

Minutes of the Monday, October 11, 2021, 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 Participating: Mayor Ben Sproul; Commissioners Terry Gray, Ivy Ingram, Bernard "B.J." McAvoy, and John Windley

Members Not Participating:

Others Participating: Debora P. Díaz, Town Manager; Casey Varnell, Town Attorney; Dana Harris, Assistant Police Chief; 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 noted there had been an unfortunate traffic fatality in Kill Devil Hills, and extended thoughts and prayers to the victim's family, and all of the first responders involved.

Agenda Approval

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

1. Public Hearing

Mr. Varnell read aloud the rules for the public hearing and then opened the hearing. He stated that notice for the following item had been published in the *Coastland Times*, meeting or exceeding the N.C.G.S. requirements for public hearings, posted on the Town's bulletin boards, website at <https://www.kdhnc.com/916/October-11-2021-Board-of-Commissioners-M>, and social media platforms, and had been disseminated through the town's electronic distribution list.

A. Proposed Zoning Amendment – §153.077 Signs – allowing strings of electric light bulbs for approved Outdoor Dining/Activity Area(s) (Attached PH-1A)

Noosa Beach Grill, LLC, has proposed an amendment to §153.077, Signs, to allow strings of electric light bulbs for approved Outdoor Dining/Activity Area(s) as supplementary

lighting for patrons. Assistant Planning Director Cameron Ray's memorandum in the meeting materials highlighted the schedule when such lighting is currently permitted under Town Code.

At its August 17, 2021, meeting, the Planning Board reviewed the proposed amendment and voted to forward it to the BOC for consideration, with a recommendation of approval. At its September 13, 2021, meeting the BOC scheduled this public hearing.

Karen Brown, Outer Banks Chamber of Commerce – Ms. Brown, President and CEO, noted that the Chamber of Commerce represents 157 Kill Devil Hills businesses, and spoke in favor of the proposed amendment. She stated that this would allow local businesses to provide lighting for dining and waiting areas and would be a welcomed sign of support.

Commissioner Windley moved to approve the proposed amendment as presented, noting that the Board of Commissioners finds that the amendment to Chapter 153 Zoning, 153.077 (D)(16) Signs – Outdoor Dining / Activity Area(s) – to allow strings of electric light bulbs for approved Outdoor Dining/Activity Area(s) is consistent with all comprehensive plans and other official adopted plans of the Town of Kill Devil Hills that are applicable. The amendment is reasonable and in the public interest because it allows low impact lighting for outdoor dining areas. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

Public Comment

Response to Public Comment

Old Business

New Business

1. Beach Nourishment

- A. Bond Order Authorizing the Issuance of Special Obligation Bonds (Town Portion), Series 2021A and A Resolution Providing for the Issuance of a Special Obligation Bond (Town Portion), Series 2021A (Attached NB-1A)**
- B. Bond Order Authorizing the Issuance of Special Obligation Bonds (FEMA Grant Project), Series 2021B and A Resolution Providing for the Issuance of a Special Obligation Bond (FEMA Grant Project), Series 2021B (Attached NB-1B)**

Ms. Díaz stated that the two bond orders itemized in Items 1A and 1B, establish the Town's intent to construct the beach erosion control and flood and hurricane protection works project (beach nourishment). Each order authorizes special obligation bonds for the purpose of financing that construction for both the Town's portion of the project, in the amount of

\$1,515,077, and the FEMA portion of the project \$4,148,371, in accordance with the provisions of North Carolina General Statutes.

Each bond order is accompanied by the resolution that provides for the issuance of the special obligation bonds, Series 2012A for the Town's portion of the project, and Series 2021B for the FEMA portion of the project.

Staff recommended the Board of Commissioners adopt the:

- A. Bond Order Authorizing the Issuance of Special Obligation Bonds (Town Portion), Series 2021A and A Resolution Providing for the Issuance of a Special Obligation Bond (Town Portion), Series 2021A; and, the
- B. Bond Order Authorizing the Issuance of Special Obligation Bonds (FEMA Grant Project), Series 2021B and A Resolution Providing for the Issuance of a Special Obligation Bond (FEMA Grant Project), Series 2021B, as presented.

C. Interlocal agreement with Dare County (Attached NB-1C)

This agreement has been progressing through the approval processes in each of the involved local governments: Dare County, Duck, Southern Shores, Kitty Hawk, and Kill Devil Hills.

The agreement, which was also in place for the 2017 beach nourishment project, puts in writing the understanding of all parties as the beach nourishment project(s) move forward. The towns will continue to make all of the decisions, and handle all public inquiries, press releases and other requests for information concerning their respective projects, and the dredge contract will be with Dare County. Dare County will continue to manage the funds for the dredge portion of the cumulative projects – each town will deposit its share with the County and in turn, the County will pay the dredging contractor. Funding obligations are included in the agreement and should the dredging exceed estimated costs, each town will be responsible to either cut its project or otherwise meet the funding need; in the event the dredging costs less than anticipated, the savings will stay in the beach nourishment fund for future uses.

This agreement has been reviewed by the Town Attorney and Staff recommended approval as presented.

Commissioner Gray moved to adopt the bond orders and resolutions detailed in New Business items 1A and 1B, along with New Business Item 1C, Interlocal agreement with Dare County, as presented. Commissioner Windley seconded the motion, which was approved by a unanimous, 5-0, vote.

Committee Reports

Community Appearance Commission (CAC) Commissioner Windley said that the CAC would meet the following day. The biennial Community Appearance Awards will be selected from all nominee categories, and winners will be highlighted at a future BOC meeting.

Dare County Tourism Board – Commissioner Ingram said the State has changed the method it calculates tourism allocations to counties, resulting in Dare County receiving higher levels. Dare County is ranked fourth in North Carolina tourist destinations. She stated that in 2020, the County’s decline in tourism was at two percent, with many other areas experiencing 40-50 percent decreases. Commissioner Ingram stated that one-third of all jobs, almost 12,000, in Dare County is tourism related.

Commissioners’ Agenda

Offshore oil drilling resolution Commissioner Ingram stated that with the recent oil spill in California, she and Commissioner Gray had discussed a potential resolution renewing the BOC’s opposition to offshore oil drilling. Ms. Díaz stated that a resolution for the BOC’s consideration would be presented at the November meeting, and would reference the California oil spill.

Mayor’s Agenda

1. Proclamation (Attached MA-1A)

A. Proclamation Declaring November 2021 as Alzheimer’s Disease Awareness Month

Mayor Sproul noted that Alzheimer’s disease is an irreversible, progressive brain disorder that gradually erodes memory and cognitive skills and ultimately, a person’s ability to carry out the simplest tasks. Alzheimer’s disease has afflicted almost six million Americans of all ages, and it affects one in 10 people aged 65 and older. Since 2000, deaths from the disease have increased 123%. Campaigns and heightened awareness generate discussion, reducing stigmas associated with the disease and increasing familiarity through an open dialogue and information exchange. Caregivers and loved ones of those affected by this disease can find more information through many sources, including the national Alzheimer’s Association at www.alz.org or 1-800-272-3900.

Mayor Sproul moved to adopt the proclamation designating November 2021 as Alzheimer’s Disease Awareness Month in Kill Devil Hills. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0 vote.

Early Voting Mayor Sproul reminded everyone that early voting will be conducted at Town Hall beginning October 14 through October 29, Mondays through Fridays, from 8:00 a.m. to 5:00 p.m. There will also be a Saturday voting opportunity on October 30, from 8:00 a.m. to 3:00 p.m. He said that polls on Election Day would be held at Town Hall Tuesday, November 2, from 6:30 a.m. to 7:30 p.m.

First Flight Markets Kill Devil Hills will conducting First Flight holiday markets at Aviation Park on the following dates: Saturday, November 20; Tuesday, November 23; Tuesday, December 7, and Saturday, December 18. He stated that the December 7 market would include a Christmas tree lighting and sleigh-riding events. Vendor application deadline for all of the events is October 15.

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. Minutes (Attached CA-1A)

A. September 13, 2021

2. Monthly report (Attached CA-2A)

A. August 2021

3. Budget amendment (Attached CA-3A)

A. # 7 – to record encumbrances outstanding at 6/30/2021

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

Commissioner Ingram moved to approve the Consent Agenda, as presented.
Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

Public Forum

Ms. Díaz stated that the Board of Commissioners encourages public input as it considers issues that may directly impact the Town of Kill Devil Hills and its residents, property owners, and visitors. As a part of that commitment, the Board established two public forums annually to hear about issues important to our citizens.

Citizens were invited to attend this public forum and also given the opportunity to request specific items to be included with this agenda item. Any submitted public forum topics will be provided to the Board for consideration and discussion.

Ms. Díaz reported that although no one had submitted a topic for consideration, the Town had received one comment electronically, which had been forwarded to the BOC and is included in the record of the meeting:

Martha Vaughan, 1217 C South Virginia Dare Trail, Kill Devil Hills – Ms. Vaughan’s email expressed concern regarding excessive noise complaints from large single-family dwellings (or event homes) located at 1207, 1209, and 1213 South Virginia Dare Trail.* Loud music, yelling and screaming by visitors, and large-scale fireworks events at the homes were a cause of concern. She asked the BOC to investigate ways to address the ongoing problems.

Mayor Sproul noted the challenge of neighboring properties around the existing large single-family dwellings, and that the Police Department was aware of the situation and dealt with any complaints. He encouraged continued outreach by the Police Department in dealing with all parties involved. Assistant Police Chief (AC) Dana Harris stated that anyone with issues or concerns were welcome to visit the Police Department and discuss them.

Commissioner Windley inquired about fireworks and what should be done when someone has a concern about fireworks being set off. AC Harris the public should contact 9-1-1 (for emergencies) or the Dare County non-emergency dispatch, and officers would be sent to investigate.

Commissioner Ingram inquired about the noise ordinance and time limitations. AC Harris replied that under the noise ordinance, nighttime is classified from 11:01 p.m. to 6:59 a.m., and there are different sound category/activity limitations. He encouraged the public to reach out to the Police Department with any questions.

[*Clerk’s Note: Ms. Vaughan’s original email misidentified the properties of concern. Following the meeting, she submitted another email comment with the correct addresses, which are listed in the minutes of this meeting.]

Joni Ruland, 2035 South Virginia Dare Trail, Unit 3, Kill Devil Hills – Ms. Ruland shared her concerns about the property at 2031 South Virginia Dare Trail, which was destroyed by fire earlier in the year. She understood that the BOC had already approved the structure to be rebuilt, with a fire suppression system. She believed that the structure’s footprint was large for the property, and that if the wind had been blowing in a different direction during the fire, her property could have been heavily damaged. She inquired whether there was anything that could be done to increase restrictions.

Mayor Sproul shared that the Town had worked for over a decade to try to address the issue of large single-family dwellings. Since the Town, which has very deep oceanfront lots, cannot limit the size of the structures or the number of bedrooms, Kill Devil Hills has developed safety incentives, including fire suppression, drive aisles, and setback options. He also acknowledged that the Town had promoted options for the development of cottage courts and cluster homes.

Ms. Ruland inquired about propane tank regulations. Mr. Ray shared that the N.C. Department of Agriculture oversees regulations for propane tanks, their placement, and safety. Planning Director Meredith Guns stated that the Town has developed additional regulations for propane tanks, including required tie-downs, which provide additional protection during storm events. Mayor Sproul thanked Ms. Ruland for her comments.

BOC Retreat Mayor Sproul asked the BOC members to check their calendars, and at the November meeting, they would look to schedule a retreat.

Adjournment

There being no further business appearing before the BOC at this time, Commissioner Gray moved to adjourn the meeting. Commissioner Windley seconded the motion, which was approved by a unanimous, 5-0, vote.

The time was 6:43 p.m.

Submitted by:

James Michael O'Dell
Deputy Town Clerk