

Minutes of the Wednesday, June 26, 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. Díaz, Town Manager; Meredith Guns, Planning Director; Gary Britt, Police Chief; Casey Varnell, Town Attorney; and James Michael O’Dell, Town Clerk

Call to Order

At 6:00 p.m., Mayor John Windley opened this meeting of the Kill Devil Hills Board of Commissioners (BOC) and welcomed all present.

Pledge of Allegiance and Moment of Silence

Mayor Windley noted the passing of retired Town Attorney Steve Michael, and asked everyone to keep his family in their thoughts and prayers.

Agenda Approval

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

Public Hearing

Town Attorney Casey Varnell read aloud the rules for public hearings, and opened the public hearing. He stated that notice for the following item has 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 <https://www.kdhnc.com/1133/June-26-2024-Board-of-Commissioners-Meet>, social media platforms, and has been disseminated through the Town’s electronic distribution list.

- 1. Town Code Amendment – Overnight parking at beach accesses, which would prohibit overnight parking at the Town’s beach accesses from midnight to 3:00 a.m. (Attached PH-1)**

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 following Dare County municipalities were polled to determine what, if any, parking prohibitions were in place for their beach accesses:

Duck	No public beach accesses
Southern Shores	No public beach accesses
Kitty Hawk	Parking is prohibited between 12:00 a.m. and 3:00 a.m.
Nags Head	Parking is prohibited between 12:00 a.m. and 6:00 a.m.

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 12:00 a.m. (midnight) to 3:00 a.m. Staff recommended approval of the amendment as presented, and requests Board consideration.

At its April 24, 2024, meeting, the BOC considered this topic as a New Business item, and following discussion, the Board of Commissioners voted unanimously to schedule a public hearing to receive further input from the public.

Town Manager Debora Díaz noted that several public comments had been submitted electronically, and had been forwarded to the Board and included with the record of the meeting. Commissioner McAvoy expressed his concern about the parking prohibition, noting that the 12:00 a.m. midnight time was too early. He said that everyone was being punished throughout the year for a small number of violators in the summer. He suggested an alternative 2:00 a.m. to 4:00 a.m. parking prohibition.

Commissioner Ingram said there was enough evidence and support for a prohibition, noting that the Board had received multiple constituent emails supporting the concept. Mayor Windley noted that he had been stopped by members of the public in support of the issue. Commissioner Gray noted that the beach access parking issue was a concern for residents. He supported a decal sticker permitting system for residents and property owners. Commissioner Heikens supported the amendment, along with a sticker permitting system. Mayor Windley also supported a decal sticker permitting system, similar to the Town's Dry-Trash Drop Off permitting program.

Mr. Varnell recommended that should the Town proceed with a decal sticker permitting system, the Board should clarify whether an application was required as part of the process. Police Chief Gary Britt noted the possible enforcement difficulty with decal stickers for residents and property owners versus visitors. Commissioner McAvoy suggested that the Board consider adopting the parking prohibition from 2:00 a.m. to 4:00 a.m., and wait to determine whether a decal sticker permitting system would be warranted. Through consensus, the Board directed Staff to develop the decal sticker permitting system as best determined.

Commissioner Ingram moved to approve the proposed amendment that 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 2:00 a.m. to 4:00 a.m., with

the exclusion of Town residents and property owners through a decal sticker permitting system. Commissioner Gray seconded the motion, which was approved by a 5-0 vote.

Public Comment

Response to Public Comment

Ongoing Business

New Business

1. Recommended Action to adopt an operating budget FY 2024 / 2025 Budget Ordinance, Sidewalk and Multi-Use Path Capital Reserve Ordinance, and consolidated fee schedule for the Town of Kill Devil Hills (Attached NB-1)

Ms. Díaz noted that the Town Manager's Recommended Budget for Fiscal Year 2024 / 2025 was presented to the Board of Commissioners at its May 22, 2024, meeting, in accordance with the Local Government and Fiscal Control Act. The Board scheduled a public hearing and subsequent budget worksession for its June 10, 2024, meeting; through consensus, the Board directed Staff to set the Cost of Living Adjustment (COLA) for employees to 4.5%, increased from the recommended 4.0%. That change has been reflected in the final operating budget for FY 2024 / 2025.

The Town's website provides links to the full budget document and a budget portal gateway, where the public has had the opportunity to share its comments on the Recommended Budget. Bound copies have been available for inspection in the Town Hall lobby and the KDH Library as additional options for public access.

Staff recommended the Board of Commissioners adopt the Budget Ordinance, Sidewalk and Multi-Use Path Capital Reserve Ordinance, and consolidated fee schedule for Fiscal Year 2024 / 2025.

Commissioner Gray moved that the Board adopt the operating budget FY 2024 / 2025 Budget Ordinance, Sidewalk and Multi-Use Path Capital Reserve Ordinance, and consolidated fee schedule for the Town of Kill Devil Hills, as presented. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

Committee Reports

Commissioners' Agenda

Mayor's Agenda

1. Closed Session

Mayor Windley requested the Board enter into closed session for the following reasons, pursuant to the following General Statutes:

- NCGS §143-318.11(a)(3) in order to preserve attorney-client privilege concerning various legal matters; and
- NCGS §143-318.11(a)(6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee.

Commissioner Heikens moved that the Board enter into closed session pursuant to NCGS §143-318.11(a)(3) and (a)(6). Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

The Board entered closed session at 6:28 p.m.

The Board returned to business at 7:07 p.m.

Mayor Windley reported that in the Board's closed session, the Board conferred with the Town Attorney on several legal matters, and he updated the Board on KDH v. Beecher, and Watson. The Board then gave its direction to Mr. Varnell. The BOC then conducted a performance appraisal of the Town Manager, and authorized Ms. Díaz to implement the terms of the evaluation.

Centennial Horse Re-dedication & Unveiling Mayor Windley noted that just before the meeting, the Board unveiled the Town's newly painted Centennial Horse, Pegasus, in the Town Hall courtyard. He said the artwork is fantastic and extended their thanks and appreciation to local artist Cliff Dunn for his work, and to the Buildings and Grounds Staff who did a spectacular job on renovating the courtyard.

Independence Day Celebration Mayor Windley said that KDH will be hosting its annual Independence Day Fireworks Celebration on Thursday, July 4, around 9:15 p.m. at Avalon Pier, with a rain date of July 5, 2024. He stated that the Town will also be live-streaming the fireworks, and links will be on the www.kdhnc.com website.

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. Minutes (Attached CA-1A)

- A. June 8, 2024 retreat
- B. June 10, 2024

2. Budget Amendments and Transfers (Attached CA-2A and CA-2B)

- A. Budget Amendment #16 - To appropriate funds for Fleet Maintenance inventory
- B. Budget Amendment #19 – To appropriate NCLM wellness grant proceeds

3. Application for Certification of Taxicab Operation (Attached CA-3A)

- A. Lady Jane Taxi

In accordance with the Town Code provisions of Chapter 115 – Taxicabs, an application has been submitted for the operation of Lady Jane Taxi (formerly Lady Jane D Taxi). Having been previously operated as Lady Jane D Taxi, the business was sold to Jonathan Jones and Malissa Gamiel, and was renamed Lady Jane Taxi. The Police Department has conducted the appropriate investigation of the submitted application, and finds no background issues relevant for denial of the certificate by the Board of Commissioners.

Approval of the Consent Agenda will records the Board’s approval of this request.

4. Memoranda of Understanding and Interlocal Agreements (Attached CA-4A and CA-4B)

A. Kill Devil Hills / Nags Head Eighth Street Beach Access MOU – Extension

The towns of Kill Devil Hills and Nags Head have jointly maintained the shared Eighth Street beach access along their corporate borders through mutual agreements over the years. The term of the most recent memorandum of understanding (MOU), dated May 26, 2021, ends June 30, 2024; however, the MOU’s terms permit unlimited three-year extensions upon mutual agreement by the two towns. The Staffs of both town recommended approval of a three-year extension.

Approval of the Consent Agenda will record the Board’s approval of a three-year extension that expires June 30, 2027, and authorizes Staff to execute the MOU extension and, as a result, any resulting terms of the original 2021 MOU.

B. Motorola FlexCad (FLEX) law enforcement Interlocal Agreement (ILA)

Motorola FlexCAD (FLEX) is a software package shared by all Dare County law enforcement agencies and other first responders, which provides a centralized inter-agency system to dispatch officers, provide real-time incident information, and manage record databases of incidents, offenders, and victims. The Town has participated in this system since January 2023, and this interlocal agreement has been mutually updated for all of the participants.

Approval of the Consent Agenda will record the Board’s approval of the FLEX Interlocal Agreement, and authorizes Staff to execute the terms of the ILA.

Ms. Díaz presented the Consent Agenda, and recommended approval.

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

Public Comment

Response to Public Comment

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 7:11 p.m.

Submitted by:

James Michael O’Dell
Town Clerk