Minutes of the Monday, September 14, 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; Beverly Kissinger, Finance 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

Agenda Approval

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

Public Hearings

At its August 10, 2020, meeting, the BOC scheduled the following items for public hearing. Mr. Varnell read aloud the rules for public hearings and opened each public hearing. There were no speakers during public hearing comment.

1. Kill Devil Hills Land Use Plan Update (Attached PH-1)

With Kill Devil Hills' current Land Use Plan (LUP) being adopted in 1999, the Town began undertaking the process to create an updated Plan in 2017 to reflect the growth in our community, its values, and its vision for the future.

The BOC directed the Planning Board to take the lead on the project's development process, and following multiple meetings and a joint worksession, the process has culminated in a final draft that has been responsive to citizen, stakeholder, and State input. The Town has been assisted by consultant Dale Holland, of Holland Consulting Planners, throughout the LUP

ATTACHMENT CA-1A

development. At its July 21, 2020, meeting, the Planning Board unanimously approved the final LUP draft with a favorable recommendation. At the BOC's August 10, 2020, meeting, members were presented with the final draft of the LUP. Staff recommended approval of the Kill Devil Hills LUP as presented. The BOC expressed its appreciation to the Planning Board and Staff for their diligence in this multi-year adoption process.

Mayor Sproul moved to approve the *Resolution of the Board of Commissioners of the Town of Kill Devil Hills, North Carolina, Adopting the Town's CAMA Land Use Update*. Commissioner Windley seconded the motion, which was approved by unanimous, 5-0, vote.

2. Swell Brewery – 1802 S. Virginia Dare Trail – Commercial Zone – Proposed brewery with tasting room, outdoor dining activity area, 30 parking spaces, and associated site improvements (Attached PH-2)

Swell Brewing, LLC, has submitted plans for the proposed construction of a brewery to be located at 1802 South Virginia Dare Trail, which includes an outdoor dining activity area, 30 parking spaces, tasting room, and associated site improvements. Because an outdoor dining activity area is included, the development requires a conditional use application. At its July 21, 2020, meeting, the Planning Board voted unanimously to forward the plan to the BOC for consideration, with a favorable recommendation.

Commissioner Ingram moved to approve the conditional use site plan for Swell Brewery – 1802 S. Virginia Dare Trail – Commercial Zone – proposed brewery with tasting room, outdoor dining activity area, 30 parking spaces, and associated site improvements. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

3. Amendment to Chapter 153, Zoning – 153.077 – modifications to allow LED String Accent Lights in the Commercial Zone (Attached PH-3)

At the July 13, 2020, meeting, the BOC directed Staff to develop an ordinance with options to allow LED string access lights and submit it to the Planning Board for consideration. At its July 21, 2020, meeting, the Planning Board reviewed this recommended amendment and voted to forward it for consideration by the BOC. The Town Attorney has reviewed the amendment and has found it to be in compliance with applicable North Carolina law.

If approved, this ordinance amendment will permit a structure in the Commercial Zone up to two lines of LED string accent lights no greater than two inches in diameter that are continuous, and parallel to the ground, which can be located no higher than 15 feet from the finished grade and no more than four feet apart. The lights must be permanently mounted to the structure and are limited to one color and one structure per commercial site.

Commissioner Windley moved that the Board of Commissioners finds that the amendment to Chapter 153, Zoning, 153.077, modifications to allow LED String Accent Lights in the Commercial Zone, is consistent with all comprehensive plans or other official adopted plans of the Town of Kill Devil Hills that are applicable and that the amendment is reasonable in the public interest because it provides commercial business owners the ability to have accent

lighting to highlight their establishments. Commissioner Gray seconded the motion, which passed with a unanimous, 5-0, vote.

4. Amended Conditional Use Site Plan – 808A Eighth Avenue in the Light Industrial Two Zone – Modify Site Plan to Remove Workforce Housing Designation from Unit 808A (Attached PH-4)

Amber Harrison Jennings, owner of Unit 808A Eighth Avenue, in the Nature's Walk complex, has requested a change in the designation of the unit from workforce housing to a market rate unit.

Commissioner Windley moved to approve the Amended Conditional Use Site Plan – 808A Eighth Avenue in the Light Industrial Two Zone – Modify Site Plan to Remove Workforce Housing Designation from Unit 808A. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

Public Comment

Response to Public Comment

New Business

1. Meekins Field Recreation Facilities – Master Plan (Attached NB-1)

Assistant Planning Director Cameron Ray stated that the West-side Recreation Group (WRG) had reviewed the Meekins Field facilities, and submitted improvement recommendations to the BOC, which were approved at its February 12, 2020, BOC meeting. Due to the construction of the new Kill Devil Hills Water Tower and Communications Monopole, the facilities at Meekins Field have been closed. With those projects in the final stages of completion, a unique opportunity to redevelop the recreational facilities has been identified.

Planning Director Meredith Guns highlighted the master plan layout and amenities that were developed in conjunction with Staff and the Town Engineer from the WRG's original conceptual plan. The preliminary cost estimate to complete all elements is $878,142.44. Some monies were set aside from the water tower project to address the known damage that would occur during construction to Meekins Field; however, those funds will not complete all elements in the master plan. Staff has requested authorization to apply for an Outer Banks Visitors Bureau Tourism Impact Grant, which would need to be submitted by September 30, 2020, to be considered in this grant cycle.

The BOC expressed its appreciation to Staff, Town Engineer, and the WRG for all of their work in developing this project. Commissioner McAvoy inquired about artificial turf for the large field and its costs. He suggested some amenities might be changed or eliminated from the project to offset the additional cost of artificial turf, and noted that the amenity would be a popular one. Ms. Guns shared that the master plan had components for use by the most diverse populations, including families with young children, adult and youth soccer leagues, lacrosse

athletes, etc. She recommended that the Town apply for grant funding utilizing the current master plan, and if approved, Staff would return to the BOC prior to construction with available options, including an artificial turf add-on. She noted that the Town currently did not have picnic shelters at any of its facilities. Mr. Ray said that the WRG had not recommended artificial turf for the main field; it had considered artificial turf for the practice field so groups could continue to use the facilities while Staff conducted routine maintenance on the main field. Ms. Diáz stated that elements need to be in place to apply for the grant. Ms. Guns noted that if an alternate bid for turf is too expensive, the Town could monitor use of the facility and if warranted, artificial turf could be integrated into a second phase in the future. Ms. Ingram suggested that the weight of artificial turf could affect any infrastructure underneath. Mayor Sproul noted the soccer and lacrosse communities have raised funds to upgrade recreational facilities for the schools, and that many options were available in the future. Commissioner Windley inquired about an estimated construction timeline, if the grant is approved. Ms. Guns stated that Staff may begin some initial work, with the knowledge that the grant will not cover all aspects of the project. She said that some funds were set aside for the Meekins Field facility from the water tank replacement project. It will take some time, but she expected there would be some use of the facility by summer 2021.

Commissioner Gray moved to authorize Staff to apply for an Outer Banks Visitors Bureau Tourism Impact Grant. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

2. Appointments

Mayor Sproul highlighted the positions available for appointment / reappointment. All applications on file from persons interested in serving in either capacity have previously been copied to the BOC and no new applications for those purposes have been received. Through consensus, the BOC decided to take additional time to speak with more of the potential candidates for some of the available openings, and also directed Staff to advertise the board and committee appointments to potentially stimulate a larger applicant pool.

A. Planning Board – two regular positions

With Eddie Valdivieso's resignation, his Planning Board position is now vacant, with an unexpired term ending in December 2020. Mary Simpson's three-year term on the Board will expire in September 2020, and she desires to be considered for reappointment to a three-year term that expires in September 2023.

Commissioner Windley moved to reappoint Mary Simpson to the Planning Board for a term ending September 2023. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

B. Community Appearance Commission – three regular positions

Three terms on the Community Appearance Commission (CAC) expire in October 2020: Bambos Charalambous, Dave Rollins and Natalie Painter. Mr. Charalambous and Mr. Rollins have expressed a desire to be reappointed to three-year terms; Ms. Painter has declined reappointment to the CAC.

Commissioner Windley moved to reappoint Bambos Charalambous and Dave Rollins, each to three-year appointments, to the CAC for terms that will expire in October 2023. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

3. Budget Update (Attached NB-3)

Finance Director Beverly Kissinger provided an overview on certain revenue streams for the past and current fiscal years, which were determined to be most likely affected by the COVID-19 travel and social-distancing regulations. Her PowerPoint presentation has been included with the meeting materials. She noted that several tax revenue streams are not reported to the Town until several months following their collection by the county or state.

Sales tax – From July 2019 to February 2020, the Town experienced an increase of 6.35% from the same time in FY 2018/2019. From March to June 2020, there was a 14% decrease in sales tax revenues compared to the previous fiscal year; however, for the year, it was an increase of .8%, or $22,000. Ms. Kissinger noted that to examine the full effect of the COVID-19 pandemic on the first quarter of FY 2020/2021, it will be October or November before the numbers are reported to the Town.

Occupancy tax – for FY 2019/2020, collections were down 5.5% from FY 2018/2019. From July 2019 to February 2020, there was an increase of 2.3% from the previous fiscal year. From March to June 2020, the Town experienced a 20% decrease in occupancy tax collections. Ms. Kissinger said that collections in July 2020 were 41.3% higher than the previous year. Mayor Sproul stated that the numbers were very encouraging.

Land Transfer tax – the Town met its budget for FY 2019/2020, but the Town budgeted less in for the FY 2020/2021, based on prior years' averages.

Building permits – Ms. Kissinger reported that the Town had budgeted $325,000 for building permit revenues in FY 2019/2020, and collected $339,000. For FY 2020/2021, Kill Devil Hills budgeted $325,000 and through September 11, 2020, the Town had collected $63,500 in permitting fees.

General Fund – She then highlighted general fund revenues versus general fund expenditures. The General Fund balance will be approximately $950,000. In FY 2020/2021, the Town has budgeted $1.968 million of General Fund balance appropriation. She reported that the Fund balance percentage at 59.58% in FY 2019/2020 and 47.81% in FY 2020/2021. Ms. Kissinger noted that the average General Fund balance as percentage of expenses is 46.4% across the state.

She then highlighted the monthly report, which is provided regularly to the BOC in the Consent Agenda. The BOC expressed its appreciation to the Finance Department for their work

and planning. Ms. Diáz recommended a BOC budget worksession in December or January, which will assist Staff in preparing a budget with BOC priorities for the coming fiscal year.

Committee Reports

Commissioners' Agenda

Commissioner Windley

Community Appearance Commission Commissioner Windley shared he had spoken with Community Appearance Commission (CAC) chairperson Sue Kelly, who would like to hold a meeting, possibly for October. He will coordinate a tentative meeting date with CAC chairperson Kelly.

US Census Information The deadline for citizens submitting information for the Census is soon, and those results will affect federal funding for the next 10 years. He encouraged everyone to complete the Census questionnaires.

Mayor's Agenda

1. Proclamations and resolutions

A. September 17 – 23, 2020 as Constitution Week (Attached MA-1A)

B. September 2020 as Suicide Prevention Awareness Month (Attached MA-1B)

C. October 4 – 10, 2020 as Fire Prevention Week (Attached MA-1C)

D. Resolution in Support of the J-1 and H-2B Visa Exchange Visitor Programs (Attached MA-1D)

Mayor Sproul stated the proclamations and resolutions honor and observe issues important to our community and to society. He also highlighted the recent presidential memorandum that protected coastal areas of Florida, South Carolina, and Georgia, from offshore drilling and seismic testing, but not North Carolina. He proposed a *Resolution Reaffirming the Town of Kill Devil Hills Board of Commissioners' Continued Opposition to Offshore Drilling and Seismic Testing and Urging their Prohibition through June 30, 2032*. Upon adoption, the resolutions and proclamations will be shared with citizens, employees, and visitors through the Town's website and social media accounts, and also forwarded to local, state, and federal representatives, as necessary. Mayor Sproul encouraged the Board and all citizens to reach out to their representatives over the coastal protections as soon as possible.

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

2. Recognition of dedicated service to the Town of Kill Devil Hills and its citizens

Mayor Sproul shared that Eddie Valdivieso recently concluded his service to the Town after nearly nine years on the Planning Board. Prior to that time, he served over seven years on the Zoning Board of Adjustment, including one term as its chairman. Mr. Valdivieso also participated in the Town's Streets Improvements Study Committee.

Jerry Jennings, PE, served as the North Carolina Department of Transportation's Division 1 Engineer for numerous years after beginning as an engineering assistant in 1989. Mr. Jennings worked in Maintenance and Project Development until being promoted to Division 1 Engineer in 2003. Mayor Sproul stated that Division 1 covers a 14 county area, and Mr. Jennings and his staff have overseen many changes in Kill Devil Hills, Dare County, and Northeastern North Carolina. Considered a partner with the Town, Jerry Jennings worked with Town Staff and the Board of Commissioners to assist our community in recovering from numerous storms, including Hurricanes Emily, Irene, Sandy, Matthew, and Dorian.

Members expressed their appreciation to Mr. Valdivieso and Mr. Jennings for their contributions to Kill Devil Hills, and the Town will be forwarding an expression of acknowledgement to both.

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. Minutes (Attached CA-1A)

A. August 10, 2020

2. Budget amendment (Attached CA-2A)

#3 – to record FY 2020 year-end encumbrances

3. Schedule Public Hearing

A. Zoning Amendment Request – Chapter 153, Zoning – 153.181 (B) Setbacks for Mixed Use Development (Dwelling and Business) – Request to modify setback for mixed use development to commercial standards rather than residential standards (Attached CA-3A)

This amendment would modify the rear yard setback for mixed use development in the Commercial Zoning District, changing from 20% of depth not to exceed 30 feet, to a rear yard setback requirement of 10 feet. This setback change would parallel with commercial setbacks requirements rather than residential ones.

At its meeting on August 18, 2020, the Planning Board reviewed this proposed amendment to the Zoning Ordinance and voted to forward it for consideration by the BOC. Approval of the Consent Agenda will schedule this item for public hearing on Monday, October 12, 2020, at 6:00 p.m.

Monthly report (Attached CA-4A)

A. July 2020

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

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

Public comment

Three public comments were submitted electronically or by mail to the BOC regarding the scheduled October 12, 2020, public hearing, on a proposed amendment to Chapter 153, Zoning, 153.181 (B) Setbacks for Mixed Use Development (Dwelling and Business).

Edward Lang, Susan Lang, and Theresa Hurd, owners of 114 West Oregon Avenue, Kill Devil Hills – As owners of a commercial office building, they expressed support for the mixed use concept and believed this could alleviate a lack of affordable housing in town.

Gail Leonard, founder of OBX Room in the Inn – Ms. Leonard shared her support for the proposed zoning amendment.

Tracy Ryder, President of OBX Room in the Inn, 111 Carlton Street, Kill Devil Hills – Ms. Ryder shared support for the proposed amendment, which could permit the organization's provision of affordable housing to Dare County residents.

The complete printed comments, which were provided to the BOC prior to the meeting, have been made a part of the minutes of this meeting.

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 McAvoy seconded the motion and approval was by a unanimous, 5-0, vote. It was 7:30 p.m.

Submitted by:

James Michael O'Dell
Deputy Town Clerk