

Minutes of the Monday, February 7, 2022, 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, Kill Devil Hills.

Members Participating: Mayor Ben Sproul; Commissioners Terry Gray, Ivy Ingram, Bernard "B.J." McAvoy, and John Windley

Members Not Participating:

Others Participating: Charlene Allen, Assistant Town Manager; Meredith Guns, Planning Director; Cameron Ray, Assistant Planning Director; Casey Varnell, Town Attorney; and James Michael O'Dell, Interim Town Clerk

Call to Order

At 6:01 p.m., Mayor Ben 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 Windley moved to approve the agenda as presented. Commissioner McAvoy seconded the motion, which passed by a unanimous, 5-0, vote.

1. Public Hearing (Attached PH-1)

Town Attorney Casey Varnell read aloud the rules for public hearings and then opened the hearing: notice for the following item has 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/967/February-7-2022-Board-of-Commissioners-M>, social media platforms, and has been disseminated through the town's electronic distribution list.

A. Ordinance Amending the Town Charter of Kill Devil Hills to Change the Mayor's Term of Office to Four Years

At its November 8, 2021, meeting, the BOC discussed amending the Town Charter to change the Mayor's term from two to four years. Staff prepared a procedural timeline for amending the Charter and the Town Attorney concurred with the process outline.

Certain changes to a town charter may be implemented without action by the General Assembly, and include setting a mayor's term between two to four years (§160A-101(8)(a)). Any change to the Town Charter affecting the election of city officers would need to be

approved and finalized at least 90 days prior to the next election. Clarifying language for the Mayor's voting rights have been included into the Town Charter amendment, since the Mayor votes on all items.

The BOC's Resolution of Intent to change the Town Charter was adopted at the January 10, 2022, meeting. This resolution laid out the amendment consideration schedule, which included this public hearing, meeting the 45-day resolution consideration requirement.

Mr. Varnell stated that pursuant to N.C.G.S §160A-102, the Board of Commissioners may take action on this item at its March 7, 2022, meeting, with such action to include approval, disapproval, or tabling the item for further consideration.

There were no speakers at the public hearing, and the BOC took no action at this time.

Public Comment

Julie Owens Robinson, 203 Dogwood Trail, Elizabeth City Ms. Robinson is part owner of the property located at 2019 South Virginia Dare Trail, with her sister. She stated that properties located at 2023 and 2025 South Virginia Dare Trail are in process of being developed into large single-family dwellings, or event homes. She shared her love of their family's cottage and expressed her opposition to the development the large event homes in the oceanfront. Her submitted comments are included with the record of this meeting.

Response to Public Comment

Mayor Sproul thanked Ms. Robinson for her comments and shared that he had previously spoken with her and her neighbors regarding the issue. He stated that the Town had developed ordinances that incentivized smaller development, including cottage courts and cluster homes, and fire suppression systems.

Commissioner Ingram noted that the Town has a historic preservation designation process, but inquired whether additional options, such as historic districts or other incentivizations, are available. Planning Director Meredith Guns stated that when the Town established its designation process for historic properties, Staff has researched the criteria required to develop a historic district that would encompass multiple properties; however, Kill Devil Hills does not have enough properties in a minimum age threshold within a specific radius to meet the qualifications for a historic district. She contrasted it with the Town of Nags Head, which does have a small historic area. Ms. Guns then briefly explained the Town's designation process, and the certificates of appropriateness system, which permits a 365-day delay prior to demolition. In addition, the property owner must pay three years of back taxes when demolishing the structure.

Ongoing Business

New Business

1. **Site Plan Review – 1836 N. Virginia Dare Trail: Jolly Roger Restaurant – Proposed 4,118 Square Foot Lounge Addition (Attached NB-1)**

The site plan review is for the proposed construction of an addition at 1836 North Virginia Dare Trail and is permitted use within the Commercial Zoning District. The Planning Department's memorandum with the meeting materials highlighted the request for the proposed addition. John Delucia, PE, was present, representing the applicant.

At its January 18, 2022, 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 Gray moved to approve the Site Plan – 1836 North Virginia Dare Trail: Jolly Roger Restaurant – Proposed 4,118 Square Foot Lounge Addition, as presented. Commissioner Windley seconded the motion, which was approved by a unanimous, 5-0, vote.

Committee Reports

Community Appearance Commission (CAC) Chair Sue Kelly shared that at the recent meeting, the group determined that 26 live oak trees would be awarded to applicants for FY 2021-2022 through its adoption program. She then shared the upcoming CAC meeting schedule.

Commissioners' Agenda

Mayor's Agenda

1. **Resolution Recognizing Virginia M. Rettgers for her One-Hundredth Birthday and Inducting her into the Town's Centenarian Society (Attached MA-1)**

As Kill Devil Hills resident Virginia Rettgers prepared to mark her 100th birthday on February 13, her family inquired whether the Town recognized its citizens who reach such a milestone. With adoption of this resolution honoring Ms. Rettgers, the Board of Commissioners also established the Town's Centenarian Society, which recognizes citizens who have achieved such as auspicious age. Mayor Sproul stated that the Town saluted her and all of its citizens who have contributed to our country and deserve the amazing respect for those who have reached 100 years. Approval of this resolution recorded "Lady Virginia" as our Centenarian Society's first member.

Mayor Sproul moved to approve the *Resolution Recognizing Virginia M. Rettgers for her One-Hundredth Birthday and Inducting her into the Town's Centenarian Society*. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

Town Manager's Agenda

Assistant Town Manager Charlene Allen stated that a service would be held at Aviation Park for Thursday, February 10, at 4:30 p.m. to honor the life of former Town Clerk Mary Elizabeth Quidley.

Town Attorney's Agenda

Consent Agenda

1. Minutes

A. January 26, 2022

2. Monthly Report

A. December 2021

3. Budget Amendments

A. #11 – to appropriate remaining beach nourishment funds included in the fund balance to the Beach Nourishment Capital Reserve Fund

B. #12 - to increase crime prevention expenses and fire department supplies for donations received for each

4. Government Education Access Channels (GEACC) 2022-2023 Budget

The Government Education Access Channels Committee (GEACC) oversees operations of the local government and education access channels, known as Current TV. It is a collaboration of the Towns of Duck, Southern Shores, Kitty Hawk, Kill Devil Hills, Nags Head, and Manteo, along with Dare County, and educational entities Dare County Schools, UNC Coastal Studies Institute, and College of The Albemarle. The Committee is composed of a representative from each participating entity; government representatives to the committee must be members of their respective governing board. Commissioner Gray is the Kill Devil Hills Representative.

The GEACC annually submits its annual operating budget, which must be approved by all member entities. Approval of the Consent Agenda will record the BOC's approval of the 2022-2023 GEACC Budget.

5. Schedule public hearing

A. Zoning Amendment Request – 153.002 Definitions & 153.177(H)(8) Outdoor Dining Activity Area(s): Allow Sail Shade(s): Set Public Hearing

At its meeting on January 18, 2022, the Planning Board reviewed this zoning amendment request for 153.177(H)(8), allowing sunshade(s) to be used in Outdoor Dining Activity Area(s), which is a Special Use within the Commercial Zoning District. The Planning Board voted unanimously to recommend this amendment request to the Board of Commissioners with a favorable opinion for public hearing. Approval of the Consent Agenda will schedule this item for public hearing Monday, March 7, 2022, at 6:00 p.m.

Ms. Allen presented the Consent Agenda and recommended approval.

Commissioner Gray shared that the Town would be submitting a Local Programming Development Grant (LPDI) request to the GEACC to upgrade the meeting room recording equipment.

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

The time was 6:44 p.m.



Submitted by:


James Michael O'Dell
Interim Town Clerk

These minutes were approved by the Board of Commissioners on March 7, 2022.


Ben Sproul
Mayor

Approved Minutes
February 7, 2022
Board of Commissioners Meeting
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