



# TOWN OF KILL DEVIL HILLS

Land Where Flight Began

MEMORANDUM

March 9, 2026

TO: Kill Devil Hills Board of Commissioners  
FROM: Debora P. Díaz, Town Manager   
REF: New Business

## 2. Appointments and Nominations (Attached NB-2)

### A. Possible appointment to fill vacancy on the Board of Commissioners

At its January 12, 2026, meeting, the Board unanimously approved the timeline and process by which to fill the vacancy created by the death of sitting Commissioner Terry Gray, Sr., on November 27, 2025. Interested residents had to submit an application by February 2, 2026, by 5:00 p.m. The Office of the Clerk then transmitted all eligible applications to the Board by February 9, and Board members have been able to individually contact applicants since that time. The qualified applicants are as follows:

Zachary Edwards	William Foxwell	Terry Gray, Jr.
Bill Kingston	Justin O'Sullivan	Timothy Owens
Nancy Rechenbach	Marie Ruggiero	Ron Seidman
Gena Southall	John Towler	

Applicant John Towler has since withdrawn his name from consideration.

Staff has recommended that the Board pursue its historic process for filling the vacancy at this meeting:

1. If the Board chooses to act to fill the vacancy, the Town Clerk will conduct the nomination and voting process.
2. Any BOC member may nominate from the pool of eligible applicants. Per the Board's rules of procedure, a second is required for all actions, including a nomination.
3. Once all nominations have been made and seconded, the Town Clerk will call for a vote of all BOC members.
4. In the event an applicant is selected, the oath of office will be administered at the Wednesday, March 25, 2026, Board of Commissioners meeting, and the new Commissioner will be seated.

At this meeting, the Board may choose to utilize a nomination-and-ballot method, as outlined in NCGS §143-318.13. Once filled, the term of this appointed Board of Commissioners position will be through December 2027. The remaining two years of the term will be decided by Kill Devil Hills voters in the November 2027 municipal elections, and the certified winner of the election for this Board seat will serve through December 2029.

**B. Board of Adjustment – alternate member**

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. Town Staff has continued its outreach through print and electronic media, social media, and the KDH website to encourage interested members of the public to submit applications for consideration to the various boards and committees.

An alternate-member position on the Board of Adjustment is available for appointment. The position has remained unfilled for some time; now that interested members of the public have submitted applications, an appointment opportunity is available to the Board.

A motion will be in order to make an appointment to the Board of Adjustment, alternate member position, for a term that expires March 2029.



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TO: Mayor and Board of Commissioners  
Debbie Díaz, Town Manager

FROM: James Michael O'Dell, Town Clerk *jo*

DATE: March 9, 2026

SUBJECT: Appointment procedure for filling vacant Board of Commissioners seat

### **Overview**

For the Monday, March 9, 2026, meeting, the Board will be considering appointment to fill the vacant seat created by the death of Commissioner Terry Gray, Sr. on November 27, 2025. To address similar vacancies in 2019 and 2024, the Board used a nomination and signed written ballot method to vote.

### **The Board's rules of procedure**

In December 2025, the Board again adopted *Suggested Rules of Procedure for a City Council (4<sup>th</sup> ed.)* by Trey Allen for its rules of procedure, which includes the following applicable rules (a summation of each is provided):

#### **Rule 29: Voting by Written Ballot**

The Board may use written ballots, but each member must sign their ballot, and the minutes must record how each member voted by name. Secret ballots are prohibited. The Office of the Town Clerk must make the signed ballots available for public inspection immediately and remain available for inspection until the meeting minutes are approved at the next meeting (at that time, the ballots may be destroyed).

#### **Rule 38: Appointments**

Appointments must occur in open session.

Option 1 – Nomination(s) and vote: the floor will be opened up for nominations (each of which requires a second); the Mayor is permitted to nominate and/or vote. Once nominations are closed, a roll of the members is called and each casts a vote until a nominee receives a majority.

Option 2 – Motion and vote: A board member offers a motion to appoint an individual (with a second), and the Board votes. If that fails, another motion and second are offered for another individual, etc. Each applicant would be voted on individually until one is approved by a

majority. (UNC School of Government notes that this approach can be difficult to manage with multiple nominees).

UNC School of Government Option 3 – written ballot with slate of candidates: A third option is offered in the UNC School of Government’s Coates’ Canons: Filling a Vacancy on the Town Council by Frayda Bluestein (pub. 02/02/2011): a written ballot can contain multiple names, or “a slate” of nominees.

In previous Board of Commissioner appointments, the Board has selected Option 3; Staff has developed the following recommended outline:

1. During New Business 2, the Office of the Town Clerk will conduct the ballot and voting for the appointment to fill the Board’s vacancy.
2. The Board will be provided with a printed ballot that includes all the names of the eligible applicants for consideration. Members will vote for (1) one person on the list, and sign the ballot.
3. The ballots are collected by the Town Clerk; the votes are tabulated and announced.
4. If an applicant receives a vote by the majority of the Board, the Town Clerk will announce that the applicant has received a vote of the majority and will entertain a motion (and a second) to appoint that nominee to the Board of Commissioners.
  - a. If no applicant receives a majority, a second ballot (identical to the first) will be provided to the Board for a second vote, and the process repeats.
  - b. If there is a tie, the two applicants will be asked if each would consent to a toss of a coin. In this process, the Town Manager or designee will present the nominees with straws. Whoever draws the short straw has the right to call “heads” or “tails” during the coin toss, which will be conducted by the Town Attorney. A motion and a second to appoint the winning applicant to the Board will then be conducted.
5. The appointed nominee will undergo investiture at the Wednesday, March 25, 2026, regular Board of Commissioners meeting.



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### § 143-318.13. Electronic meetings; written ballots; acting by reference.

(a) Electronic Meetings. – If a public body holds an official meeting by use of conference telephone or other electronic means, it shall provide a location and means whereby members of the public may listen to the meeting and the notice of the meeting required by this Article shall specify that location. A fee of up to twenty-five dollars (\$25.00) may be charged each such listener to defray in part the cost of providing the necessary location and equipment.

(b) Written Ballots. – Except as provided in this subsection or by joint resolution of the General Assembly, a public body may not vote by secret or written ballot. If a public body decides to vote by written ballot, each member of the body so voting shall sign his or her ballot; and the minutes of the public body shall show the vote of each member voting. The ballots shall be available for public inspection in the office of the clerk or secretary to the public body immediately following the meeting at which the vote took place and until the minutes of that meeting are approved, at which time the ballots may be destroyed.

(c) Acting by Reference. – The members of a public body shall not deliberate, vote, or otherwise take action upon any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the public body to understand what is being deliberated, voted, or acted upon. However, this subsection does not prohibit a public body from deliberating, voting, or otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted, or acted upon, are available for public inspection at the meeting.

(d) Except as provided in G.S. 166A-19.24(b)(6), this section shall not apply to remote meetings conducted in accordance with this section even if all members of the public body are participating remotely. (1979, c. 655, s. 1; 2020-3, s. 4.31(c).)