

Minutes of the Monday, July 8, 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 6:00 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

Agenda Approval

Commissioner McAvoy moved to approve the agenda, as presented. Commissioner Gray seconded the motion, which passed by a unanimous, 4-0, vote.

Public Comment

Debbie Swick, 59 Deer Path, Southern Shores, NC – Ms. Swick expressed her appreciation to the Board for its consideration of the proposed ordinance to prohibit balloon releases from Town property. She then displayed a bag of used balloons collected from across the area by volunteers. She encouraged a \$250 per balloon fine per incident, as a deterrent, and requested a broadened prohibition for all properties, rather than just Town-owned properties. Ms. Swick then suggested a prohibition of all balloons tied outdoors.

Miriam Rollin, 149 Plover Drive, Duck, NC – She expressed her support for the balloon release prohibition, and provided various facts from the Marine Debris Program on the National Oceanic and Atmospheric Agency (NOAA) website. She also suggested the \$250 fine and a prohibition on tied outdoor balloons.

Kathleen Adolt-Silva, 1411 Maxine Street, Kill Devil Hills, NC – Dr. Adolt-Silva supported the balloon release ban.

Commissioner Heikens joined the meeting at 6:12 p.m.

Richard Clements, 2004 North Virginia Dare Trail, Kill Devil Hills, NC – Mr. Clemons expressed his support for the balloon ban, and also supported the increased fine of \$250 and tied outdoor balloon ban. He supported alternatives to balloons for outdoor celebrations.

Response to Public Comment

Mayor Windley thanked the speakers for their comments.

Ongoing Business

New Business

1. Town Code Amendment – Chapter 50, Garbage Service, establishing §50.035, Prohibition of Balloon Release on Town-Owned Property (Attached NB-1)

Following requests from the public and at the direction of the Board, the Office of the Town Clerk, working in conjunction with the Police and Planning Departments, developed a draft amendment to the Code of Ordinances to address the intentional release of helium balloons on Town-owned property. This amendment, highlighted in the meeting memorandum, has also been reviewed by the Town Attorney, and would prohibit the intentional release of lighter-than-air balloons from Town-owned properties, including recreational areas and ocean and soundside accesses. The amendment is similar to one adopted by the Town of Nags Head, and the Board had directed Staff to develop the draft ordinance in a similar manner.

Commissioner Ingram noted that views towards balloon releases were undergoing a societal change, and noted the plastic bag ban in the Outer Banks, and how the public had positively responded. She hoped that North Carolina would adopt a similar release ban. Mayor Windley inquired about jurisdictional issues if North Carolina would adopt a release ban. Town Manager Debora Díaz and Town Attorney Casey Varnell replied that the Town could not adopt any ordinance that would be less strict than a State statute. Commissioner Gray supported a Town-wide balloon release ban and a \$250 fine per incident as an alternative. Commissioner McAvoy expressed concern about effective enforcement by the Police Department. He stated that he was not in support of the release of balloons, but noted that the amendment was overbroad and would divert Police Department resources needed in our community. Commissioner Heikens shared similar concerns to Commissioner McAvoy, expressing concern about enforceability by Staff. Commissioner Ingram supported the amendment as presented, and stated that it was consistent with Nags Head's ordinance. She stated that having an ordinance adopted into the Code of Ordinances would effectively stop 95% of balloon releases. Commissioner Ingram stated that personal property regulations were an issue. Mayor Windley noted the repealed plastic bag ban, and said that some local businesses were still using paper bags. He was happy to move forward with the current amendment, and study it in the future. Commissioner Gray supported a \$250 fine, but would not vote against the proposed amendment with its \$25 fine, as presented.

Commissioner Heikens moved that the Board adopt the Requested Town Code Amendment – Chapter 50, Garbage Service, establishing §50.035, Prohibition of Balloon Release on Town-Owned Property, as presented. Commissioner Ingram 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 were included with the meeting materials.

A. Historic Landmarks Commission – two positions

Long-time member Andy Harrell has resigned from the Historic Landmarks Commission due to relocation out of state, and his term concludes August 2024.

Amy Scarborough's term as a member of the Historic Landmarks Commission will expire August 2024. She has expressed a desire to be considered for reappointment to a full three-year term.

Mayor Windley moved to appoint Jean Freeman and reappointment Amy Scarborough to the Historic Landmarks Commission, each for terms that will expire August 2027. Commissioner Heikens seconded the motion, which was approved by a unanimous, 5-0, vote.

3. 2024-2025 North Carolina Public Beach and Coastal Waterfront Access Grant – East Hayman Boulevard (Attached NB-3)

Planning Director Meredith Guns noted that in continuing with the Board's commitment to improving the Town's recreational and shoreline access facilities, Staff submitted a pre-application for the Coastal Area Management Agency's (CAMA's) Public Beach and Waterfront Access Grant to improve the East Hayman Boulevard beach access. The Planning Department's meeting memorandum and materials highlighted the planned improvements, which will be integrated with existing improvements, which include parking spaces, temporary accessible bathroom facilities, and LED-lighted crosswalk. The proposed project will include a 116-foot elevated walkway and stairs. Staff requested Board approval and authorization for Staff to submit the 2024-2025 Public Beach and Coastal Waterfront Access Grant application to construct a dune crossover at East Hayman Boulevard, as presented.

Ms. Guns stated that the Town has been invited to submit a full application for possible funding. With the program being a 75% State and 25% Town match grant, Kill Devil Hills would be responsible for \$26,326 of the total estimated \$105,754 project cost. One requirement of the grant application process is governing board approval prior to application submittal.

Mayor Windley inquired about the project timeline. Ms. Guns replied that CAMA grants allocated are on a calendar year, with potential funding available in January 2025, if approved. She stated that this crossover project could be constructed by next summer season, and would be a great benefit for that location since this once flat area now has developed a 25-foot dune as a

result of the Town's successful beach nourishment program. Ms. Guns said that although the crossover structure would not be fully accessible, it would be more accessible to mobility-challenged individuals who cannot climb sand dunes; the dune will also be protected as a result. The location was also selected for this project because it is the only beach access north of Fifth Street with any parking, and there is an existing lighted crosswalk. Commissioner McAvoy inquired about the goal of the grant program. Ms. Guns stated that the CAMA grant program supports public access to waterways and public trust beaches. The Town has successfully partnered with CAMA on several similar access projects including Hayman Pier, Moor Shores access, and West Third Street access, among others.

Commissioner McAvoy moved for the Board to approve and authorize Staff to submit the 2024-2025 Public Beach and Coastal Waterfront Access Grant application to construct a dune crossover at East Hayman Boulevard, as presented. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

Committee Reports

Community Appearance Commission (CAC) CAC Chairperson Sue Kelly shared the upcoming meeting schedule. She then highlighted the reusable bag initiative being distributed by the CAC to local businesses to promote beautification along US 158. The group is also participating at the First Flight Farmers Markets, and have adopted Sutton Avenue beach access through the Surfrider Foundation Adopt-a-Beach-Access program.

Commissioners' Agenda

Mayor's Agenda

Independence Day Celebration On behalf of the Board, Mayor Windley expressed appreciation to Town Staff involved in coordinating every aspect of our Independence Day Fireworks Celebration.

William E. Gard Fire Station Ribbon Cutting Mayor Windley announced the upcoming ribbon cutting ceremony for the William E. Gard Fire Station 14 and Dare EMS Station 1. It is planned for Monday, August 5, 2024, at 3:00 p.m., followed by an open house until 7:00 p.m.

National Night Out On August 6, 2024, the Police Department will hold its annual National Night Out event from 5:00 p.m. – 8:00 p.m.

First Flight Farmers Markets Christmas in July Mayor Windley reminded everyone about the Town's ongoing First Flight Farmers Markets, being held every Tuesday from 9:00 a.m. to 1:00 p.m. at Aviation Park.

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. Minutes (Attached CA-1A)

A. June 26, 2024

2. Monthly Report (Attached CA-2A)

A. May 2024

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

A. Budget Amendment #1 – carryover of contingency funds for the Wrightsville Boulevard Phase 1 and 2 and Southeast Area Water Improvements Projects as approved at the May 13, 2024 meeting

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

Commissioner Ingram 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 McAvoy moved to adjourn the meeting. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

The time was 6:52 p.m.

Submitted by:

James Michael O'Dell
Town Clerk