

Minutes of the Monday, June 13, 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, Bernard “B.J.” McAvoy, and John Windley

Members Not Participating:

Others Participating: Debora P. Díaz, Town Manager; Meredith Guns, Planning Director; Casey Varnell, Town Attorney; and James Michael O’Dell, Town Clerk.

Call to Order

At 6:00 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 McAvoy moved to approve the agenda as presented. Commissioner Gray seconded the motion, which passed by a unanimous, 5-0, vote.

1. Public Hearing

Mr. Varnell read aloud the rules for public hearings and then opened the 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. The notice has been posted on the Town’s bulletin boards, on the Town’s website <https://www.kdhnc.com/1022/June-13-2022-Board-of-Commissioners-Meet> and social media platforms, and has been disseminated through the Town’s electronic distribution list.

A. Town Manager’s Recommended Budget for Fiscal year 2022/2023 and possible action (Attached PH-1A)

The Town Manager’s Recommended Budget for the upcoming fiscal year was presented to the Board of Commissioners at the May 10 meeting, in accordance with the Local Government and Fiscal Control Act. The Board scheduled budget worksession for its May 26 meeting, where the Board agreed that the final document would reflect an increase to its Sidewalk Construction Capital Reserve Fund from \$200,000 to \$300,000. A public hearing was also scheduled for this evening’s meeting.

The Board has previously received a bound, paper copy of the Town Manager's Recommended Budget. Bound copies have been made available for public inspection at the entrance of Town Hall and at the Kill Devil Hills branch of Dare County Library. The Town has developed a Budget Portal Gateway at the above website link where citizens have been encouraged to share comments on the Recommended Budget. Staff recommended adoption of the following:

- Budget Ordinance and consolidated fee schedule for Fiscal Year 2022 / 2023
- Kill Devil Hills Shore Protection Project Capital Reserve Ordinance Amendment (Beach Nourishment) 18-13, as amended.

Commissioner Gray supported raising the recommended Market 6% Cost of Living Adjustment (COLA) to 7.5% for Town employees. Commissioner Windley inquired about the result of this proposed increase. Ms. Díaz replied that the increase could be made without any tax increase.

Commissioner Gray moved to approve the Recommended Budget to include the Budget Ordinance and consolidated fee schedule for Fiscal Year 2022 / 2023 and Kill Devil Hills Shore Protection Project Capital Reserve Ordinance Amendment (Beach Nourishment) 18-13, as amended, which includes the 7.5% COLA and Sidewalk Construction Capital Reserve Fund at \$300,000. Commissioner Windley seconded the motion, which was approved by a unanimous, 5-0, vote.

Public Comment

Response to Public Comment

Ongoing Business

1. Offer to purchase 3315 North Virginia Dare Trail and Resolution Authorizing the Upset Bid Process (Attached OB-1)

The Town received a written offer on March 21, 2022, to purchase a parcel located at 3315 North Virginia Dare Trail, Pin #988509056311. Sand Life, LLC, offered \$5,400.00 for the property, which was deeded to the Town as a gift in 2001. The property is an unbuildable vacant lot, and Staff has communicated with the offeror, and detailed the potential limitations of the parcel. The offeror's residence is located across from the property at 3316 North Virginia Dare Trail.

Sand Life, LLC, submitted a deposit of 5% of the purchase price with the Town, and at its April 27, 2022, meeting, the BOC approved a *Resolution Authorizing the Upset Bid Process for Sale of 3315 North Virginia Dare Trail*, and pursuant to N.C.G.S. 160A-269, the Town conducted an upset bid process; the Town received no qualifying bids.

The Town Attorney has drafted an Agreement for Purchase and Sale of Real Estate, in which the property located at 3315 North Virginia Dare Trail will be transferred to Sand Life, LLC, and the sale price and all associated transactional costs will be borne by the offeror.

Mayor Sproul moved to approve the Agreement for Purchase and Sale of Real Estate, in which the property located at 3315 North Virginia Dare Trail will be transferred to Sand Life, LLC, with the sale price and all associated transactional costs will be borne by the offeror, as presented. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

2. Appointments

At its April 11, 2022, meeting, the BOC deferred appointments to fill an open seat on each of the following boards, requesting Staff to continue efforts to solicit additional public interest in board and committee applications. Staff disseminated various social media postings encouraging the public to complete an application for appointment. Administration Intern Jill O'Dell developed a QR code to provide a direct electronic link to the application, which can be downloaded and completed:



This QR code was also featured in an ad in *The Coastland Times* and the Town's social media postings. The BOC has previously been provided a listing of all eligible applications for consideration; all applications submitted after the April 2022 meeting have been forwarded to the Board.

A. Planning Board

Commissioner Windley nominated Becky Breiholz to the Planning Board, with a term that will expire in February 2023. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

B. Community Appearance Commission

Commissioner Windley shared that the CAC would not be meeting until September, and requested to have the appointment considered at the August BOC meeting. Through consensus, the BOC delayed the CAC appointment until the August 9, 2022, meeting.

New Business

Committee Reports

Street Improvement and Special Projects Committee (SISPC) Street Assessment – Although the SISPC is not expected to meet soon, a Street Assessment is expected later this year. Every five years, a group composed of SISPC volunteers, along with the Public Services Director and Staff, physically review and rate the conditions of all Town streets. The SISPC then reviews the Assessment and makes recommendations for future improvements.

Ms. Guns stated that the upcoming 2022-2023 streets and drainage project would be the Seminole Street / Indian Drive / US 158 area, and shared that the project was expected to include an alternate bid for a sidewalk along the south side of Fifth Street by Truist Bank, which is in response to a public comment at an earlier BOC meeting. She noted that the recommended 2023-2024 streets and drainage project was Wrightsville Boulevard (from Goddard to Carolyn Drive). The Town has applied for grant funding for the 2023-2024 project.

Commissioners' Agenda

Commissioner Windley –

Former Commissioner Mike Hogan Commissioner Windley acknowledged the service of former Commissioner Mike Hogan and his wife, Sue. They are relocating to the Hillsborough, North Carolina, area. The BOC expressed its appreciation for his service to the community.

Mayor's Agenda

Mayor Sproul said that with the concern about essential housing, the State of North Carolina has allocated funding to Dare County for essential housing development. Dare County has been working to develop partnerships and identify potential properties for essential housing development. Interest has been expressed in the Baum Tract parcel.

He stated that before any further discussions progress, he asked the members whether the BOC would be interested in looking at the Baum Tract for the development of multifamily essential housing. He noted that if the BOC was open to discussion, Staff would be directed to begin discussion with the County and all stakeholders about the idea, which would include public meetings for citizen input and feedback and investigation of any technical details. Members then briefly discussed the potential for discussion in the future.

Mayor Sproul moved that the BOC investigate the possibility of Baum Tract with regard to the development of essential housing, directing Staff to contact stakeholders and discuss the potential options on the issue while keeping the best interest of the people of the Town in the forefront. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. **Minutes (Attached CA-1A)**
 - A. May 25, 2022
2. **Monthly Report (Attached CA-2A)**
 - A. April 2022
3. **Budget Amendments and Transfers (Attached CA-3A, CA-3B, CA-3C, CA-3D, CA-3E, and CA-3F)**
 - A. Budget amendment # 20 – PEG Channel support funds
 - B. Budget amendment # 21 – to appropriate funds for Seminole Street/Indian Drive & US 158 Drainage Project.
 - C. Budget amendment # 22 – to appropriate funds for insurance claims filed throughout FY 2021-2022
 - D. Budget amendment # 23 – to appropriate funds for Fleet Maintenance inventory
 - E. Budget amendment # 24 – to appropriate safety grant funding awarded by NCLM for the purchase of video surveillance equipment to be used in Town parks
 - F. Budget transfer # 24 – to transfer funds to cover expenses for the health insurance of an employee who needed family coverage but single coverage was reflected in budget
4. **Presentation of retiree's service weapon and badge (Attached CA-4)**

Sergeant Derwood "Lee" Twiddy will retire from the Kill Devil Hills Police Department on June 30, 2022. He has made a request to purchase his service sidearm and badge pursuant to N.C.G.S. §20-187.2. This statute requires a governing board authorize the award and determine the price for purchase of the weapon. The statute places no requirement for the badge to be purchased in order for it to be given to a retiring officer.

Approval of the Consent Agenda will record the Board's authorization to allow Sgt. Twiddy to purchase his service sidearm for the amount of \$1.

5. **Required policies pertaining to ARP / CSLFRF funds (Attached CA-5A, CA-5B, CA-5C, and CA-5D)**

At its April 27, 2022, meeting, the Board of Commissioners approved Ordinance 19-10, which authorized the receipt and expenditure of American Rescue Plan Act (ARP / CSLFRF) funds, from which the Town received \$2,337,008.36 As a part of receiving ARP funds, the

Town is required to adopt policies to ensure compliance, and are highlighted in the Finance Department's summary.

- A. Summary of required policies pertaining to ARP / CSLFRF funds
- B. Resolution Establishing Eligible Project Policy and Records Retention Policy for the Expenditure of American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds
 - i. Eligibility Determination Policy for American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds
 - ii. American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Fund Project Request and Eligibility Determination
 - iii. Records Retention Policy for Documents Created or Maintained Pursuant to the ARP / CSLFRF Award
- C. Resolution Establishing a Policy for Allowable Costs and Cost Principles for Expenditure of American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds
 - i. Allowable Costs and Cost Principles Policy
- D. Resolution Establishing Nondiscrimination Policy
 - i. Nondiscrimination Policy

Approval of the Consent Agenda will record the Board's approval of the above resolutions, which will adopt and implement the listed policies, effective immediately.

6. Streamflow Rehabilitation Assistance Program (StRAP) grant (Attached CA-6)

The Town has applied for and has been notified that a grant of \$258,458 from the Streamflow Rehabilitation Assistance Program (StRAP) has been awarded. Proceeds from the grant will be used to clear debris in the N.C. Highway Commission canal between the Landing and First Flight subdivisions. As a part of the grant, the Town is required to allocate \$98,769 in matching funds for the anticipated cost of the project.

Approval of the Consent Agenda will:

- Accept the grant award of \$258,458 from the N.C. Soil and Water Conservation Commission
- Authorize the Town Manager to execute any contracts related to the project, including a contract with the N.C. Department of Agriculture, for the debris removal project.
- Approve any necessary budget amendments to appropriate the Town's matching portion of \$98,769 from fund balance, and to record the grant funds.

7. Schedule Public Hearing – Proposed Zoning Amendment – §153.177 Low Density Residential Zone Special Use(s) – Add Cluster Home(s) – for July 11, 2022 (Attached CA-7)

At its May 16, 2022, meeting, the Board of Commissioners directed Staff to prepare a zoning amendment to add Cluster Home(s) as a special use in the Low Density Residential (RL) Zone for essential long-term housing for Planning Board consideration.

The Planning Board reviewed the amendment at its May 25, 2022, meeting, and unanimously voted to forward it to the Board of Commissioners with a favorable recommendation. Approval of the Consent Agenda will schedule this item for public hearing Monday, July 11, 2022, at 6:00 p.m.

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

Commissioner Ingram moved to approve the Consent Agenda, as presented.

Commissioner McAvoy seconded the motion, which was approved by a unanimous, 5-0, vote.

June 27, 2022 Board of Commissioners meeting cancellation Ms. Díaz noted that the Board had a second meeting scheduled for June 27, 2022. Since the budget had been approved, and with no anticipated business, she asked for BOC consensus to cancel the June 27, 2022, meeting if no items of business were identified in the coming week. Through consensus, the BOC gave its approval to cancel the second June meeting.

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 Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

The time was 6:34 p.m.



Submitted by:


James Michael O'Dell
Town Clerk

These minutes were approved by the Board of Commissioners on July 11, 2022.



Ben Sproul
Mayor