

**MINUTES**  
**KITTY HAWK TOWN COUNCIL**  
**Monday, June 1, 2015**  
**Kitty Hawk Town Hall, 6 PM**

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Public Comment
5. Consent Agenda
  - a.) Approval of May 4, 2015 Council Minutes
  - b.) Revenues and Expenses Report for April 2015
  - c.) Request to Hire a Police Officer III
  - d.) Request to Hire an Office Assistant/Receptionist for the Fire Department
  - e.) FY 14-15 Budget Amendment #6
  - f.) FY 14-15 Budget Amendment #7
  - g.) FY 14-15 Budget Amendment #8
  - h.) FY 14-15 Budget Amendment #9
  - i.) FY 14-15 Budget Amendment #10
  - j.) Capital Improvement Plan for FY 2016 – FY 2020
6. Items Removed from the Consent Agenda
7. Public Hearings
  - a.) Fiscal Year 2015-16 Budget
  - b.) Text Amendment: Amend the Kitty Hawk Town Code by adding Subsection 42-250(c)(34) allowing “vehicle rentals” as a conditionally permitted use in the Beach Commercial (BC-1) zoning district, subject to certain conditions.
  - c.) Conditional Use Permit: Application for a Conditional Use Permit to allow vehicle rentals at 4011 N. Croatan Highway.
8. Planning
  - a.) Clubhouse Estates Drive: The property owners and current owners of the private road Clubhouse Estates Drive have petitioned the town to take over ownership and maintenance duties of the road.
  - b.) Call for Public Hearing: Amendments to Chapter 40, Article III, of the town code updating standards for Wireless Communications Facilities consistent with recent changes in state and federal laws.
9. New Business
  - a.) Appointments to the Planning Board and Board of Adjustment
  - b.) Resolution in Support of Dare County Request that the NC General Assembly Allow Dare County to Levy a Quarter Cent Sales Tax without a Referendum
10. Reports or General Comments from Town Manager
  - a.) Town Manager Announcement of Retirement
11. Reports or General Comments from Town Attorney
12. Reports or General Comments from Town Council

**Kitty Hawk Town Council Minutes: June 1, 2015**  
**Page 2**

- 13. Public Comment
- 14. Adjourn

**COUNCIL MEMBERS PRESENT:**

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

**STAFF MEMBERS PRESENT:**

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

**1. Call to Order**

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

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

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

**3. Approval of Agenda**

**MPT Bateman made a motion to approve the agenda. It was seconded by Councilman Garriss and passed unanimously, 5-0.**

**4. Public Comment.**

No one came forward for public comment.

**5. Consent Agenda**

**a.) Approval of May 4, 2015 Council Minutes.** *(An affirmative vote for the consent agenda will approve these minutes.)*

**b.) Revenues and Expenses Report for April 2015.** *(An affirmative vote for the consent agenda will acknowledge this report.)*

**c.) Request to Hire a Police Officer III.** A Police Officer III has resigned and the police chief would like to fill this vacancy. (PO III, Grade 61, salary \$39,941.) *(An affirmative vote for the consent agenda will approve this request.)*

**Kitty Hawk Town Council Minutes: June 1, 2015**  
**Page 3**

**d.) Request to Hire an Office Assistant/Receptionist for the Fire Department.** The current OA/R will retire this summer and the fire chief would like to begin advertising to fill this vacancy. (Grade 55, minimum salary \$29,814.) *(An affirmative vote for the consent agenda will approve this request.)*

**e.) FY 14-15 Budget Amendment #6.** Recognize a \$200 donation to the police department from William West to help purchase an Automated External Defibrillator. *(An affirmative vote for the consent agenda will approve this budget amendment.)*

**f.) FY 14-15 Budget Amendment #7.** Recognize and appropriate \$6,533 in funding from the Parks & Trails Reserve Fund for emergency repairs to the East Kitty Hawk Road Beach Access stairs and platform. *(An affirmative vote for the consent agenda will approve this budget amendment.)*

**g.) FY 14-15 Budget Amendment #8.** Recognize and re-appropriate encumbered fund balance from FY 13-14 prior year's budgeted items for the fire apparatus in the amount of \$534,990 and for an Actuarial Study in the amount of \$2,490. *(An affirmative vote for the consent agenda will approve this budget amendment.)*

**h.) FY 14-15 Budget Amendment #9.** Recognize transfer of IT Reserve Funds for computer upgrades in the amount of \$28,072. *(An affirmative vote for the consent agenda will approve this budget amendment.)*

**i.) FY 14-15 Budget Amendment #10.** Recognize and appropriate \$4,769 funding from Dare County for beach stabilization to preserve and protect barrier sand dunes and berms on the ocean front. *(An affirmative vote for the consent agenda will approve this budget amendment.)*

**j.) Capital Improvement Plan for FY 2016 – FY 2020.** The CIP includes items that cost over \$5,000 and has an expected useful life of more than two years. *(An affirmative vote for the consent agenda will approve this plan.)*

**Councilman Garriss made a motion, seconded by Councilman Pruitt, to approve the consent agenda. The motion passed unanimously, 5-0.**

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

There were no items removed from the consent agenda.

## 7. Public Hearings

### **(a.) Fiscal Year 2015-16 Budget**

**MPT Bateman made a motion to go into public hearing. It was seconded by Councilman Garriss and passed unanimously, 5-0.**

**Stockton:** *The budget for 2015-2016 has a general fund total of \$7,257,443 and this recommended budget represents a \$271,810 increase from the adopted FY 2014-2015 budget. It includes a transfer of \$131,732 from the general fund and \$17,200 from the Capital Reserve. The budget increases the current tax rate of 32 cents to 34 cents town wide with an additional 12 cent increase within the Municipal Service District. Of the 34 cents, 4 cents will be dedicated to beach nourishment and the previous 2 cents for storm damage reduction will go away. A tax increase is due to the town's five year debt service of \$10,185,309 for a Special Obligation Bond for beach nourishment.*

*Some other general highlights of the budget includes a 2% step increase for eligible employees, continuation of a 2% 401(k) match for all employees and a mandated 5% contribution for law enforcement officers, a high deductible health insurance plan and establishment of a town email system that presently costs \$366.03 per month. The new cost will be \$490 a month for 49 accounts and is spread out among all the departments.*

*There has been a separate category established for ocean rescue, which used to be under the fire department and a Beach Nourishment Capital Project. Included in the budget is a vehicle for the code enforcement/fire inspector officer, replacement of a service truck and mower for public works and the hiring of a seasonal employee within public works. There is also budgeted a vehicle for the town hall and police department. Also for the police department is office equipment and for the fire department there is breathing apparatus.*

*Included in the budget document is the budget message, budget ordinance, Capital Project and Capital Reserve Ordinances, departmental budgets, budget development calendar, council goals and work objectives and financial policies, board and committee work plans, position classification and salary scale, capital expenditures, approved positions, longevity bonuses, retiree health insurance payments list and the separation allowance list.*

**Perry:** *If we adopt the budget tonight and the state legislature changes the sales tax will that have an impact on this budget?*

**Stockton:** *It is our understanding if they pass something it would not go into effect until the following fiscal year and not impact this budget.*

**Perry:** *Beach nourishment is another issue they are messing around with. The Board of Commissioners, as I understand it, today endorsed a proposal to move forward with that part of*

**Kitty Hawk Town Council Minutes: June 1, 2015**  
**Page 5**

*2% for beach nourishment. Would that impact what we are setting in motion if we approve this budget? I know it would impact future budgets perhaps but would it impact this budget tonight?*

**Stockton:** *On the Occupancy tax?*

**Perry:** *Yes. The beach nourishment part of the Occupancy tax that might ...*

**Stockton:** *I think it remains on schedule. We would continue on with the same schedule we have been given before. Isn't that correct?*

**Allen:** *Yes.*

**Perry:** *I just want to be clear on those things because there is so much still in upheaval. If we approve it tonight whether or not we would have to come back and make some adjustments later.*

*Is there anyone here tonight that wants to speak on the proposed budget?*

**(1) Donny King:** *Hello everyone. You probably figured I'd be here. As a commercial property owner I want to be heard in favor of the 2 cent increase to this budget as it relates to beach nourishment, as well as the established MSD, which my property is located in. This is a necessary project. I also want to recognize that Kitty Hawk is known for responsible budgeting practices and the only increase we are asking for today is basically to fund this project which most of us feel is the only alternative to retreat. I am glad to see it possibly moving forward. Thank you.*

**Perry:** *Anyone else? Let the record show no one else came forward.*

**MPT Bateman made a motion to go back into regular session. Councilman Pruitt provided a second and it passed unanimously, 5-0.**

**Councilwoman Klutz moved to adopt the 2015-2016 budget documents which include the budget ordinance as presented by the town manager and that the tax rate for Fiscal Year 2015-16 be set at 34 cents per \$100 valuation town wide and an additional 12 cents per \$100 valuation for the Municipal Service District. The FY 2015-2016 budget shall be effective as of July 1, 2015. Councilman Garriss seconded the motion and it passed unanimously, 5-0. (Ordinance No. 15-05)**

**7. (b.) Text Amendment: Amend the Kitty Hawk Town Code by adding Subsection 42-250(c)(34) allowing "vehicle rentals" as a conditionally permitted use in the Beach Commercial (BC-1) zoning district, subject to certain conditions.**

**Councilman Garriss made a motion, seconded by Councilman Pruitt, to go into public hearing. Vote was unanimous, 5-0.**

**Kitty Hawk Town Council Minutes: June 1, 2015**  
**Page 6**

**Testerman:** *This text amendment application is for Subsection 42-250(c) which would add Subsection 34 to allow vehicle rentals as a conditionally permitted use in the BC-1 Beach Commercial zoning district. As you may recall in April of 2014 you heard a similar request for vehicle rental as a conditional use in BC-1 and it was denied. This application differs and I think it tries to address the concerns that council had in 2014.*

*Some of the reasons for denial of the previous one is it would have allowed vehicle rentals as the primary use of a property or as one of many tenants on a multi-tenant commercial property. This current application has no multi-tenant uses, no ancillary uses which would address the concern about creating an inconvenience for other tenants and add to confusion and detract from a safe traffic flow on site.*

*The current application is also a little more restrictive I guess than the original. When it came in the applicant tried to address as many concerns as possible to make it suit what he's looking for. The specific conditions are listed on page 1 of the staff report. After going through it staff cleaned up the language a little and following is a list of what the planning board recommended: (a) no more than 3 rental vehicles to be parked in front of the building with the remainder of the fleet parked in the rear of the building; (b) total number of rental vehicles shall not exceed 15. That was to address one of the previous concerns that rental businesses might have 100 vehicles that stay somewhere else and they rotate them in and out but this says that the entire fleet can only be 15 max. Continuing with (c) site must have sufficient interior storage for vehicle accessories; (d) must have a counter area with restrooms; (e) vehicle rental business must be the sole use of the property; (f) no high occupancy vehicles which the planning board determined would be seating for 10 or more passengers would be included in the fleet; (g) rental vehicle repair or maintenance shall not be performed on site.*

*One more significant change staff and the planning board is recommending ... the original application mentioned no more than 7 customer or employee vehicles to be parked on site. To try to keep it consistent with how the zoning ordinance addresses parking requirements for other businesses the recommendation is to amend 42-546. The table with the minimum parking requirements states that a vehicle rental business would require one space per 200 square feet of office space. We thought that would keep it more consistent with what the town is already doing with other business types. The 200 square feet was not plucked out of the air. I looked around at what some other localities have as their requirements.*

*At the April 16<sup>th</sup> planning board meeting the board unanimously recommended approval of the proposed text amendment. That is all I have. Are there any questions for me or the applicant?*

Hearing no questions from council and seeing no one coming forward to speak, **MPT Bateman made a motion to return to regular session. Councilman Pruitt seconded and it was approved unanimously, 5-0.**



**Kitty Hawk Town Council Minutes: June 1, 2015**  
**Page 7**

**MPT Bateman made a motion to adopt the proposed text amendment to Section 42-250(c) adding Subsection 34 allowing vehicle rentals as a conditional use in BC-1 zoning district and amending 42-546 minimum parking requirements to parking standards for a vehicle rental business. The town council finds 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. Councilwoman Klutz seconded and the motion passed unanimously, 5-0. (Ordinance No. 15-06)**

**7. (c.) Conditional Use Permit: Application for a Conditional Use Permit to allow vehicle rentals at 4011 N. Croatan Highway.**

**Councilman Garriss made a motion to enter the public hearing. Councilman Pruitt seconded the motion and it passed unanimously, 5-0.**

**Perry:** *The reason I am offering the oath is because the clerk is at her son's wedding near Charlotte. He got married on Sunday and while she is away I'm the next officer in line.*

At this time Mayor Perry offered the oath to Town Planner Rob Testerman.

**Testerman:** *The conditional use permit application is for 4011 North Croatan Highway to establish a vehicle rental business. It is the sole use and is currently the Kitty Hawk Car Wash. We went over in the previous public hearing the maximum fleet size would be 15 vehicles and up to 3 vehicles may be parked in front of the property which is marked A on the site plan. The additional 12 vehicles would be in the bay area of the building and on the rear of the property. Also in the bay area, which is currently the car wash portion, the vehicle accessories could be stored. The current proposal also provides up to 10 parking spaces including one handicapped space that meets the one per 200 square feet of office space and no additional handicapped spaces would be required. I went through the conditions of the text amendment proposal and this has been designed to meet all of those standards.*

*The adjacent property to the south is Wright Place Day Care Center, to the east are a few residential uses, the north is a vacant gas station all of which are zoned as BC-1. There are several other commercial properties across Croatan Highway. In the BC-2 is Guy C. Lee Building Materials and Johnson Burgess Mizelle and Straub Accounting firm.*

*For the site itself there are going to be no changes to the existing access. They will still be using the same ingress/egress. We have not discussed any signage at this point and I assume there will be a new sign to reflect vehicle rental rather than car wash. That will be taken care of administratively during the sign permit process. The Land Use Plan designates the subject property as commercial/shopping and working area on the future Land Use Map.*

*The planning board has determined that this is consistent with the Land Use Plan and per the standards of 42-99(b)(7) in order to approve the application the council must make the findings of*

## Kitty Hawk Town Council Minutes: June 1, 2015

### Page 8

*the proposed conditional use: (a) does not materially endanger the public health or safety. As I mentioned they will use the same ingress/egress access. I do not think this use would increase the amount of traffic entering or exiting the highway and there are no other changes on the ground that is going to impact traffic flow or that would appear to endanger the health and safety of the public. Continuing with: (b) it does meet all the required conditions and specifications; (c) will not substantially injure the value of adjoining property or be a public nuisance. I think a vehicle rental business would probably be a less intense use than a car wash in this area and the amount of traffic and people on site so I can't see that as injuring the adjoining property value. And: (d) will be in harmony with the area in which it's located and be in general conformity with the comprehensive plan. It is just converted from one commercial use to another and it is in an area that the Land Use Plan has identified for commercial uses.*

*At the April 16<sup>th</sup> meeting the planning board voted unanimously to recommend approval of the proposed conditional use permit. With that I will turn it over to questions.*

**Klutz:** *I have always thought a car rental business could be a permitted use with parking standards. I do not see the reason for the extra scrutiny that is required by a conditional use. That's my only comment.*

**MPT Bateman made a motion, seconded by Councilman Garriss, to return to regular session. The vote was unanimous, 5-0.**

**Councilman Garriss made a motion to grant approval of this conditional use permit application to establish a vehicle rental business at 4011 North Croatan Highway subject to the conditions recommended by the planning board. The town council concurs with the conditional use findings in the staff report, finds that the approval of this conditional use permit is consistent with the town's adopted CAMA Land Use plan and finds that granting approval is in the public interest. The motion was seconded by MPT Bateman and it passed unanimously, 5-0.**

## 8. Planning

### **(a.) Clubhouse Estates Drive**

**Testerman:** *The property owners on Clubhouse Estates Drive have submitted a petition requesting the town take over ownership and maintenance of the road. The roadway itself is approximately 550 feet in length. According to minutes of April 8, 2004 the planning board final plat review showed the roadway had been built to all town standards and they submitted DOT signoffs on the paving, testing and core samples to the planning department. I was not able to find that file but with the minutes from that meeting I tend to trust it. Looking at the plat it has the appropriate roadway width, right-of-way width and a compacted stone shoulder. The design of the cul-de-sac meets the standards and reading through the minutes it looked like when they initially built the road it was intended to be dedicated as a public roadway but never was.*



**Kitty Hawk Town Council Minutes: June 1, 2015**  
**Page 9**

*The public works department has inspected the roadway and deemed that it is in an acceptable condition for the town to accept into its system. Currently in the Sea Scape area, according to the town's Powell Bill map, all the other roads are already listed as qualifying town streets except Putter Lane, Johnston Lane, Pinnacle Court and Clubhouse Estates Drive. I spoke with Stephanie Benson, Powell Bill Program Manager, and she confirmed that if we are taking over maintenance and getting Powell Bill money for maintenance that we take over the ownership as well.*

*If council wishes to approve this request it will be contingent on the owners dedicating the roadway to the town. We will not take ownership and maintenance responsibilities until they dedicate it to the town. In your packet are a few photographs of the road, the petition by the property owners and a subdivision plat.*

**Perry:** *There is a dirt road off of the cul-de-sac that is used for maintenance by Sea Scape and it just drops off from asphalt to dirt.*

**Midgett:** *That and crush and run that is beat down.*

**Perry:** *Is that a problem for us if we take it over without some repair to it?*

**Midgett:** *I don't think so. And in speaking with a couple of workers from the golf course they would fill it in and maintain it.*

**Perry:** *I don't want us to take it over and then suddenly have to make a repair. You will keep on top of that?*

**Midgett:** *Yes sir.*

**Klutz:** *I have a question and it has to do with what the owners were talking about. The trucks going back and forth. Is this an attempt to make sure the road is taken over by the town so they do not wind up with a Ride Lane situation or is there some other reason? I detected some discontent about the truck traffic etcetera.*

**Midgett:** *I don't know about the truck traffic. The traffic I know is really just pickup trucks and mowers. Unless they are doing actual golf course work where they are replacing sod or something I have never seen any trucks going down that road.*

**Klutz:** *I went over there today and it seemed to me it was one guy with a golf cart and that was pretty much it. The other thing is if they dedicate this road to the town that does not mean we have to reimburse ... or any kind of eminent domain. We take the road, we maintain it, and hopefully get Powell Bill money and everything is fine.*

**Kitty Hawk Town Council Minutes: June 1, 2015**  
**Page 10**

**Michael:** *Correct. And I suggest the dedication be in a form acceptable to the town and the cost be borne by the property owners. They present it in a package that is acceptable to you certifying they have the ability to convey that roadway to the town.*

**Pruitt:** *It looks like there are a lot of trees on one section. Are we going to have to cut some trees back and make people mad? I don't want to have a tree war.*

**Midgett:** *Bushes, no real trees.*

Not hearing any further questions or comments, **Councilwoman Klutz made a motion that the town finds Clubhouse Estates Drive meets all town road standards and once the road has been dedicated to the town with a legal package funded by the property owners that is satisfactory to the town, the town agrees to take over maintenance duties as well as ownership of the currently private road Clubhouse Estates Drive. Councilman Garriss seconded the motion and it passed unanimously, 5-0.**

**8. (b.) Call for Public Hearing: Amendments to Chapter 40, Article III, of the town code updating standards for Wireless Communications Facilities consistent with recent changes in state and federal laws.**

**Councilman Pruitt made a motion to set a public hearing for the town council meeting on July 7, 2015 regarding the proposed text amendment to Chapter 40, Article III of the Kitty Hawk Town Code updating standards for wireless Communications Facilities. The motion was seconded by Councilwoman Klutz and MPT Bateman and passed unanimously, 5-0.**

Councilwoman Klutz asked the planner if he received her email containing corrections to this amendment and he replied he did not think so. The town has had email problems and he would look through them again.

**Councilman Pruitt added to the motion that the changes Emilie found be included in the ordinance. MPT Bateman seconded the motion and it passed unanimously, 5-0.**

**9. New Business**

**a.) Appointments to the Planning Board and Board of Adjustment**

**Planning Board:**

**Councilman Pruitt made a motion to reappoint Lynne McClean, John Richeson and Chuck Heath as regular members on the planning board. Term of office to expire June 2017. Hearing no other nominations, MPT Bateman made a motion, seconded by Councilman Garriss, to approve the reappointments. The motion passed unanimously, 5-0.**

**Kitty Hawk Town Council Minutes: June 1, 2015**  
**Page 11**

**Councilman Garriss made a motion to appoint Dylan Tillett to fill Oscar Northen's vacancy on the planning board. This is effective July 1<sup>st</sup> and will end June 2016. Hearing no other nominations Mayor Perry asked for a motion to approve and Councilman Pruitt made a motion to approve and it was seconded by MPT Bateman. The motion was unanimously approved, 5-0.**

**MPT Bateman moved to appoint Jim Geraghty as an alternate to the planning board with a term of office until June 2017. Hearing no other nominations, Councilman Garriss made a motion to approve. Councilman Pruitt seconded and it passed unanimously, 5-0.**

**Councilman Pruitt moved to appoint Gary Muir as an alternate on the planning board term of office until June 2016. Hearing no other nominations, MPT Bateman made a motion to approve. Councilman Garriss seconded the motion and it passed unanimously, 5-0.**

**Councilman Garriss made a motion to appoint Lynne McClean as Chairman of the planning board term to begin July 1<sup>st</sup> and end June 30, 2016. Hearing no other nominations, Councilman Pruitt made a motion, seconded by MPT Bateman, to approve the motion. It passed unanimously, 5-0.**

**MPT Bateman moved to appoint John Richeson as the Vice-Chairman of the planning board. Term to begin July 1<sup>st</sup> and end on June 30, 2016. Hearing no other nominations, Councilman Garriss made a motion to approve. The motion was seconded by Councilman Pruitt and passed unanimously, 5-0.**

**Board of Adjustment:**

**Councilman Pruitt moved to reappoint Matt Spencer and Chris Jenkins as regular members on the Board of Adjustment with terms of office to expire June 2018. Hearing no other nominations, MPT Bateman made a motion to approve. Councilman Garriss seconded and it passed unanimously, 5-0.**

**Councilwoman Klutz made a motion to appoint Christine Buckner as a regular member on the Board of Adjustment with a term to expire June 2018. Hearing no other nominations, Councilman Pruitt so moved to approve the motion. Councilman Garriss seconded the motion and it passed unanimously, 5-0.**

**MPT Bateman moved to appoint Charlotte Walker to fill the unexpired term of Jim Geraghty on the Board of Adjustment with a term to expire 2016. Hearing no other nominations, Councilman Pruitt moved to approve and Councilman Garriss made a second. The motion passed unanimously, 5-0.**

**Kitty Hawk Town Council Minutes: June 1, 2015**  
**Page 12**

**Councilman Pruitt made a motion to appoint David Morton as Vice-Chairman of the Board of Adjustment. This term of office is until a successor is made. The motion was seconded by MPT Bateman and was unanimously approved, 5-0.**

**Councilman Garriss made a motion to appoint Timothy Fish as an alternate on the Board of Adjustment with a term to expire 2018. Hearing no other nominations, MPT Bateman so moved to approve and it was seconded by Councilman Pruitt. The motion passed unanimously, 5-0.**

Mayor Perry said there is one more alternate vacancy and Councilman Pruitt suggested giving council more time to look over the applications that just came in.

**9. (b.) Resolution in Support of Dare County Request that the NC General Assembly Allow Dare County to Levy a Quarter Cent Sales Tax without a Referendum**

*Perry: I want some comments before council makes a decision on this. Some things have changed for the dredging. There are two avenues that have been proposed. One is for the North Carolina legislature for a quarter cent sales tax without a referendum. Today I understand Dare County Board of Commissioners also approved a resolution suggesting they would go along with taking money from the beach nourishment fund.*

*I have brought before council this resolution in support of a Dare County request for the general assembly to allow them to levy a quarter cent sales tax without a referendum. I don't know if it's too late but I believe we need to get on board with how we felt on this so I'm going to make a statement and I will ask each councilmember some questions.*

*Basically the proposed resolution is not something any councilmember really wants. Any additional tax, and especially a tax without referendum, is not something any of us saw coming when trying to find a way to reduce storm damage to our beach front. However the move to use beach nourishment funds for dredging is problematic for proposed projects already programmed for construction.*

*While the projected revenue of the 2 cent nourishment tax seems like a great deal of money it is not when considering the cost of engineering, permitting, construction, monitoring and expected maintenance of 4 towns and the Buxton nourishment project. Every dollar of the anticipated revenue had been documented by financial experts as needed to accomplish all the tasks related to those projects.*

*When the bean counters recalculated the beach nourishment revenue to include dredging that action took out some maintenance funding and money that towns expected would be available to replenish sand after the planned five year life cycle. That means a future council will not have the expected ability to reduce or eliminate additional re-nourishment tax rates. If the initial project is*

**Kitty Hawk Town Council Minutes: June 1, 2015**  
**Page 13**

*reasonably successful then a continued higher town ad valorem tax rate would be required to add future nourishment to the beach.*

*Council recognizes the issues at our inlets. The resolution before us tonight probably represents the best solution to remedy both problems without causing harm to either issue.*

*I have been at the meetings where the bean counters financially engineered, re-engineered and have now re-engineered again the same dollars of projected money that we do not yet have but it is expected revenue. That is very worrisome. If you take from a plan that was already obligated out into the future for money you anticipated to receive and now you're doing something yet again with that same fund anybody among us can see that is a potential problem. Have we learned nothing from '08, '09 when the hiccup of the economy occurred?*

*So I brought the council this resolution that I would like to sign tonight and send directly to Paul Tine and Bill Cook before the legislature finalizes whatever it is they are going to do so they know whether or not we accept what the Board of Commissioners have proposed to do with that nourishment. The inlet is important. I understand that but two inlets bucking up against all that is before us today is going to deplete funds that were already obligated and that's the thing that really bothers me.*

*Let me read the resolution and then we will discuss it and you can make a motion to accept it or not.*

Mayor Perry read aloud the following:

**RESOLUTION IN SUPPORT OF DARE COUNTY REQUEST  
THAT THE NC GENERAL ASSEMBLY ALLOW DARE COUNTY  
TO LEVY A QUARTER CENT SALES TAX WITHOUT A REFERENDUM**

**WHEREAS**, a crisis situation exists for Dare County inlets that warrants NC General Assembly Legislative action during the 2015 Legislative Assembly, and

**WHEREAS**, navigation channel shoaling conditions have continually deteriorated at Oregon Inlet and Hatteras Inlet to the point of denying all but the smallest vessel access to the ocean waters, and

**WHEREAS**, the Federal Government has ceased funding the federal obligation to maintain navigable channels to the Atlantic Ocean between Chesapeake Bay and Hyde County, thereby denying access to government agencies such as the Coast Guard for rescue missions, and

**WHEREAS**, Oregon and Hatteras inlets access to ocean waters support a wide variety of jobs in Dare County and generates tax revenue, which supports local and state citizens, and

**WHEREAS**, the Dare County Board of Commissioners is urgently seeking a source of funding to provide ongoing dredging as an urgent matter of public safety and economic importance to the state, and

**WHEREAS**, the Dare County Board of Commissioners, needing an immediate funding source for management of Dare County's inlets and waterways, has asked the North Carolina General Assembly to expand the local option sales tax and authorize a quarter cent sales tax without a referendum, and

**Kitty Hawk Town Council Minutes: June 1, 2015**  
**Page 14**

**WHEREAS**, House Bill 388, entitled *Dare County Local Option Sales Tax* has been authorized as an urgent and timely matter of public safety and economic importance, and

**WHEREAS**, the proposed source of funding will prevent having to use Occupancy Tax funds that have already been obligated to fund programmed project in four Dare County towns and at Buxton on Hatteras Island.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Council of Kitty Hawk does hereby strongly support House Bill 388, the request of Dare County for a local option sales tax for the management of Dare County's Oregon Inlet and Hatteras Inlet, and supports Dare County's request that it remain in effect until the new Bonner Bridge is built and the existing Bonner Bridge has been successfully removed.

**Perry:** *What we're trying to do is to find an alternate source of funding for something that has been deemed important without depleting something that is equally important and programmed in. Council what say you?*

**Bateman:** *I have a question. You and I we were in Manteo and I thought the commissioners made a decision then they were going to take their portion of the Occupancy tax along with the money they are getting from the government. That would be the \$7 million dollars for the dredging for a year. What happened?*

**Perry:** *That is a good question. I think they made that decision without knowing where they were going to get the funding from and they found out they cannot get it. They are either not willing to cut something or they are not willing to raise property taxes to get the difference. I don't have an answer but it did not happen so you see what's happening now.*

**Klutz:** *One of the things that happened was the county was designating funding and the designation was unconstitutional. The funding they were after was the result of a law that was passed by the legislature and the purpose was for that 2 cents worth of Occupancy taxes. It was specifically designated for beach nourishment.*

**Perry:** *What you are referring to was the repealed sand tax money and that was suggested as an alternate source. We have learned once that is dedicated you cannot go back and do anything else with it. Now they are trying to change the law so that anything in the future can be used for something beyond just the beach nourishment. I guess they have a hiccup because they said 2016 vs. 2015. I don't know how that's going to flesh out but it's a matter of when they can get their dibs on it.*

**Bateman:** *The other part was the decision they made today to use the beach nourishment money. Was there any indication of possibly replenishing that fund at a future date or where they are going to go for the additional funding they need?*

**Perry:** *John and I were at a meeting and heard they are going to borrow against the funds to pay for the revenue coming in. The bean counters have financially engineered it to say we can do it with what we already programmed in. But where that's going to hurt us is, just like I tried to say in my brief, that's going to hurt us when it comes time to re-nourish and it might hurt us if we have*



**Kitty Hawk Town Council Minutes: June 1, 2015**  
**Page 15**

*a hiccup in the economy because we own this project. Each town owns their project. Once the bond is set then somebody has to pay it back and if the county does not have the money ... we have to be careful. That's why I'm bringing this up and why I'm trying to say to the folks out there this is something you need to understand. I don't know if I'm getting it across but I'm trying desperately to make everyone understand what's going on. Any additional comments?*

**Pruitt:** *Like you said it is a projected income and I don't see any options. I think your resolution is very well written and needed. I certainly wish the federal government and other agencies would take this up instead of the county, especially right now. It does worry me. A lot can happen in five years and we know there's a risk but we know that we need the inlet. I guess I'm willing to take a risk.*

**Perry:** *The risk we started out with we understood. They've changed the dynamics of the risk to make it a little more of a risk and that's what I'm trying to get across.*

**Klutz:** *All the towns signed an agreement with the county and that agreement had in it what they were going to do and what we were going to do. What I see happening now is they have come up with a financial solution that they say is consistent with that agreement except for the years that go beyond that agreement.*

**Perry:** *That's the way I understand it. Do you understand it any different John?*

**Stockton:** *No.*

**Klutz:** *Everything we did in terms of Kitty Hawk's project was based on what the county was going to do and what we were going to do. My feeling is that we should have some confidence that what we are doing in passing the budget, setting the tax rates and such, is still what's in place. If the county is not sure they are going to be able to do their part everything we have done for the beach nourishment project funding is questionable.*

**Pruitt:** *How much are we going to get?*

**Perry:** *They say as far as the initial construction and five years out we are going to get. That's assuming the revenue actually comes in. What happens after that is where the dynamics change. Nags Head was under the impression that when they got ready to re-nourish, the 2 cents, and everybody agreed to the extra penny, the 2 cents would pretty much take care of it and they could lower their MSD rate. We felt the same way. That may not happen.*

**Pruitt:** *So our projected 3 to 5 year maintenance is what we're looking to be in jeopardy.*

**Perry:** *Possibly.*

**Kitty Hawk Town Council Minutes: June 1, 2015**  
**Page 16**

**Klutz:** *To get through the project we basically said the MSD rate would have to stay in place for five years. Maybe we were assuming something we should not have been assuming. We thought we would be able to, particularly the MSD rate, reduce it. At the end of five years if we cannot reduce it doesn't that require another public hearing and people determining whether they want to continue with the project?*

**Perry:** *That's the key. At that point if the money is not there from the 2 cents a future council is going to have to make a decision. Is this project worth continuing and how much are the people willing to shell out to do it? That's what I'm trying to get across. What happens in the future?*

**Klutz:** *I'm glad this is all being discussed in a public meeting. Everything we have said up until this point has been after five years there would be some sort of a reduction because it would be for maintenance and not construction.*

**Perry:** *And that is exactly why I brought it to you and in making such a pitch. I want it done here so the people understand.*

**Garriss:** *It is ridiculous how many times this has changed and I thank you for keeping us informed. I was not happy about this when it first came about and then I was worried. I'm still not happy about it but I think it is vital for us, as you mentioned in the resolution, we have to stick together. I feel like we have no choice but to support this resolution.*

**Perry:** *Do I hear a motion to approve the resolution?*

**Councilwoman Klutz made a motion to approve the Resolution in Support of Dare County Request that the North Carolina General Assembly Allow Dare County to Levy a Quarter Cent Sales Tax without a referendum. Councilman Pruitt seconded the motion and it passed unanimously, 5-0.**

#### **10. Reports or General Comments from Town Manager**

**a.) Town Manager Announcement of Retirement** – Manager Stockton publicly announced that he is retiring. He has served as manager for 8 years and during those years he has developed a relationship with council and staff that has probably been the best relationship during his career. During his time there have been interesting challenges with budgets, projects and staff re-organization. He has had an opportunity to meet many fine and upstanding individuals in Kitty Hawk, other towns, Dare County and on the state level. After some 40 years in local government it is now time to divert attention to family and other interests. He plans to relinquish the position of town manager for the Town of Kitty Hawk as of December 1, 2015. Kitty Hawk is a fine place to live and work and thanked council for the opportunity to serve as town manager.

**Kitty Hawk Town Council Minutes: June 1, 2015**  
**Page 17**

Mayor Perry said everyone appreciates his service and added he came to the town at a time when there was a lot of upheaval. There were a lot of legal issues to address and clean up and then there was the downturn in the economy, one that our generation has never known, and now we're doing beach nourishment. It has been an interesting time.

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

**a.) Winks** - Attorney Michael said he is waiting on a response from correspondence he sent to Ms. Greeson's attorney.

**b.) Overton Property** - Mayor Perry asked what council needs to do about the Overton property. It is now a safety issue. He asked the attorney to relay that council's patience is about over.

Attorney Michael replied it is a safety issue and the town can start imposing civil fines and seek some enforcement through that avenue. A consequence of that is the town may end up owning the place at some point in time. He said he would convey council's sentiments and check on the status of when they are going to transfer ownership.

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

**a.) Thank You to Town Manager** - Councilman Garriss thanked John for his service to the town and said he is looking forward to serving with him the rest of the year. It has been a pleasure and an honor.

Councilwoman Klutz also thanked the manager for his help over the years.

**b.) New Fire Apparatus** - Councilman Garriss noted he had the pleasure of looking at a nice fire truck outside before the meeting and said the department members who designed it did an outstanding job. It looks great and fully functional.

**c.) East Kitty Hawk Road Dune Walkover** - Mayor Perry noted the funds used to fix the walkover where the road washed out were from the parks and trails reserve fund. He hopes the recreation committee understands the money was needed and there may be other instances it will be used for repairs.

Councilman Pruitt, Recreation Committee Liaison, said he would pass that along.

**13. Public Comment**

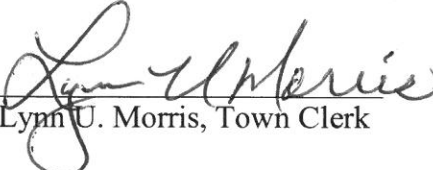
No one came forward to comment.

Kitty Hawk Town Council Minutes: June 1, 2015  
Page 18

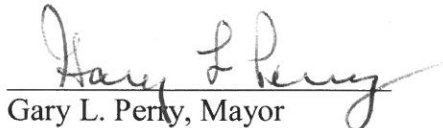
**14. Adjourn**

**Councilman Garriss made a motion, seconded by MPT Bateman, to adjourn. The vote was unanimous, 5-0. Time was approximately 7:09 p.m.**

These minutes were approved at the July 7, 2015 council meeting.



Lynn U. Morris, Town Clerk



Gary L. Perry, Mayor