Minutes of the Monday, January 11, 2021, 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. 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.

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 James Michael O'Dell, Deputy Town Clerk

Call to Order

At 6:01 p.m., Mayor Sproul opened this meeting of the Kill Devil Hills 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		

There were 12 attendees representing Staff and members of the public, and six panelists which included the BOC, Town Manager, Town Attorney, and representatives of the Planning Department, present and participating in this meeting. This meeting was managed by Deputy Town Clerk Michael O'Dell. This meeting was also live-streamed on the Town's Facebook page.

Pledge of Allegiance and Moment of Silence

Mayor Sproul encouraged everyone's diligence against COVID-19 fatigue, and to keep those affected by the pandemic in their thoughts.

Agenda Approval

Commissioner Gray moved to approve the agenda for this meeting, with the addition of Introductions and Presentations item 2. Dare County Manager Bobby Outten – update on 2022

Attachment CA-1A

beach nourishment project. Commissioner Windley 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

1. Pickleball comments received (Attached PC-1)

The Town received a number of e-mail messages, which were forwarded to the Board of Commissioners and have been included in the record of this meeting.

Comments in support of pickleball facilities in the community, including support for adapting the skating rink at Aviation Park for pickleball courts: Scott Garber, representing the OBX Pickleball Group; Robin Etheridge; Don Cummings; Geof Fountain, 2002 Bay Drive, Kill Devil Hills; Anne Lyons; Susan Leggio, 1807 Seminole Street, Kill Devil Hills; Diane Barbre, 305 West Fourth Street, Kill Devil Hills; Nancy Dod; and Terry Zeytoonian, 2004 Newport News Street, Kill Devil Hills.

Comments in support of maintaining the current skating rink for hockey and roller derby: Destinee Williams; Abbe Lynn Pass; Adam Root; Katie Morgan; Tanya Hill; Amy DeLigio, 503 West Landing Drive, Kill Devil Hills; Chris Ciero, 908 West Dean Street, Kill Devil Hills; Megan Spencer-Shaw, 907 Cardinal Street, Kill Devil Hills; Bonnie Rowe, Emily Pharr, Lauren Nelson, and Brandy Foard.

The following speakers participated in the meeting during Public Comment:

Scott Garber, 211 Sunset Drive, Kill Devil Hills – Mr. Garber highlighted his written comments, which included adaptation of the Aviation Park skating rink that would add basketball and pickleball uses. He stated that he looked forward to attending an upcoming meeting of the West-side Recreation Group (WRG), and encouraged the repurposing of the skating rink into a multi-use sport court.

Megan Spencer-Shaw, 907 Cardinal Street, Kill Devil Hills – Ms. Shaw highlighted her written comments, and also noted that the Aviation Park skating rink was resurfaced by the Town in 2017. If the rink is resurfaced for pickleball or basketball, it may not be a viable surface for roller derby and hockey. She supported the concept of multi-use courts, but requested the Town maintain the smooth surface for roller derby at the Aviation Park facility.

Response to Public Comment

Mayor Sproul thanked everyone for their written and verbal comments. He noted that the WRG has been reviewing all recreational facilities, and that the Town was examining all opportunities to support a wide variety of recreational activities. Commissioner Gray said that some have indicated that the Aviation Park roller rink is under-utilized; he shared that the rink is used a great deal by the roller derby brigade and the hockey players. He also listed existing facilities for pickleball, including Dare County Family Recreation Park in Kill Devil Hills, Dowdy Park, the YMCA, and several elementary schools. Commissioner Gray encouraged anyone interested in recreational opportunities to attend meetings of the WRG. He referenced the Town's Recreational Facilities Plan, a comprehensive plan that provides an overview of all facilities, and supports continued growth in recreational opportunities while not duplicating services provided by neighboring communities. Commissioner Gray suggested that pickleball representatives reach out to Dare County to inquire what options are available for the development of a facility. He also recommended Staff accommodate pickleball provisions at the Meekins Field tennis courts, which would provide an additional opportunity.

Introductions and Presentations

1. Jack McCombs – safety discussion on electric bikes (e-bikes)

Jack McCombs, 3118 Bay Drive, Kill Devil Hills, shared that he was a biking enthusiast and founder of the OBX Silver Riders bicycle group. He noted that over the past five years, bicycle safety education programs by local governments and organizations have led to increased safety for cyclists on area roadways. Mr. McCombs expressed concern about the increased use of electric bicycles (e-bikes) of different categories, with speeds of 20 to over 40 mph. He highlighted the use of e-bikes by inexperienced cyclists on these nearly silent vehicles. North Carolina law does place some restrictions on e-bikes. Mr. McCombs recommended posted signage along the Town's multi-use paths for e-bike users to announce their presence to other users; establishment of a speed limit for the for the multi-use paths; and advised helmet usage.

The BOC expressed appreciation to Mr. McCombs for his presentation, and Staff will identify opportunities to educate and protect the public.

1. Dare County Manager Bobby Outten – update on 2022 beach nourishment project

Dare County Manager Bobby Outten provided an update on the beach nourishment project, scheduled for 2022. Since the beach nourishment project began, Dare County has allocated two cents of the occupancy tax solely towards the project. He noted that the goal has always been to place as much sand on beaches as possible, with no allocation per municipality or formulas based on a cubic yardage or similar measure. Local leaders worked together to establish funding that was relatively similar that did not unfairly burden localities due to size or tax base, one way or the other. Mr. Outten said that with the project modeling, the philosophy was to project out funds that included maintenance on five-year intervals, with growth and cost

increases included. No new projects are undertaken to the detriment of current ones, and none that would jeopardize ongoing maintenance programs. One year's worth of debt service is maintained in case of emergencies. The fund has grown over time and now has approximately eight million dollars that could be utilized to fund additional beach nourishment projects. Mr. Outten stated that the Town of Southern Shores and the Village of Avon are in need of nourishment projects, which would cost 11 to 16 million dollars. Local representatives have lobbied the N.C. General Assembly multiple times for the establishment of a beach nourishment fund to conduct and maintain projects for coastal communities; to date, there is no State-dedicated beach nourishment fund.

He reported that Dare County and its local governments each received approximately 1.4 million dollars in grant funding for beach nourishment. He stated that if the County reduced its contribution to the towns for each of their 2022 beach nourishment maintenance projects by 1.4 million dollars (offsetting the grants) and allocated all of offset savings, the towns could utilize their grant funding towards the 2022 maintenance programs and the Southern Shores and Avon nourishment projects could be funded. This would include using the fund's eight million dollars and a proposed 40 cent tax increase in Avon. He said that otherwise, these needed projects could not be implemented. The modeling indicates that this approach would not negatively impact the current nourishment plans or future maintenance, including the two proposed projects. He stated that public hearings would be held for the citizens of Avon. At its upcoming Dare County Commissioners meeting, the group will be considering a contract with consultants for the designing and permitting of the coming beach nourishment projects, including those in Southern Shores and Avon.

Mayor Sproul stated that the decisions about how much for Kill Devil Hills' tax payers would put towards the beach nourishment program were made by a previous Board several years ago, and the taxpayers' contributions for future maintenance will not be changing. Commissioner Gray inquired whether the project's future maintenance costs would be affected. Mr. Outten replied that the 2022 maintenance projects would not be affected. Commissioner Ingram asked whether long-term maintenance costs for all of the projects, including Southern Shores and Avon, will continue to increase because of the larger areas to maintain. Mr. Outten stated that there will come a time that nourishment program costs will increase, including dredge fuel increases and sand borrow locations, and he could not guarantee specific numbers. However, the model's assumptions have been designed to take as much as possible into account. The re-nourishment models have typically been based on five to seven year cycles, but projects are also coordinated in conjunction with federal reimbursement availability and coinciding project timelines to lower nourishment costs.

Old Business

1. Proposed amendment options for Chapter 153, Zoning (Attached OB-1A and 1B)

Planning Director Meredith Guns stated this item returned to the Board of Commissioners from the December 14, 2020 meeting, at which Staff was directed to develop options that would potentially relax existing regulations on duplex dwellings, and to create other

housing alternatives not currently permitted in Kill Devil Hills. The intent is to help property owners purchase homes with income potential, and to provide options for affordable / workforce housing.

A. Duplexes

Ms. Guns noted that for duplex dwellings, the general agreement was to reduce the required lot size from 20,000 to 15,000 square feet in zoning districts that allow multi-family dwellings on the same lot size. This would be effective in the Commercial, Residential High, Light Industrial 1 and Light Industrial 2 zoning districts.

Through consensus, the BOC directed Staff to develop and present an amendment to the Planning Board for consideration.

B. Accessory Dwelling Units

Ms. Guns stated that Accessory Dwelling Units (ADUs) are not currently permitted in Kill Devil Hills and along with the potential benefits of ADUs, the BOC had earlier discussed which zoning districts in Town might be appropriate for allowing such uses.

The amendment proposed by the Planning Department includes:

- *§153.002 Definitions.* Accessory Dwelling Unit;
- *§153.315 Accessory Dwelling Units* (a new section) – which requires selection of the zoning districts in which ADUs will be permitted;
- §153.076 Off Street Parking and Loading.

She provided an overview of the proposed amendment, which was detailed in the Planning Department's memorandum. She noted that there was no minimum lot size requirement for ADUs and that recreational vehicles, travel trailers, and manufactured homes cannot be utilized as ADUs. The Planning Department proposed ADU options for the following zones: Commercial, Light Industrial 1 and Light Industrial 2 zoning districts.

The BOC thanked Staff for its work and through consensus, directed an amendment, with the recommended zoning districts, be presented to the Planning Board for consideration.

New Business

1. Site plan review

A. 709 North Virginia Dare Trail – Ocean Impact Residential Zone – proposed cluster home development, including 14 single-family dwellings (Attached NB-1A)

Assistant Planning Director Cameron Ray stated that this site plan was for a cluster home development at 709 North Virginia Dare Trail, to include 14 detached single-family dwellings,

shared driveway, a dune walkover with an open and covered deck, and associated site improvements. Each dwelling is proposed to not exceed 2,500 square feet in size and there are two types of construction: a four-bedroom or a five-bedroom unit. Each dwelling will include a pool and parking will be contained beneath the structure. Wastewater treatment will be provided by KDHWWTP, LLC.

Mr. Ray stated that the Planning Board reviewed this site plan on December 15, 2020 and voted to forward it to the BOC recommending approval. Staff recommended approval of the site plan, and he noted that Mike Robinson, PE, was present and representing the applicant, and could answer any questions the BOC may have.

Commissioner Windley moved to approve the site plan for 709 North Virginia Dare Trail – Ocean Impact Residential Zone – proposed cluster home development, including 14 single-family dwellings, as presented. 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		

2. Offer received for purchase of Town-owned property and consideration of Resolution Authorizing the Upset Bid Process for Sale of 2011 South Croatan Highway and 0 South Croatan Highway Adjacent Thereto, and 2032 Wrightsville Avenue (Attached NB-2)

Mayor Sproul stated that in December, the Town received an offer to purchase the property described above and depicted in the materials included with this memorandum. The offer from MPF Investment Company, L.P, in the total amount of $1,505,000, including the required 5% bid deposit, was submitted in accordance with the *Upset bids* statute. The Town Attorney has reviewed the offer and determined it to be submitted in compliance with North Carolina law.

At the October 12, 2020 meeting, Staff was directed that upon receipt of a valid bid for the property this matter was to return to the BOC for further consideration.

Town Manager Debora P. Diáz recommended that prior to taking action, the BOC authorize the Town Manager and Town Attorney to obtain an up-to-date appraisal of these commercial properties so that there is knowledge and understanding of the current market value of the site. Once that is received, this matter will return to the BOC.

Commissioner Gray moved to authorize the Town Manager and Town Attorney to obtain an up-to-date appraisal of the properties. Commissioner Windley 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		

Committee Reports

West-side Recreation Group (WRG) Commissioner Gray shared that due to the increase of COVID-19 rates locally, the planned January meeting has been postponed until a future date.

Government Education Access Channels Committee (GEACC) Commissioner Gray said that the Town was closing out its Local Programming Development Initiative (LPDI) grant from 2019-2020, and that the Town would be submitting a LPDI application for the upcoming GEACC meeting, which is scheduled for January 28, 2021.

Commissioners' Agenda

Mayor's Agenda

Nags Head Woods (NHW) Mayor Sproul shared he had a productive meeting with Aaron McCall and had toured the Nags Head Woods Ecological Preserve, which is part of the Nature Conservancy organization.

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. Minutes (Attached CA-1A)

A. December 14, 2020

2. Monthly report (Attached CA-2A)

A. November 2020

3. Annual Certification of Firefighters (Attached CA-3)

In 1980, the Board of Trustees for the North Carolina Firemen's Pension Fund established a requirement for State fire departments to annually submit a roster of active firefighters. The roster is prepared by the Fire Department and includes only those firefighters who have met the State's minimum requirement for training hours. The list must be certified by each local governing board in order to maintain eligibility for pensions and the line of duty death benefit provided by the State for firefighters.

4. Schedule public hearing (Attached CA-4)

A. Conditional use site plan – Bermuda Bay PUD – Section 200A – amendment site plan for two (2) four (4)-story multi-family structures and associated site improvements

At its December 15, 2020 meeting the Planning Board reviewed this conditional use site plan for two, four-story multi-family structures, 112 units of either one or two bedrooms each, and associated site improvements, at which time they voted to forward it to the BOC recommending scheduling for public hearing. All Staff conditions have been satisfied.

As a conditional use, Chapter 153, Zoning requires a public hearing before action can be taken and Staff recommended it be scheduled for Wednesday, January 27, 2021 at 6:00 p.m.

Approval of the Consent Agenda will place this action in the record of this meeting.

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

Commissioner Ingram moved to approve the Consent Agenda, as presented. Commissioner Windley 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 appearing before the BOC at this time, Commissioner McAvoy moved to adjourn the meeting. 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		

The time was 7:40 p.m.

Submitted by:

James Michael O'Dell
Deputy Town Clerk