

MINUTES
KITTY HAWK TOWN COUNCIL
May 2, 2016
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 April 4, 2016 Council Minutes
 - b.) FY 15-16 Budget Amendment #6
 - c.) Acceptance of Donation to the Fire Department
6. Items Removed from the Consent Agenda
7. Planning
 - a.) Call for a Public Hearing: Conditional Use Permit: Jetsurf NC, application for a CUP to allow a kayak rental business at 4622 N. Virginia Dare Trail.
 - b.) Beach Medical, 5201 North Croatan Highway: Application to amend previously approved site plan.
8. New Business
 - a.) A Resolution of the Town Council of the Town of Kitty Hawk, North Carolina, Authorizing Acquisition by Condemnation of Beach Nourishment Easements on Certain Properties Located in the Town of Kitty Hawk. This resolution allows the Town to acquire by condemnation subject properties in Exhibit "A" for purposes allowed under GS Section 40A-3(b1)(10).
9. Reports or General Comments from Town Manager
10. Reports or General Comments from Town Attorney
11. Reports or General Comments from Town Council
12. Public Comment
13. Adjourn

COUNCILMEMBERS PRESENT:

Mayor Gary Perry, Mayor Pro Tem Craig Garriss, Councilman Ervin Bateman, Councilwoman Lynne McClean and Councilman Jeff Pruitt

STAFF MEMBERS PRESENT:

Town Manager Andy Stewart, Town Clerk Lynn Morris, Town Attorney Steve Michael, Finance Officer Liliana Noble, Management Assistant Melody Clopton, Town Planner Rob Testerman, Fire Chief Lowell Spivey and Public Works Director Willie Midgett

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1. CALL TO ORDER

Mayor Perry called this meeting to order at 6 p.m. and welcomed those in attendance and extended it to those who may watch the meeting later on television or the computer.

2. MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE

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

3. APPROVAL OF AGENDA

Councilman Bateman said “so move” after Mayor Perry asked for the agenda to be amended to add 3(a) 15 Year Service Recognition. MPT Garriss seconded the motion and it passed unanimously, 5-0.

4. PUBLIC COMMENT

There were no speakers during this public comment section of the agenda.

5. CONSENT AGENDA

a.) Approval of April 4, 2016 Council Minutes. *(An affirmative vote for the consent agenda will approve these minutes.)*

b.) FY 15-16 Budget Amendment #6. This budget amendment for \$32,000 will recognize and appropriate additional funding for the purchase of a new police car that was approved at the April 4, 2016 council meeting. *(An affirmative vote for the consent agenda will approve this budget amendment.)*

c.) Acceptance of Donation to the Fire Department. Hank and Marie Sprenger have made a \$1,000 donation to the fire department and the chief requests permission to use the funds towards purchasing an Automated External Defibrillator (AED) for Ocean Rescue. *(An affirmative vote for the consent agenda will approve this donation and purchase request.)*

MPT Garriss said “so move” after the mayor asked for a motion to approve the consent agenda as promulgated. Councilwoman McClean seconded the motion and it passed unanimously, 5-0.

6. ITEMS REMOVED FROM THE CONSENT AGENDA

There were no items removed from the consent agenda.

3. (a) Ocean Rescue Director Cole Yeatts, 15 Years of Service

Realizing he had overlooked this agenda item, Mayor Perry invited Chief Spivey and Ocean Rescue Director Cole Yeatts to the podium. The fire chief presented a plaque to Director Yeatts for his faithful and dedicated service to the Town.

The mayor and council thanked Captain Yeatts and praised him and his fellow lifeguards for the fine job they do protecting and educating beach going patrons every season.

7. PLANNING

a.) Call for a Public Hearing: Conditional Use Permit: Jetsurf NC, application for a CUP to allow a kayak rental business at 4622 N. Virginia Dare Trail.

MPT Garriss made a motion to set a public hearing at the town council meeting on June 6, 2016 to consider a conditional use permit application to allow a kayak rental at 4622 North Virginia Dare Trail. Councilman Pruitt seconded and the motion passed unanimously, 5-0.

b.) Beach Medical, 5201 North Croatan Highway: Application to Amend a Previously Approved Site Plan.

Testerman: *As council will recall a Conditional Use Permit application was recently reviewed for the Beach Medical Center. It was approved and the site plan at that time showed the connection with Byrd Street going all the way through. After the approval DOT weighed in and is going to require a full traffic impact analysis before they will permit it to be connected. Due to, I think, time and money constraints the applicant has decided rather than doing the traffic impact analysis the preferable option is to close off Byrd Street with the six proposed bollards. DOT said they will stand by their original encroachment permit and that is what the revised application is for.*

One other item I want to point out deals with fire requirements. With Byrd Street being cut off ... originally a second hydrant was required to be installed and that is what this site plan shows. During recent discussions with the Dare County Water Department they said they would not be able to maintain a second hydrant that close to the existing one which is a little further south. To get around that, but still meet the fire requirements, the applicant has agreed to build a fire wall between the two units. Other than those two slight modifications everything else on the site will be the same as what was originally approved.

Perry: *If the Town wanted to run Byrd Street all the way through in the future would we be allowed to do so?*

Attorney Ben Gallop (representing the Town for this application): *I discussed this a little while ago with Mr. Stewart and Mr. Testerman and I am not absolutely sure you would have to do any of the traffic analysis. There should be some way for you to open a Town dedicated street that has been accepted already. I would have to look into it and see what the process is but it is a Town right-of-way. I think the DOT process has been involved because there is an applicant who is a private citizen and I think they are considering it more of a driveway than a roadway. That does not mean you might not want to take into account a traffic analysis and see whether or not it's a good idea but whether or not you have to I am not sure.*

Perry: *That is something we did not know and is something to think about. Any questions? Do I hear a motion?*

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Pruitt: *Do we want to open the street or do we want to leave it alone?*

Perry: *I think for the time being its best to leave it alone.*

Councilman Bateman made a motion to grant approval of the site plan amendment for the proposed beach medical office at 5201 North Croatan Highway with the conditional use requirements of the fire department be met. The motion was seconded by Councilwoman McClean and passed unanimously, 5-0.

8. NEW BUSINESS

a.) A Resolution of the Town Council of the Town of Kitty Hawk, North Carolina, Authorizing Acquisition by Condemnation of Beach Nourishment Easements on Certain Properties Located in the Town of Kitty Hawk. This resolution allows the Town to acquire by condemnation subject properties in Exhibit "A" for purposes allowed under GS Section 40A-3(b1)(10).

Perry: *I am making a motion to approve a Resolution of the Town Council of the Town Kitty Hawk, North Carolina, Authorizing Acquisition by Condemnation of Beach Nourishment Easements on Certain Properties Located in the Town of Kitty Hawk.*

Having said that I am going to read the beginning of the resolution because it has some important points I want to make sure get on the record.

Whereas for the purposes allowed by Section 40A-3(b1)(1) of the North Carolina General Statutes and particularly in connection with a beach nourishment project to be undertaken by the town pursuant to prior action by the town council known hereafter as the "Project" to reduce the vulnerability of public infrastructure including NC 12 and US Highway 158 and utilities to storm induced erosion; reduce flooding experienced in many non-oceanfront areas throughout the Town during ocean over wash conditions including portions of Highway NC 12 and US 158 (the flooding can at times render routes impassable and greatly limits the ability of emergency personnel to respond); reduce the vulnerability of homes with the Town that front the Atlantic Ocean and are exposed to wave events during nor'easters and other large storm events as well as natural trends; and for erosion control and hurricane protection works via a beach nourishment project, the Town Council of the Town of Kitty Hawk hereby determines that it is desirable, necessary and in the public interest to acquire a limited easement over certain portions of the properties described on Attached Exhibit "A" (the "Subject Properties") that are located in the nourishment project area, which extends from the southern boundary of Kitty Hawk North to the northern boundary of Kitty Hawk and then 1,000 feet North in the Town of Southern Shores, tapering and terminating at 8 Sea Bass Circle, also known as Lot D, Block 2, Section 1 of Southern Shores (the "Project Area") and bordering the Atlantic Ocean; and

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Whereas, the Town believes that the interest needed in each of the Subject Properties is of minimal or de minimis value, and is worth less than the amount by which work done in connection with the Project will preserve, enhance or increase the value of the Subject Properties; and

Whereas, the Town anticipates that it will be unable to acquire the needed easement rights in Subject Properties by the owners' voluntary conveyance; and

Whereas, it is necessary that the Town obtain the limited easement rights on the Subject Properties within the Project Area so that the Project may proceed without undue delay.

I want to add this. In the past, before I got here, there was some condemnation and that was a taking. The intent of that condemnation was to take the property and make it part of the Town. This is not the same thing. We need easements. That is all we want. It is limited easement. We are there and then we are gone. We have to have continuous access around and across the various properties in order to do the project in a timely fashion. I want to make it clear that we are not taking somebody's property. We are asking for an easement and then we will give it back.

Michael: *We are going to keep the easement for a period of time ...*

Perry: *We are going to keep the easement for a period of time because of maintenance and other things that go with it.*

Mayor Perry asked for a second to his motion. **MPT Garriss seconded and it passed unanimously, 5-0.**

9. REPORTS/GENERAL COMMENTS FROM TOWN MANAGER

Fire Department ISO Rating

Manager Stewart reported the fire department has received an ISO rating of 4 and property insurance premiums should not be affected. That is good news and congratulations to the fire department.

Beach Nourishment

Manager Stewart updated council on the beach nourishment project. It is still planned for June and July of 2017. Bids for the financing were received and the interest rate is 1.9% which is much better than expected. Staff is working with the Local Government Commission on the financing and during the meeting on June 6th the last step will be for council to adopt documents that allows the bank to issue the funds to pay for the project. That is the last step and there does not seem to be any hurdle with the LGC as long as the Town receives all the permits needed for the project.

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Mayor Perry offered he heard the LGC will not entertain any of this until the Town has the permit from the National Marine Fisheries Service. It is still outstanding and it is not due to any delay on our part. Apparently the agency is behind all over the country.

10. REPORTS/GENERAL COMMENTS FROM TOWN ATTORNEY

Michael: *We are in the process of engaging experts and consultants on the condemnations we will be filing. We want them to do some simple, preliminary work when we get ready to file which will probably be in the next 40 days or so. They will be doing preliminary work and the only time they will be engaged in work that will involve significant expense will be if somebody contests our taking of the easement. We want to have them on board and we are being proactive about it. Since the resolution was approved tonight we will put together a package to be sent to each property owner.*

Bateman: *Have we backed off from only condemning it for the time that it takes to put the sand on it?*

Michael: *No. They are 10 year easements as opposed to a perpetual easement.*

11. REPORTS/GENERAL COMMENTS FROM TOWN COUNCIL

Fire Department ISO Rating

Perry: *It may not sound like much going from a 5 to 4 but if the ISO rating had gone the other way I guarantee it would have made a drastic impact on premiums for fire protection. I did a lot of research on it and was astonished at how much higher it would be if it went up. They did this with part-time staff, which we are going to fix some of that, but they did it with part-time people, full-time and volunteers. We still need volunteers. Volunteers are always needed. Thank you chief and the firefighters for doing a good job. We appreciate it.*

Thank You to Staff

Councilmembers thanked the fire chief and firefighters for their hard work in obtaining the score. Councilwoman McClean thanked staff for asking to have the crosswalks repainted on the beach road.

12. PUBLIC COMMENT

No one came forward to speak.


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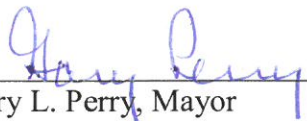
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13. ADJOURN

Councilman Bateman made a motion, seconded by Councilwoman McClean, to adjourn. The motion passed unanimously, 5-0. Time was 6:24 p.m.

These minutes were approved at the June 6, 2016 council meeting.


Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor