



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
REGULAR MEETING
TUESDAY, SEPTEMBER 19, 2017 – 7:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, September 19, 2017 at 7:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem John Fletcher; Commissioners Peter Freer and Ken Kyser; Town Manager David W. Hewett; Town Clerk Heather Finnell; Police Chief Wally Layne; Public Works Director Chris Clemmons; Building Official Tim Evans; Shoreline Protection and Recreation Manager Christy Ferguson; and Town Attorney Noel Fox. Commissioner Ashley Royal was unable to attend the meeting. Commissioner Kim Isenhour resigned and was not in attendance.

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

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

Town Manager Hewett requested that Item 11 be removed from tonight's agenda. Staff has more work to do on that item.

Motion by Commissioner Freer to remove Item 11; second by Mayor Pro Tem Fletcher; approved by unanimous vote.

Mayor Holden said we have a resignation from one of our commissioners that no longer lives at Holden Beach. He would like the Board to consider an opportunity for the Town Attorney to explain the options to fill the vacancy. He suggested adding the item as Item 7a.

Motion by Commissioner Freer to add the item; second by Mayor Pro Tem Fletcher; approved by unanimous vote.

Commissioner Freer inquired about the voting process since the whole Board wasn't in attendance. Mayor Holden suggested having the clerk explain that as Item 7b. Commissioner Freer would like to hear the information now because it affects what he wants to do. Mayor Holden said the Board needs to approve the agenda first.

Motion by Commissioner Freer to reschedule the Board of Commissioners' November meeting. He would like to add that as Item 7b.

Motion by Commissioner Freer to approve the amended agenda; second by Mayor Pro Tem Fletcher; approved by unanimous vote.

Town Clerk Finnell explained the voting process since not all of the Board members were present.

APPROVAL OF MINUTES

Motion by Mayor Pro Tem Fletcher to approve the minutes of the Regular Meeting of August 15, 2017 as written; second by Commissioner Freer; approved by unanimous vote.

PUBLIC COMMENTS ON AGENDA ITEMS

Dennis Harrington said he would like to encourage the Board to select Mr. Green's firm as the engineer for the sewer system upgrade. Mr. Green was an invaluable asset to the sewer committee, which he served on. Mike Sullivan, the chair of the committee was unable to attend tonight's meeting. Mr. Harrington said Mr. Green is a local resident that lives here part time so he has a vested interest in the project. He would like the Board to give full consideration to awarding the contract to Mr. Green's company.

POLICE REPORT – CHIEF LAYNE

- Made it through another tourist season. Fairly quiet crime wise. Cautioned everyone that break-in season is not far away. Keep an eye out for your neighbor. Call the Police Department if you see something suspicious.
- Will be glad when hurricane season is over. Hopes Maria stays away. Don't let your guard down and make sure your plan is in order.
- Should finish up annual in-service training required by the state this Thursday.

OPTIONS ON VACANT SEAT OF THE BOARD – ATTORNEY FOX

Attorney Fox said we have a commissioner seat that is vacant. North Carolina law does prescribe a manner for vacancies to be filled. She said it is up to the Board to determine how they will fill the vacancy. The preferred method is by nomination and ballot. You can also do it by motion and a vote. There is no statutory timeline to appoint someone. The statute says shall, but doesn't give the timeline. Attorney Fox reviewed potential ways the Board could appoint someone and the reasoning for filling the vacancy.

RESCHEDULE BOARD OF COMMISSIONERS' NOVEMBER MEETING

Commissioner Freer would like to reschedule the November meeting. Mayor Holden asked if they should include Commissioner Royal. The Board agreed. Commissioner Freer would like to move the meeting to the Tuesday before. He understands the Town Attorney won't be able to attend, but he doesn't expect any major business to be discussed at that meeting. He would like to see this item on the October agenda. He said there shouldn't be a conflict with the December meeting date.

DISCUSSION AND POSSIBLE SELECTION OF ENGINEERING FIRM FOR ENGINEERING DESIGN AND CONSTRUCTION MANAGEMENT SERVICES OF THE VACUUM SEWER SYSTEM #4 UPGRADE

Public Works Director Clemmons provided background on the process up to this point. This year's budget reflects funds to make some of the improvements recommended in the study. We are talking about starting with Pump Station #4. He is asking the Board to make a selection of an engineer off of the qualifications in the packets. Right now, we are looking at the engineer's qualifications, which is the first step. Town Manager Hewett explained what the engineering services are for. The final design will be brought to the Board. Tonight the Board is selecting an engineering firm based on their qualifications. He stated that they will approve a contract with that engineer at the next meeting. The Board is authorizing him to negotiate a contract to bring back to the Board for their approval. By law, you base the decision for an engineer solely on qualifications, then the contract price is subject to negotiation. If we can't come to an agreement on the terms of employment, you can go to the next proposal. Attorney Fox added that is straight out of the statutes.

Commissioner Freer said both firms are highly qualified. He said the Board received notes from two Sewer Advisory Committee members recommending Green Engineering. He said that in the Green proposal two of his partners were firms that subcontracted work (structural and electrical) on the current system. It was explained they were subcontractors with the original system. They didn't approve the design, they did a bid to do the work that was presented to them. He had a conversation with Mr. Green about that. Commissioner Freer said a couple of other things that came up in his conversation with Mr. Green is that McGill is local and is much larger than Mr. Green's firm. He said both of those introduce a level of risk that he will consider. Commissioner Kyser said he is leaning more towards Green, solely because some of the subcontractors he will be using for some of the design work may be the same people that worked on the original system. They should have a good working knowledge of how the system was designed which should make the process easier with less problems. Mayor Pro Tem Fletcher said they are both highly qualified companies. He said the Town had a lot of support from the Sewer Advisory Committee. He is very impressed with McGill, but is a little uncomfortable making the decision without Commissioner Royal. He said Mike Sullivan, the chair of the Sewer Advisory Committee is also not here. He proposed having a special meeting when Commissioner Royal and Mr. Sullivan are back. He said it is a close vote for him. He stated he sways toward McGill because they are here and they are larger. Also, he saw and liked what they do. He said Green looks really strong on paper and the committee is very supportive of them.

Motion by Mayor Pro Tem Fletcher to defer this decision to the next meeting, which would be a special meeting.

Mayor Pro Tem Fletcher clarified he meant to call a special meeting. Town Manager Hewett explained the decision is at the pleasure of the board. They can make the decision at a special meeting or at the next regular meeting. The Board talked about the timing of the meeting and the project.

REQUEST BY THE PLANNING & ZONING BOARD FOR ADDITIONAL TIME FOR THE PARKING CITIZEN ADVISORY BOARD TO COMPLETE ITS WORK AND FOR THE PLANNING AND ZONING BOARD TO ADOPT A REPORT TO PRESENT TO THE BOARD

Motion by Mayor Pro Tem Fletcher to approve the request by the Planning & Zoning Board to extend their time requirement; second by Commissioner Kyser.

Commissioner Freer said he believes they are asking for three months. Commissioner Kyser said he believes it says 60 days.

The motion passed by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 17-11, AN ORDINANCE AMENDING SECTION 94.03, FRONTAL DUNE POLICY AND REGULATIONS, OF THE HOLDEN BEACH CODE OF ORDINANCES

Building Official Evans explained this is housekeeping. In the ordinance that is in place now, we have a reference that was an attempt to clarify who would designate what the frontal dunes were. In that effort, they gave an official name to our local permitting officer that didn't fit. It gave the impression that a state agent could enforce our local zoning ordinance. That was never the case. They can't enforce it, their rules won't let them enforce it. Building Official Evans explained we are taking out "a NC State Division of Coastal Management official" and replacing it with "the Town's Local Certified CAMA Official." Mayor Pro Tem Fletcher asked if it would change the current protocol. Building Official Evans replied no, the Town has always done it. Wilmington or an official out of Raleigh cannot enforce our ordinances. The local official is a NC Division of Coastal Management official, but the wording is such that it looks like someone from CAMA is making the decision, even though it is a local ordinance.

Motion by Commissioner Kyser to approve it; second by Mayor Pro Tem Fletcher.

Commissioner Freer inquired if there was ever a state CAMA officer that would come and define the frontal dunes. Building Official Evans said not in the capacity of this ordinance. They can't enforce our ordinance. Commissioner Freer stated he wants to make it clear that it was never the case and it isn't being changed. Building Official Evans explained the current process and why it is confusing. Town Manager Hewett stated that the wording in the current ordinance could be a result of the Town not having its own CAMA officer at the time the ordinance was established. Attorney Fox explained that section originally passed in 1998 and has been amended several times, most recently in 2003. Commissioner Freer said he likes the idea that if there is a problem someone has somewhere to go. Building Official Evans reviewed the process for designating the frontal dune. Attorney Fox explained the appeal process. Building Official Evans added information about the appeal and variance process. He explained how it holds up construction when people call CAMA directly. Mayor Pro Tem Fletcher asked that in the future the Board be provided with more details beforehand.

The motion passed by unanimous vote.

REQUEST FOR SPEED REDUCING DEVICES ON SHELL DRIVE

Joel Batchelor said he represents the property owners on Shell Drive and that they receive a great deal of traffic on their street. He said people use the street as a turnaround. He said they have 12 – 15 kids on their street, most falling in the range of two to five. Mr. Batchelor said when people are leaving the street, they are leaving at an unsafe speed. He would like a speed reducing device to be installed. He provided the Board with informational packets and said the device that is best to serve their needs is the zero to five miles per hour device. He also provided a diagram of where he would put the devices.

Chief Layne said in the time he has been here, this is the third request for speed bumps he has received personally. He doesn't do speed bumps, so he suggested Mr. Batchelor talk to the Board or Town Manager. He said he can't say if it is a good or bad idea. He said it is shown that they slow people down. Mr. Batchelor said for him it is a safety issue. He said it is a nominal cost for the safety they will get.

Mayor Pro Tem Fletcher asked what is entailed with something like this. Town Manager Hewett said he thinks the Board needs some more information. He would like to see what our insurance company says about speed bumps and would like to gather some information from the Grand Strand Metropolitan Planning Organization and bring that back to the Board. Attorney Fox said this is a perfect example of something under our form of government that should be tasked to staff. The Town Manager and staff should be directed to determine the criteria that will be set for the next request. The Town needs some sort of a process or it will be overrun by requests. Mayor Pro Tem Fletcher asked to put the item on the next agenda. Town Manager Hewett said he doesn't see a problem gathering information on the two items he spoke of by the October agenda, but establishing criteria may be another evolution. He said he can take care of the first two things.

Commissioner Freer explained how signage telling people there is no turnaround on the street might be helpful. Mr. Batchelor said it might be helpful, but it won't slow vehicles coming or going. Commissioner Freer said there is a sign that is hard to see by the gate, but it explains how to turn around.

Mayor Holden said some of you were here when we went through these battles in the 80s and 90s. He cautioned the Board that before they take any action, they make sure everyone in the area knows. He suggested the Town notify everyone on the street before taking action. Commissioner Kyser agreed, the Board was just hammered for a similar matter by another street. If we are going to do something, we need to contact everybody there to make sure they have an opportunity for input. Mr. Batchelor said the Property Owners Association recently had a meeting about this.

TOWN MANAGER'S REPORT

- Flood Map Status – we are still at September, plus six months. We recently received a letter that they approved the petition for some Serenity Lane properties. Appropriate panels have been amended. There has been a 30-day comment period. Should get a letter of final determination this month.
- Lockwood Folly Inlet – got the dredging done before Irma hit us. Showed a slide of the most recent survey. This is the post construction survey. We don't have a survey to see what Irma did in the inlet. Have it on good authority that there were large waves breaking. These surveys are mean low water

depths. Mayor Pro Tem Fletcher said the Intracoastal is getting bad again. Town Manager Hewett replied the inner bar is usually about an 18-month cycle and is not usually as dynamic as the outer bar.

- Beach Nourishment Projects' Status – this is subjective, doesn't have survey data. Believe the berm held up well for both projects. There was some run up across the lip that went up to the sand fence and into the first or second line of vegetation, but there was no wave velocity damage or erosion that damaged the fences or vegetation. We are now sliding into the monitoring phase of the project. West of the project, we did see some damage. Commissioner Freer asked if there was beach erosion due to Irma. Town Manager Hewett answered that he didn't know. Subjectively, he does not believe that there was erosion from it. We do an annual survey. We haven't quantified it with a total island survey. He explained disaster events have to come under a state declaration in order to receive funds.
- FEMA money (Irene and Matthew funds to date) - been reimbursed \$3.63 million of the \$6.93 million we were approved for. This past week, the Governor's office announced that FEMA has suspended all public assistance and hazard mitigation funding. Contacted the NC Division of Emergency Management. They say that the Town is in good shape and our reimbursements shouldn't have any problem coming in. Seems to be conflicting stories. Still continuing to process the reimbursements.
- Sewer Lift Stations Vulnerability –all four gensets are operational. Had two power outages. Both gensets were active for six - eight hours during those events.
- Water Tower – painting prep has resumed.
- Bridgeveiw Park – all elements have been completed, with the exception of the splashpad, which is under contract. Do have security cameras operational in the park.
- September 16th was the Coastal Cleanup. Had over 50 volunteers participate.

MAYOR'S COMMENTS

- Had a rental house that experienced a fire. The cause of the fire was that the renter brought a pet turtle with him and left it in the house with a heat lamp over the turtle. The lamp set the carpet on fire. The turtle survived.
- Read a letter from Dr. David Tart and his wife commending the Public Works Department for their good service.
- Reminded everyone we are in the dead center of the serious hurricane season. We need to expect the possibility of activity for at least another seven more weeks. Believes we will be okay with Maria, but thinks there will be a good possibility we will get wind and water. Glad we made it through another summer.
- Thinks the strand is overall in good shape.

BOARD OF COMMISSIONERS' COMMENTS

Mayor Pro Tem Fletcher

- Turtle season is coming to an end. Have about eight nests left. They probably all have been washed over enough that they won't be active. The year was good, had 50 nests.
- Wish we had more people here tonight. Coming up on election time. Voting is critical at all levels, so make sure you vote.
- Thanked everyone for coming.

Commissioner Freer

- Everyone should vote for every election. Running for reelection. There are still some things that need to be considered and some actions to be taken, mostly around the sewer stations and parking. Encouraged everyone to vote.
- Thanked everyone for coming.

Commissioner Kyser

- Thanked everyone for coming.
- According to the emails he received Boo at the Beach is the same night as Candidates' Night.

PUBLIC COMMENTS ON GENERAL ITEMS

Sheila Young said she thinks Boo at the Beach and Candidates' Night was brought up at the Property Owners' last meeting. She said in regard to Item 8 she understands the explanation of looking at the two firms. She asked if the Town was required by law to have a bidding process. Attorney Fox said this is a RFQ, not a RFP. She explained the process of a RFQ. Commissioner Kyser added the Board hasn't selected who would construct the project, they are selecting an engineer to design it.

Dennis Harrington said he doesn't think the sound system is fixed. He thought the bids had already been submitted regarding the sewer. He said Mr. Green provided estimates on the repairs when working on the committee. He thinks if he was given the opportunity to design and bid the project, he would be extremely fair because of his vested interest in this project. He believes the outcome of the Sewer Advisory Committee and McGill are somewhat the same. Mr. Harrington said he thinks it was discussed and the most opportune way to go about this was to do the repairs to Station 2, not 4. He thinks the Board needs to dig into it deeper. He said the RFQ is confusing. Mayor Pro Tem Fletcher explained that Town Manager Hewett will enter into negotiations with the company the Board picks and if it doesn't work out, he will go to the next company. Commissioner Freer said there is nothing in Mr. Green's proposal that points out Station 2 versus 4 and he thinks the Board went through that.

ADJOURNMENT

Motion by Mayor Pro Tem Fletcher to adjourn at 8:24 p.m.; second by Commissioner Freer, approved by unanimous vote.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk