

MINUTES
KITTY HAWK TOWN COUNCIL
Tuesday, September 6, 2011
Kitty Hawk Town Hall, 6:00 PM

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Service Recognitions:
 - Sharon Davenport, Police Administrative Records Clerk, 15 years
 - Donna Heffernan, Administrative Zoning Tech, 10 years
 - Joel Johnson, Police Sergeant 10 years
 - Willie Midgett, Public Works Director, 5 years
5. Outer Banks Children's Museum Update
6. Town of Kitty Hawk Hurricane Irene Update
7. Public Comment
8. Consent Agenda
 - a.) Approval of August 1, 2011 Minutes
 - b.) Revenues and Expenses Report for May 2011
 - c.) Tax Pick Ups and Releases
9. Items Removed from the Consent Agenda
10. Public Hearings
 - a.) Text Amendment: Proposal to amend Subsection 42-587(n), *Costumed mascots/wavers*.
 - b.) Text Amendment: Proposal to amend Section 42-225(c) by allowing "Home Occupations."
 - c.) Text Amendment: Proposal to amend subsections 42-251(c)(24)b, c, f, j, and k, revising standards for motor vehicle dealerships in the (BC-2) district.
 - d.) Conditional Use Permit: Application for conditional use permits to establish motor and electric vehicle dealerships in a Beach Commercial (BC-2) district at 6100 N. Croatan Highway.
 - e.) Conditional Use Permit: Application for a conditional use permit to establish a shared parking arrangement
11. Return to Regular Session/Action for Public Hearing Items
12. Unfinished Business
 - a.) Text Amendment: Proposal to add provisions to Chapter 14, *Flood Damage Prevention*.
13. New Business
 - a.) Approval of Contract for Sandy Run Park, Phase II
 - b.) A Resolution to Reaffirm the Town of Kitty Hawk Land Use Plan
 - c.) A Resolution Declaring September 24, 2011 "BIG SWEEP 2011 DAY"
 - d.) Post-Hurricane Irene Permit Fees (*added during meeting*)
14. Reports or General Comments from Town Manager
 - a.) Hurricane Irene Post-Storm Information
 - b.) Storm Drainage Study Update

Kitty Hawk Town Council Minutes: September 6, 2011

Page 2

- c.) Comment from Mr. John Risoldi, 3901 Ivy Lane
- d.) Letter of appreciation from Jean Skorupa, Newport News, VA
- e.) Comment from Charles Owens on the "Newsletter"
- f.) Letter of Appreciation from Michael & Frances Dunn, 4800 Capri Terrace
- 15. Reports or General Comments from Town Attorney
- 16. Reports or General Comments from Town Council
- 17. Public Comment
- 18. 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, Public Works Director Willie Midgett

1. CALL TO ORDER

Mayor Perry called the meeting to order at 6:00 PM and welcomed everyone to the meeting.

2. MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE

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

3. APPROVAL OF AGENDA

MPT Perry noted an addition of 13(d) "Post-Hurricane Irene Permit Fees" to the agenda. Hearing no other changes, **Mayor Pro Tem Perry made a motion to approve the agenda as amended. Councilman Bateman seconded the motion and it was approved unanimously, 5-0.**

4. SERVICE RECOGNITIONS:

- *Sharon Davenport, Police Administrative Records Clerk, 15 years
- *Donna Heffernan, Administrative Zoning Tech, 10 years
- *Joel Johnson, Police Sergeant, 10 years
- *Willie Midgett, Public Works Director, 5 years

Kitty Hawk Town Council Minutes: September 6, 2011

Page 3

Police Chief Ward stated Sharon has been with the town since 1996 and is a valued employee. She is the "glue" that holds the police department together. Mayor Perry presented Sharon her certificate for 15 years of faithful and dedicated service.

Police Chief Ward announced Joel is one of the Patrol Sergeants and is one of the police officers he turns to whenever something needs to be done. Mayor Perry presented Joel his certificate for 10 years of faithful and dedicated service.

Planning Director Heard stated Donna is a wealth of information, extremely well-organized, and one of the best public service people he has worked with. Mayor Perry presented Donna her certificate for 10 years of faithful and dedicated service.

Manager Stockton announced Willie has time and time again shown his value to the town, especially after storm events such as Hurricane Irene. Mayor Perry presented Willie with his certificate for 5 years of faithful and dedicated service.

5. OUTER BANKS CHILDREN'S MUSEUM

Ms. Liv Cook: *Hi and thank you for having me today. I am the secretary of the Board of Directors for Children at Play, Kitty Hawk's non-profit Children's Museum. We are located at milepost 4.5 in the same plaza as Papa John's.*

We started as a grassroots idea on the Outer Banks in 2008. We have opened and celebrated our first year of business on August 10, 2011. We have been progressing and growing rapidly and have exceeded much of the boards' expectations. We hope you have had a chance or will take the chance to stop in to see what we have done with our small museum.

A children's museum is basically an indoor play space that has opportunities for guided learning so children enjoy it like a playground but learn from it as in an early childhood classroom. We have exhibits that include an airplane, Cape Hatteras Lighthouse, and a fishing boat. All of these were thought of at great length with the Outer Banks in mind. Other exhibits include a submarine, a Central American market, and a whale.

We currently have 155 local and non-local memberships. We sell memberships to families, groups, and family home child care. We are part of the Association of Children's Museums which entitles you to a reciprocal membership, free entry into most children's museums across the country. Many non-residents love the Outer Banks so much and want to support our children's museum so they purchase a reciprocal membership at our location to use in their hometown and other museums they may travel to.

We host birthday parties which is a good source of our income as a non-profit. We also have several free community outreach programs going on. We are reaching out to underprivileged families, families in need, and children with disabilities.

Kitty Hawk Town Council Minutes: September 6, 2011

Page 4

We offer programs including science Thursday. I have my master degree in science education and I volunteer every Thursday to teach science programs. We offer art projects every day. Parents can come and sit down with their kids and create various things. We change those on a daily basis and on a weekly basis. There are also music programs. Just about every Friday we have sing-a-longs. It is usually somebody with a guitar that leads the children with a little song and dance.

Ms. Cook showed slides of other children's museums and the exhibits in them and of future exhibits for the Outer Banks museum.

Cook: *We are in a small 1200 square foot space and future plans are to be in a warehouse someday with multiple grand scale exhibits. That is our hope. So if you do stop by our museum and see just a little space, please know that is not our final goal by any means. But we are enjoying the spot that we are in now. We are in Kitty Hawk and we would love to stay in Kitty Hawk but as we grow we are going to need a larger place. We are turning to the towns and appealing for support in helping us find a larger space. We think we could draw a lot of tourists, especially in the summer time. We are 75% tourist supported in the summer and in the winter we are 75% supported by locals. We feel we have a lot to offer to towns and hope that you will back us as we grow in the future. Thank you.*

Mayor Perry thanked Ms. Cook for the presentation. He then noted that with his wife in the hospital for surgery he had asked MPT Perry to handle the events surrounding Hurricane Irene. The MPT did a good job and thanked him.

6. TOWN OF KITTY HAWK HURRICANE IRENE UPDATE

MPT Perry said this is basically a post hurricane canvas of flooded areas report: *"My fellow citizens. While the beach community fared favorably during Hurricane Irene our village community received damage unknown to residents for 90 plus years. Older homes in low areas flooded for the first time causing unprecedented loss, pain, and hardship to many of our elderly and the children of those elderly who continue to live in homes passed down for generations. The heart of your local government goes out to each of you.*

Please allow me to put into some perspective what the village of Kitty Hawk is facing. The planning department, aided by the fire department, conducted a door to door canvass of properties impacted by the historic sound side flooding. A total of 550 properties were surveyed on Kitty Hawk Road, Moore Shore, Elijah Baum, O'Neal Lane, Edgerton, Herbert Perry, Beech/Capri/Elm/Vista neighborhood and scions of the Kitty Hawk Woods (Barlow/Radcliff) and Kitty Hawk Estates neighborhoods. The survey team made contact with 300 property owners. No one was available at the other properties so the figures presented will not add to 100 percent.

Eighty-one people reported that flood water entered into the living area of their home. A vastly greater number of property owners had flooding in lower level storage areas or garages. Forty-

Kitty Hawk Town Council Minutes: September 6, 2011

Page 5

nine people reported that the water level rose above their lowest electrical outlet. Sixty-two property owners reported they did not have flood insurance. Many of these people were older residents of the town or renters. A surprisingly good number of 177 properties did have flood insurance.

Two residents needed someplace to stay. Both were provided with information for alternative shelter and offered a means of transport if needed.

Most of the people did not require town assistance but did make the town aware of special needs such as cleaning supplies, help moving large objects, tree cutting, food, and housing assistance and so forth. Town staff provided resource information on the most pressing needs. It is important to note that most of that resource was provided by organizations such as The Baptists on Mission in combination with the Red Cross and the Christ in Action organization. The Salvation Army set up a food canteen at the Fire House to serve hot meals.

On behalf of council, I want to acknowledge and thank town employees for literally walking the streets to aid and abet our citizens during this time of need. They managed to accomplish an important component of what your local government should do in an emergency while continuing to conduct routine but necessary business.

If anyone in the town needs assistance or hears of someone needing assistance I urge you to contact town hall. Resource information is available and your public servants want to help.

Finally, I ask the Chief of Police to provide some things to be aware of in order to prevent being ripped off by the out of town contractors that have descended on our village. Chief would you do that please?

Chief Ward: *I would like to go over this with the people in the audience and also for the people who will watch the meeting on the government channel. Warning signs of somebody trying to scam you and some things you can do to lessen the possibility of being scammed.*

First of all some warning signs of possible post-storm scams: unsolicited door-to-door sales pitches, request for large up-front payments, no written estimates or contracts, offers to perform work using left-over or discount materials from other jobs, and high pressure sales pitches. These are the type of things you need to watch out for. That is not normal business. People coming to your door. A reputable business person has an established business place and has contact numbers in the phone book. Just be careful about people coming to your door and offering you deals that you think are really good deals.

Things that you can do to lessen the possibility of scams: always ask for a bid on all the work. And list all the agreed work on the bid. Make sure that everything is listed that you want done. Include a date for work to begin and also ask them to give you an estimate of a date of completion. Just an estimate on their part. It is important for you to have. You need to get a

total cost of the job and you need to include what type and quality of materials they plan to use. List how and when payments will be made and as I said, make no payments up front. List the type of work, get it done, and then decide on the payment. List any agreed warranties on labor or materials. And really the basic things I think about in this situation are: if you have any doubts go with your gut and if you think it is too good to be true, it most likely is. If you follow those two rules most of the time you are going to come out on the good end.

If you have any questions about any possibility of a scam, if you call the police department we will be glad to stop by your house, talk to you, or you can stop by the police department. We have phones now so we are back in business. Please stop by or call and we will be glad to assist you. If it is not a scam then that is good. You have done your part, we have done our part, we can move on. Do not worry about calling and thinking you will bother us. That is what we are here for.

7. PUBLIC COMMENT

Dennis Zagata: *Hello. Thank you for having me here. I am Dennis Zagata with U.S. Restoration. I have been asked to say a couple of things that may help out your residence as you deal with the flood water. We were here with Hurricane Isabel and did a lot of work and put things back together. The flood presents a new problem for everyone because this one stuck around for a while in the village. It has a tendency to get into the walls, insulation, and create mold problems down the road. In that vein I want to mention that flood treatment is important. Anything that you decide to keep needs to be washed with soap and water before it is put back into your house whether in a garage or living area. You also need to try and stay away from the bleach because it is corrosive and may damage some of those items. Drying is very important because if you do not dry properly you are going to end up seeing me either on the drying side or on the mold side. And you would probably rather it be on the drying side because it will stop a lot of problems.*

Any items that are porous such as cardboard, dry wall, anything like that, that can soak up water needs to be thrown out because of the contaminants in the water as it came through. It is considered borderline grey to black water and it has the ability to grow things in the humidity that you really do not want in your house. You want a healthy house. I know drying equipment and other things have been very sparse out this way only because of the extent of the storm that came through and we have stuff available. However the removal of those wet items will go a long way.

I also offer to answer any questions a resident may have with respect to what they should do, what they should throw out, or what they can keep, or how they can keep it. I am an expert in mold and a certified restorer. Anyone who wants to go to our website and email me I will email back a response and help them out in that way. Any commercial interests as well. The address is www.usrestorationusa.com. We have people locally and we have a branch in North Carolina. Some of the people may remember our name from the last pass through. Thank you.

2. **Ed Hines, Wake Forest, NC:** *I have been coming here all my life. I have been back in the village and the Landing area since Sunday helping to dry out some of the homes. What we have seen in the five homes that we have removed sheet rock and insulation from is 100% of the affected areas in all five homes were growing mold within 72 hours. I think this is important for everybody to hear. Even if you cannot afford to have someone cut this mold out it would certainly behoove everyone to try to take note or learn from those that do know. It is not hard to get these walls opened up. One side of the wall needs to be opened up and the insulation pulled out. We are cutting a foot above the waterline and yet the insulation is wicking even higher.*

Two of the homes had 2' 7" of water in them and we had to go 48" up just to get the water out. And of all those that we have worked on, all of them are producing mold. You can take your furniture and your carpet out and that is great but it is what you do not see that is going to hurt everybody later on.

If we can help in any way to help show you how to do that we will. I would be glad to help anyone. If we can help spread the word that way I think it is going to help us all to get rid of the infection down in there and it is quite a bit of it. Thank you and if anybody has any questions just ask me.

8. **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.*

- a.) **Approval of Minutes.** August 1, 2011 Regular Meeting. *(An affirmative vote for the Consent Agenda will approve these minutes.)*
- b.) **Revenues and Expenses Report for May 2011.** *(An affirmative vote for the Consent Agenda will acknowledge this report.)*
- c.) **Tax Pick Ups and Releases.** *(An affirmative vote for the Consent Agenda will acknowledge this report.)*

Councilwoman Klutz move to approve the consent agenda. MPT Perry seconded the motion and it passed unanimously, 5-0.

9. **ITEMS REMOVED FROM THE CONSENT AGENDA**

There were no items removed.

10. **PUBLIC HEARINGS:**

MPT Perry made a motion to go into public hearing. Councilman Bateman seconded and it passed unanimously, 5-0.

Kitty Hawk Town Council Minutes: September 6, 2011

Page 8

a.) Text Amendment: *Proposal to amend subsection 42-587(n), Costumed mascots/wavers, to broaden the use of costumed mascots and wavers for advertising. Specifically, the applicant is seeking allowances to use costumed mascots/wavers on a year-round basis with no limits on dates or time periods.*

Heard: *This is an application from 158 Surf and Skate, a local business in Kitty Hawk. It is a request for council to consider a text amendment that would revise the town's current allowances for costumed mascots and wavers, to broaden the use of those. Right now those are limited to certain dates mostly due to the initial applicant for it, Liberty Tax Service. Part of the request is for it to be extended, for those types of signs to be used year 'round. In the current ordinance there is a 90 day time limit per year on when they can be used.*

Those are the two changes they are proposing. The planning board reviewed this proposal at their meeting on July 14th and after discussion of the issues, the board unanimously recommended denial of the proposed text amendment citing concerns about traffic safety and aesthetics.

Klutz: *My question has to do with the placement in the code in Section 42-577. At the beginning of that Section... this is where we are going to put this if it is approved is that correct?*

Heard: *If approved as requested by the applicant it would move from a temporary use to a permanent sign.*

Klutz: *The first paragraph in that section says, "Signs shall be allowed on private property in the town only in accordance with table I in this section. If the letter "A" appears for a sign type in a column, such sign is allowed..." and it goes on to say if it is a "P" it is allowed with a permit and also if it is "N" then it is not allowed. That is the introduction to this particular section. When you go to the table it lists "TABLE I. PERMITTED SIGNS BY TYPE AND ZONING DISTRICT" and in miscellaneous it has banner, flag, portable, billboard... in spite of what everyone has said in the past, I still do not agree that a human being is a sign but since everybody seems to think so I think we would need to add that to this table and put it in the section where it is required in terms of the zoning. Whether it is allowed, requires a permit, or is not allowed because it would not be allowed in many of the zoning districts. I did not see anything in the packet that dealt with whether or not this table would be updated. I think it is incomplete the way it is.*

MPT Perry: *If approved.*

Klutz: *If approved. It would be in the section that has the requirement right up front. There was another table, TABLE V, PERMITTED SIGN CHARACTERISTICS BY ZONING DISTRICT, sign type, animated... I think that is the category we are putting this into. The little skateboard guy is animated so all across the districts there is an "N" for not allowed. Yet it seems if this is passed and put in that section then that table would have to be updated as well. I am not saying*

Kitty Hawk Town Council Minutes: September 6, 2011

Page 9

how to do it but I am thinking if it is approved we have to put something in each of those two tables to be consistent with what the rest of the subsection says. That is my only question of Joe.

At this time Mayor Perry asked if anyone else wished to speak during the public comment.

Mike Rowe: *Good evening mayor, council. Thank you for having me. I am one of the owners of 158 Surf and Skate. We celebrate our 4th year of business in Kitty Hawk this year and we are the ones that are proposing the amendment. As it stands now the variance only really helps one business in Kitty Hawk and that is the tax people. They get to use a mascot by the Bypass for the time that is most important to them and we are just wishing that we could take advantage of it. If our amendment exceeds what your scope is as far as being able to use the mascot 365 days a year we are happy to back that to maybe 30 day increments, one time a year. Anything such as that. We are definitely open to scaling it back to at least take advantage of having a mascot by the Bypass. We hope you will consider some kind of compromise or a middle ground. Thank you for your time. I will be happy to answer any questions.*

MPT Perry: *I think you just answered some of my concerns. It is a fairness issue to me too. If we kept the 90 day maximum but eliminated the time periods... in other words all year long. Ninety days, twice a year like a banner, would that do what you want to do?*

Rowe: *Absolutely. That would be perfect.*

MPT Perry: *So the tax people are not the only ones that get to use this. I realize other businesses might want to use it but I do not really have a problem with that either. Everybody is concerned about just letting it run wild.*

Rowe: *I have that concern too. The last thing as a business owner I want is 20 or 30 mascots running all over the Bypass. That does not help me at all as a Kitty Hawk business owner. I do not think it helps the town. I think that is definitely something I do not envision and is something we do not want. If we can keep it to the 30... the 90 day period I think that would be perfect and we would be very happy.*

Mayor Perry: *I think the 90 day, once a year, would be good for everybody.*

MPT Perry: *If you look at it from a banner point of view, they are allowed twice a year. What are we trying to do? We are trying to help a business. If you allowed it twice a year for 90 days each, then you would be in sync with the banners. And do whatever you need to do for the tables.*

Klutz: *I also have a question for the applicant and it has to do with the two costumed wavers/mascots per day. Is that two at once or just two on two different shifts?*

Kitty Hawk Town Council Minutes: September 6, 2011
Page 10

Rowe: *As I understand it there would be one mascot only. Just like a temporary sign permit is done now. It is only one sign so...*

Klutz: *In the planning board minutes all of the discussion was about the distraction of the mascot and the safety issue. I would like to throw out there for council that I find it far more distracting when I am looking for a business in a shopping center to try to read those little signs. Driving by knowing that I did not see the business I wanted on the sign. Then trying to read the individual store sign is hard and I think it is more apt to cause an accident than some little skateboard guy waving. Also, if you have one of those in a shopping center all the other businesses could say, "just look for the waving skateboard and we are in that shopping center." I feel like it would be not only a benefit to the business but also to the people that are looking for some particular place.*

MPT Perry: *Are you saying tourists might not park in the left fast lane looking for that place? That would be a good thing. I think we have all been behind them.*

Rowe: *I agree.*

Bateman: *I would like to see if I can add something. First of all, no disrespect to our attorney, I disagree about it being a sign. It is just a person. We all know I have a "shrimp." The shrimp has been dancing in front of Sugar Creek for about 15 years. Nags Head, Kill Devil Hills, and Manteo all allow it. If you look at the economic problems in having one of the mascots out there, they are enormous. First of all, to find someone who wants to be a shrimp is really tough. It is a hard job. He is out there for 2 or 3 hours a night in the middle of the summer and it is hot. So to find someone to get into the shrimp suit is a difficult issue. The other thing is it basically polices itself because they are not out there for 90 days straight. Maybe in the summer but not in the winter. There is not enough business to be able to pay a person to be out there in the winter. The shrimp right now is basically retired until Veteran's Day weekend.*

We need to do anything we can to help our businesses. Especially in the Town of Kitty Hawk in down times. I do not want them everywhere either. But like I said it will police itself because you are not going to find a whole bunch of people wanting to do the job. I am in favor of it.

Mayor Perry: *Everybody on the street is not a sign but the costume they are in or the board they are carrying is the sign. That clarifies it for me.*

Bateman: *I respect your opinion.*

Klutz: *There is a restriction on any written material on it. Yes, it is a skateboard but it is just a cute little skateboard it does not say the name of the business. I understand it is related to that business but it is not a structure and the definition of a sign says a structure. A person is not a structure.*

Kitty Hawk Town Council Minutes: September 6, 2011
Page 11

MPT Perry: *Let's find a compromise and move on.*

Mayor Perry: *Anyone else wanting to speak to this portion of the public hearing? No one came forward to speak.*

Heard: *I want to clarify one item about the temporary signs. The standard we have right now allows a business to use a temporary sign twice a year and each time can be up to 30 days for a total of 60 days. That is the current allowance for temporary signs.*

Klutz: *Now that Joe has said that I would like to see it for a longer period of time. I would agree with what we were talking about, 90 days, twice a year.*

Bateman: *I agree.*

Mayor Perry: *We will move on to the next item and discuss this more later if we need to.*

b.) Text Amendment: *Proposal to amend Section 42-225(c) by allowing "Home occupations" as conditional uses in the Kitty Hawk Woods (KHW) zoning district.*

Heard: *This is a proposal that came about in staff inter-action with a local property owner who inquired about establishing a home occupation in the Kitty Hawk Woods District. The ordinance presently does not specifically allow that type of use. Staff noted it appeared to be allowed in every other mainly residential district in town and posed the question to the planning board. Is this something you think you would like to move forward to the council? At their meeting on July 14th the board voted unanimously to recommend approval of a text amendment to permit home occupations as a conditional use in the Kitty Hawk Woods district.*

There was no one signed up to speak for this item and no one rose to speak after Mayor Perry asked if there was anyone who wished to speak. There were also no questions or comments from council.

c.) Text Amendment: *Proposal to amend subsections 42-251(c)(24)b, c, f, j, and k of the Kitty Hawk Town Code by revising standards for motor vehicle dealerships in the Beach Commercial (BC-2) district. Specifically, the proposed amendments would change the minimum lot size requirement from six (6) acres to 0.75 acre (32,670 square feet) and allow secondary frontage on any type of street.*

Heard: *This proposed text amendment is tied to the conditional use permit application that will come up next in the public hearing. The two are related. This proposal to change the standards in the motor vehicle dealership results from the request of an applicant. The key factors that are proposed to be changed are changing the minimum lot size requirement from 6 acres to 3/4's of an acre. There is another requirement in the ordinance that requires secondary frontage on a town street. It is worded specifically and the proposal would change that to secondary frontage on any street. It would remove the word "town" from several subsections contained in the current standards. If approved this would allow a motor vehicle dealerships on smaller lots and*

Kitty Hawk Town Council Minutes: September 6, 2011

Page 12

there are a total of seven properties presently within Kitty Hawk that would comply with the various standards. We have, as I mentioned, a proposal on one of those properties should the council decide to approve the text amendment. After reviewing this at their meeting on July 14th the planning board voted unanimously to recommend approval of the text amendment as proposed.

Mayor Perry: *Any questions of Joe?*

Klutz: *If there was a lot that currently does not have a street perpendicular to US 158 but is big enough for a private street to be put in, would that be covered under this?*

Heard: *If the change is made as proposed that would allow the property owner to be eligible to establish a motor vehicle dealership. Even as a private street. It does not use the word "public." It says any street.*

Mayor Perry: *If the street was improved?*

Heard: *That is correct.*

Mayor Perry asked if anyone wished to speak during the public hearing and no one came forward.

d.) Conditional Use Permit: *Application for conditional use permits to establish motor and electric vehicle dealerships in a Beach Commercial (BC-2) district at 6100 N. Croatan Highway. The dealership would involve sales, rental, and service of motor and electric vehicles (including cars and road-ready golf carts) and an electric vehicle charging station.*

Heard: *This is tied to the previous request and the applicant is requesting a conditional use permit to establish a motor vehicle dealership and an electric vehicle dealership. The proposed uses would comply with the standards for those districts if the changes were made to the motor vehicle dealerships. As outlined in the staff report, a list of criteria for each of those uses has a list of conditions that have to be met and how the proposal addresses those.*

I will highlight a few things with the proposed use. The applicant was kind enough to provide us with this map shown here on the screen. The blue and red areas are existing areas and there is no need to differentiate between those two colors. Those are all existing improvements on this property as far as asphalt goes and things like that. The areas that are highlighted in yellow are areas where additional asphalt or concrete would be added. There would be additional coverage.

The white area is the existing building on the property. As part of the proposal the applicant is looking at using the existing building and for those familiar with the property, it would undergo extensive renovation. There is a copy of the proposed façade, a building elevation that you have in your packet as part of the proposal. The renovated building would have a little over 1,600

Kitty Hawk Town Council Minutes: September 6, 2011
Page 13

square feet of office and retail space in the area to the east or left as you are looking at the building. There would also be three service bays which presently exist in the building that total almost 1,700 square feet and those would continue to be used in that manner. Again the dealership would involve sales, rentals, and service of motor vehicles as well as electric vehicles and that includes cars and the road-ready golf carts. It would also have two electric vehicle charging stations at the site. The electric vehicle dealership and the charging stations would be the first of their kind on the Outer Banks if this project is able to move forward. Most of the site itself would remain the same. I have pointed out the areas where additional impervious surface would go.

PD Heard pointed out the proposed areas for display of vehicles, parking for business customers, and a small area on the side which might be used for temporarily parking vehicles that are being repaired.

Heard: *Otherwise the improvements are very similar to what is sitting on the property right now. For the record the building complies with the setback standards from the front and both sides but does not comply with the setback from the rear of the property. It is an existing building that they are looking to reuse so that is an existing legal non-conforming situation. In this case there are no buffer requirements because it is surrounded by commercial property, commercially used, and/or zoned for that purpose. The staff report notes a number of other items that I will not get into but it generally complies with all the town standards.*

At its meeting on July 14th the planning board voted unanimously to recommend approval of the proposed conditional use permit to town council subject to the following conditions as well as the conditions found in our zoning ordinance: 1) the Dare County Environmental Health Department must approve the use of a waste water disposal system serving the proposed uses. I want to report the applicant has received that approval. I have a copy of the letter from the county granting approval that the existing system is sufficient to serve the proposed uses; 2) that stormwater management measures could be considered in areas where grading and paving activities will increase the amount of runoff or change the existing drainage patterns on the property; 3) all signage relating to the proposed development must be reviewed and permitted by the Planning and Inspections Department prior to installation; and, 4) any changes to the exterior lighting must be reviewed for compliance with town lighting standards by the Planning and Inspections Department prior to installation. With those findings that was what I had to report from the board and will certainly be glad to answer any questions or point out any other features as the council would like.

Mayor Perry: *Anybody have any questions of Joe while he is up here?*

Klutz: *My question is related to the bike path that runs along The Woods Road and some of the issues we have had in terms of vehicles cutting across and hitting the pylons that DOT put on the corner. How is this new plan going to affect that particular bike path?*

Kitty Hawk Town Council Minutes: September 6, 2011

Page 14

Heard: *The proposal would not change the bike path. It is located within the right-of-way and the proposal would not change any of the existing features. The applicant is present and may be better suited to answer. It was brought up either in staff review or at the planning board meeting about marking the area where the driveway crosses. That would help differentiate, to let vehicles know as they are pulling in or out that there is a crossing in that area. The applicant can maybe add a comment on that as well.*

Klutz: *Is there thought about a "bike stop" sign? We had a problem like that at the post office when the sidewalk went in. Vehicles were making a right turn into the post office and drivers did not notice there were others on the sidewalk. I am concerned because that bike path has been a problem and whatever happens with this site plan I would like to see some accommodation made for the path that will enhance safety.*

Heard: *There was not discussion of any additional measures as far as that goes. As far as signage on each side of the driveway if that is what you are referring to.*

Klutz: *I think it is something that maybe we should consider.*

MPT Perry: *A question on the planning board action under the section where they are requiring stormwater management measures. You used the word "could" rather than "shall" or "will." Why would they not be required to use stormwater management procedures according to Chapter 12, Article VI?*

Heard: *Staff brought that particular standard to the board's attention. The board did not require specific action by the applicant. However they did not remove the comment from the conditions as listed when they granted approval so it is something that... I guess in some ways this would be similar to the Foreman's property in terms of some of the additional area being improved and requirements to accommodate for that.*

MPT Perry: *I think that is subjective and could cause you some problems. I have a problem with that word. We will move on from there but...*

Mayor Perry: *I know there has not been any stormwater problem with that pavement when it was all paved. Seems like that site just assumes water without standing...*

MPT Perry: *That is all well and good but I do not want to leave staff in a position... they should not have to make that kind of judgment call.*

Mayor Perry: *I am just saying the history of it is the reason why they did not make it...*

MPT Perry: *That is fine, I just want to make sure we get this part right. Other than that I want to see something done with that place too. That is all I have.*

Kitty Hawk Town Council Minutes: September 6, 2011
Page 15

Mayor Perry: *Any other questions of Joe?*

Reid: *Not of Joe.*

Mayor Perry: *Has anybody signed up to speak during the public hearing?*

Morris: *No sir.*

Mayor Perry: *I think we have some questions for the applicant. Do you have questions of the applicant?*

Reid: *Yes, I do.*

Billy Roughton: *Before you ask questions I may be able to quiet a couple of concerns that two of the council members had. We talked about the bike/pedestrian path. I think it was the overall feeling of the planning board that this would create a safer environment than had been there before. What happens now is that people have a tendency to use it as a shortcut and they shoot through with no hesitation, no stop. We are not going to allow that to happen because it would not be good for business number one. We are just not going to allow it to happen. We will have everybody come to pretty much of a stop before they go anywhere across the site. It is not in our best interest to have people flying across the site where there is pedestrian traffic. I think that probably took care of a lot of their concerns from a safety standpoint.*

To address the other issue that Mr. Perry had it was the overall feeling of the planning department as well as the planning board that the site has been in existence since 1958 and there has never been a stormwater problem. As far as stormwater measures and silt fencing and those things if we had to do some of those things it would not be an issue. If we had to go in and create some sort of retention pond to accommodate any stormwater that we have never experienced in the last 50 some years then it would restrict the ability to use the site. So the... it would be tough if not impossible. I made the comment when they asked that question that certainly we could go to the expense and the trouble to hire a professional engineer to give us his opinion of what stormwater requirements would be but I do not think there is a better explanation than historically what has happened. And of course that is my perspective, I am not an engineer, but I know I have had that site for a long time and as I have said it has been in existence since 1958 with basically the same lot coverage. We are proposing to make very few changes.

I am sorry, I did not mean to interrupt your question but I thought maybe that would clarify those two points.

Reid: *I have a concern about this site. I would like to see it developed and cleaned up because it has been an eyesore for a number of years. I think we all feel that way about it. I have no*

Kitty Hawk Town Council Minutes: September 6, 2011

Page 16

problem with the use. My concern is the two entrances off 158. And for the background of the council, I know Clifton probably remembers this, we had a site plan that went through the process a number of years ago for a quick service food store and gas station at that corner. As part of that site plan we talked about the access off of 158 and the applicant at that time agreed to do a right turn only into this site and then require people to go out on The Woods Road in order to get back. I know this probably does not generate near the kind of traffic that that kind of use would generate but I still have a lot of concern about those two entrances. People trying to get out and make a left hand turn on the Bypass. That intersection is a very busy intersection and is across the street from the school. There have been a number of accidents, in fact one of my neighbors was in an accident there. People are flying off the Wright Memorial Bridge, and I know it is the second stop light, but there have been a number of accidents there. It is not the worst intersection in Kitty Hawk according to the police chief but it is up there and I guess my question is can you do something about reducing those entrances or blocking them somehow... it seems like two are un-necessary and somehow... I just do not want this to be generating more activity at that corner that is going to cause more accidents.

Roughton: *And that conversation came up at the planning board level as well. I cannot give you a definitive answer right now and I could not then. One of the problems with this site is we are a franchise dealer and the franchise, the manufacturer has more control over what I do than I do. It is a long arduous process to try and get a site approved. We have a temporary approval and I fear going back at this juncture for any alterations for fear that it may throw it back in the hopper. It is a massive corporation and those guys do not make decisions overnight. I was 18 months in getting them to take a look at approving this site... and with the understanding that what I had submitted was... that is not to say that it preempts me from going back at a later date or something and asking for that before we actually get started or when we get started. I do not think, in my humble opinion, it is a big deal because I do not think anybody in their right mind would come out of either one of those and try to take a turn to the left when they have a stop light there. I think the stop light for the most part controls the traffic flow pretty good from that site if there is a business located there. It probably controls it better with the business there than it does now but... I understand your concern and I am certainly willing to approach them with it. It is not something I have the flexibility to do right now.*

Mayor Perry: *If you had a sign to make a right turn out and a right turn in... making a left turn you are crossing a left turn lane also. It is almost impossible to do.*

Roughton: *I do not think you can do it to be honest...*

Mayor Perry: *Almost impossible to do. I do not know whether this site is going to create as much traffic as is already there.*

Roughton: *I think it will be less traffic.*

Kitty Hawk Town Council Minutes: September 6, 2011
Page 17

Mayor Perry: *There are more people cutting through there now than probably will be. You are going to have parking across that anyway right?*

Roughton: *I am going to try to block a lot of that off with parking absolutely.*

Bateman: *I kind of think the same way about the multi-use path Billy. If you are regulating traffic going off that site I do not think they are going to be able to pull out there.*

Roughton: *We do not want people to come through there. We want them to stop. I mean that is the reason to create a new business.*

Bateman: *Right now it is a cut through for a lot of people. You see it happen all the time.*

Roughton: *It is a cut-through. If you sit there and observe traffic for the better part of an hour or two you quickly see it is just a short cut. One of the reasons I was interested in pursuing this endeavor was that my Nissan franchise is making a totally electric vehicle that we are supposed to receive shipment on any minute. We have already been billed but we have not gotten the car yet. It is similar to the Chevy Volt except it does not have an internal combustion engine along with it. It is strictly electric and has about a 100 mile radius. The news says that it is between 80 and 140 mile distance that you can travel on a charge which is... this is not an advertisement but that is about three times more than the Volt does. We know it is going to be a popular vehicle and we know it is going to be a popular vehicle on the Outer Banks because people are environmentally sensitive. We want to find a way that people can utilize it on the Outer Banks by primarily having an ability to sell it and also the ability to re-charge. If you think about your normal duties and functions on the Outer Banks a hundred miles would get you around all day pretty much and that is where we think our market will be. So that was the primary reason for pursuing this to begin with. I expect it to be a pretty big part so I am really dependent on Nissan to allow me to... and I did not mean to take your suggestion lightly it is just that those guys do not give very easily. Particularly after you have them committed... that is the battle I am fighting.*

Mayor Perry: *Just to cover an off the wall question, the kayak people that park there now will not be there?*

Roughton: *They will be gone.*

Mayor Perry: *Are you going to put a fence on the eastern side by your building?*

Roughton: *That is in my plan, yes sir. We want to do something pretty. And in order to be pretty I think we need to separate ourselves.*

Mayor Perry: *We know the building is going to look pretty because your wife is going to work on it.*

Kitty Hawk Town Council Minutes: September 6, 2011
Page 18

Roughton: *I have two bosses, Nissan is one and she is the other. I will be glad to try to answer any other questions if there are some.*

MPT Perry: *I have a question that has nothing to do with a decision on this. I am curious about the electric car and people having to come to your place to charge them. Is that the way it works?*

Roughton: *No. Nissan will offer an in-house installation that is not as expensive as you may think. It is going to run somewhere in the neighborhood of \$1,500 to set your house up so that it can charge it. The idea is you will be able to go home in the evening and plug into your home. There is a tax credit from the State and Federal government both that will offset, more than offset, the cost of the installation. The intent is for everyone to have their own home charging station. It is a pretty simple process and it does not take up a lot of room. This would be primarily for people who are out and about and just want to do a quick charge. Also, if we are going to sell the vehicle we have to be able to have a full charge when it leaves. Primarily it is to give people a charge while they are out and about. Just like people forget to stop at the gasoline station, they are going to forget to charge that vehicle at home too. Then get out on the road and say, "uh oh." So it is primarily for that reason. Everybody who buys one of these vehicles so far has intended to put in a charge system at home because they are relatively inexpensive.*

Mayor Perry: *So if you stop in at your station how long does it take it to charge the car?*

Roughton: *It depends. From a zero charge up to a full charge on the type of charger we are going to put in will run about two to two and a half hours but very few people will get to a zero charge. Just like very few people will pull up to a gas station on an empty tank.*

Mayor Perry: *But it will be quicker than one at home?*

Roughton: *The in-home use will be about a six to eight hour process. The idea there is to drive it home at night and plug it in. You get up the next morning and you unplug it. It is pretty impressive. They have really simplified that process.*

MPT Perry: *They come to your place, it has been a couple of hours, and buy crackers and sodas?*

Roughton: *The idea is they probably would not spend a couple of hours there. At most it would probably be a 30 minute charge because people are going to use it to get from point A to point B and back. Keep in mind it has probably closer to a 140 mile drift on a full charge so if you have a half charge you probably have 70 miles, a quarter charge will take you 30 minutes. Probably get you 40 miles or so.*

Mayor Perry: *Any other questions?*

Kitty Hawk Town Council Minutes: September 6, 2011
Page 19

Roughton: *Thank you very much.*

Bill Holt: *Mayor Perry might I suggest something? I think that appropriate planning needs to be done there for deceleration coming off the bridge and turning right onto The Woods Road. And for future planning a right lane onto the Bypass from The Woods Road would help with traffic congestion. That is within the county or state right-of-way. There does not need to be any restrictions on him but at least put that in your thought plan.*

Mayor Perry: *To do what? It is not clear.*

Holt: *A deceleration lane coming off the Wright Memorial Bridge at the light. People are running the edge of the road there anyhow. Within the right-of-way and it should not to affect his business. Put it in a thought plan as some sort of goal. It would be nice to have a right turn only lane onto the Bypass.*

Mayor Perry: *That probably needs to be done but not part of this. Just today I saw a tractor trailer turn in coming east and it took down all of the pylons that are there.*

Holt: *And it could affect the positioning of light poles or any changes that might come about. Just a thought for the town.*

Mayor Perry: *That is a good idea for DOT to work on.*

Reid: *We have that transportation study coming up where that should be addressed as one of the issues.*

Mayor Perry: *Thank you, anybody else? There was no one else who wished to speak.*

e.) Conditional Use Permit: *Application for a conditional use permit to establish a shared parking arrangement between businesses in the Ocean Centre shopping center at 5230 N. Virginia Dare Trail. The Town's shared parking provision in Section 42-544(j) allows up to a 50% reduction in parking requirements for a business when its hours of operation do not overlap with another business(es) on the same property.*

Heard: *The final public hearing item is related to shared parking. The intent of this is to allow the Vilai Thai Kitchen to operate as a restaurant with seating after 6 o'clock in the evenings. They would like to operate as a restaurant for the dinner period and remain as a carry-out only during the day. There are two businesses within the Ocean Centre that presently close by 6 o'clock and that creates a potential for a shared parking arrangement. After reviewing the proposal at their meeting on July 14th the planning board noted the proposal appears to comply with all of the town standards for that shared parking arrangement and recommended approval to the town council for the proposal for this conditional use. However one of the items that is a requirement of this proposed use is "prior to final approval of the shared parking proposal, a shared parking agreement, in recordable form and executed by the property owners sharing*

Kitty Hawk Town Council Minutes: September 6, 2011
Page 20

parking, shall be submitted to the town." Staff has notified and worked with the applicant in this case. We were provided very basic information but it was not in a format nor did it have all of the information required under the ordinance. All I can tell you is at this point the town attorney and I are asking council to consider deferral or tabling this matter until a future meeting until you have that document in your hands as required by the ordinance.

Mayor Perry: *Any questions? Does anyone wish to speak at this portion of the public hearing? (No one came forward.) Is there a motion to go back in regular session?*

Councilman Bateman made a motion to go back into regular session. It was seconded by MPT Perry and the vote was unanimous, 5-0.

11. RETURN TO REGULAR SESSION/ACTION FOR PUBLIC HEARING ITEM

a.) Text Amendment: *Proposal to amend subsection 42-587(n), Costumed mascots/wavers, to broaden the use of costumed mascots and wavers for advertising. Specifically, the applicant is seeking allowances to use costumed mascots/wavers on a year-round basis with no limits on dates or time periods.*

Bateman: *I am going to make a motion but it is for discussion and you can tweak it if you like. I move for approval of Section 42-587(n) costumed mascots/wavers, to broaden the use of costumed mascots and wavers for advertising. It is to be allowed for 90 days, two 90 day periods." Klutz seconded.*

Mayor Perry: *Now that was not a part of the public hearing.*

Michael: *No but he can make the motion like he wants. My question is are you talking about two 90 day periods within any twelve months?*

Bateman: *Yes.*

MPT Perry: *I was going to make a slightly different motion. Ninety days not more than twice in a calendar year. Is that what you really want?*

Bateman: *Yes.*

Mayor Perry: *Is that what your motion is going to be?*

Bateman: *I amend my motion to two 90 day periods within one calendar year.*

Mayor Perry: *Do you agree with a second?*

Kitty Hawk Town Council Minutes: September 6, 2011
Page 21

Klutz: *Yes but there is no 587(n) to modify in the code. The original intent was to move what was in that section of the code to the section that covered permanent signs. Now we are in this compromise position putting it back into a temporary sign. If that is the case then I think it becomes 587(g). That is what got me confused about it in the first place because we were going from temporary to permanent and there were other things that applied with a permanent sign.*

Michael: *Section 587 is the temporary sign banner permits.*

Klutz: *Right and I think (g) was the mascot/wavers. So we would have to modify what is in there right now and the modifications that were made to it did not... that were made to the ordinance says "the use of costumed mascot/wavers shall be permitted in BC-1 and BC-2 zoning districts only on Croatan Highway US 158 subject to the standards and requirements set forth herein. A business shall be limited to a maximum of two costumed wavers/mascots per day and that was explained to be no more than one at a time..."*

Mayor Perry: *That should be clarified.*

Klutz: *That should be clarified. I certainly had that question. We might just want to re-word that to "a business shall be limited to one costume waver/mascot at a time per day." One at a time. The lighting, "no additional lighting shall be allowed on the side as the mascot/waver would only be out during daylight hours." I guess that stays. "The costume waver mascot shall remain on private property" stays. "Attire by waver/mascot shall not be offensive or contain written advertisement" stays and then #6. We would have to add number #6 and you had some words there Gary for that.*

MPT Perry: *Basically I was going to say for 90 days not more than twice in a calendar year.*

Klutz: *So that is the intent. I think Joe and the attorney should write it into the ordinance in the appropriate manner and then we could vote on it. But it is really going to require an amendment and then the question becomes do we have to go through the public hearing again?*

Michael: *I do not think you have to go through the public hearing again. I think this is well within what you... as a possible amendment to the ordinance.*

Klutz: *Okay and with the Statue of Liberty, was their time period a little longer than 90 days? Beginning of January to...*

Mayor Perry: *January to April 15th I think.*

Klutz: *That is just about 90 days. And if they get two 90 day periods nothing would stop them from just continuing on the additional... the second 90 days.*

Mayor Perry: *What we are changing in the ordinance is not really changing... it is clarifying...*

Kitty Hawk Town Council Minutes: September 6, 2011
Page 22

Michael: *That is correct.*

Klutz: *Right. Instead of the ordinance as written right now putting it in 577, it needs to go in 587 and as 587 (g).*

Mayor Perry: *Do you want to do that now or do you want it written up and have it come back.*

MPT Perry: *I think we ought to have it come back.*

Klutz: *Yes. And the only question I have is will it have any adverse affect on the business?*

Mayor Perry: *Would that affect you this year?*

Rowe: *No sir. That is not a problem at all.*

Klutz: *Then let us do it right next month.*

Bateman: *That is fine. If he has no problem with it I have no problem with it.*

Councilwoman Klutz withdrew her second and Councilman Bateman withdrew his motion.

Heard: *If you would give me one minute I would like to summarize to be sure I am on the same page as council. All the changes would occur within section 42-587(g). Under #1 we would remove the stipulation that the use is limited between the dates of January 15th and April 15th. Under (g) 2 we would clarify that to note the business would be limited to the use of one costumed waver/mascot at a time. Under (g) 3 it would note that rather than as it is stated the 90 day period there would be two 90 day periods per calendar year. And those are the three changes I noted that would need to be made to accomplish what the council just stated. Does that sound like what everybody is thinking?*

There was a council concurrence of PD Heard's summary.

Michael: *I think you need to actually have a motion to continue it to next month.*

Councilwoman Klutz made a motion to continue action on the waver/mascot use for advertising to the October 3, 2011 council meeting. MPT Perry second. Klutz asked if the changes needed to be specified and Attorney Michael said she could state them if she liked. Mayor Perry offered it is already on record. The vote was unanimous, 5-0.

b.) Text Amendment: *Proposal to amend Section 42-225(c) by allowing "Home occupations" as conditional uses in the Kitty Hawk Woods (KHW) zoning district.*

Councilwoman Klutz made a motion to add Subsection 42-225(c)(6) permitting home occupations as conditional uses in the Kitty Hawk Woods zoning district. Council finds

Kitty Hawk Town Council Minutes: September 6, 2011
Page 23

this amendment to be consistent with the town's adopted CAMA Land Use Plan and in the public's interest by allowing compatible low intensity business uses while maintaining the residential character of the district. MPT Perry provided a second and it passed unanimously, 5-0.

c.) **Text Amendment:** *Proposal to amend subsections 42-251(c)(24)b, c, f, j, and k of the Kitty Hawk Town Code by revising standards for motor vehicle dealerships in the Beach Commercial (BC-2) district. Specifically, the proposed amendments would change the minimum lot size requirement from six (6) acres to 0.75 acre (32,670 square feet) and allow secondary frontage on any type of street.*

MPT Perry made a motion to revise standards for the establishment of a motor vehicle dealership in the Beach Commercial (BC-2) district amending subsections 42-251(c)(24)b, c, f, j, and k of the Kitty Hawk Town Code by reducing the minimum lot size requirement to 0.75 acre and allowing secondary frontage on any street. Town Council finds this amendment to be consistent with the town's adopted CAMA Land Use Plan and in the public interest by setting reasonable and appropriate standards for establishment for such uses. Councilwoman Klutz seconded and it passed unanimously, 5-0.

d.) **Conditional Use Permit:** *Application for conditional use permits to establish motor and electric vehicle dealerships in a Beach Commercial (BC-2) district at 6100 N. Croatan Highway. The dealership would involve sales, rental, and service of motor and electric vehicles (including cars and road-ready golf carts) and an electric vehicle charging station.*

Mayor Perry: *Is there a motion, discussion?*

MPT Perry: *Are we going to leave the word "could" or are we going to put "should" or "shall?" I want something to be done there but do not want to leave an open end for staff to have to deal with. If stormwater is required for one it should be for another. Is there some sort of a reason legally you did not get involved?*

Michael: *I was not at the planning board when this... somebody else was there.*

MPT Perry: *All right. Well give me some advice. What is your take on this?*

Michael: *On the Foreman's property we said if you came in and created additional lot coverage you had to consider whether or not that additional lot coverage created storm runoff that had to be dealt with. That is what we did there and to be consistent you would have to do it here. What is there is there and it has not been a problem but if you come in and pave half of the property and it would create some runoff then somebody would have to do a calculation. They might say it is not creating any significant runoff and you do not need to do anything. But if they say you need to put a little berm in to capture an additional hundred gallons of runoff then yes... so the word "shall" should be in there.*

MPT Perry: *That answers that. I am going to make a motion and you can change it if you want. I move to grant approval of the conditional use permit application to establish a motor vehicle dealership and electric vehicle dealership at 6100 N. Croatan Highway subject to the conditions outlined in the town code and the following conditions: 1) stormwater management measures per Chapter 12, Article VI, Stormwater Management shall be considered in areas where grading and paving activities will increase the amount of runoff or change the existing drainage patterns on the property. 2) all signage relating to the proposed development must be reviewed and permitted by the Planning and Inspections Department prior to installation. 3) any changes to the exterior lighting must be reviewed for compliance with Town lighting standards by the Planning and Inspections Department prior to installation. Town Council finds that approval of this conditional use permit is consistent with the town's adopted CAMA Land Use Plan and granting approval is in the public interest. Councilwoman Klutz seconded and it passed unanimously, 5-0.*

e.) Conditional Use Permit: *Application for a conditional use permit to establish a shared parking arrangement between businesses in the Ocean Centre shopping center at 5230 N. Virginia Dare Trail. The Town's shared parking provision in Section 42-544(j) allows up to a 50% reduction in parking requirements for a business when its hours of operation do not overlap with another business(es) on the same property.*

Councilwoman Klutz made a motion to defer consideration to the October 3, 2011 meeting if the applicant provides the appropriate agreement for the shared parking arrangement. Until a signed recordable shared parking arrangement is submitted to the town. MPT Perry seconded the motion. Mayor Perry reiterated the town does not have the agreement at this time. Councilwoman Klutz agreed and moved to defer final action on the matter until a signed recordable shared parking agreement is submitted to the town. Councilman Bateman seconded and it passed unanimously, 5-0.

12. UNFINISHED BUSINESS

a.) Text Amendment: *Proposal to add provisions to Chapter 14, Flood Damage Prevention, allowing small accessory buildings in Coastal High Hazard Area (VE) flood zones when installed to FEMA safety standards.*

Mayor Perry asked if council needed any more information or if it is satisfactory.

MPT Perry made a motion to make the proposed changes to Chapter 14, Flood Damage Prevention, which will allow small accessory buildings in VE flood zones subject to FEMA safety standards for such structures. Town council finds these amendments to be consistent with the town's adopted CAMA Land Use Plan and in the public interest by providing greater opportunity for property owners in VE flood zones. Councilwoman Klutz seconded and it passed unanimously, 5-0.

13. NEW BUSINESS

a.) Approval of Contract for Sandy Run Park, Phase II – Bids were opened on August 9, 2011. There were six bids received and the lowest bid was from Waldt Construction Inc. with a base bid of \$237,320 and an additive bid of \$300 for mulching for a total of \$237,620.

Manager Stockton: On August 9th bids were opened by Brian Rubino and Mike Strader of Quible and Associates at Kitty Hawk Town Hall for Sandy Run Park Phase II project. Joe Heard and I also were in attendance. A total of six bids were received for the project with the lowest bid being submitted by Waldt Construction Incorporated. The base bid was \$237,320. The bid included an additive bid amount for mulching which adds \$300 to the base bid for a total amount of \$237,620. The engineer's preliminary estimate was \$288,380.

Quible has reviewed the bid documents submitted and checked the references for Waldt Construction Incorporated and recommend the award of the contract to Waldt Construction Incorporated. A summary of the cost is as follows: the low base bid was \$237,320 plus a mulching alternate of \$300. We have an engineering cost of \$36,055 for a total cost of \$273,675. The amount of grants we have is \$289,780 and we had a balance from the Harris Tract fund of \$14,670 which gives us an amount of \$304,450 available for the project. There are adequate funds available for the project.

We have representatives from Quible here this evening in case there are any questions pertaining to the bids or to the project itself. We have one change that I sent around earlier to council pertaining to a shifting of the alignment of the boardwalk near the Snake Run Ditch. The reason for proposing this shift in alignment was due to the original proximity of the boardwalk near the Larson property. Apparently there was a mistake in the drawings furnished by Rivers and when they drew up the alignment for the boardwalk it came fairly close to the Larson property. I had a call from Mrs. Larson and she requested that we look at the possibility of moving the alignment of the boardwalk. Quible has looked at it and they came up with a couple of alternatives for that alignment. It is a small section and we are recommending alternate "A" be used for the revision to the plans. That would get us away from the Larson house. We went out and field checked it and it is very doable as far as the engineers and staff is concerned. It would not affect the bid price we received for the project and it will not affect our PARTF grant. I think a question was posed whether or not there was an issue with PARTF and we checked with them. It is not an issue. I just wanted to mention that to council as part of the bid but basically we are recommending that we go ahead and approve the bid price of \$237,620 as submitted.

Mayor Perry: It looks like there is going to be a lot less 404 wetlands involved in that too.

Stockton: In talking with the engineers they said there are some trees that we may have to maneuver around. We are not quite sure how that is going to work out in the final analysis but we will work with the contractor and make field adjustments for it. If we do have some other issues with trees then that may increase the cost. But we still will be below... at the base bid price.

Kitty Hawk Town Council Minutes: September 6, 2011
Page 26

MPT Perry: *I understand. But you are asking us to make a motion to approve at the \$237,320 rather than the... well first we have to make a decision about alternate "A" or "B" or leave it where it originally was planned.*

Bateman: *I have a question of the engineers. How far are alternates "A" and "B" and the original alignment from the Larson house?*

Rubino: *I am Bryan Rubino with Quible and Associates and I am here with Mike Strader who is the professional engineer on record for the project. The existing boardwalk was at its closest point about 73' from the closest portion of Mrs. Larson's house. Alternates "A" and "B" closest point is about 113' from the nearest portion of the Larson house.*

Klutz: *With regards to the actual length of the walk, alternate "A" looks like it would not be too much less than the original. Alternate "B" is the straightest but with "A" we are getting about the same amount of walkway for the path.*

Rubino: *That is correct.*

Klutz: *I like the idea that it is closer to the original length of the path.*

Mayor Perry: *Can it wander around a tree without having to... in other words it would not have to be straight... it could wander around a tree and not cost more money.*

Rubino: *Joe Heard and I went out there and flagged about 25 to 30 trees in the full alignment of the boardwalk. They were significant nice hardwoods that should be preserved to the fullest extent practical. If we went with alternate "A" which is a little shorter... if you go by the unit price bid it would be a little less expensive, about \$1,400 less expensive. I think a point maybe John was conveying is that there are some trees out there and there may be maneuvering around some of the bigger trees and that may raise the price up to what the original base bid is. \$237,000 and some change.*

Mayor Perry: *If we choose "A" we are only doing it for the bid price and not any extra.*

Klutz: *Not any extra. If we approve this it is going to be for the bid price. If we pick alternate "A" the vote should specify it is going to be included in that bid price. Is that correct?*

Rubino: *That is right.*

Mayor Perry: *We have a consensus if that is...*

MPT Perry: *It is going to be "A."*

Mayor Perry: *And the bid price is what we are going to go with.*

Kitty Hawk Town Council Minutes: September 6, 2011
Page 27

MPT Perry: *Because that is going to include any additional work. All right that is where I was going...*

Klutz: *I have another question that is not related to this. In the grant request part of this it was going to include interpretive signs but this is strictly for the construction correct?*

Rubino: *That is right. That is not included.*

Klutz: *Joe, are they going to come in another phase or another presentation to council or are we not going to do them?*

Heard: *There are several other comparatively minor project expenses such as interpretive signs, a new entrance sign, picnic tables, that are not part of this particular contract. This obviously takes up a bulk of the funding but there are some other odds and ends and that is why it is important to know what John pointed out that we do have other funds available as part of our cost estimate in the original project that are set aside for those expenses. We have those covered.*

Mayor Perry: *The Coastal Reserve could probably help with some of that and the Eagle Scouts are looking for projects.*

MPT Perry: *I know for a fact there are some aspiring Eagle Scouts that want that kind of project.*

MPT Perry made a motion that the contract for Sandy Run Park Phase II be awarded to Waldt Construction Inc. with a bid price of \$237,620 and that the mayor be authorized to sign and the town clerk to attest said contract. Councilwoman Klutz seconded and it passed unanimously, 5-0.

b.) A Resolution to Reaffirm the Town of Kitty Hawk Land Use Plan – *North Carolina DOT is preparing a Comprehensive Transportation Plan and Land Use Plan's must have been approved within the last five years to participate. This resolution reaffirming Kitty Hawk's LUP will allow the town to participate in the CTP.*

Councilman Reid made a motion for council to adopt the resolution to reaffirm the Town of Kitty Hawk Land Use Plan. **MPT Perry** seconded the motion and it passed unanimously, 5-0.

c.) A Resolution Declaring September 24, 2011 "BIG SWEEP 2011 DAY"

Councilwoman Klutz moved for council to adopt the Resolution Declaring September 24, 2011 as Kitty Hawk "BIG SWEEP 2011 DAY." A second was provided by Councilman Bateman and the motion passed unanimously, 5-0.

d.) Post-Hurricane Irene Permit Fees

MPT Perry moved to waive the permit fees associated with Hurricane Irene damage. This is in effect from August 29, 2011 through February 29, 2012. This would affect only damage from Hurricane Irene and would not affect new construction and things of that nature. Councilwoman Klutz seconded and the motion passed unanimously, 5-0.

Councilman Bateman asked if that would also include a demolition permit.

PD Heard replied it would include demolition if it was damage from the storm. If people had to take something down as part of the damage that was associated with the storm. There was discussion earlier today about this and if somebody has a house below the base flood elevation and they were flooded and they wanted to raise it up that would also be considered a repair associated with storm damage and no fee would be required. If council is under the same understanding staff would proceed accordingly.

14. REPORTS OR GENERAL COMMENTS FROM TOWN MANAGER

a.) **Hurricane Irene Post-Storm Information** – Manager Stockton: *I just want to reiterate what MPT Perry said previously about the town's involvement and want to compliment all of the departments in the town for what they did before, during and after the hurricane. They performed above and beyond what was expected and in some cases under adverse conditions with the flooding of their buildings. I wanted to comment that they really did a tremendous job as far as I am concerned.*

We have been getting information, almost on a daily basis, from FEMA for citizens and what they can do as far as applying for assistance. There is a Disaster Recovery Center in Manteo at the Dare County Center and it is open from 8:00 am to 7:00 pm seven days a week until further notice. This is to help with those properties that have damage and other set backs from Hurricane Irene and they need assistance. Representatives from the Federal Emergency Management Agency, North Carolina Emergency Management, and other agencies will be at the centers to explain the assistance programs and help hurricane survivors apply for disaster aid.

Also, there was information received on the CAMA permitting. Coastal Management offers emergency CAMA permits for hurricane recovery. Coastal property owners who need to replace docks, piers, bulkheads, houses, or other structures damaged by Hurricane Irene along sounds, rivers, and creeks may be able to do so quickly by using an emergency general permit offered by the State Division of Coastal Management. Property owners should contact staff with the State Division of Coastal Management before beginning repairs or replacement work. The Division Assistant Director for Permitting and Enforcement said if DCM staff determines that your project does not meet the requirements of the emergency general permit you may be eligible for another type of CAMA permit.

Kitty Hawk Town Council Minutes: September 6, 2011
Page 29

b.) Storm Drainage Study Update - Manager Stockton: *I want to comment on the status of our storm drainage study. Mr. DeLucia of Albemarle and Associates reports he will be completing the draft report and expects to have a draft by the middle of this week. Mr. DeLucia says that most of the report is completed at this time. The graphics and front end of the report is complete and he is in the process of trying to complete the individual drainage area write-ups and estimated costs. That should be coming up pretty soon.*

c.) Comment from Mr. John Risoldi, 3901 Ivy Lane - Manager Stockton: *We received a compliment from Mr. Risoldi of 3901 Ivy Lane, and he wanted us to know how much he appreciated the town and employees during the hurricane and its aftermath. He wanted to thank all the employees for their efforts.*

d.) Letter of Appreciation from Jean Skorupa, Newport News, VA - Manager Stockton: *We also received several letters from Jean Skorupa from Newport News. Ms. Skorupa thanked Captain Cole Yeatts, Mike Basilone, Sam Crist, and the entire Ocean Rescue staff for their quick response to their 18 month old granddaughter on August 4th who had a medical emergency. Ms. Skorupa also was complimentary of Sam Crist, Tyler Collins, Tim Tran, and Cole Yeatts who has helped Ms. Skorupa get to the beach in the morning and back to her car in the afternoon. Ms. Skorupa has cardio myopathy and arthritis in her knees so they have been very good at helping her get back and forth to the beach.*

e.) Comment from Charles Owens on the Newsletter - Manager Stockton: *I received an email from Charles Owens regarding our town newsletter and website. Mr. Owens says he appreciates the improvements made by Melody Clopton our Management Assistant as to the flow of information to the residents and absentee property owners. Melody has been updating the website on a regular basis during the hurricane to try and make sure there is some information available on the website for people to refer to.*

f.) Letter of Appreciation from Michael & Frances Dunn, 4800 Capri Terrace - Manager Stockton: *We received a letter of appreciation from Michael and Frances Dunn of 4800 Capri Terrace for the quick response by Mr. Midgett in the public works department for the installation of a "No Outlet" sign on West Eckner Street. Mr. Dunn said that so far the sign seems to be effective in keeping the trucks and tourists from trying to use Eckner as a cut through.*

15. REPORTS OR GENERAL COMMENTS FROM TOWN ATTORNEY

There were no further comments from the attorney.

16. REPORTS OR GENERAL COMMENTS FROM TOWN COUNCIL

Reid: *I have had nothing but very positive responses from everybody for the town staff, the volunteers, the Baptist men, and the Red Cross. Everybody that has participated or helped volunteer-wise or staff-wise after the hurricane has been terrific.*

Kitty Hawk Town Council Minutes: September 6, 2011
Page 30

Bateman: *Same here. I think everybody did a great job. They came by my house doing a head count the day before the storm wondering if I was staying or not. It made you feel good that people were there for you.*

On a lighter note, I would like to thank all the volunteers who helped with the race. The police department, ocean rescue, and public works helped with the Sand Bar 5k Race also. Everybody stepped up to the plate and we raised over \$20,000 for one race in one day. There were over 500 runners and it was a remarkable event and very successful. The money that is raised goes back into the community of Dare County and right now we have given over \$560,000.

Klutz: *I would like to add my thanks as well. It has been different for me because normally when there is a hurricane it is my side of town that winds up under water and I want to send out my heart to all of the people in the village. It is such a horrible thing to go through. The town staff did a remarkable job as well as all of the volunteers. I also wish them all the best dealing with their insurance adjusters because that part may not be quite as nice as what they have experienced so far. Thanks certainly to the town staff for everything they did during this time.*

MPT Perry: *We had a meeting prior to the storm, I looked them in the eye and said, "You are the professionals and if you need me for politics or something call me. Otherwise take care of it." And they did. And that is the way it should have been. They did fine. We are blessed with good town employees, they worked hard. The organizations that are out there who just come to the rescue, they constantly amaze me. And they take of their own time to do everything. Thank you all.*

Mayor Perry: *I got the same reports. Everybody I heard say anything was very appreciative of everything that was going on.*

Klutz: *I would like to add it was good of the EOC to begin letting people in as quickly as they did. That was nice for those of us who evacuated.*

Mayor Perry: *A lot of times when it is on the ocean side it cannot be done whereas if it is on the sound side it does not affect the tourism as much. They did a good job.*

I have two things. I noticed the ditches and the waterways, and we need to get in touch with FEMA on this situation. There are trees down across some of the ditches and waterways and they need to be cleaned up. It may be something we can get worked through with FEMA in some manner to get money for cleaning them up. I have not traveled any of them but I have looked down them from the road and I have seen trees across them and debris in the ditches.

MPT Perry: *I have traveled them and there are trees, whole trees, stumps...*

Bateman: *Years ago we had a grant for cleaning up the ditches.*

Kitty Hawk Town Council Minutes: September 6, 2011
Page 31

Mayor Perry: *There was special money for it but then the funds went away. That is why I am mentioning it while FEMA is here and paying for trash pickup perhaps they could look into cleaning the waterways that make the water ebb and flow. Without that the mosquitoes are going to get worse and they are all ready bad.*

Stockton: *We have yet to have a kick off meeting with FEMA but when we do this will be something we can ask them.*

Mayor Perry: *Hopefully we can get funds because it costs a lot of money to get somebody out there. In some cases I think they will need small barges to do the job.*

The other thing is I was asked if the president had declared a disaster area for the Outer Banks and if so would it include income tax breaks. In some areas if he declares it an emergency you can deduct some items from your income tax. I was asked to ask that question also.

Stockton: *I will see what we can find out.*

Klutz: *I saw where it allowed for a delay in paying things like quarterly estimated taxes.*

17. PUBLIC COMMENT

Bill Holt, Kitty Hawk Landing. *I called John Stockton today and he politely returned my call. Before I get into that I would like to thank everybody in the town, most particularly the police driving up and down our streets trying to chase away scavengers who were not legitimately scavenging. Another item you need to hit FEMA with and I hesitate to make it sound like this but we have a little hazmat issue. Near the entrance of Kitty Hawk Landing, on town property right-of-way and adjacent property owners, there is oil, fuel, and water standing. This is where they have allowed fill to be spread from dredge material. I asked John if he could have public works take a water sample because it not just smells like septic it smells like fuel and oil and I think it is a hazard. I think it is a medical hazard for those that live there. There are kids and families that live around there. It is not in Kitty Hawk Landing because it is outside our bounds but it is on Ivy at the corner of Tillett.*

Mayor Perry: *Salt water and greenery, when they counteract they will actually create oil. After the '93 storm some of the isolated areas had oil and they thought it was what you are talking about but it was oil that had been created by the greenery.*

Holt: *We are having a drainage study done now and that little section needs to be considered as well. Whatever they put there that was dredge material it is like a very resilient rubber roof. It just holds it there and it is beyond unsightly. I can deal with that. It is certainly too short after a storm to really be an issue but I would rather us get up with FEMA with our test that says the Town of Kitty Hawk took the time to have a professional test done.*

Kitty Hawk Town Council Minutes: September 6, 2011
Page 32

Mayor Perry: *A good thing is if there is some oil on top mosquitoes will not hatch.*

Holt: *We can look at good and bad but the fact is we have to drive by and live with it. I have oil in my marsh out in front of my house. People had a lot of stuff flooded and there was a lot of oil. I had 20 gallons of fuel on my ground floor and somehow or another there is only 15 of it left. There are 5 gallons somewhere and I could not do anything about it. Also, I appreciate the fire department coming around and telling us it would be 7-9 feet, make a decision. In Kill Devil Hills they told them to write their social security number on their arms.*

Reid: *I would like to add one more thing. With all of the standing water and the potential environmental hazards of that water perhaps someone in the health department and our newsletter should put the word out that children should not be playing in it. One person in my neighborhood apparently got very ill from walking barefoot in some of the ditches and so forth.*

Mayor Perry: *Another thing is the mosquitoes started being very bad today. They probably stopped their spraying process and should get it going again.*

Reid: *The truck has been down my street.*

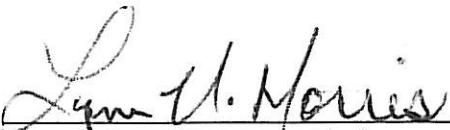
Midgett: *I spoke to the county about that today and they are meeting tonight to discuss aerial spraying over the flooded areas. Just for that very reason because they are ferocious.*

Mayor Perry: *Thank you Willie. Anyone else? Is there a motion to adjourn?*

18. ADJOURN

Councilman Reid made a motion to adjourn. It was seconded by Councilman Bateman. The vote was unanimous, 5-0. Time was 8:14 PM.

These minutes were approved at the *October 3, 2011* council meeting.


Lynn U. Morris, Town Clerk


Clifton G. Perry, Mayor