Town of Holden Beach
Board of Commissioners
Regular Meeting

Tuesday, October 23, 2018
7:00 PM

Holden Beach Town Hall
Public Assembly
1. Invocation

2. Call to Order/ Welcome

3. Pledge of Allegiance

4. Agenda Approval

5. Approval of Minutes
   a. Minutes of the Special Meeting of August 6, 2018 (Pages 1 – 13)
   b. Minutes of the Regular Meeting of August 21, 2018 (Pages 14 – 26)
   c. Minutes of the Special Meeting of August 30, 2018 (Pages 27 – 36)

6. Public Comments on Agenda Items

7. Discussion and Possible Action on Poyner Spruill LLP Presentation Concerning Consulting Services – Mayor Holden

8. Discussion and Possible Action – Attorney Clark Wright Presenting Potential Impacts to Holden Beach Shoreline Protection Efforts Due to Federal Litigation Between National Audubon Society (Southern Environmental Law Center) and Ocean Isle Beach – Commissioner Freer and Commissioner Fletcher

9. Brunswick Avenue Paving Options – Shane Lippard, Right Angle Engineering (Town Manager Hewett) (Page 37)
   a. Discussion of Alternatives and Direction to Staff

10. Discussion and Consideration of Professional Engineering Report for Second Water Tower – Shane Lippard, Right Angle (Town Manager Hewett) (Pages 38 – 49)
   a. Direction to Staff

12. Resolution 18-11, Designation of Applicant’s Agent (Hurricane Florence Resolution) – Assistant Town Manager Ferguson (Page 55)

13. Receipt of Inlet and Beach Protection Board Report – Commissioner Freer (Page 56)

14. Police Report – Chief Wally Layne (Page 57)

15. Discussion and Possible Action – Construction Management Services of the Vacuum Sewer System #4 Upgrade Status Report – Public Works Director Clemmons

16. Discussion and Possible Action - As a Follow-up to the Implementation of Parking Action Steps Identified by P&Z/ Citizens' Advisory Group and Approved by the Commissioners Last December the Following is Recommended (Commissioner Butler and Commissioner Freer): (Page 58)

   1. After the 2018 Summer Season, Review the Phase 1 Progress of the Approved Action Steps Outlined on Page 2 of the April 17, 2018 BOC Regular Meeting Agenda

17. Discussion and Possible Action on Solid Waste Agreement and Items Relating to Solid Waste Management – Town Manager Hewett (Pages 59 – 64)

   a. Amendment to Solid Waste and Recyclable Collection, Transportation and Disposal Agreement
   c. Resolution 18-12, Resolution Amending the Holden Beach Fee Schedule

18. First Draft of Revisions to Town of Holden Beach Code of Ordinances, Chapter 50: Solid Waste – Commissioner Kwiatkowski (Pages 65 – 70)

19. Status of the Internal Control Audit – Town Manager Hewett (Commissioner Freer)

20. Recognition of 2018 Pelican Award from the North Carolina Coastal Federation to the Town of Holden Beach Board of Commissioners for Outstanding Leadership and Dedication to Keep Our Coast Accessible and Public – Commissioner Butler and Commissioner Freer

21. Discussion of Activities and Timelines to Re-conduct the Determination of Maximum Sewer and Water System Development Fees and Subsequently Set “Permanent Fees” Before the End of 2018 – Commissioner Kwiatkowski

22. Discussion of Possible Ramifications of State Funded Dare Dredge and Action Plan for the Town to Begin the Process of Getting Service – Commissioner Kwiatkowski (Pages 71 – 79)

23. Recognition of Assistant Town Manager Ferguson for Earning Certified Park & Recreation Executive Status – Town Manager Hewett

24. Town Manager’s Report

25. Mayor’s Comments

26. Board of Commissioners’ Comments

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27. Public Comments on General Items

28. Executive Session Pursuant to North Carolina General Statute 143-318.11(A)(3), To Consult with the Town Attorney

29. Adjournment
TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
SPECIAL MEETING
MONDAY, AUGUST 6, 2018 – 1:00 P.M.

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Special Meeting on Monday, August 6, 2018 at 1:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem Mike Sullivan; Commissioners Pat Kwiatkowski, Joe Butler, John Fletcher and Peter Freer; Town Manager David W. Hewett; Town Clerk Heather Finnell; Planning Director Tim Evans; CAMA/Zoning Official Rhonda Wooten; Police Chief Wally Layne; and Fiscal Operations Clerk Margaret Lancaster. Attorney Noel Fox arrived at 11:25 a.m. She was in Superior Court.

PUBLIC HEARING: FIRM MAP ADOPTION AND AMENDMENTS TO THE FLOOD DAMAGE PREVENTION ORDINANCE

Mayor Holden called the public hearing to order. The documents in the back of the room ran out. CAMA/Zoning Official Wooten provided more copies of the agenda.

Planning Director Evans explained the process up to this date. The ordinance is the model coastal version of the federal ordinance. The differences are those that are required. The NC Department of Public Safety has reviewed the document twice and feel like they would approve it if it came to them. The ordinance does have some changes, but they are part of the new model ordinance. The new building code and the new model ordinance have some components in them that are interlocked. By incorporating the components into the ordinance, the Town will get more CRS points. The Planning & Zoning Board (P&Z) wrote a consistency statement for this. The difference between this and what P&Z reviewed is that the technical bulletins are now incorporated, instead of just being referenced.

Mayor Pro Tem Sullivan asked for confirmation that the document today has been preapproved by FEMA. Planning Director Evans agreed. Commissioner Freer said there are some changes. It is one year versus two years for substantial improvements. Planning Director Evans explained why the impact of that should be minimal. Commissioner Freer asked about the coastal designation. He understands there will be a coastal designation different from the flood zones from off of the beach. Planning Director Evans said they might not have wave actions, but they do have A and V zones. Commissioner Freer asked the impact if the Board wanted to change any detail of this in the future. Planning Director Evans explained you can make a text amendment, but you need to be careful of doing something that would ruin the CRS rating. He confirmed that the ordinance was reviewed by the Town attorney and staff. He concurs this is the document that should be passed.
The Board discussed changing the order of hearing public comments. Mayor Holden announced the floor is open for public comments.

Dennis Harrington asked how the new flood ordinance impacts the current base flood plain and building height on the island. Planning Director Evans explained the Town’s buildings are designed on a two foot freeboard from the BFE. All BFEs are coming down. They still measure the same way so if you are in an area where it drops two feet the house should be two feet lower than the one next to it.

Christine Potter asked about structural improvements to a home. Planning Director Evans explained that substantial improvement is when you improve your house more than 50% of what the structural value is. There are about four methods to determine that. He as the building official determines if the numbers used are the fair market value. The technical bulletin gives you several methods. He provided an example.

Mayor Holden declared the public hearing closed at 1:18 p.m.

DISCUSSION AND POSSIBLE APPROVAL OF FIRM AND AMENDMENTS TO THE FLOOD DAMAGE PREVENTION ORDINANCE

Planning Director Evans read the proposed statement of consistency and said Attorney Fox has reviewed all of the documents.

Motion by Commissioner Fletcher that the statement of consistency be approved; second by Commissioner Freer; approved by unanimous vote.

Planning Director Evans explained the FIRM process and read the proposed resolution.

Motion by Commissioner Fletcher to approve Resolution 18-09, Resolution to Adopt the Effective Flood Insurance Study and its Accompanying Flood Insurance Rate Maps (FIRM); second by Commissioner Butler; approved by unanimous vote.

Motion by Commissioner Fletcher to approve Ordinance 18-13, An Ordinance Amending the Holden Beach Code of Ordinances, Chapter 154: Flood Damage Prevention; second by Commissioner Kwiatkowski; approved by unanimous vote.

PUBLIC COMMENTS ON AGENDA ITEMS

Elaine Jordan said she is the general counsel for the Coastal companies and she is here to talk about the item on system development fees. She said after July 1st building permit fees increased dramatically. She said there was confusion and surprise. She provided the Board copies of information from the website that was listed in March. She said when you read it, it doesn’t give an understanding that what is coming up is a huge potential increase in building permit fees. Ms. Jordan said she sees the questions in the Board’s packets and it seems to her there is some of the same confusion among the Board. She said we need to fix this problem. She said other areas didn’t increase as much as Holden
Beach. Holden Beach increased building permit fees to the maximum. She read from House Bill 436. She said the building permit application fees being requested now will burden new development. Ms. Jordan wants the proposed questions answered and for this to be fixed.

Barbara Andrews stated she called an appraiser and they said they won’t be able to appraise a house because the fees went up. They need to wait until the market absorbs the fees. She said it will affect the new construction appraisals negatively. Ms. Andrews said the builders’ margins are so narrow, they can’t afford to raise the permit fees that much and then expect to get them from the customers.

Gerald Brown asked why the rates had to increase so much on building permits. He provided an example; he said the fee is going from $7,000 to $22,000. He explained that people are outraged. He said we need capital improvements, but it should be a shared cost. Everyone should participate, not just the new people coming in.

Rick Nelson from Coastal asked if the commissioners did the calculations and if they were aware of the actual numbers. He wants to make sure the impact to the island is clear. He stated based on the fees they are facing they are looking at focusing their work in other areas. He said it also means loss of real estate sales. To him, it would be fair if it was shared across the whole island for all residents.

DISCUSSION AND POSSIBLE ACTION ON THE DEPARTMENT OF TRANSPORTATION’S REQUEST FOR A RECOMMENDATION ON SAFETY RAIL FOR THE HOLDEN BEACH BRIDGE

Chad Kimes and Anthony Law from the NC Department of Transportation were in attendance. Mr. Kimes explained they have a bridge rehab project coming up and provided background details. The HB Bridge is considered a high value bridge. He talked about the scope of work. They attempted to let this once. The bids came back high. They decided to change the scope a little and described the details. They want to add the railing system into this project. The existing railing doesn’t meet guidelines for cycling and pedestrians. The existing railing is only 27” high. A brand new structure is 54” high. Federal requirements are 48”; that’s what they are proposing for the HB Bridge. Mr. Kimes reviewed the two options they feel would work best. The intent is to re-let the project in September. They need feedback from the Town as soon as possible so they can put the guidelines in the project.

Town Manager Hewett asked if they have an estimate on the amount the railing would cost. Mr. Kimes replied between $1.5 and $2 million. Town Manager Hewett inquired if there would be a penalty if this isn’t installed. Mr. Kimes responded that they would prefer it be installed, it comes down to safety being a priority. Town Manager Hewett said to his knowledge there has not been any safety incidents since it has been built. He inquired about the potential for reprogramming that safety money into paving Ocean Boulevard. He said the bridge wasn’t designed as a pedestrian overpass onto the beach. Mr. Kimes answered that they are two different pots of money and they can’t be swapped. They will look at Ocean Boulevard and see where it stands on the resurfacing list. Mayor Holden stated at the GSATS meeting he always brings this topic up and it is his understanding that March 2019 is when resurfacing will take place. He asked for verification on that.
Mr. Kimes confirmed there is no cost to the Town for the safety railing. Commissioner Kwiatkowski stated she prefers the horizontal model, it won’t cause strobing problems. Commissioner Fletcher said from the perspective of seeing the beauty of the island when crossing the bridge, he would prefer the horizontal. Commissioner Freer agrees. Commissioner Butler stated it concerns him that people would try to climb on the horizontal rails. He heard Town Manager Hewett say the bridge wasn’t intended for bicycling or walking. He inquired if this would be sending a message that it’s okay to cross. Commissioner Kwiatkowski said people do ride their bikes over the bridge, as do mopeds.

*Motion by Mayor Pro Tem Sullivan to adopt the horizontal railings; second by Commissioner Fletcher.*

Mayor Holden asked for confirmation that the Board is blessing the one part of the proposal. Mr. Kimes confirmed that is correct. Commissioner Freer stated he is okay with what they are looking at. Mayor Holden confirmed they are looking at an aluminum finish.

*Mayor Holden confirmed they are voting on three rails, like the picture in an aluminum finish.*

*The motion passed by a 4-1 vote with Mayor Pro Tem Sullivan and Commissioners Kwiatkowski, Fletcher and Freer voting for the motion and Commissioner Butler voting in the negative.*

Mayor Holden asked what materials they will use for the dolphins. Mr. Kimes said he believes they would be wooden, but he can send him the details from the plan. Mayor Holden asked if there are any other alterations to the design other than the rails. Mr. Kimes replied that is it. The bridge deck will have a brand new riding deck and there will be the rails, so it will appear as a new bridge. The timeframe is about 18 months. Traffic will always be flowing, but they can do lane closures. He talked about lane closure timeframes. He needs a list of events from the Town so the bridge can be open during those times. Mayor Holden asked if house moving can continue. Mr. Kimes responded that it shouldn’t be a problem.

**DISCUSSION AND POSSIBLE ACTION ON WASTE AND RECYCLE ISSUES**

Commissioner Kwiatkowski explained the background on this item.

Commissioner Kwiatkowski said we had two different options raised concerning recycling: the opt-out option and the other was to continue the voluntary program. A problem that was raised with the opt-out program is that you would have to pay for the cans. If a lot of people opt-out, it is an investment and storage issue. Commissioner Freer stated if we are going to be on the hook, it is pretty easy to say voluntary. Commissioner Butler agreed because the Town would need to pay for the cans and store them. Mayor Pro Tem Sullivan said he was the advocate of the opt-out option. Once we got into the details it seems clear that the voluntary program is the one the Town should pursue. Commissioner Fletcher said the chapel has a blue can and it’s overflowing. He explained other people are using it. He is on the voluntary side. Commissioner Kwiatkowski agreed she thinks voluntary is the way to go. She said they will put voluntary forward in a couple of weeks.
Commissioner Kwiatkowski said there was discussion of going to every Tuesday for recycling from mid-May to the end of September timeframe. Waste Industries cannot provide Saturday pickup so it would be weekly on Tuesday. If the change is made, it adds about $20 - $25 for the overall cost. Commissioner Kwiatkowski would like to see weekly during the summer because she thinks it would help the rentals. The program would be for everyone participating in the recycling program if they do it. Commissioner Fletcher asked if there is an issue saying the second can for the rental homes’ ordinance could be a blue can. Commissioner Kwiatkowski stated she thinks it would be pushing it to go to one of each. She thinks recycling is in addition to the garbage cans. Commissioner Fletcher said there are two people at his house. They pack the recycling bin, but only use about half the can for the regular solid waste. Commissioner Kwiatkowski said she believes the rental houses need both. Town Manager Hewett said to remember that the requirement for extra cans is for rental properties only. The Town’s solid waste contract is a three year contract. Mayor Pro Tem Sullivan pointed out that individuals could opt out though, so it isn’t a three year contract for people who subscribe. Commissioner Freer inquired if the change could be tried out for one year. Town Clerk Finnell stated that the former manager, Greg Brinkley has said the Town could try it for a year, but he is no longer with Waste Industries. His replacement has agreed to honor the rates, but she is not sure about if it could be done on a temporary basis. Mayor Pro Tem Sullivan said the individuals can opt out and taking that into consideration he would be in favor of expanding the service to weekly in the summer. It might also help with the overflowing trash can problem. He is in the program and would not be imposing something on someone that he isn’t imposing on himself. The Board agreed weekly is a good idea in the summer. Town Manager Hewett stated he will follow up and check what’s required for the change. Mayor Pro Tem Sullivan said if the Town does this we will need to collaborate with the rental companies to inform them of the change.

Commissioner Kwiatkowski stated she believes the Board needs to rework the solid waste ordinance with the Town attorney’s opinion. We need to better define the waste types, firm up the policies, make some strong suggestions on the time to put it at the curb and remove it from the curb and where to store containers. She thinks the cans should be under or at houses because they can be a blowing hazard otherwise. She said getting the cans back to the shade would be good. She said we need to clarify what constitutes citable violations and have an enforcement policy and fines better described. Commissioner Kwiatkowski wants to do this in a way that we can educate and get the word out as far in advance as possible for next season. She would like the commissioners to authorize that we do some work on the ordinances to try and improve them and start bringing the suggestions to the meeting in September. Commissioner Freer asked if it would make sense to send this to the Planning & Zoning Board (P&Z). Commissioner Kwiatkowski said she thinks this is Public Works and staff. She offered to write down her ideas and give it to staff. Mayor Pro Tem Sullivan suggested if the Town is going down that road we will need to hire someone to be an enforcement agent and that we should look at the cost and details for that. Commissioner Kwiatkowski said she doesn’t disagree, but she would like to see where we get with the ordinance and then revisit it. Commissioner Freer said right now Planning Director Evans does the enforcement. Planning Director Evans stated that if they see areas that have accumulated trash or notice homes without enough cans, they contact homeowners. Commissioner Fletcher asked Town Manager Hewett’s input on if staff should do the work or if it should go to P&Z. Town Manager Hewett replied that one of things they are currently developing is a data set that will allow for easier identification of compliance. It will probably be another month before it is finalized.
would like to have that developed so we can assess how bad the circumstance is. He thinks Public Works Director Clemmons would be the point person on this. It would be helpful if some specifics are identified. Commissioner Kwiatkowski provided some examples of what needs to be addressed to take care of the problem. She will send some ideas and wording for staff to look at. She suggested other commissioners do the same. Town Manager Hewett said to send the ideas to Town Clerk Fin nell.

Town Manager Hewett said staff is making good progress on the data set. He talked about paragraph E in Section 50.04. He said the current wording does not work for enforcement.

Commissioner Kwiatkowski said her memory is the yard waste is being used considerably more than what was envisioned and that we were going to keep it for the foreseeable future. She added that efforts would be made to keep educating people on the rules for pickup and the contractor is keeping track of what people are doing wrong. Town Manager Hewett said we haven’t had the fall pickup occur yet so we don’t have complete data. The Board agreed to continue to monitor it.

Rollback – Commissioner Kwiatkowski said with a preference to not increase our budget, she is interested in what the Board thinks is the best solution. Commissioner Butler stated it is frightening now. Commissioner Fletcher said we have a significant number of weekend vacation homes. They are not there so if their neighbors don’t roll those back, they don’t get rolled back. Commissioner Freer said the service the Town has now isn’t working. Town Manager Hewett explained that the rollback contractors doesn’t roll full cans back. He said the logic is that if nobody is in the home, the trash could stay there a long time. After discussion, Commissioner Kwiatkowski said she believes the contractor should rollback full cans. Town Manager Hewett stated he had a conversation with the rollback contractor. He knows the solid waste report recommends getting rid of the corals, but the contractor said if it was mandatory to have corals at the road, he can push them out Friday and do rollback Saturday. The contractor doesn’t foresee it as being more expensive because the cans would be at the road and he wouldn’t have to push them to the house. Commissioner Kwiatkowski said the current cost is about $34,000. She said Oak Island charges their property owners for the service. Her problem with the corals is when a storm hits. She feels securing them under or near the house is a better place for them. Right now there is no consistency with the corals. Commissioner Butler added we have the recycling cans as well. He asked if the Town or the people using the service pay. Town Manager Hewett replied it is paid from occupancy tax. Commissioner Kwiatkowski inquired if the service is needed on both days or in the offseason. Commissioner Freer said Oak Island charges people for the service if they are using it. Commissioner Kwiatkowski said she doesn’t know the details of how they charge. Town Manager Hawett is not sure if it is a contract with the Town or with the subscriber. He will need to check. Mayor Pro Tem Sullivan said it seems to him it all comes down to enforcement. He suggested the Town leave it status quo until we enforce the new rules and then reassess. He said use education and enforcement and then see if we need to do something differently after a year. Commissioner Butler stated that whatever we do, we need to give everyone significant time to make the adjustment. Commissioner Freer said he thinks there are a lot of people who are in the position that they can’t adhere to the rules. He said Oak Island created a solution where it cost more money, but they get better service. Commissioner Kwiatkowski asked Town Manager Hewett to check with Oak Island and then the Board can revisit this.
Commissioner Kwiatkowski said there is the question of if the rental management companies should be responsible for hauling cans, full or empty, after the established deadline. She believes the Town should produce educational material for property owners and rental agents once things are refined. We will need to do some pretty heavy education, with consistent messaging. Commissioner Freer said he thinks the homeowner is responsible, not the rental agency. Rental management companies’ role was further discussed.

Commissioner Kwiatkowski summarized the discussion:
- Voluntary recycling, weekly on Tuesday during the summer, every other Tuesday the rest of the year.
- Work on the ordinances to give them more meat, more explanation and more information on citable violations, enforcement and fines.
- Audit procedure for rentals is well underway.
- Rollback service needs to be left as is for now. Will all think about it.
- Need to develop educational materials once we change the policies so the rental management companies have up-to-date information in time to develop the next year’s materials.

Commissioner Kwiatkowski talked about the timeline in her backup information. She said to send ordinance improvement suggestions to Town Clerk Finnell.

**DISCUSSION AND POSSIBLE ACTION ON BOATING ACCESS AREA PARKING**

Mayor Holden said this item is on the agenda following a communication he received from NC Wildlife Resources Commission’s Deputy Director of Operations, Erik Christofferson. They are getting complaints concerning parking. Chief Layne said he is not sure the origin of the complaints and doesn’t know the specifics of the complaint. His understanding is the Police Department was supposedly writing parking tickets at the Wildlife Boating Ramp, which is state property. To date, the Police Department has written no tickets on state property. His guess is someone may have received a ticket in the public area across from the ramp, which is Town property. Chief Layne explained what is considered state parking. A couple of years ago, we did put some signs in the Pavilion area saying no boats or trailers because we had parking problems. Town Manager Hewett clarified what we are talking about is state right-of-way (ROW), which falls within the footprint of the bridge. Commissioner Freer said we write tickets on Ocean Boulevard, which is also state owned. Chief Layne replied we are dealing with two different entities of the state. Ocean Boulevard is DOT, they don’t care if we ticket on Ocean Boulevard. The Wildlife Ramp belongs to NC Wildlife.

Commissioner Freer said this note is inaccurate. Commissioner Butler stated he sent emails to Town Manager Hewett about this. He thanked Town Manager Hewett and Chief Layne for looking into this. He said this seemed serious and he felt the Town needed to take action real quick. He thinks the letter was not warranted and the facts don’t add up. He looked at the boating access locator. It says there are a total of 15 boat/ trailer spaces. Chief Layne said you probably find upwards of 40 here on an average weekend. Commissioner Butler said that area is not adequate anymore. People are parking in the designated parking areas identified by the citizens’ committee. He would like to respond to this and indicate what our findings are, including that we didn’t have any tickets issued and there is
insufficient parking. We can ask the state to come down and evaluate what can be done. Mayor Pro Temp Sullivan stated before we ask the state to come in and make an assessment we should make sure they don’t have other properties they could take control of. Commissioner Fletcher asked that Mayor Holden respond and ask for specifics on the tickets issued. He doesn’t think this happened. Commissioner Kwiatkowski said she thinks the first step is answering politely that we have checked and can confirm that we have no tickets issued in this area. We can think about if there are additional steps the Board wants to address. Attorney Fox said she would be happy to send the email.

The Board came to consensus that Attorney Fox will write a response.

**DISCUSSION AND POSSIBLE ACTION TO REVISE TOWN ORDINANCE 18-07**

Commissioner Butler read the current Section K from the ordinance. He said there should have been more documentation included in the ordinance. He was referring to the nine designated parking areas when he previously brought this up. He recommended to further clarify Section K and include the statement about the nine designated parking areas. He said someone asked what if someone parks in the ROW on their lot. This verbiage says someone can park in the ROW. Commissioner Freer stated this is a first step. If parking in ROW in the middle of the night becomes an issue, we can address that. Commissioner Butler said at the end of the season the Town is supposed to assess and evaluate the parking situation. Mayor Pro Temp Sullivan reviewed the process from the beginning. He said everything done was in conjunction with trying to limit parking in the ROW. After discussion, the Board agreed to leave ROW parking as it was and also decided to take out the 72 hour parking restriction and put no parking from 2:00 a.m. – 5:00 a.m. Mayor Pro Temp Sullivan said the Board took the least intrusive and complicated way to meet the goals set out by the advisory committee and they instituted it by making the limited changes that were made. He asked if people would prefer to have someone park under the bridge from 2:00 a.m. – 5:00 a.m. or would you prefer someone next to the home. He thinks the current language takes care of the vast majority in the best way possible. Commissioner Fletcher said the island is covered with people who park in the ROW at their own home. Commissioner Butler stated the Town has a number of residents who need to park in that ROW. Commissioner Kwiatkowski said she thought one of the intents was that the way people would declare that the area is not open to parking is to put shrubbery or potted plants in. So if someone is saying this isn’t a legal parking place, they will have items up. Mayor Pro Temp Sullivan asked if the Police Department is issuing summons for parking in the ROW next to homes from 2:00 a.m. – 5:00 a.m. Chief Layne answered that they do not, they exercise extreme amounts of discretion. Mayor Pro Temp Sullivan said the Police Department has discretion, knows the intent of the law and will enforce it with that intent. Commissioner Butler stated there were eight citations and eight warnings issued in public lots. He likes the idea of issuing a warning first. Chief Layne said that is possible if the person is there. Commissioner Butler said we have folks who have a need to park in that ROW. After discussion, Chief Layne stated he is fine with the current wording. They ticket people in the public parking areas, but use discretion with people in the ROW in front of homes.
DISCUSSION AND POSSIBLE ACTION TO DIRECT TOWN MANAGER TO CREATE FREQUENTLY ASKED QUESTIONS (FAQ) TO ADDRESS QUESTIONS REGARDING NEW SYSTEM DEVELOPMENT FEES FOR PUBLIC WATER AND SEWER SYSTEM FOR REVIEW AND APPROVAL FOR NEXT BOC MEETING

Commissioner Freer said the questions in the packet are questions received from different people within the Town. He thinks it is important to take a look back and understand the justification. It was a recommendation from McGill to charge the fees. He would like to take a second look. Commissioner Fletcher stated that the Audit Committee was asked to examine the document and the work by the engineering firm to see if they did the calculation correctly using the formulas that were allowed to be used and the answer was yes, they did. He said they recommended that the maximum that could be charged would be the rate. He said the town manager also recommended that the Board charge that fee. We now have a month’s worth of experience and he is curious if there is an impact on the permits going down. Planning Director Evans replied that some months have more than others. He thinks they may have collected the fees once. People are taking permits back, changing the number of bedrooms and are waiting to see if the Board will change the fee. He explained you have to remember for the homes that are three bedrooms, we are not collecting anything.

Attorney Fox said what the Board adopted came out of a case called Quality Homes. The legislature’s solution was House Bill 436 which provided enabling legislation to municipalities for system development fees, but they are required to follow a very specific process for determining the need for system development fees. It could not be done in house. It had to be done by an outside professional. It had to be posted for 45 days for public comments. No comments were received during the 45 days. If there were comments, the professional who the Town needed to hire would have needed to take each comment received and review and make a recommendation back to the Board based on the comments. It had to be adopted by July 1st. As a Board, you are able to adopt a fee less than what the professional recommended, but it is important to know that the recommendation came after not just the Audit Committee, but after the outside professional looked through the infrastructure needs of this specific town and determined what this Town’s needs are for collection of things that will impact the system in the future. The previous fees the Town charged must go away, this is the replacement for that. It encompasses a bunch of moving parts that municipalities have been forced to adhere to.

Planning Director Evans said they have collected the fees for two bedrooms, roughly $14,000. It was a five bedroom so they paid for two bedrooms (credit for three bedrooms). He believes for that one they hadn’t paid their water assessment fee which was additional. Commissioner Fletcher asked if every permit gets the three bedroom exclusion. Planning Director Evans replied not all of them, it is according to what they have already paid for. Commissioner Butler asked if it would cost him roughly $20,577 if he built a three bedroom house and came in for a permit. Planning Director Evans said roughly somewhere around there. Town Manager Hewett said if you haven’t paid your sewer fee previously. Commissioner Butler asked what that the cost would be if he did pay previously and is now building a three bedroom house. Town Manager Hewett said $5,000 for water. Planning Director Evans explained that these are not building permit fees, they are system development fees that are being collected at the Building & Inspections Department. Building fees actually went down. The average cost for a five bedroom house if they already paid their water and their sewer is now roughly $7,000, plus almost $14,000, the permit fee being $7,000. Mayor Holden asked how much the one house who paid was
charged. Planning Director Evans responded over $20,000. One of the reasons it was higher was because it hadn’t paid its water assessment.

Commissioner Freer said people didn’t respond during the comment period. He thinks it is important to get the FAQs out now. Commissioner Fletcher said if we lose the buildings, we will lose the taxes and if they are rental homes, we lose the rental income. He said it could be very expensive if this impacts the tendency to build on the island. Mayor Pro Tem Sullivan asked if McGill took into consideration the upgrades to the sewer system when they did its computations and the potential cost for the new water tower. Town Manager Hewett replied the fee for the mitigation and repair to the sewer system cannot be included, but the second water is an allowable expense. The cost of replacing capacity is what the costs are predicated on. Mayor Pro Tem Sullivan asked the average increase in revenue for new construction in the past few years. Town Manager Hewett explained our tax base has been fairly consistent, although it has increased some. He would need to check that. Planning Director Evans stated that structural value ranges from $10 million to $22 million per year. Mayor Pro Tem Sullivan inquired what that comes to if you are figuring the tax rate. Commissioner Kwiatkowski said we are talking in the range of $30,000 – $35,000, at $0.22 on $100.

The Board talked about the process and revisiting this item. Commissioner Freer said what is on the agenda is asking Town Manager Hewett to answer the questions. He said if he needs to go to McGill that is fine. Commissioner Kwiatkowski asked if we will need to pay McGill for doing extra work. Town Manager Hewett replied yes. Mayor Holden asked if the Town could retroactively refund people if the commissioners were to change the fees. Attorney Fox replied she thinks it would be on a moving forward basis. It would be a change to the fee schedule and the budget. She will look at it. She talked about the process. She said you can lower the rate, you just can’t go over the maximum amount.

Town Manager Hewett asked for clarification on the Board’s expectation to answer the questions. He thinks that since the questions are follow-ons to the official report rendered by McGill that we need to have them assist with preparing the answers to the questions. August 21st is two weeks out and he doesn’t know their availability to respond to the request. The Board asked for Town Manager Hewett to follow-up with them.

DISCUSSION AND POSSIBLE CLARIFICATION OF ROLE OF THE AUDIT COMMITTEE AND THE CHAIR OF THE AUDIT COMMITTEE

Commissioner Freer stated he thinks there was discussion and misunderstanding about the Audit Committee’s role. There are two audits taking place right now, the annual audit and the internal control audit. His understanding was that the chair of the Audit Committee was going to be involved in every meeting with the internal control auditors and that did not happen. He wants to take the time to clarify the Audit Committee’s role in the audits. Commissioner Fletcher said he thinks when the Board resurrected the Audit Committee the intention was that the Audit Committee would support the Board by assessing internal controls, selecting an auditor for the Board to approve, working with the auditor and looking at the final audit. He said what has come to pass is an interpretation of the Town that the only thing the Audit Committee is supposed to do is look at the final report. He said once the auditor has reported finally, it is done. You can’t change it. He thought the Board wanted the committee to
work with the auditor to make sure the issues were resolved and to make sure internal controls were implemented properly. Commissioner Fletcher said when he tried to meet with the auditor this year he was told he couldn’t do that, that the Board only wanted the Audit Committee to meet with the auditor when the final report was issued. He said last year the Audit Committee didn’t get the report. This year they didn’t get it until January. He stated everyone has the best practices from the Government Financial Officers Association in Chicago. He has talked to the CEO a number of times about these issues and has gone to the Local Government Commission, the League of Municipalities and senior partners of big audit firms. Commissioner Fletcher said they are all in agreement that the best practices is the right way to go. He is asking the Board to clarify the role they want the Audit Committee to perform over the next few months.

Motion by Commissioner Fletcher that the BOC confirm the following bylaws for the Audit Committee. He would like to separate them in parts.

With regard to the annual audit of the Town’s annual financial statements, the Audit Committee will provide oversite of the work performed by the independent accounting firm.

Commissioner Fletcher said everyone at the table has the document he is reading from. Town Manager Hewett stated he has not seen one. The public does not have a copy. Commissioner Kwiatkowski said in the Rules of Procedure, when the Board receives documents at an actual meeting, they were not going to approve them at that meeting. The Board could discuss them for approval at the next meeting when the public sees it. She stated this is another case when she is confronted with something at the meeting and you are asking me to approve it with no time to consider it and the public hasn’t seen it. This goes against the proposed rules on how we are going to operate that the Board just accepted. Commissioner Freer said last month, the Board directed the Town to have the Audit Committee chair be in all of the meetings and that didn’t happen. He said this is a result of that. Commissioner Kwiatkowski said in 2016, the Audit Committee was asked in the ordinance to establish bylaws. She believes that is what this is, but it should be the entire committee that establishes the bylaws per the ordinance. Attorney Fox said the existing ordinance does require that the committee adopt bylaws and then bring them to the Board for consideration. She said she hasn’t seen the bylaws so she is unsure what they say, but she has reviewed the Government Finance Officers Best Practices and there is another entity that might be better for a municipality, which is the Association of Local Government Auditors. One of the best practices suggests the elimination of the Sunshine Law, but also the best practices state that all of the members of the committee have to be members of the governing board. That’s how local areas operate. They have a balance of governing board members, citizens. Some don’t have citizens. After she saw this agenda item, she reached out to lawyers across the state and took a poll as to how they have their committees. She does have information that she would be happy to share. Commissioner Fletcher said he asked to have an Audit Committee meeting and was denied. Town Clerk Finnell said that during their conversation she said the Audit Committee has not met with the auditor in the past and felt more comfortable if the Board was okay with them meeting. She said she cannot deny the Audit Committee from having a meeting. Commissioner Kwiatkowski stated she doesn’t think the Board has any problem with a value added activity. She said that in going back, the entire Audit Committee has to develop the bylaws. She would assume the attorney would also want to
see them and then they could be brought to the Board for discussion and approval. She said it isn’t the content, it is the procedure.

Commissioner Fletcher asked the Board to authorize the chair of the Audit Committee to call a meeting to do that. Commissioner Kwiatkowski and Commissioner Freer agreed with the request. Town Clerk Finnell said the Board does not need to do that. He is the chair of the committee and he just needs to let her know. She apologized if she misunderstood her during their conversation, her advice was just that it never was done before. Commissioner Fletcher said he will call a meeting of the Audit Committee to establish bylaws before the next Board meeting.

Mayor Holden said on page 2 it says the Audit Committee meeting chair alone or with another member of the Audit Committee or the entire Audit Committee may meet with any external firms hired, He said that sounds reasonable, but what concerns him is the authority implied by whoever the representative is at the meeting. He asked if they could give any directives or requests or if they are there to observe. Commissioner Fletcher said they are there to collect information to bring back to the Board. The Audit Committee represents and supports the Board in its oversight. He said it has no authority to make decisions. Mayor Holden said he doesn’t have a problem with the Board having representatives to monitor things, but he does have a concern with any committee appointed by the commissioners feeling like they have authority to represent the wishes of the Board unless they are directed to do so specifically. Commissioner Fletcher said they are an investigator for the Board that brings information back to the Board. Mayor Holden said he hasn’t had the chance to review it. It seems it can be presented to the Board in time to read it.

Commissioner Butler asked if Commissioner Fletcher is being invited to the meetings with the auditor. Commissioner Fletcher replied he sat with the new auditor. He sat with the internal auditor also after the review began.

Commissioner Fletcher said for things to go smoother in the future, the Board needs to know what it wants the Audit Committee to do and authorize it to be done. He will set an Audit Committee meeting. Commissioner Kwiatkowski suggested that he take into account Mayor Holden’s comments.

Mayor Holden inquired if the contracts address the possibility of the Town having representatives in place during the meetings and possibly participating. After discussion, Attorney Fox said she believes one of the contracts calls for an hourly rate. Commissioner Fletcher said if the Board has the right Audit chair, they won’t have a problem with that because the auditor would be more than happy to talk to an Audit Committee member and make sure everything is smooth in the audit.

Mayor Pro Tem Sullivan asked that Commissioner Fletcher have the Audit Committee meet and approve the proposed bylaws in time to have them included in the next packet.

PUBLIC COMMENTS

Dolly Mitchell stated she has been here since 1976 and trash is worse now than she has ever seen it. She just wanted to make it clear that rollback is for Ocean Boulevard only. Mrs. Mitchell said at one
point she pulled the bylaws of all of the committees. Under the Audit Committee it says they serve for a term of one year. She doesn’t remember any advertisement for openings on that committee. She talked about the selection process. She appreciates the work the Audit Committee is doing, but is unsure if the guidelines as they were originally written are being followed.

Elaine Jordan asked the Board to look at the conclusion of the engineer's report where it says the Town may elect to charge less than the cost justified system development fee documented in the report. That is what they are asking the Board to do. Ms. Jordan doesn’t think additional engineering analysis is required. She said the fees are a burden. She said they are asking that the Board charge less and she appreciates expedited consideration because building permit applications are being withheld.

Rick Nelson stated that even though the proper protocol is being followed, the question is about how much people knew at the time. He spoke to every member in the Building Inspections Department. He said they were all equally as surprised when these numbers came out as the contractors. He added Mayor Holden’s own construction company didn’t know about it. He said to argue that the public knew about it is crazy. He said the information was buried and covered up.

Gina Martin thanked the Board for addressing the trash issue. This is the worst she has ever seen it in the seven years she has lived here fulltime. She said the island looks like a trash dump. She stated some of the things mentioned may be corrective. She said rules are listed in rental literature. She stated you can’t force anyone to comply. Mayor Holden’s company takes care of trash that isn’t collected. She believes if the Town could develop a relationship with some of the companies it may help. Mrs. Martin said she as a company owner would find it difficult to fine an out of town homeowner if their trash can isn’t put out in time, unless you hire staff and write down who is out of compliance.

ADJOURNMENT

Motion by Commissioner Fletcher to adjourn at 4:05 p.m.; second by Commissioner Butler; approved by unanimous vote.

______________________________
J. Alan Holden, Mayor

ATTEST:

______________________________
Heather Finnell, Town Clerk
TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
REGULAR MEETING
TUESDAY, AUGUST 21, 2018 – 7:00 P.M.

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, August 21, 2018 at 7:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem Mike Sullivan; Commissioners Pat Kwiatkowski, Joe Butler, John Fletcher and Peter Freer; Town Manager David W. Hewett; Town Clerk Heather Finnell, Assistant Town Manager Christy Ferguson; Public Works Director Chris Clemmons; Police Chief Wally Layne; Planning Director Tim Evans; 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 Commissioner Fletcher to approve the agenda as presented; second by Commissioner Butler; approved by unanimous vote.

APPROVAL OF MINUTES

Motion by Commissioner Kwiatkowski to approve all of the minutes (Special Meeting of July 10, 2018, Regular Meeting of July 10, 2018, Special Meeting of July 24, 2018 and Special Meeting of August 10, 2018); second by Commissioner Freer; approved by unanimous vote.

PUBLIC COMMENTS ON AGENDA ITEMS

Anne Arnold said she is deeply troubled by the decision of the Board to accept the recommendation by the town manager to adopt the highest possible system development fees allowed by the engineer report. She stated the details weren’t examined closely before making the decision to adopt Resolution 18-05 and that the fee is based on flawed information. She said the Board has the ability to rectify the problem and they should do it now. Ms. Arnold suggested that the commissioners need to get rid of the fee and form a citizens’ advisory committee to be involved in the process to fix it. She asked people who agreed with her to stand up. Numerous people stood up.
Tyler Newman works for BASE (Business Alliance for a Sound Economy), an advocacy organization. He sent the Board a letter Friday expressing their concerns with the system development fees. He thinks it will be a trickle-down effect when you have such a high fee. He encouraged the Board to take a look at it. Mr. Newman asked that the Board revert the fees back to where they were on June 30th and then engage a second opinion for the water and sewer fee study. He said the Town’s was done by an engineering firm, a lot of other localities around the state used an accounting firm. Mr. Newman said the purpose of the study was to establish the maximum fee; you can set any amount below that. He thinks there are some duplicative costs in the study.

Tim Minton with the NC Homebuilders Association stated he was one of folks who worked on House Bill 436 and House Bill 826, which was to make some clarifications to the system development fees. He explained he worked with the League and the County Commissioners Association and their goal was to come up with a statewide system that all types of water systems and authorities could use. He talked about their goals. Mr. Minton received reports from all over the state. He provided information on average numbers he has seen.

David Bond said he recently bought an oceanfront lot with the intention of having Jerry Baker build a spec house, however with the new fees he is not going to build it unless the Town reverts back to the old system. He said he did assessments of other towns and we will price ourselves out of the market. Mr. Bond stated that building is the backbone of the island. He asked the Board to reconsider the fees.

Brian Murdock said he is a builder and these fees cannot be sustained. He said he is unsure if the Board knew what they were when they passed them or who it would affect. He stated this will benefit 95 – 100 people who are lot owners on the island that never paid the original sewer share fee. He isn’t sure why it wasn’t mandatory to pay. On June 30th it was $13,500. If the Town collected that from the 100 people it would be $1.3 million. Mr. Murdock said the fees implemented are not sustainable. He hasn’t pulled a permit since this passed and he won’t.

Gerald Brown stated the fees came out of nowhere; when you are going to set those kind of fees the public needs to be more aware of what is going on. He advised the Board to have as many meetings as they need to work it out. He said the town manager works for the Board and the Board works for the people. He wants the people to look at it and to be able to have a say. He talked about the cost of building since the new fees were adopted. Mr. Brown said the Town has a great Inspections Department and the Town should listen to its director.

Ronda Dixon said all of her points were already covered.

**GUEST SPEAKER, FRAN WAY, ATM – UPDATE ON PROGRESS OF THE ANNUAL BEACH MONITORING REPORT AND ASSOCIATED LOCKWOOD FOLLY INLET INFORMATION**

Fran Way from Applied Technology and Management explained that about one and a half years ago, the Town had two nourishment projects, the Central Reach Project and the East End Project. We put about 1.5 million cubic yards of material on the beach. It helped a lot, especially since Matthew and the amount of damage associated with the storm. This year in the annual monitoring it showed the
beach equilibrated as we expected. We did lose some upper beach, but it went into the near shore. In terms of total volume, with no nourishments, we calculated a gain of about 400,000 cubic yards. This is a good indicator that some of the sand lost offshore from Matthew is coming back onshore. They are still working on the annual monitoring report. It was a nice surprise to see about 400,000 cubic yards moving back into the system.

Mr. Way said there has been lots of articles about several different operations in the Lockwood Folly Inlet. They are trying to stay on top of that. They firmly believe the Town should have priority to that sand. The east end was the only section of the beach that lost material this year. It needs more attention than the rest of the beach. Any changes to the system, with moving sand and putting it elsewhere can further damage the east end. They will work with the Town to make sure we are the highest priority.

Commissioner Butler said Mr. Way mentioned the articles. It is very concerning to him where all this stands. He is not sure the information being put out is accurate. He said there is a legitimate concern concerning the mouth of the inlet and the 200,000 cubic yards of sand that is permitted. Mr. Way stated he coordinates with Town Manager Hewett and Assistant Town Manager Ferguson quite a bit and they coordinate with other municipalities. It seems most of the articles have been pretty accurate, the numbers do change. There are three different projects. They will talk about it at the meeting on Thursday. They are trying to follow all three. Mayor Pro Tem Sullivan asked if the 400,000 cubic yards was for the length of the entire island or in the central reach. Mr. Way replied it was the entire island. The central reach showed a majority of the gain at about 80%. It was pretty even on the shoreline, except for on the east end. The east end gets a little more complicated.

POLICE REPORT – CHIEF WALLY LAYNE

- It’s been a fairly typical summer other than we did have a drowning a few weeks ago. A young man from Charlotte was in the water when the rip currents were bad. Two other people went in after him and one of those folks ended up going to the hospital as well.
- Detective Jeremy Dixon is a few short weeks from finishing up at the FBI Academy. He graduates September 14th. Will be glad to get him back.
- No major crime waves on the island.
- Two more weeks until his favorite holiday, Labor Day.

Commissioner Freer said last month we had about 100 parking events, this month only 22. Chief Layne said traffic has slowed down and schools up north have started back so it hasn’t been as bad. Commissioner Freer stated this report is for the month of July. Chief Layne explained that the numbers given to the Board last time was for everything from Memorial Day to the 4th of July. It is posted on the sign and we have done a lot to educate people.
DISCUSSION AND POSSIBLE ACTION – SYSTEM DEVELOPMENT FEES FOR PUBLIC WATER AND SEWER SYSTEM

Commissioner Freer thanked everyone who addressed this. He has received a lot of emails and calls. He said the adoption of the ordinance proposing a substantial increase to the Town’s sewer and water fee needs to be reevaluated and highly likely replaced. He inquired if the Town could return the fees to the status quo before July 1st. Attorney Fox explained if you were going to charge system development fees you were required to do so by July 1st per House Bill (HB) 436. You can repeal what the Board adopted, but you can’t reinstate the previous fees charged. Commissioner Freer stated the Board needs to consider all of the issues, review all of the options and listen to the public comments based on all of the facts. He thinks that necessitates calling a special meeting as soon as possible. The Town was required to use a professional engineer to calculate a maximum fee, but it isn’t required to impose the maximum fee. Commissioner Freer said he didn’t know the current development fee so he didn’t know how big the increase adopting the calculated maximum fee was. He assumed the proposed increase wasn’t as significant as it was. He said it didn’t occur to him that the Board would be presented a nearly threefold increase in a very significant fee, without pointing out that fact to the Board and the public. Commissioner Freer said that fact wasn’t apparent from the report or the ordinance voted on. He said they should not have assumed, they should have asked the hard questions and demanded answers. He stated this mistake can be revised, but the implications of the maximum fee were not understood and no other options were presented.

Commissioner Butler said hopefully everyone could hear the attorney because he was going to have the attorney explain why it is not possible to convert back to the previous fee prior to July 1st. He said the implementation process for rollout of the water and sewer fee requirements outlined in HB 436 was skewed for a number of reasons that were already stated. He added that looking back in hindsight there were a number of issues that surfaced from the commissioners and the public after the commissioners voted. The information outlined in the engineer’s report was not an easy read. He thinks that during the meeting, the engineer indicated that the calculations were a difficult calculation. Commissioner Butler said he read the report about twelve different times and every time he read it he learned something different. At the time of presentation there was a lot of information to digest in the session. He said it may have been more helpful to provide alternatives that better helped to understand and justify the rationale of identifying the development fees. He has since learned a number of steps within the process could have been handled differently. Commissioner Butler said he has a few suggestions: 1) there should have been more time and a process implementation plan identified that would have helped for a successful implementation, 2) finalize a question and answer document that will help explain HB 436. That is currently underway and we will check the status of that. When we have that we need to call a special meeting, 3) what original information was given to McGill identifying the basis for calculating the development fees, to include a full understanding of what the numbers mean, 4) plan to have a special meeting that would be dedicated to explaining and reviewing the contents and highlights of HB 436. This would also include how the equivalent unit (ERU) of $20,577 was calculated for a three bedroom dwelling, 5) remember if an individual didn’t pay the required sewer fee, his understanding is it has to be paid before the building permit would be issued, 6) Town staff needs to be involved on the front end of the development process so they can provide expertise to help with a smoother implementation and 7) based on previous input there needs to be clarification
or an understanding of what habitable living area is defined as in HB 436. Commissioner Butler said it is our responsibility to implement the bill and the expectation is that the inspector will receive the correct information. Habitable living area is defined as a room or enclosed floor space used or intended to be used for living or sleeping. He thanked everyone for expressing their views.

Commissioner Kwiatkowski stated she understood the report, understood what the numbers were and understood what an added bedroom would be. She doesn’t understand why during the public comment period nothing was said, nobody asked questions. She said in the absence of comment, in the absence of reservations, silence is consent. She said she comes from business; she has gone to the government before when they proposed something and said this isn’t going to work because it is her job to say you put something out there that isn’t going to work. So you also bear some responsibility for where we are today because it was out there. Commissioner Kwiatkowski said the Board will go through it again with everyone, listen and do the right thing, but when you are confronted with something like this in the future stand up and speak during the public comment period. Let the Board know what you are thinking before the decision is made.

Mayor Pro Tem Sullivan said he agrees with Commissioner Kwiatkowski. He knew what he was voting on and you would too if you read the report. He said there are three clear instances in the report where it tells you it will cost $20,577. Even if you don’t know how they got to the calculation, if someone told him that a cost he was paying at $13,000 was going to become $20,577 he would have asked questions. It was posted and you had 45 days to read it. He said people need to take some responsibility on themselves. It is a lot easier for the Board to look at something when people come in with their professional ability and give him the advantage of that. Mayor Pro Tem Sullivan said he is willing to look at it again, he doesn’t say it is perfect. He knew what he was voting on and people should have known too.

Commissioner Fletcher said obviously you can see we have some disagreements. In the last meeting, he made a comment, but he was misinformed. He stated he owed an apology to the inspector because it suggested he did something he hadn’t done. He believes the inspector, his honesty and integrity are not in question. If he mislead you with his comment about his involvement in the process, please disregard it. Commissioner Fletcher said while you may be at fault for not showing up, he was elected to look after your material for you. He said it is his fault. He has been at it for 65 years and should have known better. He stated he didn’t ask enough questions and didn’t understand what the impact would be. Commissioner Fletcher said if you came earlier and shared that he would have known and taken action, but he didn’t understand how big of an impact it would be on the building. He views his job as making the finances of the Town solid. That means we need building to go on so we get more taxes from building. A lot of those will be rental incomes that we depend on to pay our bills. He will do everything he can to make sure we don’t have a fee that will have a detrimental impact on the property values, on the work environment for the builders and for people’s desire to build a house. He thinks the Board will repeal the decision. They will have a meeting to do that and replace it with something else. He will endeavor to keep it as reasonable as it can be and get what we need done, but have no adverse impact on the builders that work here or the property values and tax income.
Commissioner Freer stated the action item won’t happen tonight. They will schedule a special meeting and make it known to the community. They want everyone involved in the special meeting. We have the FAQS started. We will dive much deeper, look at options and the impact and will do it as soon as possible.

DISCUSSION AND POSSIBLE ACTION – CONSTRUCTION MANAGEMENT SERVICES OF THE VACUUM SEWER SYSTEM #4 UPGRADE STATUS REPORT

Public Works Director Clemmons stated the sewer system construction is underway. The contractor mobilized at the end of July. The columns for the upper level have been poured. By the end of the week placement of the forms for the elevated slab should be complete. According to the engineer’s schedule, the upper level building will start mid-September, with a completion date in October. The scheduled delivery for the pump station equipment to go in the upper level is mid-October. The engineer doesn’t see any issues or delays at this time. He is surprised we got as far as we did with the weather we are having.

Commissioner Butler asked about the potential issue pertaining to steel raised at the last meeting. Public Works Director Clemmons thinks that is behind us. Commissioner Freer said it is worth a few minutes to get an update each month. Commissioner Kwiatkowski drives by it every day and can see progress.

Public Works Director Clemmons said when McGill did the sewer study and they identified potential problems it spoke about candy canes. He believes that people think if we elevate the candy canes it will give us the ability to be on the island when we have 36” of water on the ground. Being the operator he doesn’t see that as possible. In the report it identified it would cost about $1.5 million to elevate them, with very little return. He will still need to shut the system down. We do require people to elevate them for all new construction. Public Works Director Clemmons doesn’t think you should try raising all those vents at this point.

DISCUSSION AND POSSIBLE ACTION ON ITEMS RELATING TO SOLID WASTE MANAGEMENT

Commissioner Kwiatkowski explained the Board had a special meeting on August 6th to go over all of the open points on the overall trash issues. The intent was to come to some decisions on August 6th, but to bring them to this meeting so the public would have a chance to comment. She hasn’t received any messages and nobody made any comments at the meeting today. If the Board is still in agreement, the memo on page 61 is what the Board should have the town manager and staff work on. Commissioner Kwiatkowski went over the memo. The recycle program will remain voluntary. To make it more attractive to rental properties in particular, recycling needs to be picked up weekly during the season. Offseason pickup will still occur every other Tuesday. Town staff has a new estimate of the cost if the Town goes to the new pickup schedule. The yard waste program was shown to be utilized more than we previously thought. The decision was made to continue the program through the fall and continue to monitor it. It can be discussed again in the first quarter of 2019. For rental house properties, there is an audit of the number of solid waste containers currently underway. It is anticipated that the audit should be completed around October. Once we get the findings, we can discuss if there are
enough out of sync houses that it is reasonable to think that it is one of the causes of having so much trash on the island this year. If we don’t see many deviations, we will see if there is another way to measure how many trash cans people have. The Town will notify non-compliant property owners to obtain the right number of bins as they identify properties are out of compliance. The rollback program remains under consideration. Options can be discussed in the first quarter of 2019. Commissioner Kwiatkowski stated we need to find some sort of solution so the cans get back to where they need to be. The rollback for next year should be for both full and empty cans. Leaving full cans at the curb is not serving any purpose. Commissioner Freer wanted to clarify if the intent for item 6 is to continue rollback only for Ocean Boulevard. Commissioner Kwiatkowski confirmed yes, it will stay how it is and will be a 2019 challenge to work through how to solve the problem without significantly changing the cost.

Commissioner Kwiatkowski said the existing solid waste ordinance is old and out of date. It needs to be updated to a standard that is more representative of the island today, not the island 20 years ago. We also need to make clarity around what is out of compliance, fines and how it will be done. Town staff will be leading this. She asked the Board to please send their ideas to the clerk by the end of August. It’s possible we might have something by September, definitely by October. The Town will provide a summary of the changes to be enacted in 2019 to property owners and rental property management companies in time for the information to be included in the 2019 rental packages.

Commissioner Kwiatkowski inquired if everyone still agreed this is what the Board wants. Commissioner Butler replied his only question is on the rollback program, but that’s not until the first quarter. When he drives down Ocean Boulevard or Brunswick Avenue, sometimes he needs to dodge garbage cans. He said let’s have a Phase 1 and a Phase 2 because this is something he would like to see taken care of. Commissioner Fletcher said he thinks one of issues will be education, especially for people who own property and are only here for the weekend. Commissioner Kwiatkowski asked if there is a way to implement rollback of full cans now. Public Works Director Clemmons answered that he will find out. Commissioner Kwiatkowski said we will do what we can, but 2019 will be full and empty. She said everyone agrees so this is the proposal and marching orders. Town Manager Hewett explained the Board can’t take action on the updated contract tonight because of the change of the price and the need to pre-audit the contract. We need to amend the fee schedule, which will drive a corresponding budget amendment. We will bring it back to the September meeting if the Board desires. The Board agreed.

DISCUSSION AND POSSIBLE ACTION ON AUDIT COMMITTEE BYLAWS

Commissioner Fletcher said at the last meeting the Board asked him as Audit Committee chair to go back to the Audit Committee and have them approve their bylaws. They made revisions and the vote on the proposed bylaws was 5 – 0. He reviewed the proposed bylaws.

Attorney Fox said by statute the external auditors must give their report to the Board. The Board is charged with the sole responsibility of making certain that requirements by statute are adhered to. That doesn’t mean the Audit Committee can’t participate in the process. It is important that the Audit Committee is a conduit of information. She sent an email to the Board about how other communities
are using these Audit Committees as tools to assist the Board. Her concerns include that the outside accountants are going to report through the Audit Committee to the Board. The independent auditor will be required to come directly to the Board. That doesn’t mean the Audit Committee can’t receive a copy of the report. The Audit Committee can’t make a presentation to the Board on the outside auditor’s report.

Attorney Fox inquired about investigating an irregularity in paragraph 2. Commissioner Fletcher explained if something is identified as going wrong with the billing system, they could go to the Board and ask permission to initiate an investigation. Attorney Fox stated what scares her as a lawyer is it may make someone reading the bylaws think that they have the ability to conduct their own investigation. The Board is charged with that responsibility. If the Audit Committee made the Board aware of an irregularity, the Board should take action. She thinks she understands the intent, but being a lawyer she doesn’t want to leave anything up for interpretation. Commissioner Fletcher stated if the Audit Committee received a report that something is array, they would check it out first and if possible say everything is fine. If there is an issue, they would come to the Board. Attorney Fox said generally bylaws of Audit Committees across the state aren’t so specific with the requests being made in these bylaws. The goal of the Audit Committee should be to facilitate communications through staff to the auditor, to make certain that the Board’s reports are obtained in a timely fashion, and that the Town is on track to provide the information the auditor is required to look at. Attorney Fox talked about the audit process. If the auditor thinks something is wrong they will tell the state. That’s part of the checks and balances.

Commissioner Butler stated that the Town currently has an internal control audit underway. He hasn’t heard anything about it. Attorney Fox stated she thinks the Board can tell the Audit Committee that they want an update on the internal control audit and the Audit Committee can make certain that takes place. That means they should work with staff to make certain all of the information is available.

Commissioner Kwiatkowski said in Part C she thinks they have the right to receive answers to questions. She stated that providing feedback sounds like you would be making suggestions, interfering with the independent accountants. She thinks that they would have the right to receive answers to questions on anything in the draft report. She doesn’t think we want it considered that the Audit Committee is trying to influence something. Also, she was hoping to see in the bylaws information about reviewing quarterly results, which the Audit Committee does. She thinks there could be a meeting schedule proposed since there are quarterly results. She said you could probably set an appropriate meeting to coincide discussion on draft findings in the audit process. Commissioner Kwiatkowski stated she would have liked to see something about calling a special meeting. She thinks a special meeting could be called by the chair and also by two members. Commissioner Fletcher said he thinks the Audit Committee would be happy to amend it going forward. Commissioner Kwiatkowski stated she agrees with everything Attorney Fox said about the information flow, but the decision making rests with the Board. Commissioner Fletcher said the auditor always comes to the Board with the final report. What he is hoping is that what they present to the Board isn’t wrong. Attorney Fox stated she would be happy to give Commissioner Fletcher some of the adopted bylaws from audit committees across the state so he can use them as a guide if that would be helpful. Commissioner Fletcher agreed.
Commissioner Freer said he is okay with doing another draft of the bylaws, but his only issue is that we currently have an internal control audit taking place and we are not getting anything back on it. Commissioner Fletcher said that is on him as the chair to the Audit Committee, but he didn’t get invited to the first meetings. He was advised there wouldn’t be any phases. Attorney Fox asked what information the Board wants. Commissioner Fletcher replied that the Board doesn’t want to see a final report. They want the Audit Committee to be involved in the process, understand the process and get reports back in a timely manner, not after the fact. Commissioner Kwiatkowski added they are looking if there are any findings of concern. Attorney Fox suggested scheduling a meeting to have the auditor come and provide an update. Commissioner Fletcher said he could do that as long as the Board said it’s under his authority. The Board agreed it is okay.

Mayor Pro Tem Sullivan read #2 and asked if having the majority of the Board is in some way outside the Open Meetings Law. Commissioner Fletcher said it is recognized that if it is more than two, it is an open meeting. Mayor Pro Tem Sullivan said it doesn’t say that. Attorney Fox stated she thinks that is why you want the bylaws to say when the regular meetings are, who can call a special meeting and have some overview making it apparent that this advisory board will operate in accordance with the rest of the Town’s committees. She talked about how other communities’ committees are comprised. She thinks the Audit Committee needs to be meeting regularly and have guidelines, which will help with reports and scheduling meetings. Mayor Pro Tem Sullivan said the last time the Board discussed this Attorney Fox pointed out there is a different set of guidelines that can be used. Attorney Fox said she would be happy to share them. Mayor Pro Tem Sullivan said he thinks it would be beneficial to see how other municipalities do it, rather than private enterprises. She confirmed the Audit Committee does not need to have the bylaws in place to schedule a meeting with the internal auditor.

The Board will table this item until the next meeting.

DISCUSSION AND POSSIBLE APPROVAL OF A NORTH CAROLINA PUBLIC BEACH AND COASTAL WATERFRONT GRANT APPLICATION SUBMISSION

Assistant Town Manager Ferguson explained that in the early part of this year, the Parks & Recreation Advisory Board (PRAB) did an exercise where they evaluated Town owned property for beach accesses and rated those for development. There was an opportunity for a pre-application of a grant through the NC Public Beach and Coastal Waterfront Access program. We made it through the pre-application phase. She said to move to the next level, it requires the Board to give their consent to send in a final application. The proposed access is at 289.5 OBW. Based on the estimate we received the total project cost would be $21,780 and we are requesting that this program pay $16,355. It’s a 75/25 split. The PRAB did make a motion to send it to the Board and they support the submission of the final grant. It is due by September 7th.

Motion by Commissioner Kwiatkowski to move forward; second by Commissioner Freer.

Town Manager Hewett asked if the PRAB looked at just beach accesses or if they thought about waterway accesses too. Assistant Town Manager Ferguson replied just the beach.
The motion passed by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF DESIGNATION OF PLANNING & ZONING BOARD, WITH THE ADDITION OF PUBLIC MEMBERS, AS THE LAND USE PLAN STEERING COMMITTEE

Planning Director Evans explained he is asking the Board to approve P&Z as the steering committee for the Land Use Plan. He is also asking for permission to add stakeholders from the community. They would like a minimum of three stakeholders to join P&Z on the committee. He discussed the schedule and explained this committee would need to be in existence longer than 90 days.

Commissioner Freer would like to see plans and feedback to the Board every once in a while, the Board can figure out the details later. Planning Director Evans stated that there is a survey that P&Z will be looking at. He will probably be bringing reports back with the progress since it is a long process. There are a lot of steps required by statute. Commissioner Freer asked who the survey will go to. Planning Director Evans responded that the contractor will send the surveys to all property owners. The committee’s job is to review it and make sure it meets any requirements we have. He said it would be an online survey.

The Board came to a consensus to extend the 90 days and to add stakeholders as required. Planning Director Evans asked that P&Z be allowed to determine the amount of stakeholders to add.

Mayor Holden verified the consensus was in agreement with both issues and P&Z could determine the number of members.

RECOGNITION OF 2018 PELICAN AWARD FROM THE NORTH CAROLINA COASTAL FEDERATION TO THE TOWN OF HOLDEN BEACH BOARD OF COMMISSIONERS FOR OUTSTANDING LEADERSHIP AND DEDICATION TO KEEP OUR COAST ACCESSIBLE AND PUBLIC

Commissioner Freer said he wanted to recognize the Pelican Award. He has a plaque that he will bring to the next meeting. HBPOA and the Dunescape POA were also recognized for the Pelican Award. The award was around not doing the terminal groin. Commissioner Butler said the HBPOA was also recognized, so we really walked away with three awards. He said the work these people do up and down the coast is incredible. There are a bunch of unsung heroes in North Carolina protecting the beaches and waterways. He said there was about 450 people who attended. Commissioner Freer added that he and Commissioner Butler represented the Town at the event.

TOWN MANAGER’S REPORT

- The Inlet and Beach Protection Board’s orientations are almost complete. There is one member of that Board that needs to be briefed by staff.
- Recently completed open meetings and public records training for all of the boards. Had a conversation with Anne Arnold several months ago about needing training for different boards. Hopes to bring that different subject matter training forward to the different boards in the future as a long term goal.
• Canal Dredging Project - solicitations and advertisements are on the street. Had a pre-bid conference last week with four contractors showing up. Looks like we are on track for a September let date. Need to make sure we have sufficient responses back in time to meet the next meeting in September. Depending how it plays out, may need a little tolerance to jam it in at the September meeting. Otherwise the Board will need to call a special meeting and he would hate to lose the time.

• Received the Department of Water Quality permit for the Scotch Bonnet site. Should start having construction there after Labor Day. Will require the closing of the dog park during the construction and the time the dredge spoils are being placed. It will probably take a while to dry out. The earliest he forecasts the area being open to the public is after Memorial Day.

• Kendra McDonald has resigned from the administrative assistant position. Will cover the window with a temporary service until a longer term solution occurs. Officer Michael Hamilton has announced his retirement, effective November 1st. He is the longest serving Town employee. He has been with us since 1988. Will have a going away event and will get the word out to the community once it is scheduled.

• As we start to ramp up for budget exercises one of the takeaways from this year was to take a look at the compensation packages. Started compiling some information. If there are specifics the Board would like included, please feed the information to him and he will make sure to incorporate the inputs.

• FEMA Matthew – still working on $350,000 on the closeout for the project. They visited with us.

• 50 Year Project – haven’t heard back from Wilmington District Commander. Mayor Holden sent a letter asking for an update on the status of the project.

• All the rain lately has illuminated the shortcomings in the stormwater system town-wide. There are some reoccurring hotspots. Have finished the work in Pointe West with the outfall ditch. There is some final grading we need to do, along with some grading on Coquina Drive. Whenever staff intervenes with pumping water it has to be a safety hazard.

MAYOR’S COMMENTS

• Had a training event with staff this month in regards to emergency planning. Thinks we are prepared as good as we can be. People know their roles. Pray to keep the storms away.

• Been in public service for this town for about two decades. Never had the complaints he has had in the recent weeks. Hopefully after tonight some of these issues will go away. Thanked everyone for making him aware of the situation they feel so strongly about. Will figure out how to come out of this. We have some good commissioners that will bring resolution to it.

BOARD OF COMMISSIONERS’ COMMENTS

Mayor Pro Tem Sullivan

• Thanked everyone for coming.

• Appreciates the input, all the notes and letters. Would have appreciated it if he had the benefit of the information before they voted. Would hope the realtors and builders will be as involved in many of the issues on the island as they have been tonight. Hopes to see them at more meetings, expressing what they think is the best way for the Town to go. Took this job to do some good for
the Town. He thinks they all love the Town. His vote after listening to all of the information is what he believes is the best for the most people that own property and live on the island. If his vote changes, it will be because someone brought him information he didn’t have, not information that he failed to consider when he voted the first time.

Commissioner Kwiatkowski
• Agrees with everything Mayor Pro Tem Sullivan said.
• Reminded everyone the Board will have a special meeting in September to try to do some three to five year projections and planning, looking at costs and also revenues and what we can do to increase revenues. We have an objective for our sand fund and have to figure out how we can do that over the next five – ten years. Hopes everyone who is interested in how we can make this island stay a great place to live, keep the beaches up, keep the infrastructure and the economy strong will be able to come to the meeting and offer opinions. If anyone has ideas on ways we could increase revenues or ways to control costs, shoot her an email. Will be having that discussion and doesn’t think it will be the last one the Board has.

Commissioner Butler
• Thanked everyone for attending. Especially those folks that took the time to express their views. Appreciates that. Will not be able to attend the Inlet and Beach Protection Board meeting, but if you want to, get involved in that. We are in the sand business and it is important for everyone to stay involved and be apprised of what information we have. If you are not doing anything this Thursday, the Inlet and Beach Protection Board would welcome you to be in attendance.

Commissioner Fletcher
• Thanked all of the people that wrote their views on this issue we are dealing with now. They were extremely well written. They were effective, to the point and polite. They made very good points and he confirmed them. They will make a difference. In the future if you need to get information to the commissioners, send them those emails. Think it through, give your inputs and all the facts you can so the Board can make decisions with all of the information they need. Thanked people for the support, for coming out and sharing with the Board.

Commissioner Freer
• Appreciates the input, but remember this is the start. Still have work to do to revise this fee structure. We will call the special meeting. Encouraged input. Please come, will try to make it as interactive as possible. Wanted to clarify as of today, as we are told by the law, the fee is what the Board enacted at this time. It’s important to address that as quickly as possible.

PUBLIC COMMENTS ON AGENDA ITEMS

David Bond asked how people can help get Ocean Boulevard paved. He asked if anyone has called the governor. Mayor Holden explained this is not supposed to be back and forth, but with the commissioners’ permission he would answer. He said at his GSATS meetings (the committee that works with the DOT) he is being told it is scheduled for March 2019. Mr. Bond asked why the Town doesn’t
have recycling and solid waste at the end of public walkways. Mayor Holden explained public comments aren't an exchange. We can take notes and take it under advisement.

Ronda Dixon stated she understands that technically the process was followed for the system development fees. She questioned how anyone could vote in favor of the resolution if they truly understood the impact. She said they would all appreciate it if the Board could have a special meeting where a vote takes place to resolve this as quickly as possible. Ms. Dixon also wanted to talk about the 96 parcel owners who never paid the original sewer share fee. She said there are over 2,000 parcels that paid the fee in the early 2000s. Interest and fines were assessed. She stated that whatever fees are decided, those parcel owners should be required to pay the fees.

George Stout thanked Commissioners Fletcher, Freer and Butler for their comments. He said everyone makes mistakes. Mr. Stout was unhappy with Mayor Pro Tem Sullivan and Commissioner Kwiatkowski's comments on the development fees.

EXECUTIVE SESSION PURSUANT TO NORTH CAROLINA GENERAL STATUTE 143-318.11(A)(3) TO CONSULT WITH THE TOWN ATTORNEY

Town Clerk Finnell read the reason for Executive Session.

Motion by Commission Freer to go into Executive Session at 8:46 p.m. second by Mayor Pro Tem Sullivan; approved by unanimous vote.

OPEN SESSION

Motion by Commissioner Fletcher to go back into Open Session at 9:17 p.m.; second by Commissioner Kwiatkowski; approved by unanimous vote.

Mayor Holden announced no action was taken.

ADJOURNMENT

Motion by Commissioner Fletcher to adjourn at 9:17 p.m.; second by Commissioner Butler; approved by unanimous vote.

ATTEST:

J. Alan Holden, Mayor

Heather Finnell, Town Clerk
TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
SPECIAL MEETING
THURSDAY, AUGUST 30, 2018 – 10:00 A.M.

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Special Meeting on Thursday, August 30, 2018 at 10:00 a.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem Mike Sullivan; Commissioners Pat Kwiatkowski, Joe Butler, John Fletcher and Peter Freer; Town Manager David W. Hewett; Town Clerk Heather Finnell; Planning Director Tim Evans; Public Works Director Chris Clemmons; Assistant Town Manager Christy Ferguson; and Fiscal Operations Clerk Mandy Lockner.

PUBLIC HEARING: PROVIDE INPUT ON THE ISSUE OF REPEALING RESOLUTION 18-05, RESOLUTION AMENDING THE HOLDEN BEACH FEE SCHEDULE AND REPLACING IT WITH A SET OF WATER AND SEWER FEES THAT DO NOT EXCEED THOSE IN EFFECT ON JUNE 30, 2018

Mayor Holden called the meeting to order and opened the public hearing.

Tim Minton, Director of Government Affairs for the NC Homebuilders Association thanked the Board for looking at the issue again. He read from NCGS 162A-207(a). He said the purpose of the report is to determine what a maximum fee can be. He isn’t aware of anywhere in the state where they have charged the maximum fee. He said the idea in working with the League was to set the perimeters for what the fee should be. Mr. Minton said their goal was to make sure all local governments who own water and sewer systems had the legal authority to charge a fee and how the determination should be made.

Tyler Newman with BASE stated he wants to speak in support of item 3, an action to repeal the Board’s previous vote on the implementation of the water and sewer fees and to replace that decision with an alternative fee schedule. He referred to an email he sent previously and said that you can set the fees lower than the maximum. Mr. Newman encouraged the Board to set fees similar to what the fees were prior to July 1st and then take the time to go back to some of the issues in the report if that is what the Town needs to do.

Elaine Jordan distributed a handout to the Board. She appreciates the Board setting the time to hopefully repeal where we are now and to refund the fees that have been paid since July 1st. She said the Town adopted the maximum fee. Her understanding is that it was not based on the engineer’s recommendation. She questioned if the Town’s purchase of sewer allocation from Brunswick County is an eligible cost. Ms. Jordan said that is almost 2/3 of the fee. She talked about a Coates Canons’ article that says House Bill 436 does not apply to local governments that purchase water or wastewater
services from other government entities. She said the fact that the engineer used that huge number is erroneous. Ms. Jordan talked about an email from the engineer to Town staff talking about the eligibility of the county fee. She said the 3rd document in her handout is a page from the engineer's report that says the Town has determined ownership of capacity is an eligible cost that can be included in the calculation. She inquired when the Town voted on the issue and who voted on the issue. Ms. Jordan said there are a lot of questions on the fee. She wants the fees to be repealed, put back to where they were and a refund be issued to anyone who has overpaid over the last 60 days.

Mayor Holden said he has been asked to remind everyone that the Board will be following their rules of order and once the hearing is closed there are no more opportunities to speak.

The public hearing was closed by unanimous vote at 10:09 a.m.

DISCUSSION AND POSSIBLE ACTION: REPEAL THE BOARD'S PREVIOUS VOTE ON IMPLEMENTATION OF THE WATER AND SEWER DEVELOPMENT FEES AS REQUIRED BY HOUSE BILL 436 AND TO REPLACE THAT DECISION WITH AN ALTERNATIVE FEE SCHEDULE

Commissioner Butler stated in order to address the concerns the public, primarily contractors and real estate groups, brought to the commissioners' attention pertaining to the development fees put forth and passed at the June meeting to be in place July 1st, he recommends a timeout period and 1) Allow for a sufficient period of time to fully understand all of the options. He is recommending this doesn't extend any greater than 60 days. 2) This will include a better understanding of the McGill Report. 3) Review the information provided to McGill that established what the actual goal was. This does include the $35 million Ms. Jordan mentioned. 4) In the best interest of all parties involved, he is recommending a timeout. 5) The timeout will include a temporary interim action to repeal and reset the required fees until such time they can be completely reconciled. When he uses the term reconciled he is including the budget and any financial aspects going forward. 6) To accomplish this there will be additional meetings that will include a number of resources to be identified. Examples are the Board, staff, McGill, community and others as needed. Resources will also include comments and suggestions from internal and external sources. 8) The Inspections Department needs to take a lead role in this process. 9) The sewer share fee for the remaining lots that have not paid their fee need to be paid in full when time is due.

Commissioner Freer said he had a conversation with Attorney Fox who is unable to attend this meeting. She recommended that the Board use the mechanism on page 10 of the McGill Report and that is what they will do. He said they will use the math behind that to get to the same prior dollar amount of the fees before July 1st.

Commissioner Fletcher asked if they will need one motion to repeal and one to replace or if one motion could do both. Town Clerk Finnell said it would depend on what the motion is because the fee schedule needs to be updated too. Town Manager Hewett said you can repeal with one motion and that takes the existing fee schedule off the table, but you would have to replace it with something. He said you would have to identify specifically what it will be replaced with.
Commissioner Kwiatkowski said she is uneasy because the Town attorney is not here. To her if the Board proposed to take action as of today without her here to answer any questions the Board has, she would feel the Board was doing something inappropriate. Everyone is available on September 11th, including the Town attorney so if the Board would like to do something they would have full representation. She suggested the Board could have discussion, but shouldn’t have action until September 11th when Attorney Fox can be at the meeting. She stated the Board can recess the meeting and reconvene on that day to finish any business pending. Commissioner Fletcher said he had intensive discussions with the attorney and what he is going to propose she said was appropriate and could be effective today. He stated that she had no issues with what he is proposing and she is available by phone.

Commissioner Fletcher stated it is very clear to him that House Bill 436 doesn’t suggest that the Town implement a sewer and water fee. It simply requires if we do choose to do that, we cannot make the rates higher than those calculated by the McGill study. He stated while there may be some issues with the study, the study is not the issue for him. He said that implementation of the fees should not damage the Town. He said his primary concern is to protect the financial position of the Town and retain the culture that we have. The Town had a water fee in place as of June 30th. It was $300 for a three bedroom and $100 for each additional bedroom. It also had a sewer buy-in that was in place since about 2002. All, but less than 100 of the 3,000 parcels had paid their fee. Commissioner Fletcher said if the Board were to implement a fee those would be exempt from paying the new rates. That fee was about $13,500. He said without property taxes and BPART funds the Town would have a problem with financing our operations. He stated if those don’t grow, we will need to make a major adjustment or raise taxes aggressively. He is not concerned about the building industry, except for its impact on the economy of the Town, the region and the county. He said the numbers the Board put in had a severe impact. We need them to build here.

Commissioner Fletcher proposed that the Board repeal Resolution 18-05 and replace it with the following schedule of fees, all based on a three bedroom home as the McGill report would do and using the same methodology that the McGill report does. Set the water fee at $300 for a three bedroom home and $100 for every bedroom beyond. That brings the cost to $0.75 per gallon if you follow the same McGill schedule. He proposed that the Board make the sewer fee $8,100 for a three bedroom house, with $2,700 for each extra bedroom. Commissioner Fletcher said that would make a five bedroom house about $13,500, very similar to what the Town had before. He said the water would use the 400 gallons used in the calculation and the sewer would use the 360 gallons. He stated the sewer cost comes back to a cost of $22.50 per gallon for the sewer system and that meets the system used by McGill. Commissioner Fletcher thinks the Board should take at least 90 days to study the matter and to allow issues in place with the implementation of this legislation to work themselves out. He said there are numerous issues that the Town does not have control over. He said concerning the method of calculating the equivalent residential unit, other municipalities calculate it based on meter size, not bedrooms. Others use pipe size. It appears to him that the bedroom is least used across the state today. Commissioner Fletcher said the 4th area the Board needs to understand is the full impact on the building and the potential damage to the Town’s financial health based on the rate the Board sets. He said leaving rates pretty much as they were June 30th shouldn’t have an adverse impact while the Board studies this and makes further decisions.
Commissioner Kwiatkowski asked if he had this in writing so that the Board could take a brief recess to review the numbers and understand where he is coming from. She is still concerned the attorney isn’t here. Mayor Pro Tem Sullivan stated before the Board goes into recess, he appreciates the information brought to the Board by Ms. Jordan. It is actually the first piece of information he has heard that gave him a reason to question if the amount of the developmental fees are accurate. He said what they heard in the last five minutes is a ton of information that needs to be digested. He said one of the things the contractors discussed was that the Board rushed this through and didn’t know what they were doing. He doesn’t believe the best thing the Board can do is to take a temporary step, using numbers that we don’t know if they are accurate or if they actually accomplish the goal of getting a number that will both protect the interests of the Town and also make the contractors’ livelihood obtainable. Mayor Pro Tem Sullivan said nobody is trying to make it hard on the builders; he is here to protect the people who live on island. They asked the attorney when she was here if they could do what is being proposed, and she said no. He doesn’t doubt what Commissioner Fletcher is saying, but he would prefer to have a letter or email from her saying she agrees with it. Mayor Pro Tem Sullivan stated one of the reasons he would be against making the decision today is a position that has taken since he has been on the Board; the Board has regularly scheduled meetings. He said the room is full of people who are interested in this and about four people who live in the Town. Mayor Pro Tem Sullivan thinks the Board should only vote on something as important as this at a regular meeting when everyone has the opportunity to come. He stated the Board just received the report back from McGill with the answers. They had it for a total of 15 hours. That is not enough time to analyze and digest it. He thinks if the Board slowed down and took the time it would benefit everyone. He asked if anyone on the Board did any calculations on the impact of rolling back the fee to what it was on June 30th and what it will be five years down the road on the Town’s coffer. Commissioner Fletcher said he doesn’t think he would need to do that because the Board can change this and put new rates in so these won’t exist. Mayor Pro Tem Sullivan said two months ago this Board voted not to take $250,000 that they had available from the budget to give a two cent reduction in taxes. The argument was that the Town need the $250,000 to be put into the sand fund so that in 10 – 12 years when we need another central reach project, the Town would have the money and not have a shortfall. He stated if you roll the fees back and go with the anticipated numbers they were told; you would have a shortfall of $2.5 million. He asked why the Board would be willing to take that shortfall. He said it is not consistent and not logical. Mayor Pro Tem Sullivan said the Board needs to look at it, analyze it and he is pretty sure they will change it. He said there is a simple way of doing things and the right way; if the Board does this today, it is not the right way. Commissioner Freer stated he believes the Board is doing the simple, right thing today. He doesn’t believe they are doing any harm to anyone by doing a reset back to two months ago that was in existence for a long time. He said it is a complex issue and the Board will be doing harm to the Town by slowing or stopping homebuilding. That is all they are trying to accomplish today, go back to prior to July 1st to have enough time to have the Board and everyone involved to look at these complex issues. He said this is the maximum that the Town could charge as fees, it is not the recommendation that they charge these fees. He stated the report is nice. It highlighted some financial issues, like what capacity we pay to the county for our sewer that he would like to look at deeper, but all it is telling him is the maximum we can charge for the fees. It is not telling the Town what we can or should charge or recommending what those fees should be. Commissioner Freer stated it is an unknown that the Board
should spend a lot of time researching the underlying financials. He said taking a timeout today is doing no harm to anyone.

Mayor Holden stated it appears the Board is in a discussion and the Board needs to have a motion if they are going to discuss it. The Board talked about recessing. Commissioner Freer reminded the Board that the attorney is available by phone. Commissioner Kwiatkowski said she wanted to take a recess because you want me to make a decision on formulas and numbers that have been thrown at her and she can’t sit down and double check them and see what they mean. She said the Board had two possible actions. She said the Board might go down the path of one of them, the other may be another way to operate. She likes to look at numbers and double check the math to make sure she understands what is being proposed and that what is being proposed is in line with what the intent is. She stated this is a lot that the Board is doing and suggested they could recess until September 11th when everyone is available. Commissioner Kwiatkowski said making decisions at regular meetings is important. The Board made their trash decisions at a regular meeting and that wasn’t nearly as important as this.

Motion by Commissioner Fletcher to take a 15 minute recess. Mayor Holden said Commissioners Butler, Fletcher and Freer would like to recess and announced the recess at 10:35 a.m.

Mayor Holden announced at 10:50 a.m. that the document was still being worked on and the Board would reconvene when it was available.

The Board reconvened at 11:13 a.m. Mayor Holden explained the reason for the delay is due to the preparation of the documents needed to continue took this long. Town Manager Hewett passed out the document.

Motion by Commissioner Fletcher that the Board repeal Resolution 18-05 and replace it with the following rate structure for both water and sewer: for the water capacity fee, the fee will be $300 for a three bedroom house and $100 for every extra bedroom, for the sewer it will be $8,100 for a three bedroom and $2,700 for each additional bedroom; second by Commissioner Freer.

Commissioner Kwiatkowski would like to propose an alternative to temporarily resetting and asked if it would be a more straightforward, cleaner process if we would go through reevaluation of the whole situation. It could be completed within 90 days. She said once those are reset there will be reimbursement of the difference between what has been voted in place and what will replace it in the future retroactive, starting from the July 1st implementation. Commissioner Freer said we already have a month and three quarters in of unknown and are trying not to extend that. He said they are trying to be as close as they possibly can, within the confines of the new law, of going back to June 30th. That is why they are staying with $100 per bedroom and water. Unfortunately, there is not a like to like with bedrooms for sewer. He said Commissioner Fletcher is proposing a five bedroom, which would be an equivalent of $13,500. Commissioner Freer stated that waiting puts a lot of pressure on the Board and community. He said what they are proposing today takes that pressure off and resets the clock to June 30th. Commissioner Kwiatkowski said she doesn’t view it as relieving pressure because they should all feel under the gun to get this done right. Commissioner Freer said the Board is seeing the complexity
of this. He would like to understand some of the underlying number issues that went into the report. He said there are multiple levels in his mind.

Commissioner Butler said he had recommended that the word interim be put in the motion. He thinks that is a key term. He said he wanted it to be clear to everyone that this is for the interim. The Board needs to put a timeframe on it.

Town Manager Hewett said it has been mentioned to reset the clock. There are fees that were in effect on June 30th that cannot be charged on July 1st. The impact fees can’t be reset. Also the $13,125 sewer share fee cannot be charged anymore. The law reads that the existing schedules needs to be conformed to the new law. He explained that on the first sheet he just prepared it shows a $100 per bedroom fee for water regardless of how many bedrooms. He wanted to clarify it is $100 per bedroom for the water fee and $2,700 sewer fee per bedroom, one bedroom to 100 bedrooms. He said the Board is amending the fee schedule and we need to be able to collect. Commissioner Fletcher agreed he understands it correctly. Town Manager Hewett said the supplement sheets he included show specific permits for a three bedroom house, a four bedroom house and a five bedroom house. They are specific examples of the before June 30th fees charged, the fees that would have been charged on July 1st and the proposed per bedroom fee for water and sewer. He went over the examples to show the impact of implementing it. Mayor Pro Tem Sullivan said he thought the law required that you only charge the actual cost for the tap fee. Town Manager Hewett said we don’t actually charge a sewer tap fee because the connection is part of the system, it’s the valve pit. That’s a systemic cost that is absorbed through our operations. He said that isn’t true for water. The water tap fee is for the actual fixture and what it costs for the crew to install the fixture. Commissioner Freer said if you look at current on the three bedroom example you have sewer share fee paid yes and it is $0 and no is the $8,100. He would complete the column. He said the sewer share fee in this context is $0. The Board discussed the example. Town Manager Hewett asked for confirmation that the correction to the spreadsheet is the $8,100 moves down to the capacity fee for sewer. Commissioner Fletcher said if they didn’t pay the fee previously. If you had, you get a credit for it. After further discussion, Commissioner Fletcher said it should be $0 for sewer share fee paid? yes and the next line should be $2,700. Commissioner Kwiatkowski inquired if the Board needs a 15 minute recess to make sure the document is correct. Town Manager Hewett stated he wanted to register that whatever the capacity fee per bedroom is that you charge, you need to apply it to everyone. Commissioner Freer said he understands and that’s why it is a little strange that the Board is going to $8,100, but if you do the math a five bedroom comes out to $13,500.

The Board came to a consensus to take a 10 minute recess at 11:32 a.m.

Mayor Holden reconvened the meeting at 11:42 a.m.

Commissioner Freer said he thinks they worked it out. It is a little confusing. He was saying $2,700, but it’s actually times three because he was looking at three bedrooms, so it is $8,100. Town Manager Hewett stated on the three bedroom fee spreadsheet the $8,100 amount in the bedroom fee cell would move down to the capacity fee sewer line, likewise for $300 because that is the capacity fee for water. He said he understands that. The reciprocal holds true for the four and five bedroom calculations too. He inquired how to treat the credit for previously paid sewer share fees once the calculation is done.
If it has been paid, the credit is on a per bedroom basis for the sewer capacity fee. In this scenario, the $8,100 is the credit. Commissioner Freer said he would treat it exactly as we are doing it today. Commissioner Fletcher added with the understanding that it is only up to a five bedroom credit. Above a five bedroom credit then you pay $2,700 per bedroom for the sewer fee. Town Manager Hewett said if the fee hasn’t been paid prior to it wouldn’t be credited. The credit will extend only up to five bedrooms worth at the $2,700 per bedroom capacity fees. Commissioner Freer agreed.

Commissioner Fletcher amended his motion by adding to the end of his original motion: the credit for those who have paid already the sewer share fee will be up to a maximum five bedroom house, beyond a five bedroom house, you will be assessed the $2,700 per bedroom sewer development fee; Commissioner Freer agreed to the amendment.

Mayor Pro Tem Sullivan said he won’t state all of the reasons he thinks they should delay the vote, other than the last 45 minutes on one item, which is under discussion and consideration. With all of the items they have been given to think about today and in the past, he thinks it is prudent the Board put off any final decisions. He stated that when the Board has to come back here after they have the chance to analyze it and give it the thought it deserves and they come back with different numbers, then it’s going to be just as hard to convince the people the Board did their due diligence and did the right thing. Mayor Pro Tem Sullivan knows the industry would like to see this done, but he doesn’t see where they are benefiting the larger community by rushing into a decision without having time to analyze it. He said the work should have been included in the packet so the Board could have saved themselves the exercise of trying to figure this out. He said the Board should never be taking on issues that aren’t fully prepared and put in the agenda so the Board can do it intelligently and with the proper consideration.

Mayor Holden said previously the Town had to go back and issue adjustments in regards to properties that were not developable in regards to water fees. He keeps hearing discussion about 100 names that haven’t paid their sewer bills. He is confident he is on that list and others in the room are on the list. Mayor Holden said if you could make the properties able to be built on he would be happy to pay the fee. He said when you have strips of land under water of 5’ or 10’ wide and the commissioners are expecting the money to come in later; that list is not going to yield the money you are expecting to get. He stated before you count on that money coming in and make rules you need to do your homework and eliminate properties from that list that will never be developable. Mayor Holden said you will have a shortfall on your expectations. Commissioner Freer totally agreed. He said you pay that when you are going to build. He agrees it shouldn’t be put in the budget because a lot of those will never be built.

The motion passed by a 3 – 2 vote with Commissioners Butler, Fletcher and Freer voting for the motion and Mayor Pro Tem Sullivan and Commissioner Kwiatkowski voting in the negative.
DISCUSSION AND POSSIBLE ACTION – REIMBURSING ANY FEE ASSESSMENTS AFTER JULY 1, 2018 THAT EXCEED THOSE SET BY THE NEW RATE STRUCTURE SET BY THE BOARD

Motion by Commissioner Fletcher that the Board direct the Town to reimburse any fee assessments that were paid after July 1, 2018 that exceed those set by the new rate structure set by the Board today; second by Commissioner Freer.

Commissioner Butler would like the word interim in there.

Commissioner Fletcher amended his motion to include interim fees; second by Commissioner Freer.

Mayor Holden requested the reading of the motion for clarity. Town Clerk Finnell explained her computer froze, so she would need to double check with the tape, but read what she had. Direct the Town to reimburse any fee assessments that exceeds the interim rate structure set today. (After verification of the recording, the motion included that were paid after July 1, 2018.)

Commissioner Kwiatkowski asked what happens if when the Board finishes everything the fees go up. Commissioner Fletcher replied it would be effective the day they pass the legislation. Commissioner Kwiatkowski wanted to make it clear that there is no ability for the Town to get back the lost revenue. Commissioner Fletcher clarified this is a refund for July 1st to today.

The vote was approved by unanimous vote.

TOWN MANAGER REPORT ON THE QUARTERLY LONG-TERM MOA AND STATUS OF THE SHALLOW DRAFT NAVIGATION CHANNEL DREDGING MEETING IN NEW BERN ON WEDNESDAY, AUGUST 29, 2018

Town Manager Hewett attended a meeting in New Bern yesterday on the quarterly memorandum of agreement between the state, the Corps and interested stakeholders up and down the coast. What we see in terms of conditions with the most recent survey on the outer bar in the Lockwood Folly Inlet (LFI) is it is getting kind of dangerous. He provided details on the condition on the area. The Corps has canceled the nearshore project. He said everything he is communicating is what they are getting from the Corps. Some of the updates held true with what we heard in the past and some of the information was changing and evolving while they were in the room. The information he is presenting is the most recent he has, but it is subject to change. Previously we reported that the Murden, a hopper dredge, was going to be used to remove about 6,000 cubic yards from the ebb shoal and placed in the nearshore in a hot spot off of Oak Island. That project will not happen this year. The Merritt is now returning from the shipyard. His understanding is that the Murden will be reprioritized to other projects elsewhere. There is a project to use an 18” pipeline dredge for the inlet crossing. That project is not coming to Holden Beach either. We are used to getting the sand from that project every two years. That sand will be placed on Oak Island. The contract to dredge the LFI is part of a larger Corps’ contract to take care of five shallow draft inlets. We don’t know the order of progression that the dredger will undertake. A major portion of the reason for the sand not coming to Holden Beach is the new interpretation of an existing federal rule regarding local sponsorship of federal projects that requires easements to be
obtained from local property owners in order to put sand on the beach. It has never been an enforced requirement before. For many years Holden Beach has been the recipient out of convenience for the Corps. When we have executed a project down there, we didn’t need them. That is not the case going forward. Additionally there are new requirements for dredge spoil areas that we encountered earlier on with our dredging project. Even though we own the dredge spoil islands here, we won’t be allowed to place material from the canals into those dredge spoil islands because the Corps needs to retain the capacity. Unless there is some type of change in this new interpretive policy, we will not be able to place material in there for local projects. That is why we had to evolve the Scotch Bonnet site for Town projects. The work associated with that was included in the canal budgets. We had a heads up on that about eight months ago. That’s different from the easement requirement issue related to beneficial placement of compatible material. Commissioner Fletcher asked if the material placed off the island in the Shallotte Inlet area is usable on our beach. Town Manager Hewett replied it is not acceptable for beach placement. Commissioner Fletcher asked if there are other sources of sand than our own. Town Manager Hewett responded that the Town has two sources of sand, one is the Turkey Trap sand mine we own and the other is the identified approved borrow site for the Central Reach Project. Commissioner Freer said he wouldn’t describe that as ours. Town Manager Hewett said the LFI sand is there except that is not the Town’s sand. Commissioner Freer said so the easement issue is trumping the least cost disposal method and we weren’t privy to the change prior to yesterday. Town Manager Hewett said prior to yesterday, it was a phone call that he received last Thursday that said the sand is going to Oak Island because you don’t have easements.

Commissioner Butler said he and Mayor Pro Tem Sullivan also attended the meeting yesterday. He said Mayor Pro Tem Sullivan did a great job of challenging the Corps on the issue with the easements. He said Holden Beach wasn’t communicated with prior to making the decision. The Corps admittedly said they could have handled things differently. Commissioner Butler said Jim Medlin, project manager with the Corps, no longer has responsibility pertaining to the maintenance of shallow draft inlets. Brendan Dooly will be the gentleman the Town will be communicating with. That disturbs him because we will be losing our primary contact. He mentioned the fact that the Town is losing sand on the east end of the island. He also mentioned that in 2005, the east end of the island with sand bags all over it was deplorable. Commissioner Butler said over the years with the replenishment program there is a beach out there that we can be proud of. That really came about from the sand from the LFI going on the beach. He said you make decisions based on facts. It has to be less expensive to put the sand on Holden Beach than on Oak Island. He thinks the Town needs to develop a strategy that will support a plan in dealing with these kinds of issues going forward. Commissioner Butler recommended the Town consult with Clark Wright, the NC Coastal Federation and anyone else that can help. He said yesterday was a wakeup call.

Mayor Pro Tem Sullivan said the Corps admitted they didn’t consult with us prior to making the decision. Based on the historical nature of dredging the LFI, that was quite a shock since we traditionally received that sand. They did it because it was based on the most efficient and least expensive cost. They admitted they just looked at a map and decided there were fewer lots on Oak Island. Mayor Pro Tem Sullivan said the Town got an apology and acknowledgement that in the future it wouldn’t be done like that again, that the Town will always have a seat at the table and be notified. He agreed with Commissioner Butler, the Town needs to come up with facts. He would like Fran Way from ATM to do
an analysis that shows when you put the sand on the west end of Oak Island, rather than the east end of Holden Beach it goes back into the LFI quicker. Also, the fact that if it was cheaper in the past to drop it here, there is no reason why it wouldn’t continue to be cheaper. He hopes we will go back to getting the sand every other year in the future.

Town Manager Hewett said the shallow draft inlet fund which is the state’s pot of money that goes into contributions to the Corps that is matched with local money now totals about $34 million. He wants to make sure to register that a $15 million appropriation of that $34 million has been made to give Dare County in order to develop a public/private partnership with a private contractor to build a dredge to take care of the Oregon Inlet. The money that remains will go to fund the operations for the dredge. He would be very surprised if it makes it down past Wanchese. That pot of money from the state’s contributing aspect will receive more pressure to fund these Corps’ projects in the future. Mayor Holden stated we have an upcoming meeting with a consulting firm to offer suggestions to the Town in regards to improving our position on grants and sand, politics and helping us get more favorable relationships with the Corps and the powers to be. He said he has been a proponent of this and has failed to get the blessings of the Town. The meeting is on September 18th at 3:00 p.m. in this room. The commissioners will hear options for the Board to consider. Mayor Holden said we need to do something. We have been on a downward spiral for an extended period of time in getting our monies and other benefits despite the hard work of Assistant Town Manager Ferguson and others. We now have a committee in the Town that will help. Mayor Holden said it needs to be all of us working together. He said the rules have changed and we need to adapt. He has been to so many meetings over the last 40 years and has a fairly decent understanding of how things are done with the Corps. He said the Town needs to revamp our program or we will find ourselves left out. He is looking forward to working with the commissioners and staff trying to adapt to get something done. We are losing sand on the east end and the water way is stopping up.

Assistant Town Manager Ferguson said in sidebar conversation yesterday the Corps was pressed again on presenting to the Board on the 50-Year Project.

ADJOURNMENT

Motion by Commissioner Fletcher to adjourn at 12:19 p.m.; second by Commissioner Freer; approved by unanimous vote.

______________________________
J. Alan Holden, Mayor

ATTEST:

______________________________
Heather Finnell, Town Clerk
# Engineers Preliminary Construction Cost Estimate

**for Brunswick Avenue**

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PRELIMINARY ENGINEERING REPORT
FOR
SECOND WATER TOWER
TOWN OF HOLDEN BEACH
WEST END

DRAFT

PREPARED BY:
Right Angle Engineering, PC
212 Princess Street
Wilmington, NC 28401
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<td>6</td>
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*Attachments

Figure 1 – Preliminary Plan
Figure 2 – Town Wide Water System Map
Figure 3 – Project Cost Estimates*
A. SUMMARY, CONCLUSION, and RECOMMENDATIONS

The Town of Holden Beach proposed to construct a new water storage tank in the West End section of the island community to better serve existing customers and projected population. The existing 300,000 gallon tower and water distribution system provides potable water for approximately 3,000 customers.

While the existing tower can provide the NCDEQ required amount of potable storage, fire flow capacity does not meet the State Fire Marshall recommendations.

For a spherical elevated storage tank, the proposed least construction cost is estimated to be $1,378,000 with overall project costs at $1,754,000.

B. CURRENT SITUATION

1. The Town of Holden Beach is located in Brunswick County at the end of Highway 130 and is an island community that stretches approximately 8 miles west to east and faces predominantly south. The town is bordered by the Atlantic Ocean, the ICWW, Lockwood Folly Inlet to the East, and Shallotte Inlet to the West.

The Town is developed along the State roads and connecting streets. Upland soils in the project area include Baymeade, Blanton, Mandarine and Leon fine sand; Goldsboro, Lynchburg, and Rains fine sandy loam; Norfolk loamy fine sand and Murville mucky fine sand which are poor to moderately well drained soils that have a loamy subsoil. Surface runoff is slow to medium. The soils are strongly acidic. The seasonal high water table varies with few feet to 5 feet below the ground surface.

The Town currently owns and operates a water distribution system that encompasses the entire island. This system was installed approximately 1978 and as of 2018 serves about 3,000 customers. The system currently operates without any debt service.

The system is made up of a primary 12" main running the length of Ocean Boulevard with smaller sized feeders that extend down residential roadways. The supply water is provided from Brunswick County and is connected on the East end by a 12" main under the ICWW near the bridge and also a 6" main under the ICWW at Seagull Street. There is an existing 300,000 gallon elevated storage tank on Brunswick Avenue across from Town Hall. The elevated storage tank operates at an
overflow elevation of 168.2' MSL (NAV 88). The Town currently has approximately 111,500 linear feet of water system piping. The previous years water consumption was 152,400,000 gallons resulting in an average daily usage amount of 417,532 gallons per day. However, in the summer months of June, July, and August the average daily usage is approximately 757,000 gallons per day.

Based on the State Fire Marshall recommendations, the Tri-Beach Fire Chief has indicated that he would like to have 2,250 gpm available for two hours or 270,000 gallons. The current available fire flow data from the fire hydrants on West Ocean Blvd indicates that there is 2,251 gpm of fire flow available at 878 West Ocean Blvd and 1,000 gpm available at 1365 West Ocean Blvd. The fire flow deficit at 1365 West Ocean Blvd is 1,250 gpm or 150,000 gallons.

1. Critical Needs

To meet NCDEQ requirements, the Town has to provide ½ of the average daily flow in elevated storage. Based on the current average daily flow, the required storage amount would be 208,766 gallons.

Typically, elevated storage would have the capacity to provide ½ of the tank volume dedicated to potable water usage and ½ available for fire flow. Based on current flow amounts, the elevated storage amount should be 208,766 plus 270,000 gallons to result in 478,766 total gallons of required storage.

2. Population and Demographics

The current census population of the entire Town of Holden Beach is approximately 575 people based on NC office of State Budget and Management. However, there are approximately 3,000 water customers.

C. FUTURE SITUATION

The Town proposes to construct a new elevated storage tank to provide NCDEQ required amount of capacity and also the necessary amount of fire flow storage. Two types of tanks are typically used for municipal storage, composite and spherical. The composite tanks have a concrete base pedestal with steel storage tank on top. The spherical models are all steel with one single pedestal leg with spheroid tank on top. Spherical models are typically less in up front construction costs.
For the basis of this report, we evaluated three different sites using the spherical elevated storage tank model. A new 300,000 gallon tank would provide enough storage when added to the existing system currently having 300,000 gallons of elevated storage.

The Town still has available land on the island and is expected to experience growth over the next 20 years. Therefore, sizing should meet that time projection.

<table>
<thead>
<tr>
<th>Projected Water Usage</th>
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<tr>
<td></td>
<td>Total Customers</td>
</tr>
<tr>
<td></td>
<td></td>
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<tr>
<td>2020</td>
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<td>3,649</td>
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<tr>
<td>2036</td>
<td>3,949</td>
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Therefore, half of the average day flow would be 276,430 gallons plus the 270,000 gallons of fire flow storage resulting in 546,430 gallons of storage required.

D. ALTERNATIVES ANALYSIS

1. Ocean Boulevard Tank – This alternative would include a 300,000 gallon tank, non-standard foundation due to proximity of marshland, typical site work, typical controls, and be on land that is currently owned by the Town. The estimated project costs for this alternative are $1,754,000.

2. Heron Landing Tank – This alternative would include a 300,000 gallon tank, standard foundation, access road improvements from Heron Landing Wynd, site improvements, directional drill of pipeline from Ocean Boulevard, typical controls, and land acquisition for access road. The estimated project costs for this alternative are $1,925,000.

3. Seagull Drive Tank – This alternative would include a 300,000 gallon tank, non-standard foundation due to proximity of marsh, typical site improvements, typical controls, and land acquisition of site not currently owned by the Town. The estimated project costs for this alternative are $2,004,000.
E. PUBLIC PARTICIPATION

The Town will conduct public hearings and presentations as necessary to meet the requirements of any lending agencies and NC statutes.

F. ENVIRONMENTAL ASSESSMENT

A limited EA will need to be conducted for this project due to proximities to AECs. No Significant Impacts have been discovered.

G. OWNERSHIP, OPERATION, AND MAINTENANCE

The Town of Holden Beach will retain ownership, operation, and maintenance of the tank and appurtenances. The Town currently has a maintenance staff that operates and maintains its existing systems and this staff will be utilized for this proposed extension of service.

H. EASEMENTS, RIGHT OF WAY, AND LAND ACQUISITIONS

All piping, tank, and site work be installed within existing Rights-of-Way wherever possible and purchased as necessary.

I. STREET REPAIRS RELATED TO IMPROVEMENTS

The cut and repair of existing driveways, roadways will be kept to a minimum and will only occur where needed to complete installation of the water lines and tank.

J. REQUIRED PERMITS AND EXPECTED DATES OF RECEIPT

For the installation of an elevated storage tank and related site work, several permits will be required from various agencies. Permits that will need to be acquired are Sedimentation/Erosion Control, NCDEQ Storm Drainage, NCDEQ CAMA, and NCDEQ Water Supply. Problems are not anticipated in getting these permits however 4 months should be allowed for permitting after execution of an engineering contract.

K. PROJECT SCHEDULE

A project of this type would normally follow a schedule as described below:

- 6 Months – Surveys, Designs and Permitting; Obtain Easements
- 4 Months – Construction Contract Procurement
- 9 Months – Construction Contract
19 Months – Total time required from the beginning of the project.

L. PROJECT COST ESTIMATE

A tabulated preliminary cost estimate for the selected alternative is provided which calculates the construction cost associated with elevated spherical tank, foundations, site work, piping, and controls, and provides total project costs including construction, land, engineering, legal, and other fees. Total project costs are estimated to be $1,754,000.
# Spherical Elevated Storage Tank

**Ocean Boulevard**

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<tr>
<th>Description</th>
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## Project Costs

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<tr>
<td>2 LEGAL AND ADMINISTRATIVE</td>
<td>$20,000</td>
</tr>
<tr>
<td>3 ENGINEERING</td>
<td></td>
</tr>
<tr>
<td>A PROJECT ADMINISTRATION</td>
<td>$74,000</td>
</tr>
<tr>
<td>B DESIGN / CONSTRUCTION MANAGEMENT</td>
<td>$92,000</td>
</tr>
<tr>
<td>C CONSTRUCTION INSPECTION</td>
<td>$22,000</td>
</tr>
<tr>
<td>4 CONTINGENCIES @ 10% OF CONSTR. COST</td>
<td>$137,800</td>
</tr>
<tr>
<td>5 SURVEYS, ENVIRONMENTAL ISSUES &amp; PERMITS</td>
<td>$30,000</td>
</tr>
<tr>
<td>6 LAND AND RIGHT OF WAYS</td>
<td>$0</td>
</tr>
<tr>
<td>(No Land Purchase)</td>
<td></td>
</tr>
<tr>
<td><strong>SUBTOTAL =</strong></td>
<td>$1,753,800.00</td>
</tr>
</tbody>
</table>

**ESTIMATED TOTAL PROJECT COST:** $1,754,000
(Round to nearest thousand)
# Spherical Elevated Storage Tank

**Heron Landing Site**

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
<th>Units</th>
<th>Unit Price</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Structure</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>300,000 Gallon Tank</td>
<td>1</td>
<td>EA</td>
<td>$1,100,000</td>
<td>$1,100,000</td>
</tr>
<tr>
<td>Standard Foundation</td>
<td>1</td>
<td>EA</td>
<td>$75,000</td>
<td>$75,000</td>
</tr>
<tr>
<td><strong>Access</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Roadway from Heron Landing Wynd</td>
<td>1300</td>
<td>LF</td>
<td>$25</td>
<td>$32,500</td>
</tr>
<tr>
<td><strong>Site</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6&quot; Chain Link Fence</td>
<td>1000</td>
<td>LF</td>
<td>$18</td>
<td>$18,000</td>
</tr>
<tr>
<td>Site Piping</td>
<td>1</td>
<td>EA</td>
<td>$20,000</td>
<td>$20,000</td>
</tr>
<tr>
<td>Directional Drill 12&quot; HDPE</td>
<td>1000</td>
<td>LF</td>
<td>$100</td>
<td>$100,000</td>
</tr>
<tr>
<td>Overflow Discharge Structure</td>
<td>1</td>
<td>EA</td>
<td>$30,000</td>
<td>$30,000</td>
</tr>
<tr>
<td><strong>Controls</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic Electrical Controls</td>
<td>1</td>
<td>EA</td>
<td>$30,000</td>
<td>$30,000</td>
</tr>
<tr>
<td>SCADA System</td>
<td>1</td>
<td>EA</td>
<td>$30,000</td>
<td>$30,000</td>
</tr>
<tr>
<td>Power Extension</td>
<td>1</td>
<td>EA</td>
<td>$50,000</td>
<td>$50,000</td>
</tr>
<tr>
<td><strong>Construction Total</strong></td>
<td></td>
<td></td>
<td></td>
<td>$1,485,500</td>
</tr>
</tbody>
</table>

## Project Costs

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>CONSTRUCTION COST</td>
<td>$1,485,500</td>
</tr>
<tr>
<td>2</td>
<td>LEGAL AND ADMINISTRATIVE</td>
<td>$20,000</td>
</tr>
<tr>
<td>3</td>
<td>ENGINEERING</td>
<td></td>
</tr>
<tr>
<td></td>
<td>A. PROJECT ADMINISTRATION</td>
<td>$80,000</td>
</tr>
<tr>
<td></td>
<td>B. DESIGN / CONSTRUCTION MANAGEMENT</td>
<td>$100,000</td>
</tr>
<tr>
<td></td>
<td>C. CONSTRUCTION INSPECTION</td>
<td>$25,000</td>
</tr>
<tr>
<td>4</td>
<td>CONTINGENCIES @ 10% OF CONSTR. COST</td>
<td>$148,550</td>
</tr>
<tr>
<td>5</td>
<td>SURVEYS, ENVIRONMENTAL ISSUES &amp; PERMITS</td>
<td>$30,000</td>
</tr>
<tr>
<td>6</td>
<td>LAND AND RIGHT OF WAYS</td>
<td>$35,000</td>
</tr>
<tr>
<td></td>
<td>(Access from road to Town Property)</td>
<td></td>
</tr>
</tbody>
</table>

**SUBTOTAL** = $1,924,050.00

**ESTIMATED TOTAL PROJECT COST:** $1,925,000

(Round to nearest thousand)
# Spherical Elevated Storage Tank

**Seagull Street**

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
<th>Units</th>
<th>Unit Price</th>
<th>Total Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Structure</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>300,000 Gallon Tank</td>
<td>1</td>
<td>EA</td>
<td>$1,100,000</td>
<td>$1,100,000</td>
</tr>
<tr>
<td>Non-Standard Foundation</td>
<td>1</td>
<td>EA</td>
<td>$150,000</td>
<td>$150,000</td>
</tr>
<tr>
<td><strong>Access</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>On Existing Road</td>
<td></td>
<td>LF</td>
<td>$25</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Site</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6' Chain Link Fence</td>
<td>1000</td>
<td>LF</td>
<td>$18</td>
<td>$18,000</td>
</tr>
<tr>
<td>Site Piping</td>
<td>1</td>
<td>EA</td>
<td>$20,000</td>
<td>$20,000</td>
</tr>
<tr>
<td>Directional Drill 12&quot; HDPE</td>
<td>0</td>
<td>LF</td>
<td>$100</td>
<td>$0</td>
</tr>
<tr>
<td>Overflow Discharge Structure</td>
<td>1</td>
<td>EA</td>
<td>$30,000</td>
<td>$30,000</td>
</tr>
<tr>
<td><strong>Controls</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic Electrical Controls</td>
<td>1</td>
<td>EA</td>
<td>$30,000</td>
<td>$30,000</td>
</tr>
<tr>
<td>SCADA System</td>
<td>1</td>
<td>EA</td>
<td>$30,000</td>
<td>$30,000</td>
</tr>
<tr>
<td>Power Extension</td>
<td>0</td>
<td>EA</td>
<td>$50,000</td>
<td>$0</td>
</tr>
</tbody>
</table>

**Construction Total** $1,378,000

## Project Costs

<table>
<thead>
<tr>
<th></th>
<th>CONSTRUCTION COST</th>
<th>$1,378,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>LEGAL AND ADMINISTRATIVE</td>
<td>$20,000</td>
</tr>
<tr>
<td>2</td>
<td>ENGINEERING</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>A. PROJECT ADMINISTRATION</td>
<td>$74,000</td>
</tr>
<tr>
<td></td>
<td>B. DESIGN / CONSTRUCTION MANAGEMENT</td>
<td>$92,000</td>
</tr>
<tr>
<td></td>
<td>C. CONSTRUCTION INSPECTION</td>
<td>$22,000</td>
</tr>
<tr>
<td>4</td>
<td>CONTINGENCIES @ 10% OF CONSTR. COST</td>
<td>$137,800</td>
</tr>
<tr>
<td>5</td>
<td>SURVEYS, ENVIRONMENTAL ISSUES &amp; PERMITS</td>
<td>$30,000</td>
</tr>
<tr>
<td>6</td>
<td>LAND AND RIGHT OF WAYS</td>
<td>$250,000</td>
</tr>
<tr>
<td></td>
<td>(Land Purchase on Seagull Street)</td>
<td></td>
</tr>
</tbody>
</table>

**SUBTOTAL** $2,003,800.00

**ESTIMATED TOTAL PROJECT COST:** $2,004,000
(Round to nearest thousand)
Date: September 10, 2018

To: Mayor Holden and Board of Commissioners
   Town Manager-IN TURN

From: Christy Ferguson, Assistant Town Manager

Re: LWF Inlet-ATM’s Contract for Additional Services

Due to the recent activities with disposal of sand from the Lockwood Folly Inlet, Town representatives have expressed a desire to have additional modeling and analysis completed by the Town’s coastal engineer. This data will be used to prove the most economical and logical placement occurs via least cost method of disposal on Holden Beach.
Mr. David Hewett  
Town Manager  
Town of Holden Beach  
110 Rothschild St.  
Holden Beach, NC 28462

RE: Lockwood Folly Inlet Sedimentation Analysis

Dear Mr. Hewett:

ATM is pleased to present this scope of services to the Town of Holden Beach for a sedimentation analysis of Lockwood Folly Inlet and its nearby ocean shorelines.

It is ATM’s understanding that the Town of Holden Beach wishes to investigate and quantify the sediment processes along the ocean shorelines that are predominantly influenced by Lockwood Folly Inlet. Figure 1 presents a schematic of the study area. ATM will build upon its previous studies and modeling for this effort.

![Schematic of Lockwood Folly Inlet study area]

*Figure 1: Lockwood Folly Inlet study area will focus on inlet influenced ocean shorelines and the flood tide shoal. The Lockwood Folly Inlet/AlWW Crossing (LWFIX) is shown for reference.*

Additionally, an analysis of the LWF Inlet/AlWW Crossing (LWFIX) dredging and beach placement projects will occur. Dredged material from LWFIX dredging has historically been placed on the eastern end of Holden Beach approximately every 2 years. However, this system has recently
been interrupted and the future of this project has come into question. The analysis proposed will look at LWFIX disposal on both the east end of Holden Beach and the west end of Oak Island.

Additional information on each task is discussed below.

---

**TASK 1 – UPDATED MODELING ANALYSIS**

Expanding on the 2009-2011 modeling conducted previously for Holden Beach’s east end, ATM will update and review additional modeling where nourishment material placement along both Holden Beach and Oak Island will be compared. The Coastal Modeling System (CMS) developed by the USACE will be used for this analysis. Beach fill longevity and the long-term fate of the material will be assessed. ATM will primarily rely on the previous modeling effort however new modeling for the Oak Island nourishment scenario will occur under this task. Some additional model gridding and bathymetry development is also necessary for this task. Wave/flow forcing will use previously developed datasets in order to reduce costs and effort. No data collection is proposed for this task.

---

**TASK 2 – LWFI INLET SEDIMENT PROCESSES ANALYSIS**

This task will summarize the LWFI Inlet sediment processes as it relates to the LWFIX dredging projects. This will include:

- Sediment Budget
- Cost comparison
- Least cost method (USACE consideration)
- Beach fill longevity for the east end and Oak’s west end
- Sediment quantities necessary for the east end
- Long-term implications (sandbags, lost residences, etc.)

A summary letter report will be prepared to document our findings and recommendations.

---

**SUMMARY ESTIMATE OF PROFESSIONAL LABOR FEES**

The following fee estimates are based on the described scope of services.

<table>
<thead>
<tr>
<th>Task</th>
<th>Description</th>
<th>ATM Professional Fee Estimate&lt;sup&gt;1&lt;/sup&gt;</th>
<th>Subcontractor Fee Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Updated Modeling Analysis</td>
<td>$28,500</td>
<td>n/a</td>
</tr>
<tr>
<td>2</td>
<td>LWFI Inlet Sediment Processes Analysis</td>
<td>$18,500</td>
<td>n/a</td>
</tr>
</tbody>
</table>

<sup>1</sup> Fee estimate includes labor and field equipment charges only, at ATM’s 2018 Standard Rates (attached).
The anticipated professional services associated with this addendum shall be billed to the Town on a time and materials basis. Professional services will be billed by the hour according to ATM’s 2018 rate sheet (attached).

Reimbursable expenses as defined in the May 19, 2004 PSA shall be billed in addition to professional labor indicated in the above table. Reimbursable expenses (i.e., printing, travel, phone, mail, subcontractor administration, etc.) are billed at cost plus 15%.

If additional site visits, data collection, analysis, or meetings are needed, ATM will notify the Town to receive authorization prior to executing the additional work.

This memorandum serves as Addendum No. 35 to the existing Professional Services Agreement (PSA) between ATM and the Town of Holden Beach, dated May 19, 2004. Addendum No. 35 is proposed to continue the Town’s comprehensive beach management program. Except where noted herein, all conditions of the May 19, 2004 PSA remain in place.

If there are any questions or comments, please contact me at your convenience. To execute this work, please authorize Addendum No. 35 by signing two originals, returning one to our office, and retaining the other original for your records.

ACCEPTED BY:
APPLIED TECHNOLOGY AND MANAGEMENT TOWN OF HOLDEN BEACH

By ___________________________ By ___________________________
Sam Phleger, President David Hewett, Town Manager

Date 9/11/2018 Date ___________________________
ORDINANCE NO. 18-14

AN ORDINANCE AMENDING ORDINANCE NO. 18-10, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR 2018-2019 (Amendment No. 2)

BE IT ORDAINED BY the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina, that Ordinance No. 18-10 appropriating funds for the Fiscal Year 2018-2019 be amended as follows:

PART I
SECTION I: REVENUE

<table>
<thead>
<tr>
<th>ACCOUNT#</th>
<th>DESCRIPTION</th>
<th>AMOUNT</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>50.0399.0000</td>
<td>Fund Balance Appropriated</td>
<td>$47,000</td>
<td>Increase</td>
</tr>
</tbody>
</table>

PART II
SECTION I: EXPENSE

<table>
<thead>
<tr>
<th>ACCOUNT#</th>
<th>DESCRIPTION</th>
<th>AMOUNT</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>50.0710.0900</td>
<td>ATM Contract Fees</td>
<td>$47,000</td>
<td>Increase</td>
</tr>
</tbody>
</table>

This the 23rd day of October, 2018.

ATTEST:

______________________________
J. Alan Holden, Mayor

______________________________
Heather Finnell, Town Clerk
Date: October 17, 2018

To: Mayor Holden and Board of Commissioners
   Town Manager-IN TURN

From: Christy Ferguson, Assistant Town Manager

Re: FEMA Applicant Designee Resolution

In attending the Hurricane Florence FEMA Public Assistance Applicant Briefing, the Town was advised that a resolution would need to be passed to appoint an applicant designee from the Town. The resolution form will be supplied digitally from the Department of Public Safety. The applicant designee will be responsible as signatory for the FEMA application process and formation of project worksheets. A primary and secondary designee is required. This memo requests the BOC designate Town Manager David Hewett as the primary contact and Assistant Town Manager Ferguson and Fiscal Operations Clerk Lockner as secondary contacts on the FEMA Resolution.

Suggested motion: The BOC hereby designates Town Manager David Hewett as the primary applicant designee and Assistant Town Manager Ferguson and Fiscal Operations Clerk Lockner as secondary contacts on the FEMA Resolution.
The Inlet and Beach Protection Board (IBPB) met September 27 and the following issues were addressed:

**Status and the Beach and Inlets Post-Florence:** Staff provided an overview of conditions and issues relative to the beach strand and inlets in the aftermath of Hurricane Florence. Overall the beach and inlets fared well. The Central Reach Project fulfilled its job as a shoreline protection project. The preliminary post-storm beach survey has been completed and the results have been sent to ATM for analysis. The Corps of Engineers will be completing their survey of the inlets in the next couple of days.

**Status of Lockwood Folly Inlet Dredging Issues:** Since the last IBPB meeting it has been learned that another dredging project will be awarded to Oak Island. The stated reason is a lack of easements. The issue was discussed.

**Status of Resolution Establishing the Town of Holden Beach’s Position on Lockwood Folly Inlet Navigation Maintenance and Associated Least Cost Method of Disposal Placement:** Because of the cancellation of the September BOC meeting the draft resolution from the IBPB is still pending. We still feel this is of the utmost importance. Several small changes were made to the document.
# Activity Log Event Summary (Totals)
**HOLDEN BEACH POLICE DEPT.**
(09/01/2018 - 09/30/2018)

<table>
<thead>
<tr>
<th>Event Type</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;No Event Type Specified&gt;</td>
<td>1</td>
</tr>
<tr>
<td>Administrative Call</td>
<td>2</td>
</tr>
<tr>
<td>Animal Complaint</td>
<td>6</td>
</tr>
<tr>
<td>Assist Other Agency</td>
<td>3</td>
</tr>
<tr>
<td>Beach Equipment Removal</td>
<td>4</td>
</tr>
<tr>
<td>Disturbance/Fight</td>
<td>1</td>
</tr>
<tr>
<td>Escort/Relay</td>
<td>1</td>
</tr>
<tr>
<td>Found Property</td>
<td>3</td>
</tr>
<tr>
<td>Keep Check</td>
<td>3</td>
</tr>
<tr>
<td>Maintenance Call (Not HB Public Works)</td>
<td>3</td>
</tr>
<tr>
<td>Meet with Complainant</td>
<td>4</td>
</tr>
<tr>
<td>Noise/Nuisance Complaint</td>
<td>3</td>
</tr>
<tr>
<td>Parking</td>
<td>2</td>
</tr>
<tr>
<td>Public Assist</td>
<td>1</td>
</tr>
<tr>
<td>Supplemental (to prior report - use original OCA)</td>
<td>5</td>
</tr>
<tr>
<td>Suspicious Person</td>
<td>5</td>
</tr>
<tr>
<td>Welfare Check</td>
<td>2</td>
</tr>
<tr>
<td><strong>911 Hang Up/Open Line</strong></td>
<td>3</td>
</tr>
<tr>
<td><strong>Alarm Activation</strong></td>
<td>14</td>
</tr>
<tr>
<td><strong>Assist Motorist</strong></td>
<td>3</td>
</tr>
<tr>
<td><strong>Attempt to Locate-ATL</strong></td>
<td>3</td>
</tr>
<tr>
<td><strong>Business Check</strong></td>
<td>28</td>
</tr>
<tr>
<td><strong>EMS/Medical Call</strong></td>
<td>10</td>
</tr>
<tr>
<td><strong>Fire Call</strong></td>
<td>3</td>
</tr>
<tr>
<td><strong>Incident Report</strong></td>
<td>2</td>
</tr>
<tr>
<td><strong>Lost Property</strong></td>
<td>1</td>
</tr>
<tr>
<td><strong>Maintenance/Water Leaks(HB Only)</strong></td>
<td>1</td>
</tr>
<tr>
<td><strong>Missing Person</strong></td>
<td>1</td>
</tr>
<tr>
<td><strong>Open Door</strong></td>
<td>3</td>
</tr>
<tr>
<td><strong>Phone Call (requested to call subject)</strong></td>
<td>13</td>
</tr>
<tr>
<td><strong>Residence Check</strong></td>
<td>3</td>
</tr>
<tr>
<td><strong>Suspicious Activity</strong></td>
<td>1</td>
</tr>
<tr>
<td><strong>Suspicious Vehicle</strong></td>
<td>5</td>
</tr>
</tbody>
</table>

**Total Number Of Events:** 143
14. Discussion and Possible Action by the Board of Commissioners to Direct Clark Wright, Special
Environmental Counsel to the Town of Holden Beach, to Immediately Communicate with the USACE
Electronically, Followed by the Sending of a Formal Letter via Certified Mail, the Decision by the Board of
Commissioners to Withdraw Fully and Cease Any and All Further Processing of, or Action on, the Town's
Currently Pending Section 10 and Section 404 Permit Applications and Associated NEPA Documentation
- Corps Action ID No. SAW-2011-01914 - Commissioner Freer

15. FEMA Flood Map Adoption Schedule - Building Official Evans (Pages 42 - 62)

16. Discussion and Possible Action on Recommendations from Citizen Advisory Committee Report on
Parking for Implementation Prior to the 2018 Beach Season - Commissioner Butler (Pages 63 - 64)
The following are the first phase of recommendations that have been reviewed in the previous BOC
meeting. This information also includes the recommendation to revise Chapter 72 Ordinance, Parking
Regulations, Section 72.02 Section K that was discussed during the same meeting. (It shall be a
violation of this chapter to leave standing any portion of a vehicle in a lawful parking area between the
hours of 2:00 a.m. and 5:00 a.m.).

1. Develop a visitor map of all available approved public parking locations throughout the island.
2. Parking direction signage, to include signage at the various identified public parking locations.
3. Better utilization of current public parking spaces at the various locations with either the use of
bumpers/curb stops or paint stripping.
4. Revise the Town Ordinance 95.05 to accommodate the recommendation for property owners to have
an option to preserve their landscaping and irrigation systems by installing a post and rope in the right-of-
way not to exceed 24” in grade.
5. Develop a communications plan pertaining to parking revisions.
6. Police enforcement and monitoring is required to support implementation of the changes.

a. Ordinance 18-07, An Ordinance Amending the Holden Beach Code of Ordinances, Chapter 72:
Parking Regulations (Section 72.03 Parking Regulated on Public Streets and Rights-of-Way)
(Pages 65 – 66)

b. Ordinance 18-08, An Ordinance Amending the Holden Beach Code of Ordinances, Chapter 95:
Streets (Section 95.05 Street Rights-of-Way)
(Pages 67 – 69)

17. Direct Solicitation for External Audit – Commissioner Fletcher

18. Internal Control Assessment – Commissioner Fletcher (Page 70)

a. Direct Audit Committee to Conduct Internal Control Review with Assistance from Outside
Accounting Firm
b. Direct Solicitation of Accounting Firm to Conduct Comprehensive Financial and Accounting
Internal Control Review
c. Direct the Town Manager to Provide the Audit Committee Chair Any and All Documentation
Requested to Enable the Audit Committee to Conduct its Review of Accounting and Financial
Internal Controls

19. Discussion and Possible Scheduling of a Date to Hold a Public Hearing Regarding the Adoption of a
System Development Fee Analysis - Town Clerk Finnell (Page 71)

20. Request to Sell Beer at Holden Beach Festivals by Citizen Mark Pompeii – Pending Request (Page 72)

21. Town Manager's Report

BOC Agenda 4/17/18
AMENDMENT TO SOLID WASTE AND RECYCLABLE COLLECTION, TRANSPORTATION AND DISPOSAL AGREEMENT

THIS AMENDMENT OF SOLID WASTE AND RECYCLABLES COLLECTION, TRANSPORTATION AND DISPOSAL AGREEMENT (this "Amendment") is made and entered into this ___ day of __________ 2018 by and between WASTE INDUSTRIES, LLC ("WI"), and TOWN OF HOLDEN BEACH ("Customer").

RECITALS

A. WI and Customer are parties to a Solid Waste and Recyclables Collection, Transportation and Disposal Agreement dated February 21, 2017 (the "Agreement").

B. WI and Customer desire to make certain amendments to the Agreement, as further set forth herein.

AGREEMENTS

NOW, THEREFORE, in consideration of the Recitals, the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Section 2(b), SERVICES, of the Agreement is hereby amended as follows:

   b) Residential Curbside Recycling Collection – All residential units who would like to participate in the voluntary curbside recycling program; will be provided one 95 gallon cart to be serviced on an every other week basis during the months of October through May for the term of the Agreement. Said residential units shall be serviced on a weekly basis during the months of June through September for the term of the Agreement. Carts must be placed at the curb no later than 6:00 am on the scheduled day of service.

2. Exhibit A of the Agreement is hereby amended as follows:

Curbside Recycle – WI will provide a 95 gallon recycle container for the voluntary program for a price of $5.13 per month per cart, or $61.56 annually per cart. There will be no processing fees charged for recyclables through December 31, 2018. Beginning January 1, 2019, processing fees/payment will be tied to the best negotiated agreements with local processors. These fees/payments will be mutually agreed upon but not reasonably withheld. WI will supply documentation as a part of the process of negotiations.

3. Except as specifically modified herein, the Agreement shall remain in full force and effect as written. Capitalized terms used and not otherwise defined herein will have the meanings set forth in the Agreement.

[Signature page follows.]
IN WITNESS WHEREOF, this Amendment and Extension of Solid Waste Collection, Transfer and Disposal Agreement is executed and delivered on behalf of the undersigned by their duly authorized representatives as of the date first set forth above.

ATTEST:

By: __________________________
Name: _________________________
Title: _________________________

TOWN OF HOLDEN BEACH

By: __________________________
Name: _________________________
Title: _________________________

ATTEST:

By: __________________________
Name: _________________________
Title: _________________________

WASTE INDUSTRIES, LLC

By: __________________________
Name: _________________________
Title: _________________________

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

___________________________
City Finance Officer
Date: September 10, 2018

To: Commissioners and Mayor Holden

From: Mandy Lockner, Fiscal Operations II

Re: Recycling Fees

Based on an increase in contract subscription fees from Waste Industries of $61.56. A budget amendment of $9883 is proposed to offset new recycling rates.
ORDINANCE NO. 18-15

AN ORDINANCE AMENDING ORDINANCE NO. 18-10, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR 2018-2019 (Amendment No. 3)

BE IT ORDAINED BY the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina, that Ordinance No. 18-10 appropriating funds for the Fiscal Year 2018-2019 be amended as follows:

PART I
SECTION I: REVENUE

<table>
<thead>
<tr>
<th>ACCOUNT#</th>
<th>DESCRIPTION</th>
<th>AMOUNT</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.0335.0500</td>
<td>Blue Can Home Recycling</td>
<td>$9,883.00</td>
<td>Increase</td>
</tr>
</tbody>
</table>

PART II
SECTION I: EXPENSE

<table>
<thead>
<tr>
<th>ACCOUNT #</th>
<th>DESCRIPTION</th>
<th>AMOUNT</th>
<th>ACTION</th>
</tr>
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<tbody>
<tr>
<td>10.0580.4501</td>
<td>Blue Can Home Recycling</td>
<td>$9,883.00</td>
<td>Increase</td>
</tr>
</tbody>
</table>

This the 23rd day of October, 2018.

ATTEST:

Heather Finnell, Town Clerk

J. Alan Holden, Mayor
RESOLUTION 18-12
RESOLUTION AMENDING THE HOLDEN BEACH FEE SCHEDULE

WHEREAS, the Holden Beach Board of Commissioners is amending their Solid Waste and Recyclable Collection, Transportation and Disposal Agreement to reflect their desire to have Waste Industries provide weekly recycling services for the months of June - September and biweekly pick-up the remainder of the year; and

WHEREAS, the Holden Beach Fee Schedule needs to be updated to reflect the change in service.

NOW THEREFORE BE IT RESOLVED, that the Board of Commissioners of the Town of Holden Beach, North Carolina does hereby amend the fee schedule to reflect the new recycling fee of $67.56 per bin.

BE IT FURTHER RESOLVED, that this fee should be effective for recycling services beginning on January 1, 2019.

This the 23rd day of October, 2018.

ATTEST:

______________________________  
J. Alan Holden, Mayor

______________________________  
Heather Finnell, Town Clerk
## ADMINISTRATION FEES

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vehicle Decals</td>
<td></td>
</tr>
<tr>
<td>First 4 Decals</td>
<td>$0</td>
</tr>
<tr>
<td>On Island Business</td>
<td>$10.00 each</td>
</tr>
<tr>
<td>Off Island Business</td>
<td>$10.00 each</td>
</tr>
<tr>
<td>Replacement Decals</td>
<td>$5.00 each</td>
</tr>
<tr>
<td>Biweekly Curbside Recycling</td>
<td>$54.00 annually</td>
</tr>
<tr>
<td>User Fee (Holden Beach Pavilion, all other Town facilities)</td>
<td>$75.00</td>
</tr>
<tr>
<td>Bridgeview Public Dock Fees. Said fees are per day and not to exceed three consecutive days.</td>
<td>$1.25 per foot</td>
</tr>
<tr>
<td>Dock Fee</td>
<td></td>
</tr>
<tr>
<td>Sewer Pump Out</td>
<td>$5</td>
</tr>
<tr>
<td>Laundry</td>
<td>$5</td>
</tr>
<tr>
<td>Shore Power 20, 30 amp</td>
<td>$5</td>
</tr>
<tr>
<td>Shore Power 50 amp</td>
<td>$10</td>
</tr>
</tbody>
</table>

## PRIVILEGE LICENSE FEES

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Off-Premises Unfortified Wine, Off-Premises Fortified Wine or Both</td>
<td>$10.00</td>
</tr>
<tr>
<td>Off-Premises Malt Beverages</td>
<td>$5.00</td>
</tr>
<tr>
<td>On-Premises Malt Beverages</td>
<td>$15.00</td>
</tr>
<tr>
<td>On-Premises Unfortified Wine, On-Premises Fortified Wine or Both</td>
<td>$15.00</td>
</tr>
</tbody>
</table>

## WATER RATES

### Basic Rates

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base rate per month per dwelling unit, business or commercial service – includes initial 2,000</td>
<td>$18.00</td>
</tr>
<tr>
<td>Each 1,000 gallons for 2,001 – 6,000 gallons</td>
<td>$3.10</td>
</tr>
<tr>
<td>Each 1,000 gallons over 6,000 gallons</td>
<td>$4.10</td>
</tr>
<tr>
<td>Base rate for meters installed for additional services as defined in §51.03(A)(2) of the Code of Ordinances</td>
<td>$7.50</td>
</tr>
<tr>
<td>Each 1,000 gallons for 0 – 6,000 gallons</td>
<td>$3.10</td>
</tr>
<tr>
<td>Each 1,000 gallons over 6,000 gallons</td>
<td>$4.10</td>
</tr>
</tbody>
</table>
Date: October 15, 2018

To: Commissioners and Mayor Holden

From: Heather Finnell, Town Clerk

Re: Solid Waste Ordinance

The Board agreed at their August meeting to update the Town’s Code of Ordinances, Section 50: Solid Waste. Attached is the first version of a draft revised ordinance, prepared by Commissioner Kwiatkowski. The Board and residents have the opportunity to comment on the draft at the October meeting or can send emails to me at heather@hbtownhall.com with their suggestions.

Once feedback is reviewed and any changes are incorporated, another draft will be prepared for the Board’s consideration.

Please let me know if you have any questions.
CHAPTER 50: SOLID WASTE

Section

50.01 Definitions
50.02 Container specifications
50.03 Burning or burying of garbage regulated
50.04 Accumulation and collection
50.05 Collections prohibited
50.06 (Reserved)
50.07 Transporting waste materials, covering during transport
50.08 Rental homes
50.99 Penalty

§ 50.01 DEFINITIONS

SHOULD WE ADD DOG WASTE AND SPECIFY DOG WASTE RECEPTICLES SOMEWHERE?

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING MATERIAL SCRAP. All scrap material from the construction, reconstruction, remodeling or repair of a building, walkway, driveway, sign or other structure, including, but not limited to, excavated earth, tree stumps, rocks, gravel, bricks, plaster, concrete, lumber, insulation, fixtures (e.g., commodes, sinks) or wrappings for materials or any other materials necessary for the construction, reconstruction, remodeling or repair of a building.

GARbage. All putrescible wastes, including animal, fruit and vegetable matter, animal offal and carcasses, and recyclable industrial byproducts but excluding sewage, human waste and yard waste, all small cans, glassware, crockery, bags, and other small containers in which matter has been left or stored.

LARGE HOUSEHOLD ITEMS. Accessories or fittings for a particular use inside, outside or around a house including but not limited to tables and chairs; sofas and recliners; beds frames; dressers; mattresses and box springs; small electronics such as computers and televisions; refrigerators; ovens and microwave ovens; washing and drying machines.

REFUSE. All other types and kinds of materials intended to be discarded, scrapped, or otherwise disposed of and non-recyclable waste.

RECYCLABLE REFUSE. Types and kinds of materials intended to be discarded, scrapped or otherwise disposed of that are defined as recyclable material under the current waste...
collection contract, e.g., cardboard, newspaper, magazines, small metal and glass containers and certain types of plastic containers in which matter has been stored and possibly residues left.

**SHORT-TERM RENTALS.** Single or two family dwellings that are rented out for a short-term stay (i.e., daily or weekly rentals or rentals of less than three (3) consecutive months).

**SOLID WASTE.** All garbage, refuse, rubbish, trash and other discarded solid materials resulting from homes, businesses, industrial, commercial and landscape operations and from community activities but does not include solids or dissolved materials in domestic sewage or other significant pollutants in water resources.

**YARD WASTE.** All wastes pertaining to a landscaped/managed property, including but not limited to tree limbs, leaves, shrubbery, weeds, plants or grass.

('85 Code, § 9-1.1) (Ord. 5, passed -- ; Am. Ord. 10-90, passed 5-15-90)

§ 50.02 CONTAINER SPECIFICATIONS.

(A) Residential requirements.

1. Garbage will be kept only in contractor-owned and provided standard, 90 gallon capacity roll-out containers. Each residence is authorized one container; however, additional containers are available from the town for a set monthly fee.

2. Short term rentals, particularly those that are rented as part of the summer rental season, are subject to high numbers of guests, resulting in abnormally large volumes of garbage and refuse. This type of occupancy use presents a significantly higher impact than homes not used for short term rentals. In interest of public health and sanitation and environmental concerns, all short term rentals shall have a minimum of one garbage can per two bedrooms. Homes with an odd number of bedrooms shall round up (for examples one to two bedrooms - one trash can; three to four bedrooms - two trash cans; five - six bedrooms - three trash cans, and the like). For purposes of this section, a bedroom is any room which provides a facility for sleeping, including but not limited to, daily beds (or other convertibles), sleeper sofas, hide-a-beds, cots or roll away beds.

(B) Property owners are responsible to assure they have sufficient 90-gallon garbage containers to properly contain garbage and refuse prior to collection. Garbage or refuse placed on top of or beside the container(s) will not be placed in non-standard containers picked up by waste collection and will be considered a littering offense as outlined in ???

(a) Recyclable refuse can be disposed of in standard garbage containers. Alternatively, 90 gallon capacity containers for recyclable materials only are available by contract through the town for a set annual fee. They will be provided to a property in addition to, not in replacement of, the required number of garbage containers.
(1) All commercial establishments catering to the public in such a manner as to create refuse shall be required to place an adequate number of refuse containers in such positions and locations as to encourage their use.

(2) All such commercial related containers shall be maintained in a sound and presentable condition.

(C) No person shall throw, place, or deposit any garbage or refuse of any kind, in any place or in any public or private property, except in approved containers or as otherwise provided in accordance with the provisions of this section.

(G) Containers on town-owned property and other public areas are for the use of the town and for the general use of residents and visitors using the public areas. It shall be unlawful for anyone otherwise to place commercial or residential waste or refuse into such containers.

('85 Code, § 9-1.2) (Ord. 5, passed -- ; Am. Ord. 93-18, passed 10-20-93; Am. Ord. 94-02, passed 2-7-94; Am. Ord. 95-06, passed 2-22-95) Penalty, see § 50.09

§ 50.03 BURNING OR BURYING OF GARBAGE REGULATED.

It shall be unlawful to burn or bury garbage or trash for the purpose of disposal unless a special permit has been issued by the Town Police Department. IS THIS CRIMINAL OR CIVIL PENALTY?

('85 Code, § 9-1.3) (Ord. 5, passed -- ; Am. Ord. 10-90, passed 5-15-90) Penalty, see § 50.99

§ 50.04 ACCUMULATION AND COLLECTION.

(A) All garbage and household refuse shall be kept in proper containers as required by this chapter and it shall be unlawful for any person to permit garbage to accumulate or remain on any premises longer than is reasonably necessary for its removal. During the summer rental season, containers will be located at curbside by the property owner or their representative no earlier than 6PM the evening before designated collection days, and then should not be returned to the normal house-side or under house storage location by 9:00 pm the day after collection. For the rest of the year, containers will be located at curbside no more than 48 hours before designated collection and then must be returned to the normal storage location by 6:00 pm the day after collection. See subsection (B) for an alternative storage location.

(B) All the residents of the town that utilize 90 gallon containers must be secured in such a manner either next to non-elevated or underneath elevated houses, except on collection days when they are to be placed at curbside, so that the town street right-of-way remains clear of empty containers, and so that containers are not damaged or overturned by high winds or other occurrences. For these property owners, etc., the containers must be placed at or removed from curbside, an alternate non-collect day storage arrangement is as follows: A sturdy, wooden, three-sided rack of sufficient size to hold the required container(s) may be constructed by the owner. The rack must be constructed so the opening allows for the easy removal of the 90 gallon container(s) by the collector on collection days; e.g. the container must roll in and roll out of the rack without having to be lifted. The rack shall not be placed more than five feet from the street right-of-way and shall not be placed within the area of the street right-of-way. The rack shall be maintained in a
sound and presentable condition. Containers, on corner lots, will be located so as to not violate §§ 157.060(D)(E) and 157.061(D)(E); Covered Visibility, of the Town Code of Ordinances.

(C) It shall be the duty of every owner or occupant of every building or premises where garbage or refuse exists, to reasonably and regularly clean the 90-gallon containers and other legal refuse collection containers.

(D) Garbage and household refuse will be collected and removed from the aforesaid containers or cans in accordance with the schedule set forth in the garbage collection service contract, executed independently from this chapter.

(E) Property owners who are consistently found incapable of properly securing their garbage containers as prescribed in Parts 1A and 8 above, may, after no more than 3 violations, receive written notice from the town that they are in violation of town ordinance in that regard. Those so affected will be asked to correct the situation so they come into compliance with the code or receive a civil fine of $50 per day per offense.

(F) Yard waste will be accepted under certain conditions and at defined times under a contract separate from the standard waste collection contract. Permissible yard waste must not be placed at roadside for collection more than once week prior to a scheduled collection. Property owners who are consistently found in violation may receive written notice from the town that they are in violation of town ordinance in that regard. Those so affected will be asked to correct the situation so they come into compliance with the code or receive a civil fine of $50 per day per offense.

'(85 Code, § 9-1.4) (Ord. 5, passed -- ; Am. Ord. 10-90, passed 5-15-90; Am. Ord. 98-12, passed 6-22-98; Am. Ord. 99-02, passed 2-8-99; Am. Ord. 02-04, passed 3-11-02) Penalty, see § 50.99

§ 50.05 COLLECTIONS PROHIBITED.

All matter, refuse, and materials such as industrial refuse, building materials and scrap, yard waste, tree trimmings, walkway scrap, or any other refuse from building or remodeling large containers, or large household items shall not be accepted or picked up as part of the regular garbage collection service contract. Property owners who leave prohibited materials roadside may, after no less than 48 hours receive written notice from the town that they are in violation of town ordinance in that regard. Those so affected will be asked to correct the situation so they come into compliance with the code or receive a civil fine of $50 per day per offense.

'(85 Code, § 9-1.5) (Ord. 5, passed -- ; Am. Ord. 10-90, passed 5-15-90) Penalty, see § 50.99

§ 50.06 RESERVED: REFUSE REQUIRED TO BE DEPOSITED IN APPROVED CONTAINERS

It shall be unlawful for any person to throw, place or deposit any garbage or refuse of any kind on any public or private property except in approved containers or as otherwise provided in this Chapter. Violations will be considered as littering, subject to a fine of $???
§ 50.07 TRANSPORTING WASTE MATERIALS: COVERING DURING TRANSPORT.

All persons transporting waste material, construction material, or any manner of loose materials over the public or private roadways in the town shall insure that such materials are not lost or scattered on or along the rights-of-way of such roadways. These materials shall be securely covered during transit in such manner as to prevent the loss thereof from the transporting vehicle. **DO WE SPECIFY IT IS LITTERING SO SUBJECT TO A LITTERING FINE?**

('85 Code, § 9-1.7) (Ord. 10-90, passed 5-15-90) Penalty, see § 50.99

§ 50.08 RENTAL HOMES.

(A) **Rental Short-term rental homes, as defined in Chapter 157, that are rented as part of the summer rental season, are subject to high numbers of guests, resulting in abnormally large volumes of trash. This type of occupancy use presents a significantly higher impact than homes not used for summer rentals. In interest of public health and sanitation and environmental concerns, therefore, all rental home shall have a minimum of one trash can per two bedrooms. Homes with an odd number of bedrooms shall round up (for examples one to two bedrooms - one trash can; three to four bedrooms - two trash cans: five - six bedrooms - three trash cans, and the like).**

(B) The effective date for all properties referenced in division (A) above shall be March 1, 20082019.

(C) Any property found in violation of division (A) above shall be subject to the penalties listed in § 50.99, a civil fine of $50 per week per offense.

('Ord. 02-12, passed 11-27-07)

§ 50.99 PENALTY.

(A) **Criminal. Any person who violates any provision of this chapter, with the exception of § 50.04, for which no penalty is otherwise provided shall be subject to the penalty provided in § 10.99(A) of this code of ordinances.**

(B) Civil. In accordance with § 10.99(B) of this code of ordinances, the civil fine for violation of any provision of this chapter, with the exception of § 50.04, shall be $25-50 per offense.

('85 Code, § 9-1.8) (Ord. 5, passed -- ; Am. Ord. 7-87, passed 6-1-87; Am. Ord. 10-90, passed 5-15-90; Am. Ord. 93-11, passed 9-7-93; Am. Ord. 99-02, passed 2-8-99)
Sent from my iPad

Begin forwarded message:

From: David Hewett <david.hewett@hbtownhall.com>
Date: August 12, 2018 at 5:10:50 PM EDT
To: Patty <pattykw@gmail.com>
Cc: Christy Ferguson <Christy.Ferguson@hbtownhall.com>
Subject: Re: Dare Moving Ahead on Inlet Dredge Plan | Coastal Review Online

One might think so but in reading the legislation it could be difficult as it appears that Dare County has a stranglehold on it. See below. D

ACQUIRE PERMANENT DREDGING CAPACITY

SECTION 13.7.(a) The General Assembly finds that the maintenance of the State's shallow draft navigation channels in a manner that keeps those channels navigable and safe and minimizes their closure or degradation is a vital public purpose and a proper governmental function and that declines in federal funding and dredging activity have significantly and adversely impacted the ability of the federal government to maintain these channels in a timely manner. The resulting deterioration in these channels damages the significant portion of the economy of the State's coastal regions that is dependent on the use of the navigation channels by watercraft. Therefore, it is the policy of the State to support and, when necessary to meet the public purposes set forth in this subsection, to supplement federal maintenance of these navigation channels. For purposes of this section, "shallow draft navigation channel" shall have the definition set forth in G.S. 143-215.73F(e).

SECTION 13.7.(b) Notwithstanding subsection (b) of G.S. 143-215.73F, fifteen million dollars ($15,000,000) from the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund shall be allocated to Dare County (Local Partner) to provide a forgivable loan to a private partner for the purchase of a shallow draft hopper dredge to be used under the direction of the Oregon Inlet Task Force in accordance with the work plan negotiated under subdivision (2) of subsection (e) of this section for maintenance of shallow draft navigation channels located throughout the State. For purposes of this section, Oregon Inlet Task Force refers to the advisory body initially appointed by the Dare County Commission at its January 22, 2013, meeting, as subsequently revised by the Commission. The Local Partner shall delegate by resolution any of its delegable duties under this section to the Task Force. The Task Force shall coordinate the use of the dredge funded by this section to ensure that dredging projects for all shallow draft navigation channels located in waters of the State are completed in an expeditious and timely manner.

SECTION 13.7.(c) The selection of a private partner shall be subject only to the requirements set forth in this subsection and shall be exempt from Articles 3 and 8 of Chapter 143 of the General Statutes. By August 1, 2018, the Local Partner shall issue a Request for Proposals (RFP) with required guidelines and eligibility criteria to private entities for the forgivable loan funded by this section. An eligible entity responding to the RFP shall submit to the Local Partner an application within 30 days in the manner and accompanied by such information as the Local Partner may require. The Local Partner shall select a private partner no later than 60 days after the deadline for submission of responses to the RFP.

SECTION 13.7.(d) The forgivable loan agreement between the Local Partner and the private entity receiving the loan (the Loan Parties) shall (i) be for a term of 10 years, renewable for
additional 5 year terms at the agreement of the Loan Parties, and (ii) include, at a minimum, the following:

(1) The dredge for which funding is provided under this section shall be used primarily for maintenance of shallow draft navigation channels located in the State under the direction of the Task Force and based on the work plan as determined in the Memorandum of Agreement described in subdivision (e)(2) of this section.

(2) To ensure that public funds are used only to carry out public purposes, the private entity shall provide, as service repayment on the forgivable loan, dredging of the State's shallow draft navigation channels at a cost-savings between the usual and customary rate for dredging services of this type (as determined by the Local Partner in consultation with the United States Army Corps of Engineers and the Department of Environmental Quality) and a lower rate specified for the dredging in the loan agreement. The agreement shall account for cost-savings that total fifteen million dollars ($15,000,000) over the term of the agreement. The Local Partner shall annually forgive that portion of the loan and any interest accrued on the loan based on the provision of reduced cost dredging services.

(3) At the option of the Loan Parties, the agreement may provide for use of the dredge to undertake supplemental dredging projects within the State at the usual and customary rate charged for such projects if the Local Partner determines that the dredge has capacity to undertake additional work. The Loan Parties shall prioritize supplemental dredging projects for local governments over supplemental dredging projects for private entities. Supplemental dredging projects authorized by this subdivision shall not be credited toward repayment of the forgivable loan under subdivision (2) of this subsection.

(4) If the private entity does not provide cost-savings on dredging services at the State's shallow draft navigation channels in an amount equal to fifteen million dollars ($15,000,000) over the term of the Agreement, the owner of the dredge shall repay the Local Partner within 90 days of the termination date of the Agreement in an amount equal to the remaining service repayment obligation plus any interest accrued on the remaining obligation. The Local Partner shall forward the funds repaid under this subdivision to the Office of State Budget and Management to be credited to the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund.

SECTION 13.7.(e) The Department of Environmental Quality, the Local Partner, and the private entity shall do all of the following:

(1) Plan and allocate responsibilities for any permits, authorizations, or certifications necessary for operation of the dredge for the purposes described in this section. The Local Partner and the private entity shall structure ownership and operation of the dredge in a manner that allows work to be conducted to the maximum extent possible under general permits or through amendments to existing individual permits in order to minimize the expense and delay associated with permitting of dredge operations.
(2) Upon request of the Local Partner, negotiate a Memorandum of Agreement or an amendment to the existing Memorandum of Agreement between the Department and the United States Army Corps of Engineers to incorporate in-kind contributions through the activities of the dredge acquired under this section into existing work plans for maintenance work on shallow draft navigation channels of the State.

SECTION 13.7.(f) The Local Partner shall perform all of the administrative functions necessary to implement this section, including implementing the forgivable loan agreement, loan monitoring, establishing service repayment conditions, including necessary documentation for the determination of the cost of dredging services, enforcing the agreement, and all other functions necessary for the execution and enforcement of the agreement.

SECTION 13.7.(g) The State shall incur no liability for and nothing in this section is intended to waive any sovereign immunity the State may have at common law for any damages or loss associated with the activities authorized by this section. Furthermore, nothing in this section is intended to waive or abrogate the Local Partner’s immunity from civil liability in tort.

SECTION 13.7.(h) The Local Partner shall annually report no later than October 1 on dredging activities undertaken during the prior fiscal year to the Department of Environmental Quality, the Fiscal Research Division, and the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources. The report shall also include detailed information about any default on the terms of the forgivable loan and resulting recoupment or repayment of the State’s investment during the fiscal year. The reporting requirement imposed by this subsection shall expire upon the filing of the report covering the fiscal year in which the term of the forgivable loan agreement ends.

Sent from my iPhone

On Aug 12, 2018, at 4:28 PM, Patty <ratlykwi@gmail.com> wrote:

Might other counties or even individual municipalities buy in?

Sent from my iPad

On Aug 11, 2018, at 9:02 PM, David Hewett <david.hewett@hbtownhall.com> wrote:

BOC
FYI the following article-
Proof that the game is being played above the rim in Raleigh by 7 footers and we haven’t even gotten on the bus yet - don’t even know where the court is....... David

Dare Moving Ahead on Inlet Dredge Plan
DARE COUNTY — As the need for dredging in North Carolina waterways has long ago surpassed the availability of funds and equipment to dredge, Dare County, with the help of $15 million provided in the recent state budget, is about to try something different: Build a dedicated dredge to maintain its waterways.

The plan would be a private-public partnership where a forgivable loan would be offered to the owner/operator in exchange for discounts on the dredging work. The ocean-certified dredge would mostly be used to maintain Oregon Inlet — a notoriously high-need waterway — and Hatteras Inlet in Dare County.

Two responses to the county’s requests for proposals, or RFPs, were submitted before the July 30 deadline to the designated local partner, Dare County, and a private contractor is expected to be chosen this month.

“We want to do it quickly,” said Dare County Manager Bobby Outten, who referred to the proposed project as “a great opportunity for Dare County.”

A provision in North Carolina Senate Bill 99, added by state Sen. Bill Cook, R-Beaufort, appropriated the $15 million from the state Shallow Draft Navigation
Channel Dredging and Aquatic Weed Fund for Dare to contract with a private developer to design, build, operate, maintain and own an ocean-certified hopper dredge. The contractor would have 10 years, with a possible five-year extension, to pay off the loan with credits earned by providing discounted rates for dredging Dare County waterways.

Language in the legislation cited the decline in federal funds for decreased maintenance by the Army Corps of Engineers.

"The resulting deterioration in these channels," the bill said, "damages the significant portion of the economy of the state’s coastal regions that is dependent on the use of navigation channels by watercraft."

The proposed hopper dredge, estimated to cost $25 million to $30 million and take about two years to build, would service Oregon Inlet, Hatteras Inlet and their surrounding waterways, and when possible, other waterways and shallow-draft inlets in North Carolina. Hopper dredges hold the dredged material, or spoils, and then deposit it at specific locations. They are capable of withstanding ocean conditions.

The state defines shallow-draft navigation channels as inlets with a maximum depth of 16 feet, a river entrance to the Atlantic or other interior coastal waterways, including: the Atlantic Intracoastal Waterway and its side channels, Beaufort Harbor, Bogue Inlet, Carolina Beach Inlet, Back Sound to Lookout Back channel, Lockwood Folly River, Oregon Inlet/Shallowbag Bay, Masonboro Inlet, New River, New Topsail Inlet, Rodanthe Harbor, Hatteras Inlet, Shallotte River, Silver Lake Harbor and the connecting waterway between Pamlico Sound and Beaufort Harbor.

At its June 4 board of commissioners meeting, Dare County delegated “any and all delegable duties” to the Oregon Inlet Task Force, an advisory panel established by the commissioners in 2013 to oversee Oregon Inlet maintenance and navigational issues.

Cook said that it made sense for the state to first target Oregon Inlet for dredging because of its disproportionate need for annual maintenance. Of the 3 million cubic yards dredged annually in all the state’s shallow-draft inlets, he
said about 1.5 million is from Oregon Inlet, which connects Pamlico Sound to the Atlantic between Nags Head and Hatteras Island.

*Sen. Bill Cook*

“We need dependable and safe waterway passages to have a vibrant route for commerce while protecting our environment,” Cook said in an email response to questions about the legislation. “Also, once this dredge starts in Oregon Inlet, that will open up and release the Corps of Engineers’ dredge assets to operate in other coastal waterways.”

According to dredge data from the 2016 North Carolina Beach and Inlet Management report, Oregon Inlet/Shallowbag Bay has been dredged 223 times since 1975, with a total of more than 45 million cubic yards removed. In comparison, Carolina Beach has been dredged 153 times since 1982, with 7 million cubic yards removed, and Morehead City Harbor – a deep-draft waterway – has been dredged 46 times since 1975, with about 47 million cubic yards removed.

Cook explained that his relationship with the task force goes back to 2013, when the state set up a committee to study acquisition of Oregon Inlet. The task force, he said, represents a broad range of marine industries, many of which provided information to him.

“Considering that half of the shallow draft dredging need is one inlet and the local committee for that inlet (Oregon Inlet Task Force) is well organized and has been a trusted resource, we wanted to make sure the local experts had the final say,” Cook wrote. “The economic impact of Oregon Inlet is very significant and far outweighs the costs necessary to keep the inlet passable.
A **2014 economic study** by engineering firm Moffatt & Nichol calculated that the inlet is associated with 4,348 jobs and generates $548.4 million in economic impact to the state.

Frank Rush, town manager for Emerald Isle in Carteret County, said he understands the need in Dare County, but he hoped that the dredge will be available at some future date for his town to utilize.

*Frank Rush*

In general, Rush said that communities on the coast are in the same boat, looking for navigation solutions.

"I think all of us collectively need to be exploring new strategies to get this done," he said.

With the proposed contract with the private partner, North Carolina would bear no liability for damages or losses associated with the dredge. The task force would work with the county to develop criteria for the dredge and negotiate a memorandum of agreement with the "private partner," who would contract with the dredge builder.

According to the RFP, the dredge would maintain a 17-foot-deep channel in Oregon Inlet, while "maintaining the capacity" to also dredge Hatteras Inlet and other waterways in the state. The private contractor would pay all costs for the dredge, and work with the task force in the scheduling and location of the dredge, with the decisions of the task force prevailing.
In designating the task force to coordinate use of the dredge to ensure that projects “are completed in an expeditious and timely manner,” the Dare County Board of Commissioners required monthly reports be submitted to the board.

The law also says that annual reports must be provided to the North Carolina Department of Environmental Quality.

The base of operations and the home port for the dredge will be in Dare County. Any supplemental dredge projects in the state would be subject to county approval, based on whether county officials believe the dredge has the capacity. Those projects would not qualify for discounted rates, and the fees would not be credited toward repayment of the forgivable loan.

Jim Tobin, manager of Pirate’s Cove Marina and owner of its ship’s store, is chairman of the task force and serves as a Dare County commissioner.

Tobin also nominated himself for a three-member subcommittee dealing with the dredge issues, along with members Steve House, also a Dare commissioner, and Harry Schiffmann, according to the June 12 task force meeting minutes.

Tobin said that the task force expects to make a recommendation for the private contractor to the board at its next meeting. He said he could not discuss the proposals because they included proprietary information.

Despite his connection to the Pirate’s Cove Marina in Manteo, which sponsors popular fishing tournaments and has about 200 slips for charter boats that use Oregon Inlet to go offshore and inshore, Tobin, a Republican, said he has not heard any concerns about conflicts of interest.
As a task force member for six years, Tobin said he had traveled to Raleigh numerous times to lobby for help for Oregon Inlet and to talk with legislators. Although Tobin said he didn’t ask – or even know ahead of time – about Cook adding the provision for the dredge, he said it’s a great idea because it will allow Oregon Inlet to be properly maintained with much more frequent dredging.

Considering that the inlet has a massive volume of sand – 1.2 million to 1.8 million cubic yards – moving in and out of it every year, there has nearly always been an issue with shoaling, especially around the Bonner Bridge navigation channel, and will continue, even with the new bridge.

“Right now, there’s a hump right in front of the center span,” he said, “and there’s no dredge in sight.”

Although another advisory committee, the Dare County Waterways Commission, is charged with oversight of all the county’s waterway issues, Cook, who supports federal authorization of Hatteras Inlet, said no member of that commission has come to Raleigh in recent years seeking assistance.

But Steve “Creature” Coulter, a Hatteras charter boat captain and a Waterways Commission member, said that input from the commission had not been sought, nor had the commission been provided with any information.

Coulter said he intends to request that a member of the task force attend their meeting “to come and tell us what’s going on.”

“I think the overall project can be a good thing for Dare County and it can be a good thing for the state,” Coulter said. “I just don’t know enough about it.”

Bob Woodard, chairman of the Dare County Board of Commissioners, said that the board will be good stewards of the project and its waterways.

“I can assure you, my board has its hands on this and we’re going to watch it very carefully,” he said in an interview, “and we’re going to do what’s right for Dare County.”

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