

Minutes of the Monday, April 14, 2025, 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 Ivy Ingram, Terry Gray, T. Dillon Heikens, and Bernard “B.J.” McAvoy

Members Not Participating:

Others Participating: Debora P. Díaz, Town Manager; Meredith Guns, 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 asked everyone to keep the families of Marsha Brown and Linda Sadler in their thoughts and prayers. Both were active in the community and will be missed.

Agenda Approval

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

Public Comment

Response to Public Comment

Ongoing Business

New Business

1. Street Improvement and Special Projects Committee (SISPC) Conceptual Right-of-Way Improvement Plan Recommendations

Town Manager Debora Díaz reported that on April 1, 2025, the Street Improvement and Special Projects Committee (SISPC) met to review two proposals that included conceptual right-of-way plans that would lead to improvement and paving of portions of unimproved streets. The SISPC has forwarded both plans to the Board of Commissioners, recommending approval with the following conditions:

- Public Services Department and Town Engineer will approve final engineering plans prior to construction, and
- All state and local permits will be secured prior to construction.

The conceptual right-of-way plans are for the following streets:

A. East Boundary Street (US 158 to Wrightsville Boulevard)

The Planning Department’s meeting memorandum highlighted a submittal by Albemarle and Associates, LTD, of a conceptual plan that includes right-of-way improvements on East Boundary Street from US 158 to Wrightsville Boulevard (approximately 175 linear feet).

B. East Corrigan Street (Wrightsville Boulevard to South Memorial Boulevard)

The second Planning Department meeting memorandum highlighted a submittal by Mike Robinson, PE, of a conceptual plan that includes right-of-way improvements on East Corrigan Street from Wrightsville Boulevard to South Memorial Boulevard (approximately 280 linear feet).

Commissioner Gray shared that he liked that the live oaks were being kept in the project. Commissioner McAvoy provided a summation of the SISPC’s view on the projects.

Commissioner Gray moved to approve the conceptual right-of-way plans for East Boundary and East Corrigan Streets, as presented, pending the recommended conditions, with the Town’s acceptance of the improvements resulting from the private development of a public right-of-way. 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 in the meeting materials.

A. Planning Board

Howard Buchanan’s term expires April 2025, and he has expressed a desire to be considered for reappointment.

B. Personnel Board

Christine Stafford’s term expires April 2025, and she has expressed a desire to be considered for reappointment.

Commissioner Heikens moved to reappoint Howard Buchanan to the Planning Board and Christine Stafford to the Personnel Board, each for terms that will expire April 2028. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

3. Police Department Update

At its November 18, 2024, meeting, the Board of Commissioners briefly discussed the First Street neighborhood trick or treat event following comments from a member of the public. Through consensus, the Board requested this item be included on this meeting's agenda.

Community Police Officer Anthony Lane provided an overview of its long-time operations during this event, and how participant safety has been a priority while also permitting access to the neighborhood by its residents and visitors. His presentation has been included with the meeting materials.

Officer Lane noted that he and Captain Chris Carter stationed themselves in the area of the Outer Banks Baptist Church during the First Street event. Capt. Carter shared how Police Department representatives have been present during the entire event over its many years.

Mayor Windley shared that he lives in the area, and that he has not witnessed any complaints during the trick or treat event. Capt. Carter replied that there has not been any issue reported for many years. The Police representatives begin patrolling hours before the event and interact with people in the neighborhood. They then station themselves in the major entry area near the Outer Banks Baptist Church as the event begins. Capt. Carter stated that there have never been any traffic issues, and Police representatives stay until the event is over. Capt. Carter said that the Police Department's position is to maintain its current approach to the trick or treat event in the First Street area. Commissioner McAvoy stated that people always feel safe at the event. Commissioner Gray noted that to close streets and staff the closures, it would require a large number of staff. Capt. Carter replied that it would require more staff than the entire Police Department, and would be similar to a Fourth of July event. Ms. Díaz emphasized the fact that while the Fourth of July fireworks was a Town event, the trick or treat event was not conducted by the Town. She also shared that the Town's Public Information Officer Rachel Tackett regularly distributes trick or treat safety information on the website and social media. The Board expressed its appreciation to the Police Department for its great work.

Committee Reports

Community Appearance Commission (CAC) Commissioner Ingram provided an update on the CAC's efforts, including review of the cigarette butt receptacles, distribution of nine live oak trees to residents, and the upcoming biennial Community Appearance Awards.

Dare County Tourism Board (DCTB) Commissioner Gray noted that the Town had received a grant towards the Fourth of July fireworks event.

Street Improvement and Special Projects Committee (SISPC) Commissioner McAvoy noted the meeting went well, and that concerns had been expressed about the timing of the Fifth Street

signal light. Town Engineer Pete Burkheimer had contacted representatives of the N.C. Department of Transportation (NCDOT) to address the issue.

Commissioners' Agenda

Mayor's Agenda

1. Resolutions and Proclamations

- A. Resolution in Opposition to Bill 765 and Similar Legislation to Strip Municipalities of Planning and Zoning Authority**
- B. Resolution Encouraging the General Assembly to Expand Authority to Construct Housing for Local Government Employees**
- C. Proclamation Designating April as Fair Housing Month**
- D. Proclamation Designating Carolinas Rip Current Awareness Week**

The above resolutions and proclamations express the Board's opposition legislation that would greatly limit our planning and zoning authority, support for flexibility in housing options for public sector employees, and designate Fair Housing Month and Carolinas Rip Current Awareness Week.

Mayor Windley asked Planning Director Meredith Guns to provide an overview of potential impacts of House Bill 765. Ms. Guns reported that the bill had wide-ranging implications, and touched on the following:

- Requirement for fiscal notes for any zoning amendment, whether adoption, or repeals;
- A heightened conflict of interest standard, noting that if a Board member has a fixed opinion that is not willing to change, they could be ineligible to vote on the issue. She provided the example of Board-directed amendments.
- Elimination of a town's authority to require parking; the Town cannot dictate the number of parking spaces, parking configuration, or the sizes of parking spaces.
- Elimination of minimum lot sizes, which would be replaced by units per acre. Ms. Guns said Staff calculated it around four units per acre, or 12,000 square feet, and the Town requires a 15,000 square foot minimum. However, it would not require an even split of the lots.
- Civil liabilities in certain instances for some sections, and would require further review by the Town Attorney.
- The Town's Consistency statements, which are not currently reviewable, would be under legal scrutiny.
- Ms. Guns noted that many potential changes are population-based (125,000) but if the legislation is amended and the population threshold removed, more items will be of concern.

Ms. Guns highlighted several other bills that could negatively affect planning and zoning options for municipalities. Commissioner Gray commended Planning Staff on the information

presented. He suggested a group to meet with General Assembly representatives to share their concerns. Mayor Windley replied that lobbying is an important part of the process; he suggested an information campaign for the public to get involved. Commissioner McAvoy said he could not imagine any municipality in the state being pleased about these changes. The people of North Carolina should be upset; who knows best how to manage an area than the people who live there.

Commissioner Gray suggested that Mayor Windley discuss possible lobbying options at the upcoming mayor's meeting. Mayor Windley stated that he would bring up these issues to his peers at the meeting. Following a discussion about communities could proactively address this issue, Ms. Díaz shared a news article from Wilmington's *Port City Daily* that detailed how the bill was supported by the N.C. Board of Realtors and N.C. Builders Association. She stated that the N.C. League of Municipalities was greatly highlighting this issue and representing the concerns of municipalities across the state.

Commissioner McAvoy moved to approve the resolutions and proclamations as presented. Mayor Windley seconded the motion, which was approved by a unanimous, 5-0, vote.

Coastal Resources Advisory Council Mayor Windley congratulated Mayor *Pro Tem* Ingram on recently being appointed to the Coastal Resources Advisory Council.

2025 Trash Attack! He noted that the 2025 Trash Attack! presentation was scheduled for the April 30, 2025, Board meeting. Mayor Windley and the Board expressed their appreciation to everyone in the community and Town Staff who made the annual community clean-up possible. Board members also expressed their thanks to the event's partners, Kelly's Catering, KDH Harris Teeter, and KDH Front Porch Café for their donations.

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. **Minutes (Attached CA-1A)**
 - A. March 10, 2025
2. **Monthly Report (Attached CA-2A)**
 - A. February 2025

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

- A. Budget Amendment #11 – to appropriate funds for beach sand fencing available from Dare County

4. Schedule Public Hearing (Attached CA-4A)

The Planning Department’s meeting memorandum detailed the proposed amendment to the Town’s Code of Ordinances. At its March 18, 2025, meeting, the Planning Board reviewed and forwarded the following amendment, recommending approval:

A. Proposed Zoning Amendment – 153.101 Ocean Impact Residential Zone Setbacks: Add Setback Requirements for Residential Lot(s) not Abutting Atlantic Ocean

The proposed amendment will apply High Density Residential (RH) Zoning District setbacks, which are graduated based off of lot size, to residential lots not abutting the Atlantic Ocean in the Ocean Impact Residential (OIR) Zoning District. OIR setbacks are based on lot width at the roadway and Coastal Area Management Agency (CAMA) setbacks in the rear, and not applicable to parcels not abutting the ocean. Staff recommended approval and requested scheduling a public hearing for Monday, May 12, 2025, at 6:00 p.m. Approval of the Consent Agenda will schedule this item for public hearing.

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

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

The time was 6:43 p.m.

Submitted by:

James Michael O’Dell
Town Clerk