

Minutes of the Monday, March 11, 2019, regular meeting of the Kill Devil Hills Board of Commissioners held at 5:30 o'clock p.m. in the Meeting Room at the Administration Building, 102 Town Hall Drive, off Colington Road.

Members Present: Mayor Sheila F. Davies; Commissioners Terry Gray, Nelson “Skip” Jones, Mike Hogan, and John Windley

Members Absent: None

Others Present: Debora P. Díaz, Town Manager; Meredith Guns, Planning Director; Casey Varnell, Town Attorney; and James Michael O’Dell, Deputy Town Clerk

Call to Order

At 5:30 p.m., Mayor Davies opened this meeting of the Kill Devil Hills Board of Commissioners and welcomed all present.

Pledge of Allegiance and Moment of Silence

Mayor Davies asked everyone to keep one of the Town’s Animal Control Officers, Todd Olving, in their thoughts as his father had died. She noted that retired K-9 police officer Ire had died, and Mayor Davies highlighted the dog’s years of service to the Town.

Agenda Approval

Commissioner Hogan moved to approve the agenda for this meeting, as presented. Commissioner Windley seconded the motion, which passed by a unanimous, 5-0, vote.

Public Hearing

Mr. Varnell read aloud the rules for public hearings and opened the public hearing.

1. Site Plan Review: Conditional Use – Outer Banks Brewing Station – Outdoor Dining Activity Area and Associated Site Improvements (Attached PH-1A)

On January 15, 2019, the Planning Board reviewed this conditional site plan from the Outer Banks Brewing Station for the proposed construction of an outdoor dining activity area and addition, including an open air bar, restroom, and storage. Following the review, the Planning Board recommended approval by the Board of Commissioners, by a unanimous 4-0

vote. Staff also recommended the Board of Commissioners approve the site plan for *Conditional Use – Outer Banks Brewing Station – Outdoor Dining Activity Area and Associated Site Improvements*.

With no speakers, Mr. Varnell closed the public hearing.

Mark Kasten, of Cahoon and Kasten, Architects, was present, representing the applicant. Commissioner Jones inquired of Staff about past noise issues surrounding the property, which is located in the Commercial Zone. Commissioner Windley stated he had spoken with the complainant and noted that with all Police Department investigations, the noise ordinance was not violated by the applicant. Commissioner Hogan had also met with the complainant and shared that no other noise complaints had been made about the Outer Banks Brewing Station.

Commissioner Hogan moved to approve the site plan for *Conditional Use – Outer Banks Brewing Station – Outdoor Dining Activity Area and Associated Site Improvements*. Commissioner Windley provided a second, and the motion was approved by a unanimous, 5-0 vote.

Public Comment

Mark Shafer, 903 Sharon Court, Kill Devil Hills – Mr. Shafer owns Sandbars Raw Bar and Grill, which is located in the Dare Centre. He encouraged the Board to revisit the discussion around non-charitable special events and itinerant vendors. He stated he had worked to promote Bike Week activities in Kill Devil Hills, noting that Kitty Hawk and Nags Head benefit from those events. He would like to establish an event in the Dare Centre, making it a home for Bike Week.

Colleen Almoney, 900 Ninth Avenue, Kill Devil Hills – Ms. Almoney updated the Board on Neighborhood Watch activities. At the group's recent neighborhood walkabout, seven people participated and the group visited over 100 homes.

Matt Walker, 439 West Walker Street, Kill Devil Hills – Mr. Walker, representing Surfrider Foundation, thanked Mayor Davies for her participation in the Washington, D.C. trip to voice opposition to offshore drilling. He also encouraged the public to contact federal and state officials to oppose offshore drilling and seismic testing.

James Almoney, 900 Ninth Avenue, Kill Devil Hills – Mr. Almoney addressed New Business #2, possible alternates on the Planning Board. He stated that during his time on the Planning Board, the group had never experienced an issue with acquiring a quorum. He said that adding alternates to the Planning Board would not be a good use of public funds because they would likely not be needed to form a quorum or conduct business, yet would still need paid for attendance.

Response to Public Comment

Mayor Davies thanked the speakers and noted that several comments would be addressed in agenda items.

Introductions and Presentations

1. Tami Montiel – annual report from the Community Care Clinic of Dare

Tami Montiel, Executive Director of the Community Care Clinic of Dare, provided an annual report on its operations and service to the community. She thanked the Town of Kill Devil Hills for its partnership support, which allowed the Clinic to continue services to citizens of Dare County. Since 2004, the Clinic has provided free primary care services, health and wellness education, and medication assistance for uninsured and underinsured patients. Ms. Montiel stated the Clinic currently provides care for over 526 patients at no cost, and works in collaboration with multiple organizations, including the Dare County Health Department. Last year, over 170 patients from Kill Devil Hills were treated. She said the Clinic served over 60 patients with free dental care in 2018, many with acute issues. She stated the regular hours are Monday through Thursday, 9:00 a.m. to 2:00 p.m. Commissioner Hogan recalled a Board of Commissioners tour of the Clinic, and recommended anyone tour the facility, which is located at 425 Health Center Drive in Nags Head.

Old Business

New Business

1. Boards and committees vacancies (Attached NB-1)

All applications on file from persons interested in serving in either capacity have previously been copied to the Board of Commissioners and no new applications for those purposes have been received.

A. Planning Board

There is one position on the Planning Board that will expire in April 2019. Howard Buchanan expressed a desire to be considered for reappointment.

Name	Appointment History
Buchanan, Howard Planning Board	Planning Board – Appointed in July 2010, and reappointed for successive terms, most recently in April 2016 for a term that expires April 2019.

B. Personnel Board

There is one position on the Personnel Board that will expire in April 2019. Christine Stafford expressed a desire to be considered for reappointment.

Name	Appointment History
Stafford, Christine Personnel Board	<p>Personnel Board – Appointed April 2007, and reappointed for successive terms, most recently in April 2016 for a term that expires April 2019.</p> <p>Dangerous Animal Appeal Board – Appointed June 2012 and reappointed for successive terms, most recently in May 2018 for a term that expires in May 2021.</p> <p>Ocean Development Review Committee – Appointed in June 2006 to the ad hoc committee until its conclusion in January 2008.</p>

Commissioner Hogan moved to reappoint Howard Buchannan to the Planning Board and Christine Stafford to the Personnel Board, each for a term that will expire in April 2022. Commissioner Jones provided a second and the motion passed by a unanimous, 5-0 vote.

2. Draft ordinance – Chapter 111: Special Events – Charitable Events (Attached NB-2)

Ms. Díaz stated that at the November 14, 2018, meeting, the Planning Department provided an overview of the event application process, describing the factors considered during a Staff review. The presentation was a result of an earlier Board discussion about the possibility of an ordinance update to permit businesses to remain open during events held on-site. She noted that the draft ordinance presented has been streamlined to reflect current review criteria and eliminate confusion between charitable and non-charitable events.

Considering this reorganization, Mayor Davies inquired as to what guidance the Board would want to provide Staff. Commissioner Windley said he preferred to see updated parking regulations that would permit businesses in the Commercial Zone to remain open while hosting charity events. He noted that under the current ordinance, review of non-charity events are considered by the Board of Commissioners; he suggested changing it to a determination by the Town Manager. Ms. Díaz shared that when the existing ordinance was established, it was the Board's determination that non-charitable special event consideration would be at the Board level. She noted that with the Board's review of a non-charitable special event, the item is placed on the agenda and the community is informed of the event. She said the process put everyone on the same page and provided a level of transparency. Planning Director Meredith Guns stated that types of non-charitable events cover a broad spectrum, from a business selling

its merchandise outdoors to large community events, like a car show or Bike Week. She understood that the Board would want to be informed of community events, and would want them to be beneficial to the Town and not hurting existing businesses. Ms. Guns also stated that attempting to write regulations to address the Staff review of the broad range of non-charitable special events would be a difficult task. The Board can review proposed non-charitable events, and make the determination of what can be allowed and in the Town's best interest, based on the individual event. She said it is another layer of consideration at the Board level, in addition to Staff review of the special events application. Commissioner Jones inquired about the process to apply and whether each vendor would be required to submit an application. Ms. Guns used the Bike Week event as an example, noting that the event organizer would submit the application rather than individual vendors. She shared that Bike Week event organizers had submitted special events applications to the Town in past years, and that the Town had never denied an application.

Commissioner Jones supported a streamlined application process, and inquired whether parking for these events was an issue. Ms. Guns stated that the Board of Commissioners would review non-charitable events, including factors like parking. However, she said for a charitable special event held outside of a business, the business must close so the event can use the business' required parking spaces; the charitable special event may utilize excess spaces if the number of spaces available exceeds the business' required parking allotment; or the charitable special event can demonstrate that offsite parking exists. Ms. Guns noted if a business has excess spaces over its required parking allotment, those excess spaces may be used for the charitable special event and the business may remain open. She added that if a special event is held inside a business, that event is not regulated by the Town. Ms. Guns then stated that an applicant may hold up to four charitable special events per year, but there is a 30-day separation requirement between events.

Commissioner Jones inquired about businesses with smaller parking areas, noting that many businesses do not use all of their parking spaces during the off-season. Ms. Guns replied that it would be difficult to gauge the parking needs of a business based on the season, noting that many businesses remained busy in the off-season. Ms. Díaz stated that if it was desired, the Board could designate up to a certain percentage of required parking to be used for special events.

Ms. Díaz said if a special event held outside at a business is using a neighboring lot of a closed business, with permission, that is acceptable. Commissioner Gray inquired whether an ordinance could be written to exempt a percentage of parking for a special event. Mr. Varnell and Ms. Guns answered affirmatively, and Ms. Guns stated the Board could designate a percentage parking exemption for charitable special events if it desires. She noted that non-charitable events are under Board review and there are no parking limitations.

Commissioner Jones inquired about the allowable timeframes for the special event categories. Ms. Guns stated that charitable special events may be held at any time throughout the year. Non-charitable special events can only be held from September 30 through May 1. Commissioner Windley inquired about the application process for a non-charitable special event. Ms. Guns stated that the application would address all the specifics of the planned event, including parking. The event organizer would make its request through the application, and the

Board would then evaluate and make a determination as to what would benefit to the entire Town. Mayor Davies added that the process includes a Staff review by appropriate Town departments, and then it would be reviewed by the Board of Commissioners. She noted the current ordinance process provided flexibility for non-charitable special events, while also providing the public an opportunity to provide input.

Commissioner Hogan stated the process of review by the Board is a good system. Commissioner Gray stated the concerns he had received were from individual businesses requesting vendors outside of their facilities. He liked the review flexibility and public input opportunities provided within the process, but was concerned that the process was confusing. Mayor Davies noted that the proposed ordinance cleans up the special events section, and that the Board needed to provide direction to Staff so it can address any confusion and resolve any issues. Through consensus, the Board indicated it wanted to maintain the broad latitude for review with non-charitable special events. However, Ms. Guns noted that for charitable special events, the parking requirements and other criteria are currently regulated in the ordinance. She said that for outdoor charitable special events, the parking options for businesses are as follows: event parking must be in excess spaces, the business must be closed, or excess onsite or off-site parking can be provided, with permission. Through consensus, the Board determined to further review the information and discuss the issue at the upcoming April 8, 2019, meeting.

3. Discussion on possible alternates on the Planning Board (Attached NB-3)

Mayor Davies noted that in 1993, at the request of the Planning Board, the Board of Commissioners amended Section 31.02 of the Town Code to establish seven regular members of the Planning Board, with no alternate positions. This was a change from five regular members of the Planning Board, with two alternates. Staff provided a research summary from March 2018, which detailed additional information on how and why the requirement for seven regular members came to be adopted. The summary has been included in the meeting materials.

Commissioner Jones stated he was originally supportive of the addition of alternate Planning Board members, but after review of the information, he supported the current membership level. Commissioner Hogan concurred, noting that a lack of quorum for the Planning Board was very rare. Commissioner Windley said he had supported the idea of alternates because of the great pool of applicants interested in serving the Town; Commissioner Gray had thought it was a way to get people excited and involved in serving on a board. Mayor Davies shared about her Board of Adjustment experience, noting that having alternates did not seem to promote involvement in Town activities beyond the Board of Adjustment. Through consensus, the Board took no action.

Committee Reports

Community Appearance Commission

Trash Cans for Pedestrian Intersections along US 158 Chairperson Sue Kelly inquired whether the Board was interested in establishing trash receptacles at high

pedestrian traffic intersections along US 158. She noted that cost is a factor; but was not envisioning large numbers of trash cans. Through consensus, the Board supported the idea.

Trash Attack! the deadline for the Trash Attack! poster contest is Monday, March 18, at 4:00 p.m. Ms. Kelly then highlighted multiple upcoming meetings of the CAC and its subcommittees, with opportunities for the public to get involved.

Cigarette butt receptacles Ms. Kelly presented the sample of the cigarette butt receptacles, which have been installed at the beach accesses. They are maintained by the Surfrider Foundation, which empties them.

Stormwater Meeting Commissioner Gray had spoken with N.C. Department of Transportation Board member Allen Moran, who was receptive for setting up a NCDOT Staff meeting with the Towns regarding stormwater issues.

Tourism Board Commissioner Hogan stated that he would be attending upcoming Tourism Board meetings and would provide updates at a future Board of Commissioners meeting.

Government Education Access Channels Committee Mayor Davies said that two items in the Consent Agenda included the proposed 2019/2020 Current Television budget and an updated Interlocal Agreement/standard operating procedure for the shared operation of Current Television. The Mayor represents Kill Devil Hills on the committee and voted to recommend approval of these two items by participating bodies.

Commissioners' Agenda

Commissioner Gray

Lake Drive Traffic Light Commissioner Gray shared that NCDOT will conduct a new traffic study of the Lake Drive/US 158 intersection and review updated results.

Commissioner Windley

League of Women Voters Seismic Testing Forum Commissioner Windley had attended the seismic testing forum, sponsored by the League of Women Voters of Dare County. He stated that the event was very informative; he also thanked Mayor Davies for representing Kill Devil Hills in Washington, D.C. in visits to federal elected and appointed officials.

Several members of the Board commented on the recent Fire Department Awards Banquet, and commended Firefighter of the Year Rodney Rawls.

Mayor's Agenda

1. Proclamations

- A. **Proclamation – April 2019 as National Autism Awareness Month in Kill Devil Hills (Attached MA-1A)**
- B. **Proclamation – April 2019 as Child Abuse Prevention Month in Kill Devil Hills (Attached MA-1B)**
- C. **Proclamation – April 8 – 12, 2019, as Week of the Young Learner (Attached MA-1C)**

Mayor Davies shared proclamations that honor children and issues important to our community and vital to society. Upon the Board of Commissioners' adoption, they will be shared with our citizens, employees, and other local governments, and posted on our website and social media.

Mayor Davies moved to adopt the above proclamations. Commissioner Hogan seconded the motion, which was approved by a unanimous, 5-0 vote.

Mayor Davies also shared the following information:

Offshore Drilling and Seismic Testing Mayor Davies highlighted her recent trip to Washington, D.C., joining members of the Surfrider Foundation in voicing opposition to offshore drilling and seismic testing along the N.C. coast. The group met with the Bureau of Ocean Energy Management, Department of the Interior, and offices of elected officials. She stated that the most valuable comments from the public are not form letters: emails with specific examples are the most effective.

Staff News Mayor Davies shared that Scott Baxley, in the Buildings and Grounds Division, and his wife, Samantha, are proud grandparents for the third time. Lila Joy Parks was born February 20, and everyone is doing well. She also congratulated Senior Planner Ryan Lang, and his wife Courtney, who had just welcomed Owen Huntley Lang on March 6. He and his older sister Marin are doing well.

Disc Golf Course Dedication Mayor Davies shared that the Casey R. Logan Disc Golf Course dedication will be held on Saturday, March 30, at 1:00 p.m. Members of the Logan Family, along with the many volunteers and sponsors who have made the course a reality, will be on hand for the ribbon cutting ceremony. The event will be rain or shine and the public is invited. The course is located on Veterans Drive behind the First Flight High School football stadium. Parking will be at the middle school parking lot and a shuttle will run for the event.

Shamrock at Aviation Park She encouraged everyone to visit the Aviation Park Frog Pond. The Buildings and Grounds Staff have erected a giant illuminated shamrock to celebrate St. Patrick's Day.

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. Minutes (Attached CA-1A)

A. February 20, 2019

2. Budget amendments (Attached CA-2A)

A. #19 – recordation of disc golf course sponsors/donations through February 2019

3. Recordation of MOU – Dare County and Kill Devil Hills – regarding relocation of the public water supply line to be placed under the culvert pipe located at 1634 North Croatan Highway (Attached CA-3)

Approval of the Consent Agenda will record approval of the memorandum of understanding (MOU).

4. Monthly Report (Attached CA-4A)

A. January 2019

5. Government Education Access Channels Committee (GEACC) 2019/2020 Proposed Budget and Interlocal Agreement Update (Attached CA-4A and 4B)

A. Proposed 2019-2020 GEACC Budget

B. Updated Interlocal Shared Use Agreement and Standard Operating Procedure

Approval of the Consent Agenda will record approval of the 2019-2020 GEACC Budget, operating Current Television's government and educational access channels (Charter Spectrum 191 and 198). It will also record approval of the updated Interlocal Shared Use Agreement and Standard Operating Procedures to reflect the name change of a member (Coastal Studies Institute – ECU).

Ms. Díaz presented the Consent Agenda and recommended approval as presented.

Commissioner Hogan moved to approve the Consent Agenda. Commissioner Windley provided a second, and the motion passed with a unanimous, 5-0 vote.

Public Comment

Toby Gonzalez, owner of the Ten O Six Restaurant in Kill Devil Hills – Mr. Gonzalez encouraged the Board to consider lessening the non-charitable special event time limitation of every 30 days before another event could be held, or even permitting consecutive days. He used the example of a business inviting a food truck service onto its parking lot multiple days.

Response to Public Comment

Mayor Davies thanked everyone who came out for the meeting, and for all input.

Adjournment

There being no further business appearing before the Board of Commissioners at this time, Commissioner Jones moved to adjourn the meeting. Commissioner Windley seconded the motion and approval was by a unanimous, 5-0 vote. It was 7:14 p.m.



Submitted by:

James Michael O'Dell
James Michael O'Dell
Deputy Town Clerk

These minutes were approved by the Board of Commissioners on April 8, 2019.

Sheila F. Davies

Sheila F. Davies, Ph.D.
Mayor