



**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
TUESDAY, MAY 16, 2017 – 7:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, May 16, 2017 at 7:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem John Fletcher; Commissioners Ashley Royal, Peter Freer, Kim Isenhour and Ken Kyser; Town Manager David W. Hewett; Town Clerk Heather Finnell, Police Chief Wally Layne; Building Official Tim Evans; Shoreline Protection and Recreation Manager Christy Ferguson; Public Works Director Chris Clemmons; and Town Attorney Noel Fox.

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

**PLEDGE OF ALLEGIANCE**

**AGENDA APPROVAL**

*Motion by Mayor Pro Tem Fletcher to approve the agenda as presented; second by Commissioner Royal; approved by unanimous vote.*

**APPROVAL OF MINUTES**

*Motion by Mayor Pro Tem Fletcher to approve the minutes of the Regular Meeting of April 18, 2017; second by Commissioner Royal; approved by unanimous vote.*

*Motion by Mayor Pro Tem Fletcher to approve the minutes of the Special Meeting of April 24, 2017; second by Commissioner Royal; approved by unanimous vote.*

**PUBLIC COMMENTS ON AGENDA ITEMS**

Mayor Holden called on Wiley Langley. Mr. Langley said he didn't want to speak under this portion of the meeting.

Judy Holden discussed decal distribution and the past registration process. She spoke about Hurricane Matthew and how two residents weren't allowed back onto the island, even with valid NC licenses.

Mayor Holden called on Ms. Jackie Barnes. She said she wanted to talk during the Elizabeth Street topic. Wiley Langley said that is when he wanted to talk also.

*Motion by Commissioner Royal to allow those who signed up to comment along with the discussion on agenda items 8 & 9; second by Commissioner Freer; approved by unanimous vote.*

**GUEST SPEAKER: SENIOR RESIDENT SUPERIOR COURT JUDGE OLA LEWIS – OPIOID TASK FORCE**

Judge Lewis said New Hanover and Brunswick Counties are #1 in the nation for opioid overdose deaths. She, along with several community leaders, have created the Brunswick County Opioid Addiction Task Force. Judge Lewis introduced the honorary chair, Don Flattery. Mr. Flattery provided his biography and the background on the creation of the task force. The task force is in the process of developing a report to capture the impact on Brunswick County. The report will include an action plan. The task force went to Raleigh to ensure that legislators recognize that Brunswick County has a critical treatment gap need so that when a sub allocation of treatment resources is given our area will be considered. They gave a letter to the governor asking him to declare a statewide public health emergency in North Carolina. Mr. Flattery explained why this is important. He said we need to focus on public health solutions, not criminal justice solutions. Their next meeting is Friday at 12:30 p.m. He asked for the Town's support and answered questions from the audience.

*Motion by Commissioner Kyser to direct Town staff to develop a letter to have available at the next meeting; second by Mayor Pro Tem Fletcher; approved by unanimous vote.*

**GUEST SPEAKER: AVA PAILTHORP – RESTRICT PARKING ON ELIZABETH STREET AND PRIVATE WALKWAY ACCESS AND CHANGE VEHICLE DECAL POLICY FOR RESIDENTS TO ACCESS HOLDEN BEACH AFTER MAJOR STORM/ DISASTER**

Ms. Pailthorp passed out packets to the Board and explained they have a concern about Elizabeth Street and their walkway. She reviewed the information in her handouts. She conducted interviews with L.S. Holden Subdivision heirs and seven property owners. She introduced the ones in attendance. She passed out pictures for the Board's review and provided background information on the L.S. Holden Subdivision. She said the deed to the L.S. Holden Subdivision identified 12 alleys and accessways from the ocean to Hillside Drive. She said nobody at that time would have been able to foresee that Hillside Drive would erode away. She stated her father and a family member developed a walkway that was dedicated to the L.S. Holden Subdivision residents for the purpose that renters and people who bought lots could have access to the beach. The walkway remained until the late 80s/ early 90s during the time Hillside Drive washed away. Some of the homeowners pooled their money and erected a second walkway in the center of Elizabeth Street that has been there for over 20 years. She said it had signage on it that said L.S. Holden Subdivision and Guests. Ms. Pailthorp said it was reported repeatedly to the governance that some of the walkways were public and some were private. She said the one at Elizabeth Street was done on a verbal commitment. She said her father, aunt and uncle in 1974 went to the attorneys and they drew up a document called declaration of withdraw easement instrument.

Ms. Pailthorp recently noticed that the sign was taken down from the accessway and Elizabeth Street was paved. She talked about her recent experiences at the accessway. Ms. Pailthorp said in April 2017, it was brought to her attention that the walkway was dismantled. It was an unsafe situation so she nailed the railings back on the walkway. She mentioned that she spoke with the surveyors hired by the Town to make

an assessment on the location of the walkway. She said the accessway serves 22 homes and broke down the property types. Ms. Pailthorp talked about an encroachment agreement that said Elizabeth Street is closed and documents that she has that state the accessway is private. She said there has been an intent through the years to keep the road closed and keep it a pedestrian friendly passageway.

Ms. Pailthorp said they are aware that the deeds reflect only to Hillside Drive. She said it was the intent of the heirs to keep it in the condition it was meant to be used and to protect the dunes. They want to be able to keep their private walkway. She suggested that there be reconsideration about the Elizabeth Street strip of land and walkway. They want to have a no parking zone; and they want to retain their walkway, with the responsibility that they will rebuild it to the Town's ordinances and approval. Ms. Pailthorp wants the Town to take another look at parking. She talked to Wrightsville Beach about how they do paid parking. The Board allowed other property owners in the area to voice their concerns.

Commissioner Isenhour thanked Ms. Pailthorp for being at the meeting. She thinks there are issues all over the island and the Board needs to look at this island wide. Commissioner Freer agrees parking has been an issue and thinks we need to have a comprehensive look at parking. The Board spoke about it at the budget meeting; it is definitely on our radar. He is open to any ideas.

Ms. Pailthorp wants to know if the Board would give consideration to looking at a way to identify property owners who pay taxes so they can look at their property after a storm. She said she is willing to pay a \$2 or \$3 fee for decals. She thinks \$10 is a little steep. She would like the Board to reconsider that.

LC Lynch said he thinks this gives us an opportunity to develop the area into a greenway.

#### **DISCUSSION AND POSSIBLE ACTION RELATED TO RESTRICTING PARKING ON ELIZABETH STREET AND THE PRIVATE WALKWAY ACCESS**

Commissioner Freer said he thinks we need to have the attorney look at this topic. Attorney Fox said it is a very complex issue and needs to be worked on deliberately. She would like the Board's permission to speak with Ms. Pailthorp. The Board agreed.

#### **DISCUSSION AND POSSIBLE ACTION TO REVISE VEHICLE DECAL POLICY AND/ OR ORDINANCE FOR ACCESSING BEACH AFTER BRIDGE REOPENING AFTER MAJOR STORM/ DISASTER**

Mayor Pro Tem Fletcher said we recently had a storm and people had issues getting back on the island. He said the intent of the Board is to make sure people who are legitimately allowed on the island can get back on. He asked the Board to consider changing the policy to not only allow decals as a way to get back on, but also allow proof such as a driver's license or any formal government proof that you live or own property on the island. Commissioner Freer said he agrees with that, but also would want to point out that would need to be an exception; he encouraged people to use decals. There are circumstances that there can be an exception and you can show proof and allow people to access the island. Commissioner Kyser agrees, but also agrees with using it as an exception. Commissioner Royal concurred. The experience after the storm was that a lot a people were provided their decals in their water bill and didn't put them on their vehicles. He is very reluctant to award bad behavior by instituting a new policy. He remembers from the After Action Report for Hurricane Matthew there was an action on how the police can safely

screen citizens to allow them back on. He would like the Town to be prudent in what we do allow. Chief Layne said the decals are the most efficient way to get people on the island. He said they can allow other methods, but it will back up access to the island.

*Mayor Pro Tem Fletcher asked to amend his motion to include that the four stickers owners always got would be at no cost.*

Town Manager Hewett said the decal process is in place after many years of evaluating the evacuation/reconstitution protocols. That process of allowing vehicles on the beach has been distilled over more than two decades as the best way to get people on the beach and being able to reconstitute the beach. The decal method is a mechanism that has been derived over time and has been tested. He talked about entry control points and safety and said changing the protocols without testing it for a cycle seems preemptive. He said we had about 60 people who purchased extra decals, in the amount of 109 decals. If we decide to go to issuing free decals, we need guidance on how to refund the money to those who have already paid.

*Motion by Mayor Pro Tem Fletcher that rather than requiring only a decal, that we accept also a driver's license as backup proof of living on the beach and allowing them back on with the first crew; second by Commissioner Freer.*

Commissioner Royal said he does have safety concerns based on what he heard. Mayor Holden encouraged amending the motion to requiring the license show evidence of a Holden Beach residence.

*Mayor Pro Tem Fletcher amended his motion to say a driver's license with a Holden Beach address.*

Commissioner Isenhour asked if the motion differentiated between property owners or people who live here. Commissioner Freer said he thinks that is why a water or tax bill was added to accommodate people who don't live here. The Board discussed who gets decals. Commissioner Royal thinks he is hearing all sorts of variables. He learned the Board shouldn't act in haste. He feels for the people who couldn't access the island, but that is the policy. Commissioner Kyser said he agrees with what Commissioner Royal originally said about rewarding people for not putting their decals on their vehicles. He feels for people who couldn't get on the island.

Town Clerk Finnell read the motion. Commissioner Royal clarified the motion and Mayor Pro Tem Fletcher agreed with the clarification.

*The motion did not pass with a 2 – 3 vote. Mayor Pro Tem Fletcher and Commissioner Freer voted for the motion and Commissioners Royal, Isenhour and Kyser voted in the negative.*

*Motion by Mayor Pro Tem Fletcher to allow owners that have the two free stickers to get the other two for free if they come to Town Hall and ask for it; second by Commissioner Freer.*

Commissioner Royal asked about the amount people received in the past. Town Manager Hewett replied four. Commissioner Isenhour asked for confirmation that the purpose of charging for the additional two decals was to limit the number of decals so we can the limit the amount of people who can get on the island during a State of Emergency. Commissioner Kyser asked if by not limiting it if it could delay access

for people getting on the beach. Town Manager Hewett provided statistics and explained the logic behind choosing two decals per property owner.

Commissioner Royal asked for a point of order about audience participation when an audience member commented.

*The motion passed by a 3 – 2 vote, with Mayor Pro Tem Fletcher and Commissioners Royal and Freer voting for the motion and Commissioners Isenhour and Kyser voting in the negative.*

Town Clerk Finnell said we need to amend the fee schedule, so a resolution needs to be brought back to the Board. Staff would also need guidance on what to do concerning refunds from now until the fee schedule is adopted. Attorney Fox agreed it needs to be amended through a resolution.

*Motion by Commissioner Royal to defer implementation of the action just approved until next meeting when we would have the draft resolution in place and we can vote on that; second by Commissioner Freer, passed by unanimous vote.*

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

Mayor Holden asked Chief Layne to address the number of deaths and the experience at Holden Beach concerning drugs. Chief Layne said the problem is in Brunswick County, but he doesn't know of any deaths in Holden Beach so far. His department never had to administer Narcan, but they do have access to it.

- Days at the Docks went well. Decent crowd, no major incidents.
- Talked about a recent break-in. The house had an alarm system that scared them off. They proceeded to drive west to the 700 block. Backed into a driveway and hooked up to a construction trailer. They were arrested and confessed to all of our residential break-ins that occurred over the winter.
- Just as predicted, we already had two vehicle break-ins. Don't leave valuables in your vehicles and lock your vehicles. Neither of the vehicles were physically broken into, they were unlocked.
- First turtle nest was discovered today on the island.

#### **DISCUSSION AND POSSIBLE ACTION TO AMEND TOWN ORDINANCE AND/ OR CHARTER TO CHANGE BOARD OF COMMISSIONER TERM TO STAGGERED FOUR YEAR TERMS**

Commissioner Royal said his rationale for wanting to change to staggered terms is that in the previous election we had four new commissioners. The Town has been subjected to a significant amount of change. Also, as a first time commissioner, he has learned a lot about how the Town operates since then. He thinks there is a lot of value in reinstating staggered terms. He thinks there is value to the Town to have continuity.

*Motion by Commissioner Royal to change the related ordinances and Town of Holden Beach charter that designates the Board of Commissioners' term of office and effective next election we institute a four year term for the three commissioners who receive the highest number of votes, then the remaining two would*

*be on a two year term and at the next election (two years later) those would run for a four year term, that way it will take two cycles to implement staggered terms; second by Mayor Pro Tem Fletcher.*

Attorney Fox explained that there are two ways to amend the charter to do that. You can have a referendum where the citizens vote on it or you can adopt the change as a Board. The process for adopting the change by the Board requires a lot of legal hoop jumping. She provided details on the process. The Brunswick County Board of Elections has advised us that in addition to the state requirements, they would require notification before the next filing date. She explained the process would not be able to be completed in time for the filing requirement. If it is up for referendum it would be voted on this election and implemented the following one. Attorney Fox said there are at least three bills that have been introduced in the General Assembly regarding municipal elections that could impact the elections.

*Commissioner Royal amended his motion to enact a resolution to be voted on this election cycle to implement staggered terms (for a referendum);*

Attorney Fox said we can meet that deadline.

*Mayor Pro Tem Fletcher agreed to the amendment.*

Town Manager Hewett said technically the Board of Commissioners includes the mayor. He asked if what is being discussed is just the five commissioners or includes the mayor. Commissioner Royal said his intent was just for the commissioners and asked Mayor Holden's opinion. Mayor Holden said he will do as the Board chooses. He said it would be great if you have someone with experience, but if they don't, it can take them time to learn.

*The motion passed by unanimous vote.*

## **DISCUSSION AND POSSIBLE ACTION ON LOCKWOOD FOLLY INLET FUNDING**

Shoreline Protection and Recreation Manager Ferguson said since the last meeting, the Brunswick County Board of Commissioners appropriated \$140,000 to dredge the inlet. The State has agreed to pay their portion. The County is asking Holden Beach and Oak Island to reimburse \$35,000 each. Dredging would happen the end of June, first of July. This would be the Merritt, the sidecaster and would not put sand on the beach. The second part of the budget amendment is to stabilize the sand on the east end for fence and vegetation. Commissioner Freer asked if the total of \$30,000 would do the whole east end. Shoreline Protection and Recreation Manager Ferguson replied based on what we are hearing from the contractor. Commissioner Freer said that doesn't do sand nourishment but it opens the inlet so we can talk about maintenance and nourishment in the future on the east end. Shoreline Protection and Recreation Manager Ferguson responded that he is correct.

*Motion by Commissioner Royal to appropriate the funds as requested; second by Mayor Pro Tem Fletcher; approved by unanimous vote.*

## **TOWN MANAGER'S REPORT**

- Thanks to the Beautification Club for their work at Town Hall. Every year they keep up the appearance of the area.
- No new flood map status.
- Building permits are up. As of today we have 25 new homes in some phase of construction.
- Beach Ranger Program is coming to a head. We are in the vetting process for establishing the personnel. Equipment is prepped. Feel strongly will be ready for Memorial Day weekend.
- Terminal Groin Status - Final engineering edits have been provided to the third party contractor and should be to the Corps' legal group by the end of the week. The schedule for the Final Environmental Impact Study to be published is to be determined.
- Jordan Boulevard and the Other Streets to be Paved – had a preconstruction meeting with the contractor. Pending a small job wrap up we should start that within the next two weeks.
- Water Tank Status – Public Works Director Clemmons is installing a new shut off valve. Should be finished later this week. Should be online by the weekend.
- Playground shade sails will be back up tomorrow.
- Hurricane Matthew repairs are wrapping up. All eight walkways that were damaged have been repaired and are ready for opening day.
- Our last four damaged sewer valve pit repairs are underway.
- Central Reach Project – demobilization is complete. Finalizing the payables. Was told today that North Carolina shuts off payments at the end of May and throughout June. Sand fence installation should wrap up this week. Looking at moving right into vegetation planting. The contractor could be on the beach through July 4<sup>th</sup>.
- Sewer vulnerability report to the Board will be taking place on May 19<sup>th</sup> at 9:00 a.m.
- Budget Message was published yesterday. It is now available on the website. Public hearing is scheduled for June 9<sup>th</sup> at 9:00 a.m.
- Pickleball tournament seemed to be a success.
- Summer concert season kicks off May 28<sup>th</sup> with Steve Owens and Summertime. Shoreline Protection and Recreation Manager Ferguson has worked really hard on the lineup and did a great job.
- Paint it Purple Cancer Survivors' Ice Cream Social is Friday at 1:30 p.m.

Commissioner Royal said he noticed that the people are now using trucks for rollbacks, instead of golf carts. Town Manager Hewett explained that is now a contractor operation. Commissioner Royal said they are stopping in the road for every trash can moved. He would like to consider if it is feasible to use golf carts. Mayor Pro Tem Fletcher asked if he is correct that golf carts not allowed on the sidewalks. Town Manager Hewett said golf carts are construed to be motor vehicles and agreed they shouldn't be on the sidewalk.

## **MAYOR'S COMMENTS**

- Attended a meeting at the Holden Beach Marina a few days ago in regards to the Lockwood Folly Inlet. Was discouraged when he got there because the meeting was being held upstairs. The room was full of people so some people couldn't hear. Without objection from the commissioners, he would like to ask

Town Manager Hewett to offer use of this room or the maintenance building for the group to meet. The Board agreed.

- Trash Cans – sure the commissioners have received a lot of comments and emails. Looking forward to some relief on that subject
- John McIntyre, the kite man doesn't get enough accolades. Asked him to stand up. Unbelievable the comments the Town gets. Knows how hard he and his team works. Really makes it a fun feeling when you come across the bridge and see all the bright kites. Lynn Holden said he gets lots of comments on them at his store too. Mr. McIntyre said he teamed up with Dave Parson.
- Asked about the water tank. Town Manager Hewett said the contractor had some issues with relocating the communication antennas and it slipped the entire schedule back. The tank is empty while being painted and we can't go through summer with it empty. Will reengage after Labor Day. The color will be the same scheme as before due to the cost.
- The election is coming. Encourages anyone who is interested in serving. Tell your neighbors and friends. Does plan to run for office this coming year.

## **BOARD OF COMMISSIONERS' COMMENTS**

Mayor Pro Tem Fletcher

- Sorry we took so long tonight. Had a lot of things to cover. Appreciates the participation. Have some pretty serious issues to deal with. Working as hard as we can.

Commissioner Royal

- Thanked everyone for coming, listening and offering input. When he is voting he pays attention to if it is legal, is it safe, does it make sense and does it set a precedent. Learned no decision is black or white or comes quickly.
- Thanked committees that support the Town; Beautification Club, the Parks & Recreation Advisory Board and the Town staff that supports those. Has developed some sensitivity to the staff because they are the folks implementing things.

Commissioner Freer

- Offered thanks to Shoreline Protection and Recreation Manager Ferguson for Saturday and Sunday of the Pickleball Tournament. It was a big success and people thought it was well run. Looking forward to the next one.
- Sewer Vulnerability Workshop is Friday. Looks forward to working with McGill and the citizens that made the recommendation earlier.

Commissioner Isenhour

- Was glad that Judge Lewis and Mr. Flattery from the Opioid Task Force came tonight. Glad at Holden Beach we don't see some of the same issues but we do see it countywide. If there is anything the Town can do to support the Task Force in the future, hopes that we can.

Commissioner Kyser

- Thanked everyone for coming.

- Unless you help fly the kites, you don't realize how much work it is. If you happen to be driving by, he always appreciates help.
- Thanked Ava Pailthorp for coming tonight. She gave the Board lots of information that was important to hear. Will hopefully get together with the Town attorney next month and figure something out.

**PUBLIC COMMENTS ON GENERAL ITEMS**

Chuck Ellenbaum discussed his concerns with needing to put the trash at the curb, instead of Waste Industries taking it from the garbage rack. He talked about what tourists see and the safety of children. His wife sent an email detailing their concerns. Mr. Ellenbaum said recycling bins should be picked up every week and that the brush pickups have been invaluable.

**ADJOURNMENT**

*Motion by Commissioner Royal to adjourn at 9:58 p.m.; second by Mayor Pro Tem Fletcher; approved by unanimous vote.*

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J. Alan Holden, Mayor

ATTEST:

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Heather Finnell, Town Clerk