

**Minutes of the Wednesday, November 13, 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, Skip Jones, and John Windley

**Members Absent:** None

**Others Present:** Debora P. Diaz, Town Manager; Casey Varnell, Town Attorney; Meredith Guns, Planning Director; Mary E. Quidley, Town Clerk

**Call to Order**

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

**Pledge of Allegiance and Moment of Silence**

Mayor Davies asked everyone to please remember our nation's armed forces veterans in their thoughts this evening, and also the family of Kelly Jones, a former resident of Kill Devil Hills, whose husband passed away on Veterans Day.

**Agenda Approval**

Commissioner Hogan made a motion to approve the agenda for this meeting as submitted and Commissioner Jones seconded that motion. Approval was unanimous, 5-0.

**Public Comment**

**Colleen Almoney, 900 Ninth Avenue, Kill Devil Hills:** Ms. Almoney addressed the Board of Commissioners on the letter she wrote several weeks ago resigning as the chair/president of the local Neighborhood Watch effective December 1, 2019. (Ms. Almoney's resignation from the Neighborhood Watch is included with the packet materials.) She introduced Stacey Huelsman, who will assume the chair position for the group. Ms. Huelsman stated that she will be working with Ms. Almoney to assure a smooth transition and that she is looking forward to building the Neighborhood Watch group.

**Response to Public Comment**

## **Introductions and Presentations**

### **1. Presentation of N.C. League of Municipalities Commemorative Resolutions (Attached IP-1)**

At the May 2019 North Carolina League of Municipalities Conference, four resolutions were adopted in honor of the retirements of Kill Devil Hills' employees. Former Sanitation Team Leader Stephen F. Goodale was present to accept the League's resolution from Mayor Davies. Mr. Goodale worked for the Town of Kill Devil Hills for 19 years and four months.

Also recognized by the League were other Town retirees who were unable to attend this meeting:

- Mark K. Evans – Police Captain
- Shelly P. Heppert – Fire Sergeant
- Matthew F. Lowcher – Chief Building Codes Inspector

Mayor Davies presented Mr. Goodale with the League's resolution adopted in his honor and thanked him for his fabulous service to the Town of Kill Devil Hills.

## **Old Business**

## **New Business**

### **1. Large single-family dwellings/event houses**

#### **A. Letter to NC Building Code Council regarding building code language (Attached NB-1A)**

Mayor Davies addressed this item and explained that as mentioned at the October 16, 2019, meeting, the attached letter has been updated from its original version to reflect more recent discussions and concerns. The Town is requesting the North Carolina Building Code Council consider developing a third category for large single-family dwellings/event homes, as the Town believes they exceed the regulatory standards of a traditional single-family dwelling. In addition, there are concerns about life and structural safety at these buildings. The letter notes the negative impacts on surrounding property owners, including aesthetics and the propensity to overcrowd.

All members of the Board supported sending the letter as presented.

Commissioner Hogan made a motion directing Staff to send the letter as directed. Commissioner Jones seconded that motion and approval was unanimous, 5-0.

**B. Preliminary information on new study team (Attached NB-1B)**

At the October 16, 2019 meeting, the Board of Commissioners directed Staff to develop the framework of a new committee that would study event homes and the various issues related to them for which concerns have been communicated. Membership of the new committee was agreed to include residents, property owners, and non-resident property owners, and the Board directed that a majority of the members would be residents.

The packet materials included a preliminary Scope and Purpose that Staff prepared based on the directions from the October 16<sup>th</sup> meeting. There were questions and other issues, which were outlined in the Town Manager's packet memorandum, requiring Board input before the application and the Scope and Purpose could be finalized.

The packet materials also included lists of resources and resource groups, along with previous Town Code amendments that involve event homes. The October 16, 2019 letter the Board received from Robert Hornik, attorney for the community group KDH Against Mini Hotels, was summarized, along with other points as *Other Discussion Points*. General Statutes, Building Code, legal opinion, and relative information from the Planning Department were also included.

Staff prepared several potential alternatives for the Board to consider if it desired. Those alternatives were detailed in the Town Manager's accompanying memorandum.

Mayor Davies called for Board member comments.

Commissioner Hogan initiated discussion on this item. He reviewed the options contained in the packet memorandum, and explained that he supported Option #4 which suggested that the Planning Board could be used to work through this issue. Studying the issue of event homes is within the Planning Board's purview and established purpose. Additionally, he said, with its recently slow schedule, the Planning Board would be able to handle the workload, and, if during its deliberations it was felt that a special committee was necessary then the Planning Board has the authority to create such a committee. Meetings are public, Commissioner Hogan added, and there are public comments portions at each meeting. He believed this option would best serve the Board of Commissioners and Town. He read aloud the portion of the Town Code related to the Planning Board and its duties and responsibilities, and closed by saying that he felt a resolution could be reached sooner.

Commissioner Jones explained that he felt the special committee would give those who feel so strongly, and who really have a stake in the issue, to participate in resolving it. Comments he has heard indicate that people on both sides of the issue are willing to come together to be part of the process to reach a compromise. He added that he has spoken with two engineers who have drawn plans for event houses and both are willing to consult with whatever group is established. Commissioner Jones also stated that he had recently spoken with a gentleman who is in a legal advisory position to the General Assembly who suggested the Board of Commissioners look at this issue through "use" rather than structure, and size, similar to the suggestions made by Mr. Hornik in his October 16, 2019 letter to the Board of Commissioners.

Commissioner Gray stated he personally favored establishing a small working group, which would be a good way to get input from all the different parties involved. By including a Planning Board member, communications between the Board of Commissioners and Planning

Board on event houses is already established. The variety of people Commissioner Gray has spoken with have felt it important for all interested parties to be involved. Regarding a time frame, he felt it important to move forward as expeditiously as possible, and pointed out that the Board could establish a time frame for report and recommendation to be complete.

Commissioner Windley agreed with Commissioner Gray, feeling that the process could be streamlined by utilizing a small working group.

Mayor Davies explained that as the members of the Board of Commissioners spoke this evening, she realized that she felt it would be beneficial for there to be a joint worksession between the Planning Board and Board of Commissioners, including the stakeholders of the issue - oceanfront property owners and developers - that way everyone would be able to hear the same thing at the same time. Such a forum, she explained could bring everyone together, and lay everything out with the hope that compromises could be found. This platform could bring more people together at the beginning. Mayor Davies also felt that given the large amounts of conversation on event houses, people may already be discussing compromise issues.

Commissioner Hogan added that one of the benefits of the joint worksession is that it would be held with the upcoming, newly-elected Board of Commissioners, which will be the Board responsible for adopting future regulations.

Mayor Davies suggested the newly elected members could be advised of the intent of this seated Board, and they could be asked to bring their calendars so that a date could be selected on December 9<sup>th</sup>.

The Board of Commissioners agreed to the concept of a joint worksession between the Board of Commissioners and the Planning Board and the Town Manager will be responsible for transmitting this information to the new Mayor and scheduling the worksession at the December 9<sup>th</sup> meeting. The Board also felt that by holding the joint worksession it would give the newly elected members of the governing board the opportunity to become familiar with all aspects of the issue.

## **2. Appointments (Attached NB-2)**

- A. Historic Landmarks Commission – one regular position**
- B. Street Improvement and Special Projects Committee – an alternate member**

Due to the resignation of Christopher Stoessner, a regular member position on the Historic Landmarks Commission (expiring August 2021) and an alternate member position on the Street Improvement and Special Projects Committee (no expiration term) are now vacant. No new applications have been received since they were last copied to the Board; however, a listing of interested applicants and any applicable appointment histories was provided.

Commissioner Windley made a motion for the Board of Commissioners to appoint T. Dillon Heikens to the Historic Landmarks Commissioners for a term to expire in August 2021, and Billy Dorn as an alternate on the Street Improvement and Special Projects Committee for which there is no term limitation. Commissioner Gray seconded that motion and approval was unanimous, 5-0.

### 3. Request to proceed with restroom facility improvements at Prospect Avenue (Attached NB-3)

The Town Manager explained that at its January 14, 2019, meeting, the Board of Commissioners directed Staff to examine the feasibility of permanent restroom facilities at Town beach access points. In April 2019, after completing a review of beach accesses, Staff recommended permanent facilities could be considered for the following accesses (in priority order): Woodmere Avenue, Prospect Avenue, Ferris Avenue, Glenmere Avenue, and Sutton Avenue.

Upon further investigation, Prospect Avenue was identified as an ideal site for permanent bathroom facilities, as minimal change to the existing walkway and parking configuration would be anticipated. Staff requested the Board of Commissioners grant authorization to move forward with improvements to the Prospect Avenue Beach Access by allocating \$50,000 from the Shoreline Access Capital Reserve Fund. Once authorized, Staff will complete design work, with expected improvements being complete by late Spring 2020.

Commissioner Jones made a motion to authorize Staff to move forward with improvements to the Prospect Avenue Beach Access by allocating \$50,000 from the Shoreline Access Capital Reserve Fund, and to complete design work with expected improvements being completed by late Spring 2020. Commissioner Windley seconded that motion and approval was unanimous, 5-0.

### Committee Reports

#### Community Appearance Commission

Sue Kelly, Chair of the Community Appearance Commission, provided the Board of Commissioners with a report of the most recent meeting of the CAC. They will be ordering more re-usable bags and hand-held cigarette butt holders. Also, the CAC selected the award winners for businesses who were nominated for best appearance, most improved appearance, and best appearance within a shopping center or mall – a large facility with individual units.

She recognized Commissioner Windley and Mr. Schiffer for attending two recent events on behalf of the CAC.

Ms. Kelly also explained that she had recently gone to the Hayman Boulevard beach access to see if anyone was using the cigarette butt disposal container. When she unscrewed the bottom there were many, many butts that fell out onto the sand. However, since she did not bring along anything to put them in she put them back in the container for someone else to take care of. She assured the Board of Commissioners that people are using the butt disposal containers.

#### West-side Recreation Group

Commissioner Gray, who chairs the West-side Recreation Group (WRG), reported that the most recent survey, which is on the Aviation Park, will be distributed for completion tomorrow. He encouraged Town citizens to complete the survey as the answers will give the

members of the WRG direct information on what additions and improvements citizens would like to see at Aviation Park. The next meeting of the WRG will be November 25, 2019.

#### Dare County Tourism Board

Commissioner Hogan reported on recent action of the Tourism Board, which included awarding the Town approximately \$59,000 for completion of the Centennial Paths, along Baum Street.

#### **Commissioners Agenda**

##### Commissioner Gray

Commissioner Gray explained that there has been some trash accumulation around the Frog Pond and Skate Park. He asked Administration to check into this and see what might be done to curb litter in the area. The Town Manager explained that the department may be looking at heavier trash receptions that can't easily be overturned.

##### Commissioner Windley

Commissioner Windley thanked Ms. Almoney for her dedication to the Kill Devil Hills community in so many ways, including formulating the Neighborhood Watch Group. He also welcomed Stacy Heulsman to the Group's leadership position.

#### **Mayor's Agenda**

##### **1. Proclamations**

###### **A. Proclamation – November 2019 as Alzheimer's Disease Awareness Month (Attached MA-1A)**

Alzheimer's disease is an irreversible, progressive brain disorder that slowly destroys memory and cognitive skills and eventually, the ability to carry out the simplest tasks. An estimated 5.7 million Americans of all ages have Alzheimer's disease, and it affects one in 10 people aged 65 and older. Since 2000, the deaths from Alzheimer's have increased 123%. Awareness campaigns generate discussion, which increases familiarity and reduces the stigma associated with the disease, opening a dialogue and information exchange.

Mayor Davies made a motion for the Board of Commissioners to adopt this proclamation designating November 2019 as Alzheimer's Disease Awareness Month in Kill Devil Hills. Commissioner Gray seconded that motion and approval was unanimous, 5-0.

Mayor Davies also announced:

- Santa at the Town Hall. This event will be held in the Board of Commissioners Meeting Room on Saturday, December 14, 2019 beginning at 4:30 and ending at 6:30.

- Collections drives. The Town will be collecting donations to benefit children in Dare County and pets in local animal shelters.

Flyers for each of the above are included in the minutes, have been distributed through the Town's e-mail lists, are posted on Town bulletin boards, and can be found on the Town's Facebook page.

## **2. Request for Closed Session**

In accordance with the provisions of NCGS 143.318.11(a)(6), Mayor Davies made a motion for the Board of Commissioners to enter Closed Session for personnel discussions related to the Town Manager's performance evaluation. Commissioner Gray seconded that motion and approval was unanimous, 5-0.

Returning to the regular meeting, Mayor Davies explained that during Closed Session the Board had evaluated the Town Manager and authorized Mayor Davies to meet with Ms. Diaz prior to December 9<sup>th</sup> to go over the evaluation and to implement the terms of the evaluation. Mayor Davies said that the evaluation was very good!

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

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

### **Consent Agenda**

- 1. Minutes (Attached CA-1A)**
  - A. October 16, 2019
- 2. Monthly report (Attached CA-2A)**
  - A. September 2019
- 3. Budget amendments (Attached CA-3A and 3B)**
  - A. #8 – to recognize a contribution for the Animal Control Division
  - B. #9 – to reappropriate fund balance for contract expenditures to construct the communications monopole
- 4. Resolution to Create a System Development Fees Capital Reserve Fund (Attached CA-4)**

To comply with General Assembly legislation for municipalities to implement a system development fee (SDF) schedule, the Town is required to establish a Capital Reserve Fund

(CRF) in which SDF revenues are maintained for specific water and wastewater capital projects. Approval of the Consent Agenda will record approval of these resolutions for water system and wastewater CRFs.

**5. Schedule for Public Hearings on December 9, 2019 – historic landmark designations ordinances (Attached CA-5A and 5B)**

- A. 202 East Arch Street – Brightbill Cottage
- B. 2043 Norfolk Street – Savage Cottage

Approval of this Consent Agenda will schedule these items for public hearing on Monday, December 9, 2019, at 5:30 p.m.

Staff recommended approval of the Consent Agenda as presented.

Commissioner Windley made a motion to approve the Consent Agenda as presented and Commissioner Jones seconded that motion. Approval was unanimous, 5-0.

**Public Comment**

**Patty Armistead, 2035 South Virginia Dare Trail, Kill Devil Hills:** Ms. Armistead explained that she believed it very important that the Town get zoning “right” regarding the large event houses. She showed some photos on the screen depicting the Miller Cottages, 2033 South Virginia Dare Trail. A large event home has been built immediately adjacent on the north side and is intrusive to the point that Mr. Miller is selling his property.

**Response to Public Comment**

Commissioner Jones explained that he used to work on the Miller cottages years ago and pointed out that very close proximity of the large house to the cottage shown in the picture is likely the result of an encroachment of the side yard set back by the Miller structure. Mr. Jones has looked at other event homes carefully and there’s no other two structures situated so closely together.

Mayor Davies recognized newly-elected members of the Board of Commissioners who were seated in the audience: Ivy Ingram and B.J. McAvoy. She congratulated them and newly-elected Mayor, Ben Sproul for winning the Town’s local election, which was held on November 5, 2019.

Mayor Davies also recognized all candidates who filed for elective office in Kill Devil Hills and encouraged anyone with a desire to serve to get involved with one or more of the many committees the Town. Information can be obtained on the Town’s website.



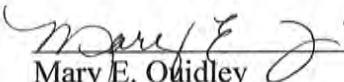
**Adjournment**

There being no further business before the Board of Commissioners at this time, Mayor Davies made a motion to adjourn this meeting. Commissioner Windley seconded that motion and approval was unanimous, 5-0.

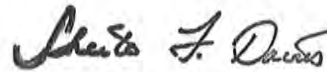
It was 6:46 p.m.

Submitted by:



  
Mary E. Quidley  
Town Clerk

These minutes were approved at the December 9, 2019 meeting of the Kill Devil Hills Board of Commissioners.



Sheila F. Davies, Ph.D.