

MINUTES
KITTY HAWK TOWN COUNCIL
Monday, March 5, 2012
Kitty Hawk Town Hall, 6:00 PM

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Outer Banks Sporting Events
5. Public Comment
 1. Ivy Haynes. Ridge Road Improvements
6. Consent Agenda
 - a.) Approval of Minutes. February 6, 2012 Regular Meeting
 - b.) Revenues and Expenses Report for January 2012
 - c.) Tax Pick Ups and Releases
 - d.) Resolution Declaring March 12-17, 2012 "*Flood Safety Awareness Week*"
 - e.) Updated Recreation Master Plan
7. Items Removed from the Consent Agenda
8. Planning:
 - a.) Subdivision (Final Plat): Hickory Ridge Subdivision, Phase II (17 lots)
9. Unfinished Business
 - a.) Amendment to Town Code Section 20-23, Speed Limits – Lower speed limit from 35mph on Amadas Ave., Harbor Ct., Watts Dr., Colleton Ave., Radcliff Ct., and Old Schoolhouse Lane
10. Report of General Comments from Town Manager
 - a.) Albemarle RPO Meeting Update
 - b.) Kitty Hawk Road Re-surfacing and Striping
 - c.) Police Department Compliment
 - d.) Sandy Run Park Phase II Update
 - e.) Claims and Projects Filed as a Result of Hurricane Irene (*added during meeting*)
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 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, Town Attorney Steve Michael, Planning Director Joe Heard, Finance Officer Mike Eubank, Police Chief David Ward, Fire Chief Lowell Spivey, Public Works Director Willie Midgett

1. CALL TO ORDER

Mayor Perry called the meeting to order at 6:00 p.m. and welcomed everyone to the meeting. He then recognized Chairman of the Dare County Commissioners, Warren Judge, in the audience.

2. MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE

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

3. APPROVAL OF AGENDA

Councilman Bateman moved for approval of the agenda as is. Mayor Pro Tem Perry seconded the motion and it passed unanimously, 5-0.

4. OUTER BANKS SPORTING EVENTS (OBSE)

Lynda Wood, Executive Director of Outer Banks Sporting Events: *Thank you Mayor Perry and members of council for giving us the opportunity to be here tonight. It is a pleasure to meet you as I have heard so many wonderful things from Jim Snyder and Ervin Bateman about how cooperative and supportive you are. It is really a pleasure to be here.*

With us tonight is another member of our board, Warren Judge, who you have already recognized. I would also like to recognize Ervin Bateman as a board member.

On behalf of the Dare Education Foundation, the Outer Banks Relief Foundation, and Outer Banks Sporting Events, we would like to sincerely express our appreciation to all of you and your staff for all of the support that you have given us and Outer Banks Sporting Events since 2006 when the first marathon was run on the Outer Banks. We are very proud to say we start in the Town of Kitty Hawk and we appreciate all that you have done for us over the past six years. As a token of our appreciation we would like to present to you two prints from the Outer Banks Marathon from 2011. They were done by local artist Janet Spivey and we hope you will hang these proudly in your administrative offices. Thank you.

Mayor Perry thanked Mrs. Wood for the pictures.

Wood: *We would like to tell you about why Outer Banks Sporting Events was organized. As you know the marathon started in 2006 but actually the planning began a year and a half before that. There were runners here on the Outer Banks running all over the world raising money for charity. One year they realized they had raised almost a hundred thousand dollars and all of the money was going to charities outside of Dare County. They got together and decided to hold a marathon on the Outer Banks, raise money, and keep it here for our local citizens. Many citizens here need help and so with that the Dare Education Foundation and the Outer Banks Relief Foundation formed a partnership to present the marathon and half marathon.*

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With the success of the marathon, about three years ago people began to contact us saying they were interested in bringing events to the Outer Banks. We were contacted from people in Atlanta, Raleigh, and Ohio, it is a great event on the Outer Banks what do you think about us coming and the doing events and we began to realize we really did have something going on in our community. We wanted to keep the money here in our community instead of allowing an organization outside of Dare County to come in and present events and then take the money out of the community. We wanted to keep it here and that is when we began to develop the concept of "Outer Banks Sporting Events" and adding other events to the marathon to bring people here during the shoulder seasons. It would continue to improve the economic development on the Outer Banks and continue to give back to our local citizens.

Outer Banks Sporting Events was formed in 2010 its mission speaks to all of who we are as human beings. It speaks to our body by promoting a healthy living lifestyle. It speaks to our minds because of giving through the Dare Education Foundation to the developing minds of the children and our students on the Outer Banks. It speaks to our heart and our soul through giving back to those in need through the Relief Foundation. It speaks to our community spirit of bringing all of our communities together and giving us the opportunity to play, work, and volunteer together. Doing something we are all proud of in our community, helping us develop a sense of culture here on the Outer Banks.

The major events we hold on the Outer Banks gives back to the economic impact in our community. We purposefully chose these events to happen during the shoulder seasons. Spring, early fall, and then late fall in November. Thousands of runners and athletes come here during two of our major events and we have approximately ten thousand participants that come annually. Over the last six years they have represented all 50 states and over 20 countries throughout the world. This past year we had ten or eleven countries represented at the Outer Banks Marathon. Each of those runners brings approximately 2.5 people with them and they spend money locally. Also, as an organization, we support our economy locally. We buy T-shirts locally, we support our printing, design, and marketing companies, we buy our supplies, like trash bags and trash cans locally. We support our vendors that support us such as the porta-potty suppliers. We also bring people that stay in our hotels, motels, and our cottages and to eat in our restaurants. With that I am going to ask Jim Snyder, our event director, to tell you more about the economic impact these events and Outer Banks Sporting Events has had on our community. Again, thank you so much for your support. You are what help make this event and this organization successful.

Jim Snyder: *On the screen you will see the total amount of money we estimate through our reports from registration and working with the Outer Banks Visitors Bureau since the beginning of the marathon. The Gateway Bank Outer Banks Marathon and OBSE events have generated approximately \$25.6 million dollars in local economic impact over the past six years. In 2012, our estimates of having 10,000 participants and their guests, we are projecting an economic impact of just over \$10,000,000. When we formed this questionnaire we asked many different questions and asked them where they are staying, how many people they are bringing with them, and how many nights they are staying. This is information specifically for Kitty Hawk. The average number of nights they are staying is two nights and they are bringing, as Lynda said*

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before, about two and a half people with them. The number of hotels for 2011 in the Town of Kitty Hawk was 737. The total number of rental houses booked was right at 300. We worked with the Visitor's Bureau in getting an estimate of an average cost of a hotel room and a rental house that time of year and when you combine the total number of houses and hotels together, with the number of nights they are staying, the total hotel revenue is just over \$125,000. The total rental home revenue is just over \$157,000, for a combined total of \$282,790. Eight hundred and eighty-three runners indicated they stayed in the Town of Kitty Hawk. Again, with the Visitor's Bureau information, they factored each person spends about \$75 a day and when you have 3.5 people staying for two days that is just over \$439,000 they are spending while they are here.

We do multiple events for the weekend. Meaning we have our primary event, typically on a Sunday, and then we have additional events to bring them here Saturday. They will basically come in on Friday and stay for the Saturday and Sunday event and we hope they will stay Sunday night. When you combine the two for 2011 for the Town of Kitty Hawk it is \$722,740 in total economic impact. Again, that is for accommodations and the estimation on the per diem on what they spend. We feel these are fairly conservative numbers especially in lieu of some recent research on the cost of hotel rooms at that time of year. One hundred percent of our net proceeds, split 50/50, go to the Dare Education Foundation and the Outer Banks Relief Foundation.

The featured events for this year include the "First Flight 5" and the "Flying Pirate Half Marathon" on April 21st and April 22nd. The "Outer Banks Triathlon" series is the 22nd and 23rd of September and the "Outer Banks Marathon," "Half Marathon," "8k," "5k," and "Fun Run" is November 10th and 11th.

Another part of our mission, besides raising money for the foundations, is a "Healthy Kids" initiative. We help organize and promote healthy kids programs and partner with local groups such as Go Far, Healthy Carolinians, and the Outer Banks Running Club. We support student volunteer groups with small donations and we have had a lot of success with attracting the cheerleaders and band groups to come out and work our water stations along the course. They are a joy to watch it opens their eyes to thousands of people running past them in a very good mood. It is a great experience and if you have not done it you might think about volunteering.

New for 2012, on the afternoon of April 21st, the same day as the "First Flight 5k," we have put together an "Adventure 5k Race and "Family Fun Run." This is a 5k where they are going to go out and back on the beach through 16 or 17 obstacles. We have designed it in three different categories: individual, teams, and family friendly. There are a variety of challenges designed for each category. We are going to have adult sized obstacles and have the exact same obstacle designed for a child right next to it. It is going to be an excellent experience and we highly recommend, if you have the chance, to come out and watch the obstacle races. They are very interesting to observe.

It also helps us meet the market demand for new and diverse activities. Many people are performing 5k's and 8k's. You probably know there is a race here every week to two weeks for

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the next couple of months. We are finding in our business that adventure races are the up and coming thing. People want challenges and want to build teams for these events. That is what our registration is showing us at this point in time.

If you have any questions for Lynda or myself please let us know. It is absolutely wonderful working with the Town of Kitty Hawk. Thank you very much.

Mayor Perry: I think it is important for you to come and give a presentation because people can understand it better. It is not just runners. There is money coming in to help people in need in Dare County.

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. **Audrey Esposito, 36 Juniper Trail, Southern Shores, NC:** *I represent the League of Women Voters of Dare County and am here to present the 2012 "Citizens Guide" which happens to be the silver edition because the League has been publishing the guide for 25 years, since 1988. We would like to acknowledge the municipalities and the local businesses that have contributed generously to our publication expenses and acknowledge the support of so many of the employees who gave us the information for the guide. It is published under the auspices of the State League of Women Voters, the Citizen Education Foundation. One of our main goals is citizen education.*

The guide provides names, addresses, phone numbers, and email addresses for national, state, county, and municipal officials. Additionally, the guide has information on government funded recreation areas and services, local attractions, and voting information which is going to be very important this year.

We have published 7,000 copies of the guide and it is being distributed by league members, spouses and family, and anybody we can get. It goes from Duck all the way to Hatteras and they are available at the libraries, the post offices, the Baum Center, the Fessenden Center, as well as town and county offices. If you need more you can contact any of the people listed in the League to get more copies.

We would like to thank you and welcome people to join the league. It is open to men and women of all ages.

2. **Erica Harmon, 4533 Ridge Road, Kitty Hawk, NC:** *Good evening. I am Erica Harmon and I live at 4533 Ridge Road. We are here with a group of residents and are going to talk about the Hickory Ridge plat that has been before the planning board. I am not sure if all of you have seen that or are accustomed to it. I was at the planning board meeting when it was discussed.*

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We have several issues, one being that the recent buyer of the property wants to increase the lots. They not only want to increase the lots but they also want to fill wetlands. Not only filling wetlands ... but then discovering the previous owner had built our road ... our traffic ... road was only 18.5' as opposed to what Kitty Hawk allows. We have had some problems with that. We have had near collisions, we have had stoppage of traffic because you could not get two cars by, and we have had the concern that the stop sign where the children gather every morning ... it is a 45 degree angle and nobody has done anything with it.

What we have done as a group, to try to minimize time, is we have all split up to talk about different things. My specific thing is the wetlands. I happen to live on the parcel, I am not sure if you all are familiar with the plat at all ... oh good, you have one. They are dictating that lot 12 R is the biggest fill which is going to be filled to the tune of 3,900 square feet of fill. That will put my utility shed, which is 20 x 40 and there way before anything ever happens, under water.

Of course all these wonderful thoughts and all these storm management things were done at a time before August 27, 2011. (Clerk's Note: August 27, 2011 is when Hurricane Irene struck the Outer Banks) I know Mr. Perry lives back there and I know he had some water problems. What we all suffered from was more water than we have ever seen before in our entire lives. Everyone says it is a hundred year storm. I have watched it for the last 9 years and then the Beacham tract came in and did the road. Kitty Hawk never came in or storm management never came in and said "well, here is the wonderful wetland and it dribbles down into the nature conservancy naturally. Let's just put a road up there and let's put a bulkhead up. Let's stop it." I had 5' of water in my side yard, 10' away from the side of my house. First time ever. Now for me as a citizen I can deal with 10' of water and not hitting my house but when you start filling the wetlands, every piece of wetland that you fill is going to increase all of us ... all the way down Ridge Road because there is a natural swale from the sound that goes all the way up and it fills with water constantly.

Wetlands are a purposeful thing. The aqua system, the animals, the things that we are supposed to save ... I mean isn't that what Kitty Hawk is all about? The maritime forest and the things that we are supposed to protect ... if you come in and say, "Kitty Hawk says okay, we will give you 22 lots and you can do these things." Now someone else is coming in and saying, "I want to do more and by the way I want to fill in here and I want to fill in here and I want to fill in here." How can we stop that as citizens? That is what I am asking Kitty Hawk to look at. If you are going to grant him the right to do the things he needs to do, then Kitty Hawk needs to come in and take over some of the things that were not done before and that would be road culverts to relieve the pressure back there.

How many of you were back there on August 27th, 28th, and 29th? I was. I could not get out. Everybody was busy. Everybody knows how terrible it was. On a high nor'easter today it rained all day and that bog and that wetlands is a much higher distance already than anything they have listed on the plats because those plats were done so long ago and

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nobody has come back to see how okay the roads are. Now the wetlands spread out so in my mind if we do not get good storm management reports or good wetlands reports now then we are all ashamed to do the wrong thing and that would be to fill in the wetlands which I totally disagree with.

But I know you are going to do what you have to do. I mean it is a tax base thing and I know he is a very powerful person and he has an agenda to get as much money for whatever he is doing. He told me he was going to build employee housing. That statement right there tells me if you are doing employee housing then that is going to be four times the amount of traffic than originally was stated. If you had just sold the house to a mother and a father ... but I have other people that are going to be speaking about those items.

I thank you very much for your time and your consideration of reviewing it. Leave it alone. Let it go the way that it was approved before. Do not add anything to it I ask you please. Thank you.

3. **Ivy Haynes, 4325 Ridge Road, Kitty Hawk, NC:** *Good evening. We are very concerned as homeowners, parents, and citizens living on Ridge Road in Kitty Hawk. I have been privileged to live in a residential area that borders on a unique maritime forest. The forest is managed by North Carolina Coastal Management and has coexisted with the Town of Kitty Hawk with the confidence that the town would continue to protect its sustainability in an environment of development on the Outer Banks. We have been good stewards thus far. Now is the time for lasting decisions to be made and I ask you, are we truly up to the task? My hopes are that you will give this project the due diligence it truly deserves. We only get this one chance to make it right.*

For consideration, please, I hope you will consider tabling this for further study the improvements needed for Ridge Road to bring it to current code before Phase II of Hickory Ridge Subdivision is voted on for approval. Our concerns are the width of Ridge Road. The Town of Kitty Hawk has maintenance responsibility for Ridge Road up to the point where the Hickory Ridge Subdivision begins. As Erika has just stated you know all the widths ... you know the problems back there.

Number two: table for further consideration the needed improvements for stormwater drainage and the flooding issues that will be exacerbated by Hickory Ridge Phase II's development ... their increase. The requirement for filling wetlands will only exacerbate the flooding issues as I just said. We strongly recommend the Town of Kitty Hawk immediately table this project for further studies, to allow the town to address the current problems, and obtain the proper permits required before allowing Hickory Ridge Phase II to move forward. And we do have plenty of problems back there. I truly hope you will give it the upmost attention. Thank you.

4. **Dianna Lesiewicz, 4345 Ridge Road, Kitty Hawk, NC:** *I also live on Ridge Road but I live up farther not back where Erika does. My concerns are the cars and the vehicles*

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that are going to be going up and down the road. Our children have to walk all the way down to the cemetery. If any of you know Ridge Road we have to walk all the way down to the cemetery to get the bus. The bus does not come down our road. Our road is not wide enough for the bus to go down, it is not wide enough for it to turn around and come back up. If you put all of the ... if you put the 19 houses, statistics say every house has 2.28 vehicles. That is 38 right there. Four more and you are adding just more and more vehicles and it is just ... the road is not there ... the children ... my children. It is too dangerous.

Your website says, and it is the reason why I live in Kitty Hawk, "the beach and village consist of low to medium density, single-family residential developments served by small businesses. Both the beach and the village share a feeling that development remains on a human scale and in harmony with nature. It is a pattern and character of development that the Town's people, both year-round and seasonal, are quite comfortable with and want to retain." That is what we all want. We want it to be on a human nature.

Right now there are 210 homes for sale, 55 of them are in foreclosure in Kitty Hawk. Sixty-five of them are lots. We do not need any more lots. We have enough for sale. We have enough out there. It is just ... it is not on a human scale. I really hope you think about it and do not allow this. There is another 15 acre tract sitting right across from there. If you allow this, what happens with those 15 acres? Thirty more homes on my road. It cannot handle it. Thank you.

5. **Amie Sabatini, 4430 Ridge Road, Kitty Hawk, NC:** *Hello. I live at 4430 Ridge Road. I live kind of between Ivy and Erika. I have two horses, three dogs, and a daughter. Along with many other people on the street, I am also concerned about traffic. There are blind spots on the road especially up on the ridge right at my property. I am boarded on all three sides by the nature conservancy, not a whole lot of it, but enough to keep me kind of private. Right up there is a ridge and it curves around the road, is narrow, and a lot of people on that road do not respect the speed limit. That is the problem. There is a 25 mph speed limit sign and "slow children playing" sign. We have tried everything. I do not know if we could get any speed bumps. The road is not up to the minimum width which is 20'.*

Also, the stop sign at the corner of Ridge and Rogers Road. It is not really a blind spot but it is hard to turn into. I drive a big truck and if I come down Rogers and turn onto Ridge Road, if somebody is pulling out of Ridge Road, I have to wave them because I have to swing wide. It is like driving a fire truck. Pretty wide turn and the speed and all the children on the road ... if the vehicles ... I just cannot imagine with more vehicles like Dianna said coming down the road, down to the new subdivision. I am sure they will have children maybe. The school bus cannot come down there. There are going to be kids walking or more people driving their kids down to the cemetery to pick up not only the elementary school bus, the middle school bus, and the high school bus for those people who do not drive to high school, but still then that would be more traffic and that is pretty much my major concern. I do not know if this phase does go through if there is

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anything that could be done to ensure the safety of our animals and our children and just everybody in general on that road as far as maybe widening it or speed bumping it. I really do not know. I know about ten years ago there was something going through here about maybe putting speed bumps in on Ridge Road. I do not know if they ever took it to the town hall here but ... that is a major concern the kids and the animals. Dogs get out, kids ride their bikes and they do not look where they are going. They are looking behind them and they run right out into the road and you never know. Accidents do happen.

That is my major concern. All of the traffic. Also, it is not just the people who live on Ridge Road. We have people from the Landing walking the loop down Ridge Road, Covered Bridge Road, The Woods Road, Twiford Street, and back to the Landing. They walk their dogs, they walk with their kids in strollers, and even horseback riders. My friends ride by my house all the time coming from either one direction or the other so it is just not me on the road that rides. We have lots of horses in Kitty Hawk. I had a bad experience one time and had two horses hit on the road. That was in Virginia but it was a country road. So it happens. Thank you.

6. **Gail Reilly, 4356 Ridge Road, Kitty Hawk, NC:** *Good evening my name is Gail Reilly and I live at 4356 Ridge Road. My concerns match theirs but what I also wanted to say is we have a petition that was submitted. I think there are copies for each of you. It just covers a few of the people that we could get a hold of ... we just found out about the meeting a few days ago. I do not want to say I beg, but please look at ... come down to our street especially during the busy parts of the day. Watch the UPS truck and nobody can get by him. And the stop sign which is blind, it is a blind thing. It is not so much people do not stop at the stop sign as it is turning from Rogers. It is ... if you do not stop in front of that stop sign you are going to get clipped. There is going to be a serious accident. I have been there about 19 years now I guess. I am the old timer on the road but I really, really hope you guys preserve as everyone else has stated. Thank you.*

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.*

- **Approval of February 6, 2012 Minutes**
- **Revenues and Expenses Report for January 2012**
- **Tax Pick Ups and Releases**
- **Resolution Declaring March 12-17, 2012 "Flood Safety Awareness Week"**
- **Updated Recreation Master Plan**

MPT Perry moved to approve the consent agenda as promulgated. Councilman Bateman seconded the motion and it passed unanimously, 5-0.

7. ITEMS REMOVED FROM THE CONSENT AGENDA

None.

8. PLANNING

a.) Subdivision (Final Plat): Hickory Ridge Subdivision, Phase II (17 lots) - *The applicant is requesting approval of a revised final plat for Phase II of the Hickory Ridge Subdivision. The plat proposes to revise the configuration of the thirteen (13) existing lots to create a total of seventeen (17) lots on 7.77 acres. No changes are proposed to any of the subdivision improvements, which include water lines, stormwater management features, and two roads: Otila Way and Marityme Lane. A small common area at the southwest corner of the intersection of Otila Way and Marityme Lane is proposed to be removed.*

Heard: *The applicant is requesting approval of a revised final plat for the Hickory Ridge Phase II Subdivision. The plat proposes to revise the configuration of the thirteen existing approved lots to create a total of 17 lots on this 7.77 acre property. There are no changes being proposed to any of the improvements such as the waterlines, stormwater management features, or the two roads in this phase of the project. It does propose to remove a small common area that was located at the southwest corner of the intersection of Otila Way and Marityme Lane. There are no changes proposed to the first phase, the six lots that front on Ridge Road as part of this proposal. The plats were originally approved in 2007 and after the improvements were installed, the final plat was approved in 2008. Those improvements have been in place for about four years.*

All of the lots in this proposal have at least 50' of road frontage which is the minimum the town requires. Looking at the road rights-of-way, there are no changes proposed, but for the record both roads comply with the standards. Concerning the road width, there is a minimum road pavement width of 20'. The roads that were improved, including Ridge Road in the first phase, as well as both of the roads in the second phase, were constructed at a width of 20' which meets the town's minimum standards. The roads were designed and constructed to meet the standards of the town and an initial road pavement analyses was conducted by GET Solutions in 2008. That was submitted to NCDOT who accepted those findings regarding the quality and condition of the road. It is the intention of the applicant to request the town take over maintenance of the newer roads at some point in the future. At that point the town would be looking for additional documentation about the current condition of the road before it agreed to anything. That is a separate process than what we are looking tonight.

Waterlines were also installed. Bob Stewart of Performance Engineering oversaw the installation and conducted tests of the waterlines. Then the Dare County Water Department inspected and confirmed the improvements were made properly in 2008.

Regarding stormwater management, the North Carolina Division of Water Quality issued a Low Density Stormwater Permit in 2007 for stormwater drainage improvements. In 2008 a letter was

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sent from Performance Engineering documenting the improvements were installed per the approved permit.

Regarding that permit, one of the conditions that DWQ placed on it, is that there is a project-wide limit of 30% impervious lot coverage with the installation of the roads and some other things. That meant there actually are a handful of lots in this subdivision under that permit that cannot build up to what the town would traditionally allow which is 30% lot coverage. Lots 9, 10, 11, 17, and 19 actually have less buildable area according to that permit. Due to the reconfiguration proposed, if this subdivision is approved, the applicant would have to go back and have that permit revised to reflect the new lot numbers and the new configuration of those lots. They would have to reallocate that amount so there would be changes necessary to that permit. It is my understanding the applicant has submitted to my attention the new allocation figures that would go on to DWQ for the permit revision.

Looking at wetlands, as mentioned during public comment, the applicant has applied for a Corps of Engineer permit to fill small areas of wetlands on lots 11, 12, 13, 21, and 23. Those are shown on the sketch plan the applicant submitted with buildings and septic systems on it. Those lots are designated and if you look closely there is a "hatched area" on those lots.

At its meeting on February 16th the planning board reviewed this subdivision and voted unanimously to recommend approval of the revised final plat for Hickory Ridge Phase II. They had a handful of conditions on that approval. There were some corrections and additional information the board asked to be added to the plat before it proceeded to town council. The applicant submitted a revised plat and I have reviewed it. It appears they have addressed all of those conditions per the board's recommendation.

As part of its motion to approve, the planning board strongly recommended the developer look into ways to improve the stormwater drainage that may have been impacted by the construction of Otila Way between two areas of wetlands. With the submittal of the revised plat, the applicant's engineer, Quible Engineering, submitted ... they had evaluated the stormwater drainage issue and provided an analysis and that was included in your packets. There was a letter from Warren Eadus that addresses it.

Klutz: *Joe, when you said the roads were built to the 20' standard including Ridge Road, we heard from the folks who spoke tonight there are widths on Ridge Road less than 20'. That is already a town road is that correct?*

Heard: *Yes. The portions of the road they were referring to is the existing road before the subdivision was developed. As part of the original consideration back in 2007 there were sections of Ridge Road that were narrower than 20' and at the time staff consulted with the town attorney on whether or not the developer could or should be required to bring up sections of the existing road into compliance with the town's current standards. We were informed that was not something the town could do at that point. All we could do is make sure the subsequent improvements that occurred in 2008 were up to standards and according to all of the analyses and the documentation we have been provided, those roads do comply.*

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Mayor Perry: *While we are talking about roads, have you measured any of the State roads, Kitty Hawk Road? I know some of them are not 20' wide. I think Twiford Street and most of Kitty Hawk Road from Twiford Street up, except where they have added on the corners, is probably 18' wide. I know we tried to get the original developer to widen the rest of Ridge Road to 20' and we could not do that. Some of the State roads are 18' wide.*

Heard: *I have not personally measured them. Public Works Director Midgett may be more aware of some of those constraints.*

Mayor Perry: *But you measured Ridge Road?*

Heard: *I personally went out and measured. There are several different sections of Ridge Road where it narrows to about 18 and a half feet.*

Klutz: *Is Ridge Road on the improvement list?*

Midgett: *It is on my list to try and widen when it is time to resurface. Right now the road is in decent shape except for the entranceway.*

MPT Perry: *Is there sufficient right-of-way to widen it?*

Midgett: *I believe so.*

Bateman: *I have a question for the attorney. You were a part of the planning board process of going over this. Has the applicant crossed his "t's" and dotted his "i's"? Done what he is supposed to do?*

Michael: *He has. Except for the Division of Water Quality permit that he is going to have to get.*

MPT Perry: *Which leads me to should a governing body approve something before that final approval by DWQ?*

Michael: *You can conditionally approve it upon them getting the permit. In other words the plat cannot be recorded and it is not approved until such time as they get that permit from the Division of Water Quality.*

MPT Perry: *Does it hold up the developer or the owner from getting it if this were to be tabled? Until that was obtained first?*

Michael: *That I cannot answer. I do not know what the Division of Water Quality would do. I understand they already have everything ready to go. Is that correct Joe?*

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Heard: *The applicant's engineers are here and could probably speak to that directly. That is the understanding I have. The application information they will need to submit is prepared and ready for submittal pending the council's approval of the design of this subdivision.*

MPT Perry: *I would like to speak to the applicant's engineer. I read through your report on the saddle where Otila Way crossed between the two ridges. I went out twice to look at it and what you are saying is based on the topographic data that existed, plus this particular sketch which we have showing topo, it was a saddle that never connected the two swales north or south of Otila Way.*

Warren Eadus, Quible Engineering: *In the terms of wetlands, no sir, by definition of the United States Army Corps of Engineers.*

MPT Perry: *What I think happened and maybe you can correct me on this. For the record it looks like there was a saddle and they filled it about 3'. I judge that based on large trees that have been there since before the mayor was born which means they have been there a very, very, long time. (Laughter) They are the type of trees that would not fare well in wet bottom so there was no wet bottom and there were four different kinds, a hog oak, some gum trees, and a couple of others. That tells me they had to fill in order to level the road, maybe about 3'. I went to the trunk of that tree where I could see root structure and it was about 3' high. Then on the south side they put a retaining wall but according to your report that retaining wall was there in order to avoid having a 3 to 1 slope which was not really possible for the previous developer to do. Is that a correct statement?*

Eadus: *To my knowledge, yes.*

MPT Perry: *And the culvert that was initially looked at as going underneath that particular space, apparently they thought it needed one, but then they looked and realized the two did not come together. They were two separate swales and always had been. In order to put a culvert underneath that particular saddle they would almost have to do open pit mining because of the depth of that saddle to where they needed to put the culvert. Is that also correct?*

Eadus: *I am not entirely familiar with their thought process on that. One idea would be to put a dry culvert in, for extreme flood events, but that was not done. I do not know if that was considered. The wetland elevations are approximately at an elevation of 2 and that saddle was a couple of feet higher than that at its highest point. We looked back at data from 2005 and the topo data was from 1983. I think that is the last time they revised it and that all confirmed it was not a giant ridge like you find on Ridge Road. But it was high ground and that was the logical place to put the road. And absolutely retaining walls are used to help limit the amount. It is an expensive way to help limit the width of your fill. You will see that the right-of-way actually encroaches into the head of that wetland on the south side. The road goes ... so that was ... I am just trying to give you some of what I went through as I was thinking about it. Trying to piece together how it has been done.*

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MPT Perry: *I went back to the minutes when we first approved Phase II which is what we are really talking about here. Basically they wanted to put the road in and there were a lot of questions about putting the road in and not having some curves into it that could cause some problems. I am talking strictly of the development, not prior to getting to the development. They were allowed to move the road a slight bit in some places in order to save some trees. In other words the developer was very thoughtful of the maritime forest and some of the trees. They were trying to be sensitive to what was there and they actually moved the road to accommodate that. It looks to me like Otila Way had a little bit of that influence too.*

Eadus: *You could also see that on the new section of Ridge Road as you approach. I believe there is a sort of tree well on the left where they bulk headed. Also to preserve a tree along Ridge Road. I think that was the intent.*

MPT Perry: *The biggest question left in my mind is if we approve this tonight and they cannot get permission for fill, is it a moot point?*

Michael: *That is correct.*

MPT Perry: *They would have to go back to square one?*

Michael: *They will not be able to develop those lots like they planned without being able to get the fill where they have it.*

MPT Perry: *But does that make the whole subdivision have to come back to the planning board?*

Michael: *No. They just cannot develop them the way they are planning right now.*

Mayor Perry: *In order to change them they would have to come back.*

Michael: *They would have to come back if they wanted to change them.*

Mayor Perry: *If they wanted to use the lots.*

Michael: *They may be able to get something smaller on the lots. They would have less lot coverage and would have to configure it differently than what they have shown you on the map.*

Klutz: *My understanding right now, from what we have been given, what is missing and has to be done in order for them to get the extra lots is the Army Corps of Engineers permit and the Division of Water Quality permit from the State.*

Michael: *No. The only thing they need is the Division of Water Quality permit. The Corps of Engineers permit is needed to fill in the wetlands on the locations like they are showing on the map.*

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Eadus: *It is for the septic systems.*

Klutz: *That just has to do with the individual lots.*

Eadus: *Yes.*

Klutz: *The corps does not have to approve the wetlands fill for those individual lots before we approve this subdivision?*

Eadus: *No.*

Michael: *They have met the standards of your subdivision ordinance with that Water Quality Permit.*

Klutz: *My other question is about the covenants. There is an addendum to the covenants that has to do with the lots as they are currently configured. What happens with them because it has to do with setbacks and percentages?*

Michael: *Since they are going to change the numbering of the lots and the coverage of the lots they are going to have to go back and amend those covenants in this new subdivision. You do not have anything to do with their covenants.*

Klutz: *What I recall from that addendum was it had something to do with what was talked about earlier in terms of lot coverage and setbacks. The kinds of things that already applied when there were a fewer number of lots. Where does that come in with the permitting agency that said in order to get this permit you have to have ... I am getting the impression of 30% lot coverage for the whole subdivision and the way you get that is to reduce the individual ...*

Michael: *They allocated those individual lots.*

Klutz: *That would have to be done and is that being done as part of getting this permit modified?*

Michael: *No. To build on one of these lots they have to meet your requirements for whatever lot coverage is allowed on that particular lot. If they want to allocate coverage in their covenants then when someone buys he is buying subject to that covenant as to how much coverage they can have on that particular lot. But that does not alter the town's requirements for coverage.*

Klutz: *I do not understand how the permitting agency ever knows in terms of an enforcement mechanism.*

Heard: *I can answer that. This is similar to First Flight Ridge which has similar restrictions under their Division of Water Quality permit. We have a copy of the permit so we know which lots are subject to restrictions that are greater than ours. Just to be clear, the town is not the enforcement agency for that standard, but we will make an owner aware when they come in that*

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this is the restriction. It helps us if it is part of the covenants. That gives somebody else the ability to enforce it as need be as well as Division of Water Quality. We are aware of it and we do look at that on a permit by permit basis.

Mayor Perry: *You cannot deny on the covenants but you can inform them, is that right?*

Heard: *Exactly. I cannot deny it on the covenants or on the Division of Water Quality permit but we can inform the Division of Water Quality for example that a person has submitted something that is 30% lot coverage and we are aware the permit states he is only allowed 27% or 25%. It is something you may want to take a look at and work with them to be sure they are in compliance.*

Mayor Perry: *If the Division of Water Quality changes some of the lots some of them may not work. Is that possible?*

Eadus: *One thing to understand is that the total coverage is not changing. It is just changing on a lot by lot basis. On a lot by lot basis there will be a reduction. We are modifying an existing stormwater permit by sending a new schedule for allowed built upon area for each one of the lots. We are not changing the roadways and we are not changing any of the infrastructures that require additional stormwater. The entire subdivision, regardless of the number of lots, to be considered low density will have 30% or less coverage and we are going to meet that. What that in turn does is it reduces the amount of coverage on some lots below what the town allows which is 30%. Some lots will have 24% and some 21%.*

MPT Perry: *On this particular print you have given an outline of what is excluded basically. That is kind of where the 30% is coming from and it envelopes each lot so if you look at it each lot is ...*

Klutz: *Unbuildable areas.*

Eadus: *Once we get the DWQ's modifications that will be a part of the covenants. I want to point out too that as far as wetlands fill goes, the amount that is being filled is available to any lot owner. It is a tenth of an acre. Technically this could all be sold and 23 or 19 lots or whatever gets approved, each lot could fill a tenth with the Corps of Engineers permitting regime the way it is. We are not asking for that. It is just a tenth of an acre over the total development so it is a much reduced scope in that manner. We do have to get a NCDWQ 401 Water Quality Certification as well as part of our wetland permitting. It is an additional permit that has not been discussed. Another agency that gets to look at the whole development and determine if it meets all of the state and federal requirements.*

Mayor Perry: *You are not going to apply as owner. You would not apply for all of the permits to fill but each person that buys a lot if he had to fill it he would have to apply.*

Eadus: *He could but that will not be allowed. The only fill that is going to happen is this fill that you see on the plats.*

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Mayor Perry: *And you are going to do that?*

Eadus: *Yes, we are planning to. That is necessary to get the septic permits.*

Mayor Perry: *Do you have permits for that?*

Eadus: *We have an army corps permit that was issued a couple of days ago.*

Mayor Perry: *You have those permits.*

Eadus: *We have a part of them. We do not have all of the permits.*

Mayor Perry: *How about the land owners that adjoin these lots? Do they get to say whether or not they agree or disagree?*

Eadus: *These permits are what they call regional permits and it has been determined by state and federal resource agencies they do not require it. It is like your consent agenda. There are items where they do not feel like there has to be a lot of public involvement because they are small or routine. Whether or not we agree as a public body that this is correct those are the laws in place and we are following it. We are actually doing a little better than that I would say.*

Mayor Perry: *There was one lot I believe it was eleven (11) that I had concern about. The rest of them probably do not make much difference but it looked like that one could probably affect the person to the south. That was my observation.*

Eadus: *It gets the most fill.*

Mayor Perry: *And it looked pretty much like a swamp rather than just a low area.*

Eadus: *Right. That is part of our proposal and we have received permission from the corps, not DWQ, and obviously that is something we need to have to ...*

Mayor Perry: *So you have permission from the corps to do that?*

Eadus: *Yes sir.*

Klutz: *I have one other question on the covenants. Are you going to redo them?*

Eadus: *That is my understanding. They will be redone completely.*

Mayor Perry: *I think one of the questions that was going to be asked of you was if we do not approve this does it hold up you going to the Division of Water Quality or your moving forward?*

Eadus: *If you did not approve it, yes, because the lots would not exist.*

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Mayor Perry: *I mean if we did not approve it tonight, until you got Division of Water Quality approval.*

Eadus: *I do not believe that if it was tabled it would hold us up.*

Reid: *The bottom line is he cannot record the lots until he gets the division approval whether we do it tonight or we wait two weeks and he has the approval. He cannot sell the lots.*

Klutz: *But there is no advantage to tabling it in terms of trying to satisfy what the public has been talking about tonight because they meet all of our standards. We are obligated to approve it based on their getting the permits they need from other agencies. If we table it that means we come back next time and if there are no changes ... I do not see where anything changes.*

Michael: *Joe and the engineers have done a good job of addressing the issues that were brought up to the planning board and the materials they have submitted meet the requirements of your ordinance.*

With that in mind, MPT Perry said, **the Town Council finds the proposed 17 lot subdivision complies with all the standards of the town's subdivision ordinance and therefore move to grant approval of the revised final plat for Phase II of the Hickory Ridge Subdivision with the condition that a revised stormwater permit must be obtained from the North Carolina Division of Water Quality prior to recording the plat. Councilman Reid seconded.**

Klutz: *There was another permit. Will you tell us what that is?*

Eadus: *It is the North Carolina Division of Environment and Natural Resources, Division of Water Quality, 401 Water Quality Certification.*

MPT Perry: *I add that to the motion.*

Reid: *I will second.*

Vote was 5-0.

Mayor Perry: *The history of Ridge Road, Beacham Lane, and this property has had problems that go back for something like over a hundred years. The whole property goes back to brothers and disagreements and those type things.*

MPT Perry: *There is one other thing we need to clear up. There was some question about adding speed bumps and the town has determined they create such a liability we really cannot do that.*

Mayor Perry: *That has been a legal determination for years. We even had two removed near Wal-Mart.*

9. UNFINISHED BUSINESS

a.) Amendment to Town Code Section 20-23, Speed Limits – Lower speed limit from 35mph on Amadas Ave., Harbor Ct., Watts Dr., Colleton Ave., Radcliff Ct., and Old Schoolhouse Lane

Councilman Reid, referring to the proposed ordinance amendment, said Ridge Road is not included in the list as being 25 miles per hour.

Manager Stockton offered to look into it for council.

Following a discussion about lowering it to 15 or 20 mph, MPT Perry made a motion to approve the amendment to Chapter 20, Motor Vehicles and Traffic, Article II, General Rules of Vehicle Operation, Section 20-23, Speed Limits Generally (b) to reduce the speed limit to 20 mph on Amadas Avenue, Harbor Court, Colleton Avenue, Radcliff Court, Watts Drive, and Old Schoolhouse Lane. I further move that the mayor be authorized to sign and the town clerk to attest said ordinance. Councilman Bateman seconded. The motion passed unanimously, 5-0. (Ordinance No. 12-02)

10. REPORTS OR GENERAL COMMENTS FROM TOWN MANAGER

a.) **Albemarle RPO Meeting Update** - Manager Stockton reported he attended the RPO meeting for the Transportation Coordination Committee and the Transportation Advisory Committee on the 22nd of February in Columbia. The prioritization of projects was discussed and the proposed project for widening Kitty Hawk Road with shoulders for cyclists between Bob Perry Road and Ivy Lane received a good score for the first round of review. Also, a draft Transportation Improvement Plan should be published in June and the final approval of the projects by the transportation board will take place in the spring of 2013.

b.) **Kitty Hawk Road Re-surfacing and Striping** – Manager Stockton said he had an inquiry some time ago from Councilman Reid about when to expect NCDOT to re-mark Kitty Hawk Road. After contacting DOT he was told on the 21st of February they took bids to re-surface Kitty Hawk Road from The Woods Road to Ivy Lane. As a part of that overlay project they will re-mark that portion of Kitty Hawk Road. The re-surfacing is to be completed by August of this year and re-marking will be a part of that work. It is uncertain as far as the rest of Kitty Hawk Road is concerned and but will try and get an answer.

Councilman Reid commented that when it rains and when roads are not properly marked it gets harder and harder for him to see to drive on them at night and asked if DOT has a routine maintenance schedule for re-marking.

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Councilwoman Klutz brought up the markings on the beach road at the intersections of NC 12 and Lillian Street and NC 12 and Luke Street. The intersections have pedestrian crosswalks and the markings allow vehicles to pass. The State was going to re-stripe those and make them a double line.

Manager Stockton said he would be glad to look into both of those items.

- c.) **Police Department Compliment** – Manager Stockton said the town received a thank you note from Robert and Ann Storey relative to the kindness and sensitivity shown by Sgt. Johnson and the officers towards them in the loss of their son.
- d.) **Sandy Run Park Phase II Update** – Manager Stockton reported the work on Sandy Run Park Phase II project continues. As of now the boardwalk, the stone walkway, and the fishing pier on the north side are pretty much finished. The observation tower on the south end is completed. The canoe/kayak facility on the south end is mostly completed and the canoe/kayak facility on the north end is completed. A substantial completion inspection in the near future will be scheduled. Council may want to start thinking about a time for a dedication and let staff know of any ideas and thoughts on the subject.
- e.) **Claims and Projects Filed as a Result of Hurricane Irene** – Manager Stockton said the total losses and the cost of claims is \$515,716. The total paid to date by insurers is \$116,460 with \$24,644 outstanding. The total paid by FEMA to date is \$233,909 and there are four projects remaining totaling \$82,000. There was \$1,400 in donations and an appeal \$8,000 is pending. The potential cost to the town is \$50,000.

11. REPORTS OR GENERAL COMMENTS FROM TOWN ATTORNEY

- a.) **Condemnation of 3907 N. Virginia Dare Trail** - Attorney Michael reported the town is ready to file the condemnation action on the property at the end of Kitty Hawk Road. Mr. Hall has received the notice that the town is going to condemn the property. Manager Stockton had mentioned there may be grant funds to help pay for the cost of the condemnation. However funds cannot be applied for if money has already been spent and the money has to be deposited when the lawsuit is filed. He asked for instruction from council to proceed or delay while grants are pursued.

Following council discussion, it was decided to proceed with the condemnation and look into applying for grants to build a crossover at a later date.

12. REPORTS OR GENERAL COMMENTS FROM TOWN COUNCIL

Monitoring Vehicles on Ridge Road – In light of the concerns voiced by the citizens during public comment on the Hickory Ridge Subdivision, Councilman Reid asked the police chief to monitor Ridge Road for traffic violations and speeding, particularly during construction.

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Additional Multi-Use Paths – Again, in light of the Hickory Ridge Subdivision concerns, Councilman Reid suggested the Recreation Committee discuss the possibility of constructing additional walking paths for children to use to get to school bus stops.

Sandy Run Park – Councilman Bateman said he ran on the boardwalk at the park and it is “the bomb.” It is aesthetically pleasing and a fantastic project. He congratulated the Recreation Committee and everyone else who has worked on it.

Hickory Ridge Subdivision – Councilman Bateman said he remembers 40 years ago when Poor Ridge Road had many beautiful trees. He was raised there as well as his mother and grandfather. When he left and came back it had been divided up for houses and he was upset. Councilmembers feel for the people who spoke about Hickory Ridge and have been through something of that nature. It is council’s job to approve what the ordinance says as well as protect the citizen’s rights as well as the developer’s rights.

Compliment to Staff - MPT Perry acknowledged all the work that has been done by the finance department, planning and inspections department, and others, with the paperwork due to Hurricane Irene to try and get money back. It is not easy and anyone dealing with insurance companies knows it is not easy. Council owes the staff a debt of gratitude because there is a way of doing the job, a minimum amount, or there is extra that can be put into it to make sure the job gets done to the very best it could be done. That is what the town has and as a result the town is going to get most of the money back.

13. PUBLIC COMMENT

1. **Ivy Haynes, 4325 Ridge Road, Kitty Hawk, NC:** *I appreciate council giving us time tonight to speak and understand you have a job to do. But I want to go on record to say Ivy Haynes on Ridge Road feels like there have been a lot of mistakes made back there and I think you just added to them tonight. Tabling it ... just be patient and look at it. You would not have done anything to the developer. You would have given more time for the town to look and be able to settle the problems because flooding ... not only flooding but there is going to be a lot more problems that you are going to be hearing about with the construction. I know you have a job to do and I really do appreciate it but I just feel that you made some terrible mistakes tonight by not tabling it for further study. Thank you for your time.*

Mayor Perry: *We discussed that and what we discovered was tabling it was not going to make any difference in the time when they could start construction.*


Haynes: *But it will, you will see. Anyway I just wanted to tell you thank you very much for your consideration.*

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14. ADJOURN

Councilwoman Klutz made a motion to adjourn. It was seconded by Councilman Bateman and passed unanimously, 5-0. Time was 7:45 p.m.

These minutes were approved at the *April 2, 2012* council meeting.


Lynn U. Morris, Town Clerk


Clifton G. Perry, Mayor