

MINUTES
KITTY HAWK TOWN COUNCIL
Tuesday, September 6, 2016
Kitty Hawk Town Hall, 6 PM

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Presentations/Recognitions:
 - Public Works Director Willie Midgett/10 Years of Service
 - Moore Shore Road Living Shoreline/Michelle Clower, Coastal Federation
5. Public Comment
6. Consent Agenda
 - a.) Approval of August 1, 2016 Minutes
 - b.) FY 16-17 Budget Amendment #1
 - c.) FY 16-17 Inter-Local Agreement with Dare County for Solid Waste Collection Services
 - d.) Beach Food Pantry Permit Fees
 - e.) Resolution Establishing the Town Council Regular Monthly Meeting Dates for 2017
 - f.) Byrd Street Emergency Pumping Facility Bid
- 7.) Items Removed from Consent Agenda
8. Public Hearings:
 - a.) Text Amendment: Applicant proposes to amend Section 42-1 *Definitions* adding a definition for "Therapeutic Residential Treatment Facility and Sec. 42-253(c)6 adding Therapeutic Residential Treatment Facility as a conditional use in the Beach Hotel (BH-1) district.
 - b.) Conditional Use Permit: Applicant proposes to establish a therapeutic residential treatment facility at 3512 N. Virginia Dare Trail, should the associated text amendment be approved.
9. New Business
 - a.) Request to Hire Fire Department Office Assistant/Receptionist above Hiring Range
10. Reports/General Comments from Town Manager
11. Reports/General Comments from Town Attorney
12. Reports/General Comments from Town Council
13. Public Comment
14. Adjourn

COUNCILMEMBERS PRESENT:

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

Kitty Hawk Town Council Minutes: September 6, 2016

Page 2

STAFF MEMBERS PRESENT:

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

1. CALL TO ORDER

Mayor Perry called this meeting to order at 6 p.m.

2. MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE

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

3. APPROVAL OF AGENDA

MPT Garriss made a motion to approve the agenda. The motion was seconded by Councilman Bateman and passed unanimously, 5-0.

4. PRESENTATION/RECOGNITIONS:

- **Public Works Director Willie Midgett/10 Years of Service**

Manager Stewart presented Public Works Director Midgett with a plaque in recognition of his ten years of service with the Town.

- **Moore Shore Road Living Shoreline/Michelle Clower, Coastal Federation**

Ms. Clower provided a PowerPoint presentation on living shorelines and said there are currently six homeowners along Moore Shore Road who would like to put one in. Living shorelines are a creative approach to maintain, restore or enhance the shoreline's natural habitats while providing stabilization.

5. PUBLIC COMMENT

1.) Manny Medeiros, Southern Shores, NC: Good Evening. I am here to request your help concerning fantasy energy that has taken hold of our federal government for the past few years. Specifically in the Department of Interior's Ocean Energy Management Bureau. They are coming to town soon to show us that they have mastered the art of bending the laws of physics, chemistry, engineering, and economics. Imagine that. Thus the feds will be here and the lobbyists _____ into

Kitty Hawk Town Council Minutes: September 6, 2016

Page 3

believing erecting global warming scarecrows in the ocean off of Kitty Hawk is more than free range lunacy.

Furthermore, the Interior Department appears either unable or unwilling to learn from the economic suicide that wind power has visited upon Europe. Specifically we know that Denmark has just abandoned plans to build five offshore power stations because the resulting electricity would be too expensive. We also know that since 2012 the cost of renewable energy in Denmark has increased dramatically with Danes now paying the highest price for electricity of any country in Europe. We further learn that while Danes have been paying billions of dollars in taxes and fees to support wind power electricity prices have sky rocketed to the point that green taxes now take up 66% of each Danish customer's monthly electricity bill. Also, Denmark has seen the rate of wind power construction plunge 90% while Italy has dropped 75%, and Spain, cited by our president as a model country to follow for green energy use, has seen an 84% plunge. In fact, Spain recently stopped doling out renewable energy subsidies thus halting the expansion of that country's wind and solar folly. Wishful thinking that causes Spain's electric utilities to accumulate a \$32 billion dollar deficit. Similarly, Germany, and an increasing number of businesses, have been leaving the country citing high energy costs as Germans currently pay nearly three times as much for electricity as we do.

So, in summary, Kitty Hawk Town Council has a key role to play in helping to educate misguided feds with whom you come in contact with from time to time. Explain to them that we are spending money we don't have, to solve problems that don't exist, at the behest of people we don't elect further burdening our grandchildren with enormous debt. We need to stop this generational theft. Thank you very much.

6. CONSENT AGENDA

a.) Approval of August 1, 2016 Minutes. *(An affirmative vote for the consent agenda will approve these minutes.)*

b.) FY 16-17 Budget Amendment #1: This budget amendment recognizes and accepts a \$100 donation made to the police department from Joe Lamb, Jr. and Associates. The police chief would like to use it to help purchase an external defibrillator (AED). *(An affirmative vote for the consent agenda will accept the donation and approve this amendment.)*

c.) Fiscal Year 16-17 Inter-Local Agreement with Dare County for Solid Waste Collection Services. This agreement provides for the following: Twice a week residential collection from Labor Day through Memorial Day and only on the beach side of the by-pass a third pick up per week from Memorial Day through Labor Day. Residential collection services will be \$114.55/hour (\$121.15 last year). Commercial collection services will be \$102.49/hour (\$102.39 last year). Large item collection twice annually at the rate of \$250.00 per hour. These sums shall remain in effect until June 30, 2017. *(An affirmative vote for the consent agenda will approve this Inter-Local Agreement.)*

d.) Beach Food Pantry Permit Fees: Beach Food Pantry has requested that site plan review and building permit fees be waived for an upcoming expansion (estimated total is \$1,356.50). They have also requested a waiver from Sec. 8-55(c)4, which requires a surety bond be put in place for the project. *(An affirmative vote for the consent agenda will approve this request.)*

Kitty Hawk Town Council Minutes: September 6, 2016

Page 4

e.) **Resolution Establishing the Town Council Regular Monthly Meeting Dates for Calendar Year 2017.** The Town Council meets on the first Monday of each month unless it is observed as a Town holiday. In 2017 two holidays are observed on a council meeting date: New Year's Day and Labor Day. Staff is recommending council meet on Monday, January 9, 2017 and Tuesday, September 5, 2017. *(An affirmative vote for the consent agenda will approve the 2017 calendar year meeting dates.)*

f.) **Byrd Street Emergency Pumping Facility Bid.** This project will install a 12" underground pipe from an existing sump located at the Byrd Street/Lindbergh Avenue intersection and run to the east side of NC 12. This will allow pumping without having to close NC 12. Staff and Albemarle & Associates recommends the bid from H & H Land Development, LLC be accepted in the amount of \$29,450. It is also suggested that \$1,400 be set aside for contingencies such as unknown subsurface conditions. *(An affirmative vote for the consent agenda will accept this bid.)*

Councilwoman McClean made a motion, seconded by MPT Garriss, to approve the consent agenda. It passed unanimously, 5-0.

7.) ITEMS REMOVED FROM CONSENT AGENDA

No items were removed from the consent agenda.

8. PUBLIC HEARINGS:

a.) **Text Amendment: Applicant proposes to amend Section 42-1 Definitions adding a definition for "Therapeutic Residential Treatment Facility and Sec. 42-253(c)6 adding Therapeutic Residential Treatment Facility as a conditional use in the Beach Hotel (BH-1) district.**

Councilman Pruitt made a motion to go into public hearing. It was seconded by Councilman Bateman and passed unanimously, 5-0.

Planner Testerman provided an overview of the following staff report with those in attendance.

Proposal

The proposed text amendment would add the following definition to section 42-1, Definitions:

Therapeutic Residential Treatment Facility means a private facility, which is engaged in providing 24-hour a day treatment for chemical dependency or substance abuse. This treatment may include administration of a therapeutic regimen for the treatment of chemically dependent or substance abusing persons and related services. The facility or unit may be:

A freestanding facility specializing in treatment of persons who are substance abusers or chemically dependent meeting the requirements of Article 1A of General Statutes Chapter 122 or Article 2 of General Statutes Chapter 122C; and may be identified as chemical dependency, substance abuse, alcoholism, or drug abuse treatment units, residential chemical dependency, substance abuse, alcoholism or drug abuse facilities, or by other names if the purpose is to provide treatment of chemically dependent or substance abusing persons, but shall not include social setting detoxification facilities or medical detoxification facilities.

Kitty Hawk Town Council Minutes: September 6, 2016

Page 5

The proposed text amendment would also add 42-253(c)6 to the list of conditional uses allowed in the Beach Hotel District (BH-1):

42-253(c)6. Therapeutic Residential Treatment Facility.

Staff Analysis

Articles 1A and 2 of NCGS 122C, referenced in the proposed definition have been attached for the Council's review.

The intent of the BH-1 district, as listed in the Zoning Ordinance is as follows:

The beach hotel district is established to provide the proper grouping and development of hotel facilities in the town. The hotel use is the most intense land use permitted by this chapter. The problems resulting from the hotel use require standards as well as regulations which mitigate the impact of the intense use of the land upon neighboring land and surrounding community. Notwithstanding the intensity of the hotel use itself, the town believes that the hotel use can be combined with other commercial uses in a compatible mix of uses, provided that the project is planned and built in accordance with the unified plan.

There are three small areas of town that are zoned BH-1 that the proposed text amendment would affect, they are indicated on the attached zoning map. One area is located at the southeast end of town, surrounding Sibbern Dr., the second is at the northeast part of town north of Byrd St., and the third is in the northwest part of town, before reaching the Wright Memorial Bridge.

As was discussed during the Planning Board review, if approved, specific conditions could be attached in an attempt to narrow down this specific use. Some of those discussed are as follows:

- No more than 16 participants
- 3 month maximum length of stay
- Background checks prior to admitting any participants. Those with records of violent crime or sexual offenses not to be accepted.
- All necessary state licensing required for staff.
- No detoxification programs administered on site.

The Planning Board asked staff to look into other facilities such as this to determine their zoning, and issues that may be present. One similar use is First at Blue Ridge, Inc, located in Blackwater NC. This facility is located in an R-1 residential zoning district, but was in place prior to Buncombe County's adopted zoning, and now exists as a legal nonconformity. Another is The Jude House in Bel Alton, MD. The locality recently heard and approved a special use permit for a halfway house to be located in the Rural Conservation Zone, which permits up to nine unrelated individuals in the dwelling. A third is Four Circles Recovery Center in Horse Shoe NC, which is in their low density residential zoning district.

There are also currently a number of "Oxford Houses" that exist in Kill Devil Hills, in residential neighborhoods. An Oxford House is a concept in recovery from drug and alcohol addiction. An Oxford House is a democratically run, self-supporting and drug free home. The publicly supported, non-profit 501(c)3 Oxford House, Inc. is the organization which provides the network connecting all Oxford Houses and allocates resources to duplicate the Oxford House concept where needs arise. Kill Devil Hills has not been directed to, or pursued any kind of permitting or approval for these uses.

It should be noted that "family care homes", which by the Fair Housing Act and Americans with Disabilities Act, includes homes for recovering addicts, are allowed in any zoning district that allows single-family residences. They cannot be prohibited, or subject to any special review requirements, such as a conditional use. To qualify for this treatment under North Carolina law, the facility must be designed to provide room, board, and care for six or fewer disabled persons in a family environment. The proposal before us, for 16 residents, does not qualify as a "family care home," as it exceeds the six or fewer requirement. However, federal statutes require local governments to make "reasonable accommodation", there is no clear answer as to what constitutes "reasonable accommodation", as it is determined on a case-by-case basis. According to a joint statement from the DOJ and HUD, a reasonable accommodation can be determined by answering two questions: a) does the request impose an undue burden or expense on the local government? and, b) does the proposed use create a fundamental alteration to the zoning scheme? If the answer is yes to either question, it is not a reasonable accommodation.

Kitty Hawk Town Council Minutes: September 6, 2016

Page 6

Consistency with Land Use Plan

The areas zoned BH-1 are shown on the Future Land Use Map as “commercial, shopping and working areas”. Commercial, shopping and working areas include areas that primarily encourage the concentration of commercial facilities in clusters or group developments and to provide readily accessible shopping facilities and will provide for the proper grouping and development of commercial facilities to serve permanent and seasonal residents and the general public. Some of these areas are envisioned to provide limited mixed uses. It should be noted that the uses in town most similar to the proposed use would be the medical uses, which are all located in commercial, shopping and working areas as well.

The Town’s adopted CAMA Land Use Plan does not specifically or generally mention therapeutic residential treatment facilities. As part of its recommendation, the Planning Board is asked to determine if the proposed text amendment is consistent with the Town’s adopted CAMA Land Use Plan.

Planning Board Recommendation

At its July 14, 2016 meeting the Planning Board found that the proposal would not classify as a “reasonable accommodation” as it would fundamentally alter the zoning scheme of the BH-1 district, thus unanimously recommended denial of the proposed text amendment.

Perry: What we have to consider if this is approved is it will be allowed in not just the south end of the BH-1 district but the north end as well. On the south end you have actually notified adjacent property owners but the people on those north ends have no knowledge of what’s coming at them. Is that correct?

Testerman: They were not mailed any notices and the reason for the adjacent property notification for this particular one is because it’s tied to a Conditional Use Permit. In general, for a text amendment, we do not send out notifications to the owners within that zone.

Perry: Those folks, sometime in the future, could be impacted and wouldn’t see it coming. That’s all I wanted to say.

Testerman: It should be noted, because of the type of use that is proposed deals with recovering addicts, they are a protected class by the American with Disabilities Act and there are certain rights and considerations through the Fair Housing Act as well. Family care homes according to FHA and ADA includes homes for recovering addicts and are allowed in any zoning that allows single family residences. They cannot be prohibited or subjected to any special review requirements such as a conditional use.

Aubrey, Sandra and David Briggman, applicants, provided a PowerPoint presentation and the following comments.

1.) **A. Briggman:** Hello. Thank you for having us here tonight. My name is Aubrey Briggman and my parents are Sandra and David Briggman.

2.) **S. Briggman:** We are going to tag team this. Why is this a good thing? First one is there is no intensive treatment available in Dare County. This is a higher level of care than what we currently have. There are some really good services available in Dare County but this would be a level higher.

Kitty Hawk Town Council Minutes: September 6, 2016

Page 7

In our business plan, we looked at a five year plan, and hope that we can set up a scholarship program for county residents. Lots of times people need treatment but don't have the funds to seek the treatment they need so we're hoping to set up a scholarship.

This particular treatment center will provide professional jobs for those in this field in Dare County. Professional jobs. The center would have a clinical director, one or more therapists. Depending on the number of participants would determine the number of therapists and it would have an admissions director, case managers, overnight managers and other employees as well. This treatment center would be year 'round so those professional jobs would be 40 hours per week, year 'round. At the motel currently we have maybe five housekeepers part-time and only seasonal. So it would generate professional jobs for the area and there are probably a number of people in our area that have the skills and the education but there is no place for them to utilize them.

It allows families to participate in the treatment of local area clients. One thing we want to strive for in this program is to include the family. It is very important when there is a loved one in your family who can't manage life due to the abuse of alcohol, drugs or illegal drugs ... it is a family issue. It is a family concern and if the family is not part of the recovery of their loved one the loved one would leave the facility and then maybe go back to their family setting and not have that support and the family might not understand exactly what they need to do to help their loved one. By having families come in and partake in education, and also partake in the group therapies, and see exactly what their loved one is going through will help the whole family as a unit understand and help that individual in recovery.

A good thing about this is it would be geared toward treating those in need. People have problems and a lot of times they turn to drugs, alcohol, and prescription drugs. That doesn't mean that they are bad people. It could be your next door neighbor, it could be your dentist, or it could be someone preparing your meal for you. These are not bad people. They are people that need help and we plan to offer that to them.

We would like to support new and existing community based programs to combat drug and alcohol addictions. I think it's another support for the existing programs that we have and maybe also an avenue to generate some new ones or even to resurrect some old programs that haven't been utilized. One would be Project Purple. As the center gets going, we get going, we really would advocate for community programs and be part of that.

Also, it would be a good thing because there's less police presence required than if we were to remain as a motel. The individuals that would come to this center are sober. They are there to find and learn ways to maintain their sobriety. At the motel now people come in and they are not drug screened when they come in. There is no background check when they check in. There are more problems with the motel run as it is with needing the police to come and assist the owners with problems due to drugs and alcohol. Drugs and alcohol can lead to domestic violence. We had quite frankly the police at the motel a number of times. We are anticipating in this particular setting that

Kitty Hawk Town Council Minutes: September 6, 2016

Page 8

that won't be the case. The individuals will be sober, they will be monitored and we will go into that more on the next slides.

3.) D. Briggman: Abuse and dependency on alcohol and drugs is something a lot of people think is somewhere else. They want to think it's somewhere else. All of us would like to think it's somewhere else but I think we all know in our brains that it's here. It is everywhere around us. Looking at the National Institutes of Health statistics, 6.6% of the adult population in the United States are dependent or abuse alcohol. So that is one out of sixteen people. If we go through the census numbers of how many residents live in Kitty Hawk or Dare County or the number of visitors we have here in the high season that would mean in Kitty Hawk itself there are two hundred and sixteen people that abuse or are dependent on alcohol. Twenty-two hundred in Dare County and over sixteen thousand visitors. I think those of us in the motel business, and those of us that deal with the visitors, know so well that this is a problem anywhere where there are transient visitors.

Also, the National Institutes of Health had determined that 3.4% of the adult population in the United States are dependent or abuse drugs, illegal drugs. So again, going through the numbers that means that here in our lovely little town probably one hundred and eleven are dependent or abuse drugs, over one thousand, one hundred in Dare County and over eight thousand visitors on a high day here on the Outer Banks in Dare County.

What's more is this is an expensive problem. Sandy and I can testify to this. Sandy and I are guardian ad litem. We are appointed by a judge to advocate for abused and neglected children in court. I can tell you that after doing 13 years of this, and we are continuing to do that, almost every case we have where the child is abused or neglected is due to a parent abusing alcohol or drugs. It is a costly, serious problem. The Centers for Disease Control estimates that it cost every individual, every person in this room, over \$1,000 a year in lost productivity and social services expenses for these children that I have mentioned for the police protection, for incarceration all that is rolled into it.

Finally, I would like to point out that ten years ago Dare County provided a Community Substance Abuse Needs and Assessment Community Plan. It was a very thorough plan. It was 50, 60 pages, something like that. We had an opportunity to talk to Sheila Davies, who is very much involved in that, and is the Director of the Public Health Department in Dare County. Two things I wanted to bring out as highlights from that. I could, we could, go on and on and on about what's in this document. It's a fabulous document but the assessment that was done concluded that substance abuse and addiction, both from alcohol and drugs, is the number one health problem here in Dare County. Number one.

Secondly, it discussed what the obstacles were to overcoming this and it said Dare County's case attitudes and cultural environment must be transformed. These efforts must assist in a significant reduction of the stigma and change in community, visitor, business and provider attitudes regarding substance abuse. Essentially their point is that if you're not doing something about it you're doing something against it.

Kitty Hawk Town Council Minutes: September 6, 2016

Page 9

A. Briggman: So what is a treatment center? I know that there is a lot of misconception especially with what we're trying to do. It is a private full time therapy center for individuals suffering from addictions. They have staff with them at all times. They are there until they are discharged and until their after-care is set.

It is a temporary residence. We envision anywhere from one month to three months, not beyond that. They are not going to be permanent residents. They are not going to stay there for long term.

Voluntary. What that means is they are not like court mandated individuals. These are people who want to become sober, want to achieve sobriety and I think that is important to point out. We want to work with people who really want this because that means they are dedicated and committed to their recovery.

No physical limitations or restraints will be imposed. That means we are not going to put limitations and restraints on the individuals as they would in say like psychiatric unit. It is not that type of center.

It is not a medical or a hospital facility. It is not a methadone clinic, it is not a suboxone clinic. We are not going to have a doctor on site.

This is a therapy based program. If the individual was to need to see a doctor they would just go like you or I go to a doctor's office and staff would escort them. Therapy. It has been proven that, especially with addiction, group therapy is one of the most effective ways for the individual to recover. That is going to be our primary basis but also individual therapy and family therapy as was spoken about previously.

Structured environment. I think this is really important because what we're trying to do is structure their environment from when they wake up to when they go to sleep. We are going to have something planned for them for basically every hour of their day and we're going to work with them. They are not going to be doing things alone. We are going to be with them. It is going to be rituals. Every morning waking up at the same time and every night going to bed at the same time. They are going to be in groups maybe six hours a day and then planning their meals and there are plenty of other activities to include like AA meetings, which is Alcohol Anonymous, NA meetings, Narcotics Anonymous, and there are other really great holistic approaches to treating addiction which is nutrition and exercise. We would like to utilize a gym and other things like that.

Monitoring. This means drug screening, breathalyzers. They will be screened upon admission and then randomly throughout their treatment. Same with breathalyzers. Supervision. Staff is going to be held accountable for making sure the clients are safe, they're healthy, that they are working on a treatment and know where they are at all times. We have also planned on setting up a laser perimeter around the building which will kind of let staff know if someone was to breach the perimeter, either going in or out. If someone was to come on our property we would also know about that.

Kitty Hawk Town Council Minutes: September 6, 2016

Page 10

Rule violations. The person, when they come into our center, they are going to have to sign certain documents and one of those would state the rules. It's what we expect from our clients in order for you to stay with us at our program. Any rule violations and the person will be discharged and either escorted back to their loved one but preferably to another facility that maybe can work with them. To go along with this ... it's a zero tolerance policy for drug or alcohol use on the property. If that was to come up within their treatment then they would be escorted to another center.

The center will comply with the North Carolina State requirements. In order to do this the way that we would like to do it we are going to get a state license for the facility. They have among the other things I just spoke about, their own requirements that are mandated in order to get that licensure.

A couple of those things are a crisis management program and basically what that's talking about is that we have enough therapists on staff to work with our individuals when they are in crisis. That could be anything from how they feel, ashamed of their addiction, or they don't know how their family can forgive them. It's more of a therapeutic crisis so we're hiring professional staff members and those members need to provide proof of education. They are going to need supervision throughout their employment with us ... there are trainings required by the state and then they need to be licensed and qualified professionals so a therapist has to have certain education and certain licensure in order to be a therapist and we will need proof of that and the state requires that as well.

They also have mandates for operations and management. I've read it. It's a very long document. There are pages upon pages of what they are requiring for the operation of the facility and the management of the facility. They are very strict on what they want to see, which is a very good thing. They want to see very good facilities wherever they are in North Carolina and they are the ones that are putting their name on it, saying yes we license this, we approve this.

Criteria for admissions and discharge. That was pretty big in the policy and procedures that I have read as well. Not just anyone can walk in and be admitted to our program. We have criteria for admissions and we also have criteria for our discharge.

State review center to be sure it is meeting all requirements. What that means is we would basically apply for a licensure and they would come in and see that we were doing everything we were supposed to be doing and they would grant the licensure if we were doing what we were supposed to be doing. Then at any time they can come back and make sure we are doing what we are doing correctly and up to their standards. So they do not just come in once, you're good and that's done. They also manage us which is very important I think to know. That is a good North Carolina state requirement.

S. Briggman: Steps to recovery. This is important. The first one is active user. What is an active user? An individual who abuses alcohol, drugs or prescription drugs. They are at a point most likely in their life that they cannot manage their life and continue to use the substances that they're

Kitty Hawk Town Council Minutes: September 6, 2016

Page 11

using. So what would happen is they would decide to enter into our program. Before they can enter into the program they would need to go to a medical detox facility.

What is a medical detox facility? It is a hospital setting in which the individual goes to the facility and slowly comes off of whatever drug it is that they are addicted to. This is extremely important because there are a lot of addictions that you can't just stop cold turkey. You stop cold turkey you could possibly die. It can be fatal. So the individual is going to the detox facility to chemically rid their body of what they are abusing. They are becoming sober at this facility. There is of course no use of drugs or alcohol. They of course are tested and that facility has its own licensures and requirements because in essence it's like a hospital. It's a medical facility.

At that stage that is when their sobriety begins. They are now what we call a passive user. They are not using the drugs or alcohol at this stage. That is where they would then come to the treatment center. From the detox facility they would come directly to the center most likely what will happen is if depending on where the detox facility is they will be escorted to the facility from the detox facility to the treatment facility. If they are put in an airplane then of course we would meet them at the airport and escort them down. I believe there is a facility in Virginia Beach so we would of course go and escort them down.

Then when they get to the treatment center what we're trying to do is help them to maintain their sobriety. They are not passive users they are not using but that does not mean that they don't have issues. They have gotten rid of the chemical element now we've got to work on the therapeutic part of it for maintaining their sobriety.

A. Briggman: Planned programs for treatment. All participants will be detoxed, as we just spoke about, prior to admission in the center. That is appropriate for medical detox so therefore they are passive addicts maintaining sobriety. No active users will be allowed to participate. It's an abstinence based program and that is a zero tolerance policy for alcohol, drugs or illegal drugs. All participants are on a voluntary basis therefore committed to their recovery. We do plan on this facility collecting insurance and private pay. We would not accept government insurance so it wouldn't be like Medicaid Medicare. It would be the major insurance companies and then private pay. All participants are going to be subject to background checks prior to their admission. That is what I was talking about when I was talking about admission criteria. We will do background checks. If there are violent or sexual offenders they are not going to be permitted to work with us. We'll have plenty of other centers that we know about that can work with those individuals. Twenty-four/seven monitoring and curfews. They are going to go to bed at the same time every night. We're going to make sure that they are in there _____ we have the perimeter _____ in a group therapy, individual and family therapy, maximum 16 participants. The minimum is 18 years of age which is another admissions criteria and then staff will escort participants whenever off site. If we are going to an AA meeting, if we are going to an NA meeting, the staff is going to be with them. If we're going to a gym the staff is going to be with them. Most of the work is going to be on site. They are going to be doing all that work there. We are going to use community programs

Kitty Hawk Town Council Minutes: September 6, 2016

Page 12

such as AA, NA and go off site with them. The structured environment so gym, recovery activities, and then required AA, NA. Medical services are going to be provided off site as I spoke about previously so if they need to see a doctor they'll call, make an appointment just as you or I would, they will go to the physician. We will go with them and bring them back. It's not a methadone clinic, it's not a suboxone clinic, it's not a medical facility, it's a therapeutic facility, therapy based.

D. Briggman: What will change at the site? We are not planning on making any changes to the existing buildings. We'll move furniture around and add some gym equipment, things like that. Other than a new paint job nothing is going to be altered as far as the physical buildings themselves. There's going to be no obvious indication this is a treatment center and that is mainly for the protection of the privacy of our participants, our clients. You would drive by and you are not going to know that this is a treatment center. The entire property will be fenced and gated. Like I said there are no signs. There will be no treatment center signs. A couple of advantages is there is going to be far less traffic as opposed to having a motel full of 100 people. We'll have a maximum of 16 people and of those 16 people they are not going to have cars. There will certainly be staff cars there and lots fewer people there.

Mission Statement. The mission is to provide hope and coping skills for those struggling with addictions. We will provide a balance of physical, emotional and spiritual restoration to provide healthier habits and continued individual growth.

Perry: Thank you. Council, do you have any questions of these good folks before I turn it loose to others?

Pruitt: It will no longer be used as a motel. It's solely going to be used as this facility. You are not going to use one section for this and another section will be the Buccaneer right?

Perry: Did you get that Lynn? The answer was yes.

McClean: I have a question. This is a zoning change at this point in time. Correct?

Perry: It's a text amendment to change the zoning.

McClean: So the change to add a therapeutic residential treatment facility as an allowable conditional use covers all therapeutic residential treatment facilities whether they are run in this particular manner or in another manner is this what ...

Perry: When you say all do you mean in all of the BH-1 districts?

McClean: I mean if another concerned group came in and said they would like to put in a residential therapeutic treatment facility they may not be going to operate theirs in the same manner. I'm trying to separate what is the zoning change and what is the Conditional Use Permit. In all of the material we just heard this seems to be applicable to this facility but we're doing a

Kitty Hawk Town Council Minutes: September 6, 2016

Page 13

zoning change that would encompass all flavors of therapeutic residential treatment facilities and there's where I'm starting to get a little confused.

Testerman: I was just going to add that as we've done in previous text amendments if you were to approve it you could attach specific conditions to the conditional use. Some of them are listed in the staff report. No more than 16 participants, 3 month length of stay, whatever you wanted to do to narrow it down to get what they are proposing so you're not opening it up widely to ...

McClean: So we're just flavoring it for this particular one so how do we...

Testerman: ... part of the text amendment, under the Section 42-253(c)6, you could add in Condition A, no more than 16 participants, Condition B, maximum of 3 month length of stay ...

Perry: She's concerned that a different kind of therapeutic institution could come in to the same zoning if we allow any therapeutic into this zone.

McClean: Correct.

Testerman: As long as you add additional conditions onto it, any additional therapy centers that want to come in would have to meet those conditions.

Perry: What we're dealing with right now would allow therapeutic treatment centers and any additional one that comes in would need to go through a conditional permit at which time we could ...

McClean: What we are approving right now is not 100% what we just saw. Because ...

Perry: It could be different. That's true. And we're not approving it. We are listening and deciding.

McClean: We're listening to it as a change in zoning.

Perry: That's right.

McClean: Not to permit their facility but to change zoning.

Perry: To allow it within a zone. The lawyer wants to speak?

4.) Crouse Gray, attorney for the applicants: Don't we always? If I might tag onto your question ma'am just a little bit. Before you presently is a text amendment which basically would allow a therapeutic center in any one of the BH-1 zones that you have but it was specifically designed so that it would be conditional. The therapeutic center has to come back before this board and this board can then look at the conditions that you deem appropriate for that specific type of therapeutic center.

Kitty Hawk Town Council Minutes: September 6, 2016

Page 14

For example you may have someone who wants to set up a life style for overweight people therapeutic center. They have a term for that which I won't use here but when they came before you, you would have the right, since it's a conditional use, to say yes you can or no. But if we decide that we will allow it we will impose these specific conditions on that specific type of therapeutic center. What you've heard, the presentation of the applicant, is to give you a flavor of what they are proposing so that you can see that you may wish to put conditions which you can do if in fact you decide you're willing to grant the application to change the zoning. It's sort of chicken and egg. We have to get the chicken first then we can get the egg or vice versa however you wish to ...

McClellan: Just trying to separate the two. What each objective is.

Gray: Yes ma'am.

McClellan: Thank you.

Garriss: Just two questions. One for the applicant and maybe one for Casey. You talked about a zero tolerance policy. When someone violates this zero tolerance policy they are escorted to another facility. Who does that escort?

A. and S. Briggman: The staff.

Garriss: Your staff. Suppose the person says they are going to stay. Is he dismissed?

A. Briggman: Yes. He cannot stay on the property. He's only on the property for the program and we have guidelines and rules that he has signed off on when he comes in to the program. Before he's admitted he signs certain documents and those are anywhere from rules and regulations to consent to treat and he has to sign off on those. There could be and there most likely will be a discharge form that you will be discharged for these reasons. So he is well aware of that. He's well aware that he's broken the rules and we can show him he has broken the rules and we will escort him off the property.

Garriss: So one way or another he's leaving?

A. Briggman: He's leaving.

Garriss: Casey, I have a question for you. We heard Rob talk about reasonable accommodation and we've read all about it. Tell us and tell this group here tonight what is reasonable accommodation because this is the reason the planning board rejected the text amendment in the first place.

Varnell: It's broken down into two subsections. Does the request impose an undue burden or expense on the local government? Now if you make that determination ... I think we look past that

Kitty Hawk Town Council Minutes: September 6, 2016

Page 15

and we're at B. B states does the proposed use create a fundamental alteration in the zoning scheme? I think B is the focus here and to think about a fundamental alteration you can choose however you want to look at it but in our zoning scheme ... would allowing this use fundamentally alter, would it take the current allowed zoning out of the spectrum of what is in the Land Use Plan ... in this particular zoning district was meant for. I don't know if that was quite a simplistic as what you wanted it and I can try to

Perry: It changes what has not been there before and that's the simplest way I know to put it. Then you have to decide whether or not that change is acceptable or not.

Bateman: You say you are going to accept insurance and private payment. What would the vision be for a person who is going to your facility to have to come up with for 30 days? Dollars and cents wise. How much money is it going to cost him for a 30 day treatment?

A. Briggman: We would like to accept insurance only now there are deductibles and out of pockets it depends on the individual's insurance policy. We are in this to help people. It's not really a get rich quick kind of thing. We are more interested in making sure the individual has the proper avenue to recover and to work on themselves so we can just accept insurance ... we haven't ... I mean if it's cash paid it's a different story. Like if they didn't have insurance ... we haven't ... I don't think we have talked about that.

S. Briggman: Ultimately we would like to have a scholarship fund set up such that if someone comes to us and can't afford it or can only pay a certain portion of it we have this scholarship fund to help the individual. Our goal, like Aubrey said, is to help people. We have a personal interest in helping people because we've had this kind of situation in our own family. I mean we're helping ... even people that can't pay eventually we can allow them still to come in.

Another thing too. If they are in the program and they need another 30 days and their insurance won't pay it, they don't have any money or whatever, I'm sure that what we would do is say okay how much does it cost for this individual to be in this program? Because this individual has now gone through the program he's at a different level than someone just coming into the program so in a way he's mentoring the new clients that are coming in. He's an asset to the group therapy so we would work with them, work with the individual to try to make sure that he can stay until they are ready to be released and go on in life and be productive and not relapse.

Bateman: Once again, I appreciate what you guys are trying to do, and believe me I want to thank you for stepping up to the plate and trying to do something to change your community. The reason I was asking the question though, just for the average guy sitting in the audience who has a relative or someone who's sick, the thing on their mind is how much is this going to cost me? That's the reason I was asking the question. I'm not trying to put you on the spot or anything but these things can go anywhere from \$800 a month for a non-profit up to \$45,000 a month. Pretty wide range for different services.

Kitty Hawk Town Council Minutes: September 6, 2016

Page 16

The other question I had, and I know you're not a suboxone or a methadone clinic, if one of your clients goes to a doctor over in Manteo and he's prescribed suboxone, are you going to administer it to him? Do you take the drugs and give it to him on a daily basis? Is he in charge of his own dosage?

A. Briggman: No. What it's called is self-administration. So there has to be staff present. Our clients may come in and they have high blood pressure or diabetes ... we still have to be with them while they are taking their medications. We need to see what's going on and generally what we'll do is sit with them on a weekly basis, we'll have a medication box, and they'll put their medications in there and then when it's time for their medications a staff member will give them their box and they will self-administer.

Bateman: Thanks.

Perry: Suboxone is something specific ...

Bateman: Suboxone they give you for opioid addiction.

Perry: Okay but didn't we just hear them say there would be no medical treatment? (If there was an answer to this question it could not be heard by the transcriber of these minutes.)

Folks I'm going to reserve the right to call you back but we have a lot of other people and I'm sure they want to speak so let's give them a chance.

Gray: If I could make two quick comments and then we will sit down. This is a request to amend your ... what we're talking about right now, a request to amend your zoning ordinance. First point I want to make is all these people who are sitting here there's a large part of them are probably saying no we don't want this. What everybody needs to understand is if I wanted to put a group home right next to your house the federal laws says it can be done and you would have no control over it. What we're at least proposing is to give you, under conditional use, some controls. That's the first point I really wanted to make to you.

The second point I want to make to you is that the reality is in all life that when you look at what is going on that this is a type of facility that will hopefully help people. That's its main goal. Make them more productive people which saves the town money, less drug addiction, less theft, etcetera. So we would request it and I'm going to stop talking and we're going to go sit down.

Perry: At hearings we normally allow five minutes as opposed to three minutes in public comment. That said, we want to hear from anybody that wants to speak, but if you can get to the point a little quicker rather than slower we all would appreciate it.

5.) Norma Carlisle, 4017 Lindbergh Ave., Kitty Hawk, NC: Good evening Mr. Mayor and councilmembers. Thank you for a few moments of your time and I'll try to keep it at a few

Kitty Hawk Town Council Minutes: September 6, 2016

Page 17

moments. I'm Norma Carlisle. I'm a 28 year homeowner in the 4000 block of Lindbergh and I must say a long time surf fisher off of the beach right there from when I was a little girl. I won't tell you how many years that was.

The development of a therapeutic or other drug treatment center in Kitty Hawk is not an appropriate use for our properties. It might benefit other county communities to push food pantries, drug treatment centers and such facilities into Kitty Hawk but it does not benefit current tax paying property owners in our town. I do not want our representatives, both those that are elected and those that we employ or appoint to commissions, to make decisions that are detrimental to the future of the Town of Kitty Hawk.

Turning down a drug facility where people need help seems like we're taking candy from kids or some other evil thing. I think we all have a heart but we have to make good business decisions and we expect you folks to do that for us. We would appreciate it. And this particular situation which I think it's just not an appropriate situation. Our land resources are limited in Kitty Hawk so every development, every sale, needs to result in an increased value. We all hope we get more for our properties when we sell them. That results in an increase in tax revenues which helps our budgets and that is a reality we all have to deal with.

Residential drug treatment centers and let me say drug here covers whatever you like. The legal, the illegal and alcohol. They are forecast to continue to grow in numbers. Not only because of an increased need but most importantly because of their treatment under the Patient Protection and Affordable Care Act also known as Obama Care. They do receive favorable treatment there and there is money to be made with that.

A therapeutic treatment center will affect property values negatively, period. It absolutely is the case and we shouldn't be naïve and think otherwise. It results in less value when a residence is sold and less revenue for the town and the county. Kitty Hawk cannot become a low end property area for the county because of any poor decisions we might make concerning zoning requests. Your serious attention to any changes in zoning I think is most critical tonight and that's what we're looking at here. A minor change for folks you like, and what seems like a good program, can open the door for some really devastating situations later and you will have thought you had done the right thing and put ourselves in not such a good situation. So something to think about.

I want you to know that you have the support of the community when you make those hard decisions that are favorable for the community. In central Virginia in 2014, using a large MLS data set, it was determined that embedding a treatment center in a community impacts nearby home prices and the liquidity of properties. That is how long the property has to be on the market before it sells. Properties resulted in an 8% reduction in value when they were sold in this particular study. If the treatment center deals with opiate addictions, which I understand this one may not, it can be as much as 17%. A factor we need to consider.

Kitty Hawk Town Council Minutes: September 6, 2016

Page 18

The North Carolina SBI, the Dare County, the Kitty Hawk police department, as well as federal agents, have worked hard to reduce illegal drugs, traffic and its related crime here in the county and that's a reality that we're having to deal with. I do thank them for their efforts. They would be the first to tell you there is a wider web around dealers, users and those trying to clean up. That's the tough part of trying to clean up and we shouldn't be naïve in thinking there won't be hangers on looking for opportunities when that one person might decide that's not the treatment for them. We don't need that in Kitty Hawk. We do not need to do anything in Kitty Hawk to encourage or make them feel we would be an easy mark for the criminals. I think we can all agree that it would best benefit the town and its citizens when properties are improved, values go up, sales increase and there's a revenue to cover our future budgets.

I would like to add one point to my comments. Right now this property pays about \$8,700 a year in real estate taxes and pays them regularly. However, I don't think anyone has addressed what the tax impact would be of having this facility ... if there's any tax exemptions or whatever that are involved. Thank you for your time.

6.) Tina Tice, 5010 The Woods Road, Kitty Hawk, NC: Good evening. My name is Tina Tice and I'm a full time resident, property owner and business owner in Kitty Hawk. I and my family own and operate both OBX Housing and John's Drive In which is located just about a block north of the Buccaneer Motel. I'm the former owner of Wright Property Management and spent 32 years working in the vacation rental business offering many of the homes for vacation rentals in the blocks north and south of this location. I also spent many years growing up in this neighborhood back in the late '70's when we were only one of the family's that lived on the beach road in Kitty Hawk. I was the second child to get picked up by the school bus to go to Manteo and that was only after Jay Bender had been picked up in Caffey's Inlet in Duck because he was brought there by his dad from Corolla. I have served two terms as the President of the Kitty Hawk Citizen's Association. I have also served six and half terms as Vice-Chairperson of the Kitty Hawk Planning Board.

I am strongly against this request. The mission statement of the Land Use Plan for the Town of Kitty Hawk states the beach and village consists of low to medium density single family residential developments served by small businesses. Both the beach and village share the feeling that development remains on a human scale and in harmony with nature. It is a pattern and character of development that the townspeople, both year 'round and seasonal, are quite comfortable with and want to maintain. People who vacation in Kitty Hawk versus other Outer Banks towns like the charm and quaintness of Kitty Hawk versus other Outer Banks communities. With traditional old school businesses such as John's, Art's and Winks, which we have been fortunate to retain, this location is on the south end of town and when vacationers drive up the beach road and see the welcome to Kitty Hawk sign I would much rather have them see a quaint mom and pop motel as their first appearance of our town as opposed to a treatment facility. I really feel this would take away from the character of our town.

Kitty Hawk Town Council Minutes: September 6, 2016

Page 19

The Outer Banks is promoted by the Outer Banks Visitors Bureau and Chamber of Commerce as a tourist destination. Our local population is supported by the over seven million vacationers who visit the Outer Banks each year. When the founding fathers of Dare County and Kitty Hawk set up this zoning district as hotel/motel there was a purpose. The purpose was not only to provide short-term vacationers a place to stay but also to help support local businesses. This sampling of businesses that would be affected by this change of use are anywhere from restaurants, souvenir shops, linen and beach rental fishing equipment, clothing stores and kayak tours. The list goes on and on. Not only will these businesses lose revenue but the town will lose the Sales and Use tax from these businesses as well as the Occupancy tax generated by this 12 room motel. While doing some research on this matter I found that the vacationers who stay at the Buccaneer Motel are extremely happy with the location and amenities. Many of the vacationers have stayed here for generations and enjoy the traditional Outer Banks experience. I fully understand that because it's the reason I live here too. Here's a sampling of the reviews that have been posted in the past 12 months that I found on public social media sites and travel sites.

This site is located in a flood zone according to the U.S. Department of Health and Human Services. Typically municipalities do not permit a hospital or nursing home in a flood prone area due to the safety and vulnerability of its residents.

Soberliving.com states that the location of a recovery center partially determines its success. If the location is close to detoxing triggers it will not be successful. There are at least 19 places you can purchase alcoholic beverages within a one mile radius of this location not to mention the many vacationers who sit on the beach with their coolers that contain alcoholic beverages. There's a fishing pier just a quarter mile walk south that has been a hang out since I was a teenager and has seen its share of alcohol and drug related violence and even deaths over the years. I understand that there is a need for this type of facility, not only in Dare County, but in just about every city and town in the U.S. However I feel that this location and setting is not the right place for this treatment center as requested. Thank you.

7.) Romona Tice, Southern Shores, NC: Good evening council. My name is Romona Tice. I'm a business owner and property owner in the Town of Kitty Hawk. I'm speaking tonight as the former president of Room in The Inn as well as a former member of the board for the past three years. For those who are unfamiliar with this non-profit organization they have served the homeless in Dare County during the off season months of mid-November to mid-April for the past 8 years. For many years a faith based homeless shelter that provides evening shelter through local churches.

Each church that participates has the guests from 6:15 p.m. to 7:30 a.m. and they provide a chaperone, housing and food under one contained roof. When they are at the intake center at 5:45 they are breathalyzed, they are randomly searched occasionally, then they are bused to the facility where they are going to be for the night. That's when the guest bus brings them up to the church, let's say it's Kitty Hawk for example, Kitty Hawk Methodist. They invite them in, house them, fellowship, there's an AA meeting they can participate in. Then they go to sleep at night and there

Kitty Hawk Town Council Minutes: September 6, 2016

Page 20

are chaperones that stay there 24/7; and again, under one contained roof. At 7:30 a.m. a bus comes and picks them up, takes them back to the intake center.

Between 10 a.m. and 4 p.m. they are unsupervised. They are just out working or finding jobs or housing. About 50% of our guests in the program are recovering addicts or on-going substance abuse. Unfortunately those guests at Room in The Inn have a hard time staying sober during those off hours of 10 a.m. to 4 p.m. because there is no supervision. It's very hard to avoid the triggers of addictions especially when those triggers are easily accessible. I personally feel the high rate of our guests who are unsuccessful with their sobriety is a lack of 24/7 clinical, psychiatric professional help as well as security services. The proposed submitted paperwork I read has no affiliation with a hospital. They will not offer any 24 hour medical psychiatric or personal care or security on site. Not having a clinical, licensed professional or security system on a 24 hour, 7 days a week is not conducive for the environment of people who are paying for recovering.

It appears the proposed facility is not a facility for local residents but rather for those who are being referred to from other detox facilities in the United States. Most sober living facilities offer constant supervision of all patients under one roof. This has 12 private suites with kitchenettes. The recovering addict would be pretty much on their own it appears between the hours of maybe 9 p.m. to 9:00 a.m. They could very easily come and go as they please like with bike or taxi. There would be no restraints for the public people entering or even being outside the gate.

During my time with Room in The Inn we have used a church who offers private cabins for the use of our guests. Because each cabin is not chaperoned we have had many incidents with substance abuse fights and other incidences. We have had to call local police, as well as our board members, and our staff has to handle them in the middle of the night. Even though these folks have been detoxed, even though they may be sober at the time, they still have underlying behavioral problems that need a 24/7 constant care. I just feel that this facility is not the correct place for that from what they have written. Thank you.

8.) Dr. Jay Taylor, 3723 North Croatan Highway, Kitty Hawk, NC: Hello members of the council. My name is Dr. Jay Taylor. I own a business here in Kitty Hawk and I'll keep this short and sweet. I, as well, am opposed to the proposed facility. In addition to the locations that serve or sell alcohol that Miss Tice mentioned earlier there are also two veterinary hospitals and a dental clinic that likely have a DEA license that have controlled substances within an easy walk of this facility. Again, giving a potential trigger. I think the location is a hard spot for an addict to not have triggers. I applaud those that are trying to help those with addiction but I cannot support it in its current location. Thank you for your time.

9.) Evan Briggman, 211 Harbour View Dr., Kill Devil Hills, NC: Good evening. How is everybody tonight? I was going to prepare something but obviously I did not so I'm just going to speak from the heart.

Kitty Hawk Town Council Minutes: September 6, 2016

Page 21

My name is Evan Briggman and I am an addict and an alcoholic. My sobriety date is July 27, 2015. That is a year, a month and 10 days ago that I decided to change my life. I was flown to southern Florida where I went to detox. That was for about one week. I got everything out of my system and then I was carried to a treatment facility, to actually a motel, that was blocked off by fences. I was kept in a controlled environment. I had two people to each room and yes we had facilities there that we could get food from. We were watched at all times, 24/7 to be exact. Throughout the night time we had night techs, behavioral health techs, we call them techs for short.

We were carted to where our therapeutic places were. Now that was slightly a problem because we always had to get on the bus and off the bus and on the bus and off the bus and if you ... trying to rally up 24 addicts it's like pushing cats you know what I mean? Either way just to keep this short and simple it saved my life. Excuse me, I could be dead right now and I'm not.

I'm standing here before you, standing up for something that is right and it is true, I don't know much about zoning. I don't know much about anything like that but what better way to help this town and everything in it. It's not another Wings, it's not another restaurant and it's not another tourist trap. This is something that can help, and will help, in the future. Not just for the town, not just for the county, not just for even the United States, for the world, period. You never know what somebody can do. The mind of an addict is a crazy thing partially because we haven't been using it for a while.

But either way ... another, just side comment, is in the southern tier of the treatment program that I went through ... we would walk to an AA meeting and we walked right past bars and right past triggers and such and that was another reason why I did not like going to an out-patient program. Here on the beach, when I was younger when I was 19, I'm 26 now, but just like you all said, the off hours, I would go and talk about my triggers and then leave and what would I do? What did I want to do? It was already in my head. Like I said I don't know much about zoning or anything but this is one of the best things that I could ever put my name behind and I hope my words did something for you tonight. Thank you.

10.) Terry Johnson, 102 Club View Ct., Kill Devil Hills, NC: I'm Terry Johnson and I have a business in the 3500 block of Croatan Highway. My biggest concern is not that it's going to be a treatment center as much as we are a tourist related industry and we have guests that will be staying within walking distance of this facility. There won't be a sign up but there will be a gate and there will be a fence and you know people talk. We are going to have the guests asking what is going on. They may not want to come back to Kitty Hawk. They may not want to even come to Kill Devil Hills. As a business owner the tourists drive my business as it does for everybody here. Without the tourist dollar none of us are here and so my concern is the message we'll be sending to the guests who don't understand what's going on and are going to think the worst and maybe they won't come back. Thank you.

11.) Scott Morton, 1607 Harbour View Drive, Kill Devil Hills, NC: Good evening. My name is Scott Morton. Mayor, members of the council, I live in Kill Devil Hills and I'm a supporter of

Kitty Hawk Town Council Minutes: September 6, 2016

Page 22

this facility. I grew up in an alcoholic family and have lived through some of the pains and suffering. I think many people in this room maybe haven't looked within their own families to realize that there are members of their own families that would be able to be helped should they have a facility like this available to them.

I hear people talking, perhaps not even listening to what has been said about the security, about the control, about the impossibility nearly of anyone going off the rails and really why would they want to? They are here, paying, trying to get better. In my mind that's a lot better to have in your community than a group of drunks on motorcycles, sorry, I ride one too but ... or young kids running the beach with drugs and alcohol.

So in my mind this is something every community needs. We are in a society now where we all look a little too much at what we want as individuals and not quite enough at what we need as a society and I think our society needs places where we can take family members and we can then restore the family that is being damaged by this terrible disease. It's a disease recognized by every agency in the world. The CDC, the National government, the local government all recognize that this is a disease and in a society where our government is currently turning its backs on other recognized diseases like our veterans often suffer. I'd hate to see this government turn their backs on something that is useful and could be very good service to this community. Thank you.

12.) Dave Rhoads, 6065 Martins Point Road, Kitty Hawk, NC: Most of you don't recognize me but I have spent many hours before the Town of Kitty Hawk and town council back in the early '90's. Do you will recall the fire department was in chaos? I joined it. I am retired army with a master's in business administration. I was the treasurer of the company that helped working with your town manager and others to get the company back in organization when it was a volunteer company. We eventually got it to be the Kitty Hawk Fire Department. I was very emotionally involved with Kitty Hawk. I don't live here anymore but my address is still Kitty Hawk.

I've known the Briggmans for nearly 20 years. I've known their children since they were in elementary school I think and they are absolutely fantastic, upstanding people. To say I have a master's in business administration ... I sat down with the Briggmans just a week or so ago and went over their program. I'm absolutely convinced that the program is well organized and has met the points of management and whatnot, that it will be a successful program and I'll do everything I can to help them do it. So I stand in support of this program and hope you all will have an open mind to make it go. We really need it I think. Thank you.

Perry: While we're waiting for her to sign in, I want to mention for the benefit of the audience and the folks that will be watching on TV later, there is a petition and emails council has access to so those folks, for whatever reason, not speaking to us, we do have those comments. I'm sure we have all read them very closely.

13.) Faye L. Vinson, 329 Pinetops Road, Conway, NC: I can't vote against you or for you because I don't live in Kitty Hawk but my summer home is here. You have four generations of my

Kitty Hawk Town Council Minutes: September 6, 2016

Page 23

family coming every year to Kitty Hawk. My house is at 3519 Poseidon Street which puts me a vacant lot, a parking lot away, from what is now the problem as far as I am concerned. I certainly would love to see all of the people in this whole world who have drug addictions or alcohol addictions, or as my own addiction, smoking, would love to get rid of it but this is not the place for such a facility. It needs to be away from people who are crossing to the beach. I bought this house because my children, my grandchildren and my great grandchildren would be safe there and they have been ... they've been frightened a time or two because they heard a noise from another child down the street and they couldn't figure out what the noise was but the problem is not what they're doing there but where they are doing it and thank you for listening.

14.) Joseph Walker, 177 Williams Dr., Kill Devil Hills, NC: My name is Joseph Walker and I live in Colington. My grandfather was Charlie Deloatch and he started Charlies RV Park which used to be Decharmarnel. I believe you have a petition that was started at the park. There are a lot of concerned people that do not ... would not like to see this facility right next to where their kids, where their wives and other people that may be vulnerable to being taking advantage of. I just think it's a bad place for it to be and the reality is these things are not always successful and the government has protected the addicts that are in treatment and I'd appreciate it if the town will protect everyone else from those folks that deviate from their treatment and could cause problems in the neighborhood. Currently there are some problems but nothing like what we could have. I just appreciate your folk's time and like the other folks said, this is just the tip of the iceberg.

I saw, or actually heard the other day, on WUNC.org ... they did a story about a small town's struggle with a boom in sober living homes. They cite the programs without medication assistance are at about an 80% failure rate and that's just too many. It just takes a long time for people to get well from this and I think it needs to be in a proper location and well away from people in that environment. I appreciate your time and I'd appreciate it if you would turn this down. Thank you.

15.) Steve Rhoads, 6065 Martins Point Road, Kitty Hawk, NC: Thank you very much for your time. My name is Steve Rhoads and have lived here about a year and a half. We are in the process of buying a home here in Dare County.

My background is I've been a pastor for 28 years and have been very much involved with law enforcement chaplaincy for 28 years as well. Currently I'm part of the FBI's employee assistance unit where we work primarily with agents, support people, in addition to other areas of law enforcement who have substance abuse problems. This kind of a program is the kind you'd like to put here. It is an ideal type of program and one I look for as a chaplain and working with peer support, mental health areas of especially law enforcement personnel. The type of therapeutic treatment that they want to do is the ideal type of _____. The thing we've seen work over the years now.

I understand the objections. Again, my wife and I are moving down here, we relocated to this area we love it here and I understand the objections and concerns about not having this in my own

Kitty Hawk Town Council Minutes: September 6, 2016

Page 24

backyard. It would be great to have something like this somewhere else but I look at it and the concerns are having alcoholics and drug abusers and all this in our midst and yet we have them in our midst. The only difference here is we are taking the cover off, taking our heads out of the sand and actually doing something about the problem. Actually being a part of the solution instead of continuing to be a part of the problem. To think that there are no drug addicts and alcoholics in the Buccaneer Hotel is ridiculous. It's ridiculous. They are there. It's just it's easy to sit there and think, well no, they are just our tourists who provide our tax base. I think this is a phenomenal idea and I'm joined together with them to help in any way possible.

I have a son who is a clinical social worker. He can't wait to come down and be a part of this. He's working in the inner city, DC/Baltimore area right now. Where the riots are is where his clients are. He sees this on a daily basis and the idea of this, when I proposed it to him, what we want to do here, he was thrilled to death. I think this is an opportunity for Kitty Hawk, once again, to be a part of a solution and not just continue to be a part of a problem. Thank you very much.

16.) Patrick Scheg, 5 Palmetto Lane, Southern Shores, NC: Thank you for your time. My name is Patrick Scheg. I am a personal friend of the Briggmans and I live in Southern Shores. I did not plan on speaking tonight but after hearing some of the comments against this proposal I couldn't keep from speaking.

I'm not going to stand up here and give you my credentials and say that I've lived here for 35 years and my family goes back 4 generations because none of that matters. What matters is the fact that there is a drug problem on the Outer Banks and if you don't think there is you're blind and you're uneducated. I think this council has an opportunity, a golden opportunity, to be the change that, not only the Outer Banks needs, but that the United States needs, that the world needs. I'm not going to get prophetic about it but there is a problem here. The proposal from the Briggmans is a solution. It may not be the best solution, it may not work, it very well may fail but they're trying. They see a problem. They want to do something about it. They're not just going to turn a blind eye, they're not going to let the knee jerk reaction of the word drugs or drug addict or alcoholic affect their compassion for their fellow man.

Business owners. I understand their concern. I understand why they would not want to see this facility be put into place. I'm a small business owner here as well. My business would not directly be affected by this but if it was I would have concerns as well but I think they clearly stated how this program, this facility ... they're setting it up in a way to have minimal impact on the surrounding community. If it fails, it fails, but they're trying. I think this council, by allowing the proposal to move forward with the zoning, you are the change that the Outer Banks needs. It starts here.

Evan, their own son, is an addict. He's a friend of mine. I'm not a friend of any other addict but I've seen the change it made in Evan. His treatment. They are not doing this to make money. They're not doing this to make people mad, they're doing it to help people and you have an opportunity to make that help happen. Thank you.

Kitty Hawk Town Council Minutes: September 6, 2016

Page 25

17.) Ann White, 115 East Tateway Road, Kitty Hawk, NC: I think what bothers me most is this rezoning business. The beach road is what it is. It's ... we've put up with wash overs, we've put up with sand all over the place all the time but that's just a part of Kitty Hawk and the beach road. If we rezone and anybody ... I know you said there's conditions that changes as you go along. I think we ought to keep the beach road like it is. The facility needs to relocate somewhere not on prime beach property and neighborhoods where the families come to Kitty Hawk because they feel like it's a family place to come. Heck we don't even have street lights. I mean that's just the way it is here and we all accept it. This is our home but they like to come here and bring their children and their pets and they feel at home here and I hate to see it change. We have been down here about 20 some years now and we wouldn't want to live anyplace else but I just feel like we really need to really think hard about this because the changes we make are going to affect a lot of people. That was it.

Perry: Folks, once we go back into regular session, council will deliberate and make a decision but we won't be asking anymore questions. Are there any other comments that anyone would like to make?

Norma Carlisle: I would just like to follow up and say we're not without feeling as citizens in Kitty Hawk and we wish folks well but we are asking you to look at the zoning issue only and the future impact that may have on Kitty Hawk. We have three BH-1 areas. If we add that to it, it opens the doors for other problems and that is our greatest concern. Thank you.

Perry: We are well aware of the potential for spread. Someone else raised their hand? Would you come up please?

18.) Rachel Capel, 3314 Raymond St. Kill Devil Hills, NC: My name is Rachel Capel and I have been a part of what I'm going to say is Decharmarnel since I was a small child. I don't even remember the first time I was there so we'll say mid-'60's. It is home to me. In 2000 I was able to build a house a couple of doors down from there so that area is home to me and is special to me. Mr. Briggman I commend you. I really admire you and I admire what you all are trying to do. There is a drug problem ... drug problems everywhere. I feel though that area in the trailer park, and I may be stepping on toes, but I feel a part of the trailer park _____. You have children running around all the time enjoying that place and riding their bikes, and yes, there is some drinking going on, social drinking. These people are on vacation. They are there to relax and enjoy their time there.

I'm down here every weekend. I work down here on the weekends. I have a job at home but I come down here every weekend and it's nice on Friday and Saturday nights to get out and walk down my street. I am in Kill Devil Hills but I'm just the first lot in so my neighbors are in Kitty Hawk. It's nice. I do not feel threatened when I walk out my door at night. I walk across to my neighbors, I see the kids playing. We had a wonderful pig picking this weekend. Just wonderful and I really ... and like I say I admire you all but to have people that have problems next door to us ... the

Kitty Hawk Town Council Minutes: September 6, 2016

Page 26

triggers that everybody's talking about. There is alcohol there, there is. I walk by the gate of the Buccaneer every Saturday night. That is my biggest concern.

I did just jot down a few of these because I was not going to speak I am not a good public speaker but anyway I worry about the decline of our tax _____. It has just finally gotten to where our tax values are starting to go up a little bit ... we had _____ a while back. We don't need a decrease in our tax values. If I was to try to sell my house I don't know how it would affect that. I'm hearing a lot of people say that it could affect it. The Occupancy tax. That would go away. It's not a motel anymore. I worry about that. This is a home to me even though it is not my permanent address I feel a part of this area and I really would appreciate if you all would just think about it. Thank you.

Perry: There are many of you in here and many of you are not speaking. Could I have a show of hands of those people against this text amendment? Thank you. Can I have a show of hands of those people for the text amendment? Is council satisfied with that? (Councilmembers said yes.)

Mayor Perry recognized Attorney Gray.

Gray: A couple of quick wrap ups. On the issue that's before you right this second. I know we've heard a lot of information about the specifics of their proposed project but what's before you right now is simply a text amendment. As your planner has indicated to you the federal laws require that there has to be some reasonable accommodations and it depends on the answer to two questions as your legal counsel advised you. First, does the request impose an undue burden or expense on the local government? I have heard nothing that says at this hearing that it does.

So then we go to the second issue. Does the proposed use create fundamental, and I'm going to emphasize that word, alterations to the zoning scheme? If we go back to your own ordinance where it talks about the beach hotel district it says the hotel use is the most intense land use permitted by this chapter. The point I hopefully make to you is this. Somewhere within this town there's a right for somebody to have a therapeutic treatment facility. You can't prevent it from being within the town. So the question is, is this that has been put before you for text purposes now a fundamental change? Listen to what you heard is going to go on. One, people are going to stay there for a period of time. Now they don't live there. It's not a primary residence. It's a transient type of situation. Two, they are going to receive therapy there. No, there's not going to be an issuance of drugs to them in the sense of does this facility have a doctor on board that issues drugs. No. If another doctor says you've got to have blood pressure medicine, which I have to have, or you have diabetes and you have to have something, yes, they will monitor that but they're only monitoring it for any type of medication that these people are going to be taking. So it's not a treatment in the sense of they are being given drugs. It's a treatment that is based on simply talking, showing them different ways, one-on-one treatment group, therapy treatments which is not outside, it is inside.

I heard a lot about there'll be all these triggers and everything else and again I want to emphasize something to you. If there's anybody in here that doesn't want this ... in a residential district I can

Kitty Hawk Town Council Minutes: September 6, 2016

Page 27

put a group home right next to your house and these people have no control over that circumstance whereas here we're trying to set it up so that this town has control because it's a conditional use. That's a later point we'll be talking about if we get past this as far as the text amendment.

I respectfully submit to you that what we don't have is a fundamental change in your zoning by what we're proposing to do. In fact we fit right in with what is proposed.

Now go back to that example that I gave you earlier. If you have the so and so spa for weight loss they go through the exact same things people are staying there for what zone is that in? It's in a hotel zone. It's not in the residential zone where these people have their homes. It's in a hotel zone. Same concept. It's not a fundamental change and I would respectfully submit that under the federal ordinances we should be allowed to have this type of center.

Perry: Council have any questions of anybody before I ask for a motion to go back in regular hearing? (There were no further questions or comments.) Do I hear a motion to go back in regular?

Councilman Bateman made a motion to go back into regular session. It was seconded by Councilwoman McClean and passed unanimously, 5-0.

Perry: Before we go any further I have two questions. One goes to Casey. Sometimes when we take on a contentious item we'll table it for the next meeting to give councilmembers a chance to digest what they've heard. In this case there's a conditional use that would follow. How does that work in this particular case if we decide to table?

Varnell: I think we table them both.

Perry: There are some proposed motions and if we do one I'm going to make it but I want to ask each councilmember do you want to decide this tonight or do you want to wait a month? Jeff?

Pruitt: It doesn't matter to me. I'll do whatever.

McClean: I'd like to wait.

Bateman: It doesn't matter to me.

Garriss: I think we need to decide tonight.

Perry: A lot of people here depending on it. I tend to agree with that. Lynne I'm going to overrule you and I'm going to make a motion. I'm doing it because having studied, read all of the information that was provided both by the Briggmans and all the other people that are impacted by this, or believe they are impacted by this, I don't think the motion that was proposed gives us all the elements that I want to present to council. So in that case **I'm going to move to deny the proposed text amendments to 42-1 and 42-253(c)6 for the following reasons: Reason number**

1: the proposal is not considered a reasonable accommodation as it would fundamentally alter the zoning scheme of the BH-1 district. That is the same one that the planning board used. Number 2: the proposed therapeutic treatment center is located in the most densely populated BH-1 zoning district in Kitty Hawk and it alters the useful expectation that property owners, including adjacent rental and full time resident property owners, had when obtaining those properties. Number 3: the proposed zoning change impacts at least two other, for a total of three, BH-1 districts in Kitty Hawk with the same potential alteration of useful expectation for the property owners adjacent to those districts. Number 4: council, having heard serious objection to the change of use from affected residents, has an inherent obligation to take those concerns into part of the deliberation in this denial. Does the motion have a second? **Councilman Pruitt provided a second.**

Perry: Does anybody want to add anything?

Bateman: I have to speak. I have two hats on and I don't mind being completely open with everybody. The first hat ... I've been on the town council ... for 12 years I was on the planning board, I think since 1990 something, and so planning rationale, in my opinion, dictates this should not go there.

The other hat I have on ... I have a recovery hat. Evan and I have something in common. I'm a recovering alcoholic and I've been there for 26 years only by the grace of God.

I've called people within the recovery community, I've called people within the business community and I said what do you think about this? I've got a sponsor in AA. I called him and I said tell me what do on this thing. I said I'm busted up by this and I've talked to these guys. I mean it busts me up because I feel the pain of every person out there who has someone in their family who's hurting by this disease and this disease sucks. Bad. It's a bad situation. We just lost a guy over in Manteo and Wanchese and one down in Hatteras from this disease. Young men, good people.

This district is a hotel district. If we change it from that then all of a sudden there's not going to be ... there's no hotel there. We are a business area there so I'm split on this thing and it hurts me. It hurts me to vote against this because I mean you guys have a good plan. The plan does not work in this area. That's all I can say but it upsets me to be in this position and I am not taking that kindly.

I've called around and I've talked to people to help me out and that's all ... goes back to the yes or the no vote and I can't support this one in this area.

When I first heard about it and the Briggmans called me and we talked about it didn't we? We talked about it in February and I said, listen, go and sell it to the people. You sell it to the people and then come back and tell me and we have a public hearing and everybody's for this thing you've got me altogether but that is not how it turned out. I have 140 some signatures on this petition.

Kitty Hawk Town Council Minutes: September 6, 2016
Page 29

I took an oath. I have no other course than to vote against it but I'm not happy about it. That's it. I'm sorry.

McClean: I would like to make one comment. Before the Hilton was built in our hotel district we had some problems attracting a hotel to that corner of town. There would be different plans submitted and nothing came of them for whatever reasons but then someone came in and said we can't get a hotel in there let's use that land and put 17 houses there. Nice houses, rental houses, big houses, expensive houses with state of the art septic systems. I mean we will do it up right. The town and the planning board said we made this a hotel district, we need a hotel in town, and they denied the PUD application to put houses down there instead of the Hilton. With a short period of time Hilton made a proposal and it was reviewed and it was accepted.

When they zoned Kitty Hawk way back somebody said, with some wisdom and some forethought, we need some hotels, we need some hotel districts. It is a part of what we are. We are a resort town.

I would like to approve this treatment facility. In fact I think it would be fantastic but I wish it was in a different place because Kitty Hawk needs hotels. We need that facility to be a hotel and we need the therapy center. We just don't need it in the hotel district and that's where I am on all this. If you all had a place to put it I'd say yes in a heartbeat.

Garriss: First of all, Ervin, thank you. That was very heartfelt. I know the people here felt it tonight.

I've talked to not only the names we have here in front of us but I've talked to some people sitting in this room tonight. Nobody I talked to was in favor of it but the Briggman family ... everybody said have you met the Briggmans. They are wonderful people. We love the Briggmans and you have proven to me tonight that you are wonderful people. The whole family.

But we have to go back to the original planning board denying the recommendation. I don't see that we have any choice. It was denied because it fundamentally alters the zoning scheme of the BH-1 district. That's what we have to look at. Do we need something like this in Dare County? We sure do. I have a law enforcement career background and especially my position I'm in now and I see people that need help every day and there's nowhere for them to go. They come begging for help. Do we need it? Yes we need it but I cannot approve this zoning change.

Pruitt: We have all realized that there's a need. None of us are going to go home tonight with a fuzzy feeling. Not a one of us. This has worked on us all hard. I think that your idea is great. I really do. It's not what you're doing, like I said earlier, it's where. I do feel like the hotel zone ... Craig and I, and many of us, started on the planning board where we were taught to look at, as Mr. Gray pointed out, the text amendment and only the text amendment. Not the stuff that goes with it. The text amendment was really to allow the residential treatment facility in this particular zone. After two months, the planning board actually spent an extra meeting on this, and they did a fine

Kitty Hawk Town Council Minutes: September 6, 2016

Page 30

job and I think that their results and their outcome and decision was the right one. Like I said no fuzzy feeling here that's for sure. I don't feel good about this at all but I don't think it's in the right place. I really don't.

Perry: I don't think there's anybody on council, or most of us in here, that have not been touched by the problem but what this council, and I'm going to say this for all of us, has tried to do since we've been here is listen to the majority of the people. I think we've heard you. The majority of the folks don't want it in that location, so that said, all in favor of the motion?

The motion passed unanimously, 5-0.

b.) Conditional Use Permit: Applicant proposes to establish a therapeutic residential treatment facility at 3512 N. Virginia Dare Trail, should the associated text amendment be approved.

The public hearing for this Conditional Use Permit was not held because the text amendment concerning it was denied.

9. NEW BUSINESS

a.) Request to Hire Fire Department Office Assistant/Receptionist above Hiring Range

Perry: Andy, the fact that the proposed person we are hiring has retired from the town in that position and wants to come back at the same pay scale after being retired. How does that work?

Stewart: Her retirement will be placed on hold and then when she starts her retirement back she'll get credit for the years of service in that calculation. It will be recalculated.

MPT Garriss made a motion, seconded by Councilman Bateman, to approve this request. The motion was unanimous, 5-0.

10. REPORTS/GENERAL COMMENTS FROM TOWN MANAGER

a.) Coastal Planning and Engineering/Beach Nourishment: The pre-construction services of the engineer have been completed, all the leases have been signed and all of the permits have been issued for the beach nourishment project. It is still on schedule for next summer.

b.) Storm Debris Generated by Tropical Storm Hermine: Pick up of storm generated yard waste will begin soon. Information will be posted on the town website.

Kitty Hawk Town Council Minutes: September 6, 2016

Page 31

c.) Ocean Rescue: There are a few more weeks that Ocean Rescue will be working but so far this season they logged 104 incidents with no drownings, had 44 water rescues with a total of 56 victims. Of those 26 were transported for further medical evaluations. There were 4 missing persons and all were found safely. There were 18 other related incidents. It has been a safe and successful season and they do make a difference in saving lives. Manager Stewart asked Chief Spivey to pass this along to them.

d.) NC 12: There was some undermining of the road and the state was there today looking at it. They are probably going to add some sandbags along NC 12 and hopefully it will hold up until the beach is nourished.

e.) Public Works Tractor: It has been purchased and the public works director will drive it to the next meeting for council to see it.

f.) Thank you to Staff: Staff did a great job during the storm. It came in a little bit stronger than was expected and everything will get cleaned up.

In answer to Mayor Perry's question if a grapple truck or a grinder is going to be used for the storm debris, Public Works Director replies both will be used.

11. REPORTS/GENERAL COMMENTS FROM TOWN ATTORNEY

a.) Beach Nourishment Easements: The town has only five signatures that are still outstanding for the beach nourishment easements.

Answering the mayor's question about the condemnation process Attorney Varnell replied it is on track and he will probably proceed later this month with the paperwork.

12. REPORTS/GENERAL COMMENTS FROM TOWN COUNCIL

a.) Thank you to Staff: Mayor Perry and councilmembers thanked staff for all of their hard work during the storm.

b.) Congratulations to Public Works Director: Councilman Bateman congratulated Public Works Director Midgett on his 10 years of service.

c.) Text Amendment Decision: MPT Garriss remarked that turning down the text amendment the Briggmans requested was the toughest decision he has had to make while on the town council.

Kitty Hawk Town Council Minutes: September 6, 2016
Page 32

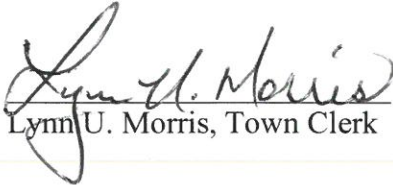
13. PUBLIC COMMENT

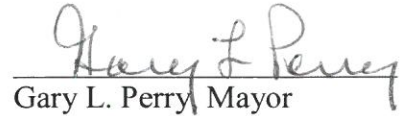
There were no public comments.

14. ADJOURN

Councilman Bateman made a motion, seconded by Councilwoman McClean, to adjourn. The vote was unanimous, 5-0. Time was 8:24 p.m.

These minutes were approved at the October 3, 2016 council meeting.


Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor