

Minutes of the Monday, August 10, 2020, regular meeting of the Kill Devil Hills Board of Commissioners held at 6:00 o'clock p.m. in the Meeting Room at the Administration Building, 102 Town Hall Drive, off Colington Road.

Members Present: Mayor Ben Sproul; Commissioners Terry Gray, Ivy Ingram, Bernard "B.J." McAvoy and John Windley

Members Absent: none

Others Present: Debora P. Díaz, Town Manager; Casey Varnell, Town Attorney; Cameron Ray, Assistant Planning Director; and James Michael O'Dell, Deputy Town Clerk

Call to Order

At 6:01 p.m., Mayor Sproul opened this meeting of the Kill Devil Hills Board of Commissioners (BOC) and welcomed all present.

Pledge of Allegiance and Moment of Silence

Agenda Approval

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

Public Hearing

1. Moore Shores Estuarine Access (Attached PH-1)

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

The Town of Kill Devil Hills has been invited to submit a final grant application to improve the Moore Shores Estuarine Access. The 75/25 N.C. Division of Coastal Management grant will fund planned improvements that include five off-street parking spaces, a handicap accessible walkway, and a pier with a kayak/canoe launch. This will be the first access in Kill Devil Hills to provide a launch area solely for non-motorized water recreation.

The Town is required to conduct a public hearing to receive public input on the proposed project prior to the final application. At its July 13, 2020, meeting, the BOC scheduled the public hearing for this evening's meeting at 6:00 p.m. Staff recommended approval of this item, including authorization for the Planning Department to submit a final grant application, and

authorization for the Town Manager to expend Shoreline Access Capital Reserve funds for the Town's portion of this project.

One public comment was submitted electronically, and has been made a part of the minutes of this meeting. It was also provided to the BOC prior to the meeting.

Michael Flynn, Coastal Advocate, North Carolina Coastal Federation – Mr. Flynn wrote that the organization supported the improvements to the access, noting “This is a good project.” He encouraged minimal impact to the environment and supported a design that would protect water quality.

Members of the BOC expressed support for the project, noting the design plans for accessibility.

Mayor Sproul moved to approve the Moore Shores Estuarine Access plan and to authorize the Planning Department to submit a final grant application, along with authorization for the Town Manager to expend Shoreline Access Capital Reserve funds for the Town's portion of this project. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

Public Comment

Response to Public Comment

New Business

1. Kill Devil Hills Land Use Plan Update 2019 (Attached NB-1)

With Kill Devil Hills' current Land Use Plan (LUP) being adopted in 1999, the Town began undertaking the process to create an updated Plan in 2017 to reflect the growth in our community, its values, and its vision for the future.

Assistant Planning Director Cameron Ray provided an overview of the LUP update: the BOC initiated the process by directing the development of an online citizen survey to gauge the views of the Town's citizens and stakeholders. The Planning Board was directed to take the lead on the project's development process, and following multiple meetings and a joint worksession, the process has culminated in a final draft that has been responsive to citizen, stakeholder, and State input. The Town has been assisted by consultant Dale Holland, of Holland Consulting Planners, throughout the LUP development. The entire process has been highlighted in the Planning Department's accompanying memorandum. At its July 21, 2020, meeting, the Planning Board unanimously approved the final LUP draft with a favorable recommendation.

Mr. Holland was present at the meeting, and provided a brief presentation of the LUP overview, which has been included with the meeting materials. The BOC expressed its appreciation to the Planning Board for its work in the LUP development.

Staff recommended the BOC schedule the LUP update for public hearing on Monday, September 14, 2020, at 6:00 p.m. and Commissioner Gray made that motion. Commissioner Windley seconded the motion, which was approved by a unanimous, 5-0, vote.

2. Program for Public Information (PPI) Committee 2020 Annual Meeting and Update (Attached NB-2)

The Town of Kill Devil Hills participates in the National Flood Insurance Program (NFIP) and, since October 1, 1991, also the Community Ratings System (CRS). The CRS program provides flood insurance discounts for all Town policy holders in the Special Flood Hazard Area based on the educational and outreach programs implemented by the Town.

As a part of the Town's participation in the CRS program, the BOC adopted a Program for Public Information (PPI) in 2015. Formed from various community stakeholders, a PPI Committee meets annually to review and update the Town's plan, and promote citizen messaging efforts, which include flood safety, flood insurance, and storm protection. Citizen education outreach projects and an overall comprehensive plan receive points under the CRS program, which count toward lowering flood insurance premiums for property owners. Mr. Ray summarized the committee's recent meeting, and the summary was submitted as part of the Town's annual CRS recertification requirements, and was placed into the record of this meeting. He provided an overview of the recent activities of the PPI Committee, including a planned online interactive meeting with the community.

The BOC has previously designated a member for the PPI Committee, and Staff requested a current BOC member be designated for the group, which meets once or twice a year with regular notice.

Through consensus, the BOC designated Commissioner Windley as the Board's representative on the PPI Committee.

Committee Reports

Commissioners' Agenda

Commissioner Windley

Appreciation for law enforcement He thanked the Kill Devil Hills Police Department in dealing with some recent criminal activities.

Commissioner Gray

Dock Street Access (milfoil issue) On August 6, he attended a meeting on the milfoil issue along with Assistant Town Manager Shawn Murphy. Milfoil is an invasive aquatic weed that can clog waterways and foul marine engines. Commissioner Gray said that other local and state government representatives attended, including Rob Emens, Water Resources, and Anne Deaton, Marine Fisheries, both from the N.C. Department of

Environmental Quality, and Dare County Commission Chairman Robert Woodard. After meeting, State staff treated the milfoil over the weekend. The Dock Street Access is a State-maintained site; Commissioner Gray highlighted how the Town has assisted in the past with the purchase of chemicals to treat milfoil, and how the Town currently stores the herbicide for the State.

Mayor Sproul inquired about earlier concerns about application of the chemical. Commissioner Gray stated that State staff assess the situation and surrounding environment before considering applying the herbicide. He shared that, for instance, the last time State staff assessed the milfoil situation in this area, they determined that a chemical application was not necessary. In this recent application, approximately 5 acres were treated.

During the August 6th meeting, many witnessed boaters experiencing difficulty in launching because of the rampant growth of the weed. He provided images of Dock Street, which demonstrated the invasiveness of the weed. He also noted that if boaters do not remove any weed caught on their craft, they can actually spread it to other areas.

Mayor's Agenda

Mayor Sproul noted that the BOC had received several general compliments from the public about outstanding service by Town Staff. He commended all Town Staff for always maintaining a high level of service, and noted that it was a culture that the Town constantly fosters.

BOC Retreat Mayor Sproul reminded the group of the upcoming Retreat on Saturday, September 19, 2020. He asked for input from the BOC for any broad topics, and noted that members could email him with any suggestions. Members suggested long-term visioning/planning and project prioritization, among others.

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

- A. July 13, 2020
- 2. **Budget amendments (Attached CA-2A and 2B)**
 - A. #1 – to appropriate Dare County Tourism Board grant funds for 2020-21 Baum Street – Centennial Path, Phase II project for construction
 - B. #2 – to appropriate a N.C. Department of Public Safety Governor's Crime Commissioner grant for school safety

3. Dare County/Kill Devil Hills interlocal agreements (Attached CA-3A and 3B)

Approval of the Consent Agenda will place these items into the record of the meeting, with the BOC's consensus of support for the Town's continued partnership with Dare County.

A. Debris Removal Monitoring Contract Use – to record BOC consensus approval

This contract will continue the Town's association with Dare County in the monitoring of storm debris removal, which will ensure that work is eligible for FEMA Public Assistance program funding.

B. Relocation of Public Water Supply Emergency Interconnection on Colington Road – to place in the public record

This memorandum of understanding (MOU) will provide for the relocation of the public water supply emergency interconnection between the Town and Dare County.

4. Schedule Public Hearings

Approval of the Consent Agenda will schedule the following items for public hearing on Monday, September 14, 2020, at 6:00 p.m.:

A. Amendment to Chapter 153, Zoning – 153.077 – modifications to allow LED String Accent Lights in the Commercial Zone (Attached CA-4A)

At the July 13, 2020, BOC meeting, Staff highlighted options that would allow some LED accent lighting on commercial structures. Board guidance had included limiting the height of accent lighting on structures, small scale accent lighting, minimization of light pollution, protection of oceanfront wildlife, and limitation of light proliferation on a structure. The BOC then directed Staff to develop an ordinance with those options and submit it to the Planning Board for consideration.

At its meeting on July 21, 2020, the Planning Board reviewed this recommended amendment to the Zoning Ordinance and voted to forward it for consideration by the BOC.

B. Amended Conditional Use Site Plan – 808A Eighth Avenue in the Light Industrial Two Zone – Modify Site Plan to Remove Workforce Housing Designation from Unit 808A (Attached CA-4B)

Kill Devil Hills was the first local government to assist developers desiring to build workforce housing, by adopting ordinances that made such construction easier and more affordable. When the Nature's Walk multi-family residential complex was established, the Town waived development fees in agreement with the developer, which permitted qualified

owners to purchase lower cost housing. If a workforce housing property was ever resold, it would be sold to a qualified buyer through a housing agency. However, owners also have the option to request removal from the workforce housing program and return to a market rate unit. As a part of the process, owners must request approval from the Town. If approved, all earlier waived development fees are required to be paid to the Town. Several of the eight properties have opted to convert to market rate properties.

Amber Harrison Jennings, owner of Unit 808A Eighth Avenue, in the Nature's Walk complex, has requested a change in the designation of the unit from workforce housing to a market rate unit. The Amended Conditional Use Site Plan request is subject to meeting the conditions outlined in the attached Planning Department memorandum, which includes the BOC conducting a public hearing.

C. Swell Brewery - 1802 S. Virginia Dare Trail – Commercial Zone – Proposed brewery with tasting room, outdoor dining activity area, 30 parking spaces, and associated site improvements.

Swell Brewing, LLC, has submitted plans for the proposed construction of a brewery to be located at 1802 South Virginia Dare Trail, which will include an outdoor dining activity area, 30 parking spaces, tasting room, and associated site improvements. Because an outdoor dining activity area is included, the development is a conditional use and a public hearing is required. At its July 21, 2020, meeting, the Planning Board voted unanimously to forward the plan to the BOC for consideration, with a favorable recommendation.

5. Monthly report (Attached CA-5A)

A. June 2020

6. Kill Devil Hills fireworks event to celebrate Wright Brothers momentous achievement of powered flight on December 17, 2020

At its July 13, 2020, meeting, the BOC examined possible alternatives to conducting its annual fireworks event during the Labor Day weekend, if the State of North Carolina's COVID-19 Phase Three governing public gatherings was not declared by Governor Cooper by August 5, 2020.

Through consensus, the BOC rescheduled an alternate date, which has been set for Thursday, December 17, 2020, to honor the anniversary of the Wright Brothers' powered flight. Approval of the Consent Agenda will place the date into the record of the meeting and record the Board's consensus of support for this community event.

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

Commissioner Ingram moved to approve the Consent Agenda, as presented.

Commissioner Windley provided a second, and the motion passed with a unanimous, 5-0, vote.

Public comment

Response to Public Comment

Adjournment

There being no further business appearing before the BOC at this time, Commissioner Windley moved to adjourn the meeting. Commissioner Ingram seconded the motion and approval was by a unanimous, 5-0 vote. It was 6:43 p.m.

Submitted by:

James Michael O'Dell
Deputy Town Clerk