

MINUTES
KITTY HAWK TOWN COUNCIL
Recessed Meeting
Monday, May 16, 2011
Kitty Hawk Town Hall - 9:00 a.m.

AGENDA

1. Call to Order / Reconvene from May 2, 2011 Meeting
2. Approval of Agenda
3. Closeout of Harris Tract Capital Project & Transfer of Funds to Sandy Run Park, Phase II Capital Project – This budget amendment will recognize and close out all remaining balances in the amount of \$14,670.16 by transfer from the Harris Tract Capital Project (Phase I) to the Sandy Run Park, Phase II Capital Project and will remain available for appropriation, if required, for completion of Phase II.
4. CenturyLink Resolution – This resolution requests the North Carolina Utilities Commission to require acceleration and earliest possible completion of CenturyLink's project to bury cable, remove their facilities from existing utility poles, and additionally remove the obsolete poles.
5. Albemarle and Associates / Storm Drainage Study
6. 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, Planning Director Joe Heard, Finance Officer Mike Eubank, and Public Works Director Willie Midgett

1. CALL TO ORDER / RECONVENE FROM MAY 2, 2011 MEETING

Mayor Perry called the reconvened meeting to order at approximately 9:00 a.m., followed by a brief welcome.

2. APPROVAL OF AGENDA

Councilwoman Klutz moved to approve the agenda, with a second by Councilman Bateman. The motion carried unanimously, 5-0.

3. CLOSEOUT OF HARRIS TRACT CAPITAL PROJECT & TRANSFER OF FUNDS TO SANDY RUN PARK, PHASE II CAPITAL PROJECT

This budget amendment will recognize and close out all remaining balances in the amount of \$14,670.16 by transfer from the Harris Tract Capital Project (Phase I) to the Sandy Run Park, Phase II Capital Project. It will remain available for appropriation, if required, for completion of Phase II.

Councilwoman Klutz moved to approve the Closeout of the Harris Tract Capital Project and Transfer of Funds to Sandy Run Park, Phase II Capital Project. Mayor Pro Tem Perry offered a second, and with the call for the vote, the motion carried unanimously, 5-0.

4. CENTURYLINK RESOLUTION

This resolution requests the North Carolina Utilities Commission to require acceleration and earliest possible completion of CenturyLink's project to bury cable, remove their facilities from existing utility poles, and additionally remove the obsolete poles.

Councilwoman Klutz moved to approve the Resolution requesting the North Carolina Utilities Commission to require CenturyLink to accelerate the project to bury cable and remove their facilities from existing utility poles. Mayor Pro Tem Perry seconded. Upon call for the vote, the motion carried unanimously, 5-0.

5. ALBEMARLE AND ASSOCIATES / STORM DRAINAGE STUDY

Present for this review were John DeLucia and Jay Overton with Albemarle & Associates and George Wood of Environmental Professionals, Inc.

John DeLucia opened the presentation to Council regarding stormwater recommendations for improvements within Kitty Hawk. Approximately twelve areas were identified as primary interest: ten areas in the beach zones, Ivy Lane and the other along the cemetery in the village community.

Because of the way the study was set up and structured with NCDOT, it required a number of public meetings and workshops and will result in recommendations for improvements in some areas. Also the stage will be set for going forward with engineering designs and permits, and so forth of that nature.

A public meeting in March 2011 consisted of fourteen speakers. Approximately forty to forty-four persons have responded to the Town's questionnaire, which are still trickling in. The majority of the responses were from persons living in the problem areas.

The primary areas identified as most important to address are those located along the beach.

At this point, a map/photo was referenced, with certain properties identified as those property owners who provided input.

Topographic data has been gathered of all areas. Recognition was then made of the ten problem areas identified on the beach.

Mention was made by DeLucia how the problem areas in the west side of Town will be easier to resolve than those of the beach problem areas.

With the gathering of new data, a review was done of what has been previously recommended. The prior recommendations had identified most of the same oceanfront areas, suggesting utilization of a permanent pumping structure to which a temporary pump would be hooked to and then pump out ocean overwash.

The questionnaires consistently identified rainwater and ocean overwash as elements of what causes the problems experienced, but the emphasis was with regard to ocean overwash.

DeLucia indicated the prior recommendation of a permanent pumping structure to which a temporary/portable pump could be attached would be probably the best solution. Retention basins for the Tateway/Rabbit Hollow area were recommended in prior reviews, but such is not recommended for any future consideration. The former report also identified open land which could be considered for retention basins if purchased by the Town, but that alternative is not recommended in this consideration. Current alternatives do not include the Town having to purchase land due to local economy and the cost.

George Wood reviewed the permitting issues. With having experience in the local permitting processes with CAMA, Wood explained one of the biggest issues recognized in controlling water is there is no outlet for it and infiltration is too slow because of the area's high water table. How to manage water becomes somewhat problematic in the traditional way regulatory agencies look at managing stormwater.

The Division of Water Quality recognizes stormwater that resides on property for a lengthy period of time becomes more and more contaminated as either sewage percolates to the top or as it begins to stagnate and becomes mixed with oil and grease. What has been seen in the past is reluctance by both the regulatory and local agencies to pump the water out.

Consideration was given to different ways to manage stormwater which might be more acceptable to resource agencies, and past experiences give encouragement to not look at just the surface water but to look at some way to manage the water before it becomes contaminated. Examining ways to manage the ground water may help in managing the surface waters, and there will be less opposition by the regulatory agencies if managing ground water is done.

However, such is problematic in several ways, but particularly, when managing ground water in advance of a storm event, there is much ground water to get moved out to be effective. Another problematic area is determining if overwash flow can be mitigated, not eliminated, in order to reduce the amount of flooding and the length/duration that stormwater is on the

surface. The largest sand filter in Dare County is the sandy beaches of Kitty Hawk, where surface waters could go through the sand and cleanse itself just as if a traditional septic system.

It is fully anticipated there will be opposition, and permits probably will not be obtained without first going to the Coastal Resources Commission for a variance request.

Managing water in Kitty Hawk's west side does not have as many issues as oceanfront areas. Outfalls on the west side are generally easier to facilitate because of being potentially able to run stormwater through an existing wetland system. Wetlands are also good at naturally filtering water from contaminants.

Overall, though there may be difficulty with regulatory agencies, there is logic to apply to strategies for addressing stormwater issues. Reasonable arguments can be formed to present to those who would have authoritative approval. Past experiences with outfalls lay the ground work for supporting efforts to obtain necessary permits.

The design has yet to be determined, for specifics regarding stormwater volume needs to be determined. Whatever design is chosen, it is known the faster the water can be removed, the better. Pumping the water across the dunes may lean towards the need of a permanent pumping structure.

Wood pointed out three common points made in the public responses received:

- There was some disconnect between where the water came from and what the cause of the flooding is; sometimes there was no real understanding between the fact of a combination of a rain event and a stormwater overwash creating the flooding.
- Some expectations believe if a stormwater project is implemented there will be no more flooding issues – which is not so. The message which has to be educated to the public is there will be events or series of events which will cause unmanageable flooding.
- The underpinning of what is being discussed is this: the duration of floodwaters is what wears on most persons, such as residents not being able to access their house for weeks, or for lost revenue with rental situations.

Strategies will be developed:

- to reduce health hazards;
- to have a system in place which can be implemented quickly in order to reduce the amount of flooding; and,
- to reach an understanding that the sooner the water is removed, less environmental impact occurs (both to natural environment and the health and safety of persons).

Wood said he is confident arguments can be developed to provide for reasonable, different strategies. In that purchasing land is not an option and drainage cannot occur on land overly saturated, it would be reasonable to argue the water must be moved and an outlet must be determined.

Mayor Perry asked about the downside of removing the ground water too much before a storm event, such as in how it would affect vegetation. Wood said he is not certain when the timing would be when ground water should be lowered, which will be a management decision. What is

being considered at this point is to have infrastructure in place - when to implement it will be another part of the determinations to be made. The likelihood of removing ground water in advance of a storm is probably not going to be very effective, but implementing a system which can remove as soon as possible water overwash after a storm event would be beneficial.

As to the number of locations for pumping stations, Wood explained some sites where to locate pumps have been noted as suitable, with some citizens even offering to grant easements in order to install pumps. A combination of citizen participation with engineering and technical work will have to happen before actual locations are chosen.

With a question by Mayor Pro Tem Perry about whether or not the option of outfalls could still be an option, Wood said outfalls would be wonderful to employ if they can be constructed correctly. They work by gravity, which always works even when electricity is not available. The issue is the great amount of concern by the regulatory agencies for surface water discharged to the ocean. There are expensive experiments going on now to "polish" the water before it goes out, but there may be some permitting issues with outfalls. It would be during Phase III of the project as when regulatory agencies would be contacted with requests for feedback on the full palate of options presented.

For westside areas, a system would be designed to pump the water across the hills in order to dump stormwater into the sound. DeLucia noted the Rabbit Hollow area does not lend itself to overwash events but to chronic storm events. Permitting surface stormwater being pumped will be more problematic and difficult than permitting the pumping of groundwater. Existing rights-of-ways would be used for pumping needs, most likely taken through the area of the Town's park adjacent to the sound. What still needs to be done for the westside are hydro geological studies and some soil studies, to look at what the potential uptake can be from groundwaters which determines the design needs of a pumping system (to be determined by consultants hired).

In the areas along the oceanfront, DeLucia said it would not be effective to manage groundwater. Issues of how to pump away or where to take water exist. Councilwoman Klutz recalled comments made by NCDOT and the Senator regarding ocean outfalls, including westside areas, indicated the option of ocean outfalls is off the table. It seems recent opinions are providing a change of perspective. Many agree the biggest problem is water standing for so long and becoming disgusting while waiting for the permit, which eventually comes, to pump the water into the ocean.

A pipe at Fonck Street was noted, as well as one at the bath house location and Byrd Street. Mayor Perry stated they were put in after a storm event, where a company donated the pipes to NCDOT. The piping was installed legally under the road, though it was not made common knowledge, and further development seemed to fall by the wayside.

DeLucia said much discussion has been made about the URS 2000 designs, one of which is at the inlet. As with Hurricane Isabel, there was 4' of sand on the beach road, and such a situation makes it difficult for locating the intake part of designs, which has to be low points. When pumping would need to occur, having hoses going across NC 12 would not be desired.

Intake points could be designed to look similar to a fire hydrant connection point, and at least six locations would need to be installed for Kitty Hawk's needs. Getting all six points permitted at the same time would be advantageous. The design and implementation of each individual point is a priority.

If money was no object, the power line easement in Kitty Hawk Woods would be an area where stormwater could be managed when removed from the east side of the highway. However, it would require much infrastructure and costs.

Later in discussion, DeLucia indicated there has been some discussion about directing stormwater into the NCDOT system near the Kill Devil Hills town line, but it was noted that putting more water into said system may be detrimental. Another site noted was Byrd Street area, with the removal of the berm to increase volume for storage, and a nearby NCDOT low-lying property was also recognized.

Overall, for the ocean areas, what is being recommended is suction lines and temporary pumps. For the westside areas, permanent pumps would be desired to monitor water levels and pump when levels rise during chronic rain events. Further discussion of westside area flooding indicated studies would need to be done for groundwater management (pertaining to Goosander and Poseidon areas).

Discussion noted the Byrd Street parking lot has been blamed for flooding issues, but flooding conditions were present before said area was developed. DeLucia was uncertain of the permitting in place which governed the management of onsite stormwater. MPT Perry posed whether or not the parking lot at Byrd Street could be lowered and serve as a holding point. DeLucia would later recommend a possibility of removing several parking spots instead of the whole lot. Whatever alternative or system chosen, no design and solution will be cheap.

Regarding Byrd Street area flooding, Councilwoman Klutz commented the road seems to slope to the west side, perhaps needing to be sloped more towards the swale. It will not cure the problem because the swale fills up quickly, but something must be addressed to make the road better. DeLucia said further surveying is being requested for that area, hopefully for recommendations to re-grade or raise the pavement. In reiterating the parking lot is not the fault for the stormwater problems, Mayor Perry recalled how nearby citizens have expressed discontent with the public parking lot development, even when mindful there could be a large commercial business in its place.

Councilwoman Klutz stressed Lindbergh Avenue should be an area to be addressed as priority, as well as the continuing problem experienced at Byrd Street.

With the point being the simple need to help people, Mayor Perry recalled frustration and stress during earlier pumping efforts with having to follow so many rules and regulations.

In order for NCDOT to be involved, the State's right-of-way has to be affected, Councilwoman Klutz pointed out. Discussion returned to if Byrd Street's problems could be dealt with under

that issue. Overwash on NC 12 is dealt with by NCDOT. However, the areas which stay flooded the longest are not in the State's right-of-way, but the overwash affects the right-of-way. Mayor Perry noted a key to any solution is how pumping should be done from the lowest point and let the water drain towards that point.

Councilman Bateman asked if the attitude of outfalls has changed any at higher and lower federal regulatory levels, especially if long-term solutions and goals would be desired by all. Wood indicated there is a perception of outfalls and there is the reality: in general, there are not real issues with ocean outfall pathogens except on rare occasions. Extensive research (of the Kill Devil Hills' outfall at Bickett Street) shows contamination comes from constructed wetlands which have created animal life adding to the pathogen source. Also, pet walking adds to the problem when waste is not cleaned up. The reality is there are things which can be done to reduce pathogen input, though it may require a vigorous public education process, which would:

- be much better than the "do nothing" alternative;
- recognize there will be times of contamination no matter the care given; and
- point out there are perfect solutions which are ridiculously expensive.

In short, though ocean outfalls are not the greatest solution to the problem, they are not as bad as they have been made out to be.

Mayor Perry commented how studies had to first be undertaken before any government agency would contemplate providing money for alternative solutions. One asset Kitty Hawk has lost is Marc Basnight, who no longer serves as senator and has so often helped in previous crises.

Wood reiterated how an emergency permit to pump can be obtained but that it takes so long and the standing water becomes contaminated during the wait. Contaminated water then presents a list of human health concerns. If the Town were to be successful in requesting a variance to have a pumping system installed, there will be many operational conditions associated with the use. Standards can be proposed for the operational permit. Emergency situations and occasionally managing stormwater events may have different operating standards. The hallmark of the whole purpose to getting a permit variance will be to have quick response to all event situations. Whatever alternative presented will be recognized as the solution which is affordable, balancing both the needs of the Town and environmental concerns.

As the potential next steps, DeLucia offered the best thing to do with any study undertaken will be to break it into phases. Public input will also continue to be solicited. Refining solutions is the route to go.

Not in the study were these issues, as noted by DeLucia: a few residents are dealing with water runoff from roads, that the water flows and collects on their properties, which occurs all through the Town. Most rights-of-way do not have roadside swales nor have the ability to manage themselves, and the water flows to low areas. New construction needs to be higher than adjacent roadway and allow for road flooding instead of property flooding. Yet, flooding on roadways needs to be directed to a drainage system and at least reduce volume.

Discussion by Council generally described areas within Town having problems as just described, with recognition given to drainage and gravity being essential to any solution designs for areas

low-lying or collecting from higher ground. Areas cited were Elm Court and Capri Terrace. Mentioned also were situations of persons installing fill which creates standing water on adjacent area.

Mayor Perry stated stormwater situations within residential areas will be looked at whenever a heavy rain occurs next, in order to help property owners find resolve. A location on Ivy Lane was noted. DeLucia recognized, again, it is a matter of affordable cost as to what can be done to help these situations.

Councilwoman Klutz pointed out residential areas without a State right-of-way issue would not be part of the initial study, though areas affected still tie somehow into the NC 12 overwash problems.

DeLucia summarized that the first phase has been completed and the Town is now entering into the second phase of how to address stormwater. It would be timely to set another public meeting as soon as possible to gather more information. Then, developing a plan could begin with NCDOT standards applied to emergency situations along NC 12, as well as proceeding to do the other studies for westside management and determining costs. Once proposed solutions are formed, they will be presented to regulatory agencies for review.

Mayor Perry commented the Town has the authority from NCDOT to proceed and work towards the next phase of study and developing solution proposals. He stressed, however, citizens need to know there is no quick fix to stormwater management, and the study has to be done in order to hope to obtain assistance in funding solution costs.

Nothing is a sure thing at this point, Councilwoman Klutz offered. Everything proposed will require regulatory agency approval, and overcoming permitting issues will have hurdles. Current regulations do not allow for what is desired by the Town and its residents. Also reiterated was how the study is a necessary step to potential funding. In not wanting to be pessimistic, Klutz commented citizens need to take away from the public meeting an understanding of the reality of what is ahead at this point.

Mayor Perry echoed what he said earlier and agreed with Councilwoman Klutz. With the lack of rain recently, it is a hindrance to the study itself moving forward. Another comment offered by the Mayor referred to how "tree huggers" are part of the problem in being able to address flooding/overwash conditions. Klutz stated the ocean is big enough to handle/process stormwater pumped into it, and environmentalists need to recognize that if water can be pumped into the sound area, pumping into the ocean should be acceptable. Mayor Perry noted pumping back into the ocean while it is still churning from a storm event should help mix the waters.

Mayor Pro Tem Perry directed attention to money issues and questions, in that the new work being discussed is not part of the current grant project. DeLucia said concentration will be given to those areas which have been identified as critical need. Whether it is critical emergency need or chronic residential area needs, it is still a matter of money, MPT Perry commented. NCDOT will be involved for oceanside needs, but "*west of the high dune*," NCDOT will not be involved nor will be splitting costs. In referencing the Marsh Restoration Project, Perry said it is

not desired to see Kitty Hawk citizens bear unaffordable costs.

MPT Perry then indicated he understands NCDOT is putting up \$25,000 (through Marc Basnight/NCDOT, per comment added by the Mayor), and the Manager stated the Town does not have to match the amount. Councilwoman Klutz and MPT Perry pointed out minutes of the Town show Council has voted an intent to match said amount, up to \$50,000 together. The minutes of May 3, 2010 were cited by Klutz.

Klutz continued: *This \$50,000, just to clarify it in my mind, would this \$50,000 entail, if we are each paying our half, is completing through Phase III of what we are talking about right now ... it will be the six emergency sites, emergency pumping kind of sites you have mentioned, and the Rabbit Hollow, and it would address*

DeLucia: *... looking at some grading and maybe some improvements ... I thought Byrd Street might be an easier one for us to come up with some solutions that are "moving dirt around" type solutions, or maybe some overlay with pavement or putting a pipe in. That may be something we could tackle a little quicker than the others.*

Klutz: *Right, but I guess what I am trying to do is scope this out in my mind. Which of those areas that you have briefed us on today would be included in the \$50,000 for this study, to include going before the commissions or just recommending that we go before these ...*

DeLucia: *... we would not be going before ... we are going to be having some discussion with the regulatory agencies about "permitability"*

Klutz: *... so the solutions that you develop for this study will be documented and you will include in that documentation some of what you get in feedback from these regulatory or permitting agencies*

DeLucia: *... and, we will also be coming up with the cost ...*

Klutz: *... and that is what we are going to get for \$50,000 ...*

MPT Perry: *... the \$50,000 is not a fixed figure in the sense that you are striving to spend every nickel of it. The \$50,000 is based on these figures that you have given us for the first phase, and the second phase and the third phase, which may come to less than \$50,000, but we have to match up to ... \$25,000 ...*

Klutz: *... \$25,000, right, and the State has given us \$25,000 ...*

MPT Perry: *... well, no, they have given us up to that amount ...*

Klutz: *... I thought they actually gave us that.*

MPT Perry: *If it cost \$15,000, then we have to match \$15,000.*

Klutz: *I get it.*

MPT Perry: *Am I right?*

Mayor Perry: *I do not think so. [Others respond "don't think so" simultaneously.] I think we were given the \$25,000. We were given the \$25,000, and then, anything beyond that, we have got ...*

Manager: *... it states in our contract agreement with NCDOT, 'State funds \$25,000, reimbursable rate 100%, match amount \$0.00 ...*

Klutz: *... for that grant ...*

Manager: *... for this, yes.*

Mayor: *We agreed to let the study go on to do up to the \$25,000. Is that what we are hearing?*

Klutz: *Up to our \$25,000.*

Mayor: *We would put that much into it. But, the State, the \$25,000, was given to us by Marc to NCDOT for this project in order to go forward with asking for grants and ...*

Manager: *... yes, sir ...*

MPT Perry: *... so what we voted on was not actually what is in the contract?*

Klutz: *Exactly, but what is in the contract is better for us.*

MPT Perry: *Absolutely.*

DeLucia stated the study will concentrate on the six areas identified as critical. Further discussion by Wood clarified the study will coordinate with resource agents, not with the commissions, because going in front of the commissions will not happen until application is made, which is not part of this process. Feedback from resource agents will take place, as well as obtaining what type of information they need to adequately assess any proposal so that it will be possible to move forward with the next phase, if there is funding which comes from the study, that identifies what will need to be collected in order to promote successful application and implementation of a project.

Once the study is completed, Klutz questioned, what is next? MPT Perry commented the Town will probably need to simply "*sit on it*" because any cost associated with solutions "*will be intimidating.*" Mayor Perry stated the Town's source of direction is unknown, "*that we'll have to feel it out with NCDOT and their recommendations with where we can go to find the money, and other directions. Stan [White] may have some ideas. He's involved in this thing, involved with the roads and all that. So, those types of things we'll do after we get the study done.*"

DeLucia: *Part of the Phase III of this study is to explore some areas where we can get some grants and funding, make some recommendations in the report that these may be some viable funds, of areas to get some funding from.*

Mayor: *What we were told was they could not even find the money, could not even apply for any money until we had this study.*

Klutz: *Right.*

MPT Perry: *I have one last question for John. Do you have \$25,000?*

Manager: *Yes, we do. We can use Powell Bill funds for that.*

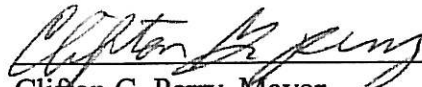
With Mayor Perry's direction that Council needs to approve Phase II, **Councilwoman Klutz moved to approve continuing with Phase II of the storm drainage study. Mayor Pro Tem Perry seconded. The motion carried unanimously, 5-0.**

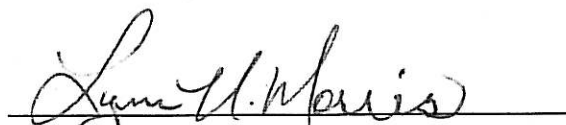
DeLucia indicated a public meeting would be scheduled for early June.

The Mayor thanked everyone participating.

6. ADJOURN

Mayor Pro Tem Perry moved to adjourn. Councilman Bateman seconded. The motion carried unanimously, 5-0. Time was 10:35 a.m.


Clifton G. Perry, Mayor


Lynn U. Morris, Town Clerk

These minutes were approved at the *July 5, 2011* Town Council meeting.