



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
PUBLIC HEARING/REGULAR MEETING
TUESDAY, MARCH 10, 2009 – 7:00 PM**

The Board of Commissioners of the Town of Holden Beach met for a Public Hearing/ Regular Meeting on Tuesday, March 10, 2009 at 7:00 p.m. in the Holden Beach Chapel Fellowship Hall. Present were Mayor J. Alan Holden; Mayor Pro Tem Sandy Miller; Commissioners Ray Lehr, Don Glander, Ken Kyser and Gary Staley; Town Manager David W. Hewett; Town Clerk Heather Finnell; Police Chief Wally Layne; and Attorney Mac Tyson.

PUBLIC HEARING – ASSESSMENT RESOLUTION FOR THE PAVING OF BLOCKADE RUNNER

Mayor Holden called the Public Hearing on the possible paving of Blockade Runner to order. Town Manager Hewett explained we received a petition from a majority of the property owners representing a majority of the frontage requesting Blockade Runner be paved. The Town would front the amount of the project and the property owners are assessed on a frontage basis at the end of the project. The estimated cost to pave Blockade Runner is \$108,000.

Gay Atkins questioned the percentage of the cost share and stated in the past it was a 60/40 split. Town Manager Hewett explained that the statute reads the cost is a 50/50 split, unless the petition specifies otherwise. Ms. Atkins also stated that traditionally we didn't pave just one street at a time. She inquired if we could put it on the website that we are paving to see if anyone else would like to have their street paved.

Bob Baker stated they have been trying to get this street paved for over 20 years. He stated if the Town can get other people to have their street paved, they obviously would want to do that, but he doesn't want that to hold up the process of paving the street.

No more comments were made and Mayor Holden closed the Public Hearing at 7:10 p.m.

REGULAR MEETING

Mayor Holden presented the invocation and called the Regular Meeting to order.

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

Mayor Holden asked to add the Legal Status of the EOC to the Executive Session and Discussion of an Event with Congressman McIntyre on April 9th as Item 19a.

Motion by Mayor Pro Tem Miller to approve the agenda as amended; second by Commissioner Kyser; approved by unanimous vote.

APPROVAL OF MINUTES

Motion by Mayor Pro Tem Miller to approve the minutes of the Regular Meeting of February 10, 2009 as written; second by Commissioner Glander.

Mayor Holden suggested that on page 8 it be changed to Town Manager Report, instead of Town Manager Evaluation.

Mayor Pro Tem Miller amended her motion to approve the minutes as amended; second by Commissioner Glander; approved by unanimous vote.

PUBLIC COMMENTS ON AGENDA ITEMS

Sheila Young encouraged the Board's support for Item 10 on the agenda, an interlocal undertaking for terminal groins. She stated that this is an option that may be needed to protect the beach. She explained it is important to know that terminal groins are not hard structures. The Shoreline Protection Committee pledges to work with the Town to educate people. Ms. Young also encouraged the Board to support Item 12 regarding the North Carolina General Statutes pertaining to property tax exemptions for certain homeowner association property and Item 13 pertaining to a contribution to help with the cost of filing a claim to halt insurance rate increases.

Gay Atkins stated she received a letter from Wayne of Wayne's Backhoe Service. She believes Elite Construction's bid was based on Wayne's site, but he has no agreement with Wayne to use his site. The other site they would use is 12 miles away. Ms. Atkins advised the Board to look closely at the bids before making a decision.

Nydia Glander asked if anyone realized the Bark at the Beach event is scheduled for the same time as the Holden Beach Property Owners' Meeting.

POLICE REPORT – CHIEF WALLY LAYNE

- Things remain quiet on the island. There was a lightning strike in the 900 block a couple of weeks ago. Two houses were damaged.
- The next Neighborhood Watch Meeting will be on March 18th. The guest speaker is to be announced.
- Dogs off leashes are an example of Beach Ordinance.
- Spring breakers are here.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 09-03, ASSESSMENT RESOLUTION TO IMPROVE BLOCKADE RUNNER FROM OCEAN BOULEVARD WEST TO THE END OF THE STREET

Motion by Commissioner Lehr to approve Resolution 09-03; second by Mayor Pro Tem Miller.

Town Manager Hewett explained that there is \$102,000 of approved Powell Bill money that is available. The Board would need to approve a budget amendment to approve the appropriation. Town Manager Hewett explained we received about \$44,000 in Powell Bill money this year and the money can be accrued for a period of ten years.

The motion passed by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 09-04, RESOLUTION EXTENDING TERM OF BRUNSWICK BEACHES CONSORTIUM

Mayor Holden explained that this is an organization that Holden Beach and other coastal communities have benefited from.

Motion by Commissioner Glander to approve Resolution 09-04; second by Commissioner Staley; approved by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF AGREEMENT FOR INTERLOCAL UNDERTAKING (TERMINAL GROINS)

Town Manager Hewett explained the Board approved a \$10,000 contribution towards the lobbying effort. This resolution creates the executive arm through which the contracting endeavors will take place. There will be a press conference on March 17th where the legislation will be introduced. Mayor Simmons of Caswell Beach has asked for all interested people to support the legislation by attending the meeting. Several members of the Shoreline Protection Committee and Board will be attending. If anyone else is interested please let the Town know. Mayor Holden explained that misinformation has been put out and this has nothing to do with seawalls.

Motion by Commissioner Staley to approve the interlocal undertaking; second by Mayor Pro Tem Miller; approved by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 09-05, RESOLUTION TO PETITION THE NC DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO PETITION THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY TO SUPPORT THE DESIGNATION OF THE COASTAL WATERS IN BRUNSWICK COUNTY AS A NO DISCHARGE ZONE

Motion by Mayor Pro Tem Miller to approve Resolution 09-05; second by Commissioner Kyser; approved by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 09-06, RESOLUTION SEEKING AMENDMENTS TO THE NC GENERAL STATUTES CONCERNING PROPERTY TAX EXEMPTIONS FOR CERTAIN HOMEOWNER ASSOCIATION PROPERTY

Mayor Holden explained that many people are aware of issues we have had on the island with this type of property. This is an opportunity to close the loophole and make the homeowner associations pay taxes.

Motion by Commissioner Glander to approve Resolution 09-06; second by Commissioner Staley; approved by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF A CONTRIBUTION OF \$5,000 TO HELP DARE COUNTY DEFRAY THE COST TO FILE A CLAIM TO HALT THE INITIATION OF INSURANCE RATE AND DEDUCTIBLE INCREASES

Motion by Commissioner Lehr to contribute \$5,000 to help Dare County; second by Commissioner Glander; approved by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 09-04, AN ORDINANCE AMENDING ORDINANCE 08-08, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR 2008 – 2009 (AMENDMENT NO.4)

Town Manager stated that the consulting engineers have not finalized their report of the bids received and he would recommend that Items 14 and 15 be tabled for a date and time certain in the future. Town Manager Hewett explained that he doesn't have the technical expertise without the engineer's stamp of approval to certify the sand from the borrow sites is compatible. Town Manager Hewett confirmed that one of the borrow sites is approved, but recommended that since this is federal money we be diligent in making sure the contracting laws are explicitly followed. In the schedule that was drafted, the 16th was the date that the Notice to Proceed would be issued.

Mayor Pro Tem Miller suggested to table Item 14 until Thursday, March 12th at 4 p.m. at the Emergency Operations Center. Commissioner Staley stated he is not happy about waiting, he would rather vote now. He stated we have an

approved site and a person who did it before. After discussion, the Board came to a consensus to table Item 14 until March 12th.

DISCUSSION AND POSSIBLE ACTION ON LOW BID AND CONSIDERATION OF AWARDING CONTRACT TO LOW BIDDER FOR THE FEMA BEACH NOURISHMENT PROJECT

Motion by Mayor Pro Tem Miller to table Items 14 and 15 until Thursday, March 12th at 4:00 p.m. at the Emergency Operations Center; second by Commissioner Glander; approved by a 4 – 1 vote, with Mayor Pro Tem Miller, Commissioner Lehr, Commissioner Glander and Commissioner Kyser voting for the motion and Commissioner Staley voting in the negative.

DISCUSSION AND POSSIBLE APPROVAL OF A MEMORANDUM OF AGREEMENT BETWEEN THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION AND THE TOWN

Mayor Holden explained that approval of this agreement would make clean-up of the streets quicker after storms.

Motion by Commissioner Kyser to approve the memorandum of agreement between the North Carolina Department of Transportation and the Town; second by Commissioner Staley.

Mayor Holden stated that the way he read this is that if the Town agrees to take responsibility of this, we are also agreeing to take financial responsibility. He questioned what we would do if we don't get federal funds to reimburse us for actions relating to this. Mayor Holden stated that on page 23, numbers 5 and 6 puts us responsible for the repairs of streets, right-of-ways, etc. for any damage done by our subcontractors. He would like to make sure that everyone understands the risk the Town is taking if we do not get funding to reimburse the costs. Town Manager Hewett explained in response to questioning by the Board that this agreement would be activated if a state of emergency is declared. This agreement is similar to the ones in the past, but it doesn't have to be renewed each year.

The motion passed by unanimous vote.

DISCUSSION AND POSSIBLE SCHEDULING OF A DATE TO HOLD A PUBLIC HEARING ON THE REVISED CAMA LAND USE PLAN

The Board agreed to hold the Public Hearing on Monday, May 11th at 6:00 p.m.

DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 09-05, AN ORDINANCE AMENDING CHAPTER 154: FLOOD DAMAGE PREVENTION OF THE HOLDEN BEACH CODE OF ORDINANCES

Town Manager Hewett explained that this is an attempt to improve the Town's CRS rating, which would hopefully decrease insurance rates. The only property it would affect would be the EOC building. We would need to put plywood or some sort of shutters over the windows.

Motion by Commissioner Glander to approve Ordinance 09-05; second by Commissioner Kyser; approved by unanimous vote.

REQUEST BY MARY LOU FRANKLIN TO HOLD THE 2009 BARK AT THE BEACH ON APRIL 11, 2009 AT 10:00 A.M./ DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 09-07, RESOLUTION GRANTING PERMISSION TO HOLD THE BARK AT THE BEACH FUNDRAISER AND TO UTILIZE THE HOLDEN BEACH PAVILION FOR THE FUNDRAISER

Ms. Franklin stated they would be happy to walk to the other end of Brunswick if their current route would not work because of the Holden Beach Property Owners' Association Meeting . She also stated they could look into changing the time to 1:00 p.m. The information can be distributed through the HBPOA newsletter, Channel 8 and an email blast.

Motion by Mayor Pro Tem Miller to approve Resolution 09-07, with changing the time; second by Commissioner Glander; approved by unanimous vote.

DISCUSSION OF AN EVENT WITH CONGRESSMAN MCINTYRE ON APRIL 9TH

Mayor Holden explained that each year Congressman McIntyre visits the Brunswick County's coastal area to hold meetings with elected officials in the area. The location of the meeting rotates and it is our turn to host the event. The event is scheduled for April 9th beginning at 11:30 a.m. The proposed location is the Chapel's Fellowship Hall. The event would last approximately two hours and would consist of a 15- 30 minute social, a small lunch and the attendees will get updates on the funding of projects. The cost of the event depending on the number of attendees is expecting to be approximately \$750 – \$1,000. The meeting is for elected officials, media and representatives from the Corps.

Motion by Commissioner Miller to hold the McIntyre luncheon at 11:30 a.m. on April 9th in the Fellowship Hall; second by Commissioner Glander; approved by unanimous vote.

TOWN MANAGER'S REPORT

- Canal Dredging Update – Learned the term neap tide (low tide in spring) today. If you had questions on why both dredges are not running at the same time, we just recently received permission from the Corps to do dual discharge into the spoil area. The reason the smaller dredge is not working during the daytime at Heritage Harbor is due to the low tide. The dredge needs to have water to float so they are working with the tide. It will be tight to complete the project without getting a permit extension, but since we obtained the Corps' okay for dual discharge we have made some great progress. The company's owner is prepared to go to a 24- hour operation in order to finish the entire project in the allotted time.
- New Town Hall Schedule – We are anticipating not having to pay another month's rent at the interim facility since we hope to be out by the end of March. We have a conditional Certificate of Occupancy, the furniture is in and there are only small punchlist items that remain to be accomplished.

MAYOR'S COMMENTS

- There are three bills that have been introduced in the North Carolina Legislature lately pertaining to when school starts. Holden Beach depends tremendously on the occupancy tax monies that come from rentals. The three bills would exempt three areas in the western portion of our state from having to comply and would basically shorten our rental season across the state. If you have an opportunity, please contact local legislators and ask them to enforce the existing rules to help protect our rental season.
- For those of you that like to keep up with emergency and safety issues - gave the Town Clerk information on how to sign up with the Brunswick County offices and they will alert you on the status of emergencies. As the Town's emergency person, encourages everyone to sign up for this opportunity.

- The U. S. Coastguard Cutter Bayberry is new in service for this area. Was invited to the commissioning at the Coast Guard Station in Oak Island. It was a very impressive format. The boat itself is over 50 years old. It came to us from the State of Washington. It looks great. Gave the Town Clerk a flyer in regards to the Bayberry.

BOARD OF COMMISSIONERS' COMMENTS

Mayor Pro Tem Miller

- No comment.

Commissioner Lehr

- Thanked everyone for coming out and thanked Town Staff for continuing to do a great job with getting all the projects done.

Commissioner Glander

- Yesterday we had a budget review of the 08 -09 budget. Thought that went well. It gave a lot of insight on what the Town should be addressing for 09-10. Also conducted the Town Manager's review. He has been onboard a year. Felt the review went well and thinks in a year's time he has done an extremely good job.

Commissioner Kyser

- Thanked the Chapel for allowing us to use this facility. Hopefully, this will be the last time we have the Town's Board meetings here.

Commissioner Staley

- Gave a personal thank you to former Building Inspector Jason Walker. Wants to thank him for his dedicated service to the Town. He is a man of high ethics and whoever gets him will be lucky to have him.

PUBLIC COMMENTS ON GENERAL ITEMS

Jim Walker from Elite said he is the apparent low bidder for the beach nourishment project. He stated he would be willing to answer any questions. They are very interested in the job and the community. Mr. Walker hopes everyone will familiarize themselves with the bid process here. Mayor Holden thanked Mr. Walker for his company's bid and explained the Board will look at all the documents once we have all of the information.

EXECUTIVE SESSION TO DISCUSS LEGAL MATTERS (HALSTEAD STREET, EOC) PURSUANT TO NORTH CAROLINA GENERAL STATUTE 143-318.11(a)(3)

Motion by Mayor Pro Tem Miller to go into Executive Session at 8:12 p.m.; second by Commissioner Glander; approved by unanimous vote.

OPEN SESSION

The Board went back into Open Session at 8:53 p.m. and announced no action was taken.

RECESS

Motion by Commissioner Kyser to recess the meeting until Thursday, March 12, 2009 at 4:00 p.m. at the Emergency Operations Center; second by Commissioner Lehr; approved by unanimous vote.