

**Minutes of the Monday, August 12, 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, Mike Hogan, and John Windley

**Members Absent:** Nelson "Skip" Jones

**Others Present:** Debora P. Díaz, Town Manager; Cameron Ray, Assistant Planning Director; 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. She noted that Commissioner Skip Jones had a prior engagement and would be unable to attend tonight's meeting.

**Pledge of Allegiance and Moment of Silence**

**Agenda Approval**

Commissioner Windley moved to approve the agenda for this meeting as presented. Commissioner Gray seconded the motion, which passed by a unanimous, 4-0, vote.

**Public Comment**

**Elizabeth Brothers, 1211 B South Virginia Dare Trail, Kill Devil Hills** – Ms. Brothers addressed the large single-family dwellings, or event homes, being developed in town. She noted that landings and stairs could be extending beyond the required setbacks. She expressed concerns over the scope of the projects, including parking, walkways, and the absence of sprinkler systems. Without such fire suppression, her concern is that older structures in the neighborhood could be negatively affected. She requested that these large structures be classified as commercial structures with more stringent building regulations.

**Martha Vaughan, 1217 C South Virginia Dare Trail, Kill Devil Hills** – Ms. Vaughan stated that since last speaking to the Board of Commissioners, she and neighbors had expressed their concerns through written communications to State regulators and agencies, including CAMA, and Mike Causey, Insurance Commissioner.

**Jack McCombs, 3118 Bay Drive, Kill Devil Hills** – Mr. McCombs expressed his support for the recent Town video on bicyclist and pedestrian safety. He stated concern over pedestrian safety, having walked on the multi-use path in Kill Devil Hills and paths in Kitty Hawk. He noted that casual cyclists needed additional education, and suggested the Town place signage along the multi-use path to inform casual cyclists of the importance of properly signaling pedestrians and others.

**Colleen Almoney, 900 Ninth Avenue, Kill Devil Hills** – Ms. Almoney, in representing Neighborhood Watch, expressed her appreciation for the Town's recent National Night Out event, and thanked Officer Lora Gilreath for organizing the event. She shared information on upcoming meetings of the group.

**Betsy Brothers, 1211 B South Virginia Dare Trail, Kill Devil Hills** – Ms. Brothers noted that CAMA did not approve permitting for the large single-family dwelling home development adjoining her property. She requested the Town impose a six-month moratorium on such development until any issues were addressed.

### **Response to Public Comment**

Mayor Davies thanked the speakers for their comments. She noted that Staff would examine the potential of cyclist education. She thanked the multiple speakers who addressed the event homes and commended them for their advocacy in contacting State agencies and expressing concern. She noted that large single-family dwellings would be addressed more under Commissioners Agenda.

She inquired of Town Attorney Casey Varnell about the possibility of the Town's ability to place a moratorium on a construction project. He replied that the N.C. Supreme Court has ruled that a municipality cannot enact a moratorium on an ongoing development to investigate and potentially change a specific code item.

### **Introductions and Presentations**

#### **Old Business**

#### **New Business**

#### **1. Recommendations on Capital Improvements**

##### **A. Recommendation for Bid Acceptance for 2019-2020 Street, Drainage, and Right-of-Way Improvement Project (Attached NB-1A)**

Town Engineer Pete Burkheimer provided an overview on the project and the bidding process: plans, specifications, and authorization to bid the 2019-2020 street, drainage, and right-of-way improvements project were approved by the Board of Commissioners at the September

10, 2018, meeting. The overall plan includes drainage, paving, and related work, split into two parts:

- Project 1: West Hayman Boulevard
- Project 2: Sixth Avenue and Town Hall Drive

Bids were received on August 1, 2019, and have since been reviewed by Staff and himself; the recommended award of the contract for the entire project to the lowest responsible bidder was to Barnhill Contracting Company, Inc. The bid tabulation sheet is included with the packet materials for this item. A breakdown of associated costs for this project was as follows:

<b>2019-2020 Street, Drainage and Right-Of-Way Improvements Project</b>	<b>Base Bid</b>		
	<b>Streets &amp; Drainage</b>	<b>Water</b>	<b>Total</b>
Barnhill Contracting Company, Inc. – Base Bid + Unit Price Items	\$812,600	\$10,980	\$823,580
Contingency	\$40,630		\$40,630
Engineering	\$59,000	\$6,600	\$65,600
<b>Grand Totals</b>	<b>\$912,230</b>	<b>\$17,580</b>	<b>\$929,810</b>

Construction will begin in autumn, with substantial completion scheduled by December 31, 2019, for Project 1 (West Hayman Boulevard), and by April 29, 2020, for Project 2 (Sixth Avenue and Town Hall Drive).

Staff recommended the Board of Commissioners accept the bid from Barnhill Contracting Company, Inc., and authorize the 2019-2020 Street, Drainage, and Right-of-Way Improvement Project, base bid including unit price items, by:

- Approving the contract with Barnhill Contracting Company, Inc. for 2019-2020 Street, Drainage, and Right-Of-Way Improvements Project in the amount of \$823,580.00 and authorize its execution by the Town Manager;
- Approving the engineering services agreement with American Engineering in the total amount of \$65,600 for construction oversight services;
- Approving a 5% not-to-exceed contingency for the streets and drainage portions of the project in the amount of \$40,630;
- Authorizing expenditures of \$694,230 from the Street Capital Reserve Fund; \$17,580 from Water Fund; \$218,000 from the Powell Bill Fund, for a total of \$929,810; and
- Approving budget amendment #4 to appropriate funds from the Streets Construction Reserve Fund for the 2019-2020 street, drainage, and right-of-way improvements project.

Commissioner Windley moved that the Board approve and authorize the 2019-2020 Street, Drainage, and Right-of-Way Improvement Project, including the Staff recommendations as presented. Commissioner Hogan provided a second, which was approved with a unanimous 4-0, vote

## 2. **Appointments**

### A. **Historic Landmarks Commission**

Sandie Markland's and Mary Simpson's terms on the Historic Landmarks Commission expire in September and both have expressed a desire to be considered for reappointment to another three-year term. T. Dillon Heikens and Kevin Reilly have also expressed interest in filling these seats. No new applications have been received since they were last copied to the Board. Applicant histories were provided with the packet materials.

Commissioner Hogan moved to reappoint Sandie Markland and Mary Simpson, each to a three-year appointment to the Historic Landmarks Commission, for terms that will expire in September 2022. Commissioner Gray provided a second and the motion passed by a unanimous, 4-0 vote.

## **Commissioners' Agenda**

### Commissioner Gray

West-side Recreation Group The group had its first meeting, and following member and staff introductions, four Town recreation areas were selected for focus: Hayman Park, Aviation Park, Meekins Field, and the Baum Tract. He noted the next meeting is September 23, 2019, at 6:00 p.m., and the public is welcome to attend.

Affordable Housing He noted that the topic had arisen at the recent Dare County Board of Commissioners meeting, and there was a perceived lack of action by local municipalities on affordable housing or workforce housing. He asked if the Board would invite the Chamber of Commerce president for an update at a future meeting.

Mayor Davies stated that assertions made at the Dare County meeting were inaccurate, noting that the Town was the first in the region to address workforce housing. She noted that although Dare County has adopted zoning changes, affordable housing remains a very complex issue. Mayor Davies said that she also welcomed solution-based discussions, ideas, and bringing key stakeholders to the discussion. Commissioner Gray noted two items were pointed out: modification of some zoning ordinances and a second, unaddressed topic, septic requirements from the State.

Lake Drive / US 158 Signal Light He noted that the North Carolina Department of Transportation (NCDOT) survey on the Lake Drive / US 158, traffic numbers warranted a traffic

light, but NCDOT does not have the funding at this time to construct the light. He also suggested STOP signs along sidewalks to better alert cyclists, similar to other localities.

Stormwater Issues Commissioner Gray had spoken with NCDOT representatives and he hoped for Staff to have a response soon.

Street Parking He highlighted a recent request to permit street parking along East Arch Street from Mom's Sweet Shop, located at the corner of East Arch Street and US 158. He asked the Board's approval to forward the item to the Street Improvement and Special Projects Committee (SISPC) for review. Through consensus, the Board directed the issue to the SISPC.

#### Commissioner Windley

Proposed Energy Rate Increase Request Commissioner Windley had recently attended a Utilities Commission meeting regarding Dominion Energy's requested rate increase, noting concern over the negative impacts a utilities increase would have on Town citizens. Mayor Davies inquired whether the Board had consensus for Commissioner Windley to represent the Town in future gatherings. Through consensus, the Board expressed its opposition to the rate increase, and authorized Commissioner Windley to represent the Board concerning the issue. Staff was also directed to submit a letter to the N.C. Utilities Commission on the Board's behalf in opposition of the rate increase.

#### Commissioner Hogan

Large Single-Family Dwellings Commissioner Hogan stated that after discussions with Staff, he suggested the following recommendations for Staff to further pursue:

1. Require landscape buffers similar to buffers required between commercial structures and residences;
2. Increase parking setbacks to 7 feet for the large parking area;
3. In the interest of safety, require an emergency access lane and limit stacked parking to 4 vehicles.

Through consensus, the Board directed Staff to develop amendments for consideration and send to the Planning Board for formal review.

Commissioner Gray concurred, but also supported the cluster home concept, which could alleviate the larger homes issue. Mayor Davies noted that the Town had implemented changes to the Town Code to include cluster homes and cottage courts.

Commissioner Windley inquired whether the Town has any authority to require sprinkler systems on single-family dwellings. Staff replied that the Town cannot institute more stringent requirements than in the N.C. Building Code. Planning Director Meredith Guns noted that the

large single-family dwellings were being built on 50-foot wide lots; for cottage courts or cluster homes, the requirement is at least 100 feet in width.

Dare County Tourism Board Commissioner Hogan provided a video highlight of the June 2019 Dare County Tourism Board meeting. The segment highlighted the recent purchase of property adjoining the Nags Head event site, and grants programs. In April 2019, there was growth of 29% in occupancy rates, and 19% in meal rates. The group's 2019-2020 budget was also adopted.

### **Mayor's Agenda**

Mayor Davies congratulated Commissioner Hogan on the birth of his great-granddaughter, Elsie Ann Phillips. She also noted that the date would soon be selected for the Town's Ice Cream Social and would be announced.

### **Town Manager's Agenda**

### **Town Attorney's Agenda**

### **Consent Agenda**

#### **1. Minutes (Attached CA-1A)**

A. July 10, 2019

#### **2. Monthly report (Attached CA-2A)**

A. June 2019

#### **3. Budget amendments (Attached CA-3A and 3B)**

A. #2 – to recognize contributions from Joe Lamb Associates for police department crime prevention

B. #3 – to recognize contributions from various donors for fire department prevention promotional items

#### **4. Recommended Amendments to the Town Code (Attached CA-4A and CA-4B)**

A. **Chapter 94, Animals: to Update Paws Park Regulations to permit children under 12 at dog park, if accompanied by adult.**

It has been brought to Staff's attention that the initial Paws Park rules do not permit younger children from enjoying the dog park with their families. The requested amendment will allow children in the park under the supervision of an adult.

**B. Chapter 10, General Provisions §10.18 Authorization to Issue Civil Citations  
— Revise Authorized Staff**

The requested amendment will update the list of Staff members authorized to enforce portions of the Town Code through issuance of civil citations.

**5. Schedule Public Hearings for Recommended Amendments to the Town Code  
(Attached CA-5 and CA-5B)**

**A. Chapter 153, Zoning, §153.072 Sewage Disposal— Update Sewage Disposal  
Regulatory Agencies**

At its July 16, 2019, meeting, the Planning Board reviewed the requested amendment, which clarifies outdated language under Sewage Disposal, updating the regulatory agencies. The Planning Board voted to forward it to the Board of Commissioners, with a favorable recommendation.

**B. Chapter 153, Zoning, §153.070 Stormwater Management— Clarify  
Commercial and One- and Two-Family Dwelling Requirements and Create  
Maintenance Requirements**

At its July 16, 2019, meeting, the Planning Board reviewed the requested amendment, which would require all commercial (new and substantial improvements) and one- and two-family dwellings that exceed 6,000 square feet in lot coverage (new and substantial improvements) to maintain drainage improvements along with a drainage plan. The Planning Board voted to forward it to the Board of Commissioners, with a favorable recommendation.

Approval of the Consent Agenda will schedule Public Hearings for Consent Agenda items 5A and 5B on Wednesday, September 11, 2019, at 5:30 p.m.

**6. Resolution for Town Language for Wright Brothers National Memorial General  
Management Plan (Attached CA-6)**

The National Park Service has contacted the Town and provided recommended language to be included in its General Management Plan for the Wright Brothers National Memorial.

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

Commissioner Hogan moved to approve the Consent Agenda. Commissioner Gray provided a second, and the motion passed with a unanimous, 4-0 vote.

### Public Comment

**T. Dillon Heikens, 1103 Clamshell Drive, Kill Devil Hills** – Mr. Heikens expressed his appreciation to the Board for lessening the impact of large single-family dwellings, while preserving property rights.

**Betsy Brothers, 1211 B South Virginia Dare Trail, Kill Devil Hills** – Ms. Brothers expressed her appreciation to the Board for working on the large event home issue. She understood that neighbors who had sold their properties, which now being developed, had originally pursued cluster housing, rather than the large event homes. She asked the Town consider addressing square footage limitations to limit the size of event homes, like other neighboring municipalities.

### Response to Public Comment

Mayor Davies thanked everyone for their comments. She noted that historically, the Town has not taken a stance on square footage concerning development, because Kill Devil Hills has longer, deeper lots than neighboring municipalities.

### Adjournment

There being no further business appearing before the Board of Commissioners at this time, Commissioner Windley moved to adjourn the meeting. Commissioner Hogan seconded the motion and approval was by a unanimous, 4-0 vote. It was 6:30 p.m.



Submitted by:

  
James Michael O'Dell  
Deputy Town Clerk

These minutes were approved by the Board of Commissioners on September 11, 2019.



Sheila F. Davies, Ph.D.  
Mayor