

Minutes of the Monday, November 9, 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; Meredith Guns, Planning Director; 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

Mayor Sproul asked everyone to keep Public Services worker Darlene Robinson and her family in their thoughts as her father had recently passed away. He also noted that with the upcoming Veterans Day holiday, he encouraged everyone to keep all of our veterans in mind, and also our active duty servicemen and women serving our country all around the globe.

Agenda Approval

Commissioner Gray 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 the public hearing and then opened the hearing.

1. Annexation of Lots 3 and 4, Pine Grove Subdivision (Attached PH-1)

At the October 12, 2020, meeting, the Board of Commissioners received a Petition for Voluntary Annexation of the only two lots remaining in the Pine Grove Subdivision, Lots 3 and 4, which are located at the west-end of West First Street. Several Town departments have been involved in this matter and all have worked with the Town Attorney to assure compliance with North Carolina law and the Town Code for extension of corporate limits. The annexation will

require an amendment to the Town's Zoning Map; Lots 3 and 4 are proposed to be zoned Low Density Residential, which corresponds with adjacent and nearby zoning.

In 2008, the owner of Lot 1A, which was a combination of Lots 1 and 2 of the Pine Grove Subdivision, petitioned the Town for voluntary annexation of the property. It was approved, and on March 26, 2008, the Board of Commissioners approved the property to be zoned Low Density Residential. Since 2008, Lot 1A sold to Guy and Regina Bunch, who also acquired the original Lot 3 of the subdivision, and not long ago Lot 4 was purchased by Gary and Susan Mason. By annexing these properties, both lots will be able to connect to the Town's water system, which is already in place; take advantage of solid waste collection and disposal services; and, participate in other services and benefits provided to the Town's taxpayers.

Additionally, the Town has received a utility easement request from the Masons, owners of Lot 4. Because Lot 4 is split by the West First Street right-of-way, in order for them to install a septic system on the eastern portion of their property, the Board will need to approve the easement agreement which was included in the meeting materials.

One inquiry from an adjoining property was received by the Town Clerk. The Walker Boys Investment Holdings, LLC, owners of Pt of 5, Partridge Estate, immediately adjacent to the Mason's property submitted an e-mail message, which is included in the meeting materials. They have no concerns with the pending annexation.

Staff recommended the Board of Commissioners accept the petition for annexation and related items:

- An Ordinance to Extend the Corporate Limits of the Town of Kill Devil Hills, North Carolina by
- An Ordinance Amending the Official Zoning Map of the Town of Kill Devil Hills to designate the zoning of Lots 3 and 4, Pine Grove Subdivision, as Low Density Residential; and,
- The wastewater easement requested by the Masons for Lot 4.

There were no speakers at the public hearing comment.

Commissioner Ingram moved for the Board of Commissioners to accept the petition for annexation and related items recommended by Staff, as presented. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

Public Comment

Response to Public Comment

Mr. Varnell left the meeting at 6:09 p.m.

Introductions and Presentations

1. OBX Rod and Custom Festival (Attached IP-1)

A. Resolution of Appreciation for the OBX Rod and Custom Festival

Commissioner Gray highlighted the OBX Rod and Custom Festival, which was recently held in our community and attracted 400 registrant vehicles and numerous attendees over multiple days. Conducted by Garage Band Charities, a 501(c)(3) charity, the festival has directly benefited local organizations Children & Youth Partnership and the Dare County Motorsports Charity Group.

Established in 2019, the festival has continued to grow and provide a positive economic impact to Kill Devil Hills, providing a fun, family-friendly event for the community. A *Resolution of Appreciation for the OBX Rod and Custom Festival*, highlighted the work of founders Michael Tillett, Sara Hole, and Richard Quidley, who were present at the meeting.

Commissioner Windley moved to adopt the *Resolution of Appreciation for the OBX Rod and Custom Festival*. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

Old Business

1. Appointment

This item was carried forward from the September 14, 2020, meeting by consensus of the BOC.

A. Community Appearance Commission

Natalie Painter's term on the Community Appearance Commission (CAC) recently ended, and she has declined reappointment. All applications on file from persons interested in serving in this capacity have previously been copied to the Board of Commissioners and no new applications for those purposes have been received.

Commissioner Windley moved to appoint Martin Dalton to a three-year appointment to the CAC for a term that will expire in November 2023. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

New Business

1. Recommendations for Bid Acceptance for 2020-2021 Street, Drainage, and Right-Of-Way Improvements Projects (Attached NB-1)

Town Engineer Pete Burkheimer provided an overview of the plans, specifications, and authorization to bid the 2020-2021 street, drainage, and right-of-way improvements project that

were approved by the Board of Commissioners at its February 12, 2020, meeting. The plan includes drainage, paving, and related work, split into two parts:

- Fall Project Group: Cedar Drive, Captains Lane, Teakwood Lane and Captains Circle
- Spring Project Group: East Helga Street, West Helga Street, Briggs Street, East Fourth Street, East Martin Street, and East Dean Street

Bids were received on October 22, 2020, and have been reviewed by Staff and Mr. Burkholder, who recommended award of the contract for the entire project (Fall and Spring Groups) to the lowest responsible bidder, RPC, Contracting, Inc. The bid tabulation sheet was included with the packet materials for this item. A breakdown of associated costs for this project is as follows:

2020/2021 Spring Project – Between the Highways	Cost Summary			
	Streets & Drainage	Sidewalk	Water	Total
RPC Contracting, Inc. – Base Bid + Unit Price Items	\$1,267,390.00		\$78,080.00	\$1,345,470.00
Alternates A & C Parking, St. Extension	\$29,080.00			\$29,080.00
Alternates B & D Parking, St. Extension		\$43,620.00		43,620.00
Contingency (5%)	\$64,823.50	\$2,181.00		\$67,004.50
Engineering	\$56,000.00	\$4,000.00	\$6,000.00	\$66,000.00
Grand Totals	\$1,417,293.50	\$49,801.00	\$84,080.00	\$1,551,174.50

Construction will begin in autumn, with substantial completion scheduled by May 21, 2021, for the Fall Project Group. Substantial completion for the Spring Project Group is scheduled for April 21, 2021.

Staff recommended the Board of Commissioners accept the bid from RPC Contracting, Inc., and authorize the 2020-2021 Street, Drainage, and Right-of-Way Improvement Project, base bid including unit price items, by:

- Approving the contract with RPC Contracting, Inc. for the 2020-2021 Street, Drainage, and Right-Of-Way Improvements Fall and Spring Projects in the amount of \$1,418,170.00 (Base Bid + Alternates) and authorize execution by the Town Manager;
- Approving the engineering services agreement with American Engineering in the total amount of \$66,000.00 for construction oversight services;

- Approving a 5% not-to-exceed contingency for the streets, drainage, and sidewalk portions of the project in the amount of \$67,004.50;
- Authorizing expenditure of \$760,000.00 from the Street Construction Capital Reserve Fund; \$49,801.00 from the Sidewalks Capital Reserve Fund; \$84,080 from the Water Fund; \$218,000 from the Powell Bill Fund; \$439,293.50 from the fund balance, for a total of \$1,551,174.50.; and
- Approving budget amendment #5 to appropriate funds from the Sidewalk Construction Capital Reserve Fund, Street Construction Capital Reserve Fund, and unassigned fund balance for the 2020-2021 street, drainage, and right-of-way improvements fall and spring projects.

Mr. Burkheimer also recognized Ms. Emily Zeltmann, who will be coordinating projects with him for Kill Devil Hills, on behalf of American Engineering Associates – Southeast PA, Inc.

Town Manager Debora Díaz stated that the recommended project reflected items of interest by the BOC. In allocating some project funding from the undesignated fund balance, the fund balance will be maintained at approximately 54%. Staff recommended approval as presented as outlined in the second page of the memorandum included in the meeting materials. Mayor Sproul shared that bicycle and pedestrian options were discussed during the BOC's retreat, and this project reflected that priority.

Commissioner McAvoy commended the members of the Street Improvement and Special Projects Committee (SISPC), along with Staff, for their work and review of these recommended improvements to the Town's infrastructure. He stated that recommendations were set on a three-year plan. Planning Director Guns added that the process for the street evaluations was five years, with the next evaluation planned for 2022. Those results are presented to the SISPC and then it makes a recommendation to the BOC.

Commissioner McAvoy moved that the Board accept the bid from RPC Contracting, Inc. and approve and authorize the 2020-2021 Street, Drainage, and Right-of-Way Improvement Project, as presented. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

2. Street Improvement Recommendation for 2021-2022 Fiscal Year (Attached NB-2)

Mr. Burkheimer highlighted the recommended the streets and drainage improvements for the 2021-2022 fiscal year:

2021-2022 Fiscal Year Improvements Choices	
Option A: Estimated Cost: \$1,156,000	• West Third St. (US 158 to Creek St.) • Seminole St. (southside) • US 158 Drainage (West Fourth St. to West Third St.)
\$82,000	Estimated engineering costs for design and bidding phases
Option B: (Option B= A+B) Estimated Cost: \$1,309,000	• West Third St. (US 158 to Creek St.) • Seminole St. (southside) • US 158 Drainage (West Fourth St. to West Third St.) • West Third St. (sidewalk extension to Bay Dr., but no roadway improvements and limited drainage)
\$104,000	Estimated engineering costs for design and bidding phases
Option C: (Option C= A+B+C) Estimated Cost: \$1,981,000	• West Third St. (US 158 to Creek) • Seminole St. (southside) • US 158 Drainage (West Fourth St. to West Third St.) • West Third St. (sidewalk extension to Bay Dr., INCLUDING replacement of asbestos water main, street overlay, and drainage improvements)
\$150,000	Estimated engineering costs for design and bidding phases

Staff does not recommend Option C because of the high cost and current condition of that portion of West Third Street. The portion of West Third Street detailed under Option C is likely to be included on the list for drainage and roadway improvements in the next 10 years.

Staff recommended Option B, as extension of the West Third Street sidewalk has been a priority due to the heavy vehicular and pedestrian traffic along this roadway. A completed sidewalk would connect the existing Bay Drive Multi-Use Path that extends from West Third Street to the northern Town line.

At its October 29, 2020, meeting, SISPC recommended the BOC consider for the 2021-2022 fiscal year Option C, noting that if there were monetary restrictions or adverse impacts on future capital projects, the group recommended Option B for the 2021-2022 fiscal year street project. The group also recommended the 2022-2023 fiscal year (Plan Year) project as presented. Staff recommended no action on the 2022-2023 FY improvements recommended by

the SISPC at this time and proposed the Board discuss those improvements during the upcoming budget worksessions. Staff recommended authorizing the Town Manager to execute a contract with American Engineering Associates – Southeast PA, Inc. for the desired option for design, engineering, and bidding for the 2021-2022 street project and necessary budget amendments.

Ms. Díaz shared that at the Staff recommendation was to not include Option C as there are concerns about the financial capability of completing three large infrastructure projects in three years. Option C would also move Third Street's paving up by seven to ten years, moving ahead of streets rated with greater needs. Commissioner McAvoy shared that the SISPC preferred the Option C recommendation, but he noted that the group did not want Option C if it was to the detriment to later projects, like the upcoming 2022-2023 Wrightsville Boulevard project. He noted, though, that Third Street was one of the most heavily traveled roadways in Town, as it links the businesses along US 158 with the westside residential neighborhoods. Commissioner Ingram noted that Option B provided additional sidewalks for pedestrian use.

Ms. Díaz stated that besides streets and drainage projects, there were many focus areas that the BOC was considering, including recreational and beach access facilities. Until the Board provides more direction to Staff, she inquired whether there was any interest by the BOC for a revenue increase to address these large projects and general Town operations.

Mr. Burkheimer stressed the importance of the 2022-2023 Wrightsville Boulevard drainage project, noting that his recommendation would be to prioritize Wrightsville Blvd. over most other current and near-term infrastructure projects. Mayor Sproul said that with the importance of some major infrastructure projects, like the Wrightsville Boulevard project, Option B provides the greatest benefit for the cost investment by the Town. Commissioner Gray stated that he favored Option B; the additional work of Option C would place Third Street in front of other streets that need more immediate attention.

Commissioner Windley moved that the Board authorize the Town Manager to execute a contract with American Engineering Associates – Southeast PA, Inc. for the design, engineering, and bidding of Option B of the 2021-2022 Street Project, and necessary budget amendments. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

3. Ordinance Review - Chapter 153.076 Off-Street Parking and Loading (Attached NB-3)

Ms. Guns shared that the BOC scheduled this item to review the Town's off-street parking ordinance and to discuss possible changes that could benefit the community's parking needs. The Board requested Staff recommendations, and her accompanying memorandum highlighted some parking options that might be beneficial to the Town. She provided an overview of the changes in parking requirements over the past 10 years, including reduced parking requirements for warehouse developments and large shopping centers. She noted the most recent change was permitting up to 15% of a restaurant's required parking to be stacked for employee parking. The Town has also implemented parking reduction schedules based on the number of required parking spaces for large single businesses. With residential areas, parking requirements appear satisfactory, with one space per bedroom and permitted stacked parking.

Staff suggested the options of reducing parking requirements for large-scale commercial projects not under the shopping center/office complex or warehouse requirements. Additionally, the *Retail, Office and Related Uses* section of the Parking Table under Chapter 153, Zoning, 153.076(D) can be reviewed to determine whether some uses could require less than one space per 200 square feet of gross floor area. For example, she suggested that if a business relies mainly on a drive-through, then the parking requirement could be reduced.

Commissioner McAvoy inquired whether there is an industry standard for parking. Ms. Guns stated there is no perfect formula for parking, and it varies across the state and the nation. Being a vacation destination, parking lots in Town may be highly used during the summer months, but be mostly empty during the off-season. She noted that the unique nature of retail businesses can determine the parking demand. Commissioner Gray suggested directing this item to the Planning Board. Ms. Guns stated that a decrease in parking requirements will result in increased size in structures. She encouraged businesses to approach the Town to identify what parking options may be available. Mr. Ray said that any changes to parking requirements could affect new and existing developments. Through consensus, the BOC directed the Planning Board to further examine the issue and return to the BOC with recommendations.

Committee Reports

Community Appearance Commission (CAC) Commissioner Windley shared that the CAC had recently met, and had scheduled two small, informal beach clean-ups for November 14 and Nov 28, 2020, both Saturdays, from 9:00 a.m. to 12:00 p.m. He also reported that the CAC's current Planning Board representative had resigned from the position, and suggested that the designated position be eliminated from the CAC.

Government Education Access Channels Committee (GEACC) Commissioner Gray stated that GEACC had met the previous month, and that the Town was using the group's Local Programming Development Initiative (LPDI) grant funding for different projects.

West-side Recreation Group (WRG) Commissioner Gray stated that the WRG would be meeting in January 2021, with tentative dates being considered by Staff.

Commissioners' Agenda

Commissioner Gray

Fresh Pond Commissioner Gray asked the BOC to establish a working group to meet with Nags Head Woods Ecological Preserve and the Town of Nags Head to discuss Fresh Pond and potential options for passive recreational opportunities. He suggested Commissioner McAvoy, Assistant Planning Director Cameron Ray, and himself. The working group would present to the WRG, which would provide recommendations to the BOC. Through consensus, the BOC authorized the working group.

Commissioner Windley

Housing Options He referenced an earlier email from the Restaurant Association regarding concerns over housing. Commissioner Windley noted that it had been discussed at the Board's retreat, and he had some suggestions: permitting multi-family dwellings in the Residential Low Zone; reduce lot sizes for duplexes in the Residential Low Zone; or make accessory dwellings easier to have in the residential zone, among others. He suggested the BOC select an option to address the issue.

Mayor Sproul shared information about the creation of a land trust in a county / multi-county area. He noted that he recently met with Nags Head Mayor Ben Cahoon and his staff. He said there was a development group specialized in J-1 Visa student housing in resort destinations in Wisconsin. The properties were designated with special rules: dorm style housing, specifically for J-1 uses only and no parking requirement. The Mayor also said that accessory dwelling units could be an option, but there are some challenges with septic requirements. Commissioner McAvoy noted that many long-term residents were being priced out of the housing market.

Commissioner Ingram inquired about how many properties would be impacted by a change to the multi-family dwellings in the Residential Low Zone. Ms. Guns stated the entire west side of US 158 would be affected. Commissioner Ingram noted that it is a density issue, and inquired how the community will be affected over the next two decades. She noted the BOC needed to consider infrastructure when identifying possible action, like internet accessibility.

Members discussed different options for housing, and through consensus, directed Staff to identify housing options for the Town, including accessory dwelling units and reduced lot sizes for duplexes and to report back to the BOC.

Residential Addresses He shared that he had recently spoken with restaurant owner, who said that with the increase in meal deliveries, it is difficult to identify residence address numbers. Ms. Díaz said that the Town would be highlighting the reflective address signage available from the Fire Auxiliary, and distributing information on how to acquire them, along with messaging in utility billing

Eagle Scout candidate – Commissioner Windley said that an Eagle Scout candidate had requested to complete a project for the Town, and he would direct them to Staff.

Mayor's Agenda

Land Use Plan Certification Mayor Sproul shared that the Town's Land Use Plan update was certified by the State of North Carolina. The BOC offered congratulations on a job well done over these past three years, especially to the Planning Board and our Planning Department Staff.

Beach Access repair He thanked the Buildings and Grounds Staff who quickly repaired some beach access steps that were unearthed during a storm.

Elected executives meeting Mayor Sproul shared that at the recent Dare County elected executives meeting, Department of Health and Human Services Director Sheila Davies, Ph.D. had shared the framework for COVID-19 vaccine distribution program for the county.

Fireworks Event He reminded everyone of the upcoming Fireworks Event on December 17, 2020, at 7:00 p.m. at Avalon Pier.

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. Minutes (Attached CA-1A)

A. October 12, 2020

2. Monthly report (Attached CA-2A)

A. September 2020

3. Approval of N.C. Department of Environmental Quality (NCDEQ) grant for Kill Devil Hills Shore Protection Project (Attached CA-3)

The Town has been notified that it is the recipient of \$1,450,921.35 in grant funding from the Division of Water Resources of NCDEQ. The funds will be utilized for the Town's Shore Protection Project, which supports beach nourishment. Approval of the Consent Agenda will authorize the Town Manager to execute the grant contract when received by the Town.

4. Moor Shores Estuarine Access grant approval, required tax certification, and Addendum to the Board of Commissioners' Conflict of Interest Policy (Attached CA-4)

The Town was notified this afternoon of the Public Beach and Coastal Waterfront Access Program's approval of our application for grant funding to improve the Moor Shores estuarine access at the north end of Town on Kitty Hawk Bay. This is a 75% / 25% grant, with the Town's responsibility being \$29,923 of the overall total budget of \$119,692.

Improvements at the Moor Shores Estuarine Access will include, approximately five parking spaces, approximately 156 linear feet of 5-foot wide walkway, connected to approximately 72 linear feet of 6-foot wide boardwalk that transitions to a pier and gazebo, with canoe/kayak launch and associated landscaping and signage. This will be the first access in Kill Devil Hills to provide a launch area solely for non-motorized water recreation.

A contract for the project will be presented at a future meeting for approval; however, there are two additional items to be made a part of the record of this meeting: a certification statement that the Town does not have any overdue tax debts at the federal, State, or local level; and, an enhanced Conflict of Interest Policy, which upon approval will become a part of the Board's existing Ethics Policy. At present, the Town's policy does not address all of the details that are included in the State policy.

Approval of the Consent Agenda will record the Board's approval of this item: the no overdue taxes certification and the Addendum to the Board of Commissioners' Ethics Policy.

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

Commissioner Gray 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 Gray moved to adjourn the meeting. Commissioner Ingram seconded the motion and approval was by a unanimous, 5-0, vote. It was 8:05 p.m.

Submitted by:

James Michael O'Dell
Deputy Town Clerk