

MINUTES
KITTY HAWK TOWN COUNCIL
TUESDAY, September 8, 2015
Kitty Hawk Town Hall, 6 PM

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Introductions/Presentations:
 - ❖ Introduction of Police Officers Jade R. Hawk and Tyler W. Kouskouris
 - ❖ N.C. Lions VIP Fishing Tournament
5. Public Comment
6. Consent Agenda
 - a.) Approval of August 3, 2015 Council Minutes
 - b.) Revenues and Expenses Report for July 2015
 - c.) North Carolina Governor's Highway Safety Program Local Governmental Resolution
 - d.) Fiscal Year 15-16 Inter-Local Agreement with Dare County for Solid Waste Collection
 - e.) Resolution Establishing Town Council Regular Monthly Meeting Dates for 2016
 - f.) FY 2015-16 Budget Amendment #1
7. Items Removed from the Consent Agenda
8. Public Hearings
 - a.) Conditional Use Permit: Gas station to be located at 4017 N. Croatan Highway in the BC-1 District.
 - b.) Conditional Use Permit: Application for a conditional use permit to allow a 34 site mobile home park at The Preserve at Kitty Hawk Woods in the VR-3 District.
 - c.) Text Amendment: Amendment to Section 42-621(15) of the Town Code which would allow trailers, as defined, to be located in a mobile home park if certain requirements are met.
9. New Business
 - a.) Overton Property (731 W. Kitty Hawk Road)
10. Reports or General Comments from Town Manager
 - a.) Compliment to the Police Department
 - b.) Coastal Planning and Engineering Update
 - c.) Easement Agreements
11. Reports or General Comments from Town Attorney
12. Reports or General Comments from Town Council
13. Public Comment
14. Adjourn

COUNCIL MEMBERS PRESENT:

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

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015

Page 2

COUNCIL MEMBERS ABSENT:

Councilwoman Emilie Klutz

STAFF MEMBERS PRESENT:

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

1. Call to Order

Mayor Perry called the meeting to order at 6 p.m. and welcomed everyone in attendance

2. Moment of Silence/Pledge of Allegiance

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

3. Approval of Agenda

MPT Bateman made a motion, seconded by Councilman Garriss, to approve the agenda. It was approved unanimously, 4-0.

4. Introductions/Presentations:

- ❖ Introduction of Police Officers Jade R. Hawk and Tyler W. Kouskouris

Police Chief Joel Johnson introduced newly hired Officers Jade Hawk and Tyler Kouskouris.

- ❖ N.C. Lions VIP Fishing Tournament

NC Lions Visually Impaired Person's Fishing Tournament Board President Bob Walton announced this year's state tournament is October 20th and the national tournament is October 21st on the Outer Banks. He encouraged people to volunteer with the event and share in the fun. A short video was shown of last year's tournaments.

5. Public Comment

There were no public comments.

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015

Page 3

6. Consent Agenda

a.) Approval of August 3, 2015 Council Minutes. *(An affirmative vote for the consent agenda will approve these minutes.)*

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

c.) North Carolina Governor's Highway Safety Program Local Governmental Resolution. This \$20,000 "no match" grant from the GHSP will assist the police department's GHSP Region 1 Law Enforcement Liaison, Sgt. Strickland, with travel for meetings and seminars. The remainder of the money will be used to purchase approved traffic safety equipment. *(An affirmative vote for the consent agenda will approve this grant.)*

d.) Fiscal Year 15-16 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 bypass a third pick up per week from Memorial Day through Labor Day. Residential collection services will be \$121.15/hour (\$119.91 last year). Commercial collection services will be \$102.39/hour (\$100.30 last year). Large item collection twice annually at the rate of \$250.00 per hour. These sums shall remain in effect until June 30, 2016. *(An affirmative vote for the Consent Agenda will approve this Inter-Local Agreement.)*

e.) Resolution Establishing the Town Council Regular Monthly Meeting Dates for Calendar Year 2016. The Town Council meets on the first Monday of each month unless it is observed as a town holiday. In 2016 two holidays are observed on a council meeting date: July 4th and Labor Day. Staff is recommending council meet on the Tuesday following the Monday holiday: Tuesday, July 5 and Tuesday, September 6, 2016. *(An affirmative vote for the consent agenda will approve the 2016 calendar year meeting dates.)*

f.) FY 2015-16 Budget Amendment #1. This amendment will recognize and appropriate fund balance in the amount of \$10,000 for unanticipated costs for increases in solid waste collection and disposal charges. *(An affirmative vote for the consent agenda will approve this budget amendment.)*

Councilman Garriss made a motion to approve the consent agenda. The motion was seconded by Councilman Pruitt and unanimously approved, 4-0.

7. Items Removed from the Consent Agenda

No items were removed from the consent agenda.

8. Public Hearings

a.) Conditional Use Permit: Gas station to be located at 4017 N. Croatan Highway in the BC-1 District.

Councilman Garriss made a motion, seconded by MPT Bateman, to go into public hearing. It was unanimously approved, 4-0.

Planning Director Rob Testerman reviewed the following staff report for this permit.

Proposal: The applicants are requesting re-approval of a Conditional Use Permit to operate a gas station on the subject property. The gas station was previously approved as a conditional use in 1998. With the exception of repaving the surface and replacing the outdoor lighting no site changes are proposed and the use will remain a gas station with a retail store. The retail portion of the property is a use permitted by right however the gas station use requires a Conditional Use Permit. Sec. 42-99(d) of the Town Code states that "if an approved conditional use ceases to operate for more than a period of 180 days the conditional use would expire. The property owner or subsequent owner/lessee would have to reapply for the conditional use."

Proposed Conditional Uses: 42-250(c)2 – Gas stations or fuel dispensing accessory use facilities; provided that no accessory building shall be located within 50 feet of a residential district and provided that there shall be no storage of wrecked or abandoned cars and that no portion of a gas station building, equipment, or pumps shall be nearer than 75 feet to any right-of-way. A gas station or fuel dispensing accessory use facility shall be designed and equipped such that no more than eight vehicles can simultaneously receive fuel from the fuel dispensing devices located on the gas station or fuel dispensing accessory use facility site.

Background Information: The subject property is presently zoned General Beach Commercial (BC-1) and presently contains eight gas pumps, 36 parking spaces, and a 3,344 sq. ft. retail use building. The site is 61,250 sq. ft. (1.4 acres) and has 250 feet of frontage on N. Croatan Highway.

Directly abutting the subject property to the north is a developed commercial parcel zoned BC-1 currently housing a restaurant, Spanky's Grille. Further to the north is Jimmy's Seafood Buffett, also zoned BC-1. To the south are numerous developed properties zoned BC-1 including Kitty Hawk Carwash, The Wright Place, Max's Real Bagels and Mattress Firm. To the west across Croatan Highway are a developed commercial properties zoned BC-2, including BK Shuckers, Johnson Burgess Mizelle & Straub, Guy C Lee Building Materials and one vacant lot. To the east there are several single family residences that front Lindbergh Avenue all zoned General Beach Commercial (BC-1).

Staff Analysis: Proposed Uses: Gas Station. Gas stations are presently permitted as conditional uses in the General Beach Commercial (BC-1) district.

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015
Page 5

Lot Area: The subject parcel is 61,250 square feet (1.4 acres) in size. The lot size meets the 15,000 square foot minimum as well as the 4 acre maximum requirement. The lot area is suitable for the proposal as there are no changes proposed to the site plan.

Lot Coverage: Including the existing building, sidewalks, parking, access drives, and drive aisles, the proposed lot coverage is 29,125 square feet (47.5%). This is compliant with the maximum lot coverage requirement of 60% for the BC-1 district.

Building Height: The maximum height in the BC-1 district is thirty-five feet (35') from the existing grade to the peak of the roof. The existing building is roughly 30' in height.

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

<u>Setback</u>	<u>Existing</u>	<u>Required</u>
Front	145 feet	15 feet
Rear	60 feet	20 feet
Sides	95 feet (north)	10 feet
	67 feet (south)	10 feet

Access: The subject property is currently served by two 25 foot wide ingress/egress drives off of N. Croatan Highway. No alterations are planned for these.

An internal drive aisle provides access to all parking spaces as well as the fuel dispensing units.

Parking: As retail stores associated with gas stations typically contain largely food and drink items, parking is being calculated as a grocery store. The parking calculations are as follows:

<u>Parking Calculations</u>	<u>Ratio</u>	<u># Required Spaces</u>
Grocery 3,344 sq. ft.	1 per 200 sq. ft.	17

The as-built from 1998 shows a total of 39 paved parking spaces including two (2) handicapped spaces which exceeds the minimum required. All parking spaces must be striped as outlined on the site plan.

Buffers: Sec. 42-649 states that "buffers within a commercial zone shall be required between all uses in commercial zones and abutting residential zones", although there are residential uses to the east of the subject property, they are within the BC-1 zoning district, all other abutting properties are also BC-1, therefore no buffer is required.

Lighting: A lighting plan for the site must be submitted and approved by the Planning & Inspections Department prior to the issuance of a building permit. Such plan must comply with the standards of Section 42-515 of the Zoning Ordinance.

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015

Page 6

Signs: The lot will be permitted to have its own freestanding sign up to 48 square feet in size. Total signage area on site is permitted up to 100 square feet. To date, no sign permit application has been received for a permanent sign.

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

Flood Zone: The portion of the subject property where the building is located appears to be located within an X flood zone which means that the building is not required to meet any particular flood elevations.

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

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

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

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

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

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

- a.) does not materially endanger the public health or safety,
 - Given that the subject property was used for many years as a gas station without endangering public health or safety there is no evidence to indicate that reviving its use in the same manner would endanger public health or safety.
- b.) does meet all required conditions and specifications,
 - The previous gas station was constructed to meet all conditions and specifications and the new proposal includes no changes and will also meet all requirements.
- c.) will not substantially injure the value of adjoining property or be a public nuisance,

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015

Page 7

- The subject property served for many years as a gas station and now sits vacant. If anything, it is likely that the proposed reuse of the subject property will have a positive impact on the value of the surrounding properties, as the lot and buildings are being improved prior to opening.

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

- The reuse is compatible with the surrounding zoning and land uses. Per stated policies in the Town's adopted land use plan, the reuse of this business will be located on existing, commercially zoned properties, as well as an existing development suited for use as a gas station.

Planning Board Recommendation: At its August 13, 2015 meeting the Planning Board voted unanimously to recommend approval.

Mayor Perry questioned the building being in an X zone and PD Testerman said it is according to the flood maps and perhaps when it was originally built fill was brought in to the site.

Mayor Perry asked about the status of the farmer's market stand and PD Testerman said he thought it was removed in early August and it is not anticipated it will be put back.

Mayor Perry asked anyone who wished to speak to come forward. No one came forward.

Hearing no further questions, **MPT Bateman made a motion, seconded by Councilman Garriss, to return to regular session. The vote was unanimous, 4-0.**

MPT Bateman made a motion to grant approval of the proposed Conditional Use Permit to allow the reestablishment of a gas station at 4017 North Croatan Highway. The Town Council finds this is consistent with the Town's adopted CAMA Land Use Plan and to be in the public interest. Councilman Pruitt seconded the motion.

Mayor Perry offered he thinks everyone wants to see that business come back to life and the property put to good use. He then called for a vote and it was **4 to 0 in favor of the motion.**

8b.) Conditional Use Permit: Application for a Conditional Use Permit to Allow a 34 Site Mobile Home Park at The Preserve at Kitty Hawk Woods in the VR-3 District.

Councilman Pruitt made a motion, seconded by Councilman Garriss, to go into public hearing. It was unanimously approved, 4-0.

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015
Page 8

Town Clerk Morris administered the oath to Planning Director Testerman, Engineer Michael Strader Jr. and William F. Bird, applicant.

Perry: *Because this has created confusion I am going to ask Rob some questions to be answered for the record. Are we being asked to allow a mobile home park in Parcel A?*

Testerman: *Yes.*

Perry: *The existing non-conforming trailer park on Parcel B is not part of what is being asked for on Parcel A at this time. Is that correct?*

Testerman: *Correct.*

Perry: *Any application to comingle mobile homes and trailers as defined in the Town Code is the subject of the next public hearing to be called after we hear this application. Is that also correct?*

Testerman: *Correct.*

Mayor Perry then asked PD Testerman to review the proposal.

Proposal: The applicant is requesting approval of a Conditional Use Permit to locate a mobile home park located at 4352 The Woods Road. It is Parcel A and is 6.21 acres. The subject parcel is currently undeveloped with the exception of one unit located at the end of an existing gravel road that is part of the existing development on the adjacent Parcel B. Parcel B currently houses 30 sites occupied by a mixture of trailers and motorhomes. The applicant is proposing to install a new gravel drive extension to access the new sites, parking for each site, water service, on-site wastewater, and refuse collection. The application proposes 34 new sites on the undeveloped land, Parcel A.

The site is located in the VR-3 District, High Density Residential, which allows mobile home parks via a Conditional Use Permit. Section 42-621 sets out specific standards that mobile home parks must meet. It should be noted that if the associated text amendment is approved, 42-621(15) would be altered.

Background Information: The intent of the applicant is to provide a location to site mobile homes and/or trailers for long term stays similar to the existing development on Parcel B. The applicant has also expressed an intent that the sites would be rented for long terms as opposed to a weekly vacation type of use.

Directly abutting the 6.21 acre subject property to the north and east is the existing section of The Preserve at Kitty Hawk Woods, as well as two single family residences to the east, all zoned VR-3. To the south there are residential uses and undeveloped land zoned VR-3. To the west is a water way and residential uses across the water zoned VR-1.

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015

Page 9

The existing development was previously known as Dogwood Trailer Park and is a nonconforming use. In November of 1988 the Planning Board conducted review of a similar proposal to create a mobile home park on the currently undeveloped parcel. The Planning Board at that time recommended a conditional approval of the mobile home park plan. However, before taking the plan to Town Council for the review, the owner at the time obtained a wetlands delineation which effectively prevented the owner from pursuing the park design that the Board had reviewed.

Testerman added: *The engineer for the applicant has provided a more recent determination from 2013 that shows no wetlands other than the Ash Swamp and Duck Pond Canal.*

The location was also approved for a PUD as a Conditional Use Permit for a residential development plan, Heron Harbor. The development would have contained 51 residential units, including 4 quadraplexes, 2 triplexes, and 29 single family homes. The proposal was approved in June of 2007. The Conditional Use Permit for a PUD in the VR-3 was issued but has since expired.

Staff Analysis: Proposed Uses: Mobile home park. Mobile home parks are presently permitted as conditional uses in the High Density Residential Village (VR-3) district.

Lot Area: The subject parcel is 6.21 acres. This is acceptable as the mobile home park ordinance states a minimum lot size of 4 acres to develop a mobile home park.

Mobile Home Spaces: Each mobile home space is at least 40 feet wide and have an area of at least 5,000 square feet which meets requirements of 42-621.

Setbacks: There shall be at least 20 feet of clearance between mobile homes and a 15 foot setback between any building in the park and the closest mobile home. Additionally, no mobile homes are to be placed closer than 15 feet of any exterior boundary line and no closer than 20 feet to the edge of any interior street. The proposed mobile home spaces have adequate separation between sites and property boundaries.

Access: The subject property will be served by a new gravel access road. The road will tie into the existing gravel access road currently serving the existing section of the development. There will be no changes to the access point to The Woods Rd.

The proposed interior drive has a right of way of 30 feet and the drive itself is proposed to be 26 feet wide. The proposal calls for a "hammerhead" at the end of the gravel drive. The proposal meets fire code requirements.

The ordinance also states that dead-end drives shall not exceed 1,000 feet in length and that drives shall intersect as nearly as possible at right angles. The plan meets both of these requirements.

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015

Page 10

Recreation Area: All parks shall have one or more recreation area accessible to all park residents. A minimum of 200 sq. ft. for each mobile home site is required. This standard calls for a minimum of 6,800 sq. ft. of recreation area and the applicant is proposing 12,347 sq. ft.

Parking: Two parking spaces per mobile home site is required. The plan meets this requirement.

Site Location: The park shall be located on ground that is not susceptible to flooding. The park shall be graded so as to prevent any water from ponding or accumulating on the premises. No grading information is shown on the plan. The parcel is in the AE 8.3 flood zone.

Without topographical data or an average ground elevation shown it is difficult to determine flooding susceptibility of the proposed mobile home park location.

Buffer: A visual buffer such as shrubbery or a fence not less than six feet in height is required between the park and any adjacent residential uses, other than mobile homes. The plan shows an existing fence between the proposed park and the residential uses however no information on the fence height is given. The applicant has stated an adequate visual buffer shall be maintained.

Utilities: The applicant proposes to provide two new fire hydrants and a new 2 inch water meter to serve the new development. A 2 inch water service line will loop throughout the development from the new 2 inch meter and provide water service to each site. Each site will have a sub meter and Utility Connection Tower maintained and operated by the owner.

The proposed sites will be treated by on-site subsurface conventional bed drain field wastewater systems. A copy of the Site Evaluation issued by the Dare County Health Department is attached.

Waste Management: The site currently has one dumpster serving 30 sites. The proposal shows a relocated dumpster pad and an addition of a second dumpster.

Stormwater Management: The project is disturbing over an acre of area. The applicant must obtain a stormwater management permit from the N.C. Division of Energy, Minerals, and Land Resources prior to the issuance of a building permit. The proposal will require a Low Density Stormwater Permit.

Flood Zone: As previously mentioned the property is located within the AE 8.3 Flood Zone.

Land Use Plan: The Town of Kitty Hawk's adopted CAMA Land Use Plan designates the subject parcel as "Higher Density Residential" on the future land use map.

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

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015

Page 11

POLICY 11c: Kitty Hawk will review and analyze development and redevelopment proposals for consistency with the future land use map included in this land use plan.

POLICY 17b: Detached residential structures are the preferred type of residential land use in Kitty Hawk.

OBJECTIVE 17a: Ensure the continuance of established residential development patterns.

OBJECTIVE 17b: Ensure future development is consistent with adopted goals, objectives, and policies and regulations including building code requirements and is in character with existing development with respect to features such as building size, lot coverage, architectural design standards, and construction materials and methods.

OBJECTIVE 17e: Evaluate development and redevelopment proposals according to goals, objectives, and policies and the land use suitability analysis and future land use map developed as part of this land use plan

The land use suitability analysis map shows this property as "Medium Suitability" for development.

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

- a.) does not materially endanger the public health or safety,
 - If all of the required State and other permits are obtained, then the authorized agencies will have reviewed and permitted the septic systems, water lines, stormwater management, and erosion and sediment control plan. Therefore, it can be presumed that these improvements will be made in a safe manner. There is potential concern regarding flooding susceptibility in the area.
- b.) does meet all required conditions and specifications,
 - with minor amendments and compliance with the mobile home park specifications, the proposed use will comply with all applicable standards of the Town Code.
- c.) will not substantially injure the value of adjoining property or be a public nuisance,
 - The subject property is adjacent to an existing trailer park, and otherwise is relatively isolated by a waterway, and undeveloped properties. So, the proposed development will likely have little direct impact on the surrounding area.

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015
Page 12

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

- The proposed use will be compatible with the higher density village residential district in which it is located.

Planning Board Recommendation: At its July 16, 2015 meeting the Planning Board unanimously recommended approval of the proposed Conditional Use Permit for a mobile home park at The Preserve at Kitty Hawk Woods, 4352 The Woods Road. The Board found that the proposal is consistent with the Town's adopted land use plan.

Michael Strader: *Good evening. My name is Michael Strader, Civil Engineer with Quible and Associates and the engineer of record for The Preserve at Kitty Hawk Woods project. On behalf of Renwood Parks LLC the conditional use site plan that is submitted before you requests the approval for a mobile home park under the provision of Article 6, Division IV, on Parcel A. The 6.21 acre parcel. As Rob Testerman has stated the conditional use site plan submitted meets all of the town's developmental statements. I just wanted to let you know I am available for any technical questions and the owner's representative, Mr. Bill Bird, is also available for any questions you may have before you enter into any deliberations.*

Perry: *Before we go any further does anyone wish to speak?* No one came forward.

Pruitt: *Just for clarification under specifications for mobile home parks ... single ownership or control. Is an LLC considered a single ownership and control?*

Michael: *Yes.*

Pruitt: *Can you explain to me what wetland delineations is?*

Testerman: *Members of the Army Corps of Engineers surveys the site and look at a number of different things. They are looking at site characteristics, any visible wetlands and the different plant life that is living in certain areas can indicate wetlands. I guess they do soil samples. There is a lot that goes into from what I understand.*

Pruitt: *In 1988 this was done?*

Testerman: *There was one done in '88.*

Pruitt: *And it was determined there was enough wetland in there to cause some problems in whatever he had in mind at that time?*

Testerman: *Yes. I was able to find a copy of it. There were several small pockets of wetlands throughout the site. I could not find a copy of the previous plan of what he wanted to do but from*

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015

Page 13

what I read in previous letters and minutes it sounded like his site plan would not work around what was shown as wetlands at that point.

Pruitt: *Did you not just a few minutes ago say that Quible said there were no wetlands but Ash Marsh?*

Testerman: *They had a determination done in 2013. I believe it showed, and I have a copy of what they provided, there were not wetlands there. I guess it is possible that over 25 years or so some site conditions can change if the site was not completely under water at that point it could naturally ...*

Pruitt: *Kitty Hawk does not get higher.*

Testerman: *The 2013 survey shows the pockets that were shown in '88 were not there.*

Pruitt: *In 2007 Heron Harbor was approved for the 4 quadraplexes, 2 triplexes and 29 single family homes. Solely on the property that we're talking about today or the whole thing?*

Testerman: *I believe that was on both properties.*

Pruitt: *That is confusing. It makes it look like there was something approved already on that site and we are specifically talking about this one site.*

Testerman: *There was something approved on both the sites in 2007 but it was approved as a Conditional Use Permit and our ordinance says if the conditional use is not used within 180 days it is invalid at that point.*

Pruitt: *They would probably have built the triplex ... they were going to take out this part and build up over here. But we were talking about the whole site so when you said this site was previously approved for all of this it wasn't. Both sites were previously approved.*

Testerman: *Right. I misspoke on that.*

Pruitt: *Just to clear that up for everybody. This one site was not previously approved for all of that. I don't have any more questions.*

Garriss: *Rob in your research do you think this lot is susceptible to flooding?*

Testerman: *It is hard to say, having been here for only about 9 months now. The times that I went out there I did not see water standing. I know from what people have told me it seems to get pretty wet back there. My personal experience has been I have not seen too much standing water back there. I tried to go out at one point shortly after a pretty good rain. Folks with more personal knowledge of the town have told me it can get pretty wet.*

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015

Page 14

Garriss: *Are you familiar with Section 42-621? A mobile home park shall not be located in an area susceptible to flooding.*

Testerman: Yes.

Garriss: *That's all I have. Thank you.*

Bateman: *That leads to my question of what are we doing here then? Because it is a flooding area and it has flooded in the past numerous times. Anybody who lives here can tell you that property floods on a regular basis.*

Testerman: *I think that goes to just going off of my knowledge, or the lack thereof, of the property and how bad it has flooded in the past. All I have to work with is the flood zones. As I mentioned we did not have the topo maps, grading plans or anything.*

Bateman: *I'm not being critical. Just stating an observation.*

Perry: *The flood maps for that area shows it is an AE and AE is a flood prone area. AE requires structures to be elevated to certain heights. We do not have before us anything that tells us what the elevation of that place is other than it is in an AE zone which means it is subject to flooding. We have all lived here long enough to know it does flood, certainly during Hurricane Irene and it has done it in others. So we have a problem with the way the code is written that says basically though shalt not and it says it specifically that a mobile home park shall be located on ground that is not susceptible to flooding. It is in an AE zone susceptible to flooding. Right there it tells us that we cannot do this. We would have to change the text.*

We have another problem and it is a bigger problem than that. If you move mobile homes in and they have to be jacked up, and we don't know how high they have to be jacked up, but they would have to be jacked up to a certain degree at least 9 or 10 feet above whatever that elevation zone calls for. Does the American with Disabilities Act come into effect if you have mobile homes and disabled people have to be able to get into them?

Testerman: *I am not sure how that would play into this.*

Perry: *We have one other problem that affects all of Kitty Hawk and I want to make this very plain to everybody. We are going to be talking about RV trailer parks in just a minute and we have to think about what it does to the current flood insurance program which says we have to make sure whatever we do meets those rules or otherwise every flood insurance paying property owner in town has the potential to lose the 20% discount. We are under the gun to make sure that works. That is another issue we have to think about.*

Was there something that said their intent is to bring these homes in for a long term but not forever? In other words not be permanently fixed in place.

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015

Page 15

Testerman: *That plays into what we will be talking about next with the text amendment. The way I understand it his desire is to bring in the RV's that have self-contained bathrooms and showers and rent the space for a year or so. If a storm comes they could hook up and drive out.*

Perry: *But you don't know whether that applies to the mobile homes.*

Testerman: *Right. I do not think that would be possible because with the mobile home park the mobile homes would have to meet those flood standards. We have a 1 foot free board so it would have to be up to a 9 foot 3 inch elevation and securely anchored. I don't think anybody would want to go through that.*

Perry: *Let's ask the applicant. Can you come up please and answer that question. With the intent of the mobile homes, disregard the RV's, is it your intent to put those on a structure that would be required by building regulations and flood prevention rules such that you would put them in there and they would be forever there. Was that the intent?*

Bird: *I would answer it by saying the intent would be to lease sites for someone with a mobile home if mobile homes ... and the way you put the question forward was to exclude RV's as a possibility. If the only choice were a mobile home it would be to lease to a mobile home owner and they would have to comply. We would have to build up the ground level to support that ... I mean I don't see ... it's seems hard for me to imagine leaving the ground level the way it is. We would have to put pads in there to build it up so that they are not extraneous ...*

Perry: *So that when they are pulled in you don't have to take them off the wheels and put them on pilings or something.*

Bird: *Correct. Or that when they were pulled in it would be a minimal amount of ... I think it may even be a requirement in the code they would have to be on a secure foundation and anchored. It is not uncommon to have them raised a little but our idea is not to have a mobile home 9 feet off the ground and building a series of ramps.*

Perry: *No but I can see you being 4 and 5 feet off the ground. Are you aware of that?*

Bird: *Yes. With building up the base elevation we would. That is correct. We see that we would have to build up the base elevation.*

Perry: *And the last question. It was not your intent or the applicant's intent to put these homes in as the owner and rent them. It was to allow people to pull trailers in and set them up. Was that the intent?*

Bird: *Yes.*

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015

Page 16

Perry: *Any more questions? Would anyone else like to speak? Let the record show no one came forward.*

MPT Bateman made a motion, seconded by Councilman Garriss, to go into regular session. The vote was unanimous, 4-0.

Councilman Pruitt made a motion to deny approval of the proposed Conditional Use Permit to allow the development of a 34 space mobile home park at the currently undeveloped parcel at 4352 The Woods Road, The Preserve at Kitty Hawk Woods. The Town Council finds that it is inconsistent with the Town's adopted CAMA Land Use Plan and finds it not to be in the public interest. Councilman Garriss made a second.

Perry: *Are we basing this primarily on the section that says you cannot put a mobile home park in a flood prone AE zone?*

Bateman: *Yes.*

Perry: *We are basing this on the fact that we are looking at a larger picture with regard to moving trailers in and out in a flood prone zone with regards to the flood insurance program. Is that correct?*

Council concurred.

Pruitt: *Do we have in the code how much fill you can use to fill property?*

Perry: *I don't know if that is germane. I asked the question and the applicant said he was not planning to own them and put them up. They would be pulled in and out by the owner. That presents a real problem. Unless we change the text and unless we know what the elevation is and a few other facts I just don't see how we can proceed further.*

Hearing no additional comments or questions a call for the vote was made and it was **4 to 0 to deny.**

8c.) Text Amendment: Amendment to Section 42-621(15) of the Town Code which would allow trailers, as defined, to be located in a mobile home park if certain requirements are met.

Planning Director Testerman reviewed the following information for this text amendment.

Proposal: The applicant's proposal would amend 42-621(15) of the Town Code as follows: (15) trailers shall not be permitted to be occupied in a mobile home park unless a) any such trailer to be occupied contains internal sanitary facilities of at least one flush toilet, one shower, and one

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015

Page 17

lavatory and such trailer complies with “section 42-619 – Sanitary facilities, water supply, sewerage, refuse disposal and utilities” requirements specific to mobile homes; and b) such trailer meets the mobility or mobile home anchoring ordinances of Kitty Hawk.

The towns zoning ordinance defines a mobile home as a structure that has all of the following characteristics:

- a.) It consists of a single unit completely assembled at the factory.
- b.) It is designed so that the total structure can be transported on its own chassis.
- c.) It is over 32 feet long and over eight feet wide.
- d.) It is designed to be used as a dwelling unit and provides complete independent living facilities, including provisions for living, sleeping, eating, cooking, and sanitation.
- e.) It is actually being used, or is held ready for use, as a dwelling.

A trailer by definition in the Ordinance is any of the following:

- a.) Camping trailer. The term “camping trailer” means a folding structure of canvas or other material mounted on wheels and designed for travel, recreation, and vacation use.
- b.) Motor home. The term “motor home” means a portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
- c.) Pickup coach. The term “pickup coach” means a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.
- d.) Travel trailer. The term “travel trailer” means a vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreation, and vacation uses, and, when factory equipped for roads, it shall have a body width not exceeding eight feet, and a body length not exceeding 32 feet.

Additionally, the Flood Damage Prevention Ordinance defines a Recreational Vehicle as a vehicle which is:

- a.) Built on a single chassis;
- b.) Four hundred square feet or less when measured at the largest horizontal projection;
- c.) Designed to be self-propelled or permanently towable by a light-duty truck; and
- d.) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Background Information: The application is coming to us concurrently with an application for a CUP to expand The Preserve, an existing mobile home/trailer park. Through discussions with the applicant and the engineer, it is apparent the applicant wishes to have a mobile home park, with the possibility of having some dwellings that do not meet the definition of a mobile home. A mobile home is considered a permanent dwelling, whereas the applicant would like to allow his tenants the possibility of locating their travel trailer or motorhome within the park for a number of months,

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015

Page 18

then be able to pull it out and take it somewhere else for some time. A mobile home does not allow for that flexibility.

By having the requirement that any trailer located within the park be equipped with its own sanitation facilities, it essentially eliminates the need for a bath house, which is a requirement of a trailer park.

The mobility requirements referenced in the proposed text amendment refers to Sec. 14-90(6), in the Flood Damage Prevention Ordinance. It states that recreational vehicles shall either:

- a.) Be on site for fewer than 180 consecutive days **or** be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on wheels or has a jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
- b.) Meet all the requirements for new construction.

As it is proposed, any trailer allowed in the mobile home park would either meet the above standard, or it will be required to be securely anchored to its foundation in accordance with state building code standards for hurricane areas.

Currently, mobile home parks are only allowed via a Conditional Use Permit on properties in the VR-3 zoning district. The VR-3 district makes up a relatively small area of land in town, and 42-621 restricts mobile home parks to tracts of land that are at least 4 acres in area. Because of these limitations, there are currently two properties in town that would be candidates for a mobile home park - the subject property and one other undeveloped parcel.

Staff Analysis: Other Local Communities:

Manteo:

No specific mobile home park ordinance. Manteo's definitions of mobile homes and trailers is nearly identical to Kitty Hawk.

Nags Head:

Nags Head's mobile home park ordinance is very similar to Kitty Hawk's. However, their ordinance prohibits open air camping in mobile home parks, but is silent on trailers.

Kill Devil Hills:

No specific mobile home park requirements, though mobile homes do fall under the definition of trailer.

Southern Shores:

No specific mobile home park ordinance. Southern Shores' definitions of mobile homes and trailers is nearly identical to Kitty Hawk.

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015

Page 19

Duck:

No specific mobile home park ordinance. Duck's definitions of mobile homes and trailers is nearly identical to Kitty Hawk.

Dare County:

Mobile home and mobile home park sections of the zoning ordinance were deleted from the ordinance by the DCBC on 9-19-94, however their definitions of mobile homes and trailers are nearly identical to Kitty Hawk.

Currituck County:

No specific ordinance.

Consistency w/ Land Use Plan: The Town's adopted CAMA Land Use Plan does not, specifically or generally, address the topic of uses allowed in a mobile home park.

Planning Board Recommendation: At the July 16, 2015 meeting, the Planning Board voted on a motion to recommend approval. That motion failed by a vote of 2 in favor of recommending approval and 3 opposed.

Councilman Garriss made a motion, seconded MPT Bateman, to go into public hearing. The motion was approved unanimously, 4-0.

Michael Strader, Engineer: *Good evening again. The earlier CUP that you did not vote to approve would not have allowed for travel trailers to have been occupied within the mobile home park. The applicant is therefore requesting to amend that particular section in the ordinance and he has prepared a presentation to help provide you with some supporting documentation. Please remember to call for any other folks to speak on the matter.*

Perry: *Okay and what we're discussing now I'll ask Rob. Does this proposal change in any way the non-conforming trailer park at Parcel B?*

Testerman: *No.*

Perry: *It doesn't change that?*

Testerman: *No it wouldn't. This would be for any future applications for a mobile home park.*

Perry: *In Parcel A.*

Testerman: *Right. Any mobile home park.*

Perry: *But it was specifically directed at Parcel A so that you could have a mix and match is that correct?*

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015

Page 20

Strader: *That is correct. And we feel certain that we will be able to come back before you at a later date and provide you the information you need to feel more comfortable to approve that mobile home park as well.*

Perry: *But now we are dealing with the mix and match part of it.*

Bird: *I would just clarify actually our intention is not to mix and match. It is to have RV's as the mobile structure. I have some slides that I'll ...*

Perry: *Okay. I understand what you're saying. Go ahead do what you need to do.*

Bird: *I would like to start by thanking all of you for being here tonight. I know you have a lot of obligations and demands on your time and serving the public in the role you do is just yet an additional demand on your time. Thank you and I appreciate your considering our request.*

I think if you hear more of the background and the intent regarding this it may make the story fit together better between the previous application for a CUP for mobile homes and this request to amend the zoning ordinances to allow RV's.

Three years ago when I first got to know the property I thought it was beautiful. It is like a national park with the old growth trees and thought what a wonderful application of a light footprint RV's allow for being in harmony with this beautiful natural environment. At the time the property was in pretty distressed condition and we have put a lot of time, money and effort into improving the property. I think it was probably 50% occupied when we acquired it and probably not much money had been spent on the road in 30 years. If you drove down there too fast your bumper would start clanging and you might drive into somebody's yard because there was not an edge on the road, no boundary definition. We restored the road back to very good condition. We put in edging, put in interior and exterior landscaping, we cleared an area to put in about a half an acre park and we changed over the mix of residents that were there. We did not feel some met the quality of standards that we have in terms of being as good of a citizen perhaps as residents could be. I think if you ask residents today they would say they really like being in the park. They are there on a long term basis. We have people that have been there 5 and 10 years, quite a while.

The idea was to be able to expand onto the undeveloped portion of the property by giving existing _____ right and then be able to expand and have the business means to support additional centralized amenities like a park and kayak boat launch and maybe some storage. Some things that would really build a more cohesive and nice community to be a part of.

So we looked at the ordinances and feel like we have a pretty good business concept here. I don't think it is a blight on Kitty Hawk. There is not a negative to it and it allows this nice environment to be preserved. How do we move this forward through the ordinances as they are written? We felt like it was not entirely clear how to obtain a mobile home park approval with a minor text amendment to allow RV's that meet mobile home functionality to be placed on a mobile home site.

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015

Page 21

A minor text amendment to do that would get us to where we could expand. We thought it was better to come to you and ask for that than to try to kind of squeeze it through the existing ordinances that were not, at least from our view, 100% clear on what could and could not be done with respect to RV's.

With that I'll go through a few slides and I'm happy to answer questions as I go. We appreciate your comments and feedback on how to move forward understanding the intent of what we would like to accomplish.

I already mentioned just expanding the existing use. I would say it is not an unknown. We are not proposing something new here. We know how the business works with folks with one year or longer for instance in RV's. I think we have a neighborhood of good citizens. They work in roles of everything from municipal employment, real estate to boat building.

It is a low risk request from a text amendment standpoint. This could only be applicable to one other site that meets the 4 acre minimum and also would only be applicable to a mobile home CUP approved site which means if there are existing mobile home sites they could not just start popping up with RV's. It would have to be a CUP approved site the way we have proposed the text amendment.

And the last point. A misperception is that this is a short term stay type of place. We have never had an RV or a trailer in there for 3 days or 5 days. I don't even know if we have had anybody in there for as short as 3 months. Focus is on one year leases.

This is what the place looks like and shows you an example of what we would like to continue by having a text amendment that would allow us to do that. If we are able to obtain a mobile home approval. RV's today are not like they were in the 1960s. They are highly advanced. I was speaking with a tenant last night and he has hardwood floors, wainscoting, full bath and shower and a kitchen. These are nice units.

The last point, which there was a lot of discussion on it, the last agenda item about flooding. We think RV's are a fantastic answer to storm management and FEMA because in an hour or two they can be pulled out of there versus mobile homes, which despite the name, I would argue are not mobile. They don't tend to move. They tend to get anchored down. Frankly if a Category 5 parks on the top of Kitty Hawk it is not going to be a pretty picture. So from a storm management perspective ...

As I mentioned earlier we just don't have the facilities for it, we are not in the campground business. If you said to us we need to set up a centralized bath house, have a place for people to check in and check out, that's the only way you will approve this, we would do it. We don't think it fits with the type of use and space that is there. People come in with their RV's and have all the amenities they need. They are fully livable units.

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015

Page 21

Some site and ordinance considerations I'll just touch on quickly. I mentioned a couple of them earlier. Our intention and desire is to keep that look and feel and to accentuate what's there as a beautiful property and continue with the light footprint application. That slide shows the signage and in this photo it looks and feels like a national park. It is beautiful and we would like to continue that.

We talked about raising the elevation and we would have to do a substantial amount of clearing to do that. It is a major undertaking and one we do not want to undertake. If we come back to you and can address the flooding concern through one mechanism or another ... our intention was never to have mobile homes in there today, tomorrow or ever. It is not what we would like to do and for multiple reasons.

Some of the other ordinance related considerations I have already touched on is there is not a widespread utilization risk. There is only one other site that effectively could take advantage of this text amendment if it is approved. These RV's, again, fully mobile if a flood comes along they can get out of there. It is a simple amendment that is not convoluted it only affects one parcel and it is a pretty minor, easy to understand, amendment.

One of the last things is Code 42-619 makes it very clear that any mobile home CUP approved site has to comply with all of the mobile home ordinances from a sanitation and utility standpoint so approving this text amendment _____ to use a mobile home CUP approved site still has to meet all of the sanitation and utilities requirements within the existing ordinances. My point being you do not have to worry that there is a back door. That all of a sudden a bad situation opens up where from a sanitary standpoint now there's a loop hole in the ordinances where it turns into a bad situation. _____ existing ordinances. Talk a little bit about the residents ...

Perry: *Hold on just a second. You're mixing ... we're talking about an RV. The situation to change allowing RV's into a mobile home park.*

Bird: *Correct.*

Perry: *But the code that you are referring to is talking about mobile home park utilities. We just said you could not have a mobile home park. Are we talking about RV's or mobile homes? Anybody else confused?*

Pruitt: *I certainly am.*

Bird: *This item on the agenda was for the ... it's a good question. It's a question of approval for a text amendment to allow RV's in an approved mobile home park. Just a few minutes ago you denied the approval of our proposed mobile home park. I suppose you are wondering why we are interested in this text amendment if we don't have a mobile home park to put it in. That would be a logical question. I hope of course that we are able to come back and satisfy your concerns over flooding or otherwise and have a mobile home site that we can put RV's in.*

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015
Page 23

Perry: *But just previous to that you also said you did not want ... that it wasn't an ideal business model for you with mobile homes. RV's were.*

Bird: *RV's work great.*

Perry: *But mobile homes were not.*

Bird: *Correct.*

Perry: *But you're going to come back and ask for it again.*

Bird: *We would prefer to ask for a different type of approval we have not been able to see within the ordinance. We do not know what category to ask for an approval under to allow RV's and the closest hit when we looked through the ordinances and worked with the planner during numerous meetings discussing this was via the mobile home park draft. Because in the mobile home park ordinances themselves ... I should say they are intertwined where one paragraph will talk about mobile homes, the next paragraph talks about campgrounds and RV's, but there doesn't seem to be a specification to submit an approval for a campground for example. Because we could have submitted for a campground and maybe you could educate me and that's what we should do. Just submit for a campground that will allow RV's because we could. That we would be happy to do. We were not aware and did not think that was an option to do so. That's why I started out saying I think explaining some of the intent and our desire where we would like to take the property and get some of your feedback on it.*

Perry: *If you were to ask for an RV campground park we have an existing code that tells you what to do.*

Strader: *It does not appear there is any allowance for either an RV or a travel trailer park in Kitty Hawk.*

Bird: *That would be more logical for us to submit under.*

Strader: *There are specifications for a travel trailer park however there is no district where travel trailer parks are permitted uses and it would not entirely fit the definition of what the applicant is requesting anyway because travel trailer parks will allow pop ups and other travel trailers.*

Perry: *Let's back up. We have specifications for trailer parks. What you have to do and where they can go and that sort of thing. Rob, we don't have a place in Kitty Hawk that allows that, even in a VR-3?*

Testerman: *Right. We have the specifications for the trailer parks but there is no zoning district in which a trailer park is an allowed use either by right or a conditional use permit.*

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015
Page 24

Perry: *Because of the way the zoning is written. All right. It got left out of the mix.*

Bird: *Very much so and as I mentioned we thought of proposing an amendment to the VR-3 definition but thought that would be more complicated and perhaps even more involved and more difficult than just going with a mobile home and allowing RV's on mobile home sites so ...*

Perry: *I think I'm getting a little bit clearer. Do you still have a question?*

Pruitt: *So your intent was not to do the mobile homes. You thought that this was an easier way because ...*

Bird: *We thought it would be easier and ...*

Pruitt: *... and the only way but your intent basically would be to have larger RV's come in and stay for a week or two or lease a space for a year?*

Bird: *One year. We do one year leases.*

Pruitt: *And that's what your intent is.*

Bird: *Absolutely. We have no desire to have a mobile home, any mobile homes.*

Perry: *So right now we are faced with comingling under this possibility which is not something we want of course.*

Bird: *None of this conversation would be happening if there were an item number 15.2 on how to apply for a campground. We would have applied for a campground.*

Perry: *In a VR-3 high density zone.*

Bird: *Exactly.*

Perry: *Now the only problem we're going to have with that probably is the fact that the flood people ... the federal officials, believe it or not, do send people around. They are looking and we already have two non-conforming trailer parks basically that we are going to have to do something with. They have built on structures over the years so on and so forth. So if you did something like you are proposing here then one of the questions you will have to answer is how to meet the flood program rules so that they ... in other words they have to be on the ground on wheels or jacks and they have to immediately detach. It also talks about 180 days. They cannot be there more than 180 days. You are going to have to address all those questions and that would probably find more favor with us than what we are dealing with today. I interrupted you but it was important. Do you want to continue on?*

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015

Page 25

Bird: *I will continue on quickly. I want to say I appreciate your feedback and ideas on how to move forward.*

I just want to talk a little bit about this because this came up with the planning board this misunderstanding. Seventy-five percent of our people live and work in the Outer Banks and you can see some of the types of roles they have. Ninety percent are long term leases, eighty-five are over the age of 40 and those sorts of things. We are today really trying to be a good citizen. We have put a lot of time ... one of the questions I would have asked is how do you make sure it stays nice.

We have gone to an all-electronic system with leases and the issue you raised about mobility. We have not only a lease but in the rules it states units have to remain highway ready so we have a mechanism to enforce that with residents. If they are not complying it is in the lease so it is pretty easy to come back to that.

And then just kind of as a closing point, although the direction you just provided me may make some of this moot, I would say the text amendment ... we really do not think there are any negatives. It would only apply to a CUP approved mobile home site which there is only one other property that would be a candidate in Kitty Hawk. We have good people in there that think RV's are great.

Strader: *Before you wrap up too much I just want to clarify that we are fully aware of the town's Flood Damage Prevention Ordinance and we sort of have it built into the text amendment. In fact the town actually had recently adopted a part of the Town Code to deal with this so RV's or travel trailers will be required to be on site for fewer than 180 days or be fully licensed and ready for highway operation. Mr. Bird, as part of the restricted covenants for this mobile home park, or hybrid RV park or whatever we call it, is going to have restricted covenants that requires each one of the tenants to have fully compliant RV's. I mean by his code and by the town's code they have to be fully licensed and readily mobile at all times. Before we close we have some residents here that would like to say a few words and they will probably attest to any drainage concerns that you may have as well.*

Brenda Kelley, The Preserve: *I have lived in Kitty Hawk for 6 years and I'm so glad to meet all of you. I wish I had known you about 3 years ago when ... my husband and I live at The Preserve Campground. We have a home in the Elon University area but he works for Currituck County so I'm the one that runs from Kitty Hawk, a 5 hour drive, up and down to Elon.*

We were in the campground when the former owners had it and lost it and went through a bankruptcy, then no bankruptcy, just back and forth, up and down, up and down, up and down. I learned a lot of things. I didn't know who to call in there because we were getting notes on our door, everything was bad. When my husband left every morning I locked the camper door and I had never done that. Well I called the attorney general of North Carolina and he told me what to do and this kind of thing. We finally worked through all this, and it was about 3 years up and down, and then Mr. Bird bought it.

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015

Page 26

I wish you gentlemen would come in and look. It is absolutely beautiful. It is the nicest that it's been and we have been there 6 years. The cops used to come in all day, in and out, in and out, in and out, in and out. We had a lot of drugs in there and prostitution. It's gone and they have worked hard cleaning it up, person wise and grounds. It's nice and it is so perfect.

If you have a home somewhere else ... and we cannot keep up two places, there and here, so the campground works out good for people like us. We have a lot of people in there like us that have come in here and our cars are registered in Dare County, pay our taxes, I have donated my time to Hotline for the battered women.

It is a different place now and I kept thinking it was an eyesore for Kitty Hawk during the other time but now it's just ... there is no, what I call bad, and I am not trying to sound condescending to any class of people but people that can buy RV's are little bit more money people than the ones buying a mobile home. We have a good, I think, good quality of people in RV's. Easy maintenance. I just wish you all would come in and see us some time. Visit us because it is wonderful now. It is a 100% turn around.

Perry: *Thank you. Anyone have any more questions? I think I know where we want to go here.*

MPT Bateman made a motion, seconded by Councilman Garriss, to go back into regular session. The vote was 4-0.

Perry: *Council, it sounds like we have been presented with some things they did not want but they were trying to accomplish. I think we have cleared up the fact that if we have RV's in an RV park ... if they bring something to us in that sense then we can probably deal with it in a way that probably meets the code enforcement and what they actually want. I tell you that comingling mobile homes and trailers I would not vote for and we want to make sure we have flood insurance issues under control. We do not want to disrupt the whole town and lose our 20%. And on that subject. Rob, I know you haven't been here very long but it is time for you, the building inspector and code enforcement to start looking at the mobile home parks that we do have, that are non-conforming, and tell us what we need in order to make those things right so the townspeople do not lose that 20% discount. It's time to start.*

MPT Bateman made a motion to deny the proposed text amendment to Section 42-621(15) of the Kitty Hawk Town Code to allow trailers, as defined, to be placed in a mobile home park if certain requirements are met. The Town Council finds the proposed text amendment is inconsistent with the town's adopted CAMA Land Use Plan and finds the amendment not to be in the public interest. Councilman Pruitt seconded the motion.

Perry: *Any further discussion? If you bring something back, now that you understand what's needed, it will probably find better favor with us. Comingling, we cannot go there and you know about the other. All in favor?*

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015
Page 27

The vote was 4 to 0 in favor of the motion to deny the text amendment to Section 42-621(15) of the Town Code.

9. New Business

a.) Overton Property (731 W. Kitty Hawk Road) - Discussion on the possibility of instructing staff and attorney to pursue legal action to speed up progress on removal/mitigation of the unsafe and unsanitary situation at this location.

Perry: *I brought this up because I wanted to discuss the possibility of instructing staff and the attorney to pursue legal action to speed up progress of the removal or mitigation of the unsafe and unsanitary situation that has occurred at this location for many, many years. In the present case the owner died, he did not have a will and it has been going through the courts I guess forever. As town council we do not know what the situation is unless the attorney found out something.*

Michael: *We have been keeping up with the attorney handling the estate. It has taken a long time but it closed on Friday afternoon. The estate sold the property and I have been in touch with the attorney for the new owners. They are absentee owners who live in New York and own other property in Kitty Hawk as well. Their intent is to demolish what's there and he indicated to me they would soon be in the process of soliciting bids for the demolition.*

Perry: *Do we have a time table?*

Michael: *We do not and that is why I asked that they be in touch with Rob to keep him updated on what their progress is.*

Perry: *Does Rob have their telephone number?*

Michael: *He does not. John has a copy of the deed with the name and address of the new owners. I sent that to him today.*

Stockton: *I did get a copy and I believe we have a phone number too.*

Michael: *The attorney indicated the new owner would be calling Rob to make contact.*

Perry: *I am not satisfied with that. I think council ought to direct staff to make the phone call and get some sort of a timeline.*

Testerman: *He called me today and I spoke briefly with him. They want to get the two buildings demolished sooner rather than later but having just been three days after closing he said he did not have a specific timeframe. We are going to keep an open line of communication.*

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015
Page 28

Perry: *Okay. When you get some sort of a timeline let's get it out in the newsletter or something so the folks in town will know what is going on.*

Bateman: *Can we specify a timeline? Perhaps give him 90 or 180 days because it can go on and on. He is in New York and might forget about it until next year.*

Michael: *We can do that. It is one that we would have to enforce by going to court and filing suit to have it declared a nuisance and to proceed with the demolition ourselves but ...*

Council decided to delay legal action at this time and give the new owners a chance to get their demolition permits and see if they keep staff updated.

Bateman: *We've been dealing with this a long time.*

Michael: *Well the estate had no money to do any of this. What you see out there is it.*

Perry: *That raises another question. After he first died, one of the owners, the principle owner we thought, signed that over to the town.*

Michael: *What he gave you is a deed for whatever his share was and it turned out there were a number of owners.*

Mayor Perry asked about property taxes and Attorney Michael said the town will be receiving any back taxes.

10. Reports or General Comments from Town Manager

a.) Compliment to the Police Department – Manager Stockton said Mrs. Nancy Brandell complimented the police department and appreciates them directing traffic on the weekends at the intersection of US 158 and NC 12. She works in Duck on weekends and it has been a lot easier for her to get home.

b.) Coastal Planning and Engineering Update – Manager Stockton reported CP&E has completed 99% of their scope of work as of July 1st. Work to date includes project management, permitting and environmental documentation, engineering design and marine sand search and borrow area design. On August 18th there was a beach nourishment planning meeting at which time CP&E informed everyone that a new anticipated start date for construction is April of 2016.

c.) Easement Agreements – Manager Stockton reported staff is continuing to work on the beach nourishment easement agreements. As of this date 165 agreements have been returned out of 275.

Mayor Perry asked if anyone has said they were not going to sign and Manager Stockton replied he had one woman say she was not going to sign the agreement.

Kitty Hawk Town Council Minutes: Tuesday, September 8, 2015
Page 29

11. Reports or General Comments from Town Attorney

Attorney Michael said the county commissioners have approved assigning the easements over to the town from an earlier nourishment project. A formal document will be forthcoming that will be recorded at the Register of Deeds.

12. Reports or General Comments from Town Council

Mayor Perry informed that Councilwoman Klutz is in Texas helping out her daughter and family. She wanted to make sure everybody understood she is not slacking off. In fact, she is just in a different location working harder.

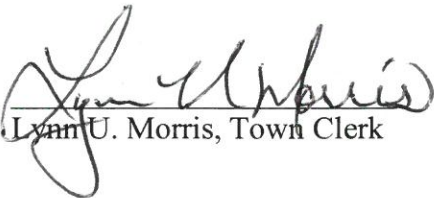
13. Public Comment

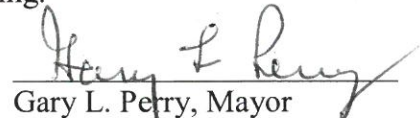
There were no public comments.

14. Adjourn

Councilman Garriss made a motion to adjourn. MPT Bateman seconded the motion and it passed unanimously, 4-0. Time was 7:50 p.m.

These minutes were approved at the October 5, 2015 council meeting.


Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor