



**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
TUESDAY, SEPTEMBER 8, 2009 – 7:00 PM**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, September 8, 2009 at 7:00 p.m. in the Holden Beach Town Hall General Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem Sandy Miller; Commissioners Ray Lehr, Don Glander and Ken Kyser; Town Manager David W. Hewett; Town Clerk Heather Finnell; Police Chief Wally Layne; Zoning Official Rhonda Wooten; Public Works Director Chris Clemmons; and Water & Sewer Superintendent Eric Long.

Mayor Holden presented the invocation and called the meeting to order.

**PLEDGE OF ALLEGIANCE**

**AGENDA APPROVAL**

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

**APPROVAL OF MINUTES**

*Motion by Mayor Pro Tem Miller to approve the minutes of the Budget Meeting of June 9, 2009 as written; second by Commissioner Glander; approved by unanimous vote.*

*Motion by Commissioner Lehr to approve the minutes of the Public Hearing/ Special Meeting of June 23, 2009 as written; second by Commissioner Kyser; approved by unanimous vote.*

*Motion by Commissioner Kyser to approve the minutes of the Special Meeting of July 14, 2009 as written; second by Commissioner Glander; approved by unanimous vote.*

*Motion by Mayor Pro Tem Miller to approve the minutes of the Regular Meeting of July 14, 2009 as written; second by Commissioner Glander; approved by unanimous vote.*

*Motion by Mayor Pro Tem Miller to approve the minutes of the Special Meeting of July 24, 2009 as written; second by Commissioner Kyser; approved by unanimous vote.*

*Motion by Commissioner Lehr to approve the minutes of the Regular Meeting of August 11, 2009 as written; second by Commissioner Glander; approved by unanimous vote.*

**PUBLIC COMMENTS ON AGENDA ITEMS**

Gay Atkins inquired what the approved minutes pertained to. Town Clerk Finnell explained each meeting and that the reason they were all being approved at once was due to the fact she had been out on maternity leave.

## **POLICE REPORT – CHIEF WALLY LAYNE**

- Favorite holiday weekend is here and gone. If we can dodge the rest of hurricane season, the world will be a better place.
- New hire should start on Thursday. Looking forward to being up to full strength and to introduce her to everyone.
- Neighborhood Watch will start back up on Wednesday, September 16<sup>th</sup> at 7:00 p.m. The Police Department will be the guest speakers and will introduce the new officer.
- Commissioner Kyser inquired about the 17 B&E(s) on the report. Chief Layne explained that the 17 break-ins listed are to automobiles. A majority of the vehicles were unlocked and had valuable electronics in plain view. Asked everyone to not leave items of value in vehicles. One of the vehicles had a 9 mm weapon that was stolen. It was recovered in Shallotte on a 16 year old who pulled it on an officer. He has been arrested. The break-ins are happening all over the County. It is a group of individuals doing this.

## **PRESENTATION ON GIS MAPS BY PUBLIC WORKS DEPARTMENT**

Town Manager Hewett explained that the Public Works Department has been looking at how GIS can be employed as a tool on a regular basis. He stated they located the equipment necessary and are now running a basic GIS system. An example of what the Public Works Department is working on was displayed for everyone to see. Public Works Director Clemmons stated it is a real valuable tool for the Town. In an event of a storm, you can locate what needs to be found using this tool. Sewer manholes, fire hydrants and storm drains are depicted on the exemplified maps. Town Manager Hewett explained they want to map the exact location of the Town's water lines. Mayor Holden stated this program has so many benefits that we are still discovering. He stated that some of the equipment has been sitting in Town facilities for years and it hasn't been used. Mayor Holden thanked current staff for making this project happen. Commissioner Glander inquired if the Town is accomplishing what an outside firm presented at a previous meeting. Town Manager Hewett replied yes.

## **REPORT BY THE PLANNING & ZONING BOARD**

Regulation 157.025, Bulkheads on Canal Lots – Commissioner Glander said he attended the Planning & Zoning Board meeting. He thinks it was unanimous that all canal lots be bulkheaded within two years and he is in total agreement with that. Mayor Holden stated that it is his understanding that all three canal subdivisions property owners associations agree with this. Representatives from all three canal subdivisions were in attendance and agreed that they do support the P&Z's recommendations. Bill Cohen, P&Z Chair explained that one of the problems P&Z ran in to is that they didn't have a boat, so they looked from ground level. He explained that when they were standing there looking down there were a bunch of lots with houses on them that had bulkheads that are in really bad shape. Zoning Official Wooten explained that the Town has an ordinance pertaining to bulkheads that can be enforced. If there is a complaint, Building Inspections investigates it and sends a violation letter. They would have to get an exemption or permit from CAMA for the work. Town Manager Hewett stated he thinks it is logical to pursue an enforcement program for the canals. Mayor Holden stated the property owners associations should encourage everyone to maintain good seawalls.

Regulation 94.03 Frontal Dune Policies and Regulations - Mayor Holden stated the Town has been blessed with few storms and our dunes are in great shape. As the dunes grow oceanward, walkways and steps become too short. Pedestrians walk over the newly created dunes. He explained that water has washed through the walkway trails and got behind some of the dunes. In the past the Town has demanded that people remove part of their walkways and steps so dunes could be built. This has been a back and forth issue that needs to be addressed and a policy set. Commissioner Lehr stated there are three or four distinct sections of the beach that vary from the frontal dune being right next to the

porch to it being 400 or 500 feet from the porch. Commissioner Lehr stated if you take the west end as an example and make everyone come into compliance, you will have about 90% more wooden walkways. There are still piles of trash from wooden walkways from the last three big storms. He stated Oak Island has a fence to keep you off the dunes. If you want to access the beach you need to go to a public access. Commissioner Lehr received an estimate on a walkway for the west end. The owners extended it three times in the past 15 years. To put a walkway over the last dune it will be another \$30,000. He stated this is a complex issue. Commissioner Kyser said they need to take into consideration that the Town walkways are not in compliance either. Mayor Pro Tem Miller suggested it may be helpful for the crowd to see the DVD presented at the P&Z meeting. Mayor Holden asked that a sample of the video be shown at the next meeting and for P&Z to talk it over more. Commissioner Kyser stated that he was contacted by a homeowner who was upset because water washed up to their house. He stated the only reason it did that was because their walkway didn't go all the way out. It is an issue that is on both sides. Commissioner Glander stated part of the issue is the variance between different areas on the island. Commissioner Lehr stated that some of the new dunes are 10 and 12 feet high. If the Town increases the distance from the top of the dune to the bottom of the walkway, there will be walkways 14 or 15 feet in the air. Commissioner Lehr thinks the Town will need a couple of different programs.

Condo/Duplex Definition Versus Townhouses - Mayor Holden stated that years ago several duplexes were built. Town regulations had minimum lot sizes. The concept came to doing condominium ownership on lots which means they own the lot jointly and own their condo. With a townhouse you own the land underneath your unit. For smaller lots, if you own the land under the unit it wouldn't meet minimum lot requirements. The use of condos resolved the problem at the time. Now condo owners are being penalized by new insurance regulations. Gay Atkins from P&Z explained that if you owned what is considered a condo, insurance will be considered commercial. If you use the name townhouses, you would be subdividing the lot so Town regulations would not be met. Ms. Atkins stated if we could get rid of the name condo and go to duplex, it would be in compliance and it would give time to see what can be done legally. Mayor Holden asked how you will undo the legalities of ownership. Ms. Atkins stated that in talking to some lenders and insurance companies, it seems they have come up with verbiage to insert into the documents. She explained that insurance companies are accepting this verbiage and not charging commercial rates to the people using it. Ms. Atkins stated she contacted other towns and Ocean Isle made some changes to attempt to resolve this. Commissioner Lehr asked if the verbiage is something that an attorney would add to a deed. Ms. Atkins replied yes, but that the Town needs to let homeowners know about it. Ms. Atkins thinks an attorney needs to be involved with this. The Board discussed how the Town should be involved in this issue. Mayor Holden asked about the possibility of getting together the people that this issue affects. Mayor Holden asked Town Manager Hewett to find out from the League or to ask universities if they could assist with the situation.

Unattended Beach Obstructions – Mayor Pro Tem Miller explained that this issue came up at the Holden Beach Property Owners Association (HBPOA) meeting. A majority of the people felt another year of trying to educate people was needed, which is basically what P&Z is recommending. John Lytvinenko, HBPOA President, stated that a survey was sent out about a year ago after some pretty heated discussions. 68% agreed with a sun up to sunrise policy. He stated that last year the HBPOA paid for magnets that were distributed to educate people about a voluntary program. The issue was discussed again. The HBPOA passed a motion to continue distributing magnets contingent on the Town's actions. There is also a letter that would be sent to the real estate companies explaining the issue. Commissioner Kyser stated that the Town has tried educating for a year. He stated he rides the beach and takes data every Friday. He found that during the peak of the summer the Town has about 500 items left up overnight. Commissioner Kyser stated he personally thinks there is an issue and is not sure that educating the public will do any good. Commissioner Glander stated that part of P&Z's proposal is that volleyball nets be taken down at night. He stated he has been back and forth on this issue. Commissioner Kyser stated it shouldn't be a problem to ask people to remove these items at night. Commissioner Lehr

inquired if there is anything in the ordinances now that would help with this issue. Town Manager Hewett responded that the way the existing solid waste ordinance is written, it would be a big stretch to try to apply it to this circumstance. He stated that from a legal standpoint, the Town does have legislative authority to make people remove items from the beach. Bill Cohen stated P&Z spoke with authorities at Ocean Isle Beach, Sunset Beach and Oak Island to get their positions. Oak Island doesn't have an ordinance requesting removal. Ocean Isle Beach has a strict regulation that everything comes off beach and no cabanas and tents are allowed. They pick up everything left every Monday. He stated if you look at the Public Works Department at Ocean Isle Beach, they have about twice as many people as the Town. It would be hard for the Town to remove all the items based on the existing staff. Mr. Cohen stated that Sunset Beach allows cabanas, but they are required to remove them at night. Their Police Department tags the items in violation and fines the violators.

Ordinance 157.079(C), Sign Regulations – Mayor Holden explained the Town received input from local realtors regarding the sign regulations. The Town held a meeting and hired a facilitator to assist. Mayor Pro Tem Miller stated she attended the meeting with the facilitator, Penny Tysinger. Ms. Tysinger's recommendation was that the information from the meeting would be forwarded to P&Z for their review. P&Z would then make a recommendation to the Board and then a public hearing should be scheduled. Commissioner Glander stated that Ms. Tysinger did an excellent job. Bill Cohen, P&Z Chair explained the existing regulation and what was discussed at the meeting. Most of the existing signs are within the recommended 5 ½ foot range.

#### **DISCUSSION AND POSSIBLE SELECTION OF A MEMBER FOR REGULAR POSITION ON THE PLANNING AND ZONING BOARD TO FILL THE POSITION VACATED BY SUZANNE PRINCE AND MEMBERS TO FILL VACANCIES ON THE BOARD OF ADJUSTMENT**

Mayor Pro Tem Miller stated that the Board has not interviewed everyone who has asked to be considered for the open positions. Josh Holden and Anne Arnold need to be interviewed. The Board came to a consensus to schedule interviews for P&Z and Board of Adjustment at 6:30 p.m. on October 13<sup>th</sup>. Mayor Holden reminded everyone that they can still submit their name for consideration to serve on the boards. Mayor Pro Tem Miller explained that the Board of Adjustment only meets when there is a request of them. P&Z meets monthly.

#### **DISCUSSION AND POSSIBLE SETTING OF A DATE FOR A WORKSHOP WITH REPRESENTATIVES FROM APPLIED TECHNOLOGY AND MANAGEMENT (ATM) ON A PROPOSED BEACH MANAGEMENT PLAN**

Town Manager Hewett stated that the Town received a report from ATM on a beach management plan. He is requesting the Board host a workshop with the Shoreline Protection Committee so they can receive a detailed report. The Board came to a consensus to hold the workshop on September 22<sup>nd</sup> at 6:00 p.m.

#### **DISCUSSION AND POSSIBLE APPROVAL OF \$1,000 FOR GOLD GENERAL SPONSORSHIP FOR THE NORTH CAROLINA BEACH, INLET AND WATERWAY ASSOCIATION ANNUAL CONFERENCE**

Mayor Holden explained this is the same thing the Board did last year. This is an organization that works tirelessly in regard to inlets and sand planning.

*Motion by Mayor Pro Tem Miller to approve \$500 for the NCBIWA annual conference; second by Commissioner Glander.*

The Board discussed what type of sponsorship this would be. Mayor Holden stated that they needed to remember that the money goes to the effort and expenses of the organization.

*The motion was approved by unanimous vote.*

## **DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 09-13, RESOLUTION IN SUPPORT OF A COMMUNITY BICYCLE TRAINING RIDE**

Town Manager Hewett introduced Amanda Rose, a senior in the parks and recs program at UNCW. The resolution will sanction the community bike ride. The date for the event is May 1<sup>st</sup> and we are anticipating this year's event will have close to 300 participants. Ms. Rose will be performing the gofer work. The resolution stipulates the fee schedule. Access needs to be changed to excess in the last sentence. Commissioner Lehr asked the amount of participants you would normally get for this type of event. Ms. Rose stated if it is a well known event you could get anywhere from 300 – 500 people. Family fun ride participants will not be charged.

*Motion by Commissioner Lehr to approve Resolution 09-13; second by Mayor Pro Tem Miller; approved by unanimous vote.*

## **DISCUSSION ON DURATION OF BUILDING PERMITS**

Mayor Holden stated there is concern about how long a permit exists if no activity is occurring. He suggested the Building and Inspections Department could prepare a report on how big the problem is on the island. The Board came to a consensus to have staff prepare a report.

## **DISCUSSION AND POSSIBLE APPROVAL OF ENCROACHMENT AGREEMENT BETWEEN THE TOWN AND L.C. AND ANETTE LYNCH FOR 206 OCEAN BOULEVARD EAST**

Town Manager Hewett explained the Town Attorney reviewed and approved the document.

*Motion by Mayor Pro Tem Miller to approve the encroachment agreement; second by Commissioner Glander; approved by unanimous vote.*

## **TOWN MANAGER'S REPORT**

- As of their August meeting, the Coastal Resource Commission has seated the terminal groins panel which has been charged by the legislature with evaluating and reporting back to the General Assembly next session.
- Received the written final decision of the Coastal Resources Commission granting certification of the Town's Land Use Plan.
- Received notification that the Corps will be taking 150,000 cubic yards from the Lockwood Folly Inlet Crossing area again this winter. This is the same project that yielded such good results last year. Thinks worst case scenario for the Town's burden share would be \$250,000, based on thinking that the Division of Water Quality will not have any state funds available. Discussed pushing the sand further west this time, but hasn't received any validation to the idea from the Corps.
- Actively engaged with Department of Transportation (DOT) on getting a driveway permit for Turkey Trap Road. Thinks the DOT is in error when they say we need to pave from Turkey Trap to the bottom of the bridge as part of the driveway permit. Will visit with them on September 16<sup>th</sup>.
- Received funding obligation notification from NC Crime and Public Safety of another \$117,073 in reimbursements for the Town's portion of last winter's inner bar dredging.
- Storm Preparation – ID system is available for badges. EOC and new Town Hall storm panels' test installation went successfully. It will impact the flow of customers at the front desk pre-storm.
- The complaint against the bonding company to remedy our EOC issues has been filed.
- Backflow valve testing RFP is out on the street. They are due back September 23<sup>rd</sup>.

- Repairs to the Halstead Street fishing pier have been completed. It was open for the holiday.
- Received a draft of the canal dredging master plan from Right Angle Engineering. Have a working group session set for September 24<sup>th</sup>.
- Working with Unified (debris contractor) to identify a temporary debris site. A Solid Waste permit is required for any site used.
- Beautification contractor is now Beach Country Landscaping.
- Listed in the Southern Cities publication as meeting the Green Challenge Level I requirements. Will be recognized at the League conference.
- No discharge zone update received – It has been approved and sitting on the Governor’s desk. It is anticipated to be forwarded to the EPA.
- Bridge closure on Monday, September 14<sup>th</sup> -15<sup>th</sup> beginning at 8:00 a.m. One lane will remain open.

**MAYOR’S COMMENTS**

- Met with Representative Frank Iler and discussed beach issues. The meeting didn’t bring forth any new information, just an update on sand, terminal groins, etc. It was a good contact meeting.
- Reminded everyone that the October NC State magazine will be coming out. Look for that because Holden Beach will be featured.
- Keep the families of the women who had the accident in Ocean Isle Beach in your prayers. The Town denied the same company’s request to allow parasailing over here. We regret that the accident happened.

**BOARD OF COMMISSIONER’S COMMENTS**

Mayor Pro Tem Sandy Miller

- No comments.

Commissioner Ray Lehr

- Thanked Town Manager Hewett and the Public Works Department for putting the GPS equipment into use that was purchased many years ago. Thinks it will be put to good use.

Commissioner Don Glander

- No comments

Commissioner Ken Kyser

- Misspoke earlier during the discussion on unattended beach obstruction – there was 400 – 500 total objects on the beach. The number of canopies was usually around 220.
- Thanked Courtesy Patrol riders for the jobs they did in past.

**PUBLIC COMMENTS ON GENERAL ITEMS**

Edward Gruenberg asked about the house at the end of the bridge. Town Manager Hewett explained that the Town held a hearing and the findings are being coordinated with the Town Attorney before any further action is taken. The homeowners have until November 11<sup>th</sup> to respond.

Linda Lytvinenko inquired about the new state law about recycling that goes into effect November 1<sup>st</sup>. Town Manager Hewett stated the new legislation has been noted as part of the Green Challenge and staff will come back to the Board with what it means to the Town.

**ADJOURNMENT**

*Motion by Mayor Pro Tem Miller to adjourn at 8:50 p.m.; second by Commissioner Lehr; approved by unanimous vote.*