Minutes of the Monday, August 8, 2022, regular meeting of the Kill Devil Hills Board of Commissioners held at 6:00 p.m. in the Meeting Room at the Administration Building, 102 Town Hall Drive, Kill Devil Hills.

Members Participating: Mayor Ben Sproul; Commissioners Terry Gray, Ivy Ingram, Bernard "B.J." McAvoy, and John Windley

Members Not Participating:

Others Participating: Debora P. Diáz, Town Manager; Meredith Guns, Planning Director; Cameron Ray, Assistant Planning Director; Casey Varnell, Town Attorney; and James Michael O'Dell, Town Clerk.

Call to Order

At 6:00 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 McAvoy moved to approve the agenda as presented. Commissioner Gray seconded the motion, which passed by a unanimous, 5-0, vote.

Public Comment

Sam Angelo, 3113 Mary Hill Court, Kill Devil Hills, NC – Mr. Angelo expressed his concern about the Casey R. Logan Disc Golf Course at the Baum Tract property; it is important to carefully consider what might be given up for long-term essential housing.

Chris Morgan, 103B Amherst Drive, Powell's Point, NC – Mr. Morgan shared his experiences with his hometown of Lexington, KY, and its housing and land constraints. He noted that the city had committed funding for the development of a disc golf course for recreational opportunities. He stated he was in support of Kill Devil Hills' disc golf course facility.

Larissa York, 1205 Argus Road 49, Kill Devil Hills, NC – Ms. York showed everyone present this year's First Flight Middle School Disc Golf Team shirt. She shared that her youngest child participates in the FFMS team, and her entire family utilizes the course. She requested the Town continue to maintain the disc golf course.

Matt Walker, 439 West Walker Street, Kill Devil Hills, NC – Mr. Walker expressed his support for the existing disc golf course, and encouraged the Board to take additional time to consider options.

Clayton Scarborough, 317 Eagle Drive, (Colington) Kill Devil Hills, NC – a certified regional disc golf course tournament director, Mr. Scarborough shared that in 2021, there were over 5,500 rounds of disc golf played on the Town's course. He shared statistics on the various tournaments that have been held on site, and then highlighted the positive economic impacts to the town. Although he understood the need for long-term essential housing, he supported it in multiple locations around town, rather than consolidated on one property.

Bob Sanders, 132 Lone Cedar Court, Nags Head, NC – Mr. Sanders stated that the Logan Family had a great vision, and volunteers had cleared the areas for the course. He noted that the Town was supportive in developing the disc golf course, and that it is a huge asset to the community. Mr. Sanders said that the course was supported and utilized by people of varying backgrounds.

Mark Kilburn, 1306 Devonshire Road 56, Kill Devil Hills, NC – Mr. Kilburn supported the disc golf course, noting that it would be devastating to lose the course. He expressed concern for the increased population density and its negative effects on traffic and the school system.

Carol Stern, 116 Duck Woods Drive, Southern Shores, NC – Ms. Stern shared that following her husband's death, she began participating on the disc golf course. She greatly enjoys the activity and has met a wide variety of disc golfers. She asked the BOC to consider the importance of the course to the community before making any decisions.

Bill Ernst, 110 Water Street, Point Harbor, NC – Mr. Ernst expressed support for the disc golf course facility, noting the amount of volunteer hours involved in its development.

Daryl Davies, 4420 Seascape Drive, Kitty Hawk, NC – Mr. Davies expressed support for the disc golf course, and shared that there is strong worldwide support for the facility. He shared that he supported long-term essential housing, but recommended alternatives to the Baum Tract site.

Travis Trumps, 1804 Wyandotte Street, Kill Devil Hills, NC – Mr. Trumps expressed his support for the disc golf course.

Katie Morgan, 101 Maddox Crossing, (Colington) Kill Devil Hills, NC – Ms. Morgan expressed her support for the disc golf course, noting that it had been reviewed over 1,800 times on the online sport site www.UDisc.com, with a highly favorable rating. She invited the BOC to play the course.

Dan Butcher, 100 Swan View Drive, (Colington) Kill Devil Hills, NC – Mr. Butcher stated that disc-golfing was an inexpensive sport, available to all ages. He highlighted the natural beauty of the facility, along with its varied wildlife.

Amanda Hooper, 1944 Colington Road, (Colington) Kill Devil Hills, NC – Ms. Hooper expressed her concern over any potential housing development on the Baum Tract site, highlighting concerns over infrastructure, including school capacity, water service, and environmental concerns.

Response to Public Comment

Mayor Sproul expressed thanks to everyone who had shared their comments, and stated that discussion regarding the Baum Tract was only at a preliminary stage: the BOC had asked Staff to research the possible options around the development of the property. He said that disc golf is a priority, and he highlighted the hard work of everyone involved in developing the course. Mayor Sproul remarked that the public has also been searching for a solution to the area's housing crisis that has been growing for 20 years.

Commissioner Gray said the disc golf course has become a gem in Kill Devil Hills. He expressed support for additional amenities, including water, bathrooms, and additional parking for the facility. Commissioner Windley shared that the development of the disc golf course has been wonderful for the Town. He hoped to see additional upgrades in the future, including bathrooms and the paving of the portion of Veterans Drive leading to the course. Commissioner Ingram shared that the timeline of this discussion was not set by the Board; it was the result of timelines set in place by potential federal and state funding. She clarified that the Board's job was to only determine the zoning of the Baum Tract parcel, not to consider any specific use or development.

Commissioner McAvoy stated that he had previously served on the Town's Baum Tract Committee, which studied the potential uses for the undeveloped property. One of the major considerations of the group's recommendations were to maintain a minor development footprint, keeping the property's characteristics. He shared that the Board is impressed by what the course has become, exceeding everyone's expectations. He said the Town has to examine the numerous considerations for this property, with the knowledge that the Town may eventually need the property for services as it grows. He expressed his appreciation to everyone who had shared their comments.

Ongoing Business

New Business

1. Change of Use – Kill Devil Hills Baum Tract Property: Staff report (Attached NB1)

Town Manager Debora Diáz stated that at its June 13, 2022, meeting, the Board directed Staff to investigate the possibility of the Town's 44-acre Baum Tract parcel for the development

of essential housing, including Staff contacting stakeholders and discussing the potential options, while keeping the best interest of the people of the Town in the forefront.

She noted that Staff contacted and interviewed various stakeholders regarding the property's potential change to a high density multi-family residential category. Community stakeholders included the National Park Service, State Park Service, the Nature Conservancy, Dare County Schools, Dare County Sheriff, and Casey R. Logan Disc Golf Course volunteer representatives. Internal stakeholders, including all department heads and other Town Staff, received a presentation by Coastal Affordable, LLC, on specific development concepts for the parcel. Those stakeholders then submitted comments on the proposed change of use and the Coastal Affordable presentation.

Ms. Diáz said major areas of response focus included traffic concerns, environmental impacts, loss of an established recreational facility on a uniquely situated property, compatibility with surrounding properties, loss of the Town's current operation and future operational opportunities, inconsistency with the Town's current Land Use Plan, increased cost to the Town, and the parcel's limited accessibility.

Ms. Diáz stated that, as highlighted in the Planning Director Meredith Guns' meeting memorandum, any change to the property's status would require an amendment to the Town's Land Use Plan and a rezoning of the property from its current Government & Institution Public zoning designation.

Ms. Guns provided an overview of the Staff's research, noting when community stakeholders were interviewed, questions were not directed at a specific development, but focused on the appropriateness of a land use change. The Town must separate a specific project from a change of use: Ms. Guns said the consideration should be whether a change of use to high density multi-family is an appropriate development change by any developer at this location. She reported that there is acknowledgement by all stakeholders that Dare County is currently experiencing a housing crisis. However, there was also serious concerns about changing the land use on this particular parcel to high density residential. Concerns included major environmental impacts, loss of existing Town facilities, loss of future Town use, inconsistency with the adopted Land Use Plan, safety concerns both for traffic and for adjacent uses, and significant impacts on the First Flight Schools complex.

At the Board's direction, Ms. Guns detailed the following stakeholder concerns:

Environmental:

- Eighteen acres of the 44-acre site are wetlands which could be lost with high density development. There are also several vernal ponds on the tract. This will effect water quality and stormwater management, as well as damage the ecosystem in the area.
- The adjacent estuarine waters are high quality and a primary nursery. Intensive development will harm these waters and fisheries.
- Development of this parcel will disrupt the natural wildlife corridor that extends from Wright Brothers Memorial through Baum Tract, Run Hill State Park, Nags Head Woods, to Jockey's Ridge State Park. Disruption of this wildlife corridor will cause more unpleasant interactions with wildlife due to loss of habitat.

- High density development will have a negative impact on Run Hill State Park, which is a designated State Natural Area. This will require additional staff to manage the preserve and additional foot traffic on the ridge and will have a major impact on natural resources.
- This parcel is a flood hazard with low lying areas that have historically flooded.

Town current and future uses:

- The Town currently operates a vegetative limb pile and mulching operation on the property, which also serves as a storm debris management site. If this site was developed, the vegetative pile would be eliminated, and there is likely no relocation option. As a result, the Town will either need to eliminate the regular curbside limb collection and vegetative debris drop-off at the Public Works Complex, or the Town will need to pay to transport all vegetative debris to the Dare County Landfill, at significant cost to the Town. Additionally, the Town would no longer provide free mulch to its residents.
- Development of this property would eliminate use of the site for the Casey R. Logan Disc Golf Course recreational activity. The Town's Westside Recreation Group has proposed additional recreation options at the property in the near future.
- The Town needs to consider future municipal uses at the location: as the Town continues to grow and expand, this is the last parcel available to the Town for future expansion.

Safety Concerns:

- Traffic patterns to access the parcel: there is only one access point to the parcel via Veterans Drive, which is also the only roadway to the First Flight Schools complex. All stakeholders expressed major concerns about traffic and congestion through the school zones.
- Additional concerns were expressed about high increases to traffic along Colington Road, already a very busy roadway.
- Dare County Schools representatives expressed concern for student movement throughout the complex since a majority of athletic fields require crossing Veterans Drive as well as student and staff movement between schools.
- Additional safety measures would also have to be taken by the schools to ensure safety of students and staff with the addition of large multi-family development in close proximity.
- A 400-unit development would increase the Town's year round population by an estimated 14%.
- A population increase with a high density development for Kill Devil Hills will require additional Police and Fire staff and equipment.
- First responders (KDH Police, Fire and Dare County Sheriff Departments) have expressed concerns about the limited access to the site and public safety.

Economic Impact to the Town:

- High density development of this magnitude will require additional personnel and equipment, particularly in the Police, Fire, and Public Services Departments.
- In order to maintain the current service levels, Public Services will need additional personnel as well as at least one additional commercial trash truck.

- The Finance Department has computed that with the additional population (up to 14%), to maintain the Town's existing services, property taxes would need to increase 2.4 cents, not including additional personnel or equipment which could raise to a 3 – 5 cent increase.

Land Use Concerns:

- The change of use is not consistent with the Town's recently adopted Land Use Plan (LUP). The LUP would have to be changed prior to consideration of any zoning changes to the property.
- Several LUP sections and multiple policies will need to be amended, which will take 3 – 6 months to complete the process.
- Current zoning does not permit this use and the Town's Zoning Ordinance will have to be amended.
- High Density Multi-Family is not a compatible use with the schools that will have to be used to access the property. This will cause conflict between uses with traffic and accessibility.

Other Concerns:

- The projected change to the Town's population will likely lead to redistricting of the First Flight Schools as two of the three are currently near or over capacity.

Ms. Guns noted that Staff's report included additional information, such as internal stakeholder responses and information about Diane Baum St. Clair's transfer of the property to the Town. She stated that Staff requested guidance on whether the BOC wanted to move forward with the zoning reclassification of the Baum Tract property. Ms. Guns reported that Staff had multiple ideas and projects to bring to the BOC at a future time to address long-term essential housing issues with the existing housing stock.

Mayor Sproul expressed appreciation for Staff's report, noting that it was extremely thorough. He said that examining the problem of long-term essential housing was important, and that the Town should consider all options. He shared that the BOC had recently approved changes that would permit cluster home or cottage court developments in the Residential Low Zone to incentivize the market and improve housing options.

Ms. Guns said that the ratio of long-term to short-term housing had changed over the past several years. The goal would be to rebalance the ratio, but not skew it to a level that would lose too many short-term rentals and negatively affect the local economy. Ms. Guns shared data from the Town's 2020 Land Use Plan: there are 6,743 housing units, with 43.5% year-round, and 56.5% are short-term. If the scale could be slid 5% through incentives and regulations, it would result in 337 long-term housing units using the existing housing stock. Some alternatives are to mandate long-term housing in specific zoning districts that could include the prohibition of short-term housing by zoning district; grant funding for voluntary conversion from short-term to long-term housing; possible state bill to allow for tax reduction for property owners to promote long-term housing; and lessen the regulations for duplex and accessory dwellings.

Commissioner Gray commended Staff for the report, and he noted the first issue was whether the BOC should consider a change of zoning; the property needs to stay what it is currently zoned. Commissioner McAvoy stated that when the BOC is considering any issue,

members must consider the best interests of the Town, examining all of the facets, weighing the benefits against the costs. The Baum Tract property needs to be maintained for the Town's future growth and community, and not add to the density of the area. Long-term essential housing is an issue, and Kill Devil Hills should not have to address the problem by itself. He supported examination of alternatives. The Baum Tract is a unique property, which has a lot of uses, and disc golf is one of them. Commissioner Ingram supported the property staying in its current zoning category, and not high-density residential. She had personally contacted several external stakeholders, and they expressed concerns that any changes could cause major issues for the community. She noted that there are other large properties in the area that have opportunity to address the long-term housing issue. Commissioner Windley thanked Staff for its detailed report, and he felt that rezoning the Baum Tract property to high-density residential was not appropriate. The Town had an agreement with the Baum Family that the property should be used for the benefit of the public.

Commissioner Gray moved the Board of Commissioners to not pursue a change of use for the Baum Tract property, nor amend the Town's current Land Use Plan. Commissioner Windley seconded the motion, which was approved by a 4-1, vote, with Mayor Sproul voting against.

2. Chapter 96, Seaside Regulations ordinance update (Attached NB-2)

Ms. Diáz stated that since its inception, the Town's beach driving program has been very popular with KDH citizens and visitors during the October 1 to April 30 beach driving season. On July 6, 2022, the Town of Nags Head terminated its reciprocal agreement for the cooperative beach driving program between the two towns. Its notice stated that references to its agreement with Kill Devil Hills had been removed from its ordinances.

As a result of the agreement termination, Staff drafted for Board consideration an updated Seaside Regulations ordinance to reflect the changes to the Town's beach driving program, along with general updates to sections of the ordinance for clarification. Staff recommended approval of the update.

Mayor Sproul inquired why the Town of Nags Head had ended the agreement. Ms. Diáz replied she did not know a specific reason, but noted that Nags Head permit fees were increased to $50 for residents and $100 for non-residents. Kill Devil Hills' permits are $10 for a temporary permit (up to 14 days) and $25 for a seasonal one. She reported that Assistant Town Manager Charlene Allen has contacted a tackle shop, which will sell the KDH beach driving permits, and that the Town is developing an online beach driving permit system. Commissioner McAvoy inquired why the amendment included the authority for the Town Manager to close beach driving access points. She responded that the existing ordinance already authorizes the Town Manager to close a portion or the entire beach to driving, under the advice of Town public safety representatives. This amendment would make the decision-making structure more consistent with the ordinance, and streamline the process to better protect public safety.

Commissioner Ingram moved to approved Chapter 96, Seaside Regulations ordinance amendment, as presented. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

3. Appointments (Attached NB-3)

All applications on file from persons interested in serving in either capacity have been previously copied to the Board of Commissioners and no new applications for those purposes have been received.

A. Personnel Board

Jackie Ricks-Sample's term expires this month, and she has expressed a desire for reappointment.

Commissioner Gray moved to reappoint Jackie Ricks-Sample to the Personnel Board to fill a term that will expire in August 2025. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

B. Community Appearance Commission

A vacancy was created when a Community Appearance Commission member moved out of the area. As a result, one appointment to the Community Appearance Commission is available to fill, for a term that will expire in October 2024.

Commissioner Windley requested the BOC table this appointment until the October 10, 2022, meeting. Though consensus, the Board tabled this item until the October meeting.

C. Historic Landmark Commission

Sandie Markland's and Mary Simpson's terms on the Historic Landmark Commission both expire September 2022, and each has expressed a desire for reappointment.

Commissioner Gray moved to reappoint Sandie Markland and Mary Simpson to the Historic Landmarks Commission, each for terms that will expire in September 2025. Commissioner Windley seconded the motion, which was approved by a unanimous, 5-0, vote.

4. Outer Banks Regional Hazard Mitigation Plan – Progress Report (Attached NB-4)

Ms. Guns shared that the Town of Kill Devil Hills participates in the National Flood Insurance Program and the Community Rating System (CRS), which is a voluntary incentive program that encourages community floodplain management practices and promotes reduced flood risk and damage to properties. With the Town's participation in CRS, property owners can obtain substantial savings through decreased flood insurance rates.

As a part of its CRS participation, the Town reviews and regularly updates its portion of the Outer Banks Regional Hazard Mitigation Plan, as the plan includes Currituck and Dare Counties, and their municipalities. Planning Director Meredith Guns' attached memorandum highlights the CRS Progress Report and updated Mitigation Strategy. This report was submitted to the CRS coordinator as part of its annual review.

Committee Reports

Dare County Tourism Board (DCTB) – Commissioner Ingram stated the DCTB Steering Committee would be meeting the following day.

Commissioners' Agenda

Commissioner Gray

New Fire / EMS Station Name Once the new KDH Fire/ EMS Station is built, he recommended the building being named after former KDH Fire Chief and Town Commissioner William E. Gard. He noted that at one time, the planned Eighth Street remote fire station was going to be named after him; however, that building was never constructed.

Multi-Use Paths Commissioner Gray said he had received input from the public about the development of multi-use paths. He requested Board consensus on the Planning Board and Street Improvement Special Projects Committee (SISPC) to consider development of multi-use paths along US 158 from each corporate limits. He suggested that the Town investigate whether multi-use paths can be completed. Mayor Sproul said that multi-use pathways are not recommended because of the number of curb cuts. Commissioner Gray said that Nags Head has constructed multi-use paths along US 158, and it also has a large number of curb cuts. Through consensus, the BOC directed this issue to the Planning Board in coordination with the SISPC.

Commissioner Windley

Joint Worksession Commissioner Windley inquired when a worksession between the Board of Commissioners and Planning Board would be scheduled. Ms. Guns stated that Staff would be recommending a BOC/PB worksession on potential options for long-term essential housing for a future date.

Commissioner McAvoy

Colington Road / Veterans Drive signal light Commissioner McAvoy expressed his appreciation to NCDOT for the upgrades to the Colington Road / Veterans Drive signal light. The signal is much easier to see, especially when traveling westward.

Commissioner Ingram

Lifeguard video Commissioner Ingram really enjoyed the Town's recent lifeguard introductions video, and inquired whether the BOC could visit the lifeguards. She stated it was great to see current lifeguards that had participated in the junior lifeguard program.

Mayor's Agenda

Lighted Crosswalks Mayor Sproul inquired about lighted buttons for crosswalks. Assistant Planning Director Cameron Ray replied that one crosswalk at the Marriott in Kill Devil Hills had the lighted button; however, Staff research has indicated that there was better driver awareness with the automatic-illuminated signs. He also noted that even with the blinking button, pedestrians seem to not use it, and just cross. Additionally, Mr. Ray stated those units are very expensive.

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. Minutes (Attached CA-1A)

A. July 11, 2022

2. Monthly Report (Attached CA-2A)

A. June 2022

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

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

Public Comment

Daryl Davies, 4420 Seascape Drive, Kitty Hawk, NC – Mr. Davies stated that it has been indicated that other options are possible for the Baum Tract property. He inquired what that might be, and expressed his concern about moving the course to another property. He then recalled when there was a concern in the area about child care years before, and that the issue had resolved itself. Mr. Davies said he thought that the long-term essential housing crisis would also resolve itself. He then inquired about sponsorships at the Casey R. Logan Disc Golf Course, and expressed support for the renewal of course sponsorships.

Response to Public Comment

Commissioner McAvoy stated the BOC had seen the overwhelming support for the disc golf course in the community. He stated that there was never a question about getting rid of the disc golf course; it was about the property. The only plan considering a move of the disc golf course was not a plan of the Town's, it was a plan of others. Commissioner McAvoy stated that

there has always been the understanding since the Baum Tract Site Plan Committee made its recommendations regarding a disc golf course that such an amenity might need to be relocated if the Baum Tract property was needed for Town services or operations. Mayor Sproul said the BOC has received recommendations on additional amenities to the Baum Tract property over the years, which have been fairly consistent. He noted that as a community, Kill Devil Hills wants to access the property's waterfront and enjoy it. The property has tons of potential, but there are no plans in the near term. However, the Board is not closing any doors. Commissioner Gray stated that the Westside Recreation Group (WRG) had made several recommendations for the property at its last meeting.

Commissioner Ingram inquired about the potential continuation of disc golf course sponsorships. Staff's understanding was that following an April 2022 meeting, Mr. Davies was going to approach the Town to be placed on the BOC's agenda to discuss the issue. Ms. Diáz said that Staff does not recommend the continuation of disc golf course sponsorships. Staff had previously met with Bob Sanders and Clayton Scarborough of the local disc golf organization, and they indicated they were not in need of course sponsorships, and were not asking the Town to renew sponsorships.

Adjournment

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

The time was 7:50 p.m.

Submitted by:

James Michael O'Dell
Town Clerk

These minutes were approved by the Board of Commissioners on September 12, 2022.

Ben A. Sproul
Mayor