



**Town of Holden Beach
Board of Commissioners
Public Hearing/Regular Meeting**

Tuesday, December 15, 2020

5:00 PM

**Holden Beach Town Hall
Public Assembly**



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS' PUBLIC HEARING/REGULAR MEETING
HOLDEN BEACH TOWN HALL – PUBLIC ASSEMBLY
TUESDAY, DECEMBER 15, 2020 - 5:00 P.M.**

PUBLIC HEARING: Town of Holden Beach Land Use Plan

REGULAR MEETING:

1. Invocation
2. Call to Order/ Welcome
3. Pledge of Allegiance
4. Agenda Approval
5. Approval of Minutes
 - a. Minutes of the Regular Meeting of November 17, 2020 (Pages 1 - 9)
6. Public Comments on Agenda/General Items
7. Discussion and Possible Action on Land Use Plan – Wes MacLeod, Cape Fear Council of Governments (Inspections Director Evans) (Separate Packet)
8. Police Report – Chief Dixon (Page 10)
9. Discussion and Possible Approval of 2021 Board of Commissioners' Meeting Schedule – Town Clerk Finnell (Pages 11 - 12)
10. Discussion and Possible Action on Mayor Pro Tem Position – Town Clerk Finnell (Page 13)
11. Discussion and Possible Approval of Ordinance 20-16, An Ordinance Amending Ordinance 20-10, The Revenues and Appropriations Ordinance for Fiscal Year 2020 – 2021 (Amendment No. 5) – Town Manager Hewett (Pages 14 - 15)

12. Consideration and Possible Action to Approve NC Division of Water Resources Coastal Storm Damage Mitigation \$106,000 Grant – Assistant Town Manager Ferguson (Pages 16 – 22)
 - a. Resolution 12-14, Coastal Storm Damage Mitigation Grant
 - b. Conflict of Interest Policy
13. Discussion and Possible Action on Engagement Letter Between the Town and Ward and Smith, P.A. – Assistant Town Manager Ferguson (Pages 23 – 27)
14. Discussion and Possible Action on Ordinance 20-17, An Ordinance Amending the Holden Beach Code of Ordinances, Section 94.03: Frontal Dune Policy and Regulations – Inspections Director Evans (Pages 28 – 32)
15. Discussion and Possible Action on Ordinance 20-18, An Ordinance Amending the Holden Beach Code of Ordinances, Section 157.006: Definitions (Height Measuring Point) – Inspections Director Evans (Pages 28, 33)
16. Town Manager’s Report
17. Mayor’s Comments
18. Board of Commissioners’ Comments
19. Adjournment

*** Due to the Town of Holden Beach’s State of Emergency Restrictions and Governor Cooper’s Safer at Home Order, in person public attendance is prohibited. The meeting will be livestreamed on the Town’s Facebook page. Visit <https://www.facebook.com/holdenbeachtownhall/> to watch the livestream. Public comments can be submitted to heather@hbtownhall.com or deposited in the Town’s drop box at Town Hall prior to 3:00 p.m. on December 15, 2020. Comments for the public hearing will be accepted until December 16, 2020 at 5:00 p.m. If you would like the comments to be heard at the public hearing, they must be submitted by December 15, 2020 at 3:00 p.m.**



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
REGULAR MEETING
TUESDAY, NOVEMBER 17, 2020 – 7:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, November 17, 2020 at 7:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem Gerald Brown; Commissioners Woody Tyner, Brian Murdock, Mike Sullivan and Pat Kwiatkowski; Town Manager David W. Hewett; Town Clerk Heather Finnell; Assistant Town Manager Christy Ferguson; Police Chief Jeremy Dixon; Inspections Director Tim Evans; and Fiscal Operations Supervisor Margaret Lancaster. The meeting was streamed on the Town's Facebook page and an opportunity for public comments was provided prior to the meeting due to the restrictions in place for COVID-19.

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

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

Motion by Mayor Pro Tem Brown to approve the agenda as presented; second by Commissioner Murdock; approved by unanimous vote.

APPROVAL OF MINUTES

Motion by Commissioner Sullivan to approve the minutes of the Regular Meeting of October 20, 2020 as written; second by Commissioner Kwiatkowski; approved by unanimous vote.

PUBLIC COMMENTS ON AGENDA/GENERAL ITEMS

No comments were made.

PRESENTATION OF FISCAL YEAR 2019 – 2020 AUDIT RESULTS – ELSA WATTS, MARTIN STARNES AND ASSOCIATES

Town Manager Hewett reported the audit was submitted on time. It was reviewed by individual members of the Audit Committee, with their comments being provided to Ms. Watts. We received word late last week that the audit was approved by the Local Government Commission (LGC). He introduced Elsa Watts.

Ms. Watts said the Town received an unmodified opinion; this is a clean audit opinion. There were no findings in the audit this year. There were two findings in the 2019 audit; both were corrected. She thanked the staff for their working relationship with Martin Starnes.

Ms. Watts explained there are five classifications of fund balance, which is the measure of financial resources available. There is non-spendable fund balance which is not in cash form; restricted fund balance, which is subject to external restrictions by laws or grantors; committed fund balance which requires Board action; assigned fund balance which has lower level of constraints than committed; and unassigned fund balance which has no constraints. The LGC defines available fund balance as total fund balance, less non-spendable items, less items restricted by state statute. They use this calculation to compare the Town to other units. The general fund has a total fund balance of \$3.2 million. There was stabilization by state statute of \$127,000. This gives the Town an available fund balance of \$3.1 million. This is an increase of available fund balance of \$616,000. Looking at the available fund balance as a percent of expenditures for the general fund, it was at 122%. The LGC requires a minimum of 8%. This means the Town has approximately 15 months of fund balance that can cover general fund expenditures. Total fund balance for the general fund was at \$3.2 million, this is an increase of \$619,000. You can see there has been steady increases since 2018. Revenues for the year in the general fund total \$3.6 million. This is a slight decrease of about 2%. Expenditures remain flat at \$2.5 million. The top three revenues of the general fund were comprised of property taxes at 75%, permits and fees at 8% and unrestricted intergovernmental revenues at 7%. Other revenues made up 10%. Property taxes remain steady at \$2.7 million. The tax collection rate was 98%. Unrestricted intergovernmental revenues were at \$265,000. This is a decrease of about 8% due to some decreases in utility franchise taxes. Permits and fees were at \$296,000. This is an increase of about 4%. The top three expenditures in the general fund were general government which made up 33%; public safety which made up 38%; and transportation at 13%. Other expenditures made up 16%. General government expenditures were up about 5%, up to \$833,000. Public safety expenditures were down 5%, about \$975,000. Transportation expenditures were up 8% due to more street paving and equipment. That was \$324,000.

In the water and sewer fund there was required debt service of \$744,000; charges for services of \$1.8 million; and unrestricted net position of \$2.9 million. The quick ratio measures your ability to meet your short-term obligations with your most liquid assets. The Town had current assets of \$2.8 million, divided by the current liabilities of \$199,000 for a quick ratio of 14.35. For cash flow for water and wastewater, the Town has cash flow of operations of \$680,000, debt service of \$744,000. This gives a cash flow less debt service of -\$63,000.

Ms. Watts confirmed that she answered the questions of the Audit Committee and that none of the questions were material questions. Commissioner Tyner said it is a big accomplishment and asked if Ms. Watts feels comfortable that the two deficiencies have been addressed. Ms. Watts agreed. The Board thanked Town Manager Hewett, Fiscal Operations Supervisor Lancaster and the rest of the Finance Department for their work.

POLICE REPORT – CHIEF DIXON

Chief Dixon said in the beginning of October we had a string of car b&e's that started around the city streets. Officers were able to quickly apprehend those two suspects. Chief Dixon talked about business checks and keep checks.

DISCUSSION AND POSSIBLE ACTION ON EMPLOYEE HEALTH BENEFITS

Commissioner Sullivan reviewed the background of the MAPS Study. The Board didn't address the fringe benefit for insurance premiums when the study was reviewed. In the study, most of the towns pay full cost of benefit for their employees. He said the difference is in family insurance. The chart shows it ranges from 0% to 80%. He asked the Board if they would like to discuss whether to change the contribution that the Town makes towards the health benefits for employees.

Motion by Commissioner Sullivan that he would like to discuss the issue. No second was made.

DISCUSSION AND POSSIBLE ACTION ON LEGAL SERVICES PROPOSALS

Town Clerk Finnell explained that the Town received two proposals in response to our Request for Proposals for legal services. They were from the Law Firm of Richard F. Green and the Brough Law Firm. Commissioner Kwiatkowski inquired if the Board could solicit for more responses before they proceed. Mayor Holden suggested that the Board could see if Noel Fox would provide interim service as needed. He would also like to have more than two responses to consider. Mayor Pro Tem Brown said Mr. Green is a taxpayer and he is right here. He suggested he might serve as interim attorney. Mayor Holden added he has served in the past. Commissioner Kwiatkowski said Ms. Fox could step right in because it is a continuation of things she was doing for a couple of years.

Motion by Commissioner Kwiatkowski that we put out a request again to see if we can get some more proposals from additional legal firms; second by Commissioner Tyner.

Town Manager Hewett said that Ms. Fox has expressed willingness in the past and recently to assist the Town on an interim basis if the Board is so inclined. We are using her to work on the Central Reach Project easements already. He has not reached out to anyone else at this time. The Board discussed soliciting additional responses since the current workload is high for attorneys and it is the holiday season.

The motion passed by unanimous vote.

Commissioner Sullivan said it makes sense to use someone that is familiar with the Town, familiar with the issues we are facing and who is already working on some of those issues.

Motion by Commissioner Sullivan that we ask Noel Fox if she will fill in as the interim Town attorney as needed; second by Commissioner Kwiatkowski; approved by a vote of 4 – 1 with Commissioners Tyner, Murdock, Sullivan and Kwiatkowski voting for the motion and Mayor Pro Tem Brown voting in the negative.

DISCUSSION AND POSSIBLE ACTION ON RESOLUTION 20-13, DESIGNATION OF APPLICANT AGENT FOR ISAIAS

Assistant Town Manager Ferguson said the Town was recently informed by the NC Department of Public Safety that it is time for us to complete the Designation of Applicant Agent form. The Town has to designate a primary and secondary agent. She stated we found out this was required to go before boards

before, but they are not requiring board approval with moving to the all digital portal system. In the future it may not come before the Board.

Motion by Commissioner Sullivan that we designate Town Manager David Hewett as the primary applicant agent and Assistant Town Manager Ferguson as the secondary agent on the FEMA resolution; second by Commissioner Tyner; approved by unanimous vote.

DISCUSSION AND POSSIBLE ACTION ON A REQUEST FOR A NEW AUDIT ON TRASH CAN NUMBERS AT RENTAL PROPERTIES

Commissioner Kwiatkowski said rental properties are supposed to have at least one bin per two bedrooms. There were problems a couple of years ago. An audit was completed, letters were sent out and the situation improved.

Motion by Commissioner Kwiatkowski that the Town conduct another audit of the rental properties and the number of trash bins they have and then take action as necessary for compliance so that we go into the next rental season with enough trash bins again; second by Commissioner Sullivan.

Town Manager Hewett said the enforcement agent is Rhonda Wooten, the code enforcement officer. Inspections Director Evans provided information on the last audit conducted. There was a lot of negative feedback from the letters. They do monitor the situation during the summer. They take action when they find a situation where someone isn't in compliance. Inspections Director Evans stated that they do not get a lot of complaints about trash cans and trash. He said the problem with doing an audit is that we are basing our numbers off someone else's information. The only other way to get it is to go on people's properties and he doesn't think you can trespass to tell if they have enough trash cans. Some people have the correct amount of trash cans but may not be using them. It is a difficult task with two people to audit the entire beach to determine if they are meeting the ordinance. Inspections Director Evans suggested putting a message on the water bills. Mayor Holden said at this time of the year a lot of the rental homes have some of their trash cans in storage or in garages. Commissioner Kwiatkowski suggested asking the rental companies to send a letter and remind their owners of the requirements.

Commissioner Kwiatkowski withdrew her motion, with Commissioner Sullivan in agreement.

Commissioner Kwiatkowski asked if the Town could send out a reminder of the requirements in the water bill. Town Manager Hewett said staff will take care of that.

DISCUSSION AND POSSIBLE ACTION TO APPROVE THE FORMATION OF A PARKING WORK GROUP

Commissioner Tyner said he and Commissioner Murdock prepared a document that explains why they want to look at parking (hereby incorporated into the minutes).

Motion by Commissioner Tyner that they would like the Board to approve them forming a parking committee or parking work group that would be staffed by him, Commissioner Murdock and the appropriate town staff members to look at parking, second by Commissioner Murdock.

Commissioner Tyner explained that they would like the parking committee to look at: 1) paid parking opportunities, 2) improving Jordan Boulevard, 3) boat trailer parking and 4) Avenue A. He said this is not an all-inclusive list. He reviewed their document that included history of prior committees and several events that have occurred that prompted the need to revisit the parking issues. Commissioner Murdock added as a Town, we have taken for granted there will always be a place to park. Privately owned tracts of land have been used for public parking for years. As properties are being developed, those are going away. Various tracts of land that people have parked on for years have gone away. People are not going to stop coming. The Town does incur a substantial expense in providing services for police, trash and restroom facilities. The technology has improved where an attendant would not need to sit on a lot, you could use an app. We need to cover the expense of the people who come to enjoy the beach. Commissioner Murdock said the Town needs to designate some areas and possibly acquire additional property while it is available. He wants people to enjoy the beach and they need a place to park.

Commissioner Kwiatkowski stated she doesn't believe the Town needs to purchase additional property. We do have additional land on the west end. People on the east end have complained that the parking was all concentrated in their area. She is all for taking the land we have and creating parking lots. She is all for maximizing what the Town has. She is not convinced paid parking will help the police. She doesn't see spending money on parking, even if it is paid parking, as a good use of Town funds. Commissioner Kwiatkowski suggested maximizing what the Town has first before getting a paid parking estimate. Commissioner Tyner said he doesn't disagree with anything said, other than he does think the Town needs to look at paid parking. We won't know until we go through the business case. He thinks with the technology changes that the Town needs to look at it. He agreed the Town needs to organize existing parking. Commissioner Kwiatkowski said until you have the number and locations of spots, she doesn't know how you could do a business plan. Commissioner Sullivan said he thinks Inspections Director Evans could provide a number of how many spaces the Town has because of what was done a couple of years ago.

Commissioner Sullivan asked about having residents on the committee since the study would affect the whole Town. Commissioner Tyner said because of COVID restrictions he doesn't think public members could be on the committee. Commissioner Sullivan stated he is all for paid parking if the business model shows the Town will make money instead of spending it. In order to possibly be able to make it economically viable, you would need to do away with free parking. He thinks we need input from the people who live on the island. Town Manager Hewett suggested if the Board has an item they want to investigate, they should have the professional staff gather the information and bring it back to Board. You get feedback from citizens when information is put forth for a decision to be made. Commissioner Sullivan said he was on the Sewer Advisory Committee. Everything being done now came as a result of that committee. The Board decided to get a second opinion and it was the exact same as the first. He said there are times when citizens don't have as much expertise as the staff, but the Town did benefit from the Sewer Advisory Committee. He said before we have a committee comprised of anybody, we should find out if the people of the Town want it. If the people think it is beneficial, then we will let the experts in the Town do the work to formulate a plan. Commissioner Kwiatkowski agreed with Commissioner Sullivan that finding out if the public wants paid parking is important. She doesn't think that would stop the Town from maximizing parking on the properties the Town currently owns before next season. Commissioner Murdock said paid parking was a small piece of this. We need to designate parking. Paid parking is just on the table. He wants to maximize what we have. People are parking on private property. The Board further discussed parking, to include parking for the boat ramp and resident parking.

Commissioner Tyner would like to look at maximizing parking, a proposal for paid parking and the cost benefit of it. Inspections Director Evans said both previous committees came to the conclusion that paid parking was not viable at the time. He provided information from the previous committees and the Planning & Zoning Board. The report from the previous committee was discussed.

The motion passed by unanimous vote.

TOWN MANAGER'S REPORT

- Central Reach Permit Status – Held the CAMA scoping meeting the last week of October with various state and federal agencies in response to our submittal of the permit modification. Several items came out of it, but the big one is we will have to look at regrading sand samples from our previously permitted project in 2016 and the most recently collected samples. Fran Way is performing that service for us. We conducted the initial discussion with the easements attorney for the expanded template properties. That sets the stage for the attorney to meet with the Board in January to discuss any required actions by the Board.
- Federal Advocacy – yesterday was filled with virtual meetings to conduct advocacy briefings with our Congressional delegation and federal agencies. He, along with Commissioners Sullivan and Kwiatkowski and Assistant Town Manager Ferguson were chaperoned by Mike McIntyre from Ward and Smith and Stephanie Missert and Roger Gwinn from the Ferguson Group and engaged with the offices of Senator Tillis, Senator Burr and Congressman Rouzer, in addition to David Leach, Corps Assistant Secretary for Project Planning & Review, Sue Wilcox, Corps Senior Water Resources Planner and Gary Waxman, General Attorney, Office of Management and Budget. Thinks it was positive on all fronts.
- Street Petition Status – sent out the first letters to Deal, Seagull and Canal property owners mid-September. Just recently sent a second request out as a friendly reminder. The return by date is December 5th. Affirmative response: Seagull – 14, Deal – 4 and Canal – 2. If there is an opportunity to take advantage of low fuel prices and paving being able to be done at an economical cost now is the time to do it. There is a NCDOT paving pause due to their overspending. Now is the time to get good prices and a favorable bid climate. The maintenance we are continually having to do is not cost effective, especially on Seagull. As it continues to be developed, it will be unrealistic to have the road graded all the time. It will not be cost effective. If you are so inclined get the petitions into us.
- Parks & Rec Master Plan Requests for Proposals – has been advertised and is out on the street for solicitation.
- Sewer Lift Station 3 – Currently in operational test mode subject to final completion and inspections. Major items completed or nearly complete include the pump station building including insulation, drywall, siding, metal roofing and interior stairs; ground level breakaway walls; elevated pressure-treated decking; vacuum pump skid including existing system modifications; electrical including vacuum station equipment and gas monitoring system; HVAC units; and access hatches and roof scuttle. Ongoing work includes existing equipment and electrical demolition, installation of light fixtures, unit heaters, doors and sound absorbing panels, interior and exterior finishes and site restoration. Contractor remains on schedule to complete on time and is within budget. It sets up for the next evolution for the engineering of lift station 2, with the engineering RFP and package to be developed after the new year.
- Renter for 796 OBW is in.

- Surveying for the canal subdivisions began last week in anticipation of gaging the canal conditions by new year.

Commissioner Murdock asked if there were any negative responses to the petition process. Town Manager Hewett answered there are a couple. If someone doesn't turn their petition in it does not count.

MAYOR'S COMMENTS

- Is sure everyone is aware of the governor making an announcement today in regard to future dealings with the COVID matter. Those in the tourism business are really interested and concerned about what the future holds. We all remember what happened in the spring when we had to close the island to reservations. There are a lot of rumors going around that we might see that in the near future again. Concerned about reservations for the upcoming season. Will all keep our eyes and ears open and deal with it as we have to.
- We talked about paving the streets. Disappointed with the amount of conversations had with different owners in consideration. For those who live on those streets, please let your voices be heard. Realize that it is expensive to grade and haul coquina to continue to try to maintain these streets, versus the one long-term solution.
- This Wednesday we have a meeting at the county complex concerning the inlet waters, beach nourishment programs and inlet maintenance. Continuing to hear more and more complaints about the Lockwood Folly Inlet. The Town is doing the best we can thanks to the town manager, the assistant town manager and others that are staying in touch with the powers to be. This is something we are paying attention to. To his knowledge we are doing everything we can in the environment we are dealing with. The Town is continuing to stay on top of that.
- Received a letter from an oceanfront owner in regard to beach vitex. If anyone thinks they might have it, let the Town know and we will do what we can.
- Thanksgiving – is sure the other rental companies are enjoying reservations being made for Thanksgiving. Encouraged residents and property owners to be mindful of the potential announcements and directives from the governor in regard to events over the holiday period.
- Happy Thanksgiving to everyone. Thanks for being here.

BOARD OF COMMISSIONERS' COMMENTS

Mayor Pro Tem Brown

- Thanked Chief Dixon and the police. One of his neighbors thought she lost her dog. Thanked the officer for his assistance. He was very good and reassuring. He really did a great job.
- Coming up on Thanksgiving, with travels be safe. Stay out of big crowds. Be thankful for our time together and let's have a great Thanksgiving.

Commissioner Tyner

- Wished everyone a happy Thanksgiving. Particularly with his health challenges during August and September he is especially thankful for this Thanksgiving.

Commissioner Murdock

- Wished everyone a happy Thanksgiving. Use your heads, stay safe.
- Thanked staff for their hard work and the Board. They are doing the best they can up here.

- Would like to hear from people on parking.
- Urged the people of Seagull, Deal and Canal to turn their petitions in while we can do something about this. Fear is the Town can't maintain the streets as people are accustomed to.

Commissioner Sullivan

- Thanked all veterans on Holden Beach. Last week was Veterans Day. Usually the Town has a luncheon to show our appreciation. We couldn't do the luncheon because of COVID-19. Rest assured that he, the Board and the Town are greatly appreciative of your service. We are very thankful for everything you have done for us.
- COVID-19 - If you watch tv or read the paper you realize it is increasing. Even here in beautiful Holden Beach, even though it is less populated than it was a couple of weeks ago, be careful. Try to protect yourself and everyone you love.
- Chief Dixon mentioned the arrest made. Spoke to the arresting officer. In addition to apprehending the people, the officers were able to recover a revolver that was stolen from one of the cars. Very good police work. Appreciates that.
- Yesterday he and Commissioner Kwiatkowski, along with Town Manager Hewett and Assistant Town Manager Ferguson spent a long day having video conferences with the people who can influence what is done in the Lockwood Folly and for beach nourishment. It was interesting to see how you need to maneuver. You can't dance with this group if you don't know the steps. Good to see how former Congressman McIntyre was able to lead in the dance. Spoke to both senators and Congressman Rouzer. The three of them are going to send a joint letter supporting the positions Holden Beach is asking for. At this point we are doing everything that can be done and are doing it in the right way to accomplish what has to be accomplished to keep Holden Beach viable and beautiful for as long as we are here and our grandchildren are here.

Commissioner Kwiatkowski

- Thanked everybody who listened in today. It has been a really good meeting with a lot of discussion.
- The beneficial use of sand from the Lockwood Folly Inlet dredging was discussed a lot at the meetings yesterday. Doesn't think there is any question that the people in the meetings believe that the way it has traditionally been done, the way we say it should continue to be done is the best way to do it. There are things in the system they need to work through. Thinks given time it will come back to where it needs to be. The Corps was very complementary on how organized we are and how aware we are of the proper steps to take. We have a very professional lobbyist and Town staff that know what they are doing and how to proceed. The Corps is listening to us and giving advice on how to do the next steps better; they don't have to tell us the steps to do. Was there last year as well as this year. Felt very encouraged in one area in particular. We have been trying to get proactive funding established for beach maintenance/beach nourishment activities. If you spend a dollar now it can save \$6 in disaster relief. This Town spends close to a half million dollars a year on routine maintenance. It was encouraging that Congressman Rouzer said there is some traction on the idea that there needs to be stuff done to help prevent the disaster, for resiliency. He said it will take time, but there is a consistent murmur about this making sense. We need to be in this for several years. We are doing a good job.
- Wished everyone a happy Thanksgiving.

ADJOURNMENT

Motion by Mayor Pro Tem Brown to adjourn at 6:38 p.m.; second by Commissioner Murdock; approved by unanimous vote.

J. Alan Holden, Mayor

Attest:

Heather Finnell, Town Clerk

Activity Log Event Summary (Totals)

HOLDEN BEACH POLICE DEPT.

(11/01/2020 - 12/01/2020)

911 Hang Up/Open Line	1	Alarm Activation	15
Assist Motorist	2	Assist Other Agency	18
Attempt to Locate-ATL	3	Business Check	199
Debris Removal	3	Disturbance/Fight	4
Domestic Disturbance	2	EMS/Medical Call	5
Fire Call	2	Incident Report	5
Keep Check	26	Lost/Found Property	2
Missing Person	1	Open Door	2
Ordinance Complaint	13	Public Assist	28
Special Assignment	3	Suspicious Activity	6
Traffic Stop	6	Water Rescue	1
Welfare Check	1	Wildlife Complaint	6

Total Number Of Events: 354



Date: December 4, 2020

To: Commissioners and Mayor Holden

From: Heather Finnell *HF*

Re: Meeting Schedule

Enclosed is the proposed 2021 Board of Commissioners' Regular Meeting Schedule. All dates reflect the third Tuesday of the month.

Staff recommends approval.



**TOWN OF HOLDEN BEACH
2021 BOARD OF COMMISSIONERS' MEETING SCHEDULE
5:00 P.M.
LOCATION -TOWN HALL PUBLIC ASSEMBLY**

January 19th

February 16th

March 16th

April 20th

May 18th

June 15th

July 20th

August 17th

September 21st

October 19th

November 16th

December 21st



Date: December 4, 2020

To: Commissioners and Mayor Holden

From: Heather Finnell, Town Clerk *HF*

Re: Mayor Pro Tem

The Code of Ordinances reads that the Board shall elect a mayor pro tem from one of its members. The normal term of office of the mayor pro tem shall be one year, commencing at the first regular meeting in December; provide, however that the member shall serve at the pleasure of the Board.

Per the ordinance, the Board may choose to extend the current term of Mayor Pro Tem Brown or select another member to serve as the mayor pro tem.

Memo To: Board of Commissioners

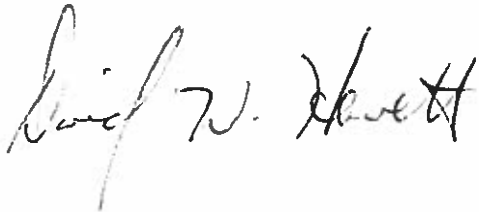
7 Dec 2020

RE: Occupancy Tax and Coastal Storm Damage Mitigation Dune Building Grant Budget Amendment

FROM: Town Manager

The attached budget amendment provides for a midyear adjustment to the BPART Fund based on the performance of accommodations tax collections to date and the successful procurement of a NC DWR grant. The proposed budget adjustment replaces previously appropriated fund balance (\$671,400) in the current year operations budget with occupancy tax collections and revenues from a NC Division of Water Resources Coastal Storm Damage Mitigation grant while providing for the required transfer of occupancy taxes to Brunswick County (\$196,880) in addition to appropriating funds for a year's worth of federal advocacy (\$119,700), anticipated parks and recreation master plan update expenses (\$12,288) and offshore sand search funding (\$305,000).

Approval of the attached Budget Amendment is required before consideration and approval can be given to the acceptance of the grant and/or the Ward & Smith agreement subsequently in your agenda.

A handwritten signature in black ink, appearing to read "David W. Hewitt". The signature is written in a cursive style with a large initial 'D'.

1 Atch

Ordinance 20-16, Amendment #5

"Occupancy Tax and Coastal Storm Damage Mitigation Grant"

Ordinance 20-16, Amendment No. 5

Occupancy Tax and Coastal Storm Damage Mitigation Grant

REVENUE

Description	Account#	Amount	Action
Accommodations Tax	50.0302.0000	1,199,268	Increase
Miscellaneous BPART	50.0336.0000	106,000	Increase
Fund Balance Appropriated	50.0399.0000	<u>671,400</u>	Decrease
Total		633,868	

EXPENSE

Description	Account#	Amount	Action
Transfer County Accom tax	50.0401.0000	196,880	Increase
Professional Services	50.0710.0400	<u>436,988</u>	Increase
Total		633,868	

Memo To: Holden Beach Board of Commissioners

8 December 2020

In Turn: Town Manager *DM*

FROM: Assistant Town Manager Christy Ferguson *CF*

RE: Coastal Storm Damage Mitigation (Dune Building) Grant

The Town has been awarded a \$106,000 Dune Building Grant from the NC Division of Water Resources (Atch 1) subject to the successful execution of a grant contract.

Recommend Board approve the grant by adopting Resolution 20-14 "Coastal Storm Damage Grant" at Atch 2; in addition to adopting the grant's required Conflict of Interest Policy at Atch 3 and authorize the Town Manager to execute all administrative tasks.

3 Atchs

1. DWR Grant notification ltr 2 October
2. Resolution 20-14; "Coastal Storm Damage Mitigation Grant "
3. Conflict of Interest Policy

ROY COOPER
Governor
MICHAEL S. REGAN
Secretary
S. DANIEL SMITH
Director



October 2, 2020

Mrs. Christy Ferguson
Assistant Town Manager
Town of Holden Beach
110 Rothschild Street
Holden Beach, NC 28462

Dear Mrs. Ferguson:

The Division of Water Resources (DWR) of the North Carolina Department of Environmental Quality (NCDEQ) is pleased to announce that \$106,000 in financial assistance for the Town of Holden Beach Dune Building Project has been tentatively approved by the State of North Carolina. The award is pending the successful execution of a grant contract between the State and your municipality.

These funds are to be "used for costs associated with beach nourishment, artificial dunes, and other projects to mitigate or remediate coastal storm damage to the ocean beaches and dune systems of the State." (§ 143-215.73M) as submitted for Town of Holden Beach Dune Building Project. If a project receives State funds and subsequently receives federal funds as a full reimbursement for the project, the Grantee must return any State funds that have become federally reimbursable to the Office of State Budget and Management within 90 calendar days of the costs becoming federally reimbursable.

The Department of Environmental Quality, Division of Water Resources will be contacting you concerning the grant contract and the administrative requirements for the reimbursement of work completed. Again, we thank you for the application and please contact Kevin Hart at Kevin.Hart@ncdenr.gov if you have any questions or concerns.

Sincerely,

Kevin Hart
Coastal Infrastructure Program Manager

CC: Coley Cordeiro, NC Division of Water Resources
Danny Smith, NC Division of Water Resources



North Carolina Department of Environmental Quality | Division of Water Resources
512 North Salisbury Street | 1611 Mail Service Center | Raleigh, North Carolina 27699-1611
919 7079000



**Coastal Storm Damage Mitigation Grant
Resolution Number 20-14**

WHEREAS, The Town of Holden Beach includes sand fence and vegetation installation as part of our annual maintenance of the beach; and

WHEREAS, the dunes are vital to the protection of property and infrastructure along the beachfront and numerous storm events have impacted the dune system; and

WHEREAS, the Town of Holden Beach Board of Commissioners desires to sponsor a dune building project through the installation of sand fence and vegetation using Coastal Storm Damage Mitigation Grant funding

NOW, THEREFORE, BE IT RESOLVED THAT:

- 1) The Board of Commissioners (BOC) requests the State of North Carolina to provide financial assistance to Town of Holden Beach for a dune building project in the amount of \$ 106,000;
- 2) The Town assumes full obligation for payment of the balance of project costs;
- 3) The Town will obtain all necessary permits;
- 4) The Town will comply with all applicable laws governing the award of contracts and the expenditure of public funds by local governments;
- 5) The Town will supervise construction of the project to assure compliance with permit conditions and to assure safe and proper construction according to approved plans and specifications;
- 6) The Town will obtain appropriate easements necessary for the construction and operation of the project without cost or obligation to the State.;
- 7) The Town will ensure that the project is open for use by the public on an equal basis with limited restrictions (if on public property);
- 8) The Town will hold the State harmless from any damages that may result from the construction, operation and maintenance of the project;
- 9) The Town accepts responsibility for the operation and maintenance of the completed project.

Adopted by the Board of Commissioners of the Town of Holden Beach this
15th day of December 2020.

Clerk to the Council/Board

Mayor / Chairperson of Council / Board



CONFLICT OF INTEREST POLICY

Conflict of Interest Defined:

A conflict of interest is defined as an actual or perceived interest by a (Staff Member/Member of the Board of Commissioners) in an action that results in, or has the appearance of resulting in, personal, organizational, or professional gain. A conflict of interest occurs when an Employee/Member of the Board of Commissioners has a direct or fiduciary interest in another relationship. A conflict of interest could include:

- Ownership with a member of the Board of Commissioners or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Employment of or by a member of the Board of Commissioners or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Contractual relationship with a member of the Board of Commissioners or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Creditor or debtor to a member of the Board of Commissioners or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Consultative or consumer relationship with a member of the Board of Commissioners or an Employee where one or the other has supervisory authority over the other or with a client who receives services.

The definition of conflict of interest includes any bias or the appearance of bias in a decision-making process that would reflect a dual role played by a member of the organization or group.

Employee Responsibilities:

It is in the interest of the organization, individual staff, and Board of Commissioners to strengthen trust and confidence in each other, to expedite resolution of problems, to mitigate the effect and to minimize organizational and individual stress that can be caused by a conflict of interest.

Employees are to avoid any conflict of interest, even the appearance of a conflict of interest. This organization serves the community as a whole rather than only serving a special interest group. The appearance of a conflict of interest can cause embarrassment to the organization and jeopardize the credibility of the organization. Any conflict of interest, potential conflict of interest or the appearance of a conflict of interest is to be reported to your supervisor immediately. Employees are to maintain independence and objectivity with clients, the community, and organization. Employees are called to maintain a sense of fairness, civility, ethics, ethics and personal integrity even though law, regulation, or custom does not require them.

Acceptance of Gifts:

The proper operation of Town government requires that public officials and employees be independent, impartial, and responsible to the people; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. Therefore, no official or employee of the Town may willfully receive or accept gifts or favors of any value, at any time, on or off the work premises from vendors. This no-gift policy includes vendor or potential vendor provided food, beverages, meals or entertainment such as sporting events. This no-gift policy includes any business courtesy offered such as a product discount or any other benefit if the benefit is not extended to all employees.

Exceptions to this policy include receipt of a gift or honorarium for participation in meetings, receipt of advertising items or souvenirs of nominal value, or receipt of meals furnished at conferences and banquets. Full participation by officials or employees of the town in activities of professional organizations in which they are a member is permitted even though the organization may receive donations from a contractor, subcontractor, or supplier. Exceptions to this policy also include food/lodging/travel/events attended in an employee's official capacity, or gifts from family members, friends, or co-workers where it is clear that it is that relationship which is the motivating factor for the gift.

Gifts of food that may arrive during the holidays, and at other times of the year when gift giving is traditional, belong to the entire staff even if addressed to a single employee. Food gifts must be shared with and distributed to all staff during work hours, in central, worksite locations. Gifts of plants or flowers shall be displayed in the lobby or at any another central location where all employees may enjoy their presence.

If an employee receives a gift, if feasible, return the gift to the vendor. If not feasible to return the gift, the gift must be raffled off to all employees. Proceeds from the raffle will be deposited into the Town's General Fund budget.



Kevin Hart
Coastal Infrastructure Program Manager
NC Division of Water Resources
NC Department of Environmental Quality
1617 Mail Service Center
Raleigh, NC 27699-1611

Dear Mr. Hart:

The Town of Holden Beach would like to request payment of award funding from the Coastal Storm Damage Mitigation Fund. The funding will be used to help build the dune system through the installation of sand fence and vegetation. We would like to request the \$106,000 in grant funds as stated in the award letter dated October 2, 2020.

Sincerely,

David W. Hewett
Town Manager
Town of Holden Beach

DEQ – 8/06

REQUEST FOR PAYMENT OF APPROPRIATION(S) FROM NORTH CAROLINA GENERAL FUND
(SEE LETTER ENCLOSED)

2020-2021 Allocation: \$106,000

Purpose: To build the dune system through sand fence and vegetation installation

Part A. TO BE COMPLETED BY ALL RECIPIENTS

1. Contact's Name: David Hewett Telephone: 910-842-6488

2. Contact's Position in Organization: Town Manager, Town of Holden Beach

3. Federal Identification Number 56-0944997

4. Kind of Organization: Corporation ___ Trust ___ Partnership ___ Government X ___
Unincorporated Association ___ Other ___

5. Match Required (Circle One): Yes/No

If matching is required, is cash match in hand? Yes ___ No ___

If the required match is not in hand, by what date and from what source does the organization expect to have the cashmatch?

6. Fiscal Year of Non-State Entity (e.g. year ending June 30, December 31, other) June 30

Part B. TO BE COMPLETED BY ALL NON-GOVERNMENTAL RECIPIENTS

1. Please enclose the following:

- a. Articles of Incorporation and by-laws, trust indenture, partnership agreement, etc.
- b. List of Board of Directors/Trustees.
- c. Policy addressing conflicts of interest.
- d. Sworn Statement of no overdue tax debts.

Part C. TO BE COMPLETED BY ALL RECIPIENTS. FORM MUST BE NOTARIZED

Signature of individual making request

Notary Public (official seal)

Date Notarized

Memo To: Board of Commissioners

8 December 2020

In Turn: Town Manager *PH*

From: Assistant Town Manager Christy Ferguson *CF*

RE: Engagement of Ward and Smith – Governmental Matters

The Town has utilized the services of Congressman Mike McIntyre et al to aid with various governmental matters related to beach nourishment and inlet maintenance via its agreement initially with Poyner Spruill and subsequently with his move to Ward and Smith.

Results of these efforts have led to the Town currently being positioned to receive consideration for a US Army Corps of Engineers study to evaluate the potential of federal funding for beach nourishment at Holden Beach and that the Town's position regarding Lockwood Folly Inlet maintenance dredging with concurrent placement of beach compatible sand on Holden Beach continue to be articulated at the federal level.

The existing engagement term ends 31 December 2020. The services retainer for a new agreement proposed by Ward and Smith is \$7,975 per month with an annual total estimated advocacy cost of \$119,700.

If the Board wishes to continue with federal advocacy for the upcoming calendar year it must approve the attached engagement letter with Ward and Smith.

Atch

Ward & Smith 18 Nov 2020 Engagement Letter

751 Corporate Center Drive, Suite 300 (27607)
 Post Office Box 33009
 Raleigh, NC 27636-3009

P: 919.277.9191
 F: 919.277.9177
 mmcintyre@wardandsmith.com

November 18, 2020

VIA EMAIL (*david.hewett@hbtownhall.com*)

David W. Hewett, Manager
 Town of Holden Beach
 110 Rothschild Street
 Holden Beach, NC 28462

RE: Town of Holden Beach

Dear David:

Reference is made to our telephone conference of November 17. We are certainly pleased that you have been satisfied with our services, and we have enjoyed working with you, Mayor Holden, the Town Commission, the Town staff, and your wonderful community. During our phone conversation, you indicated that you would like for us to continue to represent the Town of Holden Beach for the next year with regard to its government relations work.

Nature and Scope of Representation

We have agreed to advise and assist you with governmental matters and legal services issues that arise, and the Town of Holden Beach hereby engages Ward and Smith, P.A. to perform the following services in accordance with the terms and condition set forth in this agreement including working with the Town of Holden Beach to secure federal assistance in project management regarding: (1) federal issues related to any beach renourishment opportunities at Holden Beach, North Carolina, (2) federal issues related to Lockwood Folly Inlet maintenance along with beach renourishment efforts for placement of beach-quality sand on the east end of Holden Beach, and (3) federal issues related to a potential change in Army Corps of Engineers policy on federally-designated dredge material disposal sites. The Town of Holden Beach acknowledges and agrees that Ward and Smith, P.A. does not have control over third-party decision makers, and that Ward and Smith, P.A. makes no representations, warranties or guarantees that it can achieve any particular results. Ward and Smith, P.A. shall act in good faith and with the necessary due diligence in connection with its performance of the services described herein. Two local meetings with the Town of Holden Beach and two trips to Washington, DC, per 12-month period (based upon certain contingencies otherwise allowed or prohibited by law during an emergency or as otherwise mutually agreed upon by the parties), as well as a

WARD AND SMITH, P.A.

David W. Hewett, Manager
November 18, 2020
Page 2

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 legal monitoring/research, then fees and costs incurred for such services will be billed separately to the client.

We have not identified any conflicts of interest with our other clients. However, it is possible that conflicts will occur, especially because of the unpredictability of legislative policy and politics. In such cases, we will disclose the conflict, or potential conflict, and Town of Holden Beach will need to retain its own independent legal counsel for that matter as well as make a good faith effort to waive any conflict that is waivable under the North Carolina State Bar's Rules of Professional Conduct.

Retainer and Fees

The retainer for services will be \$7,975 per month. Unless either of us terminates this engagement, this retainer will remain in place from January 1, 2021 through December 31, 2021. 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 authorization from you. The monthly retainer in any event will be the minimal fee for our services rendered during any portion of the month for which is paid.

Ward and Smith, P.A. will carry out its duties in compliance with all of the applicable federal, state and local laws and regulations, particularly those laws applicable to lobbying.

File Retention

At or before the conclusion of this matter, we will return to you any original documents you have given to us. Upon conclusion of this matter, we will close our active file for this matter, but keep an inactive file containing a copy of all pertinent documents for a minimum of six (6) years, as required by the professional rules of practice for attorneys. At the end of that period, we will dispose of the contents of the inactive file unless you request possession of the file contents.

Electronic Signature

The parties hereto consent to the use of electronic signatures and electronic transmittal of this Engagement Letter. As such, the parties hereto acknowledge and agree as

WARD AND SMITH, P.A.

David W. Hewett, Manager
November 18, 2020
Page 3

follows: (1) facsimile or electronic signatures to this Engagement Letter shall be considered original signatures, (2) this Engagement Letter may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered to the other parties hereto, whether exchanged physically or via electronic means, and (3) the exchange of a fully executed Engagement Letter (in counterparts or otherwise) by facsimile or electronic delivery in .pdf format shall be sufficient to bind the parties hereto to the terms and conditions of this Engagement Letter.

Acceptance

If the terms of this Engagement Letter are satisfactory, please execute the Engagement Letter via DocuSign. By these actions, and in consideration of our agreeing to undertake this representation, we will understand that the terms and conditions in this Engagement Letter are accepted.

If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,



Mike McIntyre
Attorney | Member of Congress, 1997-2015

cc: Mayor Alan Holden (via email: holden@atthebeachnc.com)

WARD AND SMITH, P.A.

David W. Hewett, Manager
November 18, 2020
Page 4

Read and agreed this ____ day of December, 2020.

Town of Holden Beach

By: _____
David W. Hewett, Manager

Date



Town of Holden Beach

PLANNING & INSPECTIONS DEPARTMENT

12/7/2020

Director
Tim Evans
Tevans@hbtownhall.com
Assistant Inspector
Rhonda Wooten
rhonda@hbtownhall.com

Permits Administrator
Abbey Long
planninginspections@hbtownhall.com

Memo:

Subject: Staff Initiated Text Amendments

To: Commissioners, Mayor, Town Manager

From: Planning and Inspections Director

The Planning staff are asking the Board to consider the provided changes to the Town's Code of Ordinances. Over the course of the last 11 years we have at the request of the Town Board and citizens made changes to numerous sections within the code. These two current changes are needed corrections that will help to ensure maximum use of individuals' property, while maintaining consistency with the original intent.

These staff-initiated changes are to correct discrepancies brought to fruition from questions and consultation posed by both the public and Town officials.

These changes will provide for better use of properties.

Benefits are:

- a. An increase in property tax values, better marketability
- b. Increase in parking area
- c. Fair use of property across flood zones
- d. Structure flexibility
- e. Aesthetics
- f. Safety

**TOWN OF HOLDEN BEACH
ORDINANCE 20-17**

AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, SECTION 94.03: FRONTAL DUNE POLICY AND 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, Section 94.03: Frontal Dune Policy and Regulations be amended as follows:

Section One: Amend Section 94.03: Frontal Dune Policy and Regulations as follows (changes in purple):

94.03 FRONTAL DUNE POLICIES AND REGULATIONS

(A) **Definition.** For the purpose of this section, **FRONTAL DUNES** shall mean the dunes designated by the town's local certified CAMA official as the "frontal dunes"; otherwise, they are the first mounds of sand located landward of the ocean beach with sufficient vegetation, height, and configuration to offer protection from ocean storms. Considering the fact that oceanfront property limits extend to the mean high water mark, the frontal dune may be located on private property.

(B) **Purpose of the frontal dune.** It is desirable to maintain a continuous frontal dune along the ocean-front of the island, extending from Lockwoods Folly Inlet to Shallotte Inlet. A continuous frontal dune thus maintained provides a single, ocean water surge flood control structure that serves to mitigate the effects of storms, that could by their very nature cause damage to public and private property. It is the intent of the Town that the frontal dune be maintained to standard specifications and by sand renourishment, so that the above-mentioned protection can be provided.

(C) **Frontal Dune Policy and Regulations.** The following policies and regulations apply: (Penalty for failure to adhere is \$500.00 per violation.)

(1) It shall be unlawful for any person or vehicle to cross the designated frontal dune, except for official Town business or emergency access, unless such crossing is over a Town approved ramp and/or stairs.

(2) **Frontal Dune Policy and Restrictions:**

(a) Whenever property owners elect to construct a walkway across the frontal dune on their property, to provide pedestrian access to the beach strand, the following specifications shall apply. (Note: the same criteria applies when property owners seek to apply for town approval of an encroachment agreement to construct a walkway over public property adjacent to their residence.)

1. The walkway shall be constructed only of building materials approved by the N.C. State Building Code. The walking passageway shall be no wider

than four feet. The underside of the walkway across the frontal dune shall be a minimum of 18 inches and a maximum of 36 inches above the crest of the sand. Exception: Town owned CAMA accessways may utilize a 6-foot walkway.

2. The first step down to the beach strand shall be placed no farther seaward than the beginning of the downward slope of the dune, or the existing line of escarpment determined by averaging the downward slope or escarpment line for the property in question and those properties directly adjacent.

3. Steps shall be of open tread construction with a maximum riser height of 8.25 inches and a minimum tread depth of 9.00 inches, and shall meet the requirements of the N.C. State Building Code.

4. In accordance with N.C. State Division of Coastal Management's enforcement of the Coastal Area Management Act (CAMA), the walkway access to the beach strand over the frontal dune shall be conclusively presumed to entail negligible alteration of the dune. The walkway shall be raised on posts or pilings a minimum of two feet and a maximum of five feet depth into the dune. In no case shall the walkway be permitted if it will, in the opinion of the Local CAMA Permit Officer, diminish the dune's capacity as a protective barrier against flooding and erosion.

5. Except for handicap ramps, steps from the walkway to the beach strand shall be placed only perpendicular to the frontal dune line.

6. No structure other than the four-foot wide wooden walkway shall be located south of the landward toe of the frontal dune. This applies to decks, gazebos, sitting areas and other additions that a property owner may desire to make to the allowed walkway. Structures (other than the four-foot walkway) that exist when this section is adopted may remain in place temporarily; however, all such structures must be removed no later than December 31, 2003, in order to be in compliance with this section. A building permit is required if there are any repairs needed to walkway load bearing surfaces, such as supporting posts. Adding additional lengths to supporting posts shall constitute a repair. Exception: Town owned CAMA accessways may utilize a 6-foot walkway. Exception: Property owners with lots that have more than 300 feet from the seaward toe of the frontal dune to the last line of natural stable vegetation, as determined by the local CAMA officer, may install a single walkway with a maximum width of four feet; the walkway shall be a minimum of three feet high with a maximum height not to exceed four feet; and shall terminate at the last line of natural stable vegetation. Walkways shall be permitted and built in accordance with all federal, state and local building requirements.

Exception: Swimming Pools maybe located south of the town's designated frontal dune, placement of pools and decking shall not extend more than 50 feet from the established seaward toe of designated frontal dune. This exception only applies when the CAMA dune is more seaward than the town's frontal dune.

(b) Showers shall not be located on walkways over the dune south of its landward toe. Shower runoff must not drain onto any portion of the frontal dune or south of the landward toe.

(c) In those instances where a residence or other structure is located directly adjacent to the frontal dune, stormwater runoff from roofs shall be controlled by the property owner so as not to erode sand on any portion of the frontal dune.

(d) Sand fences:

1. The installation of sand fence along the oceanfront, when properly located and erected, is an effective method to control blowing sand which may lead to the formation of dunes. However, when improperly located and erected, sand fencing may interfere with emergency beach access, cause accumulation of debris, and discourage sea turtle nesting.

2. Sand fencing is defined as a fence normally constructed of untreated and unpainted wood held together with twisted wire, with the fence being nailed to a minimum of 1.5 inch by 3.5 inch (2x4) posts that are spaced at intervals not less than five feet and are embedded no more than two feet into the sand, and extending no higher than four feet above grade.

3. No sand fence shall be erected without a no-cost sand fence permit issued by the Town Inspections Department. The permit may be requested and returned by mail following completion.

4. All sand fencing shall be installed in individual lengths of ten feet or less, at an angle between 45 and 90 degrees to the shoreline, facing west. The lengths of sand fence will be spaced at least seven feet apart, parallel to each other, to allow sea turtles and pedestrians to pass through. This method of sand fencing encourages sand accretion and minimizes negative impacts to nesting sea turtles.

5. The Building Inspector shall have the authority to summarily remove, abate, or remedy a sand fence determined dangerous or prejudicial to the public safety whether by reason of its location, or its subsequent state of disrepair or damage. Any fence so removed will be delivered to its owner if known, and if not, will be disposed of by the Public Works Department in an appropriate manner.

(e) Property owners are encouraged to vegetate and fertilize the portion of the frontal dune on their property.

(f) An exception to this policy is that ocean front property owners or their agents may traverse on (or over) the specific portion of the frontal dune within the limits of their property (above the mean high water mark), so as to make minor dune repairs, plant vegetation, install sand fencing and otherwise maintain the frontal dune on their property so that it may afford the intended degree of flood protection per this section.

(Ord. 98-04, passed 4-27-98; Am. Ord. 99-04, passed 3-8-99; Am. Ord. passed 3-27-00; Am. Ord. 00-25, passed 12-11-00; Am. Ord. 02-08, passed 5-27-02; Am. Ord. 03-09, passed 11-24-03; Am. Ord. 17-04, passed 3-21-17; Am. Ord. 17-05, passed 4-18-17)

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 _____ day of December, 2020.

Adopted this the _____ day of December, 2020.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk

**TOWN OF HOLDEN BEACH
ORDINANCE 20-18**

**AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, SECTION
157.006: DEFINITIONS (HEIGHT MEASURING POINT)**

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, Section 157.006: Definitions be amended as follows:

Section One: Amend Section 157:006: Definitions as follows (addition in purple):

157.006

HEIGHT MEASURING POINT: (HMP). Design flood elevation or base flood elevation plus two feet.

(1) (a) Wherever there is less than nine feet between the DFE and finished grade the HEIGHT MEASURING POINT may be moved to a maximum of nine feet above finished grade.

(b) All structures located in any A, V or X zones must have a minimum of eight feet clearance between the lowest horizontal structural member and finished grade.

(2) FEMA flood area "X" measuring point shall be the lowest original soil under the structure after the undisturbed soil has been balanced. Exception: structure located in X zones may be measured as written in (1)(a) with a maximum height of 31 feet from the established Height Measuring Point.

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 _____ day of December, 2020.

Adopted this the _____ day of December, 2020.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk