

**Minutes of the Monday, March 13, 2023, 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 6:03 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 McAvoy moved to approve the agenda, as presented. Commissioner Gray seconded the motion, which passed by a unanimous, 5-0, vote.

**Public Comment**

**Joe Trainor, 401 Quail Lane, Kill Devil Hills** – Mr. Trainor expressed concern about community properties with yard refuse, and proposed three suggestions to address large items left by property owners: direct sanitation equipment operators to report suspect properties to other Staff to resolve refuse issues, rather than relying on citizen complaints; designate one Staff member to address complaints regarding trash on properties or in the right-of-way; and Mr. Trainor noted that some residents do not have transportation to remove trash / bulk items or access to the Recycle / Dry Trash Drop-Off Centers. He recommended the Town implement a fee-based on-call bulk item pick up service.

**Julie Robinson, 2019 S. Virginia Dare Trail, Kill Devil Hills** – Ms. Robinson shared her concern about massive construction projects along the dunes and very close to the beach on neighboring oceanfront properties. She stated that large numbers of permitted uses, including gazebos, pools, and beach walkways, have been allowed in these large projects. Ms. Robinson expressed her thanks to the Planning Department for their assistance in better understanding Coastal Area Management Act (CAMA) regulations. Her written remarks have been included with the meeting materials.

## Response to Public Comment

Mayor Sproul expressed his appreciation to the speakers for their remarks. He highlighted actions by the Board in recent years to promote less intrusive development. Ms. Guns stated that the Planning Department would further investigate the issues raised by Ms. Robinson.

## Ongoing Business

### New Business

#### 1. Lease agreement for Kill Devil Hills Fire Station #14 / Dare County EMS Station #1

Mayor Sproul highlighted that the Town and Dare County have partnered to develop and operate a joint KDH Fire / Dare EMS station at 1630 North Croatan Highway, the site of the former Mako Mike's Restaurant, property now owned by Dare County. Work is underway for the demolition of the existing structure. The facility site plan will be submitted to the Planning Board for review and subsequently, the Board of Commissioners.

As part of this process, the Town will enter into a 20-year lease, in which Dare County will develop the lot and construct the entire facility, designating a portion of the building for the Fire Department's operations. At its March 6, 2023, meeting, the Dare County Board of Commissioners approved the proposed lease.

Dare County Manager Robert Outten was present at the meeting to address any questions. Commissioner Ingram inquired about the financing for the project. Mr. Outten replied that the project's total maximum cost was \$24.6 million, with the Town having a 48% share of the construction costs. The proposed lease lays out the formula for the Town's share. Financing for the entirety of the station will be finalized once Dare County receives approval from the Local Government Commission, which is expected in April 2023. He noted that the County is absorbing all of the property costs. There will be regular facility maintenance costs for the Town's percentage of the building's upkeep.

Commissioner McAvoy inquired about the project and whether there was a negotiation involved. Mr. Outten stated that this project was a collaboration between the County and Town over the past several years to address the public safety needs that each had identified. He noted that the land's significant purchase cost was not passed along to the Town. The County had planned on developing an EMS station anyway; by collaborating in this partnership, there were costs shared by both entities, resulting in substantial savings. Town Attorney Casey Varnell stated that any interest was actually the Town's percentage of the County's financing costs. Mr. Outten concurred, and said that the County's debt service is divided over 20 years, and under the proposed lease, the Town will assume 48% of the finance costs, which is its percentage of the building's use.

Mr. Outten noted that the County's fiscal rating allows a much lower financing rate for the project. He said once the 20-year financing is complete, the only cost for the Town will be the maintenance costs. He also complimented Staff and the fire department for all of their work.



Commissioner Ingram moved to approve the lease agreement for Kill Devil Hills Fire Station #14 / Dare County EMS Station #1, as presented. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

## 2. **Recommendation of Bid Acceptance for Wright Brothers US 158, Phase V, Sidewalk Project**

Town Manager Debora Díaz shared that on December 22, 2022, the Board electronically approved its continued commitment to the Wright Brothers US 158 Phase V Sidewalk Project, and authorized Staff to oversee and implement the engineering plans and bidding processes, including all allocations for the project to date, along with any future projected-related expenses, from the Sidewalk Capital Reserve Fund and other necessary Town sources.

Planning Director Meredith Guns' meeting memorandum provided an overview of the project, which will provide a westside pedestrian link along US 158 from Landing Drive, south to Colington Road, connecting with existing sidewalk infrastructure in front of the Wright Brothers Memorial. Her memo noted that on March 6, 2023, informal bids were opened and reviewed by the Town's Engineer, Pete Burkheimer, and Staff. The project contained two alternatives for completion to provide the Town the most flexibility in scheduling and costs:

- Alternative 1: Construction beginning March 20, 2023 with substantial completion by May 20, 2023.
- Alternative 2: Construction beginning September 6, 2023, with substantial completion by December 4, 2023.

| <b>Wright Brothers US 158,<br/>Phase V, Sidewalk Project</b> | <b>Alternative 1</b> | <b>Alternative 2</b> |
|--------------------------------------------------------------|----------------------|----------------------|
| Barnhill Contracting Company                                 | \$335,480            | 315,000              |
| Contingency (5%)                                             | \$16,774             | \$15,750             |
| Engineering                                                  | \$32,700             | \$32,700             |
| <b>Totals</b>                                                | <b>\$384,954</b>     | <b>\$363,450</b>     |

Staff recommended the Board accept Alternative 1 to finalize the project by the summer 2023 tourist season, also accomplishing the project while unrelated construction projects are ongoing, providing the least disruption to residents and visitors.

Ms. Guns' memo also highlighted two grants received by the Town for this project: Dare County Visitors Bureau for \$177,000 and the Outer Banks Group for \$25,000. The Sidewalk Capital Reserve fund balance is currently \$124,145. As a result, the Board would need to allocate funds from the undesignated fund balance to complete the project.

American Engineering has submitted a Recommendation for Bid Award and Proposal for Construction Services, which are included. Staff concurs with the Town Engineer and recommends the Board of Commissioners:

1. Accept the bid recommendation for Barnhill Contracting Company in the amount of \$335,480 plus 5% contingency for a total price of \$352,254 and authorizing the Town Manager to execute the contract.
2. Authorize the Town Manger to execute the Contract with American Engineering for Construction Management in the amount of \$32,700.
3. Authorize funding from the Sidewalk Capital of Reserve Fund in the amount of \$124,145 and approve the budget amendment to appropriate funds from Undesignated Fund Balance (\$58,809), Sidewalk Capital reserve and grant funds (\$202,000).

Commissioner Gray inquired about the width of the proposed sidewalk. Town Engineer Pete Burkheimer stated that it would be a five-foot sidewalk that would connect through a gradual taper over a 50-foot length into the Park Service's existing 10-foot sidewalk. Mr. Burkheimer shared that the N.C. Department of Transportation (NCDOT) had committed to extending the US 158 southbound turning lane into Colington Road.

Commissioner Ingram moved to approve the Staff recommendations (Alternative 1) for the Wright Brothers US 158, Phase V, Sidewalk Project as presented. Commissioner Windley seconded the motion, which was approved by a unanimous, 5-0, vote.

### **3. Appointments**

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.

#### **A. Street Improvement and Special Projects Committee (SISPC)**

With the resignation of Martin Dalton, an alternate member position on the SISPC has become available. SISPC terms have no expiration.

Commissioner Ingram moved to appoint Philip Wayland as an alternate member appointment to the Street Improvement and Special Projects Committee. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

### **Committee Reports**

Coastal Resource Advisory Council (CRAC) Commissioner Windley reported that he had attended a recent meeting of the Coastal Resource Advisory Council, noting that it was a very productive event. The group had discussed how to address damaged and exposed septic systems east of the dune line. He noted that Dare County Manager Robert Outten chairs the committee.



Government Education Access Channels Committee (GEACC) Commissioner Gray noted that an upcoming GEACC meeting would be considering the Town's Local Programming Development Initiative grant application to make lighting upgrades to the Town Hall Meeting Room.

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

## **Commissioners' Agenda**

### Commissioner Ingram

Community for Hope Campaign Commissioner Ingram shared information about Sexual Assault Awareness Month and the Hotline "Community for Hope" fundraising campaign.

### Commissioner Windley

Disc Golf Course Commissioner Windley stated that he recently met with disc golf course representatives, resulting in several suggestions, including better signage, a paved roadway, and restroom facilities.

## **Mayor's Agenda**

### **1. Mayor's Achievement Award**

Mayor Sproul shared that from time to time, the Office of the Mayor has considered it appropriate to recognize the distinguished contribution of members in our community who have left their indelible mark on Kill Devil Hills. It is an honor of highest distinction, with only three previous recipients: former Commissioners Bill Pitt and Bobby Rollason in 2008, and former Commissioner Fred Castellow in 2018.

Mayor Sproul said that the Achievement Award recognizes distinguished citizens for their Service, Leadership, and Accomplishments. Assistant Fire Chief Thomas M. Lee, Sr. was honored as the recipient of the 2023 Mayor's Achievement Award. Mayor Sproul highlighted Assistant Chief Lee's career of service:

- Joined the KDH Fire Department as a volunteer in March 1973.
- 1981 – Promoted to Captain
- 1984 – Firefighter of the Year
- 1994 – Promoted to Assistant Chief
- 2013 – Recipient of Chief's Award
- 2018 – Recipient of Chief's Award

- Recipient of the Most Fire Calls for Volunteers:
  - 2019 – 108 calls
  - 2020 – 120 calls
  - 2021 – 111 calls

Mayor Sproul and members of the Board expressed their appreciation to Mr. Lee for his dedication and service to the community over the past half century.

## **2. Proclamations and Resolutions**

### **A. Proclamation Declaring March 2023 as Multiple Sclerosis Awareness Month**

Mayor Sproul noted that this proclamation highlights the importance of multiple sclerosis awareness for our community. This dreadful disease affects 18,500 in North Carolina, and increased awareness of its effects on individuals and their families is vital.

Mayor Sproul moved that the Board of Commissioners adopt the Proclamation Declaring March 2023 as Multiple Sclerosis Awareness Month. Commissioner McAvoy seconded the motion, which was adopted by a unanimous, 5-0, vote.

## **3. First Flight Farmers Markets**

The Town of Kill Devil Hills is proud to continue its commitment to our small business community by hosting farmers markets throughout the year. There are typically about 65 local vendors that participate, and offer a wide variety of goods from sweet & savory treats, woodworking, photography, paintings, jewelry, candles, bath and body items and much more. The markets are held at Aviation Park, 103 Veterans Drive, and parking is available; however, overflow parking is also available at the First Flight High School. Mayor Sproul also highlighted the ongoing project to expand parking at Aviation Park.

For the summer 2023 season, the First Flight Farmers Market will be held every Tuesday from 10:00 a.m. to 2:00 p.m., beginning June 20<sup>th</sup> and continuing through August 15<sup>th</sup>. There will be no market on July 4. Mayor Sproul encouraged everyone to come out and support our local businesses.

## **Town Manager's Agenda**

### **1. US 158 Beautification – Budget Guidance**

Ms. Díaz highlighted that beginning in November 2022, the Board of Commissioners began discussions about potential opportunities to improve the appearance along the US 158 roadway in Kill Devil Hills. Staff researched the issue and previously shared some options to address the challenges of beautification along the US 158 corridor. The Board also has requested the Community Appearance Commission to discuss the issue.

In response to Board direction, Public Services Director Steve Albright's meeting memorandum highlighted the current maintenance along the highway, and also provided options



for additional maintenance opportunities, which can be incorporated into the budget planning process.

Mr. Albright reported that there was some success with the curbside cutting and a sweeping pass earlier in the year by NCDOT. He briefly reviewed the potential opportunities available for additional maintenance along US 158. Members indicated support for the median options for additional mowing, sweeping, and edging passes, as follows:

**Additional Mowing Pass Scenarios**

|                  |           |    |   |             |                         |                |
|------------------|-----------|----|---|-------------|-------------------------|----------------|
| Every other Week | Apr.-Oct. | 16 | x | \$ 2,600.00 | Annual Cost             | \$ 41,600.00   |
|                  |           |    |   |             | Less currently included | \$ (13,000.00) |

**Additional Sweeping Passes**

|                           |  |   |   |             |             |              |
|---------------------------|--|---|---|-------------|-------------|--------------|
| Quarterly Sweeping Passes |  | 4 | x | \$ 5,181.00 | Annual Cost | \$ 20,724.00 |
|---------------------------|--|---|---|-------------|-------------|--------------|

**Sidewalk Edging Passes**

|                |  |   |   |             |  |              |
|----------------|--|---|---|-------------|--|--------------|
| Twice per year |  | 2 | x | \$14,900.00 |  | \$ 29,800.00 |
|                |  |   |   |             |  | \$ 79,124.00 |

Commissioner Gray noted the Board could review the results of the additional maintenance schedule in a year and, with Staff input, determine its effectiveness.

**2. Recommendation for cancellation of March 22, 2023, Board meeting**

With its adoption of the 2023 meeting schedule, the Board scheduled two regular meetings for the winter and spring months. This calendar has permitted flexibility in scheduling sessions for the budgetary and planning processes. The department heads have indicated that there is no pressing business that warrants the immediate action by the Board at this time. Staff recommended the cancellation of the March 22, 2023, Board meeting.

Commissioner Gray moved to cancel the March 22, 2023, Board of Commissioners meeting. Commissioner Windley seconded the motion, which was approved by a unanimous, 5-0, vote.

**Town Attorney's Agenda**

Proposed amendment, Chapter 113, Fiber Optic Cable Services Town Attorney Casey Varnell stated that the Town has been approached by high speed internet providers, and that this proposed code amendment is in anticipation of future possibilities. He noted that adoption of this amendment would provide the Town some regulatory oversight over internet infrastructure services. Without the amendment, any provider could install infrastructure without Town involvement and protections for the community.

Mr. Varnell stated that the proposed amendment would replace the Cable Services section in the Town Code, since the State has taken over the cable franchise system. Planning Director Meredith Guns noted that with the planned replacement of the Lindsay C. Warren Bridge over the Alligator River, a high speed internet infrastructure corridor is expected to be developed.

Commissioner Ingram moved to approve the proposed amendment, Chapter 113, Fiber Optic Cable Services, as presented. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

## **Consent Agenda**

### **1. Minutes**

- A. February 13, 2023

### **2. Monthly Report**

- A. January 2023

### **3. Budget Amendments and Transfers**

- A. Budget Amendment #8 – to appropriate funds for beach sand fencing available from Dare County.
- B. Budget Amendment #9 – to appropriate funds for the purchase of meters for the meter replacement program originally scheduled to take place in the 2023-2024 budget year.
- C. Budget Amendment #10 – to appropriate the remaining Assistance to Firefighters Grant funds for the purchase of radios and associated supplies.

### **4. Partnership reports**

- A. Nags Head Woods Ecological Preserve

The Town supports four partnership organizations that serve the citizens of Kill Devil Hills: the Community Care Clinic of Dare, Interfaith Community Outreach, Outer Banks YMCA, and Nags Head Woods Ecological Preserve. A requirement of the Town's partnership is an annual report of the organization's activities and service to the community. Aaron McCall, Northeast Regional Steward, has submitted the facility's 2021-2022 annual report, which highlights the preserve's operations.

### **5. Kill Devil Hills / Nags Head Interlocal Agreement – provision of reciprocal building inspection services**

Following the retirement of longtime KDH building inspection staff, Kill Devil Hills and Nags Head entered into an agreement in 2018 that would permit the Town to request the assistance of Nags Head building inspectors to make certain inspections on residential and commercial structures on the Town's behalf.



At the recent request of the Town of Nags Head, the interlocal agreement was updated to provide a bilateral reciprocity between the two municipalities for these services, as needed. At its March 1, 2023, meeting, the Nags Head Board of Commissioners approved the agreement.

Approval of the Consent Agenda will approve the interlocal agreement and authorize the Town Manager to execute the instrument with the Town of Nags Head.

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

Commissioner Gray 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 Ingram moved to adjourn the meeting. Commissioner Windley seconded the motion, which was approved by a unanimous, 5-0, vote.

The time was 7:09 p.m.



Submitted by:

  
James Michael O'Dell  
Town Clerk

These minutes were approved by the Board of Commissioners on April 5, 2023.

  
Ben A. Sproul  
Mayor