

Minutes of the Monday, November 8, 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; Meredith Guns, Planning Director; and James Michael O'Dell, Deputy Town Clerk

Call to Order

At 6:02 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 Ingram moved to approve the agenda as presented. Commissioner Windley seconded the motion, which passed by a unanimous, 5-0, vote.

Public Comment

Response to Public Comment

Old Business

New Business

1. Site plan review

A. Proposed oceanfront amenity area reconstruction – 2029 South Virginia Dare Trail in the Ocean Impact Residential Zone (Attached NB-1A)

Planning Director Meredith Guns stated the BOC's most recent site plan review and approval for this parcel at 2029 South Virginia Dare Trail (SVDT) was on May 13, 2019. A fire at the adjoining property, 2031 SVDT, resulted in damage to this parcel's oceanfront amenity structure on June 20, 2021. The proposed reconstruction is within the original building's footprint, although the architectural design has been changed.

At its October 12, 2021, meeting, the Planning Board voted to forward this site plan for the Board of Commissioners' review pending minor conditions, which have since been addressed. Staff recommended approval of the site plan, as presented.

Commissioner Ingram moved to approve the site plan for the proposed oceanfront amenity area reconstruction – 2029 South Virginia Dare Trail in the Ocean Impact Residential Zone, as presented. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

Committee Reports

Community Appearance Commission (CAC) CAC Chairperson Sue Kelly highlighted the CAC's participation in the Surfrider Foundation's Adopt-a-Beach Access program. A beach clean up will be held on November 20 at the CAC's adopted access on Eden Street. She noted the biennial Community Appearance Awards will be presented at an upcoming BOC meeting. She said that the CAC had developed a "Love Your Live Oak" adoption program to promote KDH's official tree, which will distribute young trees to KDH residents.

Commissioners' Agenda

1. Southern Albemarle Association presentation from N.C. Department of Transportation (NCDOT) (Attached COM-1)

Commissioner Gray stated he had attended the recent meeting of the Southern Albemarle Association. The organization was founded in 1935 to promote better transportation infrastructure, including roadways, bridges, and waterways, across a six county region. He noted that the main discussion topic was replacement of the Lindsey C. Warren (Alligator River) Bridge. Although the project is part of the N.C. Department of Transportation's (NCDOT) State Transportation Improvement Plan (STIP), it is unfunded at this time, and estimated to cost over \$200 million. He encouraged any questions to be directed to NCDOT Division I Planning Engineer Craig Midgett.

Mayor's term of office Commissioner Gray shared that he believed the Mayor's term of office should be four years, rather than the current two-year term. He noted that the BOC had discussed the topic many years ago, and that he recently had conferred with Town Staff and the Town Attorney, who had provided information on a timeline for any proposed change to the Mayor's term. To avoid any conflict with Mayor Sproul's term, he recommended a later effective date for any potential change.

Ms. Díaz recommended that the BOC could be sent the timeline information provided to Commissioner Gray and a resolution of intent could be added to next meeting's agenda for discussion. Mr. Varnell stated this resolution would be the initial step for amending the Town's charter, which sets the Mayor's term of office. Commissioner Gray thanked Staff and Mr. Varnell for the information. Through consensus, the BOC directed Staff to forward the timeline information and draft a resolution of intent for the upcoming BOC meeting.

Commissioner Windley Commissioner Windley suggested that new Town employees were welcome to visit BOC meetings and introduce themselves, if they wished. Ms. Díaz said she would communicate to new employees that they were welcome to attend BOC meetings. She noted that photos would also be included with the new employee biographies that the BOC regularly receives.

Mayor's Agenda

1. Resolutions (Attached MA-1A and MA-1B)

A. Resolution in Support of Lindsey C. Warren Bridge Replacement

Mayor Sproul stated that the Lindsey C. Warren Bridge was constructed in 1960, and the drawbridge has served an ever-growing volume of vehicles to and from Kill Devil Hills and all of the Outer Banks, while also serving nautical traffic on the Intercoastal Waterway. The bridge is a vital evacuation route for citizens and visitors in the event of a hurricane or other weather-related situation. However, because of its age, the bridge has required multiple closures for repairs, creating multiple delays and/or lengthy detours in recent years and needs replaced.

B. Resolution Reaffirming the Board of Commissioners of the Town of Kill Devil Hills Continued Opposition to Offshore Drilling, Seismic Testing, and Leasing

Following a massive spill from an underwater offshore oil pipeline off the coast of California, the City of Huntington Beach temporarily closed its beaches, in an attempt to protect the public. Being that the North Carolina coast has been the subject of repeated attempts to permit offshore oil exploration, seismic testing, and drilling in federal waters; the Board of Commissioners has continued to oppose such actions, which can negatively impact our environment, our tourism and fishing industries, and our citizens.

Commissioner Gray moved to adopt resolutions 1A and 1B, as presented. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0 vote.

2. Proposed Zoning Map amendment (attached MA-2)

Mayor Sproul provided a brief history of the affordable teacher housing in town. Since the original facilities were constructed, Town regulations have changed and multifamily is no longer a use permitted in the Light Industrial Two Zone. Planning Department maps highlighted the zoning changes recommended for any potential expansion, while also addressing some longtime zoning irregularities, making the Town's zoning lines more consistent with uses. The recommended zoning change would result in the current teacher housing becoming conforming and permit an increase in density, so more housing units could be built.

Through consensus, the BOC directed Staff to move forward with the map amendment.

LED lighting at Town Hall Mayor Sproul spoke of the potential for LED lighting at the Town Hall parking lots. Ms. Díaz stated staff would communicate with Dominion Power about any possible partnership.

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. Minutes (Attached CA-1A)

A. October 11, 2021

2. Monthly report (Attached CA-2A)

A. September 2021

3. Schedule public hearing for historic landmark designation ordinance (Attached CA-3A)

A. 3208 North Virginia Dare Trail – Wolcott Cottage

On November 3, 2021, the Historic Landmarks Commission (HLC) met to review the designation application for the property located at 3208 North Virginia Dare Trail, known as the Wolcott Cottage. The HLC voted to forward this property for BOC consideration as a historic landmark in Kill Devil Hills. Approval of the Consent Agenda will schedule this item for public hearing on Monday, December 13, 2021, at 6:00 p.m.

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

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

The time was 6:39 p.m.

Submitted by:

James Michael O'Dell
Deputy Town Clerk

AN ORDINANCE ENACTING AND ADOPTING SUPPLEMENT #17
TO THE CODE OF ORDINANCES FOR THE
TOWN OF KILL DEVIL HILLS, NORTH CAROLINA

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the seventeenth supplement to the Code of Ordinances of the Town of Kill Devil Hills, North Carolina, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the Town of Kill Devil Hills, North Carolina; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances, which are based on or make reference to sections of the North Carolina code; and

WHEREAS, it is the intent of the Board of Commissioners to accept these updated sections in accordance with the changes of the laws of North Carolina; and

WHEREAS, it is necessary to provide the usual daily operation of the municipality and for the immediate preservation for the public peace, health, safety, and general welfare of the municipality that this ordinance take effect at an early date; now, therefore be it

ORDAINED by the Board of Commissioners of the Town of Kill Devil Hills, North Carolina:

- Section 1. That the seventeenth supplement to the Code of Ordinances of the Town of Kill Devil Hills, North Carolina as submitted by American Legal Publishing Corporation, of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.
- Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Board of Commissioners and the Town Clerk is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Town Clerk.
- Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety, and general welfare of the people of this municipality and shall take effect at the earliest date provided by law.

Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills at a regular meeting held on the _____ day of _____, 2021, by a vote of _____ in favor and _____ opposed.

SEAL

Ben Sproul
Mayor

ATTEST:

James Michael O'Dell
Deputy Town Clerk

APPROVED AS TO FORM:

Casey C. Varnell
Town Attorney

The undersigned hereby certifies that the foregoing official amendment, designated AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE TOWN OF KILL DEVIL HILLS, NORTH CAROLINA, was placed in the Kill Devil Hills Town Code Book on the _____ day of _____, 2021 at _____ .m.

James Michael O'Dell
Deputy Town Clerk