



TOWN OF KILL DEVIL HILLS

Land Where Flight Began

NOTICE OF PUBLIC MEETING

NOTICE is hereby given that on Wednesday, May 25, 2016 at 5:30 p.m. the Kill Devil Hills Board of Commissioners will hold its second regular meeting of the month in the Meeting Room at the Administration Building, 102 Town Hall Drive, off Colington Road. The public is cordially invited to attend.

Call to Order

Pledge of Allegiance and Moment of Silence

Agenda Approval

Public Comment (Time limit of 3 minutes per person; 5 minutes per group)

Response to Public Comment

Introductions and Presentations

1. Presentation of Life Saving Awards to Police Lieutenant John Towler and Police Sergeant Rodney Rawls

Old Business

New Business

1. Beach Nourishment Agreement – Amendment to Interlocal Agreement

Commissioners' Agenda

Mayor's Agenda

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

Public Comment

Response to Public Comment

General Worksession

1. Town Manager's Recommended Budget FY 2016/2017

Adjourn

Posted this 20th day of May 2016.

Harriet B. Banner

Deputy Town Clerk

Copies to: Mayor and Board of Commissioners, TM, TA in their packet materials; all department heads; all Town bulletin boards; KDH Sunshine List, including all local news media; KDH Electronic Distribution List; Facebook; website; file

Minutes of the Wednesday, May 25, 2016 Town of Kill Devil Hills Board of Commissioners regular meeting and budget worksession held at 5:30 p.m. in the Meeting Room at the Administration Building, 102 Town Hall Drive, off Colington Road.

Members Present: Mayor Sheila F. Davies; Commissioners Travis Appleman, Mike Hogan, Michael Midgette, and Brandi Rheubottom

Members Absent: None

Others Present: Debora P. Diaz, Town Manager; Steven D. Michael, Town Attorney; Greg Loy, Planning Director; Mary E. Quidley, Town Clerk

Call to Order

At 5:30 p.m. Mayor Davies called this meeting of the Kill Devil Hills Board of Commissioners to order and welcomed all present.

Pledge of Allegiance and Moment of Silence

Mayor Davies reminded that this coming Monday is the Memorial Day Holiday and it is a special day to recognize our country's service members, past and present. Also, it is traditionally the beginning of our area's most busy season and she reminded everyone to be careful on area roadways.

Agenda Approval

Mayor Davies made a motion for the agenda of the May 25, 2016 meeting to be amended by deleting the *Introductions and Presentations* and *Consent Agenda* items, and the addition of a *Closed Session* at the conclusion of the first *Response to Public Comment* item. Commissioner Hogan seconded that motion and approval was unanimous, 5-0.

Public Comment (Time limit of 3 minutes per person; 5 minutes per group)

Response to Public Comment

Closed Session

In accordance with the provisions of NCGS 143-311(a)(3), Mayor Davies made a motion for the Board of Commissioners to enter Closed Session in order to preserve the attorney-client privilege between the attorney and the Board, and for the purpose of consulting with the Town Attorney on handling a claim, judicial action, mediation, arbitration, administrative procedure, or resolution in the matters of *Morrison vs. the Town of Kill Devil Hills*, and *RMW Investments*,

LLC, et al. vs. the Town of Kill Devil Hills. Commissioner Appleman seconded that motion and approval was unanimous, 5-0.

It was 5:37 p.m.

At 6:00 p.m. the regular meeting reconvened and the Town Attorney announced that during Closed Session the Board of Commissioners discussed the handling of the lawsuits mentioned above and provided direction in accordance with the statute listed above.

Introductions and Presentations

Old Business

New Business

1. Beach Nourishment Agreement – Amendment to Interlocal Agreement (Attached NB-1A)

The attached amendment changes the project funding (Section 4.1) to accurately reflect each entity's contribution. The amount for Kill Devil Hills remains the same. Dare County's contributions to the Towns (Section 4.3) to be used for debt service will add \$95,000 to the Kill Devil Hills portion of the project.

The Town Attorney has reviewed the amended agreement and staff recommends approval as presented.

Commissioner Appleman made a motion for the Board of Commissioners to approve the Amendment to the Interlocal Agreement Between Kill Devil Hills and Dare County for Beach Nourishment as presented. Commissioner Rheubottom seconded that motion and approval was unanimous, 5-0.

Commissioners Agenda

Mayor's Agenda

1. Proclamation for National Beach Safety/Rip Current Awareness Week – June 5-12, 2016 (Attached MA-1)

Mayor Davies explained that local waters can be a wonderful recreational resource, but they can also be treacherous. Lifeguards are provided in an effort to reduce the number of accidents at our beaches, but they cannot do the job alone. An informed public is essential to maintaining adequate levels of beach and water safety.

The objective of National Beach Safety Week is to make citizens aware of the need to be safe while in and near the water with special emphasis on the hazards associated with Rip Currents. This objective stresses the following:

- Learn to Swim.
- Swim Near a Lifeguard.

- Swim with a Buddy.
- Check with the Lifeguards.
- Use Sunscreen and Drink Water.
- Obey Posted Signs and Flags.
- Keep the Beach and Water Clean.
- Learn Rip Current Safety.
- Enter Water Feet First.
- Wear a Life Jacket.

The United States Lifesaving Association (USLA) is a national non-profit organization dedicated to improving beach safety in America and we are an affiliate chapter of USLA. Membership includes professional beach lifeguards in this area, joining lifeguards from across the country.

Commissioner Hogan made a motion for the Board of Commissioners to adopt this proclamation as presented. Commissioner Appleman seconded that motion and approval was unanimous, 5-0.

This proclamation will be distributed electronically, shared with the other Dare County local governments, provided to our Ocean Rescue Division, and posted on Town bulletin boards and social media sites.

2. Resolution Opposing North Carolina House Bill 1122 that would Limit Marine Net Fishing (Attached MA-2)

The commercial fishing industry in North Carolina is a traditional maritime industry that began in the early 18th century. Not only does commercial fishing bring fresh, local, seafood to market — it is a way of life and a mainstay of the coastal economy. There are already numerous regulations restricting net fishing in place, but this bill appears to ban in an arbitrary manner most if not all nets and their use.

Mayor Davies explained that she supports the Dare County Board of Commissioners opposition of HB 1122, which, if passed, will be added to the 2016 general election ballots. The resolution will be posted on all of the Town's informational resources and forwarded to our state legislators and the other Dare County municipal governments.

Commissioner Appleman made a motion for the Board of Commissioners to approve the Resolution Opposing North Carolina House Bill 1122 that would Limit Marine Net Fishing. Commissioner Hogan seconded that motion and approval was unanimous, 5-0.

Town Manager's Agenda

Town Attorney's Agenda

General Worksession

1. Town Manager's Recommended Budget FY 2016/2017

The proposed budget for the Town of Kill Devil Hills for fiscal year 2016/2017 was presented to the Board of Commissioners at the May 16, 2016 meeting. At that time, the worksession was scheduled for this meeting and the public hearing scheduled for the Monday, June 13, 2016 meeting, which will begin at 5:30 p.m.

The Town Manager conducted a review of the draft budget and the Board of Commissioners commented and asked questions on issues of their choosing, with the following changes agreed upon by consensus:

- *Merit for deserving employees.* Using additional funding in the Streets Division/Streets and Drainage, thus without increasing the budget, the Board of Commissioners authorized the Town Manager to implement a merit bonus plan for the 2016/2017 fiscal year in the range of \$80,000 overall in the General Fund; with a similar ratio in the Water Fund. The Town Manager was asked to make plans to recommend and implement a new merit plan for deserving Town employees in the 2017/2018 fiscal year.
- *Funding for printing the Historic Landmarks Booklet and posters for HLC Open House:* Assistant Planning Director Meredith Guns explained these needs and added that this year's Open House had about 130 people go through the historic landmark homes. The Board's consensus is to honor this request and the estimated cost of \$1,800 will be pulled from the existing, recommended budget lines. In the future, there can be an expense line in the Planning Department to meet the HLC's needs.
- *Replacement of 2005 Explorer in the Fire Department.* This vehicle was originally in the plan year budget and the estimated amount that was included in this Recommended Budget was incorrect. The Board gave the Town Manager authority to make the correction in the budget document.

The Board of Commissioners had no other issues and was very complimentary of the Town Manager's Recommended Budget for the upcoming fiscal year.

Public Comment (Time limit of 3 minutes per person; 5 minutes per group)

Response to Public Comment

Adjourn

There being no further business before the Board of Commissioners at this time, Commissioner Rheubottom made a motion to adjourn this meeting. Commissioner Midgette seconded that motion, which was approved unanimously, 5-0.

It was 6:53 p.m.



TOWN OF KILL DEVIL HILLS

Land Where Flight Began

MEMORANDUM

May 25, 2016

TO: Mayor and Board of Commissioners

FROM: Debora P. Díaz, Town Manager 

REF: New Business

**1. Beach Nourishment Agreement – Amendment to Interlocal Agreement
(Attached NB-1)**

The attached amendment changes the project funding (Section 4.1) to accurately reflect each entity's contribution. The amount for Kill Devil Hills remains the same. Dare County's contributions to the Towns (Section 4.3) to be used for debt service will add \$95,000 to the Kill Devil Hills portion of the project.

The Town Attorney has reviewed the amended agreement and staff recommends approval as presented.

A motion will be in order.

**AMENDMENT NUMBER ONE TO
INTERLOCAL AGREEMENT**

This **AMENDMENT NUMBER ONE TO INTERLOCAL AGREEMENT** dated as of June 10, 2016 (this "Amendment") among the **COUNTY OF DARE, NORTH CAROLINA**, a political subdivision of the State of North Carolina (the "County"), the **TOWN OF DUCK, NORTH CAROLINA**, a municipal corporation organized under the laws of the State of North Carolina (the "Duck"), the **TOWN OF KILL DEVIL HILLS, NORTH CAROLINA**, a municipal corporation organized under the laws of the State of North Carolina (the "KDH") and the **TOWN OF KITTY HAWK, NORTH CAROLINA**, a municipal corporation organized under the laws of the State of North Carolina (the "Kitty Hawk" and collectively with Duck and KDH, the "Towns") amends the Interlocal Agreement dated as of April 22, 2015 among the County and the Towns (the "Original Interlocal Agreement" and as amended by this Amendment, the "Interlocal Agreement");

WITNESSETH

WHEREAS, the County and the Towns entered into the Original Interlocal Agreement under Article 20 of Chapter 160A of the North Carolina General Statutes, as amended, in order to cooperate in the construction and financing of beach nourishment projects in the Towns;

WHEREAS, since the date of the Original Interlocal Agreement, the County and the Towns have finalized the costs and timing of the beach nourishment projects and the participation in sharing the cost of the Projects and are entering into this Amendment to memorialize those respective costs;

NOW THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Towns hereby agree as follows:

Section 1. *References to Amended Documents.* All references in the Original Interlocal Agreement to the Interlocal Agreement are to be deemed to be references to the Interlocal Agreement as amended, modified and supplemented by this Amendment, or as the same may otherwise be amended, modified, altered, changed or supplemented from time to time.

Section 2. *Amendment to Section 4.1.* Section 4.1 of the Original Interlocal Agreement is hereby deleted and replaced with the following:

Section 4.1. *Project Funding.*

The County and the Towns will contribute the following amounts to the cost of the Projects:

Duck Project

Duck Contribution	\$6,889,000
County Contribution	<u>7,083,679</u>
Total Project Cost	\$13,972,679

Kill Devil Hills Project

Kill Devil Hills Contribution	\$4,962,691
County Contribution	<u>3,909,119</u>
Total Project Cost	\$8,871,810

Kitty Hawk Project

Kitty Hawk Contribution	\$9,925,000
County Contribution	<u>8,930,878</u>
Total Project Cost	\$18,855,878

The County will pay its share of the Projects as set forth above from the Beach Nourishment Fund held by the County. Each Town will pay its share of the Projects as set forth above from a special obligation bond financing procured separately by each Town. Each Town will be assisted in its financing by Parker Poe Adams & Bernstein LLP, as bond counsel, and by DEC Associates Inc., as financial advisor. The Towns and the County will cooperate in seeking the approval of the North Carolina Local Government Commission for the financings.

The County is spending a portion of its County Contribution on pre-construction activities as provided in a prior interlocal agreement among the parties. The County will allocate such amounts against the total County Contributions as set forth above towards the Projects.

Section 3. *Amendment to Section 4.3.* Section 4.3 of the Original Interlocal Agreement is hereby deleted and replaced with the following:

Section 4.3. *County Contributions to Towns.* The County will transfer to Duck the amounts and in the years as follows to be used towards the payment of debt service of its special obligation bonds issued to finance the Duck Project:

<u>Fiscal Year</u> <u>ending June 30</u>	<u>Amount</u>
2018	\$270,224
2019	248,221
2020	226,218
2021	204,215
2022	182,212

The County will transfer to Kitty Hawk the amounts and in the years as follows to be used towards the payment of debt service of its special obligation bonds issued to finance the Kitty Hawk Project:

<u>Fiscal Year ending June 30</u>	<u>Amount</u>
2018	\$1,245,673
2019	1,207,677
2020	1,169,681
2021	1,131,684
2022	1,093,688

The County will transfer to Kill Devil Hills the amounts and in the years as follows to be used towards the payment of debt service of its special obligation bonds issued to finance the Kill Devil Hills Project:

<u>Fiscal Year ending June 30</u>	<u>Amount</u>
2018	\$95,000
2019	95,000
2020	95,000
2021	95,000
2022	95,000

The County may make such other payments to the Towns as it deems necessary and desirable to fulfill the intent of this Interlocal Agreement with respect to paying the costs of the Projects and the Towns' obligations with respect to the Projects.

The County will also reimburse each of the Towns for all or a portion of the costs of applying to the North Carolina Local Government Commission for approval of the financing of its respective Project.

Section 4. **Modification of Documents.** The Interlocal Agreement, as amended and modified by this Amendment, is hereby incorporated herein and ratified and reaffirmed as of the date of this Amendment.

Section 5. **Limitation on Amendments.** The Interlocal Agreement, as amended and modified by this Amendment, and the amendments as contained in this Amendment are limited precisely as written. All of the terms of the Interlocal Agreement not modified by this Amendment remain in full force and effect.

Section 6. **Effective Date.** The amendments to the Interlocal Agreement as contained in this Amendment are effective as of the date first written above.

Section 7. **Execution in Counterparts.** This Amendment may be executed in any number of counterparts, each of which is an original and all of which constitute but one and the same instrument.

IN WITNESS WHEREOF, the Chairman of the Board of Commissioners of the County, the Mayor of Duck, the Mayor of KDH and the Mayor of Kitty Hawk have each executed this Interlocal Agreement to evidence the agreement of the parties hereto and the respective Town Clerks and the Clerk to the Board of County Commissioners have affixed the seal of the Town and the County, as applicable, this Interlocal Agreement.

[SEAL]

Attest:



COUNTY OF DARE, NORTH CAROLINA

By: Kath B. Wood
Chairman

[Signature]
Clerk to the Board of County Commissioners

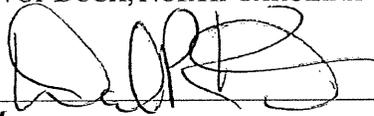
**This instrument has been preaudited
in the manner required by the Local
Government Budget and Fiscal Control Act.**

[Signature] 6/4/16
Finance Officer
County of Dare, North Carolina

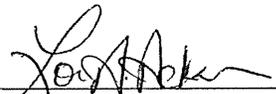
[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]



TOWN OF DUCK, NORTH CAROLINA

By: 
Mayor

Attest:


Town Clerk

**This instrument has been preaudited
in the manner required by the Local
Government Budget and Fiscal Control Act.**


Finance Officer
Town of Duck, North Carolina

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]



TOWN OF KILL DEVIL HILLS, NORTH CAROLINA

By: *Chet Foster DeW*
Mayor

Attest:

Mary Y
Town Clerk

**This instrument has been preaudited
in the manner required by the Local
Government Budget and Fiscal Control Act.**

Barbara Kissinger
Finance Officer
Town of Kill Devil Hills, North Carolina

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]



TOWN OF KITTY HAWK, NORTH CAROLINA

By: Gary Perry
Mayor

Attest:

Lynn Morris
Town Clerk

**This instrument has been preaudited
in the manner required by the Local
Government Budget and Fiscal Control Act.**

Filicee Nobles
Finance Officer
Town of Kitty Hawk, North Carolina