

Minutes of the Monday, May 16, 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. Díaz, 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 6:02 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 Gray moved to approve the agenda as presented. Commissioner Windley seconded the motion, which passed by a unanimous, 5-0, vote.

Public Comment

Randy Burak, 208 David Lane Kill Devil Hills – Mr. Burak expressed concern about the submitted site plan for the Wawa convenience store and gas station at Fourth Street and US 158. He noted that the development will affect residents on Fourth Street, David Lane, and Orville Court. Mr. Burak stated that this 24-hour business would create lighting, noise, trash, and traffic issues. He supported a barrier between the commercial property and surrounding residential lots similar to those installed at Publix and Lowe's.

Lynn Schrayshuen, 215 Orville Court, Kill Devil Hills – Ms. Schrayshuen said that Orville Court regularly floods, and shared her concerns that any reduction to the retention pond behind Truist bank as a part of the Wawa development will negatively affect surrounding properties.

Jason Newman, owner of One Man Show Services, 210 David Lane, Kill Devil Hills – Mr. Newman expressed concern about a vinyl fence design for the Wawa site plan, which he considered flawed. He recommended an alternative plan, which lowered a vinyl fence from six to four feet, with increased concrete. He submitted his concerns about wind and other climate

issues, and provided his written recommendations, which have been included with the meeting materials.

Duke Geraghty, Governmental Affairs Director, Outer Banks Homebuilders Association – Mr. Geraghty noted that Kill Devil Hills has been a leader in essential housing. He expressed support for essential housing options, including transitional zoning between commercial and residential zoning.

Jeffrey Allen Taylor, 214 David Lane, Kill Devil Hills – Mr. Taylor expressed support for construction of a more substantial barrier between the proposed Wawa development and neighboring properties.

Response to Public Comment

Mayor Sproul thanked everyone for their comments, and noted that site plan submittals are thoroughly reviewed by Town Staff for compliance with local, state, and federal requirements. Additionally, he stated that stormwater runoff was highly regulated in North Carolina, and that component of the site plan had been reviewed.

Ongoing Business

New Business

1. Site Plan Review — 1900 N. Croatan Highway in the Commercial Zone — Proposed Convenience Store and Gas Station (Attached NB-1)

Assistant Planning Director Cameron Ray stated that Arista Development, LLC, has submitted a site plan for proposed construction of a 6,000 square foot Wawa convenience store, eight gas pumps, canopy, 52 parking spaces, two underground storage tanks, and associated site modifications. As noted in the Planning Department's attached memorandum, the proposed convenience store is a permitted use in the Commercial Zone.

At its April 19, 2022, meeting, the Planning Board reviewed the site plan and voted unanimously to forward it to the Board of Commissioners. The applicant has addressed most of the Staff's technical review comments; however, the following remain to be addressed:

- **Planning:**

Site Plan Sheet (CS101): revise proposed fence on western property line to match the proposed buffer as shown on the landscaping plan on sheet CL101.

Commercial Building Exterior

- a. Proposed roof shall have a minimum roof height of 6 feet measured from the top plate to the ridge per §153.186(C)(1)(d)

- b. Left (Fourth Street) elevation does not meet the minimum glazing and glazing façade calculations (6.7% provided, 10% required)

Staff recommended approval of the site plan with the above listed conditions, and Mr. Ray noted that the applicant had addressed them all. Mr. Ray stated that the applicant had revised the vinyl fence to a wooden shadow-box fence for greater durability.

Mayor Sproul stated that the project was well-engineered. Commissioner Gray recommended the developer consider a barrier similar to Lowes and Publix. He also addressed the retention pond on the adjoining property, noting that there would be no diminishing of the retention area at the Truist Bank site. There is an additional retention pond on the Wawa site. Commissioner Gray also requested Staff consider development of more stringent regulations for buffers between commercial and residential parcels. Members concurred Commissioner Gray's comments.

Commissioner Ingram asked Mr. Ray to clarify the situation about stormwater for the development. Mr. Ray replied that the site will have pervious pavement, which will act as a huge stormwater basin. The retention pond network will also address any stormwater; the property does not create stormwater issues for surrounding properties. He stated that the developer is working with the Town Engineer and Staff to upgrade surrounding stormwater infrastructure, which will better serve the area.

With regard to surrounding properties, Mr. Ray said that once the landscaping buffer matures, it will provide an additional buffer for the adjoining neighbors. Mayor Sproul suggested if any existing trees could be maintained in the development, he supported it. He stated that the Town continues to improve the drainage infrastructure throughout the Town.

Commissioner Gray moved to approve the site plan for 1900 N. Croatan Highway in the Commercial Zone — Proposed Convenience Store and Gas Station, with the required conditions listed above, as presented. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

Through consensus, the BOC asked Staff to research and draft potential buffering options between commercial and residential for possible consideration by the Planning Board.

2. Zoning Alternatives — Essential Long-Term Housing (Attached NB-2)

Planning Director Meredith Guns shared that at its April 27, 2022, meeting, the BOC requested Staff research and present potential options to encourage essential long-term housing for Board discussion, with the possibility of forwarding for Planning Board review. She noted that Kill Devil Hills has the highest multi-family density in Dare County, and has constructed the largest volume of multi-family units in the past five years. Ms. Guns noted that since KDH has a workforce housing ordinance and program developed in 2006, the Planning Department's term going forward is essential long-term housing to avoid any confusion.

Ms. Guns highlighted possible Town Code amendments that, paired with restrictive covenants, could promote essential long-term housing, which included cluster home developments and accessory dwelling units (ADUs) with deed restrictions in the residential low zone; rewriting the workforce housing ordinance; and incentivized mixed-use developments in

some zones under certain conditions. She referred to concepts that were highlighted in the Planning Department memorandum, which was included with the meeting materials. She stated that Staff had met with Eddie Goodrich, who had earlier submitted cluster home ordinance amendments, and noted that he had been supportive of this cluster home concept.

Ms. Guns stated that with BOC approval, Staff would work with the Town Attorney to further develop these concepts and submit them to the Planning Board for review. She also noted that the Planning Department was considering development of a use agreement that would further promote essential long-term housing. Commissioner Gray invited Mr. Goodrich to share comments on these concepts. Mr. Goodrich thanked Staff and supported the proposed cluster homes changes as a great alternative.

Commissioner McAvoy encouraged a period longer than 30 days to be considered long-term use. He expressed concern about enforcement of restrictive covenants, and inquired if these changes are not going to make a big difference, whether it is worth increasing density. Commissioner Ingram expressed concerns about density, but noted the cluster homes options balances the density against benefit to the community: density but with smaller structures. Commissioner Windley thanked Staff for its proposals, noting that it has encapsulated the BOC's vision. Through consensus, the BOC directed Staff to move forward with the cluster home concept.

3. Presentation of the Town Manager's Recommended Budget Fiscal Year 2022/2023

Town Manager Debora P. Díaz presented the proposed budget for the Town of Kill Devil Hills for fiscal year 2022/2023. She noted that in accordance with the provisions of N.C.G.S. §159-13, the governing board shall adopt a budget ordinance not earlier than ten (10) days after the budget is presented to the BOC, and not later than July 1. Before adopting the budget ordinance, the BOC will need to hold a public hearing, at which time any person(s) wishing to be heard on the Recommended Budget may appear. The hearing may be held at any time after presentation of the budget, either prior to, or subsequent to, the BOC's budget worksession.

She noted that the BOC has historically conducted budget worksessions prior to the budget public hearings and if that is the desire of the BOC, Staff recommended the BOC consider holding a worksession on Wednesday, May 25, 2022, at 6:00 p.m., which will be the date and time of its second regular meeting of the month. The budget public hearing could be scheduled for Monday, June 13, 2022, at 6:00 p.m. Ms. Díaz stated that if members had any questions regarding the recommended budget to please contact Staff.

Commissioner Ingram moved to schedule a budget worksession on Wednesday, May 25, 2022, at 6:00 p.m., and a budget public hearing for Monday, June 13, 2022, at 6:00 p.m. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

Committee Reports

Commissioners' Agenda

Commissioner Gray Commissioner Gray reported on the passing of former Dare County Schools Superintendent Leon Holleman, who was instrumental in establishing the First Flight High School complex in Kill Devil Hills. He asked everyone to keep the Holleman family in their thoughts and prayers.

Commissioner McAvoy Commissioner McAvoy reported that the N.C. Primary is May 17, and encouraged everyone to vote.

Mayor's Agenda

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

A. A Proclamation Designating May 23 – 30, 2022, as Beach Safety Week

Mayor Sproul shared that for decades, people from around the world have visited our KDH beaches, relaxing and creating memories. The Town of Kill Devil Hills encourages them and our citizens to take a moment and remember that safety is a key component to a successful beach outing.

Mayor Sproul moved to approve this proclamation as presented. Commissioner Windley seconded the motion, which was approved by a unanimous, 5-0, vote.

Town Manager's Agenda

Town Attorney's Agenda

Town Attorney Casey Varnell shared that when addressing essential long-term housing, restrictive covenants could be a positive tool. With regard to Town ordinances, the Town hopes that everyone will obey them: KDH operates under a complaint-driven process. In contrast, the triparty agreement in a restrictive covenant provides an additional protective measure, since any interested party, including another tenant, can enforce the covenant. As a result, the restrictive covenant has more "teeth."

Consent Agenda

1. Minutes (Attached CA-1A)

A. April 27, 2022

2. Monthly Report (Attached CA-2A)

A. March 2022

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

- A. Budget amendment #16 – to appropriate funds for FY21-22 transfer to the beach nourishment capital reserve fund per Special Obligation Bond funding coverage schedule
- B. Budget amendment #17 - To appropriate funds for the purchase of diesel and unleaded fuel
- C. Budget amendment #18 - To increase dumpster sales and associated expenses due to increase in demand for dumpsters

Ms. Díaz 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

Randy Burak, 208 David Lane, Kill Devil Hills – Mr. Burak noted that the homes in neighboring properties are raised eight to ten feet, so a six-foot high shadow-box fence does not provide a barrier from the proposed development. He stated that the bank’s retention pond area would be reduced to accommodate the access between the Wawa and Fifth Street. He asked Wawa representatives to consider a larger barrier between the development and the adjoining properties.

Mike Shervin, 215 Orville Court, Kill Devil Hills – Mr. Shervin supported a more elaborate barrier between the Wawa and adjoining properties. He inquired about the signal light timing on Fifth Street, and whether it will change with the additional traffic.

Lynn Schrayshuen, 215 Orville Court, Kill Devil Hills – Ms. Schrayshuen inquired about a sidewalk along Fifth Street by the Truist bank lot because there is a crosswalk at the signal light, which would increase pedestrian safety.

Assistant Police Chief Dana Harris – Assistant Police Chief Harris reminded everyone about the recent Peace Officers Memorial Day and Police Week, which commemorates fallen law enforcement officers.

Planning Director Meredith Guns – Ms. Guns shared that the First Flight High School HOSA club was conducting an essential needs drive for Ukraine, and collection boxes are at Town Hall.

Response to Public Comment

Commissioner Gray recommended the Street Improvement Special Projects Committee (SISPC) review and consider sidewalk development along the Truist Bank lot on Fifth Street. Commissioner Windley suggested a possible partnership with Truist Bank to develop a sidewalk.

Commissioner McAvoy expressed concern regarding additional traffic in that area, and inquired about the timing of traffic lights. Ms. Guns stated that the N.C. Department of Transportation (NCDOT) monitors all stop lights in Dare County, and regularly conducts traffic studies and coordinates signal timing for the most efficient movement of traffic.

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 7:27 p.m.



Submitted by:



James Michael O'Dell
Town Clerk

These minutes were approved by the Board of Commissioners on May 25, 2022.



Ben Sproul
Mayor