

**Minutes of the Wednesday, January 26, 2022, 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 Participating:** Mayor Ben Sproul; Commissioners Terry Gray, Ivy Ingram, Bernard "B.J." McAvoy, and John Windley

**Members Not Participating:**

**Others Participating:** Debora P. Díaz, Town Manager; Meredith Guns, Planning Director; Cameron Ray, Assistant Planning Director; Angell Doughtie, Assistant Finance Director; Casey Varnell, Town Attorney; and James Michael O'Dell, Deputy Town Clerk

**Call to Order**

At 6:01 p.m., Mayor Ben 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 Windley moved to approve the agenda as presented. Commissioner Gray seconded the motion, which passed by a unanimous, 5-0, vote.

**1. Public Hearing**

Town Manager Debora Díaz read aloud the rules for public hearings and then opened the hearing. Notice for the following item has been published in the *Coastland Times*, meeting or exceeding the N.C.G.S. requirements for public hearings, posted on the Town's bulletin boards, website at <https://www.kdhnc.com/964/January-26-2022-Board-of-Commissioners-M>, social media platforms, and has been disseminated through the town's electronic distribution list.

**A. Amendment to the Town of Kill Devil Hills Official Zoning Map**

Planning Director Meredith Guns' attached memorandum highlights the recent discussions between Staff and the engineer for Dare County Schools about the expansion of existing teacher housing for future expansion. Staff has recommended rezoning this area from RL to LI2, which allows multi-family. Staff also included minor changes to existing zoning lines to make the areas more consistent with the uses. The Planning Board recommended forwarding this for BOC consideration with a favorable recommendation. At the January 10,

2022, meeting, the BOC scheduled this item for today's hearing. There were no speakers for the public hearing.

Commissioner Windley moved that the Board of Commissioners finds that the amendment to The Town of Kill Devil Hills Official Zoning Map is consistent with all comprehensive plans or other officially 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 consistency with the existing and neighboring land uses. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

## **Public Comment**

**Duke Geraghty, representing the Outer Banks Homebuilders Association** – Mr. Geraghty expressed concern over the proposed increases in the System Development Fees (SDFs). He highlighted the increasing costs of construction in all areas. He stated that it looked like thorough plan and he supported quality water infrastructure, but would be watching the Town Engineer's upcoming SDF presentation.

## **Response to Public Comment**

### **Old Business**

### **New Business**

#### **1. 2022 Water System Master Plan Update (Attached NB-1)**

The 10-year update to the Town's Water System Master Plan has been completed by American Engineering and Dewberry. Both firms collaborated in 2017 on the detailed engineering report and system modeling utilized for successful planning and installation of the elevated water tank behind the Fire Station. Public Services Director Steve Albright's accompanying memorandum highlights the Plan, which evaluates our water system, provides a recommended 10-year Capital Improvement Plan (CIP), and discusses rates.

Town Engineer Pete Burkheimer, PE, and Patrick Lewis, PE, presented their findings to the Board. Since the Plan's last update, the Town has painted the Eighth Street elevated tank, constructed a new 400,000-gallon water tank behind the Fire Station, and a renovation of the 500,000-gallon ground storage tank. Mr. Lewis then provided an overview of the Plan's update, including rate determination. Operations and maintenance cost estimates were averaging 3% over 10 years, anticipating that current high inflation rates will decrease to more historical levels. The Capital Improvement Plan includes the commitment to the periodic and methodical removal of asbestos cement water mains currently in service.

Mr. Lewis demonstrated various water usage fee rate modeling to address anticipated costs, with a recommendation of a 4% increase. His presentation has been included with the record of the meeting.

Mayor Sproul inquired whether SDF rates were ever phased in by the Town. Ms. Díaz stated that changes in SDF rates were typically implemented during a new budget, but were not phased in through stages. Ms. Guns stated that a SDF is sold in the building permit process, when the permit is pulled. If approved, Plan implementation will begin with recommendations in the 2022-2023 fiscal year budget. Staff recommended the Board of Commissioners adopt the Water 2022 System Master Plan Update, as presented.

Commissioner Ingram moved to accept and adopt the 2022 Water System Master Plan update, as presented. Commissioner Windley seconded the motion, which was approved by a unanimous, 5-0, vote.

## **2. System Development Fees**

In 2017, the North Carolina General Assembly adopted legislation that requires local governments that provide water and sewer services to establish cost-based justification for charging Water System Development Fees (SDFs), replacing earlier “initial hook-up fees” or “impact fee” fee systems. Mr. Burkheimer and Town Staff developed the initial SDF analysis and accompanying rates, which were adopted by the Town in March 2018.

Water and wastewater providers are required to review and update these SDFs every five years. N.C.G.S. §162A-209 lays out the process for SDF adoption and updates: prior to adoption, the Town must post the SDF analysis on its website at a minimum and solicit a means for the public to submit written comments, which shall be considered for possible modifications or revisions to the analysis and subsequent action to adopt and implement policies and ordinance amendment(s). Following this 45-day posting period, the Board of Commissioners must conduct a public hearing to consider SDF analysis adoption, along with any modification or revision. Additionally, the Town must publish the adopted SDFs in its annual budget ordinance Comprehensive Fee Schedule.

Mr. Burkheimer noted that the recommendation included a substantial SDF rate increase. However, the proposed rate is a result of the costs that Kill Devil Hills is paying to get water infrastructure built. In an average year, new users, through SDFs, pay for approximately 10 percent of water infrastructure, with ongoing customers absorbing the remaining costs.

### **A. Water System Development Fees (Attached NB-2A)**

Mr. Burkheimer’s attached memorandum and data provided in-depth analysis of the current system, with supporting data, along with current and recommended SDF rates.

### **B. Southern Sanitary District/Ocean Acres Wastewater System Development Fees (Attached NB-2B)**

N.C.G.S. Article 8, also known as the “Public Water and Sewer System Development Fee Act,” also pertains to wastewater systems. In the Southern Sanitary District (SSD), disposal is accomplished through purchased capacity from a private utility, Kill Devil Hills Wastewater Treatment Plant, LLC (KDHWWTP); the collection system within the Southern Sanitary District

belongs to the Town of Kill Devil Hills. Public Services Director Steve Albright's attached memorandum provided an overview of Mr. Burkheimer's SDF analysis and data, which are also included with the meeting materials.

Mr. Burkheimer stated that only the southern part of the Town is served by the wastewater treatment; mainly in the Ocean Acres neighborhood and properties directly across US 158 from the neighborhood.

Staff concurred with the SDF analysis for both the water and wastewater systems, and recommended the required 45-day review and solicitation of written public comment, with a public hearing to be scheduled for Monday, April 11, 2022, at 6:00 p.m.

Commissioner Ingram moved that the Board of Commissioners set the 45-day review and solicitation of written public comment, along with a public hearing set for Monday, April 11, 2022, at 6:00 p.m. Commissioner McAvoy seconded the motion, which was approved by a unanimous, 5-0 vote.

### **Committee Reports**

Dare County Tourism Board (DCTB) Commissioner Ingram was appointed the DCTB Steering Committee, and will serve as the organization's Assistant Treasurer. The Tourism Board will be working on long-term plan for the Outer Banks and she will also be involved with the plan's formation.

### **Commissioners' Agenda**

#### Commissioner Gray

Sidewalks / multi-use paths Commissioner Gray encouraged the Board to look for grant revenue streams for the construction of sidewalks and multi-use paths.

### **Mayor's Agenda**

### **Town Manager's Agenda**

### **Town Attorney's Agenda**

Corrective Resolution Relating to Kill Devil Hills Town Code of Ordinances, Chapter 153, Zoning §153.077(D)(7)

Mr. Varnell briefed members that in 2011, the BOC approved an amendment to Chapter 153, Zoning, 153.077, increasing the total display area of restaurant signage menus from 35 to 60 square feet and increased permitted height from 5 feet to 8 feet.

He noted that a later 2012 amendment inadvertently included size requirements that predated the 2011 amendment. Mr. Varnell's attached memorandum noted there were substantive

and procedural issues, which nullified the 2012 unintended changes to the menu board sizes. He recommended adoption of the resolution to correct the issue.

Commissioner McAvoy moved to approve the *Corrective Resolution Relating to Kill Devil Hills Town Code of Ordinances, Chapter 153, Zoning §153.077(D)(7)*. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

### **Consent Agenda**

#### **1. Minutes (Attached CA-1A)**

A. January 10, 2022

#### **2. Budget Amendment (Attached CA-2A)**

A. #10 – to close and transfer escrow funds from the Public Works Final Phase Capital Project Fund to the General Fund.

#### **3. Revised per diem rates for travel (Attached CA-3)**

Finance Director Beverly Kissinger’s attached memorandum highlighted a Finance Department recommendation to amend the established Per Diem Rate for Meals in the Town’s Travel Policy.

<b>Meal</b>	<b>Current Allowance*</b>	<b>Recommended Allowance</b>
Breakfast	\$ 9.00	\$14.00
Lunch	\$13.00	\$16.00
Dinner	\$24.00	\$29.00
<i><b>Total per day</b></i>	\$46.00	\$59.00

\*current allowance last updated 8/14/2006.

Approval of the Consent Agenda will approve this recommended amendment to the Town’s Travel Policy, Per Diem Rate for Meals, effective March 1, 2022.

Ms. Díaz presented the Consent Agenda and recommended approval.

Commissioner McAvoy moved to approve the Consent Agenda, as presented. Commissioner Windley seconded the motion, which was approved by a unanimous, 5-0, vote.

### **Public Comment**

### **Response to Public Comment**

## **Budget Guidance Session**

### **1. Fiscal Year 2021/2022 and Plan Year 2022/2023 budget guidance**

Assistant Finance Director Angell Doughtie conducted a budget guidance PowerPoint presentation that included revenue and expenditure trends related to the upcoming plan year. Fund balance information along with occupancy and sales tax revenues were reviewed. She also highlighted projected increases in costs of living, American Rescue Plan Funds, and the upcoming beach nourishment project. Her presentation has been included with the meeting materials. The BOC thanked Ms. Doughtie and the Finance Department for the update.

Mayor Sproul then led a general discussion on budget guidance, with members sharing budget priority considerations, including the following topic areas:

- Expansion of pedestrian opportunities, including sidewalks and multi-use paths, including interagency and multi-level government partnership opportunities, along with bicycle racks.
- Funding for first responder operations.
- Existing recreational facilities, including implementation of Town committee recommendations, including the Baum Tract, and potential partnership development opportunities, such as Fresh Pond and Run Hill State Park.
- Beach accesses, with beautification, maintenance, and construction materials options.
- Support for Town personnel, including adequate staffing levels and cost of living levels.
- Stormwater projects.
- Planning incentives to offset affordable housing costs.
- Long-term planning.
- Beautification along the US 158 corridor.
- Alternative energy projects.

Ms. Díaz shared that numerous ongoing Town projects have been affected by increased construction and material costs, along with challenges securing vendors to complete the work. However, she noted that Town Staff was diligently working towards continued completion of projects, including Hayman Park and Meekins Field upgrades.

She also noted that from the BOC's comments, Staff understood that the Town's Reserve Funds levels needed to be built up, including Sidewalks, Streets/Stormwater, Shoreline Accesses, and Recreation. Staff will work to identify and prioritize projects in those areas, and pursue potential grant funding, utilizing the Reserve Funds for the Town's matching portions on these grants. Ms. Díaz stated that Staff recommended utilizing American Rescue Plan (ARP) Funds towards infrastructure, as ARP rules allow, rather than operational funding. The BOC thanked Staff for its recommendations.

## **Adjournment**

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

The time was 7:30 p.m.

Submitted by:

James Michael O'Dell  
Deputy Town Clerk