Minutes of the Wednesday, October 16, 2019, regular meeting of the Kill Devil Hills Board of Commissioners held at 5:30 o'clock p.m. in the Meeting Room at the Administration Building, 102 Town Hall Drive, off Colington Road.

Members Present:	Mayor Sheila F. Davies; Commissioners Terry Gray, Mike Hogan, Nelson "Skip" Jones, and John Windley
Members Absent:	none
Others Present:	Debora P. Diáz, Town Manager; Meredith Guns, Planning Director; Cameron Ray, Assistant Planning Director; and James Michael O'Dell, Deputy Town Clerk

Call to Order

At 5:30 p.m., Mayor Davies opened this meeting of the Kill Devil Hills Board of Commissioners and welcomed all present.

Pledge of Allegiance and Moment of Silence

Mayor Davies shared that Nancy Swaim, a former member of the Town's Buildings and Grounds team, passed away last week. She asked everyone to keep Nancy's family in their thoughts and prayers.

Agenda Approval

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

Public Hearings

1. Recommended amendments to Chapter 153, Zoning

At the direction of the Board of Commissioners, Staff drafted the following amendments to Chapter 153, Zoning, for review and consideration by the Planning Board. At its August 20, 2019, meeting, the Planning Board voted to forward the amendments to the Board of Commissioners, with favorable recommendations. The Board of Commissioners scheduled the public hearings for tonight's meeting at the September 11, 2019 meeting.

Mr. Varnell read aloud the rules for public hearings and opened the first public hearing.

ATTACHMENT CA-1A

A. Recommended Zoning Amendment—§ 153.073 Landscaping Requirements – Modify Landscaping Requirements to Include Single-Family and Duplex Dwellings with Greater Than 6,000 Square Feet Lot Coverage

This recommended amendment to Section 153.073 Landscaping Requirements will address single-family and duplex dwellings with greater than 6,000 square feet of lot coverage to provide a vegetative buffer. Large single-family dwellings with greater than 6,000 square feet of lot coverage create large areas of coverage, increased density, larger parking areas, large structure size, and noise, air and light glare pollution that is non-compatible with abutting single-family and duplex dwellings with less than 6,000 square feet of coverage. Providing landscaping requirements, including screening requirements, will improve the appearance of the development, provide spatial separation of land uses, and protect, preserve, and promote the aesthetic and visual character of the Town.

Jay Overton, 1703 Harbour View Drive, Kill Devil Hills – In speaking to both requested amendments, Mr. Overton noted that in reviewing a recently approved stormwater amendment for lots of a similar size, he found it mainly focused on oceanfront property development. He stated that ordinance amendments were often in response to an issue or concern. He stated that adoption of this text amendment could potentially solve one problem while also inadvertently creating two or three more unknown issues. He said the Town should be examining the issue of large single-family development, but asked the Board not to take any action on the amendment. The Town should be looking at good development standards, whether for hotels or a single-family house. He requested the Board not rush to adopt either amendment.

Eddie Goodrich, Kill Devil Hills business owner – Mr. Goodrich stated that the Board needed to closely examine this ordinance, as it could reduce oceanfront property values, resulting in a decreased tax base for the Town. He stated that if adopted, the ordinance would create non-conforming structures. Mr. Goodrich stated the tax base would be shifted from the oceanfront to non-oceanfront properties. He stated that $150 million in assessed tax value could be negatively impacted annually. He said he was unsure whether the current Board of Commissioners should consider this amendment, because there could be negative ramifications for later Boards of Commissioners.

With no further public comment, Mr. Varnell closed the first public hearing.

Commissioner Jones stated that he had spoken with multiple stakeholders. He expressed support for forming a stakeholder committee to consider both sides of the issue. Commissioner Gray expressed concern over how many non-conforming structures this amendment would create, if passed, along with the financial impact on the Town. He suggested additional study of the issue. Commissioner Windley expressed concern about the landscaping setback requirements, and whether it could negatively affect outdoor recreational spaces. He felt possible negative impacts needed to be studied further, especially if there is a potential change to

the tax base. Commissioner Hogan stated that he was satisfied with the ordinance, as it is not a burden on builders or homeowners. It will not have an effect on the size of a structure. Mayor Davies inquired how the landscaping requirement would create non-conformities. Ms. Guns stated that nothing but fencing is currently allowed in the five-foot setbacks. She said the recommended amendment would minimize the effects on adjacent property owners through visual buffers. The landscaping would be in an area that nothing was currently permitted, other than landscaping and fence. Mayor Davies noted that of the two recommended amendments, this landscaping buffer did not create any nonconformities; its purpose was to create a buffer for adjoining properties. She stated the second recommended amendment could have larger ramifications. Commissioner Gray suggested the Board should examine the impacts of both amendments together.

Commissioner Jones inquired about any landscaping in parking areas. Mr. Ray stated that there are landscaping requirements for commercial parking lots, but this is only for single-family dwellings, so that would not apply. Ms. Guns stated that landscaping requirements for interior parking would not apply unless parking would exceed 40 spaces. Commissioner Windley supported the concept of the vegetative buffer for a home larger than 6,000 square feet, which would provide some additional protection for adjoining property owners. However, his reservation was the five-foot perimeter landscape from the property line.

Commissioner Windley moved to table the item until the November meeting, and Mayor Davies suggested a tabling be until January when the new Board would be seated. She also recommended the Board develop a plan to address this issue so it is not tabled again at the January meeting because research has not been completed.

Commissioner Jones inquired whether a stakeholder group could be established to further discuss this item from multiple viewpoints. He shared he would feel more comfortable receiving input from more of those potentially affected by these changes. Mr. Varnell stated that if it was the Board's direction to designate a stakeholder group, he recommended denial of the proposed amendment, rather than tabling it. Specific timelines for reconsideration are set in place once an item is tabled. Mayor Davies cautioned members about what direction the Board could take because she noted that in her eight years on the Board, there have been Town groups and workshops working to address the issue. If the Board designated a committee, she recommended strict parameters. She encouraged the Board to continue to research the issues, meet with various stakeholders, and utilize resources like Town Staff to have the data to make informed decisions during the meetings. Commissioner Windley withdrew his motion.

Ms. Diáz stated, as a procedural matter, denial of the recommended ordinance amendment would be the appropriate action by the Board. If that motion passed, she noted the Board could then direct Staff to place it on the January 2020 meeting agenda for discussion, so the seated Board could discuss whether to establish a committee to discuss the issue, or go in some other direction. Commissioner Jones inquired whether it would be advisable to establish a committee at this meeting to save time. Ms. Diáz replied that the new Board could provide the parameters for any potential committee, noting that it was not clear whether this potential committee would address only this amendment, the additional recommended amendment or other related issues.

Commissioner Hogan stated that of either amendment before the Board at this meeting, this recommended amendment would have minimal to no negative effect on the issues that had been raised, including tax value. The original intent was to minimize the impact on neighboring properties. This recommended amendment does not have any impact on vehicular parking. Mayor Davies concurred with Commissioner Hogan's comments. Commissioner Jones stated that, in speaking with stakeholders, most considered the impacts of these amendments together, rather than separately.

Commissioner Windley moved that the Board of Commissioners finds the amendment to Chapter 153, Zoning, Landscaping Requirements— Modify Landscaping Requirements to Include Single-Family and Duplex Dwellings with Greater Than 6,000 Square Feet of Lot Coverage is inconsistent with all comprehensive plans and other official adopted plans of the Town of Kill Devil Hills that are applicable. The amendment is not reasonable and in the public interest. Commissioner Gray provided a second and the motion passed with vote of 3 for, 2 against. Mayor Davies and Commissioner Hogan voted against the motion.

Mr. Varnell opened the second public hearing.

B. Recommended Zoning Amendment – § 153.076 Off-Street Parking and Loading – Modify Parking Requirements for Single-Family and Duplex Dwellings with Eleven Bedrooms or More

This recommended amendment to Section 153.076 Off-Street Parking and Loading will require an increased side yard parking setback to seven feet, required access aisle to the structure, and a limitation of no single row of stacked parking to exceed six spaces would apply to all single-family and duplex dwellings with eleven bedrooms or more. The increased side yard setbacks for driveways, access aisles, and parking areas would change from five feet to seven feet and will improve spatial separation, safety, and environmental protections for the large required parking areas associated with large single-family and duplex dwellings. An access aisle is proposed, with a minimum of 10 feet in width and shall be open within 40 feet of the dwelling. The access aisle will be allowed to have no more than two parking spaces stacked. An open access aisle within 40 feet of the dwelling will improve safety for the dwelling and provide better circulation and movement for vehicles. Additionally, parking areas will be limited to no single row of stacked parking shall exceed six stacked required parking spaces. This will create smaller, less congested parking areas and allow for improved vehicular movement.

Jay Overton, 1703 Harbour View Drive, Kill Devil Hills – Mr. Overton asked that the Board consider his comments from the earlier public hearing on this recommended amendment as well. He also noted that the General Assembly passed legislation stating that local governments could not adopt zoning ordinances that regulate the number of bedrooms, which this proposed amendment does. He suggested that the Board take the opportunity for further consideration, including potentially different terminology in the amendment language. He noted there was a combination of requirements in this amendment, including percentage reductions in parking and

also latitude in parking configuration. The unintended results may be parking that is not free-flowing.

Eddie Goodrich, Kill Devil Hills business owner – Mr. Goodrich also asked that the Board consider his comments from the earlier public hearing on this proposed amendment. He suggested that it was wise for the Town to study this issue more, possibly with the inclusion of an economic impact study. This amendment appears to only affect oceanfront property owners.

Nancy Lehman, 204 West Airstrip Road, Kill Devil Hills – Ms. Lehman shared she and her husband were required by the Town to construct additional parking for their two-bedroom house. She stated when traveling along NC 12, she noted that visitors at the large single-family dwellings often park their vehicles along the roadway. Diminished parking options can create a dangerous situation for others.

Mike Lowack, 106 Porthole Court, Kill Devil Hills – Mr. Lowack noted that oceanfront lot values are only going to increase, and there is not going to be a shift in the tax burden from oceanfront to west-side properties. This parking ordinance is about safety; it is about emergency vehicles getting access to the structures with the stacked parking and access aisle, should the case arise. Additionally, anything the Town can do to limit the amount of ground cover should be done, due to the continued need for stormwater drainage areas. The Town should start moving forward and the Town's representatives should be doing their homework and be prepared to make decisions and vote at meetings. The Town has been discussing some of these issues for almost a decade.

James Almoney, 900 Ninth Avenue, Kill Devil Hills – Mr. Almoney said he serves on the Town's Planning Board, and is a former fire officer. He believed that private property rights are very important, but said that the Town should be a good steward of resident and visitor safety. The last thing in visitors' minds when they check into a large single-family dwelling is fire safety. Mr. Almoney stated that the General Assembly does not have the desire to change the code requirements for these structures, and the Town options are limited by State law. He said he realized that builders and investors do not want these large structures classified as commercial due to some costly requirements. However, bringing these structures up to commercial fire safety standards would be a good step, including sprinkler systems, means of egress from each floor, and lighted signs showing means of egress. He encouraged support for the recommended amendment.

Patti Armistead, 2035 South Virginia Dare Trail, Kill Devil Hills – Ms. Armistead stated that the term "property rights" has been repeated in discussions, but noted that with rights come responsibilities. She said that the large single-family dwellings, or event houses, are commercial properties; they are commercial enterprises that should comply with commercial code. The lots on which they are built do not have adequate setbacks, so they intrude on their neighbors' quiet enjoyment of their property. With the community's narrow oceanfront lots, she does not think that "mini-hotels" should be permitted in Town. The current rate of development is

unsustainable. Ms. Armistead noted that some counties in Florida limited the number of annual building permits available for new dwellings, and the State of Florida had imposed a building moratorium on the Florida Keys. She encouraged everyone to think out of the box and put all options on the table. Outside developers are killing the very thing that makes this sandbar such a popular destination. Ms. Armistead's written comments are included with the meeting minutes.

With no further public comment, Mr. Varnell closed the second public hearing.

Commissioner Hogan commended Town Staff for its work, and noted that the Staff do all that are asked of them. Commissioner Jones stated there should be a third designation for the large single-family dwellings, or event homes. However, the State does control a great deal of what municipalities can or cannot regulate. He inquired of Mr. Varnell whether the recommended amendment could be considered as regulating the number of bedrooms, which is not permitted by N.C. General Statutes. Mr. Varnell stated that the number of bedrooms is an architectural feature. The Town is not telling the developer that only a specific number of bedrooms can be developed. He stated that the intent by the Town for this recommended amendment is public safety. With a rational basis determination, it is not a direct or indirect regulation of the number of bedrooms.

Commissioner Jones inquired of Staff about a 50-foot wide lot and what could result if this amendment was adopted. Mr. Ray stated the amendment's intent, as directed by the Board of Commissioners, was to create better circulation and a much safer parking area. On a 50-foot wide lot, the amendment could modify the parking layout because the setback increase and an access aisle would be required. Mr. Ray stated that the amendment does not affect the size of the structure, but may affect the parking design.

Commissioner Jones, in speaking with a builder, said it would likely decrease the number of bedrooms that could be developed in a structure. Commissioner Gray stated there should be some further study on the issue, and not rush into a decision. Commissioner Windley inquired of Staff how many structures would become non-conforming if the amendment would be adopted. Ms. Guns replied 31 structures. Commissioner Windley appreciated the concept of an access aisle, but expressed concern of public understanding and compliance with the ordinance's requirement. In referencing the recent Surf City, North Carolina fire, he noted that safety was paramount. He supported gathering more input from businesses and the public, and also support for a third Building Code designation for these structures.

Commissioner Jones shared his concern that this amendment would go too far, but that it was a good time to get the various stakeholders together and have an earnest discussion about the positive and negative issues associated with large single-family dwellings.

Commissioner Hogan said the previous amendment would minimize the impact of the big houses on neighboring properties. This recommended amendment is about safety. He stated that with most approaches to address the issue of safety, the Town has been stymied by State law, limiting attempts to require water sprinklers, ground access from every floor, and lighted exit signage. This amendment is something the Town can do to improve safety. This change is not going to affect the market as much as some suggest, thereby affecting the tax base. These structures are few, will continue to be in demand, and builders can still develop profitable

structures under the proposed requirements. He did not think this amendment for safety improvements should fail because of a perceived decrease in the Town's tax base. Mayor Davies stated she was pleased that the Town was finally taking action to address this safety issue. In referencing the recent Surf City fire, she stated that the Town had the opportunity to provide an additional safety measure. She expressed support for the amendment, and stated that although there were some present that were opposed to this amendment, there were many more in the room that support it.

Commissioner Windley stated the entire Board supported safety issues, but felt this amendment was rushed through. He supported gathering more input to identify negative consequences. Commissioner Hogan stated that government is often accused of moving slowly; everyone knows what the issue is, and the situation is overdue. Commissioner Jones stated he was not comfortable with the amendment and its consequences because the ramifications are unknown.

Commissioner Hogan moved that the Board of Commissioners finds that the amendment to Chapter 153, Zoning, Off-Street Parking and Loading— Modify Parking Requirements for Single-Family and Duplex Dwellings with Eleven Bedrooms or More is consistent with all comprehensive plans and other official adopted plans of the Town of Kill Devil Hills that are applicable. The amendment is reasonable and in the public interest because it provides additional safety and circulation within private parking areas. Mayor Davies provided a second and the motion failed with vote of 2 for, 3 against. Commissioners Gray, Jones, and Windley voted against the motion.

Through consensus, the Board directed Staff to place the two denied amendments as items for discussion to be addressed at the January 2020 meeting.

Public Comment

Colleen Almoney, 900 Ninth Avenue, Kill Devil Hills – Ms. Almoney expressed concern that the Board of Commissioners had failed to act on the two proposed amendments. She encouraged members of the public to attend every meeting and express their concern.

Matt Walker, 439 West Walker Street, Kill Devil Hills – In referencing earlier comments about the possible shift in the tax burden from oceanfront properties to west-side properties, Mr. Walker noted that non-oceanfront property owners already shouldered half the tax burden for beach nourishment. He expressed frustration that the proposed amendments did not pass, and stated with the Board examining the issue for at least eight years, these items have not been rushed. He noted the Town does not need another group formed to study the issue, as everyone seemed to support lower density. Mr. Walker said that when development is being promoted, no one is urging caution.

Sandie Markland, 2013 Hampton Street, Kill Devil Hills – Ms. Markland concurred with Ms. Almoney's comments, and noted, "If you want to not get the job done, form a committee." On behalf of the Historic Landmarks Commission and its October 4, 2019 Home Tour, she thanked Town Staff for their work in making the event such a success. Ms. Markland said she serves as

the Kill Devil Hills Chief Judge, and early voting for November municipal elections began today. She thanked the Board of Commissioners and the Town for allowing the meeting room to be an early voting site.

Michael Flynn, North Carolina Coastal Federation, 637 Harbor Road, Wanchese – Mr. Flynn requested the Board consider modifying regulations to reduce the maximum allowable lot coverage within the Ocean Impact and Residential High Density Zones. In the alternative, he recommended the lot coverage requirement for development of a comprehensive drainage plan, which is currently 6,000 square feet. Mr. Flynn stated that with increased stormwater runoff, water quality was negatively impacted. His full written remarks are included with the meeting minutes.

Eddie Goodrich, Kill Devil Hills business owner – Mr. Goodrich inquired whether the Town could require residential structures to have fire suppression systems like water sprinklers. Mr. Varnell replied that the Town cannot require those systems because it would supersede the N.C. Building Code.

Commissioner Jones inquired whether the Town could incentivize fire suppression systems. Mr. Varnell replied in the affirmative.

Roy Valentine, 2032 Norfolk Street, Kill Devil Hills – Mr. Valentine stated in May 2019, he had contacted the Town, requesting bicycle stenciling for the multi-use path. He inquired to the status of the project and its timeline completion. He also inquired about the US 158 resurfacing project by NCDOT and what the expected timeline was for work to begin. He said he understood that the N.C. General Assembly had proposed a law requiring license plates for bicycles, and inquired whether it had passed.

Ms. Guns stated that the stenciling of the Multi-Use Path would be completed by late autumn. Mayor Davies stated that the bicycle license plate bill had not passed, and that the planned US 158 resurfacing project had been recently delayed by NCDOT. [Clerk's note: The planned US 158 resurfacing project, including paving through Kill Devil Hills, has been postponed indefinitely due to budgetary constraints].

Mike Lowack, 106 Porthole Court, Kill Devil Hills – Mr. Lowack stated he served on the Planning Board and stated his decision-making process was based on the Town's Land Use Plan. He stated that his decisions were made with the majority in mind.

Jay Overton, 1703 Harbour View Drive, Kill Devil Hills – He stated that landscaping and parking are topics that need examination, but they are not going to address the fire safety issue. He stated he was not a large house proponent, but he was a positive planning proponent. Mr. Overton stated that people should not expect the General Assembly to create a third classification for the large single-family dwellings. He encouraged the Town to develop a vision for its planning.

Ben Fulton, on behalf of Ocean Atlantic Rentals, 2001 South Croatan Highway – Mr. Fulton suggested the Town begin a discussion to consider the regulation of golf carts for use on Town roads. He presented a model ordinance, which has been included with the meeting materials.

Response to Public Comment

Commissioner Hogan commended Ms. Markland and the Dare County election staff, who cleared the election equipment and prepared the meeting room for this evening's meeting.

Introductions and Presentations

1. Aaron McCall – Nags Head Woods Ecological Preserve – annual report (Attached IP-1)

Aaron McCall, Northeast Regional Steward, provided the annual report for Nags Head Wood Ecological Preserve (NHW), which is a partnering organization with the Town. He noted that the preserve encompasses 1,200 acres, and highlighted its upcoming 40th anniversary celebration, visitor services, and outreach programs.

Mr. McCall said that NHW Staff had developed a self-guided audio tour based on the book *"Everyone Helped His Neighbor" Memories of Nags Head Woods* that shares information on the historic Nags Head Woods community that previously inhabited the area. He noted that in the first two weeks, over 700 people used the audio tour. He also reported that approximately 300 acres of marshland was burned through the controlled burns, which revitalize the marshland. The NHW had also acquired an additional 10 acres of land in the last year. On behalf of the NHW, he expressed appreciation to the Town of Kill Devil Hills for its continued support. Mr. McCall's PowerPoint presentation is included with the meeting materials.

Commissioner Windley inquired about coyotes in Nags Head Woods. Mr. McCall stated that there was anecdotal evidence of decreased numbers, with fewer coyotes spotted and a larger deer population. Commissioner Jones inquired about the possibility of controlled marsh burning on the islands in the sound, off of Kill Devil Hills. Mr. McCall noted that some of the islands were owned by the North Carolina Coastal Reserve. He also noted that the N.C. Forest Service often worked with private landowners for controlled burns.

Old Business

New Business

Committee Reports

West-side Recreation Group (WRG) – Commissioner Gray reported that since its inception by the Board of Commissioners, the WRG had begun its review of four specific recreational

facilities: Hayman Park, Aviation Park, Meekins Field, and the Baum Tract. He recognized the WRG members present at this evening's meeting.

During the group's September meeting, the Hayman Park facility was reviewed, in conjunction with review of an online citizen survey about the park. He presented the WRG's Hayman Park report, with recommendations, which has been included with the meeting materials. The recommendations included the following:

- Replace existing playground equipment with equipment that provide recreation for all ages and abilities. Particularly including all-inclusive and alternative playground equipment such as: Handicap Accessible, Bouldering, Ninja Course, and any other new, popular, non-traditional recreation equipment ideas especially for ages 0-12.
- Construct open air pavilion with restrooms, water fountain, and picnic tables.
- Install additional benches and tables.
- Construct sidewalk along West Hayman Boulevard to connect Hayman Park to the Bay Drive Multi-Use Path and gazebo and construct sidewalk along Hayman Boulevard to US 158 for connectivity to the surrounding neighborhoods and to other means of recreation.
- Maintain open green space for open field play and organized sports.
- Improve additional sections of the right-of-way for parking in the immediate vicinity of the park on an as-needed basis.
- Provide additional signage to improve wayfinding.
- Investigate and make recommendations for potential sources of grant funding.

Mr. Ray highlighted the online survey results, which had 292 respondents. The Mayor asked that future surveys be developed with input from the WRG members. Commissioner Gray requested that the Board of Commissioners direct Staff to develop a conceptual site plan for Hayman Park for review and consideration by Board of Commissioners for the 2020/2021 Fiscal Year, including a funding plan and options for phased implementation.

Through consensus, the Board of Commissioners directed Staff to move forward with the WRG's Hayman Park conceptual site plan and group recommendations.

Community Appearance Commission (CAC) – Sue Kelly, CAC chairperson, highlighted ongoing initiatives of the group: the "Help KDH Kick Butt" and Bag Smarter campaigns. She highlighted the upcoming meetings for the CAC and "Help KDH Kick Butt" subcommittee. She noted that the CAC planned to have an appearance at the upcoming OBX Halloween Parade on October 27. She also shared that the CAC was considering nominations for its biennial Community Appearance Awards.

Commissioners' Agenda

Commissioner Gray

Dare County Motorcycle Toy Run Commissioner Gray expressed his appreciation to Mayor Davies for her welcome, and to Police Chief Britt for the Police Department's assistance with this year's event. He stated that 119 motorcycles and 65 Jeeps

participated, and $6,500 was raised for local children during the holidays. The total fundraising for the year is over $27,000.

Commissioner Jones

League of Women Voters Candidates Forum Commissioner Jones expressed his appreciation to the League of Women Voters for holding its voters' forum for candidates in the municipal election.

Commissioner Windley

Outer Banks Dementia Taskforce Commissioner Windley expressed his appreciation to the group for holding its Alzheimer's Walk. He said the event was well attended and encouraged a growing awareness of the issue.

Saving Lives Taskforce He shared that the collaborative group works to address substance abuse issues and prevention in Dare County. He shared their meeting dates and encouraged the public to attend and participate.

League of Women Voters Commissioner Windley thanked the League for holding its voters' forum.

Commissioner Hogan

November Municipal Elections Commissioner Hogan encouraged everyone to vote, either during the early voting or Election Day.

Mayor's Agenda

Mayor Davies shared the following information:

Halloween Parade OBX Entertainment will be holding its 6th annual Outer Banks Halloween Parade at Aviation Park on Sunday, October 27. The free family-friendly event will have a short walking parade and costume contest. Registration begins at 2:00 p.m., with the costume parade at 3:00, followed by a costume awards ceremony. She noted this is the second year it has been held in Kill Devil Hills.

Town Boards and Committees – The Town's boards and committees are always seeking volunteers to serve in various capacities. She encouraged the public to consider submitting an application, which are located in the meeting room or on the Town's website at www.kdhnc.com.

Town Electronic Distribution List The public is encouraged to sign up to receive regular emails from the Town to stay informed of Town happenings. Mayor Davies said that in order to sign up, email info@kdhnc.com with your name and preferred email address.

Offshore Drilling Conference Mayor Davies shared that she had been invited to speak to the Council of Canadians conference in Ontario about the Town's efforts against offshore drilling November 7-9, 2019. She will be speaking to a group of approximately 40 mayors of different municipalities, and highlight Kill Devil Hills' work, in conjunction with local organizations and municipalities. She also noted that there will be no expense to the Town for her attendance at the event.

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. Minutes (Attached CA-1A)

A. September 11, 2019

2. Monthly report (Attached CA-2A)

A. August 2019

3. Budget amendments (Attached CA-3A)

A. #7 – to appropriate the 2019/2020 Government Education Access Channel Grant

4. Uniform Guidance Conflict of Interest and Gifts Policy (Attached CA-4)

Adoption of this policy will satisfy federal requirements to maintain written policies and procedures of conduct covering conflicts of interest by local governments that receive and expend federal financial assistance, such as the Federal Emergency Management Agency (FEMA) and other programs.

Approval of the Consent Agenda will record Board of Commissioners approval of this policy.

5. Appointment of Tax Collector (Attached CA-5)

The Town has an inter-governmental agreement with Dare County for collection of *ad valorem* taxes; however, the agreement does not replace the statutory requirement that Kill Devil

Hills must also appoint a tax collector. Approval of the Consent Agenda will record appointment of Finance Department Accountant Angell Wescott Doughtie as Kill Devil Hills' tax collector.

6. An Ordinance Enacting and Adopting Supplement #16 to the Code of Ordinances for the Town of Kill Devil Hills (Attached CA-6A)

The Town recently received Supplement #16 to the Town Code and this ordinance was presented for adoption of the supplement, as completed by American Legal Publishing Corporation. This action reinforced the Board's earlier actions in adopting the ordinances that comprise this supplement. Supplement #16 has been reviewed and found to be accurate to the Board's actions.

Approval of the Consent Agenda will record approval of this ordinance.

Ms. Diáz presented the Consent Agenda and recommended approval as presented.

Commissioner Hogan moved to approve the Consent Agenda. Commissioner Gray provided a second, and the motion passed with a unanimous, 5-0 vote.

At 7:38 p.m., Mayor Davies recessed the meeting to prepare for the Public Forum.
At 7:48 p.m., Mayor Davies reconvened the meeting.

Public Forum

Mayor Davies opened the Public Forum, and explained that this less formal gathering was conducted twice a year to provide the public a chance to interact with the Board. She noted there are no time limits for the speakers in the forum.

1. Beth O'Leary, Martha Vaughn, and Betsy Brothers – KDH Against Mini-Hotels (Attached PF-1)

KDH Against Mini-Hotels, represented by Beth O'Leary and Martha Vaughn, shared a PowerPoint presentation in opposition to large single-family dwellings, or event homes. Materials submitted for this item include copies of e-mails submitted to the Board of Commissioners supporting the moratorium concept, and Mayor Davies' responses explaining North Carolina law, which prohibits local governments from establishing a moratorium for the purpose of developing and adopting new or amended plans or ordinances pertaining to residential use of property. All materials submitted were placed with the record of this meeting.

Beth O'Leary, 1219B South Virginia Dare Trail, Kill Devil Hills – Ms. O'Leary provided a brief history of large single-family dwellings review by the Town, beginning in 2015. She asked the Board to consider a moratorium of 30 to 60 days on further construction of the large single-family dwellings, until a third building designation and regulations could be adopted. Her written remarks have been included with the meeting's minutes.

Martha Vaughn 1217C South Virginia Dare Trail, Kill Devil Hills – Ms. Vaughn read the KDH Against Mini-Hotels PowerPoint presentation, which noted that the Outer Banks has become a top wedding destination, rather than a vacation destination. She noted that in the last five years in Kill Devil Hills, 12 event homes, averaging 10,000 square feet have been built. Three event homes are currently under construction. She cited the impact of noise, light pollution, and traffic affecting neighboring rental properties, a decline in long-term consistent renters, and the loss of traditional cottage appeal. The group requested the following: implementation of 6,000 square feet limitation for single-family dwellings; encourage development of cottage courts; adopt a zoning definition of "event home"; require permits for events to address the impact on neighboring properties; establish a taskforce of Town Staff and residents; and bring a balance of growth and protection of natural resources to Kill Devil Hills.

Beth O'Leary, 1219B South Virginia Dare Trail, Kill Devil Hills – Ms. O'Leary submitted the following items to the Board of Commissioners, which have been included with the meeting's minutes:

- KDH Against Mini-Hotels PowerPoint presentation
- October 16, 2019 letter from attorney Robert E. Hornik, Jr., of the Brough Law Firm, PPLC, regarding the regulation of "supersized" residences in Kill Devil Hills
- October 16, 2019 written comments from N.C. Coastal Federation Coastal Advocate Michael Flynn
- October 15, 2019, email to Mayor Davies from Bev and Steve Coffman, Cheryl and Rick Fauerbach, Cheri and Phil Moran, Connie and Hugh Westfall, Blake and Susan Clark, and Margaret Stables in opposition to event homes
- September 13, 2019 email complaint from Bev Coffman to Joe Lamb, Jr. Realty about a noise from a neighboring event home
- An "Improve Building Codes in Kill Devil Hills" petition, requesting changes in the building and zoning codes to limit single-family dwellings to 6,000 square feet.
- The results of a www.Change.org online petition "Improve Building Codes in Kill Devil Hills," including names, location, date, and any comments
- Kill Devil Hills Police Department calls to event homes between October 2017 to October 2019. The calls to specific property addresses were requested by KDH Against Mini Hotels

Ms. O'Leary stated that many of these structures are built for investors who never visit or use the home. There is no vested interest in what happens to the land, neighbors, and community. She stated her group's concern was the redevelopment of Kill Devil Hills. She stated that she was disappointed that the Board has not taken more action on large single-family dwellings. She stated that a moratorium was one of the only steps to address the issue. She supported another building designation for these large single-family dwellings.

Nancy Lehman, 204 West Airstrip Road, Kill Devil Hills – Ms. Lehman stated this was a community issue, and she inquired why the issue has not been addressed.

Susan Furlough, 1208 South Virginia Dare Trail, Kill Devil Hills – Ms. Furlough shared her concerns about the current stormwater system. With it originally being developed decades ago, it is not adequate to address the community's needs. She noted with the growth in development, there are far less areas for the stormwater to be absorbed following rainfall. She then shared photographs of recent flooding at her home and around her neighborhood, which are included with the meeting minutes. She noted that an additional large single-family dwelling was being constructed across the street from her property and it will displace additional stormwater that cannot be handled by the existing stormwater system.

Beth O'Leary, 1219B South Virginia Dare Trail, Kill Devil Hills – Ms. O'Leary stated she lives across from Ms. Furlough's residence. She stated that with frequent flooding, it is difficult to get to her garbage dumpster. She expressed concerns about proposed lift stations that would be installed with the construction of the large single-family dwellings.

Patti Armistead, 2035 South Virginia Dare Trail, Kill Devil Hills – Ms. Armistead noted that the wedding industry in the Outer Banks is strong, the business will not remain as strong in future. The large single-family dwellings that cater to the wedding industry are commercial enterprises, not homes. She expressed concerns about the visitors who frequent these homes, including fireworks usage. She supported a moratorium until the Town could better address the issue.

James Almoney, 900 Ninth Avenue, Kill Devil Hills – Mr. Almoney stated that with every election season, there is always an issue of some sort. He encouraged everyone to meet with the municipal candidates to learn their viewpoints.

Beth O'Leary, 1219B South Virginia Dare Trail, Kill Devil Hills – Ms. O'Leary said she attended the League of Women Voters candidate forum. She expressed concerns that the municipal candidates did not commit to a pledge limiting large single-family dwellings to 6,000 square feet.

Mayor Davies stated that the Town had received requests from many citizens supporting a moratorium on the construction of these large single-family dwellings. However, that is not legally possible. Ms. O'Leary suggested the Town delay approving the plans and building permits required for construction of the large single-family dwellings, or at least slow the process down without telling the applicant. Ms. O'Leary stated this would give the community more time to address the issue. Mayor Davies stated that the Town could not do anything deceitful, like what Ms. O'Leary had suggested. Ms. O'Leary said that the Board worked things out for its own agenda; now, work things out for everyone's agenda. Ms. O'Leary said she was not asking the Town

to do anything deceitful, but to work things out for everyone. Mayor Davies said that the Board had asked Mr. Varnell to attend the Public Forum to address the moratorium issue. She noted that the Board could not take that action legally, and asked Mr. Varnell to further explain. Mr. Varnell stated that North Carolina's municipalities are granted authority by the General Assembly under Section 160A of the General Statutes. As a result, every municipality and Board member has to abide by that section. He stated that under N.C.G.S. 160A-381(e), cities may adopt temporary moratoria on any city development approval required by law, except for the purpose of developing and adopting new or amended plans or ordinances as to residential uses. He stated that these large single-family dwellings, or event homes are considered residential property by the State of North Carolina, and the Town cannot be more restrictive on the structures than the State or create an additional building category.

Beth O'Leary, 1219B South Virginia Dare Trail, Kill Devil Hills – Ms. O'Leary stated that moratoria could be adopted if it was a safety issue or concern to the residents. She said it had nothing to do with the usage of the property; it has to do with the fact that they are being built so close in an area with no fire prevention. Special use permitting can be available. With the problems that are associated with these types of properties, everyone is going to sell their properties and no one is going to want to visit the Outer Banks to vacation.

Patti Armistead, 2035 South Virginia Dare Trail, Kill Devil Hills – Ms. Armistead stated there were many public safety issues, including that roads cannot handle traffic in and out of the Outer Banks. She also expressed concerns about evacuation issues regarding such a large number of visitors on the Outer Banks.

Commissioner Windley expressed support for the establishment of a committee or taskforce to further examine the issue. He noted there was a desire to consider the issue and thought that a desired result could be reached. Commissioner Gray stated that he had heard from a range of people suggesting multiple stakeholders in a group to address the issue, and recommended Commissioner Windley be considered to chair the group. He said he preferred cluster home development and related incentives.

Several members of the public inquired why nothing had been accomplished earlier, including the passage of the two requested amendments at this evening's meeting. Commissioner Jones stated that both parties were willing to meet and develop new ways to build the large single-family dwellings. He asked for a show of hands of those who would be interested in serving on such a committee to gauge support, and there were a number of people to express interest.

Matt Walker, 439 West Walker Street, Kill Devil Hills – Mr. Walker expressed concern about the timeline for this committee, noting that the Town's Stakeholders Group on Building Height Regulation took nine months to examine that issue. He stated

that when development is being promoted, timelines appear to be accelerated; however, when development is not welcomed, the timeline seems slowed.

Through consensus, the Board directed Staff to develop the committee framework parameters for review by the Board at its November 13, 2019, meeting. The Board requested residents, property owners, and non-resident property owners be included, with the group composed of a majority of residents.

A member of the public inquired whether the number of participants on the committee would be limited. Commissioner Windley stated the group will be determined on the number interested, after applications are received.

Beth O'Leary, 1219B South Virginia Dare Trail, Kill Devil Hills – Ms. O'Leary said the development of a committee will not address her group's current concern. She referenced her submitted letter from an attorney that would supported the designation of a third property classification for the large single-family dwellings.

A member of the public inquired that with current limitations on the Town, what is possible to be done to address the large single-family dwellings issue. Mayor Davies replied that it is a complicated issue, and that it can be very difficult to reach a consensus among all stakeholders, including the Board of Commissioners.

Nancy Lehman, 204 West Airstrip Road, Kill Devil Hills – Ms. Lehman inquired about the process for zoning amendments. Mayor Davies briefly shared on the process. Ms. Lehman then inquired whether there was a general statute against limiting a square footage for residence. Mr. Varnell stated that there was no statute against a square footage limitation for residences. He stated that Town Staff works diligently to develop ordinances for the Town that will not be challenged legally.

Colleen Almoney, 900 Ninth Avenue, Kill Devil Hills – Ms. Almoney said that in reference to the large single-family dwellings issue, several people had indicated there were two sides. She inquired who the other side was. Commissioner Jones replied that it was people who believe that their property rights are violated if they cannot build what the regulations permit. Ms. Almoney stated concern that some of those stakeholders were not people from the Town, and do not have a vested interest in the community.

Matt Walker, 439 Walker Street, Kill Devil Hills – Mr. Walker expressed concern about water quality of stormwater runoff. After Hurricane Dorian, there were swimming prohibitions in the ocean due to contaminants from stormwater runoff. He stated that population density is a concern, and in future, contaminated water will be a problem.

Sharon Nelson, 1625 North Virginia Dare Trail, Unit 5, Kill Devil Hills – Ms. Nelson expressed her extreme disappointment with the Board's inaction about the large single-family dwellings. Two years earlier, she had presented amendments to limit square

footage of these structures, and the Board did not act, noting it was awaiting the results of the Land Use Plan citizen survey. The survey has been completed, and still the Board has not taken any action on the issue. She said that potential development limitations are repeatedly tabled. She noted that the two requested amendments under consideration at this meeting were a good step, but they were not adopted.

Mike Lowack, 106 Porthole Court, Kill Devil Hills – Mr. Lowack thanked the Board members for their service. He said he had recently seen green, yellow, and red LED lighting bars on the signal light arms. He thought it might better inform motorists and limit accidents. He understood that stoplights are under NCDOT jurisdiction, but it might be worthy of consideration.

The Board thanked everyone for attending, sharing their thoughts, and noted that the Board served the citizens of the entire Town.

Adjournment

There being no further business appearing before the Board of Commissioners at this time, Commissioner Windley moved to adjourn the meeting. Commissioner Gray seconded the motion and approval was by a unanimous, 5-0 vote. It was 8:56 p.m.

Submitted by:

James Michael O'Dell
Deputy Town Clerk