

Minutes of the Monday, June 13, 2016 regular meeting of the Kill Devil Hills Board of Commissioners held at 5:30 o'clock p.m. in the Meeting Room at the Administration Building, 102 Town Hall Drive, off Colington Road.

Members Present: Mayor Sheila F. Davies; Commissioners Travis Appleman, Mike Hogan, Michael Midgette, and Brandi Rheubottom

Members Absent: None

Others Present: Shawn Murphy, Assistant Town Manager; Steven D. Michael, Town Attorney; Greg Loy, Planning Director; Mary E. Quidley, Town Clerk

Call to Order

At 5:30 p.m. Mayor Davies called this meeting of the Kill Devil Hills Board of Commissioners to order and welcomed all present.

Pledge of Allegiance and Moment of Silence

During the *Moment of Silence* this evening, the Mayor asked the audience to keep the victims and families of the Orlando, Florida mass shooting in their thoughts and prayers.

Agenda Approval

Mayor Davies made a motion for the Board to approve the agenda for this meeting with removal of *Introductions and Presentations Item #2*. Commissioner Rheubottom seconded that motion and approval was unanimous, 5-0.

Public Hearing

Town Attorney Steve Michael read aloud the rules of procedure for the Public Hearing this evening. At the conclusion of those comments, Mr. Michael called the Public Hearing to order.

1. Town Manager's Recommended Budget for the 2016/2017 Fiscal Year (Attached PH-1)

This public hearing on the Town Manager's recommended budget for fiscal year 2016/2017 was scheduled at the Board's regular meeting on May 16th, and on which a general worksession was held on May 25th. The hearing was held in accordance with the provisions of NCGS 159-12, and will also afford the Board of Commissioners the opportunity to hear public comments that may be considered prior to budget adoption.

There were no speakers and the public hearing was closed. Mayor Davies announced that the 2016/2017 Fiscal Year Budget would be placed on the June 22, 2016 agenda for adoption.

Public Comment (Time limit of 3 minutes per person; 5 minutes per group)

Response to Public Comment

Introductions and Presentations

Mayor Davies recognized board/committee member Pris Shea who currently serves on the Town's Planning Board, Community Appearance Commission, and Street Improvement and Special Projects Committee. Ms. Shea will be leaving Kill Devil Hills to move to Pennsylvania near her family.

Mayor Davies added that applications for appointment are always being accepted, and at this time there are three specific openings available.

2. Presentation of Life Saving Awards to Police Lieutenant John Towler and Police Sergeant Rodney Rawls

This item was removed from the agenda at the request of the Police Department and will be rescheduled for a future meeting.

3. Trash Attack! poster awards

Community Appearance Commission Chair Sue Kelly, on behalf of the Trash Attack! subcommittee representatives, conducted this item

Trash Attack! was held on Saturday, March 12, 2016 at 1634 North Croatan Highway, by the KDH Fire Station. It is an all-volunteer event that gives people around Town an opportunity to pick up litter along Town rights-of-way and streets. One hundred-five participants received a volunteer t-shirt and refreshments, and the event was well-attended. A total of 21 cubic yards of roadside litter and debris was collected.

As last year, the Town will use poster artwork in a variety of ways to remind people to keep Kill Devil Hills litter free, including refuse collection truck vinyl panels, signs for our recreation areas and facilities, and on our social media. Ms. Kelly presented certificates of appreciation to students and children who submitted artwork for the event. Sign blades made out of the artwork were on view at the front of the room and photos were taken that will be shared through the Town's social media network. The "winning" poster, submitted by Ashley Quidley, was reproduced as a vinyl cling and placed on one of the Town's refuse collection trucks as a reminder of the event and the importance of keeping Kill Devil Hills litter free.

Old Business

New Business

Commissioners Agenda

- Commissioner Midgette

Coyotes. Asked Assistant Chief Dana Harris what people should do if they come across a coyote. Chief Harris explained that because coyotes are wild animals, our Animal Control Division could not respond. Protect yourself, he said, but do not engage these animals.

Mayor Davies added that Kill Devil Hills will have an official from the North Carolina Wildlife Resources Commission attend a future meeting to speak on the issue of coyotes. His/her attendance will be well-publicized in advance.

- Commissioner Hogan

Tattoos. With the popularity of tattoos, and widespread establishments that offer tattooing, he believes Kill Devil Hills should consider allowing tattoo parlors in Kill Devil Hills.

Curbside recycling. The Town of Nags Head has already saved quite a bit of money in tipping fees by implementing a mandatory curbside recycling program. He asked for Kill Devil Hills to give consideration to implementing a similar program.

Mayor Davies asked Finance Director Beverly Kissinger to provide the Board with costs information on this issue. Public Services Director Steve Albright also has a great deal of information on this matter that can be provided to the Board.

Mayor's Agenda

1. Request from the Town of Emerald Isle to support legal fight against private claim of dry sand beach (Attached MA-1)

In 2001 an oceanfront lot was purchased in the Town of Emerald Isle. The new owners' deed extended their land title to the mean high water mark, which meant that it included the "dry sand" beach located between the foot of the dunes or first line of vegetation and the mean high tide line. The owners filed a lawsuit against Emerald Isle contending that the public did not have a right to use the dry sand beach to which they held title; the plaintiffs claimed they have the right to exclude the public from the dry sand beach. The plaintiffs further contend that the public only has the right to use the area seaward of the mean high tide line known as the "wet sand" beach. The public's use of the dry sand beaches in North Carolina has been a long-standing, customary right.

This challenge has made its way through the legal system and is now before the North Carolina Supreme Court. The court's decision in this case will have vast implications in the state. Our public trust beaches are known world-wide for their quality and beauty; our beaches overflow with fishing, sunbathing, and other recreational activities; the protection public trust beaches provides to valuable investments in property and infrastructure, as well as wildlife

habitats, are all part of the foundation of our coastal tourism industry. Supporting Emerald Isle's position that North Carolina's beaches, including the dry sand portion, are a public resource open to all for public resource uses is critical.

Packet materials for this item included an e-mail from Emerald Isle Town Manager Frank Rush and a summary he prepared on this legal matter. Emerald Isle requests North Carolina's coastal communities and counties sign an amicus brief and contribute \$2,000 to show solidarity in this matter. Locally, Nags Head, Southern Shores, Kitty Hawk and Duck are going to have Hornthal, Riley, Ellis & Maland prepare an amicus brief; Dare County is also on board. Having the northern North Carolina beaches submit an amicus brief to reinforce that prepared and submitted by the southern beaches may carry some additional weight with the court.

Mayor Davies recommended the Board of Commissioners authorize the Mayor and Town Attorney to execute an amicus brief for the purposes stated above, and approve a contribution of \$2,000 to Emerald Isle's legal efforts.

Commissioner Appleman made the motion recommended by the Mayor and Commissioner Rheubottom seconded that motion. Approval was unanimous, 5-0.

- Dogs on the beach. Mayor Davies explained that she had been contacted several times recently by persons desiring Kill Devil Hills to allow dogs on the beach year-round, with no time restrictions. She also explained that in their mail envelopes the Board members had historical information on the Town's dogs-on-the-beach regulations, including how the existing regulations came to be adopted. There was general receptiveness from the other members of the Board of Commissioners on the possibility of allowing dogs on the beach all the time, subject to compliance with existing leash laws. Mayor Davies stated that since there were no objections this matter will be put on a future agenda for discussion and possible action.
- Greg Loy/Town Attorney retirement. Mayor Davies announced that there would be cake at the next meeting to celebrate the retirement of both gentlemen.

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

- 1. Minutes (Attached CA-1A and 1B)**
 - A. May 16, 2016
 - B. May 25, 2016

- 2. Budget amendments (Attached CA-2A, 2B and 2C)**
 - A. #14 – to record sand fence grant from Dare County.
 - B. #16 – to record Government Access Channel grant funds.

- C. #17 – to appropriate disc golf project funding and expenditures. All contributions for this project will be restricted per contract. Outstanding and future contributions will reimburse the Undesignated Fund Balance up to the amount appropriated.

3. Settlement items (Attached CA-3A, 3B and 3C)

- A. Approval of Consent Judgment in Myra Neal Morrison and Morrison Farm Associates Limited Partnership vs. the Town of Kill Devil Hills;
- B. RMW Investments, LLC et al. vs. the Town of Kill Devil Hills;
- C. Budget amendment #15 – to appropriate funds for legal settlement.

Staff recommended approval of the Consent Agenda as submitted.

Commissioner Hogan made a motion to approve the Consent Agenda as submitted.

Commissioner Midgette seconded that motion and approval was unanimous, 5-0.

Introductions and Presentations

1. 2016 Ocean Rescue Guards

Fire Chief Troy Tilley and Ocean Rescue Supervisor Dave Elder presented this season's Ocean Rescue Guards at this meeting.

Mr. Elder explained that this year's group is the largest ever to come out of early season training; there has been no advertising for guards, word of mouth has helped in recruitment. This year's guard staff includes many returning people. About 85% of the team are local residents (including those from the Elizabeth City area).

Mayor Davies thanked all the guards for the work they will perform for the Town this summer and commended them for their dedication to lifesaving and safety.

Public Comment

Mayor Davies recognized "Patty" in the front row, who had asked about dogs on the beach, and explained that it will be coming up at a future meeting.

Pris Shea, 502 Holly Street, Kill Devil Hills: Ms. Shea explained that the CAC had discussed curbside recycling many times and is in support of the concept. She pointed out that Public Services Director Steve Albright has a great deal of information on curbside recycling, also.

Katie Appleman, 509 Copley Drive, Kill Devil Hills: Ms. Appleman spoke in support of eliminating existing ordinances that "make no sense," such as the tattoo parlor ordinance, and are antiquated in their (the ordinances') views. She also supported curbside recycling.

Response to Public Comment

Adjourn

There being no further business before the Board of Commissioners at this time, Commissioner Rheubottom made a motion to adjourn this meeting. Commissioner Appleman seconded that motion and approval was unanimous, 5-0.

It was 6:26 p.m.



Submitted by:

Mary E. Quidley
Town Clerk

These minutes were approved at the June 22, 2016 meeting of the Kill Devil Hills Board of Commissioners meeting.

Sheila F. Davies
Mayor
Town of Kill Devil Hills