

Minutes of the Monday, May 13, 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; Gary Britt, Police Chief; Dana Harris, Assistant Police Chief; Troy Tilley, Fire Chief; 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 McAvoy moved to approve the agenda, as presented. Commissioner Heikens seconded the motion, which passed by a unanimous, 5-0, vote.

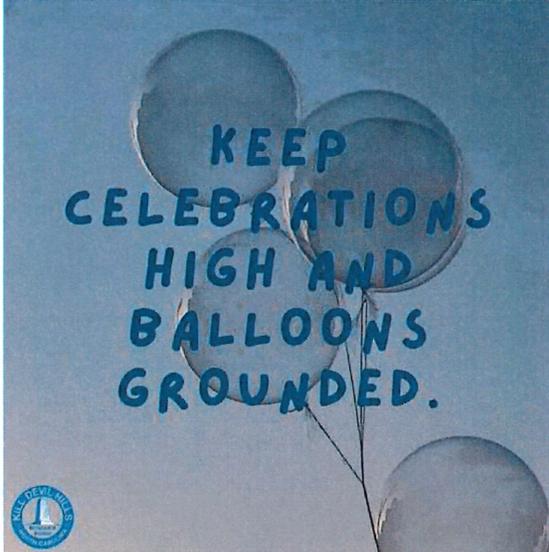
Public Comment

Response to Public Comment

Introductions and Presentations

1. Ban Balloon Releases NC – Proposed Balloon Release Ban

At its April 24, 2024, meeting, the Board of Commissioners adopted a *Resolution Opposing the Release of Helium Balloons*, developed by Staff at the Board’s direction. The resolution’s adoption has accompanied the Town’s outreach and education initiative to heighten the public’s awareness of the proper disposal of all balloons and to consider possible alternatives. The initiative, developed by Public Information Officer Rachel Tackett, encourages visitors and residents to consider the environmental impacts of their decisions:



We're all about spreading joy and good vibes, but let's skip the balloon releases. What goes up must come down, and when balloons come back down, they become harmful litter, endangering wildlife and polluting our environment.

Consider eco-friendly alternatives to commemorate special moments like blowing bubbles, planting trees, or using biodegradable confetti. Together, let's celebrate responsibly and show more love for our planet.

Debbie Swick, founder of Ban Balloon Releases NC, shared a brief overview of her organization and its goals. Latex and foil balloons can last for years or decades before they break down into micro-plastics harming wildlife and the environment. Ribbons attached to balloons may also last decades, and both can entangle and choke wildlife, which can confuse the balloons as food sources. Ms. Swick suggested alternatives to balloon releases for memorials and celebrations, including tree plantings, bubbles, and natural confetti. She requested that the Board consider a three-part ordinance: a town-wide ban of helium balloon releases, a requirement for the sale of helium balloons to include an attached weight, and a prohibition on balloons being tied outdoors. Ms. Swick encouraged a sizeable fine, similar to other localities that have passed balloon ordinances.

Commissioner Ingram inquired about how many towns enacted all three parts. Ms. Swick responded that as of this meeting, no other local governments had enacted all parts.

The group discussed what would encompass Town-owned property, and Town Attorney Casey Varnell noted that could be any area where the Town held a property interest and would research further. Mayor Windley suggested that Staff continue its educational outreach efforts to further discourage balloon releases.

Commissioner McAvoy stated that although he supported Ms. Swick's idea of stopping balloon releases, he was opposed to this type of ordinance since it would be difficult to enforce. Mayor Windley inquired about the Police Department's position regarding a possible balloon release ban ordinance. Chief Britt stated that an ordinance banning balloon releases would be difficult to enforce, and the police presence during an event such as a memorial could create tension, placing officers in a difficult situation. He was also unsure whether any penalty would be civil or criminal.

Commissioner Ingram moved that Staff draft an ordinance banning balloon releases on Town-owned property or public spaces. Commissioner Gray seconded the motion, which was approved by a 4-1, vote, with Commissioner McAvoy voting against.

Ongoing Business

New Business

1. Recommendation for Bid Acceptance for 2024-2025 Street, Drainage, and Rights-of-Way Improvements Projects

At its September 12, 2022, meeting, the Board of Commissioners approved the transition of the planned Wrightsville Boulevard infrastructure project to the 2024-2025 year. With Staff recommendation and BOC approval, infrastructure project bidding windows were expanded when possible to provide contractors additional flexibility in scheduling and time to secure project materials. American Engineering's proposal for the design and bidding of the 2024-2025 Wrightsville Project Group recommended the project be separated into two components for increased flexibility.

Public Services Director Steve Albright's meeting memoranda highlighted that on April 25, 2024, bids were received for the project and reviewed by the Town's engineer, Patrick Lewis, and Town Staff. Staff concurred with Mr. Lewis' recommendations as outlined in his attached recommendation letters and accompanying bid tabulations.

A. Wrightsville Boulevard Phases 1 and 2 (Attached NB-1A)

Wrightsville Boulevard Phase 1 (approximately 0.63 miles)

- **Goddard Street to Calvin Street** Water main replacement, asphalt paving, drainage improvements, and some driveway work.
- **Calvin Street to Atlantic Street** Asphalt paving, drainage improvements, and some driveway work.

Wrightsville Boulevard Phase 2 (approximately 0.39 miles)

- **E. Atlantic Street to E. Dean Street** Water main replacement, asphalt paving, drainage improvements and some driveway work.
- **E. Dean Street to Neptune Drive** Asphalt paving, drainage improvements, and some driveway work.
- **Neptune Drive to Carolyn Drive** Water main replacement, asphalt paving, drainage improvements, and some driveway work.

Staff concurred with Mr. Lewis's recommendation that the low bidder, Hatchell Concrete, Inc. is awarded the contract for the Wrightsville Boulevard Phase 1 & 2 Street Water and Stormwater Improvements as outlined in the attached recommendation letter.

**Breakdown of the recommended construction related costs for
the Wrightsville Boulevard Phase 1 & 2 Project:**

Wrightsville Blvd. Phase 1 & 2	Project Breakdown		
	Streets & Drainage	Water	Total
Hatchell Concrete, Inc. – Base Bid + Unit Price Items	\$2,850,000	\$1,182,500	\$4,032,500
Contingency	\$ 142,500	\$ 59,125	\$ 201,625
Engineering	\$ 98,630	\$ 42,270	\$ 140,900
Totals	\$3,091,130	\$1,283,895	\$4,375,025

If the Board of Commissioners agrees with the recommendations for the Wrightsville Boulevard Phase 1 & 2 Project, a motion will be in order for the following:

- Approve the contract with Hatchell Concrete, Inc. for 2024-2025 street, drainage, and right-of-way improvements project in the amount of \$4,032,500 and authorize its execution by the Town Manager;
- Approve the engineering services agreement with American Engineering in the total amount of \$140,900 for construction oversight services;
- Approve a 5% not-to-exceed contingency for the streets and drainage portions of the project in the amount of \$142,500 and a 5% contingency for the water portions of the project in the amount of \$59,125;
- Authorize expenditure of \$421,649.71 from the Street Construction Capital Reserve Fund; \$557,551.23 from the Water Capital Reserve Fund; \$726,343.77 from the water fund balance; \$307,402.93 from the Powell Bill funds; \$2,362,077.36 from the general fund balance, for a total of \$4,375,025; and
- Approve budget amendments to appropriate funds from the Street Construction Capital Reserve Fund, Water Capital Reserve Fund, Powell Bill funds, and General Fund and Water Fund unassigned fund balances for the 2024-2025 street, drainage, and right-of-way improvements project.

B. Southeast Area Water Improvements (Attached NB-1B)

Southeast Area Water Main Improvements *(approximately 0.59 miles)*

- **East Baum Street** (US 158 to S. Memorial Blvd.): Water main replacement and some driveway work.
- **East Clark Street** (US 158 to NC 12): Water main replacement and some driveway work.
- **East Atlantic Street** (US 158 to NC 12): Water main replacement, some asphalt paving, and some driveway work.

- **Neptune Drive** (US 158 to NC 12): Water main replacement, asphalt paving, some sidewalk and driveway work.

Staff concurred with Mr. Lewis’s recommendation that the low bidder, Enviro-tech Unlimited Construction Services, LLC is awarded the contract for the Southeast Area Water Improvements as outlined in the attached recommendation letter.

Breakdown of the recommended construction related costs for the Southeast Area Water Improvements:

Southeast Area Water Improvements	Project Breakdown		
	Sidewalk	Water	Total
Enviro-tech Unlimited Construction Services, LLC – Base Bid + Unit Price Items	\$ 9,750	\$ 955,000	\$ 964,750
Contingency	\$ 2,250	\$ 47,750	\$ 50,000
Engineering	\$ 4,800	\$ 207,175	\$ 211,975
Totals	\$16,800	\$1,209,925	\$1,226,725

If the Board of Commissioners agrees with these recommendations for the Southeast Area Water Improvements, a motion will be in order for the following:

- Approve the contract with Enviro-tech Unlimited Construction Services, LLC for 2024-2025 Southeast Area Water Improvements Project in the amount of \$964,750 and authorize its execution by the Town Manager;
- Approve the engineering services agreement with American Engineering in the total amount of \$211,975 for construction oversight services;
- Approve a 5% not-to-exceed contingency for the water portions of the project in the amount of \$47,750 and a contingency for the sidewalk portions of the project in the amount of \$2,250;
- Authorize expenditure of \$16,800 from the Sidewalk Capital Reserve Fund; \$1,209,925 from the Water Fund balance; and
- Approve a budget amendment to appropriate funds from the Water Fund balance for the 2024-2025 Southeast Area Water Improvements Project.

Mr. Lewis provided an overview of the project and highlighted the years of planning for the project, which will allow for a much higher capacity stormwater infrastructure for the area between US 158 and NC 12. He noted that in this challenging bidding world, the project costs were in line with the anticipated estimations. Town Manager Debora Díaz noted that the bid was being accepted now in this fiscal year, but with work to commence in the next fiscal year, to provide the most flexibility for the vendors to order materials and schedule work. Commissioner

McAvoy noted that locking in the bid for these projects seemed the best avenue to pursue to save the Town on project costs. Mayor Windley inquired about utilization of the fund balance. Ms. Díaz replied that the Town had earlier received the ARPA funding, which was utilized to offset budgeted staffing expenses, with those savings being directed by the Board for use on capital projects. Commissioner Gray noted that these projects will address a lot of the stormwater issues that the Town experiences, and that the Town Engineer and Town Staff have worked hard to make these projects a reality.

Commissioner McAvoy moved to approve the Wrightsville Boulevard Phases 1 and 2 Project and the Southeast Area Water Project of the 2024-2025 Street, Drainage, and Rights-of-Way Improvements Projects, as outlined in the Town Manager's memoranda, as presented. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

Committee Reports

Dare County Housing Taskforce Commissioner Heikens reported that he had attended the Dare County Housing Taskforce on April 30, 2024, on behalf of the Board, and would forward his notes.

Community Appearance Commission (CAC) Commissioner Ingram shared that Kill Devil Hills celebrates Love Your Live Oak Month in May.

Commissioners' Agenda

Commissioner McAvoy

First Flight High School Senior Decision Day Commissioner McAvoy shared he was honored to attend the FFHS Senior Decision Day Breakfast. He noted the benefits of the numerous educational opportunities available to Dare County students and high school graduates.

Mayor's Agenda

Board of Commissioners Retreat Mayor Windley reminded members about the upcoming June 8, 2024, Board of Commissioners retreat. He asked members to forward any topic ideas to the Town Clerk a week ahead so they could be submitted to the facilitator.

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. Minutes (Attached CA-1A)

A. April 24, 2024

2. Monthly Report (Attached CA-2A)

A. March 2024

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.

Mayor Windley noted that in the Monthly Report, statistics on the number of fires were much higher than the previous year. Fire Chief Tilley noted that any mutual aid responses by the KDH Fire Department out of town were included in the reporting data.

Public Comment

Police Week Assistant Police Chief Dana Harris noted that May 12 – 18, 2024, was Police Week and May 15, 2024, was Peace Officers Memorial Day. He thanked the Board and the public for its continued support.

Response to Public Comment

Adjournment

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

The time was 6:37 p.m.

Submitted by:

James Michael O'Dell
Town Clerk