Minutes of the Wednesday, June 14, 2023, 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; Charlene Allen, Assistant Town Manager; Steve Albright, Public Services Director; Derek Dail, Assistant Public Services Director; Cameron Ray, Assistant Planning Director; Angell Doughtie, Finance Director; Casey Varnell, Town Attorney; and James Michael O'Dell, Town Clerk.

Call to Order

At 6:03 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 Hearings

Notices for the following items have been published in the *Coastland Times*, meeting or exceeding the N.C.G.S. requirements for public hearings. The notice has been posted on the Town's bulletin boards, the Town's website at https://www.kdhnc.com/1106/June-14-2023-Board-of-Commissioners-Meet, social media platforms, and has been disseminated through the Town's electronic distribution list.

At the conclusion of these public hearings, which were scheduled by the Board of Commissioners at its May 24, 2023, meeting, a motion may be in order to approve, disapprove, or table each item for further consideration.

1. Special Use Site Plan (Attached PH-1A)

A. Site Plan Review — 207 W. Martin Street — Proposed Cluster Home Development in the Low Density Residential Zone — Including 10 "3-bedroom" and 11 "2-Bedroom" Long-Term Residential Units

Senior Planner Ryan Lang's attached memorandum details House Engineering's submittal for the proposed construction of a 10 3-bedroom and 11 2-bedroom single-family dwelling Cluster Home development for 207 West Martin Street. As the proposed development is a Special Use, a public hearing is required as a part of the Board's consideration.

The Planning Board reviewed this proposal at its May 16, 2023, meeting and agreed to forward it to the BOC with a recommendation for approval, subject to conditions that have been addressed by the applicant on the plans submitted for this hearing.

Opening this hearing, Town Attorney Casey Varnell read aloud the rules for this public hearing and shared that it was quasi-judicial in nature: all information presented should be evidentiary. Any previously electronically submitted comments have been forwarded to the Board of Commissioners for any evidentiary consideration, and will be included with the record of the meeting.

Town Clerk James Michael O'Dell was called upon to conduct the Roll Call of the Board of Commissioners:

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

Mr. Varnell stated that there are four standards set out, each of which must be approved by vote. The Board would vote on each question, supporting the decision for that choice:

- The proposed use does not materially endanger the public health or safety, or overburden the Town's firefighting capabilities / municipal water supply capacity
- The proposed use meets all required conditions and specifications of the Town's ordinance.
- The proposed use will not substantially injure the value of adjoining property, or, in some cases, the proposed use is a public necessity.
- The proposed use will be in harmony in the area in which it is located, and otherwise be in general conformity with the local government's comprehensive plan.

Applicant Eddie Goodrich and Assistant Planning Director Cameron Ray were sworn by Mr. O'Dell.

Applicant:

Applicant Eddie Goodrich said he planned to build long-term affordable development in Kill Devil Hills: 21 houses on approximately two acres. The houses are approximately 4,000 square feet, with less than 1,500 square feet of heated space. There will be a private driveway for the development.

Commissioner Windley inquired about the space between the homes. Ordinance requires at least 10 feet, but there will be either 12 or 28 feet between units. Mr. Goodrich shared that the development would be served by central sewage, and would not have septic systems. It will abut the commercial zone, and not in the middle of a residential zone. Commissioner Ingram inquired whether with these seven lots that a developer was permitted to construct large single-family dwellings on each of them. Mr. Goodrich replied that eight-bedroom single-family homes could be built on each of the seven lots. Commissioner Ingram inquired whether the developer was considering construction of a sidewalk along Martin Street. Mr. Goodrich replied he would have to research the location she was describing.

The Town:

Assistant Planning Director Cameron Ray stated that the submittal for the site plan review at 207 W. Martin Street for the Special Use for a proposed Cluster Home development in the Low Density Residential Zone including 10 "3-bedroom" and 11 "2-bedroom" long-term residential units meets the Town's Zoning requirements as submitted. The applicant has met all of the zoning requirements.

He noted that the Town's Pedestrian Plan had sidewalks planned for the west side in that area of Town, and Town Staff could review it. Mayor Sproul inquired about the Planning Board's approval. Mr. Ray replied that the Planning Board had recommended approval, pending conditions that have been addressed prior to the Board's consideration.

Adjoining Property Owners:

No adjoining property owners were present.

Opposition:

Each of the following individuals were sworn in by Mr. O'Dell prior to giving their testimony:

Ashleigh Pack, 206 West Atlantic Street, Kill Devil Hills, NC – Ms. Pack inquired as to the exact location of the development since she was unsure whether it would abut her property. Mr. Ray utilized the submitted site plans to demonstrate to the group the location of the property, noting that the development in question would not be adjoining her property.

Patricia Culb, 500 West Martin Street, Kill Devil Hills, NC – Ms. Culb expressed concerns about the potential for increased traffic.

Deborah Conte, 900 Swan Street, Kill Devil Hills, NC – Ms. Conte noted the two or three parking spaces per unit, depending upon number of bedrooms per unit. She expressed concern about the potential for stormwater runoff, noting the additional concrete and the existing limitations of surrounding drainage.

Owen White, 808 Swan Street, Kill Devil Hills, NC – Mr. White expressed frustration about the number of structures to be potentially built with this development. He noted the difficulty of stormwater runoff in the area. Mr. White noted that surrounding streets in the neighborhood would bear the burden of increased traffic, with greater threats to pedestrians. He also inquired about whether the units in the development could be sublet, even though they would be required to be long-term rentals. Mr. Ray replied that it is about use, and that no one could use the property for short-term rentals.

Christine Wolf, 806 Swan Street, Kill Devil Hills, NC – She expressed concern about the current traffic, and the additional development of the property will lead to increased traffic issues.

Carl Iuliucci, 301 East Fresh Pond Drive, Kill Devil Hills, NC – Mr. Iuliucci noted similarly-styled developments in the Virgin Islands, expressing concerns over the potential for increased crime.

Applicant

Mr. Goodrich stated that the proposed development had a stormwater management plan, which is required by the State of North Carolina. With regard to concerns about the potential for criminal activity, he noted that all applicants would be required to have a criminal background check and a credit check. Mr. Goodrich said that for every one person with concerns, there are 100 families that need a house in the area in which to live.

Commissioner Ingram inquired about the pervious surface between the units. Mr. Goodrich stated that there were permeable areas.

Conclusion of Evidence:

With the conclusion of evidence, Mr. Varnell asked Mayor Sproul, on behalf of the Board of Commissioners, whether he accepted the evidence from the applicant, the Town, and others, including the December 12, 2022, application and supportive materials, meeting materials, and other plans, maps, and documentation that have been submitted. Mayor responded in the affirmative, and the evidence was accepted into evidence.

Mr. Varnell stated that the evidentiary portion of this hearing was now closed, and the Board of Commissioners could begin its deliberations.

Findings of Fact:

The proposed use does not materially endanger the public health or safety, or overburden the Town's firefighting capabilities / municipal water supply capacity: Neither Town Staff testimony nor other testimony has submitted evidence that the proposed Special Use at this location would materially endanger the public health and safety. Such a Special Use must also comply with all aspects of the N.C. Building Code, along with all requirements of the Kill Devil Hills Town Code.

__5__ Yea _____ Nay

The proposed use meets all required conditions and specifications of the Town's ordinance: Town Staff has conceded in its memorandum to the Board of Commissioners that following the May 16, 2023, Planning Board meeting, all required conditions have been met by the applicant for consideration to be granted a Special Use.

__5__ Yea _____ Nay

The proposed use will not substantially injure the value of adjoining property, or, in some cases, the proposed use is a public necessity: Neither the Town's testimony nor any testimony in opposition to this Special Use has provided any evidence of substantial injury to adjoining properties.

__5__ Yea _____ Nay

The proposed use will be in harmony in the area in which it is located, and otherwise be in general conformity with the local government's comprehensive plan: Testimony has been submitted that this development will have a lower density than other higher density developments, such as seven large single-family dwellings that could be built. Evidence was also presented that deed restrictions will not permit short-term rentals in the development. Proposed Cluster Home developments are permitted as a Special Use for this property located in the Low Density Residential Zone under the Kill Devil Hills Town Code, which is in compliance with the Town's Land Use Plan.

__5__ Yea _____ Nay

Mayor Sproul moved to approve Site Plan Review — 207 W. Martin Street — Proposed Cluster Home Development in the Low Density Residential Zone — Including 10 "3-bedroom" and 11 "2-Bedroom" Long-Term Residential Units. Commissioner McAvoy seconded the motion. A roll call vote was conducted:

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

Mr. Varnell stated that as a result of the Board of Commissioner's Findings of Fact, the Site Plan Review — 207 W. Martin Street — Proposed Cluster Home Development in the Low Density Residential Zone — Including 10 "3-bedroom" and 11 "2-Bedroom" Long-Term Residential Units is granted.

Mr. Varnell then read aloud the instructions for the remaining public hearings, and opened each hearing.

2. Zoning Amendment Request (Attached PH-2A)

A. Zoning Amendment Request – §153.180(C) Commercial Zone Density – Change Density Measurement to Floor Area Ratio (FAR)

Assistant Planning Director Cameron Ray's meeting memorandum highlighted the requested zoning amendment submitted by Eddie Goodrich. At its May 16, 2023, meeting, the Planning Board recommended approval of the amendment as presented. Mr. Ray stated that, if adopted, the amendment would change the density measurement for multi-family dwellings, cottage courts, and cluster homes in the Commercial Zoning District to Floor Area Ratio (FAR) from units per acre. In addition, FAR adjustments can be made with additional side yard setbacks and buffers. There was no public comment for this hearing.

Commissioner Windley moved that the Board of Commissioners finds that the amendment to Chapter 153 Zoning, §153.180 (C) Commercial Zone Density – Change Density Measurement to Floor Area Ratio (FAR) 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 a consistent measurement tool for regulating density. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

3. Town Manager's Recommended Budget for Fiscal year 2023/2024 (Attached PH-3)

At its May 24, 2023, meeting, the BOC was presented with the Town Manager's Recommended Budget for Fiscal Year 2023/2024, in accordance with the Local Government and Fiscal Control Act. Members received a bound, paper copy of the Town Manager's

Recommended Budget; a General Budget Worksession was also scheduled for this evening's meeting.

The Town's website provides links to the full budget document and a budget portal gateway, where the public has been encouraged to share its input. Bound copies of the Recommended Budget have been placed in the Town Hall lobby and the Kill Devil Hills Branch of the Dare County Library.

Mr. Varnell stated that no Board action was necessary at this time because members had yet to participate in the General Budget Worksession; it was scheduled so the public had an opportunity to provide its input. There were no speakers at public comment; however, any electronically submitted comments will be included with the record of the meeting. It is anticipated that the Board will take action on the Recommended Budget on June 28, at its second regular meeting.

Public Comment

Duke Geraghty, Government Affairs Director, Outer Banks Home Builders Association – Mr. Geraghty expressed appreciation to the Board for its decisions on the Cluster Home development and the FAR ordinance amendment.

Matt Walker, 439 West Walker Street, Kill Devil Hills, NC – Mr. Walker asked the Board to consider any unintended consequences that may occur if the recently approved Cluster Home development does not work out.

Response to Public Comment

Mayor Sproul thanked all of the speakers for their comments. Commissioner McAvoy stated that it was important for the Town to regularly review changes to the ordinance in the short and long-term. Mr. Ray responded that this earlier situation was set as a Special Use and that the Board has directed Staff to revisit the Cottage Court ordinances. Mayor Sproul expressed his support for incentivizations to promote properties to be set aside for long-term rentals.

Ongoing Business

New Business

1. Draft Water Plans

Assistant Public Services Director Derek Dail noted that NCGS §143-355(1) requires each unit of government that provides water service periodically prepare and submit a Local Water Supply Plan (LWSP) and a Water Shortage Response Plan (WSRP) at least once every five years. All Plans are required to be submitted to the NC Department of Environmental Quality (NCDEQ) for review and final approval.

A. Local Water Supply Plan (Attached NB-1A)

Mr. Dail's meeting memorandum detailed the process by which the NCDEQ has reviewed the Town's LWSP, noting that the Town's 2022 Plan is deemed complete to the standards and criteria established by statutory requirements. To finalize the process, NCDEQ requires submission of a resolution acknowledging Board of Commissioners' approval.

Staff recommended approval of the LWSP and accompanying resolution, as presented.

B. Water Shortage Response Plan (Attached NB-1B)

Mr. Dail's second memorandum provided an overview of the Town's Water Shortage Response Plan (WSRP), which would be implemented in the event of a water shortage. Established in 2018, this updated WSRP establishes the authority for the declaration of a water shortage and details the water shortage levels, and accompanying response. The Town's Plan also closely follows the Dare County WSRP and incorporates it by reference since the County is the Town's sole water supplier.

The NCDEQ process of review is similar to the Local Water Supply Plan; however, a 30-day public comment period is also required prior to Board of Commissioners' approval. The notice inviting public comment has been published in *The Coastland Times,* posted on the Town's bulletin boards, the Town's website at https://www.kdhnc.com/1106/June-14-2023-Board-of-Commissioners-Meet, social media platforms, and has been disseminated through the Town's electronic distribution list. Bound copies have been placed in the Administration and Public Services Departments, as well as the Kill Devil Hills Branch of the Dare County Library.

To finalize the WSRP process, NCDEQ requires submission of a resolution acknowledging Board of Commissioners' approval. Staff recommended approval of the WSRP and accompanying resolution, as presented.

Mayor Sproul moved adopt the Local Water Supply Plan and the Water Shortage Response Plan, along with their accompanying resolutions, as presented. Commissioner Windley seconded the motion, which was approved by a unanimous, 5-0, vote.

Committee Reports

Commissioners' Agenda

Commissioner Ingram

Emergency Management Seminar Commissioner Ingram shared that she, Town Manager Debora Diáz, and Fire Chief Tilley had recently attended an Emergency Management Seminar at the Dare County Emergency Management Center. She highlighted the WebEOC Crisis Tracker software that permitted up-to-date data during emergency events.

Mayor's Agenda

1. Proclamations and Resolutions (Attached MA-1A)

A. Resolution in Support of Municipal Zoning Approaches and Balanced Zoning Changes by the North Carolina General Assembly

Mayor Sproul noted that resolution highlights the importance of balancing the State's zoning regulation oversight with the integral role that municipal zoning authority plays in the addressing the needs of our residents, businesses, and visitors.

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

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. Minutes (Attached CA-1A)

A. May 24, 2023

2. Monthly Report (Attached CA-2A)

A. April 2023

3. Budget Amendments and Transfers (Attached CA-3A, CA-3B, CA-3C, and CA-3D)

A. #18 – To record the revenues and associated expenditures for IT software agreements in accordance with the new GASB 96 standard
B. #19 – To record PEG Channel support funds
C. #20 – To appropriate contributions received to the Police Department and Animal Control Division
D. #21 – To appropriate funds for insurance claims filed throughout FY 2022-2023

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

Response to Public Comment

A brief break in proceedings was called at 7:32 p.m.

The regular meeting reconvened at 7:38 p.m.

General Budget Worksession

1. Town Manager's Recommended Budget for Fiscal year 2023/2024

Ms. Diáz noted that the Town Manager's Recommended Budget for the upcoming fiscal year was presented to the Board of Commissioners at the May 24, 2023, meeting. A required public hearing on the Recommended Budget, along with this worksession, was scheduled for this meeting.

The Town's website provided links to the full budget document and a budget portal gateway, where the public has had the opportunity to share their input. Paper copies of the Recommended Budget have been placed in the Town Hall lobby and the Kill Devil Hills Branch of the Dare County Library as additional options for public access.

Ms. Diáz and Finance Director Angell Doughtie highlighted the anticipated revenue stream rates, including occupancy and land transfer taxes. Ms. Diáz noted that Staff's approach to the budget, especially revenues, has been conservatively estimated. Mayor Sproul inquired about the Occupancy Tax revenue estimations. Ms. Doughtie stated that Staff had conferred with the Tourism Bureau in assessing trends and data. Ms. Diáz reported that a 3.5 cent increase per 100,000 valuation was being recommended.

Ms. Diáz then conducted a review of the budget, fund by fund, division by division, with general comments and questions. She noted that no increases in Town staffing was requested in the coming year, but that a workforce study was requested to assess the Town's staffing needs. She stated that a 6.5% cost of living adjustment (COLA) was recommended for Town Staff.

Some areas highlighted included continued special events programming; recreational facilities upgrades; the new KDH Fire / Dare EMS station; various vehicle and equipment purchases / leases, and partnership organizations funding.

Ms. Diáz noted that the Board had received a request from Room at the Inn for Partnership organization funding. She stated that historically the Board has required a demonstrated nexus between funding and a direct benefit to the Town's citizens.

Assistant Town Manager Charlene Allen briefed the group on the status of the Americans with Disabilities Act (ADA) Plan for the Town. Ms. Diáz stated that the Town's Buildings & Grounds Division does an incredible job with its extensive work with Town facilities.

Commissioner Gray thanked the Finance Department for its continued work. Ms. Diáz noted that the Town's partnership with Dare County on EMS' usage of the Town's fuel station was very positive, resulting in the upcoming KDH Fire / Dare EMS station not needing a fuel station.

Commissioner Windley inquired about the Town's vehicles, whether they are leased or owned. Ms. Diaz replied that the majority of vehicles funded by the General Fund were leased; the majority of vehicles funded by the Water Fund are owned. Commissioner McAvoy inquired about electric vehicles. Ms. Allen responded that the Town is working with the Coastal Studies

Institute on resiliency analysis of the Town's vehicle fleet for the potential addition of electric vehicles.

Ms. Diáz said that the Board had approved the Indian, Seminole, Apache Street group infrastructure project, and the notice to proceed had been implemented. She stated that the Town continued to consider options for expanded construction windows in future infrastructure projects where possible, to best decrease infrastructure project costs. She noted that the Board had indicated the resulting budgetary savings from the American Rescue Act (ARPA) funds be directed to infrastructure improvements, rather than for operational expenses.

Commissioner Windley inquired about the increase in tap fees revenues. Public Services Director Steve Albright noted that there has been sizable growth in single-family dwelling construction in the past few years. Ms. Diáz complimented the Public Services Department and each division for all the work they accomplish.

Ms. Doughtie stated that the Town was implementing new budget software, which would provide some additional presentation options.

Commissioner Windley remarked that two of the Board's main requests, supplemental mowing along US 158 and stationery speed monitoring devices, had been included in the upcoming budget. Commissioner Gray expressed his opposition to the speed devices' inclusion.

Commissioner McAvoy inquired what the Town experienced that would require the tax increase. Ms. Diáz responded that the Town's general operations, and the increase in debt service resulted in the recommended increase. Any additional construction of Town facilities results in the Town assuming debt.

Ms. Diáz noted that the Board would be adopting the Fiscal Year 2023-2024, and that there was also a Plan Year (2024-2025), and that a tax increase was required to avoid having to use all fund balance in the second year. Commissioner Gray inquired the recommended COLAs in other localities. Ms. Diáz replied that most other localities were recommending 6.5%, like the Town.

The Board thanked the Town Manager and Staff for their work on the presentation. Ms. Diáz noted that the plan would be for the budget ordinances to be presented for approval at the June 28 meeting.

Adjournment

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

The time was 8:47 p.m.

Submitted by:

James Michael O'Dell
Town Clerk

These minutes were approved by the Board of Commissioners on June 28, 2023.

Ben A. Sproul
Mayor