

Minutes of the Monday, May 12, 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, Bernard “B.J.” McAvoy and T. Dillon Heikens

Members Not Participating:

Others Participating: Debora P. Díaz, Town Manager; Casey Varnell, Town Attorney; Meredith Guns, Planning Director; Cameron Ray, Assistant Planning Director; Police Chief Gary Britt; 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

Agenda Approval

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

Public Hearing

Town Attorney Casey Varnell read aloud the public hearing rules and then opened the public hearing. Notice for the following item has been published in the *Coastland Times*, and posted on the Town’s bulletin boards, website at <https://www.kdhnc.com/1145/May-12-2025-Board-of-Commissioners-Meeti>, social media platforms, and has been disseminated through the Town’s electronic distribution list, meeting or exceeding the N.C.G.S. requirements for public hearings. At the conclusion of this hearing, a motion will be in order to approve, disapprove, or table the item for further consideration.

1. Proposed Zoning Amendment – §153.101 Ocean Impact Residential Zone Setbacks: Add Setback Requirements for Residential Lot(s) not Abutting Atlantic Ocean (Attached PH-1)

The Planning Department’s meeting memorandum detailed how 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 rear Coastal Area Management Agency (CAMA) setbacks, and not applicable to parcels not abutting the ocean.

At its March 18, 2025, meeting, the Planning Board reviewed and forwarded the following amendment, recommending approval; Staff concurs, and recommends approval of the proposed amendment. At the Board's April 14, 2025, meeting, this public hearing was scheduled. There were no speakers.

Commissioner Heikens moved to approve the amendment to §153.101 Ocean Impact Residential Zone Setbacks: Add Setback Requirements for Residential Lot(s) not Abutting Atlantic Ocean, as presented, with its consistency statement, and that the Board of Commissioners found that the amendment is consistent with all comprehensive plans and other official adopted plans of the Town of Kill Devil Hills that are applicable, and reasonable and in the public interest because it is consistent with all comprehensive plans and other official adopted plans of the Town of Kill Devil Hills that are applicable. The amendment is reasonable and in the public interest because it provides appropriate applicable setbacks for properties within the Ocean Impact Residential Zoning District that are not oceanfront while maintaining the Town's three-tiered approach to land use. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

Public Comment

Response to Public Comment

Ongoing Business

New Business

1. Site Plan Review – 504 West Lake Drive, Building 3, Unit W (Warehouse Complex): Proposed Mezzanine Office Space Addition in the Light Industrial 1 Zone (Attached NB-1)

Assistant Planning Director Cameron Ray stated that Beach Realty and Construction has submitted a proposed site plan for an interior mezzanine addition at 504 West Lake Drive, Building 3, Unit W in the Light Industrial One Zone. The Planning Department's meeting memorandum highlighted the plan, which includes construction of a 995 square foot office space addition on the structure's second floor; no changes are proposed to the existing site. Under §153.226, *Storage Warehouse* (S) is a permitted use in the Light Industrial One Zone.

At its April 12, 2025, meeting, the Planning Board unanimously voted to forward this site plan for the Board of Commissioners' approval. Staff recommends approval of the site plan as presented.

Commissioner Ingram moved to approve the site plan for 504 West Lake Drive, Building 3, Unit W (Warehouse Complex): Proposed Mezzanine Office Space Addition in the Light Industrial 1 Zone, as presented. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

2. Requested Town Code Amendment – Chapter 96, Seaside Regulations, §96.15 Beach Accesses – extension of overnight parking prohibition at the Town’s beach accesses from 12:00 midnight to 6:00 a.m. (Attached NB-2)

In Spring 2024, following concerns by the public, the Board of Commissioners adopted an ordinance to prohibit overnight parking at the Town’s public beach accesses from 2:00 a.m. to 4:00 a.m., unless the vehicle displayed a Town-issued permit. The Administration Department’s meeting memorandum details the history of the amendment, and the permitting process.

Members of the Board have recently expressed concern that the overnight hours for the beach access parking prohibition should be expanded, and requested that Staff submit an amendment to change the hours to 12:00 midnight to 6:00 a.m., unless the vehicle has a Town-issued parking pass. In addition, Staff has included amendment language to codify the Town’s permit procedure to ensure the Board’s request that residents and property owners have access to park at beach accesses and areas, as desired.

Commissioner Gray indicated that an issue was reported to him, and he followed up and identified several out of state vehicles parked at the accesses during the prohibited hours. The access parking lots are not intended to serve as overflow parking for private properties. Commissioner McAvoy noted that midnight was not late in the Outer Banks, and in the alternative, 6:00 a.m. is too late for patrons to enjoy the beach while using the accesses. He supported an educational campaign with property management and real estate companies to promote awareness of the current ordinance that prohibits parking between 2:00 a.m. and 4:00 a.m. Commissioner McAvoy stated that the proposed change is a kneejerk reaction that punishes the locals. Commissioner Ingram noted she recently witnessed nine vehicles staying at a private residence and parking at a beach access. Mayor Windley inquired about the status of the current ordinance and enforcement. Police Chief Britt stated that the Police Department has not taken action by ticketing yet, but has relied upon educational outreach. Town Manager Debora Díaz noted that the current ordinance had been in force for about a year and the focus has been on public education. Commissioner McAvoy recommended direct enforcement of the current ordinance, rather than amending the parking prohibition times. Commissioner McAvoy recommended posting the parking prohibition signage with the current times, and monitoring the enforcement over the next several months. Ms. Díaz stated that Staff’s approach had been for public education, placement of signage, and ultimately, direct enforcement through ticketing. Mayor Windley inquired about the timeline for posting the parking prohibition signage for beach accesses signs. Ms. Díaz replied that Staff is ready to print the signage in-house, and will place the times that the Board directs, and will enforce the times. Mayor Windley stated that the broader times would increase the opportunity for Staff to address the issue. Commissioner Gray inquired whether towing is an option. Town Attorney Casey Varnell replied that he would research the issue to determine whether it could be an enforcement mechanism.

Commissioner Gray moved to direct Staff to erect signage prohibiting overnight parking at the Town's beach accesses per the Town's ordinances, with immediate effect and enforcement, and to approve the amendment to Chapter 96, Seaside Regulations, §96.15 Beach Accesses – extension of overnight parking prohibition at the Town's beach accesses from 12:00 midnight to 6:00 a.m., as presented. Commissioner Ingram seconded the motion, which was approved by a 4-1 vote, with Commissioner McAvoy voting against.

3. 2027 Kill Devil Hills Beach Erosion Control and Flood and Hurricane Protection Works Project (Beach Nourishment) Capital Project Ordinance (Attached NB-3)

Ms. Díaz noted that, initially established on May 13, 2015, the Erosion Control and Flood and Hurricane Protection Works Capital Project Ordinance was established as a part of the Town's overall budget documentation. Prior to the beginning of a beach nourishment project, the Town is required, in accordance with N.C.G.S. §159-13.2(c) to adopt a balanced project ordinance for the life of the project. Additionally required by statute, this capital project ordinance clearly identifies the Town's beach nourishment project and authorizes its undertaking, while also identifying estimated revenues and making appropriations necessary to complete the project.

The Finance Department's meeting memorandum detailed the proposed ordinance for the 2027 project, which outlines the appropriations areas of design, permitting & professional services; mobilization and demobilization services; and construction costs.

This ordinance makes no change to the Town's Beach Erosion Control and Flood and Hurricane Works Municipal Service District (MSD) tax rate.

Commissioner Ingram moved to adopt the 2027 Kill Devil Hills Beach Erosion Control and Flood and Hurricane Protection Works Project (Beach Nourishment) Capital Project Ordinance, as presented. Commissioner Gray seconded the motion, which was approved by a unanimous, 5-0, vote.

4. Presentation of the Town Manager's Recommended Budget Fiscal Year 2025/2026

The proposed budget for the Town of Kill Devil Hills for Fiscal Year 2025/2026 was presented to the Board of Commissioners at this meeting.

In accordance with the provisions of N.C.G.S. §159-13, the governing board shall adopt a budget ordinance not earlier than ten (10) days after the budget is presented to the Board, and not later than July 1. Before adopting the budget ordinance, the Board of Commissioners will conduct a public hearing, at which time any persons(s) wishing to be heard on the Recommended Budget may appear. The public hearing may be held at any time after presentation of the budget, either prior to, or subsequent to, the Board's budget worksession.

Staff recommended the Board consider conducting its budget worksession on Wednesday, May 28, 2025, at 6:00 p.m., and holding its budget public hearing on Monday, June 9, 2025, at 6:00 p.m., both on regularly scheduled meeting dates. Ms. Díaz noted that the current valuation is .355 per \$100 valuation, and that the revenue neutral rate is .2332; the recommended

rate is .28 per \$100 valuation. Ms. Diaz thanked the Assistant Town Manager, Finance Director, and Assistant Finance Director and their staffs for all of their hard work.

Commissioner Heikens moved for the Board to schedule a budget worksession on Wednesday, May 28, 2025, at 6:00 p.m., and hold its budget public hearing on Monday, June 9, 2025, at 6:00 p.m. for the Town Manager's Recommended Budget Fiscal Year 2025/2026. Commissioner Ingram seconded the motion, which was approved by a unanimous, 5-0, vote.

Committee Reports

Coastal Resource Advisory Commission (CRAC) Commissioner Ingram shared that she recently attended the Coastal Resources Advisory Commission meeting.

Commissioners' Agenda

Commissioner Gray

Resolution in opposition to proposed increased insurance premiums for Department of Public Instruction Employees Commissioner Gray shared a recently approved Dare County Board of Commissioners resolution opposing proposed insurance rate increases for Department of Public Instruction Employees. His materials have been included with the meeting materials. He noted that Kill Devil Hills has always supported the educational community with its commitment to the First Flight educational complex, along with its support for the affordable housing units for educators. Through consensus, the Board directed the Office of the Town Clerk to develop a resolution for Kill Devil Hills in opposition to the proposed insurance rate increases.

Mayor's Agenda

Police Week On behalf of the Board, Mayor Windley expressed its appreciation to all of the Town's law enforcement staff: from Patrol and Criminal Investigations to Animal Control and the PD office staff; the entire community appreciates all that they do to keep Kill Devil Hills safe and secure. He wished everyone a very happy Police Week. He also noted that during a recent rock and dirt spill on US 158, that Police Department and Public Services Staff joined the vendor in securing the area and cleaning it up.

Legislative trip Mayor Windley reported that the Dare County Mayors were scheduled to visit with state representatives on May 29 to discuss House Bill 765 and other relevant issues.

Town Manager's Agenda

Town Attorney's Agenda

Consent Agenda

1. Minutes (Attached CA-1A)

A. April 30, 2025

2. Monthly Report (Attached CA-2A)

A. March 2025

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

The time was 6:41 p.m.

Submitted by:

James Michael O'Dell
Town Clerk