Minutes of the Wednesday, March 9, 2020, regular meeting of the Kill Devil Hills Board of Commissioners held at 6:00 o'clock p.m. in the Meeting Room at the Administration Building, 102 Town Hall Drive, off Colington Road.

Members Present:	Mayor Ben Sproul; Commissioners Terry Gray, Ivy Ingram, Bernard "B.J." McAvoy and John Windley
Members Absent:	none
Others Present:	Debora P. Diáz, Town Manager; Casey Varnell, Town Attorney; Meredith Guns, Planning Director; Cameron Ray, Assistant Planning Director; and James Michael O'Dell, Deputy Town Clerk

Call to Order

At 6:02 p.m., Mayor Sproul opened this meeting of the Kill Devil Hills Board of Commissioners (BOC) and welcomed all present.

Pledge of Allegiance and Moment of Silence

Mayor Sproul asked everyone to keep Police Department Office Assistant Phebe Cooper and her family in their thoughts because her father recently passed away.

Agenda Approval

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

Public Comment

James Cofield, 101 East Bias Lane, Duck – Mr. Cofield presented the League of Women Voters of Dare County 2020 Citizens Guide to the BOC. He noted that 7,000 copies of the guide have been printed for distribution. He thanked the Town for its annual partnership amount, which assists with the guides' printing costs. His written remarks have been included with the meeting minutes.

Pete Burkhimer, Town Engineer – Mr. Burkhimer briefly updated the BOC on the Town Hall Drive paving project, which was ongoing. He thanked everyone for their patience in the process.

Response to Public Comment

Introductions and Presentations

1. YMCA annual partnership presentation

Outer Banks YMCA Executive Director Todd Heinecke made a PowerPoint presentation about the Outer Banks YMCA and its community programs. The presentation is included with the meeting materials. A large number of YMCA local memberships are from Kill Devil Hills citizens, who benefit from the facility amenities and its programs, which include annual summer camps, youth sports programs, and swim lessons. Mr. Heinecke noted that the YMCA has teamed with the Children & Youth Partnership of Dare County to develop KinderSwim, a program to teach every Dare County Schools kindergartener to swim. On behalf of the Outer Banks YMCA, he expressed his appreciation to the Town for its continued partnership commitment.

2. Outer Banks Group, National Park Service – 2019 year in review

Outer Banks Group Superintendent Dave Hallac made a PowerPoint presentation on the Outer Banks Group, which includes Cape Hatteras National Seashore, Fort Raleigh National Historic Site, and Wright Brothers National Memorial and their operations during 2019. His presentation has been included with the meeting materials. In 2019, he noted the parks experienced 3.25 million visits. He shared that the recently renovated Wright Brothers Memorial Visitors Center was awarded the Leadership in Energy and Environmental Design (LEED) Gold certification, which highlights energy efficiency. Supt. Hallac stated that roadways in the Wright Brothers Memorial will be undergoing paving in the coming months.

Old Business

New Business

1. Recommended Amendments to the Town Code

A. Chapter 151, Flood Damage Prevention Ordinance – 2020 revision (Attached NB-1A)

Planning Director Meredith Guns presented information on the updated FEMA flood maps, and a draft Flood Damage Prevention Ordinance. The new ordinance includes State mandates for changes and Staff recommendations for improved clarity and consistency. After completing its review, the State endorsed Staff's recommendations. The maps and ordinance must be adopted by June 19, 2020, in order for the Town to remain in the National Flood Insurance Program (NFIP). On February 11, 2020, the Planning Board also reviewed the revised ordinance, and provided some recommendations. [*Clerk's note*: an acronym reference list was included with the meeting materials and the proposed ordinance defines acronym terms.]

Ms. Guns stated that the new maps were released in June 2016 by the State of North Carolina. The Flood Insurance Rate Maps (FIRMs), released in June 2016, were developed by North Carolina Floodplain Mapping Program in conjunction with the Federal Emergency Management Agency (FEMA).

Based on actual data and experience, Staff maintained that the maps were not reflective of current flood prone areas in Kill Devil Hills. The maps remove a large portion of the Town from the Special Flood Hazard Areas (SFHA), which are historically known to flood. The new maps remove over half of the properties from the VE Zone and remove 4,062 structures from the A Zones. Approximately 84% of the current properties in the A Zone are affected. Ms. Guns noted this was a great concern not only to Kill Devil Hills but all of the local governments. Additionally, Kill Devil Hills is receiving its first AO zone, reflecting undirected flood water rising water. This is also associated with base flood but it is measured from highest adjacent grade rather the NAVD 1988 Datum. She noted this was a large change for the Town.

Over the past 3½ years, Planning Staff has been working with the other Dare County local governments to develop a viable solution to protect property through our Flood Damage Prevention Ordinance and establishment of a higher regulatory standard. Throughout the process, this group has also consulted with the Outer Banks Home Builders Association, the Board of Realtors, insurance professionals, local engineers, and surveyors.

This proposed Flood Damage Prevention Ordinance includes a Local Elevation Standard, which is a locally adopted elevation used as the Regulatory Flood Protection Elevation (RFPE) in Shaded X and X zones, or used in conjunction with Base Flood Elevation (BFE) and freeboard to mitigate flood hazards in the AE, AO, VE and depicted on the FIRM.

Ms. Guns noted that the submitted ordinance indicates changes the State made to the 2006 model ordinance in red. Most of these changes were clarifications and additional regulatory standards that have been imposed. Kill Devil Hills' recommended modifications are highlighted in blue, and include the higher regulatory standard implementation, along with definitions and regulations in the certification, permitting, and construction standards.

Ms. Guns recommended reviewing the Summary of Changes by Article then looking at the specifics in the ordinance as necessary. Staff also recommended scheduling this item for additional discussion for the March 25, 2020, meeting, prior to setting the public hearing. *[Clerk's note:* The March 25 and April 9, 2020, BOC meetings were cancelled due to the State of Emergency and the N.C. Governor's Executive Order in response to the COVID-19 epidemic. It will be addressed as an Old Business item at the April 22, 2020, meeting.]

She said that Staff has received additional State comments since the packet was distributed; however, none are substantial and they will be outlined and incorporated into the ordinance prior to the March 25th meeting.

Planning Department Staff will be conducting a community informational meeting on Wednesday, March 11, 2020, from 4:00 - 6:00 p.m. in the Meeting Room. Kill Devil Hills citizens can see how the upcoming maps will affect their specific properties. Additionally, insurance representatives will be available to answer general flood-related questions at the meeting. Ms. Guns stressed the importance for property owners to maintain their flood insurance, even if not mandated. Also, to help with the public's understanding of the new

regulations, the Town has implemented a public information outreach through the Town's website, social media, and videos to inform citizens of the potential changes.

Commissioner McAvoy inquired how many homeowners would be negatively affected by the additional X Zone regulations from the recommended ordinance and whether those property owners had been informed of the potential changes. Ms. Guns stated that following a cursory review of the electronic surveying elevation process, most structures were above the eight-foot base elevation; however, a minimal amount of properties in the X Zone could be affected. She shared that without individually surveying every property in Town, Staff could not accurately identify all properties affected negatively. She noted that most of Kill Devil Hills is in the AE 8 or above level; the eight-foot level is the standard set since 1976, the lowest number that the Town has had in the past.

Construction standards and regulatory requirements will be required to comply with the June 19, 2020, effective date. For homeowners' insurance, the policies will not change until the individual policies are renewed, which could be later than the effective date. Mr. Varnell and Ms. Guns acknowledged that to remain in the National Flood Insurance Program (NFIP), the Town would need to adopt the Flood Prevention Ordinance by June 19, 2020.

B. Chapter 153, Zoning – off-street parking and loading (Attached NB-1B)

Assistant Planning Director Cameron Ray shared that the BOC, at its January 22, 2020, joint worksession, directed Staff to re-draft an amendment to address large single-family dwelling off-street parking issues, and to present it for review prior to submission to the Planning Board. Four draft alternatives have been highlighted, each of which would propose adding a third category for single-family and duplex structures with eleven required parking spaces or more. The draft alternatives can stand alone as recommended amendments or several of the options can be combined:

1. Limit stacked parking not to exceed six vehicles to reduce long lines of cars that prevent access by emergency vehicles to the structure.
2. Require one access aisle designed open and unobstructed to the primary dwelling. Minimum access aisle width shall be ten feet within 20 feet of the front entrance.
3. Create incentives for requiring a marked access aisle (no parking). Increase setbacks for unmarked access aisle or maintain existing setbacks for marked no parking access aisles.
4. Require 10% of the total vehicle accommodation area include landscaping with aisles established within the interior of the vehicle accommodation area. (similar to commercial development). This would leave open areas for emergency vehicles to use.

Staff requested Board direction on which alternative(s) should be included into a recommended amendment for safety issues.

Mayor Sproul stated that these draft options were to increase the safety of the large single-family dwellings, which were almost non-existent 20 years ago. He noted that any of

these options would be a design element for future development, rather than a day-to-day enforcement issue.

Limit stacked parking not to exceed to six vehicles for homes of 11 bedrooms or more: Ms. Guns stated that stacked parking was a row of vehicles perpendicular to the roadway. Limiting the number of stacked vehicles would create more circulation in the parking areas. She noted that Staff regularly observed vehicles at these large-single family dwellings parked at angles or in a manner to prevent stacked vehicle patterns. When they park at an angle, the design does not accommodate the width for the vehicles to fit. In these cases, she said the drivers are effectively taking up two lanes of the designed parking by function. As a result of the eliminated parking spaces due to the selected configurations, any remaining vehicles are parking elsewhere on the property, along the roadway, or at another location.

Mayor Sproul shared the example of commercial parking requirements, which include a 24-foot drive aisle, with 18-foot spaces with a two-foot overhang. He said that any structure that had parking for over 11 vehicles could have a similar level of design requirement because it becomes a circulation issue with such a large number of vehicles. He said the Town is not considering something to that level of requirement, but something to increase circulation and safety.

Require one access aisle designed open and unobstructed to the primary dwelling: Ms. Guns stated that this would be a design requirement on a site plan, and no markings would be placed on the pavement. Mayor Sproul provided an example of a 2,400 square foot concrete parking area. Although the stacking limitation option would not affect the number of spaces, this option would require one of the three lanes to be open, which would decrease two parking spaces, unless the design was changed.

Create incentives for requiring a marked access aisle (no parking), and require 10% of the total vehicle accommodation area include landscaping including aisles established within the interior of the vehicle accommodation area: Commissioner Windley inquired whether any large single-family dwellings in Town had landscaping in the vehicle accommodation areas. Mr. Ray replied that three structures have landscaping. Commissioner McAvoy inquired that since these drive islands were not to be driven over by vehicles, do they promote access for fire apparatus. Staff replied that this option was cosmetic. Ms. Guns stated that although the Town cannot require a large single-family dwelling to mark a drive aisle, the option could be incentivized. The drive aisle promotes circulation and as a result, increased safety.

Several BOC members expressed concern regarding enforceability of some of these options. Ms. Guns noted that the Town's zoning ordinance design standards affect the bulk, height, and other facets of a property which promote the safety of a property and its occupants, and is enforced during the permitting and occupancy stage of the development. Commissioner Windley suggested a public safety outreach program by the Town to inform the public about good parking safety practices. Commissioner Ingram suggested that the incentivization option could also address the education issue.

Following discussion of the above options, the BOC, through consensus, directed Staff to further develop the following options for consideration by the Planning Board:

- A combination of these two options:
  - Require one access aisle designed open and unobstructed to the primary dwelling. Minimum access aisle width shall be ten feet within 20 feet of the front entrance, and
  - Create incentives for requiring a marked access aisle (no parking). Increase setbacks for unmarked access aisle or maintain existing setbacks for marked no parking access aisles.

C. Chapter 153, Zoning – additional side yard setback increase/fire suppression exemption (Attached NB-1C)

At its January 22, 2020, joint worksession, the BOC directed Staff to develop an amendment to address safety issues, with the potential of fire suppression system incentivization, for large single-family and duplex dwellings. Staff recommended increased side yard setbacks of two feet for those structures larger than 6,000 square feet. However, structures with an installed and regularly inspected fire suppression system, which will provide additional safety for the structure, its occupants, and neighboring properties, would not be required to have the additional two-foot setback.

Staff was directed to present this recommended amendment to the BOC for review prior to submission to the Planning Board.

Commissioner Windley inquired how important a fire suppression system would be to these structures. Fire Chief Troy Tilley replied it would be an incredible accomplishment, and would prevent a fire from getting out of hand, give occupants more time to escape and keep the fire in check until the Fire Department arrives on scene. Mayor Sproul inquired about the average cost of a fire suppression system. Mr. Ray stated that the national average cost was $2-3 per square foot. He noted that a system installed in home recently built in Kill Devil Hills was $2.75 a square foot. With these large structures, systems usually average approximately 1% of a structure's construction cost. He also noted that in addition to the value to the occupants' safety, homeowners can receive a discount to their homeowners' insurance. Mr. Ray said that most new systems do not maintain water in their lines, but activate with water in zones as the sensors are triggered. Commissioner Windley inquired about regular annual inspections and maintenance. Mr. Ray replied that maintenance and regular inspections were required. Through consensus, the BOC directed Staff to forward a draft amendment to the Planning Board based on discussions at this meeting for review and recommendation.

Committee Reports

1. Proclamation Declaring the Live Oak as Kill Devil Hills' Town Tree (Attached CR-1)

Community Appearance Commission (CAC) chairperson Sue Kelly provided a brief history of the CAC and accomplishments. On November 7, 2019, the CAC discussed having the Live Oak tree named as the official "Town Tree." This proclamation was a result of the CAC's desire to encourage the Kill Devil Hills community to maintain existing trees as our community grows.

Mayor Sproul moved to adopt the *Proclamation Declaring the Live Oak as Kill Devil Hills' Town Tree*. Commissioner Ingram seconded the motion, which was passed by a unanimous, 5-0 vote.

West-side Recreation Group (WRG) Commissioner Gray stated the Baum Tract would be the topic of the next WRG meeting. He encouraged everyone to complete the online survey, which has already had 100 responses.

Neighborhood Watch Colleen Almoney shared meeting information and upcoming events, which include a Coffee with a Cop session and a community walkabout.

Dare County Tourism Bureau Commissioner Ingram shared that she had attended her first Dare County Tourism Bureau meeting, and was serving on the grant funding subcommittee.

Commissioners' Agenda

Commissioner Gray

Retreat Item Commissioner Gray requested that the KDH wastewater system be an item of discussion at the BOC's upcoming retreat.

Commissioner Windley

West side Multi-Use Path / sidewalk in along Wright Brothers National Memorial Commissioner Windley inquired about the potential of a multi-use path / sidewalk on the west side of US 158 from Landing Drive to Colington Road. Ms. Guns stated that Staff was very interested in the project since it would be the last link to complete the entire west side of US 158 with sidewalks, but there are some major drainage concerns involving the Town and the N.C. Department of Transportation. She noted that the Town has had several discussions with National Park Service about partnering on a project.

Commissioner Windley then recognized David Rollins, who designed the artwork for the Town's water tower.

Mayor's Agenda

1. Resolution

A. Resolution in Support of Alligator River Bridge Improvements (Attached MA-1A)

Mayor Sproul noted that under the State's Transportation Improvement Plan (STIP) for 2023-2032, there are no plans to fund a new or replacement structure for the Lindsey C. Warren Bridge, which spans the Alligator River and has served as a vital link for residents and visitors to and from the Outer Banks. Built in 1960, the drawbridge has experienced multiple closures in recent years to conduct repairs to the structure, resulting in lengthy delays to our citizens.

He shared that the N.C. Department of Transportation's (NCDOT) current transportation project methodology favors projects in higher population urban areas; however, NCDOT is soliciting comments for its 2023-2032 STIP, and Mayor Sproul encouraged Kill Devil Hills to join other local governments in support of a replacement for the Lindsey C. Warren Bridge.

Commissioner Windley moved to adopt the Resolution in Support of Alligator River Bridge Improvements. Commissioner McAvoy seconded the motion, which passed with a unanimous, 5-0 vote.

Fourth of July Fireworks Mayor Sproul announced that Kill Devil Hills will be holding its Fourth of July family fireworks event again this year! He shared that there were concerns following Hurricane Dorian, when Avalon Pier lost over 275 feet of its overall length in the storm. However, Town Staff have been working with the pier's owners and the Town's fireworks vendor, Pyrotechnico. The fireworks will be a little lower in the sky because smaller diameter fireworks must be used on the shorter the pier. He said the July 4th event will be an incredible show as usual. The BOC thanked Chief Tilley for his hard work in making this event possible.

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. Minutes (Attached CA-1A)

A. February 12, 2020

2. Monthly Report (Attached CA-2A)

A. January 2020

3. Schedule Public Hearings for Recommended Amendments to the Town Code (Attached CA-3A and 3B)

The Town Attorney has reviewed the recommended amendments and has found them to be in compliance with applicable North Carolina law:

A. Chapter 153, Zoning - §153.073 Landscaping Requirements – modify landscaping requirements to include single-family and duplex dwellings with greater than 6,000 square feet lot coverage.

At the direction of the BOC, Staff drafted an amendment that creates landscaping buffer requirements for large single-family and duplex development. Following review at its August 20, 2019, meeting, the Planning Board forwarded it to the BOC, with a favorable recommendation. At its October 16, 2019, meeting, the BOC denied the amendment by a vote of 3-2, following a public hearing.

At the BOC's January 22, 2020, joint worksession with the Planning Board, the BOC directed Staff to reintroduce this amendment to the Planning Board for review and possible public hearing. At its February 11, 2020, meeting, the Planning Board voted to forward this amendment to the BOC, with a favorable recommendation.

B. Chapter 153, Zoning - §153.310 Cottage Court(s) and §153.311 Cluster Homes – modify cottage court(s) and cluster homes minimum lot dimensions abutting NC 12

At the BOC's January 22, 2020, joint worksession with the Planning Board, the BOC directed Staff to draft an amendment to change minimum lot dimension requirements for cottage courts and cluster homes that abut NC 12. At its February 11, 2020, meeting, the Planning Board voted to forward this amendment to the BOC, with a favorable recommendation.

Approval of the Consent Agenda will schedule public hearings for items 3A and 3B on Wednesday, March 25, 2020, at 6:00 p.m.

4. Assistance to Firefighters Grant for the purchase of new portable radios (Attached CA-4)

Fire Chief Tilley's memorandum in the meeting materials highlights the Fire Department's opportunity to apply for a FEMA Assistance to Firefighters Grant (AFG) to fund acquisition of vehicle and personnel portable communications equipment. Purchase of the communications equipment is recommended in the 2020-2021 plan year; however, Staff has identified the AFG process as a worthwhile opportunity to offset the project's cost. Approval of the Consent Agenda will authorize Staff to apply for the approximate $300,000 AFG grant and plan for the required 5% matching funding in the 2020-2021 Budget.

5. Recommendation for fiscal year end 6/30/2020 auditor (Attached CA-5)

With Kill Devil Hills' need to secure an auditing group for FY 2020, the Town requested proposals for CPA firms to provide financial auditing services. Following a review by a Staff audit committee, the firm of Potter & Company of Mooresville, N.C. has been unanimously recommended to perform the annual fiscal year end 2020 audit, with up to three additional years as a renewal option. The criteria considered by the committee has been highlighted in the meeting materials. Approval of the Consent Agenda will accept the audit committee's recommendation and authorize the Town Manager to execute a contractual agreement for services.

6. Government Education Access Channels Committee (GEACC) budget request fiscal year 2020/2021 (Attached CA-6)

Approval of the Consent Agenda will record approval of the 2020-2021 GEACC Budget, operating Current Television's government and educational access channels (Charter Spectrum 191 and 198). Regularly produced shows, Destination Dare and Dare Education Awareness, are also funded by Current TV. Apart from the annual $1,000.00 membership fee, there is no cost to the Town for operating the channels, as most operational funding is received from N.C. Video Programming Distribution proceeds.

7. Budget Amendment (Attached CA-7A)

A. #18 - to record NCLM Wellness Grant funds received from the N.C. League of Municipalities for the Town's employee wellness program.

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

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

Public comment

Response to Public Comment

Adjournment

There being no further business appearing before the BOC at this time, Commissioner Gray moved to adjourn the meeting. Commissioner Windley seconded the motion and approval was by a unanimous, 5-0 vote. It was 8:07 p.m.

Submitted by:

James Michael O'Dell
Deputy Town Clerk

These minutes were approved by the Board of Commissioners on April 22, 2020.

Ben Sproul
Mayor