

**Minutes of the Monday, June 14, 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:** none

**Others Participating:** Charlene S. Allen, Assistant 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 said that as the meeting transitioned into a moment of silence, he noted that Kill Devil Hills had lost a trusted public servant: volunteer firefighter J.B. Crist. He joined our Fire Department as a volunteer in October 2015, and his service has been exemplary – his colleagues always describe him as dedicated, willing to share or help anyone with any need, and they said he was always one of the first responding firefighters to the station during emergencies. The BOC extended its deepest condolences to his wife Susan, and son, A.J., one of the Town's career firefighters, and his wife, Hannah, and their family. Mayor Sproul asked everyone to keep the family of J.B. Crist in their thoughts and prayers.

**Agenda Approval**

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

**Public Hearings**

Mr. Varnell read aloud the rules for the public hearings and then opened each hearing. Notices for the following items have 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/904/June-14-2021-Board-of-Commissioners-Meet>, and social media platforms, and have been disseminated through the town's electronic distribution list. Bound copies have also been made available for public inspection at the entrance of Town Hall.

**A. Town Manager's Recommended Budget for Fiscal Year 2021/2022 (Attached PH-1A)**

The Town Manager's Recommended Budget for the upcoming fiscal year was presented to the BOC at the May 10 meeting, in accordance with the Local Government and Fiscal Control Act. At that meeting, the BOC scheduled a budget worksession for the May 26, 2021, meeting and a required public hearing, scheduled for this evening's meeting.

The BOC has previously received a bound, paper copy of the Town Manager's Recommended Budget. Finance Director Beverly Kissinger's memorandum in the meeting materials highlighted the updated information on the Town's Workers Comp premiums, which will be increasing.

There were no speakers at this public hearing. At the conclusion of the public hearing, Staff recommended the BOC discuss the Recommended Budget and any information presented, and Staff will return with an up-to-date Budget Ordinance at the Wednesday, June 23, 2021, meeting for consideration.

Through consensus, the BOC was supportive of the 3.6% cost of living (COLA) increase for Staff in the budget, and its final consideration of the recommended budget for the June 23, 2021, meeting.

**B. KDH Land Use amendments mandated by North Carolina General Statute 160D reorganization (Attached PH-1B (1)(2))**

- 1. Chapter 152. Subdivisions**
- 2. Chapter 153. Zoning**

In 2019, The North Carolina General Assembly adopted legislation that reorganized Planning and Development regulations statutes for counties and municipalities. Because of the legislation, Kill Devil Hills is required to amend its Town Code to be in compliance. Although six chapters are affected, only three sections in the Land Use section require public hearing prior to the BOC taking any action.

At its April 2021, meeting, the Planning Board reviewed the requested amendments and voted to forward the amendments with a favorable recommendation. The BOC received a summary of the required amendment changes at its May 10, 2021, meeting, and scheduled this public hearing for consideration. There were no speakers at this public hearing. Staff recommended the BOC approve the requested amendments to Chapter 152 – Subdivisions and Chapter 153 – Zoning, as presented.

Commissioner Ingram moved to approve the amendments to Chapter 152 – Subdivisions and Chapter 153 – Zoning, as presented, as they are consistent with state law. Commissioner Windley seconded the motion, which was approved by a unanimous, 5-0, vote.

Mr. Varnell stated that the required public hearing on Chapter 150, Building Regulations, is scheduled for Wednesday, June 23, 2021, at 6:00 p.m.

**C. Proposed Amendment to Chapter 153, Zoning, §153.177 Conditional Uses – to allow tattoo studios as conditional uses within the Commercial Zone (Attached PH-1C)**

The Planning Board reviewed the application at its May 18, 2021, meeting, which was originally a request to amend §153.176 Commercial Zone Permitted Uses to add Tattoo Studio(s). Planning Director Meredith Guns' memorandum, included with the meeting materials, documented the actions of that meeting, which included a modification of the application to reassign the amendment to §153.177 Conditional Uses, which was agreeable to the applicant. The Planning Board voted unanimously to recommend approval of the revised amendment, recommending approval by the BOC, with conditions that are highlighted in Ms. Guns' memorandum. At its May 26, 2021, meeting, the BOC scheduled this public hearing.

**Michael Smith, the applicant** – Mr. Smith and his wife, Cassandra, were present, and requested the amendment to allow a tattoo studio within the Commercial Zone. He noted that Staff and the Planning Board had been very helpful in the amendment process. Mr. Smith stated that through discussions with Staff during the process, he had agreed to certain requirements, including minimum distances from churches, schools, parks, and libraries (200 feet), other tattoo businesses (400 feet), and limiting hours of operation from 8:00 a.m. to 10:00 p.m. He thanked the BOC for its consideration.

**Thomas Lancaster, 207 Pine Grove Trail, Kill Devil Hills** – Mr. Lancaster stated he was a client of the applicant and fully supported the amendment to permit tattoo studios within the Commercial Zone.

**Tracy Porter, Manteo** – Ms. Porter considered the applicant as a true artist and an utmost professional. She encouraged support for the amendment.

**Bill Gillam, 326 Colington, Kill Devil Hills** – Mr. Porter stated that although tattoos have been considered historically to attract the wrong crowd, it is an art form and could attract additional visitors to the Town. This business would be an asset to the community.

**Jim Twiddy, Manns Harbor** – Mr. Twiddy stated he is a tattoo artist, and encouraged support for the amendment. He noted that the proposed business would be by appointment only, and with limited hours throughout the day.

**Ben Scott, Manteo** – Mr. Scott stated that there is a cultural relevance to the tattoo art form, and this business would be a positive endeavor in the Town. He said that clients often travel long distances for work done by specific artists.

**Sarah Twiddy, Manns Harbor** – Ms. Twiddy supported the amendment, and noted that the artists are native Outer Bankers or longtime residents who are invested in their community.

**Conner Twiddy** – Mr. Twiddy stated that he had been a client of the tattoo artists, and a private studio would be a benefit to the Town.

Mayor Sproul stated that to clarify the issue, the BOC's discussion would not be about a specific business, but about what business categories would be permitted within the Town as a permitted use. Commissioner Ingram expressed concerns about this use in the Commercial Zone because she did not consider tattoo studios compatible with the existing commercial uses. She noted that the category would be more compatible in the Light Industrial One Zone (LI-1), where body-piercing businesses are currently permitted as a special use. She suggested directing Staff to develop an amendment for consideration, which would allow tattoo studios as a Conditional Use in the LI-1 Zone, which is generally located in the south end of Town on the west side of US 158. Commissioners Gray and McAvoy concurred with Commissioner Ingram, and, Commissioner McAvoy noted that the BOC had to consider the effect all potential tattoo business development in Commercial Zone, rather than just one business. Commissioner Windley said that permitting tattoo studios in the LI-1 Zone would be more consistent with the Town's Land Use Plan. Mayor Sproul stated that the public perception of tattoos, and tattoo studios as a mainstream profession, is evolving, especially from the time the Town considered permitting this business category 20 years ago. He noted that this discussion was about business compatibility.

Commissioner Ingram moved to deny the proposed amendment to Chapter 153, Zoning, §153.177 Conditional Uses – to allow tattoo studios as conditional uses within the Commercial Zone, and direct staff to research permitting tattoo studios as a conditional use in the Light Industrial One Zone. Commissioner Gray seconded the motion, and the motion passed 4-1, with Mayor Sproul voting against.

## **Public Comment**

### **Response to Public Comment**

### **Introductions and Presentations**

#### **1. College of The Albemarle – New Dare County campus building and curriculum programs**

Dr. Jack Bagwell, President of College of The Albemarle (COA), accompanied Tim Sweeney, Dare County Campus Dean, and updated all present on the new Dare County campus building, currently under construction in Manteo. Dr. Bagwell noted that COA served a seven-county area, the largest in the N.C. Community College System. He also provided an overview of the various academic and career technical education programs offered by the college. COA is also striving to develop student support programs, including COA Cares, which will provide support to students with needs like transportation and childcare costs. The BOC expressed its appreciation to President Bagwell and Dean Sweeney, and thanked them for their presentation.

President Bagwell's PowerPoint presentation is included with the packet materials for this meeting.

**2. Outer Banks Group, National Park Service – 2020 year in review**

Outer Banks Group Superintendent Dave Hallac provided a review of operations for the Cape Hatteras National Seashore, Fort Raleigh National Historic Site, and Wright Brothers National Memorial during 2020. He noted that 81 full-time and 80 seasonal staff operate the parks, and they are joined by numerous volunteers. He shared an overview about planned improvements for the Wright Brother's Memorial, including a partnership with the Town and the N.C. Department of Transportation (NCDOT) on developing a multi-use path along US 158 from Colington Road to Landing Drive. Supt. Hallac's PowerPoint presentation is included with the packet materials for this meeting.

He thanked the Town of Kill Devil Hills for paving the multi-use path along Colington Road, and presented certificates of appreciation to Public Services Director Steve Albright and the Town. The BOC expressed its appreciation to Supt. Hallac for the presentation.

Member excusal

Mayor Sproul moved to excuse Commissioner Windley from the meeting. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

Commissioner Windley left the meeting at 7:04 p.m.

**Old Business**

**1. KDH Town Code amendments mandated by NC General Assembly reorganization of statutes mainly related to local planning and development regulations in the General Statutes (Attachment OB-1A, OB-1B, and OB-1C)**

- A. Chapter 10, General Provisions**
- B. Chapter 30, Board of Commissioners**
- C. Chapter 31, Boards and Committees**

This item refers back to Public Hearing B. Staff recommended the BOC approve the proposed amendments to Chapter 10 – General Provisions, Chapter 30 – Board of Commissioners, and Chapter 31 – Boards and Committees, which may be amended without public hearing, as presented.

Commissioner McAvoy moved to approve the amendments to Chapters 10, 30, and 31, as presented. Commissioner Ingram seconded the motion, which was approved by a unanimous, 4-0, vote.

## **New Business**

### **1. First Flight Market at Aviation Park (Attached NB-1)**

This matter has been discussed several times in recent months and most recently the BOC directed Staff to develop a community market concept for the Town's Aviation Park. This weekly market event will host spaces for vendors selling home grown, home baked or handmade items in various categories, including produce, textiles, art, jewelry, candles, seafood, and beauty products. Food trucks would also be permitted at the event.

Ms. Guns provided an overview of the market outline, draft vendor application process, and initial fee structure that provide a framework for Kill Devil Hills' community market concept. She noted if the BOC approves the market event framework, Staff will begin advertising and implementing the application process for a tentative operation from 10:00 a.m. to 2:00 p.m. on Tuesdays, for a five-week summer term, beginning on July 20, 2021.

Commissioner McAvoy inquired about the Staff commitment involved for the market. Ms. Guns stated it was expected that one person, potentially a contractor, that would ultimately operate the event, but for this short, five week session, it would be a Staff responsibility.

Commissioner Ingram moved for the Staff to go forward with the First Flight Market at Aviation Park project, as presented. Commissioner Gray seconded the motion, which was approved by a unanimous, 4-0, vote.

## **Committee Reports**

### **Commissioners' Agenda**

#### Commissioner Ingram

Commissioner Ingram congratulated Commissioner Gray for receiving the Old North State Award from the Governor Cooper, to recognize his work at the N.C. Ferry Division.

### **Mayor's Agenda**

Town graduates Mayor Sproul recognized graduates from Staff and their families, and congratulated them and their families:

#### Local high school graduates:

- Miah Britt, daughter of Gary Britt
- Flynn Cooper, son of Phebe Cooper
- Will Roepcke, son of Frank Roepcke
- Henry Stecher, son Jennifer Stecher
- Bella Smith, daughter of John Smith
- Jude Sproul, son of Mayor Sproul
- Madison Sudduth, daughter of Mike Sudduth

- Tyler Sylvia, son of Jody Long

College graduates:

- Nina Perry, daughter of Derek Dail, graduating from Concord University
- Berkley Sylvia, daughter of Jody Long, graduating from UNC Greensboro

**Town Manager's Agenda**

**Town Attorney's Agenda**

**Consent Agenda**

**1. Minutes**

- A. June 10, 2021

**2. Monthly report**

- A. April 2021

**3. Budget Amendment(s) (Attached CA-3A, CA-3B, and CA-3C)**

- A. #28 – to appropriate funds for insurance claims filed throughout FY 2020-2021
- B. #29 – to appropriate funds for the purchase of diesel and unleaded fuel
- C. #30 – PEG Channel support funds

**4. Schedule Public Hearing**

With the General Assembly's legislative overhaul of county and municipal Planning and Development regulations, any amendments to the Land Use sections (Chapters 150, 152, and 153) of the Town Code require a public hearing being held for consideration. Land Use amendments were scheduled for public hearing for June 14, 2021, at 6:00 p.m. However, an error resulted in Chapter 150 not being included in the required public notice. BOC members previously approved the scheduling of a public hearing to correct this issue, and approval of the Consent Agenda will record the BOC's consensus on this item, and create a paper trail for the notice.

Assistant Town Manager Allen 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, 4-0, 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 McAvoy seconded the motion, which was approved by a unanimous, 4-0, vote.

The time was 7:27 p.m.

Submitted by:

James Michael O'Dell  
Deputy Town Clerk