



**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
TUESDAY, JULY 19, 2016 – 7:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, July 19, 2016 at 7:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem H. Ashley Royal; Commissioners Peter Freer, Kim Isenhour, John Fletcher and Ken Kyser; Town Manager David W. Hewett; Town Clerk Heather Finnell; Police Chief Wally Layne; Building Official Tim Evans; Shoreline Protection & Recreation Manager Christy Ferguson; and Labor Foreman Scott Cunningham.

Mayor Holden asked for a moment of silence and then called the meeting to order.

**PLEDGE OF ALLEGIANCE**

**AGENDA APPROVAL**

*Motion by Commissioner Fletcher to eliminate agenda item #7 and replace it with an item called Discussion and Possible Action on Joint Amicus Brief; second by Commissioner Isenhour; approved by unanimous vote.*

**APPROVAL OF MINUTES**

*Motion by Commissioner Isenhour to approve the minutes of the Special Meeting of June 9, 2016 as written; second by Commissioner Freer; approved by unanimous vote.*

*Motion by Mayor Pro Tem Royal to approve the minutes of the Regular Meeting of June 21, 2016 as written; second by Commissioner Fletcher; approved by unanimous vote.*

**PUBLIC COMMENTS ON AGENDA ITEMS**

Tony Marwitz said he is an owner that does not own beachfront property, but if Emerald Isle loses its lawsuit, beachfront values will be destroyed. He stated taxes will need to go up and the Town will lose tourists. Mr. Marwitz explained if Emerald Isle doesn't win the lawsuit, the Turtle Patrol would basically be out of business. He said everyone in Holden Beach needs to do everything they can to make sure Emerald Isle wins the lawsuit.

Gina Martin stated the recycling center has outlived its usefulness at the park. She said given the fact we just had a rather substantial tax increase, it would behoove the Town to look into ways to eliminate costs and this would be a good item to start with.

## **DISCUSSION AND POSSIBLE ACTION ON JOINT AMICUS BRIEF**

Mayor Holden said we are the only town along the coast that isn't supporting the amicus brief. Commissioner Fletcher said that he has had more time to research the topic and has changed his view since the last meeting. Commissioner Freer explained why he thinks the Board should endorse the amicus brief. In joining the Amicus Brief, Commissioner Freer does not want it to be an endorsement to the specific ordinances of Emerald Isle. Attorney Fox doesn't think by signing on as a supporter of public trust rights, it would be perceived as endorsing specific ordinances of Emerald Isle.

*Motion by Commissioner Freer to endorse and join in the amicus brief of the Department of Environmental Quality as submitted to the Supreme Court; second by Commissioner Fletcher.*

Mayor Pro Tem Royal asked if the Town would be saying we support the position of the court. Attorney Fox replied the request has come across from Emerald Isle that all municipalities on the coast support the stance that the public has the right to use the dry and wet sand beach. That is what they are seeking support of. She stated a brief is being written in support of Emerald Isle's position. Mayor Pro Tem Royal stated he reviewed our ordinances. When he looked at the opinion of the court, it appears we are appropriate in our ordinances. He asked if the Town's position being discussed now will impact the Town's existing ordinances. Attorney Fox replied no, it will be that we are supporting the public's right to access to the dry and wet beach. Commissioner Isenhour added that if Nies wins, it could hurt the Town. Commissioner Freer confirmed that the motion doesn't support participating financially. He stated the reason he didn't add that was because the Town just raised taxes to support our own project.

*The motion passed by unanimous vote.*

## **POLICE REPORT – CHIEF WALLY LAYNE**

- Made it through the 4<sup>th</sup> of July. Doesn't think the fireworks were as bad. Summer in general has been typical. No major events. Hopefully it will stay that way. There have been larcenies of coolers, flip flops and other things. Arrested the person who was stealing the coolers. Was able to recover some of those coolers. Don't be a volunteer victim. Don't leave items of value in cars or unlocked storage. Lock your cars. Be mindful of your stuff on the beach.
- Is on the beach four days a week. So far has seen five dogs on the beach between 9:00 a.m. – 5:00 p.m. In years previous the number was a lot higher. Thinks the sign is working. Not as many holes or problems with cabanas. Commissioner Isenhour inquired if the phrase welcome to Holden Beach could be added to the sign. Chief Layne replied they could add that. Commissioner Freer suggested adding a banner to the sign.
- Will get locked up for a fundraiser on July 27<sup>th</sup> at 1:00 p.m. Has a signup sheet for anyone who would like to help with his bail.
- Mayor Pro Tem Royal stated in light of everything going on, he wanted to take the opportunity to thank our police for everything they do. Commissioner Fletcher added they have the whole Board's support.

## **ELIMINATION OF ROLL OFF RECYCLING CONTAINERS LOCATED AT BRIDGEVIEW PARK**

Town Manager Hewett said staff's recommendation is to eliminate the bulk recycling by the water tower after Labor Day. He read his memo to the Board and explained why the site has become problematic.

*Motion by Mayor Pro Tem Royal for the approval of the recommendation to eliminate bulk recycling; second by Commissioner Kyser.*

Commissioner Freer asked if the alternative services are on our website. Town Manager Hewett stated he believes they are, but if not they will be added. Mayor Pro Tem Royal asked if staff will come back to the Board with information on options for curbside recycling. Town Manager Hewett responded that the Board will need to address the whole contract.

*The motion passed by unanimous vote.*

## **BEACH PATROL EVALUATION STATUS REPORT**

Chief Layne talked to all the folks in the area. Oak Island does what Holden Beach does. They also have an ambassador program. Sunset Beach uses the Fire Department as beach patrol. They have a paid Fire Department, not a contracted one. Chief Layne spoke with Chief Todd. They are not interested in providing this service. He doesn't want his people trying to enforce ordinances without the proper tools and they don't have a tremendous amount of manpower. Ocean Isle Beach has seven part time officers for their beach patrol. They use two a day during the week and three a day on the weekends. They pay them \$15.34 an hour. Each one is there for a minimum of eight hours. Chief Layne said that comes out to about \$30,776 a year, plus uniforms and equipment. Their part time folks are typically ones that just graduated from BLET. Their chief doesn't like the way they do it. Chief Layne looked at the total amount of overtime from last summer. That amount was \$9,212. That included beach patrol and all other overtime. He did have an officer out all last summer. Commissioner Fletcher inquired how much overtime is budgeted for the year. Chief Layne thinks the budget is \$39,000. They normally use it all.

Peggy Schiavone, Chair of the Parks & Recreation Advisory Board (PRAB) stated that Oak Island will visit the PRAB's October meeting. They have a beach ambassador program. They were originally asked to visit in July, but they weren't available. They said it is too late to start a program at this time. The PRAB isn't crazy about the idea. They don't feel people would be crazy about no pay, an interview process and minimum hours. Also, they don't think the person would have the authority to tell people about the ordinances. Ms. Schiavone said they could always make recommendations, but with no authority it is difficult. Commissioner Freer stated he thinks it is a good idea for the PRAB to meet with Oak Island.

## **DISCUSSION AND POSSIBLE ACTION ON ENFORCEMENT OF HOLDEN BEACH CODE OF ORDINANCES §157.087, BUILDING NUMBERS**

Commissioner Fletcher stated the Town has an ordinance that requires that every house have numbers visible from the street and also from the strand. He stated there are many houses that are not in compliance. His initial concern was for the Fire Department. Commissioner Fletcher's recommendation is to enforce the ordinance. His suggestion is if that if people are not in compliance, the Town do the work for them. The cost

would then be billed to the homeowner. Attorney Fox recommended sending letters to the people who are not in compliance and researching what remedies are currently available by ordinance. Building Official Evans explained that currently the Inspections Department sends out a letter to people who are not in compliance. Usually people comply once they receive the letter. There is a penalty section that would apply if people do not comply. He explained that the numbers are not uniform so sometimes the numbers are there, but not noticed. He suggested that canal homes should have numbers on the canal side. That isn't addressed in ordinance. The Inspections Department constantly checks to make sure people comply with the ordinance. Commissioner Fletcher asked if it would be possible to add to the letter that the Town could do the work if someone is not in compliance. Attorney Fox stated the Board would need to amend the ordinance, but based on what Building Official Evans is saying it doesn't seem to be an unmanageable issue. Building Official Evans said his department might need to take another pass. Commissioner Fletcher asked him to let the Board know when he does.

*Motion by Commissioner Kyser to give this to the Planning & Zoning Board to look at adding a section to require canal homes to have numbers on the backside of the homes, second by Commissioner Isenhour.*

Mayor Pro Tem Royal said he noticed this section requires 6" numbers and that is larger than normal numbers. It would be in conflict with the current ordinance if the Town doesn't require canal homeowners to do the same.

*The motion passed by a 4 – 1 vote with Commissioners Freer, Isenhour, Fletcher and Kyser voting for the motion and Mayor Pro Tem Royal voting in the negative.*

## **DISCUSSION AND POSSIBLE NOMINATIONS OF MEMBERS TO UPCOMING VACANCIES ON TOWN BOARDS**

*Motion by Commissioner Fletcher to approve all existing board members whose times are expired and are eligible for reelection, reelect them now; second by Commissioner Kyser.*

Mayor Pro Tem Royal asked if their interest in serving again was confirmed. Commissioner Fletcher said yes.

*The motion passed by unanimous vote.*

*Motion by Commissioner Fletcher to assign Tiffany Hobbs to the vacant position on the Planning & Zoning Board from her current alternate position; second by Commissioner Freer.*

Mayor Pro Tem Royal asked if she has indicated she is interested. Commissioner Fletcher replied yes. Commissioner Kyser said his only concern is she was on the board at one time and had attendance issues. Town Clerk Finnell stated she resigned last time, but she has expressed her interest and is currently serving on that Board.

*The motion passed by unanimous vote.*

The Board came to a consensus to hold interviews for the vacant position on the Planning & Zoning Board at 6:45 p.m. on the date of the next meeting. The Board would like to interview Tony Marwitz and Greg Shue.

## TOWN MANAGER'S REPORT

- Normally on July 4<sup>th</sup> we push through about one million gallons of water a day and then it falls to 800,000 gallons in the 10 days after. This year were above one million gallons for six straight days. There are lots of people here.
- Based on the number of houses and metric of consumption, the Department of Environmental Quality has estimated our population. We are approaching almost 6,300 people. That number is different than the Census Bureau's. Based on that number, we were just advised the number of water samples will need to increase.
- We had a close call with water pressure on July 7<sup>th</sup>. A lightning strike took out some SCADA equipment at the county. The county turned the pumps on manually.
- We are going to have our Community Rating System evaluation in the next two months. Will be compiling data over the next couple of months.
- Building Official Evans said there is no update on the new flood maps. The Town can adopt the maps when we get the letter of final determination.
- The bid opening was held earlier this month for the Central Reach Project. We only received one bid. That doesn't meet the statutory bid thresholds. We have rebid in an attempt to get a qualifying bid. The bids will be opened here on August 18<sup>th</sup>. Mayor Pro Tem Royal asked if that will impact the Town being ready to start. Town Manager Hewett replied we will still be okay. Commissioner Freer asked what will happen if we only receive one bid. Town Manager Hewett responded that the Board will have to make a decision on their next move, but it is okay to only receive one bid the second time.
- Mayor Pro Tem Royal asked about the \$115,000 the Town received from Southport for excess sewer. Town Manager Hewett explained it was the second payment of \$57,000. The annual total was \$115,000. It came from Brunswick County. Mayor Pro Tem Royal asked if that was included in the budget. Town Manager Hewett stated they were specifically advised to not use that as a budgeted revenue because of the unknowns of the arrangement between the county and Southport. That amount was in last year's budget. We accepted the funds as Miscellaneous Revenue. Mayor Pro Tem Royal asked about the amount the Town will save for recycling. Town Manager Hewett replied that was a budgeted expense, we will wait until we see the results of the new solid waste contract before doing anything with that amount.

## MAYOR'S COMMENTS

- Will try to get the Chapel's parking issue on the agenda next month. Hopes everyone will support that.
- Encouraged to see so many people working on the north side of the bridge. Thanked the NC Department of Transportation.
- Received lots of positive comments about the concerts. Surrounding islands are coming here.
- We haven't had a recent Evacuation Team meeting. We have an insurance problem. We need to have a clear understanding about the insurance for volunteers if we move forward with continuing the program as it is. We are seeking protection for the Town before we move forward. Mayor Pro Tem Royal asked about having the volunteers sign a waiver. Mayor Holden said he will work with the attorney and the Board.

## **BOARD OF COMMISSIONERS' COMMENTS**

### Mayor Pro Tem Royal

- During the July 3<sup>rd</sup> concert we had a fire on the island. It was a reminder to check his fire extinguishers. Was reminded of the extreme risk we assume by living so close to each other. Urges everyone to have operable smoke alarms and a significant amount of extinguishers.

### Commissioner Freer

- Thanked Chief Layne for his homework and Peggy Schiavone for the efforts the PRAB put forward. Our new park is getting rave reviews. Learned how to play pickleball. The bricks were installed. They look very nice. Lots of activity in the park. Thinks the effort to remove the recycling is timely.
- Thanked everyone for attending.
- Will talk about Oak Island and how they do things to see if it is a fit for Holden Beach.

### Commissioner Isenhour

- Thinks over the past several weeks it has been refreshing to see people here enjoying this wonderful place. It is nice to see visitors show up and enjoy this beautiful place.
- There was a concern that Holden Beach was going to annex a part of Supply on Facebook. That is not going to happen. Commissioner Freer said the originator of that post has corrected his post after receiving the correct information.

### Commissioner Fletcher

- Blessed to be able to work with the Turtle Patrol. Made it a point to interview as many people as possible as to why they come to Holden Beach. It is the quiet family beach environment that attracts almost everyone he interviews. Told a story about a family who went to Myrtle Beach last year, but the kids wanted to come back. Have a lot of people who enjoy the beach.
- If you are on the beach and in the Central Reach Project region or know someone who is, ask them to sign the easement agreement as quickly as possible. We need it to do the project.

### Commissioner Kyser

- Thanked everyone for coming in the pouring rain. Commended everyone who came. You are very dedicated people and we are glad to see you.
- The response to the Tie Dye Program continues to be very large. Doing it every Tuesday.
- The park next door looks tremendous. The grass and landscaping looks good. The bathrooms are up. Not a day goes by when you don't see it being used. Happy to see that. They were working on the other side of the bridge today. Hopefully that will improve.

## **PUBLIC COMMENTS ON GENERAL ITEMS**

Mr. Ray Compton stated he remembers getting a notice about numbers on the strand. The biggest problem he had was figuring where to put the post. He suggested that it would be good if the Town indicated where to put the posts and numbers. Mr. Compton added that his wife would like all the same colors.

**EXECUTIVE SESSION PURSUANT TO NORTH CAROLINA GENERAL STATUTE 143-318.11(A)(3), TO CONSULT WITH THE ATTORNEY EMPLOYED BY THE PUBLIC BODY IN ORDER TO PRESERVE THE ATTORNEY CLIENT PRIVILEGE BETWEEN THE ATTORNEY AND THE PUBLIC BODY**

Town Clerk Finnell read the reason for going into Executive Session. The Board agreed to go into Executive Session at 8:25 p.m.

**OPEN SESSION**

The Board went back into Open Session at 9:18 p.m.

*Motion by Mayor Pro Tem Royal to call a Special Meeting on August 1<sup>st</sup>, time to be determined during discussion, for the purpose of Discussion and Possible Action on a Resolution of the Town of Holden Beach Authorizing Filing of Condemnation Actions to Acquire Easements for the Town's Central Reach Shore Protection Project; second by Commissioner Fletcher.*

The Board agreed to 7:00 p.m. as the time.

*The Board came to a consensus to have the meeting at 7:00 p.m. on August 1<sup>st</sup>.*

**ADJOURNMENT**

*Motion by Mayor Pro Tem Royal to adjourn at 9:21 p.m.; second by Commissioner Isenhour; approved by unanimous vote.*

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J. Alan Holden, Mayor

ATTEST:

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Heather Finnell, Town Clerk