Minutes of the Monday, December 14, 2020, regular meeting of the Kill Devil Hills Board of Commissioners held at 6:00 o'clock p.m. remotely and electronically using ZOOM meeting software in order to maintain the safety of Town residents, Staff, and Board of Commissioners.

Members Participating:	Mayor Ben Sproul; Commissioners Terry Gray, Ivy Ingram, Bernard "B.J." McAvoy and John Windley
Members Not Participating:	None
Others Participating:	Debora P. Diáz, Town Manager; Casey Varnell, Town Attorney; Meredith Guns, Planning Director; Cameron Ray, Assistant Planning Director; and Mary E. Quidley, Town Clerk

Call to Order

At 6:06 p.m., Mayor Sproul opened this meeting of the Kill Devil Hills (KDH) Board of Commissioners (BOC) and welcomed all present via Zoom software. He conducted a roll call of members:

Mayor Sproul	Present	Commissioner Gray	Present
Commissioner Ingram	Present	Commissioner McAvoy	Present
Commissioner Windley	Present		

Attendees for this meeting were representatives from Staff and members of the public; 12 panelists for the meeting included the BOC, Town Manager, Town Attorney, and representatives of the Town's Planning Department, the NC-Department of Transportation (NC-DOT), and for the Cook Out Commercial Site Plan. This meeting was managed by Planning Director Meredith Guns and Assistant Director Cameron Ray. Mayor Sproul reviewed the procedures the meeting would follow and explained to all how they could participate and how they would be called upon to submit a verbal comment. This meeting was also live-streamed on the Town's Facebook page. Additionally, there were several methods the public could use to participate in or view the meeting, which were detailed on the published and distributed meeting agenda.

Pledge of Allegiance and Moment of Silence

During the Moment of Silence, Mayor Sproul asked everyone to keep in mind those struggling through the COVID-19 pandemic and others that may need our thoughts, as well.

Agenda Approval

Commissioner Gray made a motion to approve the agenda for this meeting, with the addition of *Introductions and Presentations 2. Dare County Toy Run Presentation.* Commissioner McAvoy seconded the motion, which passed by a unanimous roll call vote:

Mayor Sproul	Yes	Commissioner Gray	Yes
Commissioner Ingram	Yes	Commissioner McAvoy	Yes
Commissioner Windley	Yes		

Public Comment

Mayor Sproul placed into the record two e-mail messages pertaining to traffic concerns at Lake Drive and US 158/Croatan Highway.

Mark and Karla Hutchins, Country Deli, West Lake Drive, KDH: The Hutchins' addressed the need for a stoplight at the US 158 intersection. They pointed out that past studies have shown a need for the light but no NC-DOT funding for installation has been available. Citing new and planned commercial development along US 158 and the Lake Drive/Fresh Pond Drive commercial and industrial areas, along with the fact that there is not another near stoplight to provide traffic relief, the Hutchins' felt the light to be even more important in the interest of public safety.

Richard Quidley, Brendrick, Inc. Retail Group, dba: American Classics Garage, 1808 South Croatan Highway, KDH: Mr. Quidley sent an e-mail message to Commissioner Gray, which was shared with all members of the BOC, in which he supported the need for a stoplight on Highway 158 at Lake Drive. Previous studies, he stated, have shown a need for a light at that location, yet the project lacked funding. With the addition of the new brewery at the east end of Lake Drive, and a new gas station and fast-food service just south of Lake Drive, on US 158, the congestion and traffic hazards would be certain to increase, Mr. Quidley stated. The stoplight is becoming more important than ever Mr. Quidley said, and he concluded by hoping funding for the light could be found and the light installed.

Michelle West, property owner in KDH, resident: Ms. West submitted an e-mail message voicing her opposition to chain restaurants, fast food establishments, apartments, etc., that was received via e-mail, and is also placed in the record of this meeting.

Dillon Heikens, 1103 Clam Shell Drive, KDH: Mr. Heikens was recently appointed to an unexpired term on the Town's Planning Board and he expressed appreciation for that appointment, and for consideration of reappointing him for a full term of his own, which is on this meeting's agenda.

Mayor Sproul recognized all Staff members involved in bringing Santa Claus to KDH neighborhoods on December 10th, 11th, and 12th. He was transported by the Fire Department, and accompanied by the Town's Police Department, and Santa brought local children a wonderful time.

Response to Public Comment

Introductions and Presentation

1. North Carolina Department of Transportation Update (Attached IP-1)

Mr. Sterling Baker, Division One Engineer, for NC-DOT, addressed the BOC on upcoming projects that will be initiated or continued in the KDH-area: drainage and construction improvements to Colington Road ($16 million); resurfacing improvements to US 158/Croatan Highway ($9.5 million); drainage improvements that include, installation of a large-diameter culvert / cross-pipe under US 158 in the vicinity of the Dare Centre, improvements at Second Street and ditch cleaning along US 158. Budgetary constraints will limit the amount of work the department can accomplish during the current fiscal year, and other identified needs, which include more drainage improvements, will have to wait until the next fiscal year.

Regarding the signal light at Eighth Street, Mr. Baker responded to a question from Commissioner Windley by explaining that he did not believe the light is a budgeted item for the current year. He asked the BOC's indulgence to allow him to research this matter further and get back to them on it. Commissioner Windley had pointed out that there have been new commercial developments approved for location in the vicinity of Lake Drive, which will affect the traffic congestion there.

Commissioner Windley also asked about the timeframe for replacement of the Alligator River Bridge. Mr. Baker explained that preliminary studies are underway and the goal is to have the necessary environmental document completed by June 2021. Then funding options will be identified; this is a large project that will require a considerable portion of NC-DOT's state-wide bridge construction budget.

Commissioner McAvoy echoed the concerns that have been expressed regarding the need for a signal light at Lake Drive.

Mr. Win Bridgers, Division One Maintenance Engineer for NC-DOT, also addressed the Lake Drive signal light. He explained that, now, there may be some "unknown" conditions, not previously considered, at the intersection, such as increased traffic, new and pending commercial developments. If there are additional demands at and in the vicinity of Lake Drive, then NC-DOT will need to re-evaluate its earlier decision from a couple of years ago that conditions did not warrant a signal light.

Commissioner Gray also encouraged NC-DOT to take the necessary steps to have the light installed as a safety measure for the many vehicles that use the intersection daily. In the summer, he explained, it is no unusual to have vehicles backed up on Lake Drive nearly halfway down the roadway waiting to get on US 158.

Commissioner Gray asked if NC-DOT has an overall plan to update the drainage conveyances along US 158. Mr. Baker said he did not believe there is an adopted or approved plan for that work in KDH. Mr. Bridgers explained that he also was not aware of a specific long-range plan; however, he added, there is work ongoing with Town employees to address drainage concerns in KDH. He added that determining what improvements will be made by NC-DOT requires evaluating from where stormwater originates: is it private property, or from along a public right of way, for example; who will benefit from improvements being made (private property vs. public sector). NC-DOT must evaluate potential drainage improvements based on a "benefit factor" philosophy; there should be significant public benefit to such a project.

Commissioner Gray thanked both gentlemen for working with the Town's Public Services Department and expressed appreciation for assistance, and for attending this meeting to address the BOC.

Mayor Sproul asked about the status of the mid-county Currituck Bridge and Mr. Baker explained that the required environmental impact report is nearly complete and project drawings are almost ready to be submitted for permitting, which should be accomplished during the Spring 2021. Financing the project will then be identified and construction could begin as early as the summer of 2022, provided there are no unforeseen issues.

The Mayor and BOC thanked the representatives of NC-DOT for meeting this evening and looked forward to the information Mr. Baker will provide about the Lake Drive stoplight.

2. Dare County Toy Run Presentation

Commissioner Gray, in his role with the Dare County Motorsports Group, highlighted the 2020 Dare County Toy Run, which provides funding for Christmas gifts for children throughout Dare County. He acknowledged the assistance of the KDH Police Department, which conducted traffic control for this year's event, and presented a plaque highlighting their efforts. There were more than 100 motorcycles and 60 Jeeps that participated. Commissioner Gray was the lead coordinator for the Dare County Toy Run this year, which raised more than $8,500 at this specific event for the benefit of local children, and much more than that county-wide.

Old Business

New Business

1. Site Plan Review

A. Cook Out Restaurant – 2005 S. Croatan Hwy in the Commercial Zone – proposed 1,500 sq. ft. restaurant with parking spaces and associated site improvements. (Attached NB-1A)

Commercial Site Design, PLC submitted a site plan for construction of a new 1,500 square-foot "Cook Out" Restaurant at 2005 South Croatan Highway, with 18 parking spaces, two drive-through lanes, and associated site improvements. Assistant Planning Director Cameron

Ray addressed this site plan for the benefit of the BOC and explained that at its November 17, 2020 meeting, the Planning Board had recommended the site plan move forward with a recommendation for approval, subject to some minor issues which have since been addressed and taken care of. Mr. Chris Clayton, the site design professional, represented Cook Out;

Staff also recommended approval of this site plan as submitted.

Mayor Sproul pointed out that the Town had recently adopted the indigenous live oak as the Town tree, and he asked if there is any way the large live oak on east side of the Cook Out site could be saved. Mr. Clayton explained that the company had hoped to be able to save the tree, but there are property grade issues that prevent that.

Commissioner Windley made a motion for the Board of Commissioners to approve the site plan for Cook Out Restaurant – 2005 South Croatan Highway in the Commercial Zone – proposed 1,500 square foot restaurant with parking spaces and associated site improvements. Commissioner Gray seconded that motion and approval was unanimous, 5-0, by roll call vote:

Mayor Sproul	Yes	Commissioner Gray	Yes
Commissioner Ingram	Yes	Commissioner McAvoy	Yes
Commissioner Windley	Yes		

2. Housing options – possible code amendments (Attached NB-2)

At the BOC's November 9, 2020, meeting, the BOC directed Staff to identify code-amendment options that could address the workforce-type, short-term and long-term, shortage of housing units in KDH. Under consideration were *Duplexes* and *Accessory Dwelling Units (ADU)*. The BOC heard comments and recommendations from Staff and proceeded to discuss and identify their own thoughts for potential ordinance changes.

Mayor Sproul initiated discussion by generally addressing the benefits of duplex and ADU's by pointing out that such units tend to be more affordable; their presence allows homeowners the opportunity to enjoy additional income. He also pointed out that other Dare County local governments are also exploring how they can address code restrictions to encourage alternative housing development, yet maintain the integrity of existing land use standards. For example, Dare County's regulations on ADU's established general guidelines for ADU use and construction and included a requirement that ADU's could not be used for commercial or business activity.

<u>Duplexes</u>

- Reduction of the minimum lot size for duplex dwellings from 20,000 square feet to 15,000 square feet. This change would increase the number of sites that could be developed for this use.

Ms. Guns explained that in all zones a developer must have a lot that is at least 20,000 square feet in order to build a duplex dwelling; however, in every other zone other than Residential Low (RL) and Maritime Forest (MTF) multi-family structures may be constructed on

lots that are at least 15,000 square feet. She suggested this incongruity could be an issue the BOC may want to discuss.

Commissioner Gray clarified that duplex and ADU's were two separate issues. He suggested, and supported, changing the language for duplexes in only the Commercial and Light Industrial Zones, at this time, holding off changing language pertaining to duplexes in the lower density districts, such as RL, in favor of seeing what could be achieved in the higher use districts. Ms. Guns also supported that concept, stating that it was a good idea that conforms with the guidelines of the Town's Land Use Plan. Through additional discussion it was agreed that the Residential High (RH) district would be added to the change list.

Commissioner Gray asked Assistant Planning Director Cameron Ray to review minimum lot sizes in other Dare County local governments for duplexes. Mr. Ray responded that in Nags Head the minimum lot size for the duplex use is 22,500 square feet; in Kitty Hawk, it is 30,000 square feet.

Ms. Guns summarized the BOC's intent: the regulations in those zoning districts that currently allow multi-family dwellings on 15,000 square foot lots will be amended to include duplexes on 15,000 square foot lots. The BOC preferred no changes in the MTF, RL and OIR zone.

Accessory Dwelling Units

- Allow ADU's as permitted uses in all zoning districts that allow single-family dwellings (SFD) and restrict them from being used as a home occupation, or for other commercial purposes. Site plan and zoning compliance review would be the same as for a SFD.
- Clearly define ADU's as subordinate to the primary dwelling, which could be accomplished by restricting the size of an ADU to a specific percentage of the primary dwelling size and not to exceed a specific square footage. For example, Kitty Hawk restricts ADU size to 50% of the living area of the primary dwelling, but has a cap of 800 square feet on the overall square footage of an ADU, whichever is less.
- Limiting ADU's to one per lot; permit ADU's on lots with a minimum 15,000 square feet, as is recommended for duplexes.
- Establish parking requirements, which was recommended at one parking space per bedroom.

Commissioner McAvoy wondered if a lot of developers had taken advantage of relaxed regulations; Kitty Hawk had permitted six ADU's since ordinance adoption in 2018. If, changing existing ordinances would make a significant impact on the availability of workforce / affordable housing.

Ms. Guns replied that she did not find six ADU's to be a large number. She felt the reason there have not been more is because of regulations of the Dare County Health Department for septic tanks permit issuance. In KDH, Ms. Guns explained, there are not a large number of 15,000 square foot lots available (which is the recommended minimum size for duplex and ADU structures); therefore, an increase in density in Town is not expected. KDH already has the highest density of any incorporated municipality in Dare County. Further, relaxing regulations

for duplexes and ADU's is not going to solve the housing shortage in Dare County, but it will provide more housing options than currently available to those in need and to property owners. Ms. Guns also pointed out that the minimum square footage for lots could be mixed between zones, that 15,000 square feet did not have to remain constant through all districts.

Mayor Sproul felt that amending regulations is just one tool to help solve the housing issue.

The BOC agreed that ADU's should not be used for commercial purposes, such as home occupations. The BOC agreed that ADU size should be limited and liked Kitty Hawk's regulations of 50% of the primary dwelling or 800 SF whichever is less.

Ms. Guns pointed out another issue the BOC might give consideration to, is if a property owner can get Health Department approval for septic service would the BOC want to establish lot size requirements, or just leave the size to be determined by Health Department approval. Parking and setback requirements would still be required to be met.

The BOC also agreed that code changes for ADU's would be proposed for the Commercial (CO), Light Industrial I (LI-1) and Light Industrial 2 (LI-2) districts; no lot size restrictions would be applied. Including the identification of the zones for changes, the BOC agreed with Staff's other recommendations pertaining to ADU's, which will also include development of a definition for the use.

The Planning Department will draft an ordinance based on these discussions and return it to the BOC prior it being submitted to the Planning Board for review and recommendation. Commissioner Windley commented that he liked the lower square footage options, and if developing more options by changing the Town Code successfully helps create additional affordable housing then he would agree with the BOC giving thought to including the RL zoning district.

3. Appointment

A. Planning Board (Attached NB-3A)

Commissioner Gray made a motion to reappoint Dillon Heikens to the Planning Board for a three-year term to expire in December 2023. Commissioner Ingram seconded that motion and approval was unanimous, 5-0, by roll call vote:

Mayor Sproul	Yes	Commissioner Gray	Yes
Commissioner Ingram	Yes	Commissioner McAvoy	Yes
Commissioner Windley	Yes		

4. Community Appearance Commission update (Attached NB-4)

At its November 9, 2020, meeting, the BOC directed Staff to develop an ordinance amendment to eliminate the requirement for a Planning Board representative on the Community Appearance Commission (CAC) and replace it with a regular membership position. Staff also

provided the BOC with amendment language that would eliminate requirements that members of the CAC be selected from specific stakeholder categories, which could allow for more flexibility in the appointment process, and therefore, membership.

Commissioner Windley suggested this item be reviewed by the CAC prior to action by the BOC. There was general agreement and this matter will return to a future BOC meeting.

Committee Reports

Community Appearance Commission (CAC) - Commissioner Windley thanked everyone who volunteered and participated in the two beach clean-up events coordinated by the CAC during the end of November. The next meeting of the CAC will be on January 28, 2021 at 8:30 a.m. in the Meeting Room at the Administration Building.

Fresh Pond Working Group (FPWG) – Commissioner McAvoy explained that he, Commissioner Gray, Public Works Director Steve Albright, and Assistant Planning Director Cameron Ray had recently met to discuss opening the Fresh Pond for low-impact recreation, such as fishing. The group will explore this possibility with the Town of Nags Head, which owns half of that body of water. The Nags Head Woods Ecological Preserve completed an environmental study on the sustainability of fishing in the Fresh Pond and found it to be viable. Additional information will be reported to the BOC.

Westside Recreation Group – Commissioner Gray announced that the WRG is planning to meet during mid-January and one of the items for discussion will be the sport of pickleball. There will be a guest at the meeting to discuss this game.

Dare County Tourism Board (DCTB) – Commissioner Ingram, who is the Town's representative on the DCTB, announced that the Town had received a $200,000 grant for the rehabilitation of Meekins Field.

Commissioner Gray expressed his personal appreciation to Commissioner Ingram and stated that he felt the BOC owed her a deep expression of gratitude for her diligence in fighting for, and achieving, the Meekins Field grant.

Commissioners' Agenda

Commissioner Gray

- *Santa Claus visiting Town neighborhoods.* Commissioner Gray pointed out that he and other members of the BOC had received a great number of e-mails and appreciation for the Fire Department's and Police Department's taking Santa to various neighborhoods in KDH, in place of the Santa at the Town Hall event, which had to be canceled due to the COVID-19 problems.

Mayor Sproul added congratulations to the Town's Buildings and Grounds Division for the excellent and beautiful job they had done in decorating Town Hall Drive and the Aviation Park area.

Commissioner Windley

- *Citizen request to restore twice-per-week trash collections.* Commissioner Windley explained that he had received a request for the BOC to restore twice-per-week residential refuse collection. He suggested the BOC have Staff prepare a feasibility study that could update the original study information and provide the BOC with the information necessary to discuss this and consider the request. Commissioner Windley explained that he recognized the additional expense, equipment usage and maintenance, tipping fees, employee time, etc., that would be endured should the service be extended. The last feasibility study was done in 2009, when the residential collections schedule was amended to once per week during the off-season months. During discussions, should the BOC agree to increase the current service level, then discussions on how it could be paid for would be appropriate. Finally, public comment could be solicited based on the overall matter.

  Mayor Sproul indicated that he had also heard some public comments about increasing residential collections and that he could see both sides of the issue. Generally, he responds that extra collection containers are available for purchase through the Public Works Department, and the Town offers a voluntary curbside program, participation in which could cut down on refuse that ends up in the landfill. The Mayor agreed that preparing a feasibility study to show savings and costs for once-per-week and twice-per-week collections, respectively, as well as any other benefits or detriments, could be informative for citizens. He also recognized that the once-per-week collections allows more field work done during the off-season with full-time workers that only collect refuse once-per-week, which is a good flexible labor program. Mayor Sproul added that this is worth the discussion for those people that might be for the increased service who, if they were advised of the additional associated costs, might change their minds.

  Commissioner Gray explained that, during the off-season, additional refuse containers cost $69. There is no additional charge for the collection.

  Commissioner Ingram felt if the twice-per-week collection was a service needed by everyone then the most cost-effective solution would be for those solid waste customers to purchase another container.

  Commissioner McAvoy added that, for 2020, some people might want the twice-per-week service restored because the COVID-19 precautions have caused so many people, and children to stay home more.

Mayor Sproul hoped that the COVID-19 disruptions in schedules, etc., could get back to normal soon. He felt discussion on the increased service would be a good topic to look at.

- *Community Appearance Commission.* Commissioner Windley expressed a desire for a standardized sign for beach accesses that could be recognized as a brand for KDH. This would create a uniform message that would let people know where they are, what the regulations are, beach safety, cigarette butt receptacles, etc. He suggested it would be appropriate for the CAC to consider this need and report back to the BOC.

  Mr. Ray explained that Staff is already working to standardize public information signs for placement at various locations.

Commissioner McAvoy

Commissioner McAvoy recognized Commissioner Ingram for her work to secure the Meekins Field grant.

- Meekins Field. He explained to the BOC that, given the significance of the Meekins Field recreation area and the recently approved plans to rehabilitate the facility, which will make it even more inviting for citizens and visitors, he would like to see a grander plan for improvements. He suggested the Town's WRG could revisit the subject and its recommendations for improvement.

  Commissioner Gray explained that the WRG had completed its recommendations on the Meekins Field project, and that at this time, if there is going to be further review, it should be done at the BOC level. He also expressed support for the BOC to give the project some additional consideration. Commissioner McAvoy appreciated Commissioner Gray's comments. This will be further discussed during upcoming budget discussions.

Mayor's Agenda

1. Proposed 2021 Board of Commissioners meeting schedule

Monday, January 11
Wednesday, January 27
~~Monday, February 8~~ Tuesday, February 9
Monday, March 8
Monday, April 12
Wednesday, April 28 (public forum)
Monday, May 10
Wednesday, May 26
Monday, June 14
Wednesday, June 23
Monday, July 12
Monday, August 9
Monday, September 13
Monday, October 11 (public forum)
Monday, November 8
Monday, December 13

After discussing the schedule proposed in Mayor's Agenda Item #1, the BOC agreed to change the February meeting date from Monday the 8th to Tuesday the 9th.

With that amendment, Mayor Sproul made a motion for the BOC to adopt the 2021 meeting schedule. Commissioner Gray seconded that motion and approval was unanimous, 5-0, by roll call vote:

Mayor Sproul	Yes	Commissioner Gray	Yes
Commissioner Ingram	Yes	Commissioner McAvoy	Yes
Commissioner Windley	Yes		

2. Fireworks Event

Mayor Sproul reminded everyone of the upcoming Fireworks Event on December 17, 2020, at 7:00 p.m. at Avalon Pier, and that social distancing is required.

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. Minutes (Attached CA-1A)

A. November 9, 2020

2. Monthly report (Attached CA-2A)

B. October 2020

3. Non-charitable special event – Christmas tree lot at Dairy Queen (Attached CA-3)

On November 23, 2020, the Town received an application for a Non-Charitable Special Event at 109 E. Ocean Bay Blvd. in the southern parking area, for the sale of Christmas Trees from 11/25/2020 through 12/13/2020 from 9:00 a.m. to 9:00 p.m. Town Code Chapter 111 Special Events, Section 111.03(C) prohibits non-charitable special events unless approved by the BOC.

The BOC previously approved this application by consensus, and approval of the Consent Agenda will place that approval in the record of this meeting.

4. Division of Water Resources Grant Acceptance – KDH Beach Protection project resolution (Attached CA-4)

On October 20, 2020, the Town was notified that its KDH Shore Protection project was a recipient of $1,450,921.35 from a N.C. Department of Environmental Quality – Division of Water Resources grant. As a part of the award process, the Town is required to adopt a resolution, *Town of Kill Devil Hills Resolution Water Resources Development Grant*, stating its desire for State funding. Once the resolution is submitted, the Town will receive the final grant contract for execution.

Approval of the Consent Agenda will authorize execution of the *Town of Kill Devil Hills Resolution Water Resources Development Grant.*

5. Approval of Dare County Tourism Board – Tourism Impact Grant for Meekins Field (Attached CA-5)

On December 4, 2020, the Town was notified that it is the recipient of a Dare County Tourism Board - Tourism Impact Grant of $200,000 for the Meekins Field renovation project. Since the BOC is not meeting until January, Staff requested approval of the grant, including authorization for the Town Manager to execute the grant contract, subject to approval by the Town Attorney, and related paperwork, and approval of the appropriate budget amendment to record these revenues.

Approval of the Consent Agenda will record the BOC's acceptance of the grant authorization for its execution, as presented above.

The Town Manager recommended approval of the Consent Agenda as presented.

Commissioner Ingram moved to approve the Consent Agenda, as presented. Commissioner Gray seconded the motion, which was approved by a unanimous roll call vote:

Mayor Sproul	Yes	Commissioner Gray	Yes
Commissioner Ingram	Yes	Commissioner McAvoy	Yes
Commissioner Windley	Yes		

Public Comment

Response to Public Comment

Adjournment

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

Mayor Sproul	Yes	Commissioner Gray	Yes
Commissioner Ingram	Yes	Commissioner McAvoy	Yes
Commissioner Windley	Yes		

It was 7:57 p.m.

Submitted by:

Mary E. Quidley
Town Clerk