

Minutes of the Monday, September 12, 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: Charlene Allen, Assistant Town Manager; Meredith Guns, Planning Director; Cameron Ray, Assistant Planning Director; Casey Varnell, Town Attorney; and James Michael O’Dell, Town Clerk.

Call to Order

At 6:03 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 Ingram moved to approve the agenda as presented. Commissioner Windley seconded the motion, which passed by a unanimous, 5-0, vote.

Public Comment

Response to Public Comment

Ongoing Business

New Business

1. Recommendation for Bid Acceptance for 2022-2023 Street, Drainage, and Right-of-Way Improvements Projects (Attached NB-1)

At its March 7, 2022, meeting, the Board of Commissioners approved the initial design of the street, drainage, and right-of-way improvements projects for fiscal year 2022-2023. The projects include paving, drainage, sidewalk, water main replacement and related work, which are detailed in Public Services Director Steve Albright’s attached memorandum:

2022-2023 Fiscal Year Improvements	
<p>Seminole – Indian - Apache Project Group <i>(approximately 0.39 miles)</i></p>	<ul style="list-style-type: none"> • Seminole Street: Work will include new drainage, asphalt paving, some driveway work and water main replacement from W. Third Street to Indian Drive. • Indian Drive: Work will include water main replacement, asphalt paving, some driveway work and drainage improvements from Seminole Street to Apache Street. • Apache Street: Work will include drainage work and associated driveway replacements from W. Third Street to Indian Drive.

Patrick Lewis, PE, of American Engineering, noted that based on the high costs of the bids received for the Seminole, Indian and Apache project, the engineer and Staff recommended rejection of the bids based on lack of funding availability. The narrow range of the bids indicate the drawings and contract documents were clear with the bid process valid. Materials availability seems to be a concern that could have impacts compressing the work schedule and in effect driving prices higher. Staff recommended:

- Re-bid the Seminole, Indian and Apache project as the 2023-2024 project.
- Bid the 2023-2024 project earlier in the year to allow additional time for material deliveries allowing the contractors additional working time within the normal off-season construction window.
- Design and bid the Wrightsville project the following year in 2024-2025. This may allow time for cost increases to stabilize, allow additional time to pursue grant funding, and allow for material shortages to stabilize.
- Allow additional time and price data to better budget for the large Wrightsville project.

2022-2023 Fiscal Year Improvements	
<p>N. Croatan - W. Durham Project Group <i>(approximately 0.58 miles)</i></p>	<ul style="list-style-type: none"> • N. Croatan (Third Street to Durham): Work will include drainage upgrades, water main replacements, sidewalk restoration and associated driveway work. • W. Durham Street: Work will include drainage upgrades, water main replacement, paving and associated driveway work. • W. Fifth Street: Work will include alternate pricing for sidewalk extension adjacent to the Truist site.

Mr. Albright’s memo details that on August 25, 2022, bids were received for the project and reviewed by Mr. Lewis and Staff. Staff concurred with Mr. Lewis’ recommendation that the low bidder, FSC II, LLC, doing business as Fred Smith Company, be awarded the contract for the N. Croatan, W. Durham St., and W. Fifth Street as outlined in paragraph 13 of his recommendation letter, which was included with the meeting materials.

A breakdown of the recommended construction related costs for the **N. Croatan Hwy., W. Durham St., and W. Fifth Street Project** is included below:

N. Croatan, W. Durham, W. Fifth	Project Breakdown			
	Streets & Drainage	Water	Sidewalk	Total
Fred Smith Company, Inc. – Base Bid + Unit Price Items	\$1,304,336	\$632,470	\$18,704	\$1,955,510
Alternates – W. Fifth Sidewalk and associated drainage and driveway work			\$171,490	\$171,490
Contingency	\$74,727	\$63,247		\$137,974
Engineering	\$36,000	\$18,220	\$5,400	\$59,620
Totals	\$1,415,063	\$713,937	\$195,594	\$2,324,594

If the BOC agrees with Staff recommendations for the N. Croatan, W. Durham, and W. Fifth Street Project, a motion will be in order to:

- Approve the contract with FCS II, LLC, for 2022-2023 Street, Drainage, and Right-Of-Way Improvements Project in the amount of \$2,127,000 and authorize its execution by the Town Manager;
- Approve the engineering services agreement with American Engineering in the total amount of \$59,620 for construction oversight services;
- Approve a 5% not-to-exceed contingency for the streets and sidewalk portions of the project in the amount of \$74,727 and a 10% contingency for the water portions of the project in the amount of \$63,247;
- Authorize expenditure of \$986,000 from the Street Construction Capital Reserve Fund; \$195,594 from the Sidewalks Capital Reserve Fund; \$208,937 from the Water Capital Reserve Fund (\$505,000 approved with budget); \$320,000 from the Powell Bill Fund; \$109,063 from the fund balance, for a total of \$2,324,594;
- Approve all necessary budget amendments to appropriate funds from the Sidewalk Construction Capital Reserve Fund, Street Construction Capital Reserve Fund, and unassigned fund balance for the 2022-2023 street, drainage, and right-of-way improvements project;
- Approve Staff and Town Engineer recommendations detailed above regarding the Seminole – Indian – Apache Project Group.

Commissioner Windley moved to approve the 2022-2023 Street, Drainage, and Right-of-Way Improvements Projects recommendations, as presented. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

2. Shore Protection Project – Beach Maintenance Plan (Attached NB-2)

Assistant Town Manager Charlene Allen reported that the most recent beach nourishment project for the Town's Beach Erosion Control and Flood and Hurricane Protection Works successfully concluded in August 2022. This renourishment project followed the Town's initial 2017 construction project to protect the Town's infrastructure and shoreline. Planning Director Meredith Guns' memorandum in the meeting materials highlighted the updated Beach Maintenance Plan, submitted by Coastal Protection Engineering of North Carolina, Inc. The Plan, which was also included in the meeting materials, details the project design (initial and most recent), maintenance cost and schedules, and monitoring protocols. Ms. Allen stated that this information is required for the Town's eligibility to participate in the FEMA Public Assistance (PA) program. Additionally, justification that the maintenance plan has been implemented must be provided to be eligible to receive federal aid in a presidentially declared disaster. Planning Director Meredith Guns stated that the Town had previously established a beach maintenance plan, which resulted in the Town receiving federal funding from the Hurricane Dorian storm, which was utilized for this most recent beach renourishment. Staff recommended adoption of the Town of Kill Devil Hills updated Shore Protection Project – Beach Maintenance Plan.

Commissioner Ingram moved to approve the Shore Protection Project – Beach Maintenance Plan, as presented. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

3. Long-term housing discussion – joint meeting request (Attached NB-3)

Kill Devil Hills has been a pioneer in the area's commitment to long-term essential housing, including the development of the Outer Banks first workforce housing units. Planning Director Meredith Guns' attached memorandum highlights some of the more recent actions by this Board in striving to address this critical issue.

At its August 8, 2022, meeting, Board members expressed interest in conducting a joint worksession with the Planning Board to discuss and provide Staff direction on opportunities to increase long-term housing opportunities, utilizing the area's existing housing stock.

Staff recommended scheduling a joint worksession with the Planning Board in October: at the Board's October 10 meeting, the Planning Board's October 18 meeting, or a special meeting date selected by the Board.

Commissioner Ingram moved to schedule a joint meeting with the Planning Board for Tuesday, October 18, 2022, at 6:00 p.m. Commissioner McAvoy seconded the motion, which was approved by a unanimous, 5-0, vote.

4. Appointments (Attached NB-4)

All applications on file from persons interested in serving in either capacity have been previously copied to the Board of Commissioners and no new applications for those purposes have been received. Appointment histories are included with the meeting materials.

A. Board of Adjustment – regular member

Jason Self's term expires October 2022, and he has expressed a desire for reappointment. Commissioner Gray moved to reappoint Jason Self to a three-year term as a regular member to the Board of Adjustment that will expire October 2025. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

B. Board of Adjustment – alternate member

T. Dillon Heikens' alternate member term expires October 2022, and he has expressed a desire for reappointment. Commissioner Gray moved to reappoint T. Dillon Heikens to a three-year term as an alternate member to the Board of Adjustment that will expire October 2025. Commissioner McAvoy seconded the motion, which as approved by a unanimous, 5-0, vote.

Committee Reports

Community Appearance Commission (CAC) Commissioner Windley shared the upcoming meeting schedule for the group.

Dare County Tourism Board (DCTB) – Commissioner Ingram shared that the DCTB was utilizing targeted marketing, aimed at fishing subgroups.

Commissioners' Agenda

Commissioner Gray

Bikefest Commissioner Gray shared that the Bikefest event would be held September 22 – 24, 2022, at the Nags Head Event Site.

Commissioner Windley

Dare to Care Community Presentation Commissioner Windley reminded members about the upcoming "Dare to Care Community Event," to be hosted at the College of The Albemarle's campus on September 25, 2022.

Commissioner Ingram

Town Manager's Evaluation Commissioner Ingram noted that it was time for the Town Manager's annual evaluation. Through consensus, the Board scheduled a closed session at the October meeting for a performance review.

Mayor's Agenda

1. **Proclamations and Resolutions (Attached MA-1A, MA-1B, MA-1C, and MA-1D)**
 - A. **Proclamation Declaring September 17–23, 2022, as Constitution Week**
 - B. **Proclamation Declaring October 9–15, 2022, as Fire Prevention Week**
 - C. **Resolution in Continued Support of a New Bridge to Replace the Lindsay C. Warren Bridge across the Alligator River**
 - D. **Resolution in Support of Legislation Concerning Dangerous Holes on the Beach**

These proclamations and resolutions highlight areas of importance for our citizens, including our constitutional form of government and the importance of fire safety. Fire Chief Tilley's attached memorandum announces the annual theme for Fire Prevention Week: "Fire won't wait. Plan your escape," as well as this year's Open House, which is Tuesday, October 11, 2022, from 4:00 – 7:00 p.m.

The N.C. Department of Transportation (NCDOT) is applying for grant funding from the U.S. Department of Transportation Bridge Investment Program (BIP) Large Bridge Grant to replace the Lindsay C. Warren Bridge over the Alligator River. As a part of the process, NCDOT has requested the Town provide a letter of support to U.S. Department Secretary Pete Buttigieg. The resolution will accompany the Town's letter to Sec. Buttigieg for this critically vital transportation infrastructure.

In 2022, the Town launched a concerted effort to inform the public about the serious dangers of deep holes dug on the beach, with a multi-faceted outreach approach, including video, electronic distribution, and social media posts. Staff coordinated a press conference, which was attended by multiple outlets, resulting in statewide and national awareness. The Town joins other localities in requesting statewide legislation to help towns address this issue.

Mayor Sproul moved to approve the proclamations and resolutions, as presented. Commissioner McAvoy seconded the motion, which was approved by a unanimous, 5-0, vote.

2. **Ice Cream Social (Attached MA-2)**

The KDH Ice Cream Social will be held Tuesday, September 27, 2022, from 4:30 – 7:00 p.m. (rain date: Wednesday, September 28th) at Aviation Park. The Fire and Police Department grill masters will be cooking up hot dogs and hamburgers, and don't forget the ice cream! The First Flight High School Fine Arts groups will be performing at the pavilion. Additionally, the Outer Banks Shag Club will be leading shag dancing lessons and line dancing at the hockey rink. Mayor Sproul asked everyone to mark their calendars and join us for this annual event!

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. **Minutes (Attached CA-1A)**
 - A. August 8, 2022
2. **Monthly Report (Attached CA-2A)**
 - A. July 2022
3. **Budget Amendments and Transfers (Attached CA-3A and CA-3B)**
 - A. Budget Amendment #1- Encumbrances from FY 2021-2022
 - B. Amended Beach Nourishment Capital Project Ordinance

Budget amendment #1 records encumbrances from the previous fiscal year (FY 2021-2022) that were carried over to this fiscal year for ongoing projects and ordered but not yet received items. The amended Beach Nourishment Capital Project Ordinance records the most up-to-date project allocations, all of which have received prior Board funding authorization.

4. **Occupancy Tax Overpayment Resolution (Attached CA-4)**

Dare County has informed all local governments that following a change in the state occupancy tax collection requirements, a small portion of patrons to campgrounds may have been accidentally charged an occupancy tax as part of their camping fees. To remedy this, Dare County will be refunding those identified who have been charged within the statute of limitations term. Since Kill Devil Hills and other localities regularly receive occupancy tax proceeds, this resolution will authorize the Town Manager to refund the Town's share of its portion of any proceeds that identified by the County as improperly collected. Approval of the Consent Agenda will approve the resolution and authorize Staff to address the occupancy tax overpayment.

5. **Government Education Access Channels Committee – attendance policy (Attached CA-5)**

At its August 24, 2022, meeting, the Government Education Access Channels Committee (GEACC) approved an attendance policy for its members. Approval of the Consent Agenda will record the Board's approval of the GEACC attendance policy.

Ms. Allen 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, 5-0, vote.

Public Comment

Response to Public Comment

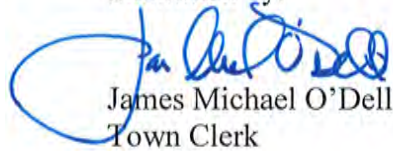
Adjournment

There being no further business appearing before the BOC at this time, Commissioner McAvoy moved to adjourn the meeting. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

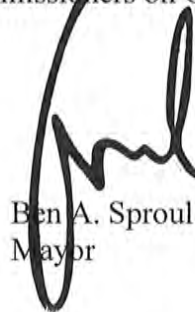
The time was 6:27 p.m.



Submitted by:


James Michael O'Dell
Town Clerk

These minutes were approved by the Board of Commissioners on October 10, 2022.


Ben A. Sproul
Mayor