

MINUTES
KITTY HAWK TOWN COUNCIL
Monday, November 2, 2015
Kitty Hawk Town Hall, 6 PM

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Public Comment
5. Consent Agenda
 - a.) Approval of September 21, October 5, 9, and 12, 2015 Council Minutes
 - b.) Revenues and Expenses Report for September 2015.
 - c.) Resolution Adopting the Program for Public Information (Community Rating System)
 - d.) Escrow Agent Transfer Agreement (Gold Key Sewage Treatment Facility)
 - e.) Request to Fill Police Officer Position
 - f.) Appointment of Interim Town Manager for the Month of December 2015
 - g.) Memorandum of Agreement between Dare County Municipalities and Dare County Concerning Emergency Coordination
6. Items Removed from the Consent Agenda
7. Public Hearing
 - a.) Conditional Use Permit: Application for a conditional use permit to allow medical offices/clinics in the existing office building at 5107 N. Croatan Hwy.
8. Planning
 - a.) Call for Public Hearing/Conditional Use Permit: Application for a conditional use permit to allow a fitness center in the existing building at 4708 N. Croatan Hwy.
 - b.) Call for Public Hearing/Conditional Use Permit: Shared parking agreement between the applicant of the proposed Wendy's at 5430 N. Croatan Hwy, and the adjacent lot at 5400 N. Croatan Hwy.
 - c.) Atlantic Dentistry: Application for site modifications to the Sweet Frog's, Atlantic Dentistry, and Harbour Bay sites at 3700, 3704 and 3708 N. Croatan Hwy. *(Removed)*
9. Reports or General Comments from Town Manager
 - a.) Repair Work on NC 12
 - b.) Compliments to the Fire Department
 - c.) Compliment to the Police Department
 - d.) Easement Agreements Update
 - e.) Coastal Planning & Engineering Update
 - f.) Overton Property Update *(added)*
 - g.) Farewell from the Town Manager *(added)*
10. Reports or General Comments from Town Attorney
11. Reports or General Comments from Town Council
 - a.) Beach and Inlet Preservation Workshop Report
12. Public Comment
13. Adjourn

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COUNCIL MEMBERS PRESENT:

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

STAFF MEMBERS PRESENT:

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

1. Call to Order

Mayor Perry called the meeting to order at 6:00 p.m.

2. Moment of Silence/Pledge of Allegiance

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

3. Approval of Agenda

Mayor Perry announced one item on the agenda has to be removed for this meeting. It is item 8(c).

Councilwoman Klutz made a motion to approve the agenda as amended with the deletion of 8(c). MPT Bateman seconded the motion and it was unanimously approved, 5-0.

4. Public Comment

There were not public comments.

5. Consent Agenda

a.) Approval of September 21, October 5, 9, and 12, 2015 Council Minutes. *(An affirmative vote for the consent agenda will approve these minutes.)*

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

c.) Resolution Adopting the Program for Public Information. As part of the Town's Community Rating System work the PPI Committee, comprised of staff and outside stakeholders, have prepared the PPI. *(An affirmative vote for the consent agenda will adopt this resolution.)*

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d.) Escrow Agent Transfer Agreement. Town Code Section 20-412(a) required a fund to be established to guarantee the repair, maintenance and renovation costs of a sewage treatment facility for Barrier Island Station (now Gold Key). Gold Key would like to switch escrow agents and since the Town is a party to the agreement council needs to approve the request. *(An affirmative vote for the consent agenda will approve the transfer agreement.)*

e.) Request to Fill Police Officer Position. With the upcoming retirement of PO III Watts the police chief would like to advertise for the vacancy, Grade 62. *(An affirmative vote for the consent agenda will approve this request.)*

f.) Appointment of Interim Town Manager for the Month of December 2015 – According to G.S. 160A-150 when the position of city manager is vacant the council shall designate a qualified person to exercise the powers and perform the duties of manager until the vacancy is filled. Manager Stockton is retiring effective December 1, 2015 and new manager, Andy Stewart, is scheduled to begin work January 1, 2016. It is recommended Management Assistant Melody Clopton be appointed Interim and be compensated \$500. *(An affirmative vote for the consent agenda will approve this appointment and payment of the additional funds.)*

g.) Memorandum of Agreement between Dare County Municipalities and Dare County Concerning Emergency Coordination. This agreement is designed to bring unity of effort across all municipalities, Dare County and the state before, during and after any emergency. It will stay in force until changes are deemed necessary by any of the parties. *(An affirmative vote for the consent agenda will approve this agreement.)*

Councilmen Garriss made a motion, seconded by Councilmen Pruitt, to approve the consent agenda. The vote was 5-0.

6. Items Removed from the Consent Agenda

There were no items removed from the consent agenda.

7. Public Hearing

a.) Conditional Use Permit: Application for a conditional use permit to allow medical offices/clinics in the existing office building at 5107 N. Croatan Hwy.

Councilwoman Klutz made a motion to go into public hearing. The motion was seconded by Councilman Pruitt and the vote was 5-0.

Clerk Morris administered the oath to Town Planner Rob Testerman.

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Planner Testerman provided the following information which can be found in his staff report to council.

Proposal

The applicants are requesting approval of a conditional use permit to locate medical offices in the existing building on the subject property. The existing building consists of eight units, and an interior elevator. Currently, an oral surgeon/dentist and two lawyers are leasing units in the building. Medical offices/clinics are permitted in the BC-2 district with a conditional use permit, the applicant is requesting a CUP for medical offices/clinic uses for the entire building.

Surf Pediatrics plans to relocate from their current Kitty Hawk location within the Sentara building to the subject property.

Proposed Conditional Uses

42-251(c)7 – Hospitals, clinics and medical offices

Background Information

The subject properties is presently zoned Beach Commercial (BC-2) and presently houses a three story building. According to the original site plan the building is approximately 6,000 square feet (4,000- 1st floor, 3,800- 2nd floor, 1,800- 3rd floor). While there will be renovations to the interior of the building, there are no modifications being proposed for the exterior of the building, or the footprint.

Directly abutting the subject property to the north is a developed commercial parcel zoned BC-2 currently Outer Banks Upholstery. Further to the north is Ambrose Furniture and an office building, also zoned BC-2. To the south and east are numerous single family homes, all zoned BC-2. To the west, across N. Croatan Hwy, there are vacant lots zone BR-1, as well as lots zoned MS-1, which are currently being developed as medical offices and a veterinary office.

Staff Analysis

Proposed Uses: Medical offices/clinics. This use presently permitted as conditional uses in the Beach Commercial (BC-2) district.

Lot Area: The subject parcel is 29,900 square feet (0.69 acres) in size. The lot size meets the 15,000 square foot minimum as well as the 7 acre maximum requirement. The lot area is suitable for the proposal as there are no changes proposed to the site plan.

Lot Coverage: Including the existing building, sidewalks, parking, access drives, and drive aisles, the existing lot coverage, according to the 2005 as-built is 56.2%. This is compliant with the maximum lot coverage requirement of 60% for the BC-2 district.

Building Height: The maximum height in the BC-1 district is thirty-five feet (35') from the existing grade to the peak of the roof. The main roof has a height of 34.9' above original average grade.

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According to the 2005 as-built the elevator shaft has a height of 38.9' from original grade. The Town of Kitty Hawk Board of Adjustments granted a variance for the maximum height for the elevator shaft at its April 29, 2004 meeting.

Building Setbacks: All buildings and structures subject to setbacks were constructed to meet those setback requirements.

<u>Setback</u>	<u>Existing</u>	<u>Required</u>
Front	73 feet	15 feet
Rear	30 feet	20 feet
Sides	34 feet (south)	10 feet
	68 feet (north)	10 feet

Access: The subject property is currently served by one 24 foot wide ingress/egress drive off of N. Croatan Highway. No alterations are planned.

Parking: Parking Calculations are as follows:

<u>Parking Calculations</u>	<u>Ratio</u>	<u># Required Spaces</u>
Minimum of 10 spaces. 5 per each doctor assigned plus 1 per each employee except where no more than 2 doctors or 2 dentists are practicing in the same building, the number of parking spaces per doctor or dentist need not be more than 5 spaces and not more than 1 per staff employee.	Total of 5 doctors/dentists, total of 13 ancillary staff	33

The as-built from 2005 was approved with a total of 43 parking spaces, 24 paved and 19 grass parking spaces, including two (2) handicapped spaces which exceeds the minimum required. Section 42-544(e)1 states that grass may be used as a parking surface in commercial districts if the town council approves it as a conditional use.

Buffers: Sec. 42-649 states that "buffers within a commercial zone shall be required between all uses in commercial zones and abutting residential zones", although there are residential uses to the east and south of the subject property, they are within the BC-2 zoning district, all other abutting properties are also BC-2, therefore no buffer is required.

Lighting: At this point in time, no proposal for changes to the lighting have been submitted. Should the applicant decide changes are necessary a lighting plan would be reviewed administratively.

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Signs: The applicant has provided that they will be proposing a sign face change for the existing signage on the building. This will be reviewed administratively.

Stormwater Management: No land disturbance is occurring, as the site is using all existing features.

Flood Zone: The entire subject property is located within an X flood zone, which means that the building is not required to meet any particular flood elevations.

Land Use Plan

The Town of Kitty Hawk's adopted CAMA Land Use Plan designates the property as a "Commercial, Shopping, and Working Area" on the future land use map.

The following policies and objectives relevant to this application are stated in the CAMA Land Use Plan:

POLICY 4a: Kitty Hawk, through its zoning ordinance, will continue to direct the placement of commercial development in areas zoned for such activities.

POLICY 4b: Kitty Hawk encourages the continued existence and development of locally owned businesses and encourages commercial building designs, color designs, and construction materials and methods that reflect Kitty Hawk's coastal village character.

OBJECTIVE 16a: Monitor and consider redevelopment proposals for consistency with stated Town land use and development goals.

Conditional Use Findings

Per the standards of Section 42-99(b)(7), in order to approve this application, the Town Council must make findings that the proposed conditional uses:

*does not materially endanger the public health or safety,

There is no evidence to suggest that allowing the use of this entire building for medical/health care purposes would endanger public health or safety.

*does meet all required conditions and specifications,

The existing building was constructed to meet all conditions and specifications, the new proposal includes no changes and will also meet all requirements.

*will not substantially injure the value of adjoining property or be a public nuisance, and

The subject property has served for several years as offices, including one dentist/oral surgeon, it is unlikely that expanding the medical use to the rest of the building would have any negative effect on adjoining property.

*will be in harmony with the area in which it is located and be in general conformity with the comprehensive plan.

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The reuse is compatible with the surrounding zoning and land uses, the MS-1 zoning district is located directly across N. Croatan, which houses other medical uses.

Per stated policies in the Town's adopted land use plan, the reuse of this business will be located on existing, commercially zoned properties.

Planning Board Recommendation

At its September 17, 2015 meeting, the Planning Board voted unanimously to recommend approval of the CUP to allow medical offices/clinics at 5107 N. Croatan Hwy.

Hearing no questions or comments from council or the audience, **MPT Bateman made a motion, seconded by Councilman Garriss, to return to regular session. The vote was unanimous, 5-0.**

MPT Bateman made a motion to grant approval of the proposed conditional use permit to allow medical offices, clinics, in the existing office building located at 5107 North Croatan Highway. The Town Council finds that the proposed use is consistent with the Town's adopted Land Use Plan and finds that it is in the public interest. Councilman Pruitt seconded the motion and it was approved unanimously, 5-0.

8. Planning

a.) Call for Public Hearing/Conditional Use Permit: Application for a conditional use permit to allow a fitness center in the existing building at 4708 N. Croatan Hwy.

Councilman Garriss made a motion, seconded by Councilwoman Klutz, to set a public hearing at the Town Council meeting on December 7, 2015 to consider a Conditional Use Permit application to allow a fitness center at 4708 North Croatan Highway. The vote was unanimous, 5-0.

b.) Call for Public Hearing/Conditional Use Permit: Shared parking agreement between the applicant of the proposed Wendy's at 5430 N. Croatan Hwy, and the adjacent lot at 5400 N. Croatan Hwy.

Councilman Pruitt made a motion to set a public hearing at the Town Council meeting on December 7, 2015 to consider a Conditional Use Permit application to a shared parking agreement between Wendy's at 5430 North Croatan Highway and TW and WLLC at 5400 North Croatan Highway. Councilman Garriss seconded the motion and it passed unanimously, 5-0.

c.) Atlantic Dentistry: Application for site modifications to the Sweet Frog's, Atlantic Dentistry, and Harbour Bay sites at 3700, 3704 and 3708 N. Croatan Hwy.

**This item was removed from the agenda.*

9. Reports or General Comments from Town Manager

a.) Repair Work on NC 12 – The North Carolina Department of Transportation awarded a contract to repair the section of NC 12 in Kitty Hawk that was damaged during the storm earlier in October. It is a \$412,933 contract with Waff Contracting Incorporated of Edenton and is for reconstruction of the road as well as reconstruction of the dune along that stretch of road. The work began last week and will be completed by mid-December weather permitting. NCDOT closed NC12 between Lillian and White Avenue on Sunday, October 4th due to the deep water on the road as a result of impacts from Hurricane Joaquin and the neighboring storm system. High tidal waves washed out a 700 foot long dune near milepost 4 at this location. NC 12 was then damaged on Monday, October 5th due to waves crashing on the pavement. NCDOT reopened the road between White Avenue and Kitty Hawk Road earlier this month however the closure has remained in place at the damaged location between Kitty Hawk Road and Lillian Street. As part of the repairs crews will reconstruct the dunes using sandbags which will be installed 8 feet below the edge of pavement to protect the road then the bags will be covered with sand. Crews are expected to lay 375 sandbags each measuring 10 feet long as part of this project. They will also repave the damaged section of NC 12 and install new sand fencing. The newly constructed dune system will be planted with sea grass in the spring of 2016. The new dune will connect to the existing sandbag dune constructed earlier this summer just south of the location. On the opposite end it will connect to a dune 200 feet to the north that was constructed using sandbags in 2003 and extended in 2004 following Hurricane Isabel. This will allow for a continuous line of sandbags protecting NC 12 in this area. During the project traffic will continue to use US 158 as a detour route.

b.) Compliments to the Fire Department Staff – Pat Heath sent a letter complimenting the staff for their courtesy and helpfulness in exposing her guide dog to the Fire Department equipment. This exposure to trucks and sirens is very helpful in training guide dogs.

Niko ZaZakos and his family sent a letter to the Fire Department thanking staff for their kindness and generosity after an accident on May 22nd. Niko is 7 years old and was hit by a car while crossing the road near John's Drive In. The accident left him with severe head trauma and months of rehabilitation. The Fire Department and other emergency services staff stayed in contact with the family during Niko's recovery.

c.) Compliment to the Police Department – The town received a letter from David Shrader complimenting Police Officer Daniel Heim who responded to a hit and run in a parking lot. Mr. Shrader said Officer Heim and Chief Johnson handled things well and their professionalism in little things matters.

d.) Easement Agreements Update – As of this date the town has received 194 easement agreements out of 275 which is 71%. Reminder letters were mailed a couple of weeks ago to those property owners who have not returned their agreements.

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e.) Coastal Planning & Engineering Update – Back in May Coastal Planning and Engineering and Dare County executed a contract for pre-construction services. The scope of work was divided into 5 tasks and 53.2% of the total scope of work has been completed as of September 1, 2015. The bid documents have been reviewed by the towns and the county and construction is still scheduled to begin in late April 2016.

f.) Overton Property Update – Planning Director Testerman has reported a demolition permit has been issued by the town to tear down the buildings on the property.

g.) Farewell from the Town Manager – Manager Stockton thanked the town council and citizens of Kitty Hawk for being supportive of his efforts while serving as manager. The council has always been complimentary and willing to discuss issues in a fair and equitable manner. Kitty Hawk has a dedicated council who will continue to move the town forward in all endeavors. He thanked staff for their hard work and attention to all circumstances during his time as manager. He believes the town is in capable hands now and in the future. He said he has always tried to impress upon the staff that response to local citizens and council was of the utmost importance and thinks the staff has adhered to that philosophy. He will always remember Kitty Hawk with very fond memories.

Mayor Perry thanked him for his kind words and agreed that staff has always been helpful to council and has responded to the public in like manner. He wished him well on his next endeavors and cautioned that if he truly wants retire do not go into politics because it keeps you busy.

10. Reports or General Comments from Town Attorney

There were no comments from the attorney.

11. Reports or General Comments from Town Council

Each councilmember thanked John for his service and hope he enjoys his retirement years.

a.) Beach and Inlet Preservation Workshop – Mayor Perry reported he was asked to give a presentation at this workshop held at the Hilton Garden Inn in Kitty Hawk last Tuesday. The subject was dunes and dune construction. How dunes react, is a dune necessary and things of that nature. It was informative and he learned that you can build a dune but if you do not have some sort of berm seaward it does not last. This was also learned from the FEMA berm that was built after Hurricane Isabelle. You cannot do one really without the other and that was brought home. We will be trying to build a starter dune and that was where he figured in. He also let everyone know the town's project is different from the other two towns. They are trying to save a value in tax base and oceanfront property and we are trying to do a lot more than that.

12. Public Comment

a.) Brian Morgan, Kitty Hawk, NC: *I was in attendance during the meeting when we were discussing the nourishment project. With the repair that is underway on NC 12 has it necessitated changes in what is going to happen in the profile along NC 12? What is Coastal Planning and Engineering going to do for the mitigation of that? We discussed it at that time. What were the hotspots going to do to the cost in the planning? So are we going to be getting a new report based upon the hotspots?*

Perry: *Not in the sense that I think you are asking. Is there another report that is going to zero in on the hotspots that we have where the road is damaged. I am not aware of any special report on it but I asked that question. He said there is really no change to the plan except the depth of the sand that will be required to bring it further west. Actually it will not negate the survey line they had planned to go seaward. You will actually have a wider, in theory, a wider beach at that particular point up against the dune because of the contour of the beach.*

Morgan: *But is there any sense that we have, within the current planning of that margin, to account for that hotspot or any others that occur before April?*

Perry: *Not beyond what was already presented.*

Morgan: *Thank you.*

Perry: *And on that subject we all recognize that particular hotspot has been there for as long as I've been alive. Nobody really knows exactly how to go out there and barricade it up or do something about it beyond seeing what happens when we put nourishment in front of the dune. It will be a learning lesson for a lot of folks and it is something that may require re-nourishment before anything else on the beach requires it. That part is recognized but nobody has an answer for it. I have had people come to me and say we need to do toe walls or put an artificial reef out there and of course North Carolina law does not allow any of that. We are doing what we can and we'll see.*

Morgan: *My question was simply revolving around if there is, within the margin of planning, something to account for the excess that we will have to put in that area.*

Perry: *Yes and some of that margin comes from the fact that areas that were hotspots before have now flushed out and are no longer a hotspot.*

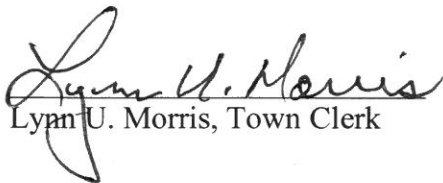
There were no further comments.

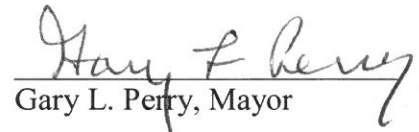
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13. Adjourn

Councilman Garriss made a motion, seconded by MPT Bateman, to adjourn. The vote was unanimous, 5-0. Time was 6:29 p.m.

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


Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor