and the vote was 5-0.

10. REPORTS OR GENERAL COMMENTS FROM TOWN MANAGER

a.) Proposal for Use of C&D Dumpster by the Towns of Southern Shores and Duck – Manager Stockton said he has been talking with Southern Shores and Duck about the possibility of sharing Kitty Hawk's C&D dumpster at the Recycling Center. If the agreement is approved by Southern Shores and Duck it will require property owners to pay a fee and obtain a permit at their respective town halls. They would then take the material to the recycling center, give the permit to the attendant and he will submit the permits to the public works director. He will submit them to the finance officer and she will invoice the towns based on the number of loads that have been delivered to the recycling center.

Councilmembers had no objections to this arrangement.

b.) Winks Fines – Manager Stockton asked the attorney if discussion of this is premature and Attorney Michael agreed that it is.

c.) E. Kitty Hawk Road & Lillian St. Dune Crossover Signed Contracts Received – Manager Stockton reported to council the town has received the signed contracts for the CAMA grants for the crossovers at East Kitty Hawk Road and Lillian Street. The process of preparing bid documents has begun and construction is slated for March or April.

Council discussed the timeline and decided construction of the crossovers during the month of April is best.

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d.) Police Department Compliment – Manager Stockton said Chief Johnson covered this comment earlier in the meeting.

e.) Planning Department Compliment – Manager Stockton said the planning department received a compliment from Mark Melton of 3829 Moore Shore Drive. Mr. Melton's home was severely damaged as a result of Hurricane Irene and he had to elevate it. He complimented Building Inspector Dennis Speight and Donna Heffernan for their professionalism and courtesy in assisting him.

f.) Foreman's Controlled Burn – Manager Stockton noted this controlled burn occurred on Saturday and complimented the fire, police and public works departments for working together on this event. He added it took approximately 40 to 50 minutes for the building to burn.

11. REPORTS OR GENERAL COMMENTS FROM TOWN ATTORNEY

There were no reports or comments from Attorney Michael.

12. REPORTS OR GENERAL COMMENTS FROM TOWN COUNCIL

a.) Recreation Committee Update – Councilwoman Klutz reported the Recreation Committee met on the 29th of January and discussed filling the vacancy on the committee. It was decided to wait until June when other appointments and reappointments occur. They completed their work plan, their budget input and updated the Recreation Master Plan to reflect current conditions such as the completion of Sandy Run Park Phase II. They also discussed recreation enhancements and one item mentioned was a martin bird house at Sandy Run Park.

Dare County is going to have a meeting in Kitty Hawk to obtain public input on their ten year Recreation Plan and it is going to be on the 21st of February. The committee will attend along with members of the public.

13. PUBLIC COMMENT

1. Tom Watkins, 1907 Neptune Way, Kitty Hawk, NC: Thanked council for taking the time to look into the details of the conditional use request for Quail Run and thanked them for the decision on it tonight. It is appreciated.

2. Travis Giese, 207 Harbour Bay Drive, Kitty Hawk, NC: Mr. Giese said he was disappointed that council approved the amendment. It is exclusive to Dominion's property and they spend most of their time opposing energy efficiency and renewable energy and then propose this project. They are going to probably use equipment from the 1980's and then present it as cutting edge. He is not sure exactly why they do that. Council already has shown that it has been supportive of renewables the way the amendment reads now. He did not think opposing it would show council is against renewables. He thanked council.

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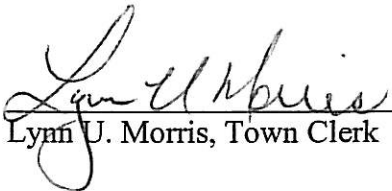
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Mayor Perry asked if there was anyone else who wanted to speak and no one came forward.

14. ADJOURN

MPT Perry "so moved" to adjourn and it was seconded by Councilwoman Klutz. Approval was unanimous, 5-0. Time was 7:00 PM.

These minutes were approved at the *March 4, 2013* council meeting.


Lynn U. Morris, Town Clerk


Clifton G. Perry