Town of Holden Beach
Board of Commissioners
Regular Meeting

Tuesday, January 15, 2019
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 December 18, 2018 (Pages 1 – 6)
   b. Minutes of the Regular Meeting of December 18, 2018 (Pages 7 – 22)

6. Public Comments on Agenda Items

7. Receipt of Inlet and Beach Protection Board Report – Commissioner Freer (Pages 23 – 24)


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

10. Discussion and Possible Nomination of a Board of Commissioners Member to Serve as the Audit Committee Chair – Town Clerk Finnell (Page 26)

11. Discussion and Possible Nomination of Members to Serve on the Audit Committee – Town Clerk Finnell (Pages 26 – 27)

12. Discussion and Possible Approval of Ordinance 19-01, An Ordinance Amending The Holden Beach Code of Ordinances Chapter 151: Building and Housing Regulations (Impact Fees) – Planning Director Evans (Pages 28 – 32)


14. Discussion and Possible Approval of Proclamation Recognizing the Town of Holden Beach’s 50th Anniversary of Incorporation – Assistant Town Manager Ferguson (Page 36)

15. Discussion and Possible Action to Accept Budget Schedule – Commissioner Freer (Page 37)

16. Follow-up and Review of Poyner Spruill Final Contract/ Agreement – Commissioner Butler (Pages 38 – 44)

BOC Agenda 1/15/19
17. Review of the Final Engineering Report to be Submitted to FEMA Pertaining to Hurricane Florence Storm Damages Totaling $7.7 Million – Commissioner Butler (Pages 45 – 60)

18. Discussion and Possible Action to Begin a Process for Removal of Existing Waste Bin Corrals that Were Built Forward of Houses – Commissioner Kwiatkowski (Pages 61 – 62)

19. Discussion and Possible Action on Defining the Waste Ordinance Enforcement Policy – Commissioner Kwiatkowski (Pages 63 – 67)

20. Discussion and Possible Action to Include Fee Based Rollout of Waste and Recycle Containers in Ordinance 18-16, Chapter 50: Solid Waste – Commissioner Freer (Pages 63 – 67)

21. Discussion of Possible Beach Monitoring for Pets During Offseason/ Holidays or Other Actions that May Reduce Ordinance Violations – Commissioner Kwiatkowski (Pages 68 – 69)

22. Discussion and Possible Agreement on Methodology to be Used for BOC Objectives Setting Meeting – Commissioner Kwiatkowski (Page 70)

23. Discussion and Possible Scheduling of Date for Interviews for Vacancy on the Parks & Recreation Advisory Board – Town Clerk Finnell (Page 71)

24. Town Manager’s Report

25. Mayor’s Comments

26. Board of Commissioners’ Comments

27. Public Comments on General Items

28. Executive Session Pursuant to North Carolina General Statute 143-318.11(A)(6) To Consider the Performance of an Employee (Commissioner Kwiatkowski and North Carolina General Statute 143-318.11(A)(3) to Consult with Town Attorney – Commissioner Kwiatkowski and Attorney Fox

29. Adjournment
TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS  
SPECIAL MEETING  
TUESDAY, DECEMBER 18, 2018 – 10:00 A.M.

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Special Meeting on Tuesday, December 18, 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; Assistant Town Manager Christy Ferguson; and Planning Director Tim Evans.

Mayor Holden called the meeting to order. Commissioner Kwiatkowski said we had several citizens/owners write in to ask for discussion about rollout, as well as rollback. She said this meeting is discussing rollback. If the Board wants to have a discussion on rollout without making a formal decision on it, she thinks it would be up to the Board to say okay or defer it to a different meeting because it is a separate topic. Commissioner Fletcher said the Board also needs to make a motion to waive the rules of order. Commissioner Freer would like to discuss rollout. Commissioner Butler needs to leave at 11:30 a.m. for an appointment. Commissioner Kwiatkowski suggested having a separate meeting for rollout. She asked if the Board would waive their standard rules to allow input from the public during the discussion on rollback.

Motion by Commissioner Kwiatkowski to allow input from the public during the rollback discussion upon recognition from the Board; second by Commissioner Fletcher.

Commissioner Freer stated it would be a suspension of rules.

The motion was approved by unanimous vote.

PUBLIC COMMENTS

No public comments were made.

DISCUSSION AND FINALIZATION OF ORDINANCE 18-16, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 50: SOLID WASTE (FOR POSSIBLE ADOPTION AT THE DECEMBER 18, 2018 REGULAR MEETING)

Commissioner Kwiatkowski explained this ordinance in different draft forms has been out there for three – four months. She worked with Town Clerk Finnell to include the feedback from the input that could be included. This is the final amended proposed ordinance that has been through legal. The Board has had it for a few days. She said if there are any questions, we can go through them.
Commissioner Fletcher said he had four questions. He said his first suggestion was that when people needed multiple cans, the alternate cans could be a blue can. Commissioner Kwiatkowski stated the Board discussed that at previous meetings and decided not to do that. Commissioner Fletcher said he is getting a lot of feedback from people who would like to do it. He said it is cheaper for the homeowners to buy a blue can than a brown can. Commissioner Kwiatkowski said the problem is you can put recyclables in a black bin, but you can’t put trash in a blue bin. She said when a renter runs out of room in the black bin, they will use the blue can and that becomes mixed waste that doesn’t get picked up. She said there is a lot of wet waste and she thinks that trying to have a blue bin when we have overflowing wet waste is probably asking for trouble. Commissioner Fletcher said his observation is the extra stuff out there is bags of bottles and cans. Commissioner Freer stated the added benefit is it would encourage recycling. Commissioner Fletcher suggested that they could say the first two have to be brown bins, after that they can be blue.

Commissioner Fletcher said under B it says commercial establishments need an adequate number of refuse containers. He said he is not sure what that means. Commissioner Kwiatkowski explained this is carryover language. Town Manager Hewett said commercial enterprises on the island have dumpsters and overflowing dumpsters haven’t been a problem that has been brought to our attention. Planning Director Evans added that all of the commercial dumpsters are required to be screened. Commissioner Fletcher inquired who decides what is adequate.

Commissioner Fletcher said under D it says 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 area. It shall be unlawful for anyone otherwise to place commercial or residential waste or refuse in such containers. He asked who else would be using it. Commissioner Kwiatkowski explained that is for if a homeowner runs out of room and deposits their trash in the common area bins. Those bins are for the trash generated while in those areas.

Commissioner Fletcher said under Section 50.06, Yard Waste it talks about a civil fine of $50 per day, per offense. He stated that would be a violation of the state statute. Commissioner Kwiatkowski said our Town attorney is the one that said a fine of $50 per day would be allowable and would probably be appropriate to discourage the piles of yard waste at the road for weeks on end. She actually proposed that. Mayor Pro Tem Sullivan said he looked at it and it is every day. Planning Director Evans added it does have language in the code book that says every day is considered a separate offense. Commissioner Fletcher is concerned with the daily fines since most of the Town’s homeowners don’t live here. Commissioner Kwiatkowski said the Board’s intent is not to create a revenue stream from fines. The intent is to educate in the first months. If you drive the island there are heaps of yard waste and we don’t have another pick up until March. If we pass this in January, we can use the time to issue warnings. Commissioner Freer asked who enforces the ordinance and how flexible it would be. Commissioner Kwiatkowski replied the enforcement is something the Town will need to go through, but she finds it hard to believe that if they found out someone was out of commission for a long time we couldn’t show leniency. Town Manager Hewett explained generally speaking the Town strives for compliance first. Planning Director Evans explained how their letters for violations worked in the past. He talked about how trash is currently enforced.

Commissioner Kwiatkowski said she thinks the outstanding point is Commissioner Fletcher’s request that at some stage we allow a blue can to replace a black bin. The proposal was made that after two cans you
could then have a blue bin instead of a black bin. Commissioner Fletcher said maybe for the third, fifth and seventh. He thinks that would work and give people the option to recycle. Town Manager Hewett said he wanted to point out that Waste Industries is adding a surcharge onto the recycling annual fee that will drive that price up. He said he has not done the math, but in terms of the recycling pickup do we know if it is a one for one volumetric tradeoff for a blue can and black can on an annual basis. We changed the frequency, but he thinks when we calculated that in the past the blue can was half of a black on an annual basis. Commissioner Kwiatkowski said although we will be doing weekly pickups from mid-May through the end of September that still leaves six months of the year. At that point you are only getting every other week pickup for the blue bins. She said that is a consideration.

*Motion by Commissioner Fletcher to amend this ordinance to allow a blue can to replace a brown can on the third, fifth and seventh can requirement; second by Commissioner Freer.*

Commissioner Kwiatkowski is concerned that somebody would decide the third and fifth would be recycle and they would get into the off season where they would really only have three waste bins that would get picked up weekly. She said she thinks she is more open to the idea of after two black bins, one black bin could be substituted with a blue bin. Mayor Pro Tem Sullivan said he would think if we are talking about a home that would require that many bins they would also generate a lot of recyclables. You would need more than one blue bin. He said the Board is trying to juggle and to service the most people in the best way possible. He doesn’t think the Board will come up with a perfect solution until they try it for a year. He said they should try what they think is best for the most people. Planning Director Evans asked if Waste Industries has any idea of the percentage of recycling and regular waste. Commissioner Butler said the problem now is that you can only recycle plastics 1 and 2, which means a lot of what used to be able to go in the blue bin no longer can. The Board discussed what is used by renters.

*Commissioner Fletcher withdrew his motion; Commissioner Freer agreed.*

*Motion by Commissioner Fletcher to amend the ordinance to allow the third can to be a blue can; second by Commissioner Freer.*

Town Manager Hewett asked for clarification. Commissioner Fletcher responded that the third can could be a blue can. He said as of now the Board would only allow one blue can to replace a black can.

*The motion passed by unanimous vote.*

Mayor Pro Tem Sullivan asked that the Board consult with the Town attorney because a number of the violations are both criminal and civil. It seems a criminal offense is a little bit beyond reasonable. If it is not necessary he asked to remove the criminal penalties and just have civil penalties. The Board agreed to ask Attorney Fox tonight. Commissioner Fletcher asked about restrictions on civil penalties the Town can assess to people. Town Manager Hewett replied that is an Attorney Fox question.

Commissioner Freer said the ordinance the Board is discussing does have rollback in it. He doesn’t understand how the Board can vote on the ordinance without deciding on rollback. Commissioner Kwiatkowski said that is the reason why they said they need to make a decision on rollback. If they don’t have a rollback decision that gives a level playing field for all owners, there is no reason to change the...
ordinance to make something enforceable. She said tonight is when the Board should vote on the ordinance and at the same time they should give their proposal on rollback.

**DISCUSSION AND DECISION ON PREFERRED ROLLBACK OPTION FOR THE TOWN**

Commissioner Kwiatkowski reviewed her Rollback Options Summary she provided to the Board. Commissioner Freer suggested adding a D to the summary - fee only, no Town payment. Commissioner Freer asked the current cost for rollback on Ocean Boulevard. Town Manager Hewett said he believes it is around $35,000, but will check. Mayor Pro Tem Sullivan asked what the $85,000 estimate entails. Town Manager Hewett replied all cans back to the house annually. Commissioner Freer said he views it as an option like recycling, you pay a yearly fee and you get a service. He views it as an option, so it should be a fee. He would not use the service. Commissioner Kwiatkowski said she is not sure the person who gave the quote figured in an opt out option because that adds a level of complexity. She agreed she won’t use the service, but she is willing to spend money to make the island look clean and neat. Mayor Pro Tem Sullivan said he looks at it like he pays taxes for children to go to school, but he doesn’t have children going to school anymore. He said increasing the pickup and having the cans taken off the street benefits all of us because it is a more attractive community. His quick math is if it is $85,000, it would cost homeowners a little less than $4 per month. He said when they are considering the options, he doesn’t think that any decision the Board comes up with will have a terrible impact. Commissioner Fletcher said it significantly simplifies the process.

Commissioner Freer asked if the Board can talk about rollout. Commissioner Kwiatkowski said rollout becomes more complicated. People keep their cans in different places. It’s not standardized. She thinks it would be good if there were some providers of rollout where people can contract directly with them. She thinks there are a tremendous amount of complications and legal issues about hunting around someone’s property that she is not sure if the Town would like to get involved in. Town Manager Hewett did check with Waste Industries, there is a program for residents with disabilities that you can enroll in that they will rollout and rollback for residents. That wouldn’t apply to second homeowners or rental properties.

Town Manager Hewett said the Town budgeted $35,000 for rollback, it is a little under that. Commissioner Kwiatkowski said we have been paying that amount out of BPART for the past couple of years. Town Manager Hewett said the quote is a working estimate. He would insist the Town develop a statement of work and solicit bids.

Commissioner Butler stated the Board received and appreciated the feedback. He wished they could get a little more. He thanked Commissioner Kwiatkowski for taking this project on and the Holden Beach Property Owners Association for sending their email out to the property owners. He said he supports a rollback program for numerous reasons. He is concerned about those folks that aren’t here and the containers needing to be located street side no earlier than 6:00 p.m. Commissioner Butler said it is easy to say we will have a program in place and to say it will be enforced. He wants to do what is fair for everyone pertaining to the 6:00 p.m. requirement. He is concerned about part-time people. He said a lot of the groups here have their own covenants, but that’s only a limited amount of people on the island. Mayor Pro Tem Sullivan asked how people comply in his community. Commissioner Butler stated his neighbor beside him rents his house and puts it in the renter’s agreement that it is the renter’s responsibility to rollout and rollback. If there is non-compliance, Winding River has a security group that goes out after 11:00 p.m. Violators receive a letter that they are in violation of the ordinance. He talked
about the consequences if they don’t come into compliance. Commissioner Kwiatkowski said she was a second homeowner before she moved here. She talked about what she did with her trash. She said they have put in there that there is a 48-hour window for the offseason. That’s trying to accommodate that with the wording in the ordinance. She said it takes planning, but for five years she planned. She understands it is not perfect, but there are way too many cases with cans sitting out there for a week. Commissioner Fletcher explained his observation while he was living at 515 Ocean Boulevard was that a major issue is the renters are not putting the trash out on time. His thought is that you must have it out the night before. He does that; it makes sure it is out there for pickup. If they would do that it would avoid having full cans put out there after the trash is picked up. Commissioner Kwiatkowski said if trash is put out after the trucks have gone by, the new rollback will be both full and empty bins. If the bins are full they should contact the rental company. Commissioner Freer asked if full or empty is the agreement now. Commissioner Kwiatkowski said not currently, but it was discussed earlier this year and the Board decided all bins need to go back. She knows the rental management companies do have instructions that encourage the renters to put the bins out the night before, they just don’t all do it. Mayor Pro Tem Sullivan said in certain issues there is a fee involved if someone rents a home and the home needs work. He said the fee gets passed to the property owner. He asked if it is legal to retain some of the deposit or to bill the owner if someone doesn’t put their cans out and how much of a pain it would be as the management company. Mayor Holden said his company has a dump truck. Most check-in days he pays his people to be available so when this problem comes up they pick it up and haul the excess away. He doesn’t ever recall charging a renter or homeowner for this service and explained why. Commissioner Kwiatkowski asked if he has an estimate on the percentage of his properties he ends up doing trash removal for. Mayor Holden explained there is nothing consistent about it. If he needed to give a swag of how many houses they needed to accommodate with some level of service, he said they maybe average a dozen on check-in days. Mayor Holden agreed that the bags left on the ground are looked at as an opportunity by animals. The Board talked about people checking out and missing the trash rollout timeframe. Commissioner Kwiatkowski said rollout to her is something that is voluntary. It is something people would contract directly with a provider. The Board talked about the current rollback program and the timing of rollout. Commissioner Fletcher suggested meeting with the rental agencies to see what they would do to help with the issue. Commissioner Kwiatkowski stated she still believes rollout is different from island wide. She doesn’t think they need to be tied together.

The Board talked about how to fund island wide rollback. Mayor Pro Tem Sullivan said if we continue the way we are for rollback service the $35,000 would increase due to weekly recycling during the season. He suggested the Board could look at the difference between the increase for the current service and $85,000. Town Manager Hewett said the $85,000 quoted is for all cans, full and empty and the increased frequency back to the house. Commissioner Fletcher said he spoke with the current provider; if the Board is looking at having the work done within a couple of hours you would need a lot of people to do the work. Commissioner Kwiatkowski went over the options from her Rollback Summary Option again and said Commissioner Freer added a fee only option. Commissioner Freer said if you are going to do a fee at any level you should either do all or none. Town Manager Hewett inquired how nonpayment of the fee would be handled if there is a consideration of applying a fee. Mayor Pro Tem Sullivan said the Town can provide the service with no opt out option. The Board further discussed options for funding the service.

Commissioner Kwiatkowski said as she understands it the discussion is leaning towards a combined General Fund and BPART payment to cover rollback for island wide and all year. She added to stay consistent we are allocating $35,000 and the rest from the General Fund to stay BPART neutral.
Commissioner Freer agreed. Town Manager Hewett asked about the effective date of putting this type of program in place. Commissioner Kwiatkowski said we are now to BPART and the General Fund will cover the cost. We want to have it in place in the beginning to mid-May so there will be General Fund implications in the ongoing budget year. Town Manager Hewett stated that gives time to develop a statement of work and put it out to bid. He asked if what he said about full cans, year-round, full or empty back to the house captures generally what the Board is talking about. Commissioner Fletcher said he would say the statement of work would need to limit the time they take to get the job done. Commissioner Kwiatkowski said rollback has to be achieved by 6:00 p.m. If the decision is to have island wide rollback service and the commissioners say 2:00 p.m. instead of 6:00 p.m. it is not too late to change the proposed ordinance. Commissioner Freer said in the contract the Town could put any time they want. The Board talked about changing the time. Town Manager Hewett stated the tighter the time constraint is that it will reduce the window and the cost may go up. Commissioners Butler and Freer said they are okay with leaving it at 6:00 p.m.

Commissioner Kwiatkowski summarized that for the purpose of this workshop the Board made a decision that there will be whole island rollback every Tuesday and Saturday during the season. It will be paid for from BPART, staying revenue neutral in that fund and the additional costs being paid out of the General Fund. Town Manager Hewett commented that it is subject to a definitive statement of work and an acceptable cost coming back for the Board’s consideration. The Board agreed. Commissioner Kwiatkowski said this is what will be presented tonight at the meeting.

Lou Cutajar asked if the property management companies gave any input. Commissioner Kwiatkowski replied no. Mr. Cutajar said he sent a link to the proposed ordinance to all of the managers.

ADJOURNMENT

Motion by Commissioner Fletcher to adjourn at 11:30 a.m.; second by Commissioner Kwiatkowski; approved by unanimous vote.

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J. Alan Holden, Mayor

ATTEST:

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Heather Finnell, Town Clerk
TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
REGULAR MEETING
TUESDAY, DECEMBER 18, 2018 – 7:00 P.M.

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, December 18, 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; Planning Director Tim Evans; Public Works Director Chris Clemmons; Detective Jeremy Dixon; 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 Fletcher to approve a, b and c (minutes of the Special Meeting of October 23, 2018, minutes of the Special Meeting of November 20, 2018 and minutes of the Regular Meeting of November 20, 2018); second by Commissioner Freer; approved by unanimous vote.

PUBLIC COMMENTS ON AGENDA ITEMS

Tom Myers, President of the Holden Beach Property Owners Association (HBPOA), said he is speaking on behalf of the HBPOA on items 14 & 15, solid waste and rollback services. He said based on their most recent analysis 89% of the property owners do not live here fulltime and 30% of those don’t live in the state of North Carolina. More than half of the property owners do not rent their properties, those that do are predominately seasonal rentals. He said in general property owners are concerned about the additional burdens that might be placed on them and that they could incur severe penalties and possibly criminal violations for things that are out of their control. They feel they pay property taxes and are entitled to services including trash pickup. Mr. Myers said the Town needs to consider the unique demographics of the island. The majority of the island has a high percentage of non-resident owners who don’t always know each other. He talked about how non-residents use the trash service and said these property owners are being turned into villains. He said their only crime is not being here fulltime. The
HBPOA tried to communicate the information on the proposed ordinance and received a lot of feedback. He said collecting feedback takes time and it was impossible to get feedback on what was discussed this morning. He said the HBPOA is willing to help communicate the information to the property owners. They just hope it is fair to the non-resident property owners, who represent the vast majority of our tax base.

GUEST SPEAKER, FOCUS FIBER OPTIC SERVICE PRESENTATION – KRS WARD, DIRECTOR OF BUSINESS DEVELOPMENT, ATMC

Kris Ward, Business Development Manager, said he is here to announce their fiber optic project that will hopefully start in the first quarter of 2019. The project is estimated at $5.5 million, all of that is coming from the cooperative. It will make internet speeds up to 1 GB available to all residents and businesses on the island. There are 13 phases listed on the map. As phases are completed service will be offered to those areas. As soon as they have crews available they will be moving to Holden Beach. They are anticipating in January/early February. Construction should take nine – twelve months. He showed the map, which is also available online. Mr. Ward reviewed the benefits of fiber optics. More information is available online at www.iwantATMC.com. He said he is sure before construction starts they will hold a pre-construction meeting with Town Manager Hewett.

Commissioner Freer asked if the go live is by phase. Mr. Ward confirmed it is by phase. Phases might not be completed in numeric order as listed on the map. Mayor Holden asked about the order of installing the services on the islands. Mr. Ward explained about timing and the different construction services.

DISCUSSION AND POSSIBLE NOMINATION OF BOARD MEMBER TO THE MAYOR PRO TEM POSITION

Motion by Commissioner Kwiatkowski to nominate Mayor Pro Tem Sullivan to continue as mayor pro tem in the second year. No second was made.

Motion by Commissioner Freer to nominate John Fletcher as mayor pro tem; second by Commissioner Butler.

Mayor Pro Tem Sullivan said there is a clear divide on how the Board votes and discusses issues. This vote will place all three positions beyond the regular authority of the commissioners in the hands of the three people that ran together in the last election. He wants to point out that all power rests in the hands of the three people who have voted the same way on every issue since they came onto the Board. Commissioner Freer stated there were four people who ran together and the three that are being referred to have not voted the same on every item. Commissioner Kwiatkowski stated when the Board came into office last year she was told the mayor pro tem generally goes to the commissioner with the most votes which is why she was proposing it is appropriate for Mayor Pro Tem Sullivan to continue. She said if that is no longer the case, the next time it comes up that it not be considered that the person with the most votes becomes the mayor pro tem. Commissioner Freer said if you look at the backup material, it is by election. It was done before, two years ago. Commissioner Fletcher was voted in as mayor pro tem the second year and Ashley Royal, the top vote getter, did it the first year. He said they are just going by the rules. Mayor Holden said it is not mandatory that the top vote getter get it. It was more an honoree type thing. Commissioner Butler said when he looked at the backup material he saw that the ordinance says the normal term of office for mayor pro tem and executive secretary shall be one year. Commissioner Fletcher
said he nominated Mayor Pro Tem Sullivan last year and it wasn’t because he got the most votes. He felt he would be the best.

The motion passed with 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 NOMINATION OF A BOARD MEMBER TO THE EXECUTIVE SECRETARY POSITION

Motion by Commissioner Sullivan to nominate Commissioner Kwiatkowski to the position of executive secretary. No second was made.

Motion by Commissioner Butler to nominate Peter Freer, he has done a great job and he knows he will continue to do a great job in that position. The motion was seconded by Mayor Pro Tem Fletcher, he agrees he has done a good job and should continue it.

Commissioner Sullivan said he shouldn’t be surprised by the variances that go on, but he thought he heard two minutes ago that the reason he should no longer be the mayor pro tem was because he already served a year. Commissioner Freer has served as the executive secretary for at least two, if not three years. If you use the same logic it seems he should be replaced. He said it seems to reinforce what he said, this is just another instance of people wanting to get their way without using logic or a good explanation.

The motion passed by a 3 – 2 vote with Mayor Pro Tem Fletcher and Commissioners Butler and Freer voting for the motion and Commissioners Sullivan and Kwiatkowski voting in the negative.

DISCUSSION AND POSSIBLE ACTION ON BRIDGE REHABILITATION PROJECT

Town Manager Hewett explained that Chad Kimes, Kevin Bowen and Anthony Law from the Department of Transportation are in attendance to discuss the options. Mr. Law said since they were here in August they came up with another idea so he wanted to show the Board another option. He reviewed the scope of work of the project. The contractor has been awarded the project. The expected start date is January 2019, with an overall contract completion date of October 1, 2019. He showed the option chosen for the safety railing at the last meeting and the option that was presented that the Board didn’t choose. The third option that came up recently is a vertical bar, but it is much thinner. He showed the recently completed Surf City Bridge. He wanted to see if the Town is interested in the newer option. Commissioner Butler asked if the path in the slide was a walking/ bicycle path. Mr. Law replied yes. Commissioner Freer asked if it will be three rails or the two rails. Mr. Law said there will be two horizontal bars. He confirmed it would be four feet from the surface of the bridge in response to Mayor Pro Tem Fletcher’s questions. He talked about the view for cars. Commissioner Kwiatkowski said she thinks it is less likely for strobe effect because it is so narrow. She thinks it looks nice. Commissioners Butler and Freer agreed. Mr. Law talked about the price of the project and confirmed they will have time restrictions for construction. They would like a Town representative to be present at the pre-construction meeting. They will probably start in January/ February.

Motion by Mayor Pro Tem Fletcher to accept the new proposal; second by Commissioner Freer; approved by unanimous vote.
RECEIPT OF THE INLET AND BEACH PROTECTION BOARD REPORT

Commissioner Freer explained that as required the report was sent to the Board. He has no problems or comments. He thanked the board for their hard work and told them to continue working on addressing beach and inlet issues.

POLICE REPORT – DETECTIVE JEREMY DIXON

- Having a mild winter. Only have taken one report in November. It was for a vehicle that was broken into. No other reports in that area.
- The County Board of Commissioners approved a resolution in appreciation of emergency services in the county for their services during Hurricane Florence. Read from the resolution.

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

Public Works Director Clemmons explained that Leo Green had a projected startup date of December 17th at the last meeting. We are not going to make the date. The contractor couldn’t fulfill that. The revised schedule for startup is January 15th. Air Vac will be onsite all of that week for troubleshooting. As the operator, the change is not too bad for him because the Town will probably have increased flow during the old date due to the holiday. By January 15th the flow should be down. After the week of startup they have a completion date of the end of February, beginning of March. They had to work around issues. The steel beams arrived about three days ago. He talked about holdups to date and thanked Planning Director Evans for his assistance. He provided the Board with a copy of expenses to date.

Mayor Pro Tem Fletcher asked if we have a projected completion date. Public Works Director Clemmons replied the last of February, beginning of March. We should be operational the week of January 15th if there are no glitches. Commissioner Kwiatkowski asked if staff will send out a flag of items that are going to happen in case there are some glitches. Public Works Director Clemmons replied that he didn’t plan to. He is sure Air Vac will test run some of the equipment. We will have their expertise onsite. If we have any issues we will get the word out to the people that are here. There are no change orders to date. If there are any they should be pretty minimal at this time unless there is a major catastrophe that nobody has foreseen.

DISCUSSION ON THE FINAL PROPOSAL OF WASTE ORDINANCE AND POSSIBLE ADOPTION OF ORDINANCE 18-16, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 50: SOLID WASTE

Commissioner Kwiatkowski explained the Board had a meeting earlier today where the commissioners and the public who came went through the proposed amended ordinance, followed by a discussion on rollback. There is one change that had been put into the packet. There have been a number of requests that recycle bins should be allowed to substitute for some of the waste bins for rental properties. The Board discussed it and decided that in instances where three trash cans or more are needed, substituting one of those cans with a recycling can could be permissible. In Section 50.08, Rental Homes the last sentence will read in instances where three trash cans or more are required, one can may be replaced
with a contractor approved recycling bin. That was the only change made to the document although it was raised again to ask the Town attorney whether having a criminal penalty is necessary. Attorney Fox explained that in North Carolina, the violation of a municipal ordinance is a criminal penalty so you would need to specifically exclude that. Commissioner Sullivan suggested removing the criminal penalty.

*Motion by Commissioner Sullivan that the Board remove the criminal penalty from 50.99; second by Mayor Pro Tem Fletcher.*

The Board talked about the method of approving the ordinance. Attorney Fox said the easiest way to do it would be to say violation of this ordinance would not be subject to a criminal penalty. Commissioner Kwiatkowski said the Board has the one change from this morning and the Board now heard from Attorney Fox that language can be put into the ordinance saying there would not be a criminal penalty.

Commissioner Freer said the Board is integrating rollback, but what they don’t have is a price. He said they requested that Town Manager Hewett put a request for proposals out for the whole Town rollback. Commissioner Freer said rollback is in the ordinance. Commissioner Kwiatkowski said what is included in the ordinance is the timing for rollback. The fact that the Board made a decision that the Town can have island wide rollback means that the rollback issue is not a big issue. If the Board had decided to stay where they were it wouldn’t be a level playing field. She said the kind of rollback program the Town has isn’t a part of this ordinance. Attorney Fox said in the ordinance there are requirements for cans to be placed at the curb at a certain time and retrieved from the curb at a certain time and that they be stored at certain locations. Commissioner Freer added that there are penalties associated with not doing it. Commissioner Sullivan said they are interrelated, but there are two different issues. Commissioner Freer said he agrees with what the Board discussed earlier, but it is really contingent on an acceptable contract. There is no contract, only a concept. He said we have time, once we get that we will have an understanding on the linkage of the rollback and the Board can vote on it then. Commissioner Kwiatkowski stated the Board wanted to implement this so that in the first months of the year we wouldn’t be imposing fines, but would issue warnings. The idea was to give January - April as the educational phase. The fines do not start until May. If the Board’s intent is to provide rollback service she doesn’t think we need to wait for a firm bid, we have an estimate. If the Board doesn’t approve the ordinance they can’t start on the education process. Commissioner Freer said he would be voting on something that he doesn’t know the price impact. That is a risk he is not comfortable with. He said they are voting on something he wouldn’t use, but he would be paying for. He said there are lots of people like the Board that live here fulltime. He is willing to pay a reasonable amount if it makes sense for the whole island. Mayor Holden said until the Board approves a contract nobody is paying anything. Commissioner Sullivan asked for an estimate on how long the process would take. Town Manager Hewett answered that it would probably be mid-January to have a statement of work. He is anticipating he would have a bid package back for the Board’s consideration at the February meeting. Mayor Pro Tem Fletcher suggested the Board could also call a special meeting. Commissioner Freer said he thinks that would be the prudent thing to do, otherwise the Board is voting on something they don’t have information on. It would hopefully give the Board a couple of months to educate the public and the rental folks.

The Board talked about how to proceed. Mayor Holden explained the previous motion needs to be clarified.
Motion by Commissioner Sullivan to amend the proposed ordinance to delete and decriminalize any of the violations contained therein; second by Mayor Pro Tem Fletcher; approved by unanimous vote.

Commissioner Kwiatkowski suggested replacing the proposed language in red to in instances where three trash cans or more are required, one can may be replaced with a contractor approved recycling bin.

Motion by Commissioner Kwiatkowski to alter what is written in red to what she just stated.

Town Clerk Finnell read what the change would be. Commissioner Sullivan suggested using substituted instead of replaced. Commissioner Kwiatkowski agreed. The motion passed by unanimous vote.

Motion by Commissioner Sullivan to adopt the proposed ordinance as amended; second by Commissioner Kwiatkowski; approved by a 4-1 vote with Mayor Pro Tem Fletcher and Commissioners Sullivan, Kwiatkowski and Butler voting for the motion and Commissioner Freer voting in the negative.

DISCUSSION AND POSSIBLE ACTION TO IMPLEMENT BOARD ROLLBACK DECISIONS FROM THE DECEMBER 18TH WORKSHOP

Commissioner Kwiatkowski said the Board had a good meeting this morning and discussed trash can rollback and the problems that come with the current situation of partial island rollback. The general consensus of the Board is there should be whole island rollback not only during season, but also on the Tuesdays offseason and it will be covered by continuing the BPART contribution and paying the rest out of the General Fund. Rollback will be provided island wide every day there is trash pickup. Rollback will be empty or full cans. There will be no rollback fee applied in addition to the normal taxes already paid.

Commissioner Kwiatkowski asked Town Manager Hewett to proceed with the statement of work. Town Manager Hewett confirmed he understands what is expected.

DISCUSSION AND POSSIBLE APPROVAL OF AMENDING THE FEE SCHEDULE (RESOLUTION 18-13, RECYCLING CHARGES AND RESOLUTION 18-14, SPECIAL EVENT FEES

Town Manager Hewett explained that Waste Industries is passing along a $14.92 processing fee for recycling. In order to pass that on to the subscribers, Resolution 18-13 would need to be approved by the Board, which would amend our fee schedule. Resolution 18-14 regarding special event fees is an item discussed at the November meeting. It establishes a race event fee of $1,500. The Board would need to approve both resolutions to implement the revisions to the fee schedule. Commissioner Freer asked if the Town is in a middle of a contract with Waste Industries. Town Manager Hewett replied yes and the contract says they will pass on the processing fee. We are currently not assessed one. Commissioner Freer commented that the special event fee is for races only. He said the Board wants to discuss in the future other for profit events that the Town occurs expenses on to determine how to address those.

Motion by Commissioner Kwiatkowski to adopt both Resolution 18-13 and 18-14 as written; second by Commissioner Freer; approved by unanimous vote.
DISCUSSION AND POSSIBLE ACTION ON POYNER SPRUILL LLP PROPOSAL CONCERNING CONSULTING SERVICES

Town Manager Hewett said the Board had specifically requested that the two previous proposals submitted by Poyner Spruill for consulting services be scaled down into a single proposal that had two primary focus areas. One being federal issues related to the Lockwood Folly Inlet maintenance and the second federal issues related to beach nourishment, with the expressed desire for a scope of work that addressed goals, actions, projected and probable results to include associated timelines of the same. They also expressed the desire for a client list that articulated some of their successes. The proposal has been amended in response to the Board’s desires. It is in the package, complete with the required budget amendment necessary to carry us through the rest of year. The monthly bill is just shy of $7,000 a month. The budget amendment totals $41,850. Town Manager Hewett knows Commissioner Kwiatkowski had provided a letter of support. Specific to the revised proposal, Commissioner Butler has provided revision specific feedback on the proposal. His input is on page 78 in the agenda package.

Commissioner Freer said he agrees with Commissioner Butler’s two points. He asked if Town Manager Hewett sees any issues with requesting the updates and voting on it, assuming the changes can be made. Town Manager Hewett answered that the Board could do that. He said in discussions with Poyner Spruill there is an understanding of refining and crafting the asks that are in there. He would also propose to have the authority that if they refine it a bit more the fee can be whittled down as well. Commissioner Freer stated the Board is concerned with the distribution of sand on the east end. He is sure they understand that, but it is not explicitly stated in the document. Commissioner Freer said that Commissioner Butler suggested that and he is comfortable with adding it. He added the other point is he doesn’t know much about the 50-Year Project and the Board hasn’t discussed that. He thinks the Board should set that aside. They can add that later if they learn more about it. He feels comfortable with adding clarification on the one item. Commissioner Kwiatkowski said the Board discussed that the two priorities were the east end and progressing on finding ways to help get federal help for nourishment. She inquired if he is proposing that as a start all we do is focus on the east end nourishment, Lockwood Folly area. Commissioner Freer responded yes, he is proposing to not include the 50-Year Plan, but if something comes up about sand that doesn’t apply to the east end, the Board could certainly make the adjustment. He is not comfortable with the 50-Year Plan because he doesn’t know much about it. He said the Board could say east end and nourishment of other areas. Commissioner Kwiatkowski added other opportunities.

Mayor Pro Tem Fletcher said he was waiting on some input from Poyner Spruill on the projects they worked on. Poyner Spruill sent 10 pages of projects they worked on in the last few years and not one has to do with the Corps, beach nourishment or sand. He said that worries him. He said we need to be really restrictive if we do anything with them now. We need to limit the input until we see what they do. Mayor Pro Tem Fletcher said we have not heard from anyone else. He had dinner last night with a person that works for the Governor in South Carolina. They have 40 companies under contract to lobby for them. He said if we go out to bid we would get a lot of input from a lot of good companies. He does not feel comfortable representing the Town owners to spend their money on something that he does not know if there is a better deal. If the Town is going to spend $100,000, he would like to go out to bid to see who else would do it for us; to see if they are focused on sand, beach nourishment and shoreline protection. He said Poyner Spruill is a good firm, but they are not focused on that. He would only give them a limited contract and it would focus on getting sand from the inlet onto the east end. Mayor Pro Tem Fletcher
stated if they could do that successfully he would be happy to expand that and to look at other things they can do for us.

Commissioner Butler stated he is sure folks on the east end could go out, look at the beach and look at the amount of erosion that is currently taking place as a result of the storms. We knows that we lost 88,000 cubic yards of sand to our neighbor. He said he can hear all of the excuses in the world, but the bottom line is we never received a phone call or even an email about it until we went to a meeting and found out about it. He said something is wrong there. Commissioner Butler said as you notice in the document he wrote, the Town’s primary focus at this point and time is to receive beach quality sand to address the east end erosion problems. The other primary concern he has is to add additional representation at the federal and state levels to support all of the items identified in Resolution 18-10. He thinks the Town needs support and help. We have an email about 250,000 cubic yards of sand; a dredging project potentially down the road. The email was sent to both Holden Beach and Oak Island to see if we are interested in the sand. He said the answer is yes. Commissioner Butler said the position we are in is we need help. He said let’s focus on the areas we need help in.

Motion by Commissioner Freer that we accept this contract with the following changes that are on page 78 in our package where we would add along with beach nourishment efforts for placement of beach quality sand on the east end of Holden Beach and also add any other beach nourishment opportunities and the second one is to remove the 50-Year Plan as part of the contract; second by Mayor Pro Tem Fletcher.

Commissioner Sullivan asked if the Board is ready to vote on this not knowing what the cost will be. Now that we are amending what we are asking them to do he is sure there will be a difference in cost. He is not sure if they would be willing to vote on that now, not knowing what the cost will be. Commissioner Freer said we just voted on something we didn’t know what the cost would be and he was the only one that voted against it. He said he is reducing it so he would assume the cost wouldn’t be any more. He would also assume that it’s an hourly contract so instead of devoting their hours against two objectives, they are using the hours against one objective, the same amount of hours. Mayor Pro Tem Fletcher said his understanding is they can’t spend more than the retainer. Commissioner Sullivan said he understands that, but there is a figure just shy of $7,000 to do what they proposed. The Board is cutting it down. He asked if they will still charge $7,000 and if the Board is willing to pay that for less work on their part. He thinks they should lower their retainer and he thinks the Board should know what the number is. The Board talked about the previous proposals. Commissioner Freer said he thinks the lower one was very close to this proposed one. He said he doesn’t expect much reduction. Commissioner Kwiatkowski said the question is whether the Board would accept it on the understanding that it would cost no more than the proposal and there is likely to be a slight reduction. Commissioner Freer said we are taking off about the 50-Year Plan, but we are adding other beach nourishment. Commissioner Kwiatkowski stated that is the kind of stuff that will come out when they do legislative updates to the Board because that’s what flags those sorts of activities. Commissioner Freer said he thinks the Board is substituting the 50-Year Project for not a specific project, but anything that presents itself as nourishment, other than the east end. Commissioner Kwiatkowski asked if what people are happy to approve is engaging Payner Spruill with the understanding that the cost will not exceed the proposal. Commissioner Butler also asked for clarification in his email that any Ferguson involvement is contained within the monthly retainer. He said that Town Manager Hewett responded yes it is. Commissioner Freer agreed with what Mayor Pro Tem Fletcher said, but the Board should have talked about that three months ago. It is a lot of money, but if it works it is worth the money. Mayor Pro Tem Fletcher said he would be willing to pay a lot more if they
came back and say they found a way to get the Town the 250,000 cubic yards out of the inlet on our east end. Commissioner Freer added and fund it. Commissioner Sullivan said he is not against this, he was trying to point out the way the Board conducts business is not done rationally. He suggested the motion be amended because it doesn’t include any language about the cost not exceeding the proposed price. Commissioner Freer said he doesn’t think the Board has to because the price is there, but we can say not to exceed the price in the contract. Commissioner Sullivan stated we are not accepting that offer. He talked about basic contracting laws. He said the Board is giving Poyner Spruill a counter offer, they do not need to honor what they sent to us. He said if the Board makes a counter offer, the Board should include what they expect to pay. Attorney Fox agreed that in contract law offer objection voids the current offer on the table. She understood Town Manager Hewett has said he believes from his discussions that if the items were modified as outlined in the packet, you would be able to enter into the contract for a lesser amount. She also understood the Board to say that they would give Town Manager Hewett the authority to do that. The discussion however has not been incorporated into the motion.

Mayor Holden passed the gavel and said he wanted to make sure he is hearing what is being considered. He asked if we are hiring Poyner Spruill for only pertaining to the east end of the beach. Commissioner Freer responded no, he amended that to say other beach nourishment opportunities on any part of the island. Mayor Holden confirmed for east end sand and other nourishment is what we are hiring them for. Commissioner Freer said as a start. Mayor Holden said he gets in his fishing boat and takes half a dozen rods and reels and is headed offshore. He looks at all of these schools of fish as he is going out, they are good fish, but he is only going to catch that one kind of fish that day. He is going to bypass all of the other good stuff he is looking at. He stated that is the way he sees giving whoever the Board chooses to hire a limitation on what they are there for. You wouldn’t be allowing them to work on any other issues than what was just described. He said it makes no sense to him. He hates to be critical and is excited about the possibility of getting help. Commissioner Freer said Town Manager Hewett has a relationship with the firm and they would come to him with other opportunities. He said if you are going tuna hunting, are you going to say there are other fish here so I am going to divert from that. He stated no, he would want them to focus on tuna. Mayor Holden said if they are in Washington and talking about several things, the representative is only going to get involved in the issues discussed, unless they call Town Manager Hewett and say we are in Washington and ask for permission to discuss another topic. He said we are either in or out. Commissioner Freer inquired why a list was made and Poyner Spruill presented us with two different options. He said they are just extending that logic to focus their work. Mayor Holden said he fought like hell for the 50-Year Project and he watched Ocean Isle get their project in place. They outran us and we got left in the dust. He said what we are doing is going hunting with a BB gun and there are elephants out there. We need someone that wherever they are if they have an opportunity to represent us, they have the authority to do something to help us. Commissioner Butler said he is looking for a grenade to throw at the elephant. We have an immediate problem, an immediate concern that needs to be addressed and we need help. He would like to focus on the immediate problem because he doesn’t want to see the east end of the island end up the way it was before. Commissioner Kwiatkowski stated the Board can go back and remember that in the presentation Poyner Spruill made they are used to having municipalities start small and continue to work with them and add things. She thinks it will behoove everyone to learn more on the situation with the 50-Year Plan and maybe as this progresses that is where we put our next priority. Commissioner Butler said he likes that. Commissioner Freer said he is all for that; give him some information on the 50-Year Plan. The Board should make a decision on the 50-Year Plan as a Board before we pay someone to advocate for us on that.
The motion passed by unanimous vote.

Motion by Mayor Pro Tem Fletcher to approve Ordinance 18-07, An Ordinance Amending Ordinance 18-10, The Revenues and Appropriations Ordinance for Fiscal Year 2018 – 2019; second by Commissioner Butler; approved by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 18-18, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 30, TOWN GOVERNMENT AND OFFICIALS (SECTION 30.26 AUDIT COMMITTEE OF THE BOC)

Motion by Mayor Pro Tem Fletcher to approve Ordinance 18-18, An Ordinance Amending the Holden Beach Code of Ordinances, Chapter 30: Town Government and Officials (Section 30.26 Audit Committee of the BOC); second by Commissioner Freer.

Commissioner Kwiatkowski said she still sees that there is an inconsistency in how members are placed on the Audit Committee. The Board had a discussion on this last time and she remembers that the attorney said it is better to have consistency on how members are appointed to the various boards and committees. In other boards and committees, the Board interviews and votes for the members that will be added. Only the Audit Committee says the chair appoints the members. She would look to the Audit Committee to provide the Board with a priorities list for qualifications and then let the Board interview the candidates and make the selection. Mayor Pro Tem Fletcher said the Board would hear every candidate before they decide if the proposal from the chair is the right one. Commissioner Sullivan stated the essence of it is, if five people submit their names to be on the board, the chair and the existing people interview those five people and then say they want one or two. The Board gets to vote on the people they selected, instead of actually talking to the other three. Mayor Pro Tem Fletcher said the Board would see everyone. Commissioner Sullivan said since the last meeting he had people say they submitted their name and never had an interview or if they got an interview it was a phone call from Mayor Pro Tem Fletcher and they didn’t even realize it was an interview. He said there is no reason that his colleagues do not have the ability to look at a resume, especially if they have guidelines on what they are looking for. This is the only committee that the Board allows the chair to make the decisions and then put it to the Board. He said last meeting Commissioner Freer asked what practices are in Fayetteville. He read from the minutes. He said we hired an attorney to get her professional opinion and for whatever reason we are going to disregard that and leave ourselves open to criticism. Commissioner Kwiatkowski stated it would be a simple thing to change this to members will be appointed by the Board based on general guidance and qualifications provided by the Audit Committee. Commissioner Butler said shouldn’t the committee have the ability to be able to assess and evaluate the number of candidates for the position and to screen the candidates like an HR Department would do. Commissioner Kwiatkowski said the Board doesn’t do that for other committees and they are asking for consistency. Mayor Pro Tem Fletcher said they only have a one year term. Mayor Holden said he thought committee members serve at the pleasure of the Board. Attorney Fox replied yes. Commissioner Freer thinks the point is the other committees are more than a year. He said this is a unique board. Mayor Pro Tem Fletcher agreed. He said he has worked this for many years. They are pushing now to get financially experienced people on that board. He said if it turns out to be a political deal they won’t be doing the job. Commissioner Kwiatkowski asked if he doesn’t think the Board is capable of conducting a proper interview and to judge the qualifications. Mayor Pro Tem Fletcher said it is an attitude thing as well. Commissioner Sullivan explained that is subjective. He asked Commissioner Freer if he thinks he is qualified. Commissioner Freer said Commissioner Sullivan referenced Fayetteville,
but they do it differently. Attorney Fox reviewed how Fayetteville’s committee is composed; she said it is not apples to apples. She said this is an advisory board that can be disbanded, that should support the Board in the Board's role of overseeing the Town’s finances, unlike the Planning & Zoning Board that is mandated by statute. Mayor Holden asked if it is correct that the members of the Audit Committee meet, but they don’t have the authority to go to Town staff to ask questions. Attorney Fox replied they would go through a staff liaison. Mayor Holden said that would be the town manager. He has a mayor friend in another part of the state that had problems with appointed people going directly to staff and it interrupted things. Mayor Pro Tem Fletcher added they make recommendations to the Board, they don’t make any decisions. He said the Board will hear from everyone that sends a resume. The Board talked about the process in the past. Commissioner Freer said he would change the word appointed to recommend. Then the Board can ignore the recommendation or accept it. Commissioner Sullivan agreed that would work. Mayor Pro Tem Fletcher said the Board can then talk to every person.

Attorney Fox asked if the Board is okay with the language the chairman of the BOC Audit Committee should recommend to the BOC the member to be appointed, subject to confirmation by the BOC. Mayor Holden asked if it is implied or written anywhere that anyone who applies for the position will be made known to the commissioners. Attorney Fox asked the current process. Town Clerk Finnell said she sends out a request for resumes and resumes are sent to her. A special meeting is scheduled to interview everyone and the Board receives everyone’s application. Attorney Fox said there shouldn’t be a deviation. Commissioner Freer said the Board is adding one step that prior to coming to the Board they go to the Audit Committee so they can present their recommendations as well. Town Manager Hewett said that is not what the ordinance says, it says appointed by the chair. Commissioner Kwiatkowski said it does not say that the Audit Committee as a whole interviews them. Town Clerk Finnell said she is not sure having the Audit Committee interview the candidates makes sense since their terms all technically expire after a year. If they are interested in serving again, they would be interviewing themselves if they did it as a committee. Mayor Pro Tem Fletcher said that is why the chair does it, rather than the group. Attorney Fox said when the candidates are interviewed by the Board as a whole, the chair would make a recommendation. Mayor Pro Tem Fletcher said the Board would have complete control of saying yes or no to the recommendation. Mayor Holden said all that applied through the clerk would be interviewed by the Board. Attorney Fox agreed. Commissioner Sullivan said if they were looking for the Planning & Zoning Board, whoever submitted their name would give a presentation and the Board would vote on it. For the Audit Committee, we have an intermediate step. Mayor Pro Tem Fletcher said the difference is the other group picks their chair, there are no commissioners on those boards. Commissioner Sullivan still doesn’t understand why his colleagues do not feel qualified, especially if the Board has a qualification list to look at. Attorney Fox stated she is suggesting that the town clerk advertise and receive all of the applicants. All of the information should be disseminated to the Board. The Board should conduct the interviews just like they do for other committees. The chair is also a member of the Board, at the meeting where he has interviewed with the Board, he will make his recommendation on who he thinks should be on the committee, but the Board as a whole will make the appointment by voting on each candidate. Commissioner Sullivan stated he understands that would be in addition to the presentation, at a subsequent time. Mayor Pro Tem Fletcher said he would do it at a previous time.

Attorney Fox said it should say the chairman of the Board of Commissioners’ Audit Committee shall make a recommendation to the Board of Commissioners on who shall serve as the public members. She said the remaining part would stay. She added the Town should follow its normal procedures. Town Clerk Finnell read what the change would be.
Motion by Mayor Pro Tem Fletcher to accept the charter as amended; second by Commissioner Freer; approved by unanimous vote.

DISCUSSION AND POSSIBLE ACTION ON AMENDING THE RULES OF PROCEDURE

Commissioner Butler said he is recommending that the second sentence contained in Rule 13, Agenda, on page 5 of the Suggested Rules of Procedure for the Town of Holden Beach Board be revised. To be consistent at both regular and special meetings, he would like for the current wording in that sentence to be standardized for both regular and special meetings to encourage public participation to provide comments on agenda items. Also from the last meeting in reviewing page 16 he noted that would be a perfect place to also put that comment. He would like to make his comments his motion; second by Commissioner Freer.

Commissioner Kwiatkowski stated she is all for public comment and discussion. She is just questioning whether the Board needs to do this because it is not prohibited to have public comment at special meetings. It simply isn’t specified. The Board used a document that Attorney Fox sent them as a template to develop the Town’s rules. It doesn’t prohibit it. Commissioner Freer said to him it is a clarification; he said it doesn’t have to be put in, the Board can vote on a suspension of rules. He thinks the public will know at special meetings they can so they will show up. Commissioner Kwiatkowski said it is not a suspension of rules because it isn’t prohibited. Mayor Holden said if it is on the agenda the commissioners don’t have the ability to vote and deny people the opportunity to talk. If it is not on the agenda people can’t speak unless the Board votes to allow them to speak. Mayor Pro Tem Fletcher stated the Board could just set a policy that it is added to every agenda. Commissioner Freer said that is what this is. Commissioner Sullivan asked about when the Board had the special meeting about the Amicus Brief and he made a motion to have public comments that was denied. The Board talked about that circumstance. Commissioner Kwiatkowski said if this would keep that from happening again she would like it to be put in the document. Commissioner Sullivan said there is nothing that prohibits people from making comments at a special meeting. Mayor Pro Tem Fletcher said there is something that precludes you from changing the agenda at a special meeting. Attorney Fox clarified that the Board can as a board allow comments on a matter that is on the agenda. The restriction on special meetings is that you have to only discuss the items that were noticed. That does not preclude you from allowing the public to comment on that. Most boards do not receive public comments during special meetings unless it is something that requires a public hearing. She explained you are allowed to let the public make comments during a special meeting, but you are not required to do so. Commissioner Freer asked for clarification because he said that was an added item to the agenda. Attorney Fox responded that it is not an additional item to receive public comment on a matter that was advertised as an agenda item that the Board is discussing. She provided information on public comment periods and public hearings.

The motion passed by unanimous vote.

Commissioner Kwiatkowski said the Board had so many discussions around last minute things being added to meetings it occurred to her one of the best things the Board could do would be to clarify Part VI, Rule 13, Part B. She suggested that the Board should remove the word significant so it reads items that are added to the agenda at a meeting in combination with supporting documentation will be designated “For Discussion”, with action deferred to a later session. It allows introduction of a point onto the agenda for
discussion. If you bring something in writing that needs to be read and the public doesn’t have opportunity to review it ahead of time the Board shouldn’t take action, it should be limited to discussion.

Motion by Commissioner Kwiatkowski to amend Part VI, Rule 13, Part B removing the word significant from the last sentence; second by Commissioner Sullivan; approved by unanimous vote.

DISCUSSION AND POSSIBLE ACTION RELATED TO LARGE/ PARTY HOUSES ON HOLDEN BEACH

Commissioner Sullivan said prior to being elected to the Board he was on the Planning & Zoning Board (P&Z) and they were asked to look at the issue of large party houses on Holden Beach. At that point, they came to a decision that there probably wouldn’t be a need to change our zoning laws because the existing laws would be enough to limit the amount of such houses that could be built on the island. He said sadly he thinks we came up short. In the last year we had three houses built that advertise you could have 20-30 people renting the house. Our current zoning doesn’t accomplish what most people on the island would hope. There was an article in the paper where it said a couple of municipalities have suggested some different ways to approach the situation. He would propose P&Z be asked to contact people in these municipalities, get copies of the rules and regulations they are proposing and see if they are feasible or applicable to be potentially used on Holden Beach. Commissioner Freer said he agreed.

Motion by Commissioner Sullivan that the proposal would be that P&Z consider the feasibility and applicability of the zoning proposals instituted by municipalities within Dare County; #1 - Southern Shores, creation of a residential overlay district. The proposal will require stricter development standards for homes built within the district based on the size of the proposed home and #2 - Duck which is proposing to use lot size in determining allowable septic capacity and house size. The motion was seconded by Commissioner Butler.

Commissioner Freer said Holden Beach doesn’t have septic. He said that is an example of something that could be done, but don’t restrict it to septic systems. Planning Director Evans said you can’t limit the amount of people in the houses because you can’t limit the number of bedrooms. Commissioner Sullivan said this is another attempt to get around the limit on bedrooms. Planning Director Evans said Oak Island has done something similar and provided an example of what they did. He explained you can’t legislate what’s inside the house. We have a house that is half the size of the big house, but it has 11 bedrooms in under 4,000 square feet. Commissioner Sullivan asked if the Town has a rule requiring so many parking spaces per bedroom. Planning Director Evans replied yes and that the house in his example meets the requirements. He said Oak Island has done it, but the problem is while they are limiting the size of houses, they can’t limit the number of bedrooms or behavior. Commissioner Sullivan said if a person rents the house and has to sleep in a cubicle like a monk, they may not want to rent that house again. Commissioner Freer said time has changed and let’s readress the situation. Commissioner Sullivan said the Board is asking for P&Z to investigate and see if feasible. If it is, the Board will implement it, if not they won’t. Commissioner Freer said he doesn’t want to restrict them.

Commissioner Sullivan stated the Board can change #2 from Duck to investigate the proposals that Duck has suggested.
Planning Director Evans said if Duck is talking about septic systems, septic systems are the only way you can legitimately limit the number of bedrooms because septic systems are governed by onsite wastewater. He suggested looking more towards Oak Island.

*The motion passed by unanimous vote.*

**DISCUSSION AND POSSIBLE SCHEDULING OF A DATE FOR SETTING 2019 BOC OBJECTIVES WITH TOWN MANAGEMENT**

Commissioner Kwiatkowski said as we go into a new year she thought it would be beneficial if the Board set up a workshop to agree on major 2019 objectives. She thinks it would be a good organization meeting to start the year off. The Board agreed to communicate their January availability to Town Clerk Finnell.

**DISCUSSION AND POSSIBLE ACTION ON LOCKWOOD FOLLY DREDGING ISSUES**

Vicki Myers, Chair of the Inlet and Beach Protection Board (IBPB), explained that last summer the county applied for a grant from the State Department of Water Resources Shallow Draft Inlet Fund to dredge the outer bar of the Lockwood Folly Inlet wider and deeper than it has been in the past. Their goal is to create a more durable channel and reduce the frequency and costs of dredging. In addition the project would take 250,000 cubic yards of sand from the inlet that would be placed on Oak Island or Holden Beach. The county received the grant. The total project is estimated at $4.1 million. The state will pay 2/3. The county and the town receiving the sand will pay the remaining third of $1.4 million. The county is suggesting that the receiving town pay 75% of that or $1.3 million. The IBPB held a special meeting to discuss Deputy County Manager Steve Stone’s email requesting a response by the first part of January. Mrs. Myers said the IBPB recommends that the Town pursue this opportunity and that the sand be placed on the east end, as indicated in the grant application. She said they feel this is especially important as the Town is missing out on this cycle of the Lockwood Folly Crossing sand. They recommend that Town staff follow up with the county regarding comments in the email about the project being determined to be a success, how they define success. She said the IBPB wants people to understand that participation in the project should not be construed as supporting the sharing of the sand from the outer bar with neighboring beaches. The IBPB recommends that the proposed cost sharing arrangements be discussed. Mrs. Myers stated in summary the IBPB unanimously feels that if this project goes forward it is essential the sand come to Holden Beach. As the down drift beach we cannot afford for the dredging to occur without the sand coming to our beach.

Town Manager Hewett said he intends to communicate what he assumes the Board’s position is in support of what the IBPB recommended to Mr. Stone and also to enter into some other dialogue along those lines with him. Commissioner Freer said he would support the four recommendations on page 109. Town Manager Hewett asked that the Board not limit our recommendations to that. Commissioner Freer said fair enough.

**DISCUSSION AND POSSIBLE APPROVAL OF BOARD OF COMMISSIONERS’ MEETING SCHEDULE**

*Motion by Mayor Pro Tem Fletcher to adopt the schedule; second by Commissioner Butler; approved by unanimous vote.*
TOWN MANAGER’S REPORT

• Chief Layne has officially announced his retirement effective April 1st. Detective Dixon has been designated as next Chief of Police. It will become effective upon Chief Layne’s last day.
• Ava Cain has announced her retirement effective January 1st. Filling that position with our former Beach Ranger, Maddy Zehnder on a temporary basis.
• Officer Colton filled the vacant Police Officer position. Comes to us from the Brunswick Sheriff’s Department and is currently processing through the Police Department’s field training program.
• Megan Hegadore has transitioned from her temporary status at the reception desk to regular fulltime status.
• Waste Industries does provide, on a by request basis, rollback service for special needs individuals. You need a doctor’s note to prove special needs.

• Canal dredging is well underway. Got started last week, although the contractor is about two weeks behind where they want to be. Working in the canals from east to west. Holden Beach Harbor is scheduled through January 25th, Heritage Harbor: January 26th – February 25th and Harbor Acres: end of February – the first week of April. If you don’t have your boat out of the way, make arrangements as soon as you can.
• No name storm of 2018 Thanksgiving – had significant tidal and stormwater flooding on several of the canal subdivision streets. It caused numerous issues. These circumstances are similar to those we see during a hurricane event, with one major difference. The island was populated and the system was on. If this would have happened for a longer period of time we do not think we could have maintained our operations. No sewage spills occurred. Lessons learned are we have a lot of entry points in the closed system. Missing/ broken cleanouts and snorkels are most readily apparent. Developing an inspection protocol that will allow further investigation.
• We still have $350,000 outstanding with Hurricane Matthew.
• Florence and Michael – our Beach Technical Advisor has met with the staff to gather the necessary information to write the project worksheets for Florence and to prepare the submittal for Michael. Governor Cooper has requested Hurricane Michael federal declaration for 21 North Carolina counties, including Brunswick County. We like to think our input helped the governor to make the request on our behalf. There is some additional surveying that will be required for strand losses in order to meet new federal guidelines. That is underway.
• We had some cosmetic damage with the Town Hall gutters and at the Starfish Fire Station. Those won’t qualify for reimbursements so we are evaluating our options. The fascia being removed at the Fire Station has revealed some rot that we haven’t programmed in.

MAYOR’S COMMENTS

• Complimented the staff for making a merry Christmas event at the Pavilion. Had a lot of positive comments about it.
• Overall thinks we are finishing up a good year. Condition of island - still have a lot of repairs going on from the storms. Most all of the contractors are telling him they are at least two – six months out on catching up on repair work. When the spring rush gets here everything will be backed up more. There is a lot going on and he doesn’t see anything slowing up. Thanked everyone involved.
BOARD OF COMMISSIONERS' COMMENTS

Commissioner Sullivan
- Thanked everyone here tonight. Thanked the people who gave their input on solid waste. It is the most correspondence he thinks he had on any item since he has been a commissioner. Good to get the input beforehand rather than after they made a decision.
- Wished everyone a merry Christmas and happy and healthy New Year.

Commissioner Kwiatkowski
- Thanked everyone for coming. Actually finishing an hour earlier than the last couple of meetings. Thanks for hanging in there with us all year.
- Merry Christmas and happy New Year.

Commissioner Butler
- Thanked everyone for hanging in there this evening.
- Merry Christmas to you and your families. Stay healthy and God bless.

Mayor Pro Tem Fletcher
- Thanked everyone who sent information. Was also flooded with inputs, they were all good inputs.
- Wished everyone a safe and happy holiday season. See you next year.

Commissioner Freer
- Thanked everyone for attending and their patience.
- Merry Christmas and happy New Year.

PUBLIC COMMENTS ON GENERAL ITEMS

No comments were made.

ADJOURNMENT

Motion by Mayor Pro Tem Fletcher to adjourn at 9:37 p.m.; second by Commissioner Butler; approved by unanimous vote.

ATTEST:

J. Alan Holden, Mayor

Heather Finnell, Town Clerk
Date: December 20, 2018

To: Holden Beach Board of Commissioners

From: Vicki Y. Myers, Inlet and Beach Protection Board Chair

Re: December Meeting Update

The Inlet and Beach Protection Board (IBPB) met December 20 and the following issues and topics were addressed:

Status of the Beach and Inlets: Staff provided an overview of conditions and issues relative to the beach strand and inlets. The Board was updated on the LFI situation.

Collaboration with UNCW: Member Thomas gave an update on his meeting with UNCW. The next step is to have a representative from UNCW attend a meeting of the IBPB.

Comprehensive Long-Term Plan: A working framework for the long-term plan was discussed and agreed upon. Sample reports were reviewed and discussed. A facilitator was also discussed and that recommendation will be forwarded on.

Budget Items for FY 19-20: As “budget season” is fast approaching, Board Members discussed projects and items they would like to see included in the upcoming budget. Identified items such as additional plantings and mats will be researched as possible recommendations for the budget.

Engagement with other Groups: The Town of Holden Beach and the IBPB interface with many groups and projects/efforts. In order to increase awareness and efficiency, members volunteered to take responsibility for keeping the rest of the group updated.

Community Engagement Newsletter: To meet the goal of serving as a link to the community as specified in the establishing ordinance, the first draft
of a regular (possibly quarterly) community newsletter was reviewed and will be distributed.

**Meetings:** Members of the Board, staff, and the BOC attended the quarterly MOA meeting in New Bern on December 19 in person and via webinar. Upcoming beach and inlet related meetings were discussed.

**Vegetation:** Steve Mercer will be scheduled to attend an IBPB meeting and a field trip to his nursery will be scheduled in the spring.
Activity Log Event Summary (Cumulative Totals)
HOLDEN BEACH POLICE DEPT.
(12/01/2018 - 12/31/2018)

<table>
<thead>
<tr>
<th>Event Description</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>911 Hang Up/Open Line</td>
<td>1</td>
</tr>
<tr>
<td>Alarm Activation</td>
<td>11</td>
</tr>
<tr>
<td>Assist Motorist</td>
<td>1</td>
</tr>
<tr>
<td>Attempt to Locate-ATL</td>
<td>5</td>
</tr>
<tr>
<td>Debris</td>
<td>1</td>
</tr>
<tr>
<td>EMS/Medical Call</td>
<td>3</td>
</tr>
<tr>
<td>Found Property</td>
<td>5</td>
</tr>
<tr>
<td>Incident Report</td>
<td>2</td>
</tr>
<tr>
<td>Keep Check</td>
<td>18</td>
</tr>
<tr>
<td>Maintenance/Water Leaks (HB Only)</td>
<td>1</td>
</tr>
<tr>
<td>Open Door</td>
<td>2</td>
</tr>
<tr>
<td>Parking</td>
<td>3</td>
</tr>
<tr>
<td>Residence Check</td>
<td>13</td>
</tr>
<tr>
<td>Trespassing</td>
<td>3</td>
</tr>
<tr>
<td>Administrative Call</td>
<td>1</td>
</tr>
<tr>
<td>Animal Complaint</td>
<td>3</td>
</tr>
<tr>
<td>Assist Other Agency</td>
<td>10</td>
</tr>
<tr>
<td>Business Check</td>
<td>35</td>
</tr>
<tr>
<td>Disturbance/Fight</td>
<td>1</td>
</tr>
<tr>
<td>Fire Call</td>
<td>1</td>
</tr>
<tr>
<td>Gun Fire</td>
<td>1</td>
</tr>
<tr>
<td>Investigation</td>
<td>3</td>
</tr>
<tr>
<td>Lost Property</td>
<td>2</td>
</tr>
<tr>
<td>Meet with Complainant</td>
<td>2</td>
</tr>
<tr>
<td>Other Ordinance Complaint</td>
<td>2</td>
</tr>
<tr>
<td>Phone Call (requested to call subject)</td>
<td>4</td>
</tr>
<tr>
<td>Suspicious Vehicle</td>
<td>2</td>
</tr>
<tr>
<td>Welfare Check</td>
<td>2</td>
</tr>
</tbody>
</table>

Total Number Of Events: 138
APPOINTMENT, TERMS

The Chairman of the BOC Audit Committee shall be elected by the BOC at the first regular meeting in January. The Chairman of the Audit Committee shall make a recommendation to the Board of Commissioners on who shall serve as the Public Members. The Chairman of the BOC Audit Committee, an elected Commissioner, and each of the Public Members shall have a normal term of one year, and shall serve at the pleasure of the BOC.

MEETINGS

1. The Audit Committee will meet at least four times each year (quarterly to assess the quarterly financial statements. The Committee will also meet at least one additional time a year to review the final audit report from the external auditors. The Chair may call additional meetings as deemed necessary in fulfillment of the role of the Committee.

2. The Audit Committee shall comply with the provisions of the North Carolina Open Meetings Law, §§ 143-318. 9 et seq. A quorum shall be in attendance before any action of an official nature can be taken. A quorum shall exist when a majority of the Committee is in attendance.

3. The Audit Committee may invite the manager, staff, auditors and others to attend the meetings and provide pertinent information, as necessary.

ATTENDANCE

All Committee members are expected to attend every meeting. Requests for excused absences due to sickness, death or emergencies of like nature shall be approved by the Committee as approved absences and shall not affect membership, except that in the event of a long illness, or other such cause for prolonged absence, the member may be replaced.

Section Two: The Town Clerk is directed to forward this ordinance to American Legal Publishing for inclusion in the next published supplement to the Holden Beach Code of Ordinances.

Section Three: This ordinance shall be effective the 19th day of December, 2018.

Adopted this the 18th day of December, 2018.
Date: January 9, 2019

To: Commissioners and Mayor Holden

From: Heather Finnell, Town Clerk

Re: Audit Committee

Ron Skubic, Mark Fleischhauer and Tom Myers, current members of the Audit Committee, are willing to serve another term. I have included copies of their resumes in the Special Meeting Packet. Per existing practice, the members currently serving on a committee or board do not need to be interviewed again so I have not scheduled interviews for these members. The fourth current member, Ben Byrnsde does not want to serve another term.

There are two new applicants for the Audit Committee, Woody Tyner and Anthony Chavonne. Both applicants are scheduled to be interviewed at the Special Meeting scheduled for 6:45 p.m. on January 15, 2019.

Please let me know if you have any questions.
TOWN OF HOLDEN BEACH
ORDINANCE 19-01

AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES,
CHAPTER 151: BUILDING AND HOUSING REGULATIONS

BE IT ORDAINED BY the Mayor and Board of Commissioners of the Town of Holden Beach,
North Carolina that the Holden Beach Code of Ordinances, Chapter 151: Building and Housing
Regulations (Impact Fees) be amended as follows:

Section One: Remove Sections 151.65, 151.66, 151.67, 151.68, 151.69, 151.71, 151.72, 151.73,
151.74, 151.75 and 151.99 from Chapter 151: Building and Housing Regulations.

IMPACT FEES

§ 151.65—APPLICATION OF PROVISIONS.
— This subchapter shall apply uniformly to all building and construction within the town's
corporate boundaries.

('85 Code, § 8.8.1) (Ord. 93-14, passed 9-22-93)

§ 151.66—PERSONS RESPONSIBLE FOR FEES; EXCEPTIONS.

(A) Anyone who improves real property and thereby causes an impact on septic
waste, or stormwater drain-off loads, or both will be subject to fees imposed by § 151.69 of this
subchapter. Unless excepted herein, any building or construction for which a permit is required
shall be subject to an impact fee.

(B) General landscaping, fencing, yard decorations, accessory buildings not normally
needing a building permit, and other improvements that do not increase septic waste or
stormwater runoff or for which no building permit is needed are not subject to the fees set out
in § 151.69 of this subchapter, and moving of structures between locations within the town
boundaries, provided no additions are made to the structures at the new site, are not subject to the
fees set out in § 151.69.

('85 Code, § 8.8.2) (Ord. 93-14, passed 9-22-93; Am. Ord. 93-19, passed 10-4-93)

§ 151.67—IMPOSITION.
— No building permit shall be issued for improvement to property unless the applicant
therefore has paid the impact fee imposed by § 151.69 of this subchapter.

('85 Code, § 8.8.3) (Ord. 93-14, passed 9-22-93)

§ 151.68—SEWER AND STORMWATER DRAINAGE FUND.
— All impact fees collected under this subchapter shall be placed in a special fund
designated the "Sewer and Stormwater Drainage Fund", to be used solely for costs of planning
and implementing capital improvements for a town-wide sewer system and a town-wide
stormwater drainage system. Either system may be implemented in phases, so long as each phase
is part of a comprehensive town-wide plan. Impact fees shall not be used for maintenance,
replacement, or operation of systems.

('85 Code, § 8.8.4) (Ord. 93-14, passed 9-22-93)

§ 151.69 IMPACT FEE SCHEDULE.

Impact fees are listed in the schedule adopted by the Board of Commissioners, which
shall be available at the office of the Town Clerk.

('85 Code, § 8.8.5) (Ord. 93-14, passed 9-22-93; Am. Ord. 93-19, passed 10-4-93; Am. Ord. 94-
13, passed 8-1-94; Am. Ord. 98-07, passed 6-24-93)

§ 151.70 ADMINISTRATION OF FEES.

(A) Collection. Impact fees collected and due pursuant to this subchapter shall be
collected by the town prior to issuance of a building permit.

(B) Transfer of funds. Upon receipt of impact fees, the Finance Officer shall place
such funds into the special Sewer and Stormwater Drainage Fund.

(C) Establishment and maintenance of account. The Finance Officer shall establish a
separate interest-bearing sewer and stormwater drainage account in a bank authorized to receive
deposits of town funds. Interest earned by the account shall be credited to that account and used
solely for the purposes of that account.

(D) Maintenance of records. The Finance Officer shall maintain and keep adequate
financial records for the account, which shall show the source and disbursement of all revenues,
which shall account for all monies received, and which shall insure that the disbursement of
funds from the account shall be used solely and exclusively for the planning and implementation
of the projects set out in this subchapter.

('85 Code, § 8.8.6) (Ord. 93-14, passed 9-22-93)

§ 151.71 REFUNDS; APPEAL PROCEDURE.

(A) Expiration of building permit. If a building permit expires because construction
has not begun, any impact fee paid in acquiring the permit shall be refunded to the payer, upon
written confirmation from the payer to the Building Inspector that no construction has begun.

(B) Appeal.

(1) A payer who disagrees with the amount of impact fee charged must take
the following steps to appeal:

(a) Pay the fee charged, with a notation that it is paid under protest.
(b) Within 30 days of payment, give notice of appeal by registered or certified mail, return receipt requested, or by personal service, to the Town Manager.

(2) The Board of Commissioners shall hold a hearing to consider the appeal within 30 days after receipt of the notice, and shall issue a written decision by registered or certified mail, return receipt requested, to the person appealing within 30 days of the hearing.

(3) The Board's decision shall be subject to review by the Superior Court by proceedings in the nature of certiorari, upon petition filed with the Clerk of Superior Court by the appealing party within 30 days of receipt of the Board's written decision.

('85 Code, § 8-8.7) (Ord. 93-14, passed 9-22-93; Am. Ord. 02-10, passed 7-8-02)

§ 151.72 EFFECT OF FEE ON ZONING AND SUBDIVISION REGULATIONS.

This subchapter shall not affect, in any manner, the permissible use of property, density of development, design and improvement standards and requirements, or any other aspect of the development of land or provision of regulations or other regulations of the town which shall be operative and remain in full force and effect without limitations with respect to all such development.

('85 Code, § 8-8.8) (Ord. 93-14, passed 9-22-93)

§ 151.73 REVIEW OF FEE SCHEDULE AND FEE COLLECTION.

(A) The town shall annually in conjunction with the annual capital budget and capital improvements program adoption process, review the development potential of the town and the sewage and stormwater drainage program and make such modifications as are deemed necessary as a result of:

(1) Development occurring in the prior years;

(2) Sewage and the drain water systems actually constructed;

(3) Changing the system needs;

(4) Inflation;

(5) Revised costs estimates for systems;

(6) Changes in the availability of other funding sources applicable to the systems; and

(7) Such other factors as may be relevant.

(B) The Board of Commissioners, following a public hearing, may amend the fee schedule as the Board of Commissioners considers appropriate.

('85 Code, § 8-8.9) (Ord. 93-14, passed 9-22-93)

§ 151.74 CREDITS.
(A) A property owner or developer may elect to provide sewage or stormwater drainage systems or components thereof compatible with the town-wide systems. If the property owner or developer elects to make such improvement, subject to approval by the town, the property owner must enter into an agreement with the town prior to issuance of any building permit. In no event shall the town provide a credit in an amount greater than the otherwise applicable impact fee. If, however, the amount of the credit is calculated to be greater than the amount of the impact fee due, the property owner may utilize such excess credits toward facility fees imposed on other building permits for development on the same site and in the same ownership.

(B) No credit shall be given for the construction of local on-site improvements required by zoning, subdivision or other town regulations.

('85 Code, § 8-8.10) (Ord. 93-14, passed 9-22-93)

§ 151.75 LIBERAL CONSTRUCTION.

The provisions of this subchapter shall be liberally construed to effectively carry out its purposes, which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

('85 Code, § 8-8.11) (Ord. 93-14, passed 9-22-93)

§ 151.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no penalty is otherwise provided shall be subject to a penalty as provided in § 10.99 of this code of ordinances.

(B) (1) Criminal. In accordance with § 10.99(A) of this code of ordinances, any person who violates any provision of §§ 151.15 through 151.27 of this chapter shall be subject to a fine not to exceed $200 per offense.

(2) Civil. In accordance with § 10.99(B) of this code of ordinances, any person who violates any provision of §§ 151.15 through 151.27 of this chapter shall be subject to a civil fine of $200 per offense.

('85 Code, § 8-2.12) (Ord. 8, passed — ; Am. Ord. 93-11, passed 9-7-93)

(C) (1) Criminal. Any person who violates any provision of § 151.40 of this chapter shall be subject to a penalty in accordance with § 10.99(A) of this code of ordinances.

(2) Civil. In accordance with § 10.99(B) of this code of ordinances, any person who violates any provision of § 151.40 of this chapter shall be subject to a civil fine of $50 per offense.

('85 Code, § 8-5.4) (Ord. 10-90, passed 5-15-90; Am. Ord. 92-03, passed 3-18-92; Am. Ord. 93-11, passed 9-7-93)
(D) (1) Criminal. Any person who violates any provision of § 151.41 of this chapter shall be subject to a penalty in accordance with § 10.99(A)(2) of this code of ordinances.

(2) Civil. In accordance with § 10.99(B) of this code of ordinances, any person who violates any provision of § 151.41 of this chapter shall be subject to a civil fine of $50 per offense.

('85 Code, § 8-6.3) (Ord. 93-11, passed 9-7-93)

(E) (1) Criminal. Any person who violates any provision of §§ 151.55 or 151.56 of this chapter shall be subject to a penalty in accordance with § 10.99(A) of this code of ordinances.

(2) Civil. In accordance with § 10.99(B) of this code of ordinances, any person who violates any provision of §§ 151.55 or 151.56 of this chapter shall be subject to a civil fine of $25 per offense.

('85 Code, § 8-7.3) (Ord. 14-90, passed 8-6-90; Am. Ord. 93-11, passed 9-7-93)

Section Two: The Town Clerk is directed to forward this ordinance to American Legal Publishing for inclusion in the next published supplement to the Holden Beach Code of Ordinances.

Section Three: This ordinance shall be effective the 16th day of January, 2019.

Adopted this the 15th day of January, 2019.

ATTEST:

J. Alan Holden, Mayor

Heather Finnell, Town Clerk
Date: December 18, 2018
To: Holden Beach Board of Commissioners
From: Vicki Y. Myers, Planning and Zoning Board Chairman
Re: Requested Ordinance Change for Cargo Lifts

At the July meeting of the Board of Commissioners, the Planning and Zoning Board was directed to consider amending the Town’s Code of Ordinances, Section 157.060 to “allow the Building Inspector to handle requests relating to cargo lifts via the permitting process.”

After research by Town Staff (attached) and discussion, the P&Z Board voted to recommend leaving the ordinance as it is written.

The P&Z Board feels that setbacks should be protected and exceptions should only be made in cases of hardship where there are no other alternatives. This is the role of the Board of Adjustment and we feel they should continue to make these decisions on a case-by-case basis. By continuing this practice a precedent will not be set allowing encroachment into the setbacks, as each case is decided on an individual basis.

According to the Building Inspector’s records, only four cargo lift cases have gone to Board of Adjustment in the past nine years, or 5% of all permits for cargo lifts. We do not feel this is overly burdensome for Board of Adjustment.

In addition, the proposed change does not conform to the adopted CAMA Land Use Plan (Comprehensive Plan).

Attachment: Memo from Inspector
12/11/2018

Memo: Cargo Lift Regulation's

To: Planning Board Members, Chairman Myers:

From: Planning and Inspections Director

The Planning Board ask that the Building Inspections department prepare a report to give reference to any potential problems with Cargo Lifts.

The Town of Holden Beach issues on average 9 Cargo lifts per year or 81 over the last 9 years of those eighty one, 4 have gone before the Board of Adjustments that's less than 5 percent of all total CL issued in a nine year period.

It's the opinion of this department that the excessive use of the BOA was, because companies were presenting THE BOA as a measure to circumvent the current rules.

The problem with trying to address CL issues by changing the rules is that most if not all of those going to the BOA were or had other locations that would have made them compliant.

It is the opinion of this department that by trying to re-write the ordinance so that the ordinance takes into account the circumstances not possible as the BOA is formed to handle those instances where the ordinance does not take into account unaccountable circumstances.
So the planning Department feels that with no patterns other than alternate locations as an option, then altering rules that clearly would be a circumstance not normally associated with the common lots or properties, Will create something that the ordinance did not want to allow for the purposes written.

Example: Wanting to put the lift in the setbacks on the side instead of losing deck space, the setback are then violated in whole and now we allow a Cargo lift where we do not allow a Air-conditioned. This is now making legal setback encroachment for all instead of taking in the hardship factor required for such a relief from the ordinance. The later set precedent while the BOA course would only allow for the special circumstance.

Staff feels that there is no reason to change the ordinance.

[Signature]
PROCLAMATION

CELEBRATING THE 50TH ANNIVERSARY OF THE INCORPORATION OF THE TOWN OF HOLDEN BEACH

WHEREAS, the Town of Holden Beach was first incorporated on February 14, 1969 and 2019 marks the 50th anniversary with an array of special events planned; and

WHEREAS, the Town of Holden Beach honors the hard work of its early residents and volunteers who loved their community and organized the incorporation effort; and

WHEREAS, the Town of Holden Beach marks its 50th anniversary by celebrating its citizens, volunteers, elected officials and staff who strive to preserve and enhance the community; and

WHEREAS, the Town of Holden Beach anticipates a future that continues to appreciate the beauty of its shoreline, the livability of the community, the appeal as a tourist destination, the moniker of the “Family Beach”, and the active and involved citizens; and

WHEREAS, the Town of Holden Beach dedicates 2019 as a year of community wide celebration to honor our past, celebrate our present and embrace our future.

NOW THEREFORE, the Board of Commissioners of the Town of Holden Beach, do hereby proclaim 2019 as a year of celebration of the Town of Holden Beach’s 50th Anniversary, and urge all citizens to join in this celebration.

This the 15th day of January, 2019.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk
# Budget Schedule 19-20

<table>
<thead>
<tr>
<th>Month</th>
<th>Event Description</th>
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</thead>
<tbody>
<tr>
<td>January</td>
<td>Develop Goals</td>
</tr>
<tr>
<td>January</td>
<td>Canal Working Group</td>
</tr>
<tr>
<td></td>
<td>Input from Town Boards – Beach and Inlet protection, Parks and Rec, etc.</td>
</tr>
<tr>
<td>February</td>
<td>Department Input to Finance Director</td>
</tr>
<tr>
<td>March</td>
<td>BOC Budget Workshops</td>
</tr>
<tr>
<td></td>
<td>BOC refine goals</td>
</tr>
<tr>
<td></td>
<td>Revenue and Expenses or review by fund. IE. BPART Revenues and Expenses, General Fund Revenues and Expenses, etc.</td>
</tr>
<tr>
<td><strong>April 1</strong></td>
<td>Draft Budget Message delivered by Finance Director</td>
</tr>
<tr>
<td>Mid-April</td>
<td>Budget Message Workshop – make budget adjustments as needed</td>
</tr>
<tr>
<td>May 1</td>
<td>Budget Message Final</td>
</tr>
<tr>
<td>Mid May</td>
<td>Optional BOC changes if needed</td>
</tr>
<tr>
<td>June 1</td>
<td>Public Hearing</td>
</tr>
<tr>
<td>June 15</td>
<td>Adopt Budget</td>
</tr>
<tr>
<td>July 1</td>
<td>Budget goes into effect</td>
</tr>
</tbody>
</table>
December 20, 2018

VIA EMAIL
David Hewett, Town Manager
Town of Holden Beach
110 Rothschild Street
Holden Beach, NC 28462

RE: Revised Engagement for Legal Services

Dear Mr. Hewett:

Reference is made to our telephone conference of December 19 and Town Clerk Heather Finnell's letter of December 20. I am pleased that the Council has asked our firm to serve as outside counsel for the Town of Holden Beach. This letter sets the terms with respect to governmental matters and consultation as you requested in your letter of December 20.

Client. The Town of Holden Beach ("Client") will be our only client in this matter. (This does not include individual members of the town council, the mayor or the town staff but rather the town as an incorporated municipality.)

Scope of Engagement. We have agreed to advise and assist you with governmental matters and legal issues that arise and the Client hereby engages Poyner Spruill LLP to perform the following services in accordance with the terms and conditions set forth in this Agreement: working with the Client to secure federal assistance and project management regarding: (1) federal issues related to any beach nourishment opportunities at Holden Beach, North Carolina, excluding the Brunswick County Beaches Corps of Engineers 50-year Project and (2) federal issues related to Lockwood Folly Inlet maintenance along with beach nourishment efforts for placement of beach-quality sand on the east end of Holden Beach. The Client acknowledges and agrees that Poyner Spruill LLP does not have control over third party decision makers, and, that Poyner Spruill makes no representations, warranties, or guarantees that it can achieve any particular results. Poyner Spruill LLP shall act in good faith with the necessary due diligence in connection with its performance of the services described herein. Two local meetings with the Council and two trips to Washington, D.C., per 12-month period, as well as a monthly status report, are included in the services to be provided. Our work for this engagement will be on the federal level. It is understood that The Ferguson Group will be assisting our firm on your behalf. As the need arises for specialized assistance, such as grant writing or for legislative monitoring/research, then fees and costs incurred for such services will be billed separately to the client.
Mr. David Hewett
Page 2

Retainer. The retainer for our services will be $6,975.00 per month. Unless either of us terminates this engagement, this retainer will remain in place through December 31, 2019. Out-of-pocket expenses and costs relating to our representation are not included in the monthly fee, but will be billed separately as incurred. Our work under this new contract will commence when we receive written authorization from you, and the monthly retainer in any event will be the minimal fee for our services rendered during any portion of the month for which it is paid.

Other Engagements of Poyner Spruill LLP. You may choose from time to time to engage other Poyner Spruill attorneys on other matters that are not included in this engagement. The conditions and scope of our representation in such matters shall be documented in a separate engagement with you. And unless agreed to otherwise at the time of engagement, our fees and such other matters will be based primarily on the hourly rate for each attorney and paralegal devoting time to such matters.

Fees and Expenses. Attached to this letter is a copy of our Standard Terms of Representation which would control such matters. If an appearance before an adjudicating body of either of the executive or judicial branches is requested, then services may be provided by our firm at an hourly rate, which currently could range from $375 to $575 per hour. If needed, time devoted by paralegals would be charged at hourly rates ranging from $175-$280 per hour.

General Waiver of Conflicts. By engaging the firm to represent the Client pursuant to the terms of this letter, the Client understands and agrees that the firm has represented and may in the future represent other clients in other matters (a) that may be similar to the matters for which we have been engaged by the Client, and (b) that are not substantially in conflict with our work for the Client but are directly or indirectly adverse to the Client. As a condition to our representation, the Client agrees that we may continue to represent or may undertake in the future to represent any or all of those clients generally described in the prior sentence, subject to the applicable rules of professional conduct. We agree, however, that notwithstanding the foregoing waiver, your prospective consent to conflicting representation contained in this section shall not apply in any instance where, as a result of our representation of you, we have obtained proprietary or other confidential information of a non-public nature, that, if known to such other client, could be used in any such other matter by such client to your material disadvantage.

Conclusion of Matter. This matter will conclude when all work has been completed. Following the conclusion of the matter, you may request your files to be returned to you; otherwise they will be retained by the law firm and disposed of in accordance with our retention policy as noted in the "Conclusion of Representation; Retention and Disposition of Documents" section of the attached standard terms representation.

If the foregoing and the enclosed standard terms of representation accurately state the terms of our engagement, then this is the confirmation of our agreement with you regarding this matter. If the foregoing and the enclosed representation do not accurately state the terms of our engagement, please let us know immediately.
Thank you again for giving us the opportunity to work with you.

Sincerely,

Mike McIntyre
Senior Advisor & Director of Government Relations
Member of Congress, 1997-2015

DCM/kww

attachment

cc: Mayor J. Alan Holden
    Christy Ferguson, Assistant Town Manager

Approved 21 Dec 2018; effective date 1 Jan 2019.

David W. Hewett
Town Manager
Holden Beach, N.C.

This instrument has been
preaudited by TTE the NC
Local Government Budget
& Fiscal Control Act.

50,0710,0400
STANDARD TERMS OF REPRESENTATION

This document sets forth the standard terms of our engagement as your lawyers. Unless modified in writing by mutual agreement, these terms will be an integral part of our agreement with you. Therefore, we ask that you review this document carefully and contact us promptly if you have any questions. You should retain this document in your file.

The Scope of Our Work

The legal services that we will provide to you are described in our engagement letter.

Any expressions on our part concerning the outcome of your legal matters are expressions of our best professional judgment, but are not guarantees. Such opinions are necessarily limited by our knowledge of the facts and are based on the state of the law at the time they are expressed.

It is our policy that the person or entity that we represent is the person or entity that is identified in our engagement letter and does not include any affiliates of such person or entity (i.e., if you are a corporation or partnership, any parents, subsidiaries, employees, officers, directors, shareholders, elected or appointed officials or partners of the corporation or partnership, or commonly owned corporations or partnerships; or, if you are a trade association, any members of the trade association). Accordingly, for conflict of interest purposes, we may represent another client with interests adverse to any such affiliate without obtaining your consent.

Who Will Provide the Legal Services

Customarily, each client of the firm is served by a principal lawyer contact. You are free to request a change of principal lawyer at any time. Subject to the supervisory role of the principal lawyer, your work or parts of it may be performed by other lawyers and legal assistants in the firm. Such delegation may be for the purpose of involving lawyers or legal assistants with special expertise in a given area or for the purpose of providing services on the most efficient and timely basis.

Communications

If at any time, you have any question about our services, staffing, billing or other aspects of our representation, please do not hesitate to let us know. It is important to us that you are satisfied with our services and responsiveness at all times. The Firm has assumed in accepting this engagement that we are permitted to communicate with you and your personnel in person or by telephone, first-class mail, fax, express delivery services and/or e-mail. The firm will employ encryption when required to protect personally identifiable information and/or private health information or as requested by the client. If you require special exceptions to our general communications policy, now or in the future, please notify us promptly.

How Fees Will Be Set

(This section does not apply to the monthly fee described in the attached engagement letter, but would apply to all matters undertaken by the firm absent written agreement otherwise with respect to any other engagement.)

To help determine the value of our services, each of our lawyers and legal assistants maintain time records for each client and matter. We record our time in units of tenths of an hour. The time records are reviewed monthly by the billing attorney assigned to you before a statement is rendered. All attorneys and legal assistants of the Firm are assigned hourly rates based primarily on experience and expertise. Our hourly rates are adjusted from time to time (generally once a year) and may change during the course of our engagement. We view such rates as only a benchmark, and not as the sole determinant, of the value of our services for billing purposes. Instead, the amount of our billing statement will be the fair value of the services as determined by the billing attorney taking into account the time records for the matter, the types
of services we have been asked to perform, any special level of expertise required, the novelty and complexity of the issues presented, the time constraints imposed on us, the extent to which our investment in office systems have efficiently produced a high-quality product, the size and scope of the matter, results obtained, and other relevant circumstances.

Client Responsibilities

You agree to pay our statements for services and expenses as provided below. In addition, you agree to be candid and cooperative with us and will keep us informed with complete and accurate factual information, documents and other communications relevant to the subject matter of our representation or otherwise reasonably requested by us. Because it is important that we be able to contact you at all times to consult with you regarding your representation, you will inform us, in writing, of any changes in the name, address, telephone number, contact person, e-mail address, state of incorporation or other relevant changes regarding you or your business. Whenever we need your instructions or authorization in order to proceed with legal work on your behalf, or to transfer custodial responsibility of records, we will contact you at the latest business address we have received from you. You agree to notify the Firm of changes of status such as name, address and other contact information.

Responses to Audit Letters

From time to time, you may ask us to issue to your accountants a legal opinion in connection with an audit of your financial statements. In most cases, we charge a flat fee for issuing these opinions. We also charge a flat fee for issuing updates to our opinion letters. Please note that we reserve the right to increase the fee if, in preparing an opinion letter, it is necessary to analyze multiple, complex loss contingencies.

Estimates

We are often requested to estimate the amount of fees and costs likely to be incurred in connection with a particular matter. Whenever possible, we will furnish such an estimate based upon our professional judgment, but always with a clear understanding that it is not a maximum or fixed-fee quotation unless specifically stated as such. The ultimate cost frequently is more or less than the amount estimated because of conditions over which we have little or no control. Our actual fees will be determined in accordance with the policies described herein.

Administrative Expenses and Other Disbursements

For matters that are billed hourly, we currently have a flat rate administrative expense charge of $10.25 per billed hour which is calculated in lieu of telephone charges, photocopying, postage, facsimile, and other typical administrative expenses. We reserve the right to prospectively make minor adjustments in this amount or change to an equivalent percentage charge. For all matters (hourly or otherwise), you will be charged separately for extraordinary disbursements made by us on your behalf, such as special postage, third-party delivery charges, travel, bulk photocopying, secretarial overtime, if necessary, and use of other service providers such as investigators, printers or experts. In litigated matters, we include payments made by us for process servers, court reporters, deposition transcript expenses, witness fees and the like. We also make separate charges for the use of “Lexis” and other computerized legal research systems that often significantly reduce lawyer research time. Invoices from third party providers of ancillary services with significant costs may be sent directly to you for payment.

Billing Arrangements and Terms of Payment

We will bill you on a regular basis, normally each month, for fees, administrative expenses and disbursements. We make every effort to include disbursements in the statement for the period in which the disbursements are incurred. However, some disbursements are not available to us until following months, in which case a supplemental statement will be rendered to you for these additional charges or an estimated
amount will be included in the initial billing and an adjustment made when the actual disbursement information is available. You agree to make payments within 30 days of receiving our statement. Unpaid fees, expenses and disbursements accrue interest at the maximum rate permitted by state law, but not exceeding 1½% per month (18% per annum) from the beginning of the month in which they became overdue.

We will give you prompt notice if your account becomes delinquent, and you agree to bring the account or the deposit current. If the delinquency continues and you do not arrange satisfactory payment terms, we will withdraw from the representation and pursue collection of your account. You agree to pay the costs of collecting the debt, including court costs, filing fees and a reasonable lawyer's fee.

Trust Deposits

All trust deposits we receive from you will be placed in a trust account for your benefit. As approved by the North Carolina Supreme Court, your deposit will be placed in a pooled account if it is not expected to earn a net return, taking into consideration the size and anticipated duration of the deposit and the transaction costs. Other trust deposits will also be placed in the pooled account unless you request a segregated account. Interest earned on the pooled account is payable to the North Carolina State Bar to fund programs for the public's benefit. Interest earned on the segregated trust account will be added to the deposit for your benefit and will be includable in your taxable income. The monthly fee paid pursuant to the engagement letter attached is not a trust deposit, but rather a fee paid the firm for services.

Termination of Engagement

You may at any time terminate our services and representation upon written notice to us. Such termination shall not, however, relieve you of the obligation to pay for all services already rendered, including work in progress and remaining incomplete at the time of termination, and to pay for all expenses incurred on your behalf through the date of termination.

We reserve the right to withdraw from our representation as required or permitted by the applicable rules of professional conduct. We will try to identify in advance and discuss with you any situation that may lead to our withdrawal and if withdrawal ever becomes necessary we will give you written notice of our withdrawal. In the event that we terminate the engagement, we will take such steps as are reasonably practicable to protect your interests in the specified matter, and you agree to take all steps necessary to free us of any obligation to perform further, including the execution of any documents necessary to perfect our withdrawal. We will be entitled to be paid for all services rendered and costs or expenses incurred on your behalf through the date of withdrawal. If permission for withdrawal is required by a court or arbitration panel, we will promptly request such permission, and you agree not to oppose our request.

Conclusion of Representation; Retention and Disposition of Documents

Unless previously terminated, our representation of you in any matter will terminate on the date that we provide our last legal service to you in connection with that matter. Representation pursuant to the monthly fee agreement as described in the attached engagement letter shall terminate when you or we terminate such relationship pursuant to the prior section (See Termination of Engagement). At the conclusion of the matter, if you would like for us to return any of your records or property, please contact us promptly. Should you request return of any of your records or property, we reserve the right to assess reasonable fees and costs associated with any time spent or expenses incurred in fulfilling your requests. Our own records pertaining to the matter, and any records or property that you do not request be returned to you, will be retained by the firm for a reasonable time after termination of our engagement on the matter, consistent with our records retention program. At the conclusion of the relevant retention period, we will securely dispose of the applicable records and property in our possession pertaining to the closed matter.
Post-Engagement Matters

You are engaging the firm to provide legal services in connection with a specific matter. After completion of the engagement, there may be changes in applicable laws or regulations, or new legislation or court decision that could have an impact upon you, your future rights and liabilities, or the matter for which we are engaged hereunder. You understand and agree that you are not engaging us to monitor new legislation or court decision, or changes in laws and regulations that occur after we have completed the engagement described above, and you agree that we are not responsible for advising you of any such new legislation or court decisions, or changes in laws or regulations.

Your Right to Arbitrate

If you disagree with the amount of our fee, please take up the question with your principal lawyer contact or with the Firm’s managing partner. Typically, such disagreements are resolved to the satisfaction of both sides with little inconvenience or formality. In the event of a fee dispute which is not readily resolved, you have the right to request mediation and arbitration under supervision of the District Bars for the jurisdictions in which we practice or the State Bar, and we agree to participate fully in that process.

Questions

If you have questions about any aspect of our arrangements or our statements please feel free to raise those questions. It is very important that we proceed on a clear and satisfactory basis in our work for you. We are open to the discussion of all of these matters and we encourage you to be comfortable in letting us know if you have any questions or concerns regarding these arrangements.

Thank you.
This memorandum summarizes the sand losses and damage that occurred to the beach and dune system on Holden Beach as a result of Hurricane Florence.

**Background**

The Town of Holden Beach has actively maintained its beach through its own nourishment activities and beach management plan. The Town’s most recent nourishment event, known as the Central Reach Beach Nourishment Project, was completed in March of 2017. The Project included a beach berm and starter dune that placed approximately 1,310,000 cubic yards (cy) of sand along ~4.1 miles of shoreline.

In addition to the Town’s efforts, the United States Army Corps of Engineers (Corps or USACE) has also periodically placed sand on Holden Beach (with the Town sharing project costs). The most recent Corps/Town project occurred in conjunction with the Central Reach Project and placed ~120,000 cy of sand along 2,400 linear feet (LF) of shoreline on the east end of Holden Beach. This project, known as the 2017 USACE LWFIX / Town Eastern Reach Project, was also completed in March of 2017. While this project is much smaller than the Central Reach project, all nourishment activities have proven valuable in providing a storm buffer to reduce losses to homeowners and the Town as well as State and Federal infrastructure.

**Hurricane Florence**

Hurricane Florence began as a tropical disturbance around September 1 and progressed very slowly on a west-northwestward path across the Atlantic as it experienced periods of weakening and strengthening. By September 10th, Hurricane Florence became a category 4 major hurricane as it barreled toward the coast of North Carolina and remained a category 4 hurricane for several days. The Town of Holden Beach declared a state of emergency on Monday, September 10th ordering voluntary evacuations the same day, with a following mandatory evacuation of all residents by Wednesday, September 12th.

Prior to making landfall, Hurricane Florence stalled as a category 2 storm, moving only 5 mph towards the NC coast on Thursday, September 13th. Florence weakened to a category 1 hurricane with maximum sustained windspeeds of 90 mph before making landfall on September 14th, near Wrightsville Beach, North Carolina. Florence then slowly tracked along the North Carolina and South Carolina coast as a category 1 hurricane for two days before turning inland in South Carolina (see Figure 1).
Holden Beach Post-Florence Erosion/Damage Assessment
October 25, 2018
Page 2 of 16

Despite being only a category 1 hurricane, this storm was very large, slow moving and subjected the Holden Beach shoreline to intense wave and extreme storm surge conditions for multiple days as it approached and passed. As described by Bob Henson at weather.com:

“Although Florence had become a Category 1 hurricane on the Saffir-Simpson wind scale, it remained a Category 5 heavy rain and inland flooding threat, and a Category 3 storm surge threat”.

![Figure 1: Radar Image of Hurricane Florence.](image)

Figure 2 shows that the NC coast was subject to elevated water level conditions for several days before and after Hurricane Florence arrived. A peak water level of 8.59 ft above Mean Lower Low Water (MLLW) was recorded the morning of Friday, September 14th at the NOAA tidal station in Wrightsville Beach, NC (~30 miles northeast of Holden Beach). A tide gauge in Myrtle Beach, SC recorded a peak water level of 7.48 ft, MLLW approximately 24 hours after the peak surge was recorded at Wrightsville Beach. Hurricane Florence brought the third-highest water level on record at Wrightsville Beach, behind Hurricane Hazel (1954) and Hurricane Fran (1996), but surpassing Hurricane Matthew in 2016.

Around the same time as Florence's landfall in Wrightsville Beach, NC many beaches to the southwest were experiencing lower than normal low tides due to the strong offshore winds from Florence along these shorelines (see Figure 2-B). As the storm tracked south along the Holden Beech shoreline, the winds turned onshore with maximum sustained winds of up to 72 mph reported at Oak Island, just east of Holden Beach. Fortunately, windspeeds were below hurricane strength however, due to the storm's extremely slow track, Florence's winds were relentless increasing waves and surge along the regional shoreline near the North Carolina / South Carolina border for several days.

The NOAA Frying Pan Shoals buoy recorded maximum offshore significant wave heights of up to ~18.7 feet and dominant wave periods of up to 17 seconds on September 12, 2018 (see Appendix B). As a result of the extreme wave and water level conditions from Hurricane Florence, the entire area suffered damage and the Federal Emergency Management Agency (FEMA) has become involved to assess the damages and potential support for damage mitigation.
Figure 2: NOAA predicted and verified water levels from 09/12/18 to 09/18/18 for Upper Panel: Wrightsville Beach Station (~35 miles NE of Holden Beach) and Lower Panel: Springmaid Pier, Myrtle Beach, SC (~35 miles SW of Holden Beach). Verified water levels during Florence were typically 2 to 3.5 feet higher than predicted.
Post-Storm Field Data Collection

Beach surveys are performed annually as a part of the Town's Beach Management Plan and span from Lockwood Folly Inlet to Shallotte Inlet. The most recent survey prior to Hurricane Florence occurred in April 2018.

In an effort to quantify beach and dune sand losses, a survey of the beach was conducted approximately 1 week following Hurricane Florence in September 2018. Seventeen survey transects were collected that included the dune, upper beach, and lower beach out to approximately -5 ft. NGVD (i.e. wading depth at low tide). Figure 3 presents an overview of the 17 transects and an example transect plot is shown in Figure 4. The September post-storm survey data were collected along the same transects as the April pre-storm survey.

Figure 3: Transect Locations for assessing Hurricane Florence damage. Transects span from the dune to wading depth (-5 ft. NGVD).

Figure 4: Example Survey Transect. Note significant erosion in the upper beach and erosion of the lower beach in the nearshore observed following Florence.
Beach Volume Loss Analysis

Beach volume analysis was determined using the Beach Morphology Analysis Package (BMAP) developed by the USACE. The area of beach used in the calculations extended from the landward edge of dune out to -5 feet NGVD. Volumes of material above -5 feet NGVD were then calculated for the April (pre) and September (post) surveys. Figure 5 below presents summary results of the unit volume change caused by Hurricane Florence.

Despite some accretion observed at the east and west ends, likely due to inlet related effects, a total of approximately 276,000 cubic yards of sand was lost across Holden Beach from stations 0+00 to 420+00 due to Hurricane Florence. Volume changes as well as plots of all pre-Florence and post-Florence transects can be found in Appendix A.

![Figure 5: Volume Change (to wading depth) due to Hurricane Florence.](image)

Hurricane Florence had a recorded storm surge ranging from 7.5 to 8.6 feet, MLLW (or 5.4 to 7 ft NGVD) near Holden Beach, based on Wrightsville Beach, NC and Myrtle Beach, SC tide gages. The combination of storm surge and large swells created wave run-up conditions that directly impacted the upper beach berm and dune system along Holden Beach.

In order to quantify upper beach and dune sand loss, separate volume change calculations were performed for the areas landward of the MHW elevation (2.9 ft NGVD) and the areas landward of the toe of dune (TOD) elevation. The toe of dune elevation is estimated at 7 ft NGVD and based on historical survey data. Table 1 in Appendix A shows the calculated upper beach (above MHW) and dune (above 7ft NGVD contour) volume changes from Hurricane Florence. Dune sand losses were calculated to be approximately 24,000 cy overall along the entire shoreline of Holden Beach, while loss of the upper beach, landward of MHW was much greater and calculated to be 131,000 cy.
Shoreline Analysis

Another measure of storm impacts is MLW and MHW contour changes. Both the mean low and mean high water lines eroded along almost the entirety of the island (with the exception of the inlets) (see Figures 6 and 7).

Figure 6: Mean low water (MLW) shoreline change due to Hurricane Florence (MLW=−2 ft NGVD).

Figure 7: Mean high water (MHW) shoreline change due to Hurricane Florence (MHW=+2.9 ft NGVD).
Some accretion of the MHW was observed along the east end, likely due to spreading of the 2017 nourishment material from Florence, however, the station closest to Lockwood Folly Inlet experienced significant MHW and MLW erosion of more than 100 feet.

In addition to the MHW / MLW lines, the change in position of the 7ft contour (~TOD) line following Florence was also analyzed to assess dune and upper beach berm erosion, shown in Figure 8. Similar to the volumetric analysis, some of the most significant damage to the beach was observed in the upper beach to dune location, as Figure 8 shows the 7ft contour eroded generally between 20 to 40 ft along the majority of the shoreline. In terms of area, the erosion of the 7 ft contour within the shoreline of engineered beach calculated represents ~17.5 acres lost.

![Diagram showing shoreline change](image)

*Figure 8: +7ft NGVD Contour Shoreline change due to Hurricane Florence*

**Summary**

The Holden Beach shoreline has historically exhibited moderate erosion rates (with the exception of the inlets) and the Town has instituted a successful nourishment program to offset this erosion over the last two decades. The most recent nourishment sponsored by the Town was completed in March of 2017.

Hurricane Florence began significantly affecting Holden Beach shorelines from offshore as a category 4 on Wednesday, September 12th, pumping long-period storm swell to the NC coast. Although only a Category 1 / tropical storm as it approached and passed over Holden Beach, Hurricane Florence was large and extremely slow moving forcing the Holden Beach shoreline to be subject to extreme waves and surge for several days.
Holden Beach Post-Florence Erosion/Damage Assessment
October 25, 2018
Page 8 of 16

In order to quantify storm effects from Hurricane Florence, wind, wave, water level and survey data were analyzed. Sustained winds were over 70 mph, offshore waves were recorded observed at over 18 ft high, and storm surge increased water levels to between 7.5 and 8.8 ft above MLLW. Results of the survey indicate that the entire Holden Beach shoreline was impacted and lost approximately 276,000 cy above -5 ft. NGVD as a result of Hurricane Florence. Some observed damage to the dunes and recently installed sand fencings were reported following Hurricane Florence.

Based on the post-Florence survey data within the engineered sections of shoreline, much of the most significant damage/erosion occurred in the upper beach generally between MHW and the dune line. Fortunately, the dune system suffered comparatively minor losses, as the wide beach berm constructed during the recent 2017 nourishments appeared to have helped buffer wave energy during the storm, but has suffered some significant erosion as a result.

The engineered beach (i.e., the Central Reach section of shoreline) experienced a loss of ~202,000 cy, with the majority of this material (~115,000 cy) being lost from the upper beach landward of / above the MHW line. Note that the engineered beach volume losses only include the Town’s Central Reach nourishment shoreline and do not include the USACE nourishment shoreline reach along the east end (~between Stations 20+00 and 40+00).
## APPENDIX A

### TRANSECT DATA

**Table 1: Hurricane Florence Volume Change for Holden Beach**

<table>
<thead>
<tr>
<th>Station</th>
<th>Distance to Next Monument (ft)</th>
<th>Unit Volume Change to -5 ft Contour (cy/ft)</th>
<th>Volume Change to -5 ft Contour (cy)</th>
<th>Volume Change Above MHW (cy)</th>
<th>Dune Volume Change (cy)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0+00</td>
<td>1000</td>
<td>-41.8</td>
<td>-14,273</td>
<td>-3,939</td>
<td>-198</td>
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<td>10+00</td>
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<td>420+00</td>
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<td>Engineered Beach Total (Stations 00H00 to 280H00)</td>
<td>-201,564</td>
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<td>Total (All Stations)</td>
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</tr>
</tbody>
</table>
Figure B-1: Significant Wave Height, NDBC Station 41013 – Frying Pan Shoals

Figure B-1: Average wave period, NDBC Station 41013 - Frying Pan Shoals. Average wave periods ranged from 8 to 9.5 seconds while dominant wave periods ranged from 8 to 17 seconds during Florence.
Holden Beach Code of Ordinances

containers to properly contain refuse prior to collection. Garbage placed on top of or beside the container(s) will not be placed in non-standard containers.

(B) Commercial requirements.

(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.

(D) 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 § 50.99

§ 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.

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

** OLD VERSION **

§ 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. Containers will be located at curbside by the property owner or their representative on designated collection days, and then should be returned to the normal house-side storage location by 6:00 p.m. the day after collection. See subsection (B) for an alternative storage location.

(B) It is the intent of the town that all 90-gallon containers be secured in such a manner either next to non-elevated or underneath elevated houses, except on collection days:

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Holden Beach Code of Ordinances

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 those property owners who can not make arrangements to have their container placed at or removed from curbside, an alternate non-collection day storage arrangement is as follows: A sturdy, wooden three-sided rack of sufficient size to just 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 racks 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.

Container(s), on corner lots, will be located so as not to violate §§ 157.060(D)(9) and 157.061(D)(8), Corner 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 above, 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 scraps, tree trimmings, walkway scraps, 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.

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

:"American Legal Publishing Corporation"
TOWN OF HOLDEN BEACH
ORDINANCE 18-16

AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES,
CHAPTER 50: SOLID WASTE

BE IT ORDAINED BY the Mayor and Board of Commissioners of the Town of Holden Beach,
North Carolina that the Holden Beach Code of Ordinances, Chapter 50: Solid Waste be amended
as follows:

Section One: Amend Chapter 50: Solid Waste to read as follows:

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 Yard waste
50.07 Transporting waste materials; covering during transport
50.08 Rental homes
50.99 Penalty

§ 50.01 DEFINITIONS.

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 animal, fruit and vegetable matter, 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; bed frames;
dressers; mattresses and box springs; small electronics such as computers and televisions; refrigerators; ovens and microwave ovens; washing and drying machines.

PUTRESCIBLE WASTE. Solid waste that contains organic matter capable of being decomposed by microorganisms and of such a character and proportion as to cause obnoxious odors and to be capable of attracting or providing food for birds or animals.

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

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 type of plastic containers in which matter has been stored and possibly residues left.

SUMMER RENTAL SEASON. The period of time that garbage collection occurs twice weekly per town contract.

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 for a set monthly fee.

(2) 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.

(3) Property owners are responsible to assure they have sufficient 90-gallon containers to properly contain refuse prior to collection. Garbage placed on top of or beside the container(s) will not be picked up by the contractor, nor will garbage placed in non-standard containers.

(B) Commercial requirements.

(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.

(D) 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 § 50.99

§ 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.

(‘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. It is the intent of the town that all containers 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 street side, 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. Containers will be located at street side no earlier than 6:00 p.m. the evening before designated collection days during the summer rental season. For the rest of the year containers will be located at street side no more than 48 hours before the designated collection. All containers should be returned to the normal house-side storage location by 6:00 p.m. the day after collection.

(B) 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.

(C) The owners, occupants and lessees of all property, jointly and severally, are required to control all refuse, placing such refuse in proper containers and/or arranging for collection or other disposal disposition in accordance with the provisions of this chapter.

(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) This chapter shall be enforced by the town either by civil proceedings or by removing and disposing of litter according to the provisions and procedures for abatement of litter as provided in this chapter and as prescribed by G.S. 160A-174, 160A-175, 160A-193, and 160A-303.1, including the provisions for notice and hearings provided or referred to therein.
§ 50.05 COLLECTIONS PROHIBITED.

All matter, refuse, and materials such as industrial refuse, building materials and scraps, tree trimmings, walkway scraps, 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.

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

§ 50.06 YARD WASTE

Yard waste will be accepted under certain conditions and at defined times under a contract separate from the standard waste collection contract. Permissible, properly bundled or bagged, yard waste must not be placed at roadside for collection more than two weeks prior to a scheduled collection. Property owners who are 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.

§ 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.

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

§ 50.08 RENTAL HOMES.

(A) 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 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, 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). In instances where three trash cans or more are required, one can may be substituted with a contractor approved recycling bin.

(B) Any property found in violation of division (A) above shall be subject to the penalties listed in § 50.99.

(Ord. 07-13, passed 11-27-07)

§ 50.99 PENALTY.

(A) Criminal. Violators of Chapter 50 will not be subject to a criminal penalty.

(B) Civil. In accordance with § 10.99(B) of this code of ordinances, the civil fine for violation of any provision of this chapter shall be $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)

**Section Two:** The Town Clerk is directed to forward this ordinance to American Legal Publishing for inclusion in the next published supplement to the Holden Beach Code of Ordinances.

**Section Three:** This ordinance shall be effective the 19th day of December, 2018. Penalties will not be enforced until May 1, 2019.

Adopted this the 18th day of December, 2018.
§ 90.20 Responsibilities of Owners.

(A) It shall be unlawful for any owner or keeper to allow:

(1) A dog off the premises of the owner and not under the control of the owner, a member of his immediate family, or other responsible person, either by leash, cord, or chain.

(2) Any pet to be on the strand during the hours of 9:00 a.m. through 5:00 p.m. from May 20 through September 10.

(3) Any pet to injure or threaten to injure any person, another pet, or any wildlife.

(4) Any pet to damage property, including lawns, plants, shrubs, or trees.

(5) Excrement deposited by a pet to remain if the excrement is deposited on the strand, on maintained yard areas of persons other than its owner, or upon any public street, beach accessway, parking area, or campground.

(a) Any person owning, harboring, walking, in possession of or in charge of a dog, which defecates on public property, public park property, public right-of-way property or any private property, including vacant lots, without the permission of the private property owner, shall remove all feces immediately after it is deposited by the dog. All feces removed in accordance with this section shall be placed in a suitable bag or other container that closes and disposes of in a lawful manner.

(b) Any person while harboring, walking, in possession of or in charge of a dog on public property, public park property, public right-of-way or any private property, including vacant lots, without the permission of the private property owner, shall have in his or her possession bags or containers that close, which are suitable for removing feces deposited by the dog. Said person shall have a suitable quantity of bags or containers to remove all feces deposited by the dog.

(c) The provisions of this section shall not apply to blind persons using dogs as guides.

(d) Violation of this section shall be punishable as described in § 90.99.

(6) Any pet to upset or otherwise disturb garbage or trash containers.

(7) Any pet to bark, cry, or otherwise habitually or repeatedly emit its natural sound.
Holden Beach Code of Ordinances

sounds in such a manner or to such an extent that it is a public nuisance.

('85 Code, § 5-1.2) (Ord. 10.1-88, passed 8-1-88; Am. Ord. 94-23, passed 10-3-94; Am. Ord. 07-02, passed 2-13-07)

(B) It shall be unlawful for any owner to fail to provide his pet with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment. It shall be unlawful for any person to beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse any pet.

('85 Code, § 5-1.10) (Ord. 10.1-88, passed 8-1-88) Penalty, see § 90.99
This process worked well at my company. We will need 5 large sheets of paper to hang on the wall and post it notes.

1. Everyone comes prepared with a list of objectives.
2. At the meeting categories are agreed and everyone transfers their objectives to post it notes (one per note) and then sticks them on the appropriate category sheet.
3. Once everyone is done the objectives are consolidated for each category (no need to repeat similar ideas/duplicates) and a complete list prepared for each category.
4. Copies are provided for everyone to consider and discuss.
5. As we did last year, each objective is scored by each commissioner. I suggest

3 points. Must have
2 points. Should have
1 point. Nice to have
0 points. No: important

6. Scores are tallied to determine priority ranking.

We may only want to do 1 thru 3 at this meeting and finish the process at a second session. That can also be agreed on the 11th.

> My thoughts on categories that might be appropriate are below, but this will be open for discussion and agreement at the meeting. 5 categories should be the max.

Policies/procedures/resolutions

Ordinance related

Financial/budget

Long term plans
Date: January 9, 2019
To: Commissioners and Mayor Holden
From: Heather Finnell, Town Clerk
Re: Parks & Recreation Advisory Board

Nick Payne has resigned from the Parks & Recreation Advisory Board. Staff recommendation is for the Board to schedule a Special Meeting to hold interviews for the vacancy on February 19, 2019 at 6:45 p.m., prior to the next Board meeting.

Please let me know if you have any questions.