

Minutes of the Wednesday, April 24, 2024, 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 John Windley; Commissioners Terry Gray, T. Dillon Heikens, Ivy Ingram, and Bernard “B.J.” McAvoy

Members Not Participating:

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

Call to Order

At 6:01 p.m., Mayor Windley 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 Heikens seconded the motion, which passed by a unanimous, 5-0, vote.

Public Hearing

Town Attorney Casey Varnell read aloud the public hearing rules and then opened the public hearing. He stated that 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/1128/April-24-2024-Board-of-Commissioners-Mee> and social media platforms, and has been disseminated through the Town’s electronic distribution list, meeting or exceeding the N.C.G.S. requirements for public hearings.

- 1. Town Code Amendment – Chapter 71, Traffic Regulations, §71.25(B) No Through Traffic Permitted on Certain Streets or Intersections within the Town – elimination of Code section to remove inconsistent or outdated ordinances (Attached PH-1)**

Staff regularly reviews the Town Code to recommend updates or removal of ordinances that may become outdated to better serve the citizens in our community and promote safety. Section 71.25(B), No Through Traffic Permitted on Certain Streets or Intersections within the Town, is not effective due to inconsistencies for the following intersection:

Intersection of Sixth Avenue and W. Baum Street Although a full three-way intersection was recommended during the development of the First Flight Schools Complex, only northbound traffic from 6th Avenue is permitted due to the concern of increased traffic in the undeveloped area. With the development of single-family dwellings in the immediate area, full utilization of 6th Avenue for north and southbound traffic would increase safety and the potential for improved emergency response times.

At its March 27, 2024, meeting, the Board approved a proposed Town Code amendment, resulting in the removal of §71.25(A), *Intersection of Landing Drive and Porthole Court*, which had previously not permitted motorists to enter Porthole Court from Landing Drive. Although the proposed amendment requires no public hearing, the Board of Commissioners tabled the section of the amendment addressing §71.25(B) *Intersection of Sixth Avenue and W. Baum Street* to provide the public an additional opportunity to offer notice and input for the change. Staff recommended approval of the proposed amendment.

Kenny Pierce, 1000 Sixth Avenue, Kill Devil Hills, NC – Mr. Pierce expressed support for maintaining the three-way stop at West Baum Street, Veterans Drive, and Sixth Avenue in its current condition, with no southbound traffic option for Sixth Avenue. He noted that children biked and walked to and from school along Sixth Avenue regularly, and was concerned about their safety if southbound traffic is permitted.

Karen Pierce, 1000 Sixth Avenue, Kill Devil Hills, NC – She expressed concern that there are already speeders on Sixth Avenue, and opposed any change that would permit southbound traffic on Sixth Avenue.

Two electronic public hearing comments were submitted, which were forwarded to the Board of Commissioners prior to the meeting, and have been included with the record of the meeting:

Elaine Piddington, 1100 Fox Street, Kill Devil Hills, NC – Ms. Piddington shared her opposition to permitting southbound traffic on Sixth Avenue.

Jackie Harris, 902 Swan Street, Kill Devil Hills, NC – Mr. Harris expressed his support for permitting southbound traffic on Sixth Avenue from the three-way intersection, noting that it would reduce traffic on the other streets that intersect West Baum Street.

Commissioner Ingram noted that as a Swan Street resident, that there is a large amount of traffic that uses Swan Street from West Baum, bypassing the direct link onto US 158. She noted that she understood the speakers' comments, but that in the near future with the additional developments further south, the intersection will need to be opened. She noted that she is active in the area, including regularly driving her child to and from school and walking her dog, and utilizes Sixth Avenue. She said that she has experienced package delivery carriers driving illegally through the intersection, traveling south on Sixth. Commissioner Ingram noted that

there were seven new homes built just north of the Veterans / Baum / Sixth intersection, and seven or eight north of the intersection. The additional traffic is resulting in traffic backups during school pick up and drop off times. She said that there is no perfect answer solution, but with more development in the area, it may become necessary. Swan Street is bearing the brunt of all of the traffic. Maybe it does not need to happen now, but it is likely needed in the future.

Commissioner Gray noted that when the First Flight schools were opened, the goal was to direct the southbound school traffic along West Baum to the US 158 stoplight. He believed that opening Sixth Avenue to southbound traffic would channel traffic into the neighborhoods. He inquired how many reports of vehicles going the wrong way driving southbound on Sixth Avenue. Commissioner Heikens noted that it may not need to be addressed immediately, but further study may be required. Commissioner McAvoy noted that it would probably be helpful to open it, but it may not alleviate a lot of traffic. He noted the concerns of residents along Sixth Avenue, but it is an arbitrary closure and the schools warrant an additional artery for access. Mayor Windley noted the concern about emergency response times, and inquired whether there was an issue or if responses had to be rerouted. Chief Tilley noted that he was unaware of any specific instances, but that the speed of emergency response times were important.

Town Manager Debora P. Díaz noted that Staff had reviewed the issue, especially with the increased development in the area, but there was no time urgency. Commissioner Ingram suggested the Town continue to monitor the area for when the additional development is completed, and study the issue again in the future. She also urged citizens to sign up for the Town's electronic distribution list to stay informed of Town business.

Commissioner Gray moved to deny the amendment to Chapter 71, Traffic Regulations, §71.25(B) No Through Traffic Permitted on Certain Streets or Intersections within the Town – elimination of Code section to remove inconsistent or outdated ordinances, as presented. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

Mr. Varnell left the meeting at 6:22 p.m.

Public Comment

Bruce “Woody” White, 508 Loblolly Court, Kill Devil Hills, NC – Mr. White provided a copy of a survey of his property from two years ago. This survey has been included with the record of the meeting. Last year, Mr. White had an in-ground pool installed on his property, which also required the installation of a fence. Once the pool and final fencing was completed, he noted that Planning and Inspections Staff stated that there was a requirement that an as-built survey was required. Mr. White noted that the pool was 40 feet from the property line and 15 feet from the septic. He believed the completion of an as-built survey to be an unnecessary expense, especially since this improvement did not surpass his maximum lot coverage percentage or exceed property setbacks.

Debbie Swick, 59 Deer Path Lane, Southern Shores, NC – Ms. Swick expressed support for a resolution opposing the release of helium balloons, and encouraged an ordinance for a ban of

helium and lighter-than-air balloons. She shared that she is working with other groups and state legislators to develop a national ban.

Response to Public Comment

Mayor Windley thanked the speakers for their remarks. Planning Director Meredith Guns stated that when an additional structures are made to single-family dwelling lots, there are two options for the owner: they may submit a drawing at the time of permitting, with an as-built survey at the project's completion, or the owner may submit a sealed survey completed by a licensed surveyor detailing any addition, also listing the lot coverage and setbacks, which can then be confirmed on-site at time of completion. She noted that one or the other must be completed in the process. Mr. White chose to draw the pool on his site plan and make his own calculations for lot coverage. In part, Ms. Guns read Chapter 153, Zoning, Section 153.355(C):

“...the applicant shall have the site plan/building plan prepared, sealed and signed by persons duly authorized by state law as necessary and a survey sealed and signed by a North Carolina licensed surveyor locating the house and all appurtenances on the lot.”

Ms. Guns stated that the ordinance requires the as-built survey, either at the beginning or the end. She noted that fences do not require as-built surveys; the process requires a string line at the beginning of the installation and a string line at completion to show the property line. However, if property pins are not in place, a surveyor is required to place the pins.

Introductions and Presentations

1. Trash Attack! Community Clean Up Event and poster contest recognitions

Since its inaugural event on April 22, 1995, the Town's Trash Attack! Community Clean-Up Event has provided our citizens and visitors an enjoyable way to fellowship and also “attack” the trash and litter in our town.

One of the event's most popular activities is the poster contest, which is open to all K-12 school-aged KDH residents and First Flight Schools students. Trash Attack! Chairperson Sandie Markland provided a report of the event and to highlight the submitted entries and recognize these budding artists:

Second Place (tie): Cora Francy and Bailey Beall

First Place: Ella Ogburn

The Town uses the submitted artwork in a variety of ways to remind the public to keep Kill Devil Hills clean and litter free, including garbage truck vinyl panels, signs for our recreation areas and facilities, and on social media.

Ms. Markland noted that 100 volunteers and Staff participated in this year's event, which collected 22 cubic yards of trash and five bulk tons of trash. She expressed appreciation to the Board and Staff for all of the work involved in making the event such a success.

Ongoing Business

New Business

1. Town Code Amendment – Overnight parking at beach accesses (Attached NB-1)

Ms. Díaz noted that since Kill Devil Hills' incorporation, the Town has strived to equally balance opportunities for all stakeholders, including residents, businesses, and the general public. With the additional growth and development of the oceanfront, it has been a priority for the Town to maintain entry for the public to access the pristine, public trust beaches.

The proposed amendment to the Town Code creates a new section under Chapter 72, Stopping, Standing and Parking, §72.05 Parking in Certain Places and General Regulations, Chapter 96 Seaside Regulations, §96.15 (A) Beach Access Parking, which would prohibit overnight parking at the Town's beach accesses from midnight to 3:00 a.m.

The meeting memorandum highlighted the Town's need to address the issue of providing access for all to the Town's beaches, while providing the least impact on our beachgoers and citizens. Ms. Díaz noted that the Town's intent was for the ordinance to be proactive, providing education, and if needed ticketing. The approach will hopefully alleviate the abuse by patrons of large single-family dwellings along the oceanfront using the Town's beach accesses as overflow parking, creating congestion and eliminating the daily use of beach access parking by the public.

Commissioner McAvoy expressed concern about the hours and did not believe it was necessary. He felt that such a prohibition would punish everyone for the misdeeds of a few, and suggested a possible overnight prohibition between Memorial Day and Labor Day. He stated that a lot of people enjoy the beach after midnight. Commissioner Ingram expressed concern about beach access lots that are mainly full in the morning, and that a large percentage are from the patrons from the houses next door to the accesses.

Commissioner Gray stated that the proposed ordinance would target overnight parking issues. Commissioner Heikens said that he thought that it was already illegal to park overnight at the Town's beach accesses. He inquired if there was ever a situation with patrons of restaurants open late parking in the beach access lots. Commissioner McAvoy then suggested a more flexible parking prohibition, from 3:00 a.m. to 4:00 a.m. Commissioner Ingram stated that the intent was to send a message to the large single-family dwelling patrons who are abusing the Town's beach access parking. Mayor Windley inquired about the Police Department's approach to enforcement. Commissioner Gray noted that this would not target residents. Commissioner McAvoy supported a one-hour parking. Commissioner Gray stated that the Police Department could make regular checks.

Commissioner McAvoy moved to schedule the proposed amendment to Chapter 72, Stopping, Standing and Parking, §72.05 Parking in Certain Places and General Regulations, Chapter 96 Seaside Regulations, §96.15 (A) Beach Access Parking for a public hearing on

Wednesday, June 26, 2024, at 6:00 p.m. Commissioner Heikens seconded the motion, which was approved by a unanimous, 5-0, vote.

2. Appointments

All applications on file from persons interested in serving in any capacity have been previously copied to the Board of Commissioners and no new applications for those purposes have been received. Appointment histories are included below.

A. Planning Board

Longtime member Mike Lowack's term has expired and he does not wish to be reappointed. At its March 27, 2024, meeting, the Board tabled the appointment until this meeting. Mayor Windley and the Board expressed their appreciation to Mike Lowack for his service to the Planning Board.

Commissioner Heikens moved to appoint Jenniffer Albanese to the Planning Board for term that expires in May 2027. Commissioner McAvoy seconded the motion, which was approved by a unanimous, 5-0, vote.

B. Board of Adjustment – Alternate Member and Regular Member

Blake Culpepper's term as an alternate member and Ron Seidman's term as a regular member of the Board of Adjustment each expire May 2024. Both have expressed a desire to be considered for reappointment to an additional three-year term.

Commissioner McAvoy moved to reappoint Blake Culpepper as an alternate member to the Board of Adjustment, and Ron Seidman as a regular member to the Board of Adjustment, each for terms that expire in May 2027. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

C. Community Appearance Commission

Jo Williams' term as a member of the Community Appearance Commission expires May 2024. She has expressed a desire to be considered for reappointment to another three-year term.

Commissioner Gray moved to reappoint Jo Williams to the Community Appearance Commission for a term to expire in May 2027. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

D. Dangerous Animal Appeals Board

Christine Stafford's term as a member of the Dangerous Animal Appeals Board expires May 2024. She has expressed a desire to be considered for reappointment to another three-year term.

Commissioner Gray moved to reappoint Christine Stafford to the Dangerous Animals Appeal Board for a term to expire in May 2027. Commissioner Heikens seconded the motion, which was approved by a unanimous, 5-0, vote.

3. Letter of Support for Mid-Currituck Bridge

Ms. Díaz noted that the Town has received a request to share its support for the Mid-Currituck Bridge and the North Carolina Turnpike Authority's application for a \$425 million grant from U.S. Department of Transportation to expedite construction of the project. The deadline for letters of support is April 26, 2024, and Staff can provide a letter from the Board if members concur.

Commissioner Gray moved to direct Staff to submit a letter of support for the Mid-Currituck Bridge Project. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

Committee Reports

Dare County Housing Taskforce – Mayor Windley noted that he had attended a recent meeting of the Dare County Housing Taskforce, and that the group was becoming very active.

Commissioners' Agenda

Commissioner McAvoy

Mary's Paws Park Commissioner McAvoy shared that he and his dog used and really enjoyed Mary's Paws Park. He suggested the potential for possible lighting to allow more flexibility for early evening use by dog owners.

Avalon Drive and US 158 intersection Commissioner McAvoy suggested that in the future NCDOT may want to review the possibility of a signal light at the Avalon Drive / US 158 intersection, once all the ongoing development has been completed.

Commissioner Gray

Lake Drive / US 158 Signal Light Commissioner Gray noted that the signal light at the Lake Drive / US 158 intersection was being installed.

Commissioner Ingram

Trash Attack! Community Clean Up Commissioner Ingram and the Board expressed their appreciation to Sandie Markland for her work with the successful Trash Attack! Event.

Mayor's Agenda

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

A. Resolution Opposing the Release of Helium Balloons

Mayor Windley noted that the Town of Kill Devil Hills boasts of a pristine coastline and a beautiful environment that has attracted visitors for decades. Our often fragile environment is negatively impacted by litter, debris, and threats to our wildlife, which include improperly disposed of helium and lighter-than-air balloons. Balloons that have traveled up to a thousand miles have washed up on our shores, clogged our waterways, and killed and maimed our wildlife.

With this resolution, the Town encourages the education of the public to promote the proper disposal of all balloons and to consider possible alternatives. Whether a resident preparing for a birthday party, a local business looking to attract attention to its signage, or a regular OBX vacationer three states away releasing a balloon, Kill Devil Hills encourages everyone to consider the environmental impacts of their decisions.

Mayor Windley moved to adopt the *Resolution Opposing the Release of Helium Balloons*. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

B. Proclamation Declaring Peace Officers Memorial Day May 15, 2024, and Police Week May 12 – 18, 2024

Mayor Windley stated this proclamation highlights the importance of our first responders and the critical role that our law enforcement plays in maintaining our communities while also protecting the rights and interests of all of our citizens and visitors, keeping the Town of Kill Devil Hills a safe place to work, visit, and live.

Mayor Windley moved to adopt the *Proclamation Declaring Peace Officers Memorial Day May 15, 2024, and Police Week May 12 – 18, 2024*. Commissioner Heikens seconded the motion, which was approved by a unanimous, 5-0, vote.

Early Voting and Second Primary Mayor Windley shared that the Town Hall Meeting Room will be serving as an Early Voting Site and Polling Station for the State's Second Primary. Early Voting will begin Thursday, April 25, through Friday, May 10, with hours 8:00 a.m. to 7:30 p.m. There's also a Saturday session on May 11, from 8:00 a.m. to 3:00 p.m. The Second Primary will be Tuesday, May 14th, with polls being open 6:30 a.m. to 7:30 p.m. He noted that the offices involved in this run-off are the Republican candidates for Lt. Governor and Republican candidates for State Auditor.

Town Manager's Agenda

Town Attorney's Agenda

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Consent Agenda

1. Minutes (Attached CA-1A)

A. March 27, 2024

2. Monthly Report (Attached CA-2A)

A. February 2024

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

A. Budget Amendment #11 – to appropriate contributions received to the Police and Administration Departments

4. Recommendation for 2023/2024 Lease Purchase Agreement (Attached CA-4)

The Finance Department's meeting memorandum highlighted the process in selection of an institution for financing the following vehicles and equipment:

Buildings and Grounds Toyota Tacoma	\$ 40,434
(2) Planning F150 Pickup Trucks	88,197
(4) Police Pickup Trucks	261,290
Vehicle Extrication Equipment	39,350
Fire Ford Expedition	75,274
Fire Dodge Ram	65,521
Ocean Rescue Dodge Ram 2500	85,522
Streets Bobcat Excavator	73,335
Streets US Jetting Trailer Jetter	99,140
Streets Ford F450 Mini Dump Truck	71,338
(2) Solid Waste Residential Garbage Trucks	801,326
Solid Waste Peterbilt Roll-Off Truck	242,549
Solid Waste Ford F250	48,447
Dump Body Insert	<u>26,750</u>
	\$ 2,018,473

Following the review of multiple financing offers, Staff recommended TowneBank which provided a competitive interest rate and a slightly higher escrow rate. The Finance Department also included two budget amendments:

- #9 – to record the Fiscal Year 2023/2024 lease proceeds = \$2,018,473.00

- #10 – to appropriate funds to cover departmental budget variances for recommended financing of Fiscal Year 2023/2024 vehicles and equipment. The \$106,460.74 is for the accelerated replacement of two garbage trucks as approved at the 1/15/2024 meeting.

Approval of the Consent Agenda approves Staff's recommendation for the lease financing for the purchase of the listed vehicles and equipment, approves Budget Amendments #9 and #10, and authorizes Staff to enter into any contracts to finalize the financing and purchase of the items.

5. Update and Adoption of the Official Traffic Map of Kill Devil Hills (Attached CA-5)

With the development of properties in the vicinity of the Fourth Street / US 158 intersection, the Planning and Police Departments have recommended converting a portion of Fourth Street from US 158 to just past David Lane, to no on-street parking permitted. This recommendation is to promote public safety, with the anticipated increase in vehicular traffic. However, the area of Fourth Street west of David Lane will continue to permit on-street parking. The Official Traffic Map was posted in the Town Hall Meeting Room prior to the meeting, and included with the electronic packet on the Town's website.

Approval of the Consent Agenda will record the Board's adoption of the updated Official Traffic Map of the Town of Kill Devil Hills.

6. Town Code Amendment – Chapter 115, Taxicabs – update Code section due to State statute change and delete outdated language (Attached CA-6)

With recent changes to NCGS 160A-304, the Police Department has requested an update to Chapter 115, Taxicabs, clarifying the requirement for fingerprinting through the Division of Criminal Information (DCI) Network. Outdated language has been updated to reflect changes in the Towns appeals framework and for clarification. Additionally, due to the required cost for DCI fingerprinting, the Police Department requested the consolidated fee schedule be amended to include the \$45 SBI/FBI fee and processing.

Approval of the Consent Agenda records the Board's approval of the proposed amendment to Chapter 115, Taxicabs, and the amendment to the Town's consolidated fee schedule, as recommended.

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.

Commissioner Gray highlighted the data from the Monthly Report, which demonstrates that the Fire Department and other Town departments are responding to an ever-growing volume of incidents, providing outstanding services to the citizens, residents, businesses, and visitors in our community.

1. Public Forum

Mayor Windley noted that the Board of Commissioners encourages public input as it considers topics that may directly impact the Town of Kill Devil Hills and its residents, property owners, businesses, and visitors. As a part of that commitment, the Board established these public fora to hear about matters important to our community.

Community members have been invited to attend this forum and also been given the opportunity to request specific items to be included with this agenda item. Any submitted public forum topics has been provided to the Board for consideration and discussion.

Bruce “Woody” White, 508 Loblolly Court, Kill Devil Hills, NC – Mr. White stated that when he applied for the permit, he was told that he needed to calculate the lot coverage numbers. He has consulted with an attorney, and feels that an as-built survey was an unnecessary expense.

Debbie Swick, 59 Deer Path Lane, Southern Shores, NC – Ms. Swick thanked the Board for adopting the *Resolution Opposing the Release of Helium Balloons*, and encouraged a Town ordinance banning their release.

Sandie Markland, 2013 Hampton Street, Kill Devil Hills, NC – Ms. Markland highlighted the voting schedule for the upcoming Second Primary, and thanked the Board and Town Staff for allowing the Town Hall Meeting Room to serve as an Early Voting Site and Polling Station.

Randy Metzger, 1507 Dogwood Lane, Kill Devil Hills, NC – Mr. Metzger thanked the Board for considering restrictions for overnight parking at Town beach accesses. When patrons of large single-family dwellings use the beach accesses as overflow parking, it directly affects residents wanting to use the beach accesses.

Matt Walker, 439 Walker Street, Kill Devil Hills, NC – Mr. Walker expressed concern over continued homeowners insurance increases. He supported potential adjustments to insurance coverage requirements, and inquired about how to begin a conversation on alternatives to the current insurance coverage requirements. Mr. Walker also supported rules for Areas of Environmental Concern (AECs).

Mayor Windley noted that the Coastal Resources Commission would be meeting in Manteo at 11:30 a.m. on April 25, 2024. Commissioner Gray inquired about how the public could address proposed insurance increases. Ms. Díaz stated that Staff would reach out to the Outer Banks Association of Realtors Staff. Commissioner Ingram stated that when she attended a Dare County Housing Taskforce meeting, she had suggested a resource “tool kit” for all of the Towns to share.

Adjournment

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

The time was 7:28 p.m.

Submitted by:

James Michael O'Dell
Town Clerk