



**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
TUESDAY, NOVEMBER 10, 2009 – 7:00 PM**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, November 10, 2009 at 7:00 p.m. in the 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; and Fiscal Operations Clerk Chiemi Glazener.

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

**PLEDGE OF ALLIGIANCE**

**AGENDA APPROVAL**

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

**APPROVAL OF MINUTES**

*Motion by Commissioner Kyser to approve the minutes of the Special Meeting of October 13, 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 October 13, 2009 as written; second by Commissioner Kyser; approved by unanimous vote.*

**PUBLIC COMMENTS ON AGENDA ITEMS**

No comments were made.

**2008 – 2009 AUDIT REPORT – MARTIN STARNES AND ASSOCIATES**

Town Manager Hewett introduced Chiemi Glazener. He explained she will be performing a staff accountant position and provided background information on her education and employment history. Town Manager Hewett introduced Marcie Spivey from Martin Starnes and Associates. Ms. Spivey went over the audit highlights, which included that the Town had an unqualified opinion; there were no findings or questioned costs; and there was cooperative staff. The 2009 property tax revenues went down a little bit. It is about a 2% change, which has to do with the collection rate. Ms. Spivey reviewed the audit process which includes planning & risk assessment, interim procedures and final procedures, so it is a year-round process. Fund balance is the assets minus liabilities and it is defined in three different classifications – reserved, unreserved designated and unreserved undesignated. The LGC takes a close look at the fund balance number. The top three revenues that make up the General Fund are property taxes, permits and fees and other taxes and licenses. Permits and fees went up significantly because of the dredging fees; otherwise it was consistent with the previous year. The change in the amount of Other Taxes and Licenses was due to a decrease in local option sales tax. The top three expenditures are public safety, transportation and general government. Under general government, the decrease was due to the Town Hall project being reflected in the General Fund in 2008. Town Manager Hewett moved all projects out of this fund in the current year as it should be as to not skew the results. Under Public Safety, there was a

decrease of approximately \$80,000 because there is no capital outlay in 2009. The decrease in Transportation was due to the decrease mainly in operating expenses. Ms. Spivey explained that the projects that were sitting in the General Fund did make the results seem a little bit skewed. In the Water and Sewer Fund the operating revenues went down this year. The operating loss increased in the current year. The capital charges to pay for the debt to the County is a non-operating revenue, but the payment to the County is considered an operating expense. If you were to put the expenses in, there would be an operating gain. It is not that the Town is losing money; it is just the placement of the expenses. Town Manager Hewett explained that the audit is approved by the Local Government Commission and that the Board is receiving the audit before the Audit Committee had a chance to review the audit. He wanted to make sure the sitting Board had a chance to receive it. Mayor Holden clarified that it was approved by the State. He asked if there are any obligations charged to this Board. Town Manager Hewett explained no. Mayor Holden explained that the Board would like to be advised of any questions that arise from the audit. Town Manager Hewett stated he received management insight gain from the Audit Committee's review last year. The Board would like the Audit Committee to review the document.

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

- Things remain quiet at the moment. Encourages everyone to keep an eye on their neighbors' places.
- There was a commotion at lunch time yesterday. There was a boat in distress. All on board were safe and the Coast Guard pulled the boat back to the ramp.
- Neighborhood Watch meets next Tuesday at 7:00 p.m. On the program there will be a presentation concerning Brunswick County's drug court program. After being in the works for a little over a year, it has become a very successful program in the County. The presentation will have some folks who graduated from the program who will give their prospective on the program. Would appreciate it if anyone has any suggestions to increase attendance to the meetings.
- Mayor Holden asked about the 11 animal calls. Chief Layne explained it was the typical deer being hit, stray cats and dogs. Mayor Holden asked about the 22 assists. Chief Layne explained a majority of those are Brunswick County related. They don't hesitate to call if they need assistance in the area. Mayor Holden asked if there was anything unique to the 26 traffic stops. Chief Layne stated they were routine traffic stops.

#### **DISCUSSION OF RECOMMENDATIONS OF AMENDMENTS TO THE HOLDEN BEACH CODE OF ORDINANCES MADE BY THE PLANNING AND ZONING BOARD**

Commissioner Lehr inquired about Item 1a (provide a walkway over the first protective dune) on P&Z's memo to the Board. Bill Cohen, P&Z Chairman stated this item was in general directed to the west end. Commissioner Lehr asked what happens on the area from the structure to the beach if you have 600 feet of dunes and put the structure off of the deck of the house. Mr. Cohen stated you would be able to walk on that area. Mayor Holden asked about the verbiage concerning dunes. Zoning Official Wooten stated you need to have a surveyor give you an elevation to determine if a dune can be called a primary dune. The frontal dune is the dune closet to the beach that offers protection. She stated that she doesn't think the wording in the memo would meet either definition. Commissioner Glander asked if it is even necessary to have a walkway on the west end if there are 10 dunes between the house and the beach. Mr. Cohen stated it may be difficult impose walkway regulations on certain properties. Commissioner Lehr inquired where the fence would run if Item 1c (if an owner does not provide a walkway, a fence with appropriate signage must be provided) was passed. Mr. Cohen stated it would run with whichever dune was selected. Mayor Holden stated that it would then come back to the CAMA Officer identifying the primary and frontal dune. Mayor Holden asked if the intent pertains to the oceanward largest dune. Mr. Cohen stated yes and they are considering that the primary dune. Mayor Holden asked how Zoning Official Wooten would interpret the location of the fence based on the writing of Item 1c. Zoning Official

Wooten stated she wouldn't be able to determine it based on the memo. She also stated the fence would not be permitted by the Town or by CAMA because based on regulations you cannot use sand fencing as a barrier oceanward of the dune. She stated it can be landward of the frontal dune and used as a barrier. Commissioner Lehr stated that the 10 year study the engineer completed showed the Town is on target with beach nourishment. He stated that the most difficult thing is trying to put a fixed structure over something that keeps moving. Commissioner Kyser stated that the way this is written the only dune you would be required to put a walkway over is the one closest to the house. Commissioner Kyser suggested P&Z work with Zoning Official Wooten to put the proposed regulations into proper wording. Mayor Pro Tem Miller stated that they would also have to add definitions. Town Manager Hewett suggested everyone read the Dune Book by Spencer Rogers. Zoning Official Wooten identifies where a homeowner would need to end a walkway when they are building a new one. Commissioner Kyser asked if a person is grandfathered once they build a walkway so they don't have to make changes if the dunes change. Zoning Official Wooten confirmed that. She explained that by ordinance you do not need to build a walkway. Mayor Holden stated that in regards to changing height requirements he would like to remind everyone that there are houses on the oceanfront that the oceanfront porch deckboards are lower than the dune immediately oceanward of it. If you conform to the proposed regulations your walkway could block the view as you look at the ocean. Commissioner Lehr stated that when they started the concern was regarding the frontal dunes. He stated he is for letting it ride for a little while. Mayor Pro Tem Miller agrees. Mayor Holden asked how P&Z feels about the proposed changes they recommended. Mr. Cohen stated these regulations were a compromise made by the group.

The Board agrees that the Town's current regulations are sufficient pertaining to video gaming machines.

Commissioner Lehr asked about Item 4b (maintain signs at 90 degree vertical orientation). Mr. Cohen stated there are a lot of signs tilted over. The Board would like an ordinance to be prepared for the January meeting. Sheila Young asked if the current ordinance can be clarified. Mayor Holden stated it is currently four square feet.

#### **DISCUSSION AND POSSIBLE SELECTION OF A DATE TO HOLD A PUBLIC HEARING ON PROPOSED CHANGES RECOMMENDED BY THE PLANNING & ZONING BOARD TO CHAPTER 157: ZONING CODE OF THE HOLDEN BEACH CODE OF ORDINANCES**

Commissioner Glander asked how the fine of \$1000 a day was determined. Zoning Official Wooten stated she suggested the penalty be increased if the ordinance would be enforced. Mr. Cohen stated under the existing regulations it would be jail time and a penalty of \$500. Town Manager Hewett stated that the cost for a bulkhead to be installed would be between \$15,000 - \$20,000. The Board discussed possible penalties. Zoning Official Wooten explained that for bulkhead repairs, homeowners are notified by certified mail as soon as a problem with a bulkhead is found. The letter describes the chapter and penalties that pertain to the situation. Zoning Official Wooten stated that if an ordinance is adopted, they would start looking and sending out letters. Mayor Holden asked if representatives from the property owners associations from the three canal subdivision had a chance to review the proposed regulations. Town Manager Hewett stated he does need to get his working group together so he will have the opportunity to review it with them.

#### **DISCUSSION AND POSSIBLE SELECTION OF MEMBERS TO FILL VACANCIES ON THE PLANNING & ZONING BOARD**

The Board voted by ballot. The votes were tallied and Mayor Holden announced that Nancy Sullivan was unanimously selected to fill the Regular Member position vacated by Suzanne Prince. He also announced that Bucky Pate was unanimously selected to fill the Alternate Member position vacated by Suzanne Prince.

## **DISCUSSION AND POSSIBLE SELECTION OF MEMBERS TO FILL VACANCIES ON THE BOARD OF ADJUSTMENT**

The Board voted by ballot. The votes were tallied and Mayor Holden announced that Carol Byrnside was unanimously selected to fill the Regular Member position vacated by Sandi Dillon and John Lytvinenko was unanimously selected to fill the Alternate Position vacated by Jo Ann Moore.

## **TOWN MANAGER'S REPORT**

- The Coastal Resources Commission/ legislative panel have selected the consulting firm to perform evaluation/ study of terminal groins per the legislature's edict. The study methodology was briefed to the CRC and a packed house. There were some concerns over the timeline and methodology.
- Sand fence installation will start at the pier and go east starting in November. Sand fence will be made available to homeowners elsewhere on the island. Zoning Official Wooten stated there is a free permit that needs to be filled out that gives the regulations for placement.
- Put a solicitation out in accordance with our master sand plan to all permitted sand mines in Brunswick County. This will allow them to prequalify their material and get written into our permit as a source of sand to expedite the storm recovery process.
- Jordan Boulevard Pavilion material report – it indicates the right pilings were purchased, but there hasn't been a physical test.
- Received word from the Town Attorney that the insurance company that is holding the bond for the contractor for the Emergency Operations Center has sued the owner of Associated Industrial Contractors. They want to seize the personal assets of the owner as to payback the potential losses to the Town.
- Town Hall punchlists and residuals are minor. There are necessary road improvements and parking lot work outstanding. Working with engineers for a solution. There are also concerns over the noise from the generator. These issues impact the return of the loan proceeds. Inclined to hold onto the residual funds at this point.
- Holding up the Blockade Runner paving until the solution for the front of Town Hall is determined. Mayor Holden stated a couple of homeowners called and asked when their payment will be due. Town Manager Hewett stated the assessment is made after all of the costs are totaled, so it would go out after that. There is a payment plan by statute. He believes it is 10 years, but he will verify that and get the information out to the Board.
- Tax bills went out last week. Collected almost \$90,000 in revenue so far.
- Staff changes - Sarah's (Utility Clerk) last day is Friday. Kendra will career broaden by moving over to Utilities. This leaves the receptionist position open. Will be recruiting for that.
- Town now has a Facebook page.
- Staff will try to host a "Holiday Open House" for the new Town Hall from 1:00 p.m. – 5:00 p.m. on December 11<sup>th</sup>.
- Tree lighting on December 3<sup>rd</sup> at 6pm
- Town Hall will be closed tomorrow.

Mayor Pro Tem Miller asked about the vacancy on the Coastal Resources Commission and inquired if the Board can come to a consensus to nominate whoever Harry Simmons recommends for the vacancy. The Board came to a consensus to appoint the person Harry Simmons recommends for the vacancy.

## **MAYOR'S COMMENTS**

- Presented a plaque from a recent Relay for Life event to the staff.
- Thanked everyone for their confidence in him, staff and elected officials.

## **BOARD OF COMMISSIONERS' COMMENTS**

Mayor Pro Tem Miller

- Thanked all who volunteered to serve on the various boards.
- Hope all will say a silent prayer for all those in the armed services.

Commissioner Lehr

- Very happy to see the audit report turn out like it did. Thinks the thing that impresses him the most is the unreserved fund balance going from 28% to 50%. It shows the restructuring in the management of Town functions is starting to show results. Thinks Town Manager Hewett did a great job in making that happen.
- Trunk or Treat was great. Had over 100 kids. It reflects well on the Town and the Town staff that made it happen.
- Appreciates the support last Tuesday.

Commissioner Glander

- Appreciates the support showed on Election Day. Everybody's vote counts.
- Looking forward to serving the community another two years.

Commissioner Kyser

- Thanked everyone. Thanked Town staff. Everything he ever asked for they have done and often times went beyond what was asked of them.

## **PUBLIC COMMENTS ON GENERAL ITEMS**

Bill Cohen stated that the reason P&Z recommended the addition of the language of other manual and electronic gaming to the special entertainment section is that these mechanisms are out there now and they can move in. P&Z recommends the change.

Marlene Hahn stated that there is already a regulation on the height of your rails and when you sit in a rocker, you can't see the water and the view is blocked. She stated the sign ordinance should be enforced and that people should comply with the current ordinance. Ms. Hahn also stated that there should be a decent penalty to encourage owners of canal lots to bulkhead their lots. She would like the Town to come up with definition of recycling. Ms. Hahn thinks it would be helpful if we encourage people to recycle.

## **ADJOURNMENT**

*Motion by Mayor Pro Tem Miller to adjourn at 8:36 p.m.; second by Commissioner Glander; approved by unanimous vote.*