

Minutes of the Wednesday, May 25, 2022, regular meeting of the Kill Devil Hills Board of Commissioners held at 6:00 p.m. in the Meeting Room at the Administration Building, 102 Town Hall Drive, Kill Devil Hills.

Members Participating: Mayor Ben Sproul; Commissioners Terry Gray, Ivy Ingram, and John Windley

Members Not Participating: Bernard “B.J.” McAvoy

Others Participating: Debora P. Díaz, Town Manager; Charlene Allen, Assistant Town Manager; Beverly Kissinger, Finance Director; Angell Doughtie, Assistant Finance Director; Meredith Guns, Planning Director; Cameron Ray, Assistant Planning Director; Dana Harris, Assistant Police Chief; Troy Tilley, Fire Chief; Steve Albright, Public Services Director; Casey Varnell, Town Attorney; and James Michael O’Dell, Town Clerk.

Call to Order

At 6:02 p.m., Mayor Ben Sproul opened this meeting of the Kill Devil Hills Board of Commissioners (BOC) and welcomed all present. It was shared that Commissioner McAvoy was unavailable to attend due to family commitments.

Pledge of Allegiance and Moment of Silence

Agenda Approval

Commissioner Gray moved to approve the agenda as presented. Commissioner Windley seconded the motion, which passed by a unanimous, 4-0, vote.

Public Comment

Response to Public Comment

Introductions and Presentations

1. Dare County Tourism Board / Outer Banks Visitors Bureau – Outer Banks Event Center

Dare County Tourism Board (DCTB) Chairperson Tim Cafferty and Outer Banks Visitors Bureau Executive Director Lee Nettles provided the BOC an update on the DCTB’s

newest concept for the Soundside Event Site: the Outer Banks Event Center. The DCTB PowerPoint presentation has been included with the meeting materials.

Mr. Nettles noted that the Indoor Event Center would provide additional flexibility for events, including sporting tournaments. The planned structure would be over 48,000 square feet, with an event hall, meeting room, and training / test kitchen. The event hall would be approximately 26,000 square feet, and have a retractable wall that would open onto the event site lawn. The goal has been to “right-size” the building concept to serve a broad range of activities. He noted that the existing ropes course was a long-term tenant, and could be on site for an additional 10-15 years. Through consensus, the BOC expressed its support for the project.

Ongoing Business

1. Golf Carts in Kill Devil Hills (Attached OB-1)

Town Manager Debora Díaz stated that at its April 11, 2022, meeting, the BOC heard a presentation from Ocean Atlantic Rentals (OAR) in support of permitting electric golf carts on Town streets only on the westside of Town, with no carts allowed to traverse US 158 or the eastside. The proposal recommended a permitting / inspection system of the units, potentially self-regulated by cart owners.

During the OAR presentation, a distinction was made between golf carts and Low Speed Vehicles (LSVs), a different category of vehicle which are licensed and permitted to operate on N.C. roadways with speeds of 35 m.p.h. or less. The OAR proposal only included golf carts, not LSVs.

The BOC requested additional input from the Town Attorney and Staff before further consideration. Ms. Díaz noted that Assistant Police Chief Dana Harris’ and Town Attorney Casey Varnell’s memoranda highlighted the potential safety and liability concerns that will likely develop if the Town would permit golf carts on any Kill Devil Hills streets. Staff recommended golf carts not be permitted on Town streets.

Mayor Sproul indicated that the geography of the Town created difficulties when considering the integration of golf carts in the community. Commissioner Ingram noted that the community had limitations that others do not, sharing there could be an increased liability for the Town, and expressed concern about minor operators. She asked about the potential for a middle ground. Ms. Díaz noted that the middle ground was the Low Speed Vehicle (LSV), which is licensed and inspected by the State of North Carolina. Commissioner Gray supported additional information on how other communities have integrated golf carts, and also stated he did not prefer an overregulation of these types of vehicles, including Town inspections.

Staff indicated that the only locality that permitted golf carts on its roads was Duck. Mr. Harris noted that Duck’s streets are private. Mr. Varnell stated that any other roads in Duck were state-owned. Mr. Windley liked the concept of golf carts, but said the concept did not fit the Town’s layout. Ms. Díaz stated that Staff will conduct additional research and report to the BOC at a future meeting.

New Business

1. Non-charitable special event – Muse OBX (Attached NB-1)

Ms. Díaz stated that the Town has received a Special Event Permit Application from Muse Originals / Ami Hill (dba Bus252) for a non-charitable event to be held at Outer Banks Brewing Station, 600 South Croatan Highway. The proposed event would be held every Monday from 5:00 p.m. to 9:00 p.m., June 6 to September 6, 2022. Ms. Díaz shared that Ms. Hill had provided an updated application, which had been provided to the BOC. This information has been included with the meeting materials. She noted that the applicant was not applying for a special event; rather, it is only an itinerant vendor wanting to sell items at another business.

Staff recommended denial of the application because it does not meet the minimum application requirements, and the activity is not part of a special event. Staff also recommended the applicant consider working with a commercial establishment and apply for a commercial yard sale permit.

Assistant Planning Director Cameron Ray stated that in 2019, the Town's Chapter 111: Special Events – Charitable Events was updated to define charitable and non-charitable special events. Under §111.01, non-charitable special events are defined as follows:

“Event(s) operated solely for the purpose of providing a venue for itinerant vendors to sell or offer for sale articles of merchandise, food, or beverage.”

Mr. Ray noted that the application is for a non-charitable event, which is a prohibited activity under §111.03(C), unless approved by the Board of Commissioners. However, as noted, in the application, as presented, this vendor is not part of a special event; it is only an itinerant vendor.

Staff detailed its concerns regarding the application, which included:

- an incomplete application that does not provide information on safety precautions, traffic and parking control, a description of a proposed event, and written permission of the property owner;
- the location's Outdoor Dining Activity Area is a special use, which does not permit retail sales;
- required business parking limitations; and
- Fire Department concerns about fire lane blocking and overcrowding within the structure.

Planning Director Meredith Guns noted that with the 2019 update, the BOC established commercial yard sales under §111.04(B) and outlined the requirements for vendors when using this flexible option.

Ms. Guns shared an additional Staff concern that if this application were approved, other vendors will submit applications where the vendors are events in themselves. She noted this would be difficult for the traditional brick and mortar businesses, which provide jobs and tax income, and have overhead.

Commissioner Windley expressed his support for Staff's recommendation. Mr. Ray stated that the applicant's request was not for one event, but a weekly activity all summer; it becomes a regular use, rather than a special event. Ms. Guns noted that the First Flight Market concept was created by the BOC to create a balance, and this year's markets were expected to have over 70 vendors each week. Commissioner Gray said that the market was designed with specific rules for every vendor, including 10-foot by 10-foot spaces, which keeps it fair and equitable for everyone. He also shared his concern that the application was not fully complete, noting, for example, that emergency planning was not detailed.

Commissioner Windley moved to deny request from Muse Originals / Ami Hill (dba Bus252) for a non-charitable event to be held at Outer Banks Brewing Station, 600 South Croatan Highway. Commissioner Gray seconded the motion, which was approved by a unanimous, 4-0, vote.

Committee Reports

Commissioners' Agenda

Mayor's Agenda

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. Minutes

A. May 16, 2022

2. Budget Amendments and Transfers

A. Budget amendment # 19 – To record the revenues and associated expenditures for leases in accordance with the new leasing standard, GASB 87.

3. Partnership organization annual reports

A. Interfaith Community Outreach
B. Outer Banks YMCA

A requirement for the Town's partnership organizations is submittal of an annual report to the BOC of the organization's activities and service to the community. Interfaith Community Outreach and Outer Banks YMCA have submitted their reports.

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

Commissioner Gray moved to approve the Consent Agenda, as presented. Commissioner Ingram seconded the motion, which was approved by a unanimous, 4-0, vote.

Mayor Sproul called a brief break in the proceedings at 6:52 p.m. in preparation for the General Budget Worksession.

The meeting reconvened at 6:57 p.m.

General Budget Worksession

1. Town Manager's Recommended Budget for Fiscal Year 2022/2023

The Town Manager's Recommended Budget for the upcoming fiscal year was presented to the Board of Commissioners at the May 16, 2022, meeting. A worksession was scheduled for this meeting and the required public hearing on the Recommended Budget was scheduled for the June 13, 2022, meeting. The Town's webpage for this meeting includes a link to the full budget document and a budget portal gateway, where the public has the opportunity to share their input.

Ms. Díaz provided an overview of the budget, and noted there is no recommended tax increase.

Some recommended items for the consolidated fee schedule:

- Town Code amendment and Board of Adjustment applications fees increased to \$500.00
- Non-charitable Special Event application fee increased to \$100 per event
- Inclusion of Town flag for sale at \$90.00

She then highlighted the anticipated revenue stream rates, including occupancy and land transfer taxes. She noted that the Town's approach to the budget, especially revenues, has been conservatively estimated. Commissioner Gray requested that the sidewalk capital reserve fund be increased an additional \$100,000, for a total of \$300,000. Through consensus, the BOC concurred with the recommendation. Ms. Díaz noted that the additional funding will be reflected in the budget ordinance.

Ms. Díaz then conducted a review of the budget, fund by fund, division by division, with general comments and questions. Some areas highlighted was a recommended 6% cost of living adjustment (COLA) for Staff; continued special events programming; partnership organizations funding; new and updated amenities at Town recreational facilities and beach accesses; and updates to the Shoreline Access and Recreational Facilities Plans.

Other items include increased health insurance premiums for active and retired Staff; GASB 75 requirements; additional Fleet Maintenance equipment and increased fuel costs; zoning code updates; beach nourishment and its ongoing surveying projects; and replacement of several vehicles, including a fire apparatus and several Public Services units.

Mayor Sproul inquired about the potential for the inclusion of electric vehicles in the Town's fleet in the future. Ms. Díaz said Staff continues to research the issue, with a focus on hybrid vehicles and fleet needs, but also noted the discussion of public charging stations at Town facilities. Planned water line improvement funding, and drainage improvements for Seminole, Indian, and US 158, were also reported.

Members discussed the beach accesses, and Finance Director Beverly Kissinger reported that \$105,000 was set aside for beach access maintenance, with \$30,000 additional funding for major capital improvements. Ms. Guns noted that the Capital Reserve Fund is what the Town uses when applying for grants.

Following the worksession, the BOC complimented Ms. Díaz and the Staff for the recommended budget and all of the work involved. Ms. Díaz thanked the BOC for its guidance and comments.

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, which was approved by a unanimous, 4-0, vote.

The time was 7:46 p.m.

Submitted by:

James Michael O'Dell
Town Clerk