

**Minutes of the Monday, December 11, 2023, regular meeting of the Kill Devil Hills Board of Commissioners held at 6:00 p.m. in the Town Hall Meeting Room, 102 Town Hall Drive, Kill Devil Hills.**

**Members Participating:** Mayor Ben Sproul; Commissioners Terry Gray, Ivy Ingram, Bernard “B.J.” McAvoy, and Commissioner / Mayor John Windley

**Members Not Participating:**

**Others Participating:** Debora P. Díaz, Town Manager; Casey Varnell, Town Attorney; Meredith Guns, Planning Director; Cameron Ray, Assistant Planning Director; 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 Ingram seconded the motion, which passed by a unanimous, 5-0, vote.

**Public Hearing**

- 1. Recommended local historic designation (Attached PH-1A)**
  - A. 500 West Avalon Drive, Kill Devil Hills: Sharp Cottage**

Town Attorney Casey Varnell read aloud the rules for public hearings and then opened the hearing.

Notice for the following item has been published in the *Coastland Times*, and posted on the Town’s bulletin boards, website at <https://www.kdhnc.com/1118/December-11-2023-Board-of-Commissioners->, and has been disseminated through the Town’s electronic distribution list, meeting or exceeding the N.C.G.S. requirements for public hearings.

At its November 1, 2023, public hearing, the Historic Landmarks Commission (HLC) reviewed the property’s designation report and State comments, and voted to unanimously recommend the designation, along with a request for the Board to schedule a public hearing. The

BOC scheduled this public hearing at its November 13, 2023, meeting. The property's owners are in support of designating the property located at 500 West Avalon Drive, Kill Devil Hills, known as the Sharp Cottage, as a Local Historic Landmark.

Commissioner Ingram moved to designate 500 West Avalon Drive, Kill Devil Hills: Sharp Cottage as a historic landmark. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

### **Public Comment**

**Dennis Pohl, 1205 West Fourth Street, Kill Devil Hills, NC** – Mr. Pohl expressed his appreciation to the Buildings and Grounds Staff for their work in the Wright Lights Illumination display at Aviation Park. He expressed his support for additional amenities at the Fourth and Fifth Street beach accesses, including porta-john bathroom facilities, a replacement walkover, and pushbutton showers. Such amenities will enhance the beach experience for visitors and residents.

### **Response to Public Comment**

Commissioner Windley inquired about how often the Shoreline Access Plan is updated. Planning Director Meredith Guns stated that the plan was last updated in whole approximately 20 years ago; however, there was an assessment of shoreline facilities three years ago, and the Prospect Street access was identified for the addition of a restroom, which was constructed.

### **Ongoing Business**

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

##### **1. Closed session**

Mr. Varnell recommended that the Board of Commissioners enter into closed session to consult with the Town Attorney in order to preserve the attorney-client privilege.

Commissioner McAvoy moved that, pursuant to NCGS §143-318.11(a)(3), the Board of Commissioners enter into closed session to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the BOC. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

The Board entered closed session at 6:13 p.m.

The Board resumed open session at 6:41 p.m.

Mr. Varnell left the meeting at 6:42 p.m.

Town Manager Debora Díaz reported on the actions of the closed session, which included approval of the minutes for the following closed sessions as presented, pending the Town

Attorney's review and recommendation on opening them to the public: March 7, 2022; July 11, 2022; October 10, 2022; June 28, 2023; and December 11, 2023. Mr. Varnell had updated the Board on the following ongoing litigation: Ami Hill and Muse Originals, LLC; and the Appropriations Bill of 2023. The Board then provided Mr. Varnell direction.

### **Consent Agenda**

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

A. November 11, 2023

**2. Monthly Report (Attached CA-2A)**

A. October 2023

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.

Mayor Sproul expressed his appreciation to the Board and Town Staff, thanking them for all of the accomplishments that had been achieved over the past years. He congratulated Mayor-Elect Windley, and wished him well in the new role.

### **New Business**

**1. Organizational Meeting: Certification of election results, oaths of office, and other organizational items**

#### **Organizational Meeting**

Town Clerk James Michael O'Dell certified for the record of this meeting the results of the November 7, 2023, municipal election conducted by the Dare County Board of Elections for the Town of Kill Devil Hills, and oaths of office were administered to the members of the Board of Commissioners for the new term.

**A. Certification of election results (Attached NB-1A)**

John Windley – Mayor – 911 votes

Ivy Ingram – Commissioner – 972 votes

Bernard "B.J." McAvoy – Commissioner – 768 votes

**B. Oaths of office (Attached NB-1B)**

1. Mayor

2. Commissioners

Mayor Windley and the Board expressed their appreciation to Mayor Sproul for his service to the Town. Mayor Sproul was presented with a gift from the Town of Kill Devil Hills, a framed print of the KDH water tower from local artist Barbara Newsome.

At 6:53 p.m., a brief break in proceedings was called and everyone was invited to stay for cake and refreshments.

The regular meeting reconvened at 7:13 p.m.

### **C. Appointment of Mayor *Pro Tem* (Attached NB-1C)**

Commissioner Gray nominated Ivy Ingram for the office of Mayor *Pro Tempore*. Commissioner McAvoy seconded the nomination. With no additional nominations, Ivy Ingram was appointed by a unanimous, 4-0, vote. Mr. O'Dell then administered the oath of office to Mayor *Pro Tem* Ingram.

## **2. Adoption of Code of Ethics and Conduct for the Board of Commissioners and Rules of Procedure (Attached NB-2)**

In 2012, a Code of Ethics and Conduct was adopted by the then-seated Board of Commissioners; the most recent adoption was at the Board's organizational meeting in December 2019, along with the approval of a 2020 addendum. The Code is an affirming statement to the Town's citizens of the Board's pledge to conduct the Town's business in a manner to maintain the level of trust, professionalism, and moral conduct expected when members were voted into office.

North Carolina General Statutes require local governments adopt a code of ethics to guide members in the performance of their official duties, which at the least must contain the following:

- The need [for all governing board members] to obey all applicable laws;
- The need [ ] to uphold the integrity of the office;
- The need [ ] to avoid impropriety in the execution of duties;
- The need [ ] to faithfully discharge the duties of the office; and,
- The need [ ] to conduct the affairs of the governing board in an open and public manner.

Meeting attachments for this agenda item included the following:

- An adoptable Code: there are no changes from the 2019 document;
- Amendments to the Allen, Trey (2017). *Suggested Rules of Procedure for a City Council (4<sup>th</sup> ed.)*. School of Government. The University of North Carolina at Chapel Hill (which has been previously provided to Board members)

Commissioner Ingram moved to adopt the Code of Ethics policy and Rules of Procedure for the Kill Devil Hills Board of Commissioners. Commissioner Gray seconded the motion, which was approved by a unanimous, 4-0, vote.

### 3. Nominations for appointment – Dare County Tourism Board (Attached NB-3)

Members of the Dare County Tourism Board (DCTB) serve a two-year term and are appointed by the Dare County Board of Commissioners after being nominated for consideration by the municipal governing boards. Commissioner Ingram has been the Town's representative for a number of years; however, she is no longer eligible to serve due to term limitations. Mayor Windley thanked Commissioner Ingram for her service to the Town on the DCTB.

The Dare County Board has requested the submission of three names from the membership of the Kill Devil Hills Board for consideration for appointment to the Tourism Board. Commissioner McAvoy moved to recommend Commissioners Gray, McAvoy, and Mayor Windley, in order. Commissioner Gray seconded the motion, which was approved by a unanimous, 4-0, vote.

#### Committee Reports

Community Appearance Commission (CAC) CAC Chairperson Sue Kelly provided the group's upcoming meeting schedule, and noted that the deadline for the Live Oak Tree giveaway program is December 31, 2023.

#### Commissioners' Agenda

##### Commissioner Ingram

Wright Lights Illumination event Commissioner Ingram thanked Staff for all their work with the Wright Lights Illumination event at Aviation Park. She noted that the holiday lights were incredible, and noted the dedication of the Buildings and Grounds Division.

#### Mayor's Agenda

Mayor Windley saluted the hard work and dedication of his wife, Yajara. He also thanked his parents, who were present, and acknowledged Mary Jones Winfield, his maternal grandmother. Ms. Winfield served on the Beaufort County Board of Education, and inspired him and his public service career.

Community Appearance Commission representative Through consensus, the Board appointed Commissioner Ingram as the BOC representative to the CAC.

Board of Commissioners vacancy Mayor Windley requested the Board consider the following process and timeline for filing the vacated seat:

- Notice of the BOC's intent to fill the vacant seat will be made via the Town's website, [www.kdhnc.com](http://www.kdhnc.com), electronic distribution, and media releases.

- Applications will be accepted by the Office of the Town Clerk until 5:00 p.m. on Tuesday, January 16, 2024.
  - Applications may be submitted on-line, and a résumé may be submitted with a completed application.
- The Town Clerk will forward applications to the BOC by January 22, 2024.
- Between January 22, 2024, and the February 5, 2024, BOC regular meeting, members will review the applications and may contact applicants to obtain additional information or clarify any information submitted.
- During the February 5, 2024, meeting, the BOC will use the nomination-and-ballot method to fill the vacant seat from the eligible candidates submitting applications.

Members supported the transparent process and timeline. Through the consensus, the Board approved the process and timeline to fill the BOC vacancy, as presented.

**1. Proposed 2024 Board of Commissioners meeting schedule**

In developing the 2024 Board of Commissioners meeting schedule, the Board has taken into account Federal, State, and Town holidays, the Dare County Schools student schedule, and Early Voting periods and Election Days. However, changes to the schedule may be made at any time. Two open comment public fora are scheduled: the spring forum on April 24 and the autumn forum on October 14. The Town Hall Meeting Room will serve as an Early Voting and Elections Day polling station from mid-February through March 5, 2024, (primary) and mid-October through November 8, 2024 (general).

The tentative BOC meeting schedule would be as follows:

Monday, January 15	Monday, June 10
Wednesday, January 24	Wednesday, June 26
Monday, February 5	Monday, July 8
Wednesday, March 6	Monday, August 12
Wednesday, March 27	Monday, September 9
Monday, April 8	Monday, October 14 (public forum)
Wednesday, April 24 (public forum)	Monday, November 18
Monday, May 13	Monday, December 9
Wednesday, May 22	

Commissioner Gray moved to adopt the regular 2024 BOC meeting schedule, as presented. Commissioner McAvoy seconded the motion, which was approved by a unanimous, 4-0, vote.

**Town Manager’s Agenda**

**Public Comment**

**Dennis Pohl, 1205 West Fourth Street, Kill Devil Hills, NC** – Mr. Pohl inquired whether people have been to Fifth Street recently. He noted the additional traffic in the Fourth and Fifth Street area with all of the traffic, and inquired why additional turn lanes were not included.

**Response to Public Comment**

Commissioner Ingram stated that once the development is completed, a traffic study could be requested. Assistant Planning Director Cameron Ray stated that Wawa had made improvements to Fourth Street, and the Town had made large drainage and sidewalk improvements.

**Adjournment**

There being no further business appearing before the BOC at this time, Commissioner McAvoy moved to adjourn the meeting. Commissioner Gray seconded the motion, which was approved by a unanimous, 4-0, vote.

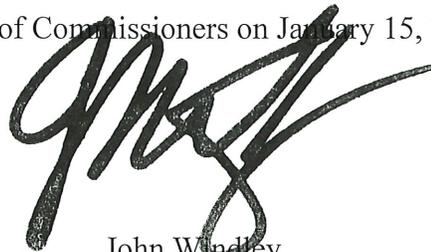
The time was 7:36 p.m.



Submitted by:

  
James Michael O'Dell  
Town Clerk

These minutes were approved by the Board of Commissioners on January 15, 2024.

  
John Windley  
Mayor