

Minutes of the Monday, January 15, 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, Ivy Ingram, and Bernard “B.J.” McAvoy

Members Not Participating: Vacant Seat

Others Participating: Charlene Allen, Assistant Town Manager; Casey Varnell, Town Attorney; Cameron Ray, Assistant Planning Director; and James Michael O’Dell, Town Clerk.

Call to Order

At 6:00 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

Mayor Windley noted the importance of the Martin Luther King, Jr. holiday, and the numerous sacrifices and contributions by Dr. King on behalf of the U.S. and the world.

Agenda Approval

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

Public Comment

Donna Creef, Governmental Affairs Director, Outer Banks Association of Realtors

Ms. Creef shared that the N.C. Rate Bureau has filed a homeowners’ insurance rate increase request, which included a substantial increase of 45.1% for the beach communities of Dare County. She encouraged the Board and the public to contact the N.C. Insurance Commissioner with public comment by the February 2, 2024, deadline.

Duke Geraghty, Government Affairs Director, Outer Banks Home Builders Association

Mr. Geraghty noted that at the recent Planning Board meeting, the group had reviewed proposed changes to Cottage Courts and Cluster Home ordinances. Staff had recommended 2,000 square feet maximum, but the Planning Board decreased it to 1,500 square feet. He expressed concern on the feasibility for builders to construct such small units, and to make a return on their investment.

Dennis Pohl, 1205 West Fourth Street, Kill Devil Hills, NC – Mr. Pohl expressed his support for additional amenities at the Fourth and Fifth Street beach accesses. He highlighted the 1998 Shoreline Access Plan, which recommended possible improvements of a shower and temporary restroom facilities for Fourth Street beach access. Mr. Pohl also highlighted the 2019 access update, which recommended removal of walkway and the installation of the dog pot station, which have been completed. He stated that if the Shoreline Access Plan was being updated, why not implement the goals of the 1998 Plan first.

Response to Public Comment

Mayor Windley thanked all of the speakers for their comments. Commissioner McAvoy expressed concern about the proposed homeowners' insurance rate request.

Ongoing Business

New Business

1. Designation of Official Bank Depositories (Attached NB-1)

Assistant Town Manager Charlene Allen noted that Town Staff regularly reviews policies, procedures, and practices to maintain the highest level of security, efficiency, and service options for managing public moneys. As a result, a request for banking services was recently distributed to seven North Carolina banks.

The Finance Department's meeting memorandum detailed the review and selection process for central depository and safekeeping services providers. At its conclusion, Staff recommended the following institutions for approval:

- Official bank depository – Towne Bank
- Safekeeping services provider – Wells Fargo

North Carolina General Statute §159-31(a) states, in part:

“The governing board of each local government and public authority shall designate as its official depositories one or more banks, savings and loan associations, or trust companies in this State...”

Commissioner Ingram moved to adopt the *Resolution to Designate the Town of Kill Devil Hills Official Bank Depositories* and to authorize Staff to execute all necessary service agreements with the institutions, pending review by the Town Attorney. Commissioner Gray seconded the motion, which was approved by a unanimous, 4-0, vote.

2. Subscription type residential curbside recycling service (Attached NB-2A and NB-2B)

Ms. Allen noted that Bay Disposal has been responsive and cooperative with Town Staff and its customers in Kill Devil Hills. The Town has enjoyed a 16-year relationship that has worked well in providing a convenient, voluntary opportunity to recycle for those property owners who want it, without imposing it on those who prefer to utilize the Town's Recycle Center. In 2023, Bay Disposal provided service to approximately 1,050 customers in our community.

A. Annual Rate Increase Request

The Public Services memorandum in the meeting materials highlighted the request by Bay Disposal for a subscription increase to \$13.99 per cart, per month (\$41.98 per quarter). This is a 6.0% rate increase from its previous rate of \$13.20, which was implemented in April 2022. The requested rate increase was to address Bay Disposal's rising operational costs.

Staff recommended the Board of Commissioners approve the rate increase to \$13.99 per cart, per month, for the subscription type residential curbside recycling program. Commissioner Gray shared that he had received exceptional customer service from Bay Disposal representatives.

Commissioner Gray moved to approve Bay Disposal's request to increase its rate to \$13.99 per cart, per month, for the subscription type residential curbside recycling program. Commissioner Ingram seconded the motion, which was approved by a unanimous, 4-0, vote.

B. Franchise Extension Request

Ms. Allen stated that the Town's franchise agreement with Bay Disposal to provide a voluntary subscription curbside recycling program for Kill Devil Hills was last renewed for a five-year term in 2019. Public Services' meeting memorandum detailed the history of the franchise agreement, noting that the current services term will expire May 1, 2024. Bay Disposal has expressed interest in continuing its service relationship to the Town and its citizens for another five-year term.

Staff recommended the Board of Commissioners approve the continuation of franchise agreement with Bay Disposal for a five-year extension, to conclude May 1, 2029.

Commissioner Gray moved to approve the continuation of franchise agreement with Bay Disposal for a five-year extension, to conclude May 1, 2029. Commissioner McAvoy seconded the motion, which was approved by a unanimous, 4-0, vote.

3. Residential Garbage Truck Replacement (Attached NB-3)

Ms. Allen shared that in the 2024-2025 budget, two garbage trucks are scheduled for replacement. However, Staff has identified serious supply chain and component shortages, along with ever-increasing costs. Public Services' meeting memorandum highlighted the difficulties

facing Kill Devil Hills and municipalities across the nation in supplying and maintaining a heavy truck fleet.

On behalf of the department, Public Services Director Steve Albright has requested to accelerate the replacement schedule for these two trucks to the FY 2023-2024 budget, since this year's town-wide financing package has not been finalized. This action can result in the following:

- Avoid anticipated cost increases between now and August.
- Avoid longer manufacturing delays for the units.
- Take advantage of the manufacturer's pre-purchase of chassis, resulting in a faster delivery schedule.

The quotation, reviewed by the Fleet Maintenance Division, is for two residential garbage trucks for \$400,413 each, a total of \$801,326 (including documentation fees).

Staff recommended approval of Public Service's request to accelerate the replacement of two residential garbage trucks to FY 2023-2024 from FY 2024-2025, including authorization for Staff to purchase two residential garbage trucks during FY 2023-2024, including all necessary budget amendments and financing arrangements.

Commissioner Gray inquired what increased costs were anticipated. Mr. Albright replied that the Town was anticipated to save \$20,000 to \$30,000. Commissioner McAvoy inquired about how the costs were negotiated. Mr. Albright stated that in addition to the Town utilizing the North Carolina Sheriffs' Association Purchasing Contract, the vendor had provided some discounts as well. If purchased now, delivery of the units could be 18 months earlier.

Commissioner Gray moved to approve Public Service's request to accelerate the replacement of two residential garbage trucks to FY 2023-2024 from FY 2024-2025, including authorization for Staff to purchase two residential garbage trucks during FY 2023-2024, and all necessary budget amendments and financing arrangements. Commissioner Ingram seconded the motion, which was approved by a unanimous, 4-0, vote.

Committee Reports

Dare County Tourism Board (DCTB) Commissioner Gray stated that he would be attending his first meeting as the Town's representative on January 18, 2024.

Commissioners' Agenda

Mayor's Agenda

1. Resolution Opposing a Homeowners' Insurance Rate Increase Requested by the North Carolina Rate Bureau (Attached MA-1)

Mayor Windley stated that the Board and Town Staff recently became aware of the N.C. Rate Bureau's request to increase rates for homeowners' insurance across North Carolina, which would take effect in August 2024. The proposed increase for our coastal area would be an

increase of 45.1% for homeowners. Staff reached out to the Outer Banks Association of Realtors, which provided the Town with additional information on options by which the public can submit comments during the public comment period, which closes February 2, 2024.

Mayor Windley moved to adopt the *Resolution Opposing a Homeowners' Insurance Rate Increase Requested by the North Carolina Rate Bureau*, and authorize the Mayor to submit the resolution and an accompanying letter to N.C. Insurance Commissioner Causey, and to submit this information through the public comment process with his department. Commissioner Gray seconded the motion, which was approved by a unanimous, 4-0, vote.

Board Vacancy Mayor Windley reminded everyone that applications to be considered for the vacancy on our Board of Commissioners would be accepted by the Office of the Town Clerk until 5:00 p.m. January 16, 2024. He highlighted the upcoming selection process:

- Applications may be submitted on-line through the Town's website.
- All timely submitted applications will be sent to the Board by January 22, 2024.
- Board members will then individually review the applications and may contact applicants to obtain additional information or clarify any information submitted.
- During the February 5, 2024, meeting, the Board will use the nomination-and-ballot method to fill the vacant seat from the eligible candidates submitting applications.

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. Minutes (Attached CA-1A)

A. December 11, 2023

2. Monthly Report (Attached CA-2A)

A. November 2023

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

A. Budget Amendment #7 – to appropriate grant funds for drainage channel rehabilitation of the Bickett Street Ditch

4. Annual Certification of Firefighters (Attached CA-4)

The Board of Trustees for the N.C. Firemen's Pension Fund requires all fire departments to submit a roster of active firefighters annually. Rosters must be certified by each local

governing board in order to maintain eligibility for pensions and the line-of-duty death benefit provided for firefighters by the State. The Fire Department has prepared this list, which includes only those firefighters who have met the State's minimum requirement for training hours. Approval of the Consent Agenda will record the Board's certification of the Fire Department roster.

5. Recommended Resolution Authorizing the Sale of Unclaimed and Found Property (Attached CA-5)

On occasion, the Police Department must dispose of items that have been turned in or found and unclaimed by their rightful owners. North Carolina law requires that revenues raised from the sale of this unclaimed property, less the Town's expenses, must be turned over to the Dare County Board of Education. The attached resolution authorizes the sale of the listed items; the Town of Kill Devil Hills utilizes GovDeals.com for surplus and found or unclaimed property.

In previous years, organizations have approached the Town and requested the donation of bicycles for distribution to guest student workers; however, no organization has contacted the Town. If the notice's publication would generate interest by a qualified non-profit organization, Staff will return to the BOC to request authorization to donate the bicycles.

Approval of the Consent Agenda will record the Board's authorization for the sale of unclaimed property in accordance with the requirements of the General Statutes.

6. Amending Name of Kill Devil Hills Local Historic Landmark property (Attached CA-6)

Initially designated as a Kill Devil Hills Local Historic Landmark property on December 14, 2015, the Young/Croarkin Cottage, located at 201 Random Street, was recently purchased, and the owner submitted an application for a certificate of appropriateness to rename the property as the Markland Cottage. At its January 10, 2024, meeting, the Historic Landmarks Commission approved the name change. Since there is no change to the property apart from the name, no public hearing is required.

Approval of the Consent Agenda will record the Board's approval of the name change for the property at 201 Random Street to the Markland Cottage.

7. Schedule public hearings (Attached CA-7A and CA-7B)

The Planning Department's meeting memoranda detailed the proposed amendments to the Town Code. At its December 19, 2023, meeting, the Planning Board reviewed and forwarded the following amendments, recommending approval:

A. Proposed Zoning Amendment – 153.310 Cottage Courts & 153.311 Cluster Homes – Proposed modification to Cottage Court and Cluster Homes Regulations

At its August 14, 2023, meeting, the Board of Commissioners directed Staff to develop additional regulations for cottage courts and cluster homes. Staff recommended approval of the requested amendment, which reduces the maximum size of dwelling units, creates an additional front yard setback in the OIR, and creates a tiered separation of structures based on gross square footage and heights.

B. Proposed Zoning Amendment – 153.073 Landscaping Requirements – Modify Buffer Requirements for Commercial Use(s)

At its November 13, 2023, meeting, the Board of Commissioners directed Staff to develop additional regulations for landscaping and buffer requirements for commercial uses. Staff recommended approval of the requested amendment, which increases minimum buffer areas for incompatible uses and zoning, and clarifies three different buffer categories: incompatible use, incompatible zoning, and compatible use / streets.

Staff recommended scheduling the two public hearings for Monday, February 5, 2023, at 6:00 p.m. Approval of the Consent Agenda will schedule these items for public hearings.

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

Commissioner McAvoy moved to approve the Consent Agenda, as presented. Commissioner Ingram seconded the motion, which was approved by a unanimous, 4-0, vote.

Public Comment

Dennis Pohl, 1205 West Fourth Street, Kill Devil Hills, NC – Mr. Pohl stated that he understood that there would not be any traffic study for the Fourth / Fifth Street intersections with US 158 until the commercial developments are completed. He inquired what would be the anticipated cost difference of conducting a study before versus after the commercial developments' completion. He also noted he learned of a North Carolina grant program, which he said he would share with Staff.

Response to Public Comment

Mayor Windley noted that an earlier NC Department of Transportation (NCDOT) traffic study did not result in a positive recommendation for additional signal lights in the general area of the ongoing commercial development. Commissioner Ingram stated that if the Town continues to request studies to be conducted, NCDOT could simply decline. Mr. Ray stated that Staff was aware of the grant program that Mr. Pohl referenced, and regularly applied for grant opportunities when appropriate.

Commissioner McAvoy noted the difficulties with the Fifth Street / US 158 intersection signal light changes, along with the Prospect Street / US 158 signal light. Ms. Allen stated that Staff would look into the issue.

Adjournment

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

The time was 6:39 p.m.

Submitted by:

James Michael O'Dell
Town Clerk