



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
REGULAR MEETING
TUESDAY, FEBRUARY 10, 2015 - 7:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, February 10, 2015 at 7:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden, Mayor Pro Tem Ken Kyser; Commissioners Sandy Miller, Sheila Young, Dennis Harrington and Gina Martin; Town Manager David W. Hewett; Town Clerk Heather Finnell; Police Chief Wally Layne, Shoreline Protection and Recreation Manager Christy Ferguson; Building Official Tim Evans; and Zoning Official Rhonda Wooten.

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

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

Mayor Holden asked to move item 10 (Schedule Public Hearing) between items 19 and 20.

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

APPROVAL OF MINUTES

Motion by Commissioner Young to approve the minutes of the Special Meeting of January 15, 2015 as written; second by Mayor Pro Tem Kyser; approved by unanimous vote.

Motion by Mayor Pro Tem Kyser to approve the minutes of the Regular Meeting of January 15, 2015 as written; second by Commissioner Martin; approved by unanimous vote.

PUBLIC COMMENTS ON AGENDA ITEMS

Ray Compton would like to address the Board after the Planning & Zoning (P&Z) presentation.

TERMINAL GROIN STATUS – MICKEY SUGG, USACE

Mickey Sugg and Emily Hughes were present from the Corps and Ralph Ingle was present from Dial Cordy. Mr. Sugg stated there hasn't been a lot of movement since his October 2013 visit. The Corps received a working preliminary draft of the Environmental Impact Statement (EIS) in September 2014.

Mr. Sugg has been wrapped up with the Figure Eight terminal groin so he didn't start his review of Holden Beach. In December, the Corps received the final preliminary draft of the EIS. Holden Beach is changing hands to a new project manager, Emily Hughes. She will review the EIS. It is the Corps' goal to have their review done by the end of March. Comments would be made to the third party contractor for correction. They are pushing to make a permit decision by spring 2016. Commissioner Harrington stated it seems like we already lost a year on the project. He asked for help in identifying why. Mr. Sugg stated the Corps didn't receive the draft until September 2014. At that point he was working on Figure Eight. Commissioner Young asked when the next public meeting would be. Mr. Sugg said when the draft is released you would have a public hearing. Mr. Ingle stated based on the approved schedule there is a 60 day review period for the Corps. The schedule has June 1st as the publication of notice for public review. There would be a 45 day review and comment period after that. During that phase you would have a formal public meeting to give people a chance to voice their comments. Mr. Sugg stated they will collect all of the comments and formulate them for the final EIS. Commissioner Harrington said so the earliest the Town can start if the terminal groin is approved is in 2017. Mr. Sugg stated they are targeting the spring of 2016 for the decision. Generally with environmental windows the Town would be looking at the end of 2016, early 2017.

POLICE REPORT – CHIEF WALLY LAYNE

- It is cold, wet and windy outside.
- Over the past couple of weeks the break-ins have increased. Arrested one group that was responsible for the earlier break-ins. There is now another group. There has been a bunch on the mainland, with about six on the island. They are still stealing flatscreens. The Southend Task Force is diligently working on this. If you see something that doesn't look right, let us know. Not all break-ins happen after dark.
- Commissioner Miller asked if there have been any break-ins where people are currently living. Chief Layne replied they have all been vacant homes. Commissioner Young asked about the alarm activation line item. Chief Layne stated the houses with alarms tend not to get broken into; neither do the ones on the keep check list. It is mostly the ones vacant for the off season. He explained the alarm activations were just accidental activations of some sort.

PLANNING & ZONING REPORT REGARDING ACTIVITY AT HOLDEN BEACH WEST – TONY MARWITZ, P&Z CHAIRMAN

Mr. Marwitz read the memo from P&Z. P&Z has determined that the house needs to be treated like all other houses. He explained people representing both sides were at the meeting. Both had the opportunity to express their points of view. P&Z thinks the base problem is the size, not necessarily the size of the house. Commissioner Harrington stated that the memo says the cause of the complaints is the size of the house. Mr. Marwitz stated that probably isn't well written and clarified he thinks the base problem is the size of the parties, not the house. Mr. Marwitz stated there are existing ordinances and covenants to cover the other issues (parking, noise, etc.). Commissioner Young asked if P&Z talked about restrictions, moratoriums, etc. Mr. Marwitz stated they talked about it, but it is tricky if you look at how restrictions could affect everyone else and how to enforce restrictions. Commissioner Young asked if they discussed that it is more of a business than a residence. Mr. Marwitz stated yes, but how do you differentiate between that and another house that has parties. Commissioner Miller stated if we restricted bedrooms, it would be up to Building

Official Evans to not issue a permit for more than that. Mr. Marwitz stated it wouldn't affect the house that is already there. Commissioner Miller stated people have gotten around that by calling bedrooms studies. Mayor Pro Tem Kyser inquired how you change rules if someone already bought property for a particular purpose. He is afraid the Town would be sued. Commissioner Young stated she thinks the Town did it when a clubhouse was being built in a residential area. Commissioner Harrington stated the family beach image is the risk.

Mr. Marwitz stated a possibility would be to set a threshold where the owner has to supply an off duty officer. Chief Layne stated he was approached towards the end of the season to see if he would be opposed to having an officer there for larger events. Chief Layne stated he wouldn't have a problem if that party was paying for it. Commissioner Harrington asked if that officer could enforce POA laws. Chief Layne stated they would be hired off duty and paid by them, so yes. Mayor Pro Tem Kyser asked about fire code. Building Official Evans stated N.C. Fire Prevention Code doesn't apply to single family residential dwellings.

The Board agreed to let Mr. Compton talk. Mr. Compton stated he attended a meeting at Topsail Beach where they have the same issue. He stated the Topsail Beach town manager made it clear that you could have a four bedroom house and have 200 people there. His primary concern was safety. Mr. Compton stated someone is going to leave the party after drinking and kill someone. Mr. Compton is concerned about who would be liable. He brought ordinances from New Jersey that he feels could help resolve the problem. He would be happy to participate in a meeting where both parties sit down and work things out. Commissioner Martin asked if some sort of architectural review was done. Mr. Compton stated in Phase II no, but for the 12 bedroom house in Phase I, yes. The POA has rewritten their rules. They will now have a professional review the plans. He stated that size is not the problem. Mr. Compton stated the parking solution now is to park cars under the bridge.

Commissioner Harrington stated it appears to him that this item needs additional consideration. He would like to ask P&Z to look at it further. Commissioner Martin asked what direction the Board would give to P&Z. She has heard two people say it is not the size; it is the quantity of people. She has a four bedroom house; you could have 100 people in the yard. She is not sure what authority could restrict the number of guests at a house. Commissioner Harrington would like to spend more time on this. Mayor Pro Tem Kyser suggested getting copies of the ordinances from the POA to P&Z for their review. Mr. Marwitz stated they can look at ordinances. He would like the Town to provide copies of ordinances from other areas for their review. Commissioner Harrington would like to table discussion of this until the next meeting. The Board came to a consensus to table discussion until the next meeting.

DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 15-02, AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF HOLDEN BEACH BY ANNEXING PROPERTY OWNED BY THE TOWN OF HOLDEN BEACH WHICH IS NOT CONTIGUOUS TO THE EXISTING MUNICIPAL BOUNDARIES

Town Manager Hewett explained that this ordinance would extend the territorial jurisdiction of Holden Beach by annexing the Turkey Trap Road Property.

Motion by Commissioner Young to approve Ordinance 15-02; second by Mayor Pro Tem Kyser; approved by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF DOCUMENTS RELATING TO THE FINANCING OF THE EMERGENCY OPERATIONS CENTER LOAN

Town Manager Hewett stated last month the Board selected the financing option of 10 years at 2.42%, with an annual payment of \$96,016.86. The first resolution authorizes making the application to the LGC for the refinancing and the second one authorizes the finance director/ town manager to proceed with the closing subsequent to the filing/ approval of the application.

Motion by Commissioner Miller to approve Resolution 15-03 and Resolution 15-04; second by Mayor Pro Tem Kyser; approved by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 15-03, AN ORDINANCE AMENDING ORDINANCE 14-06, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR 2014 – 2015 (AMENDMENT NO. 6)

Town Manager Hewett explained that the budget amendment recognizes the \$9,670 in grant funding received from the Brunswick County Soil and Water Conservation District. It will fund half of the bulkhead installation at Sailfish and the dog waste stations. There is a typo on the ordinance. The description should only read Misc BPART, Merchants Association needs to be crossed out.

Motion by Mayor Pro Tem Kyser to approve Ordinance 15-03; second by Commissioner Martin.

Commissioner Harrington asked if this is a matching donation. Town Manager Hewett replied yes. The Sailfish project will cost about \$14,200 and the dog waste stations totaled \$1,990. Several of the waste stations have been installed; they are spaced throughout the island. Shoreline Protection and Recreation Manager Ferguson provided information on the ones installed.

The motion passed by unanimous vote.

TOWN MANAGER'S REPORT

- The new backhoe is in.
- Believes the contractor has deployed to Sailfish.
- Scotch Bonnet – had the end almost blow out and nearly go into the newly dredged entrance canal. We are making sure we don't have a situation there by getting the repairs done pronto.
- Last month reported that we had an inspection on the water tower. There were not any findings except that it is full.
- Building Official Evans is initiating an effort to improve the CRS rating. This is a natural progression of the Hazard Mitigation Plan update, ongoing efforts of the new FEMA flood elevations and our recent home insurance efforts. This effort will take about a year. We will have to rewrite our floodplain management plan. It will take some education and training. We look forward to undertaking some efforts that will be even more beneficial to people's insurance rates.
- It seems the recent rain has illuminated some of the bulkheads that were marginal. If you see a bulkhead that is in bad shape, let us know. Commissioner Harrington asked if there are any lots

without a bulkhead. Building Official Evans responded not that he is aware of. They will be aggressive in their efforts regarding bulkheads this year.

- Have finished construction obligations to the Corps at Spoil Area 292. There is some residual administrative cleanup.
- The PARTF grant application was submitted. Thanked the public that attended the public meetings. The HBPOA Executive Board and the Beautification Club helped the effort by holding group meetings.
- The SDI 5 application was submitted today.
- Valentine's Day is the Town's birthday. The Valentine luncheon is Friday. There will be some events for the birthday there.

MAYOR'S COMMENTS

- Glad everyone is here. Stay warm and dry.

BOARD OF COMMISSIONERS' COMMENTS

Mayor Pro Tem Kyser

- The luncheon is Friday the 13th. The Town is providing pizza. You can bring a dessert or side.

Commissioner Miller

- Thanked those who came out tonight.
- Thanked Shoreline Protection & Recreation Manager Ferguson for the dance she put on. It was a dance where mothers were dancing with their sons and dads with their daughters. A lot of grandparents were there. Hopes everyone will come out next year.

Commissioner Young

- Thanked everyone for coming. Appreciates the input. Thanked P&Z and those concerned with large houses.

Commissioner Harrington

- Thanked Mr. Marwitz. We are going to work on this issue. Thinks we can come up with something. Doesn't know what that will be, but will work hard on it.

Commissioner Martin

- Thanked everyone for coming out on this cold evening. Grateful people care enough to come out.
- Thanked Shoreline Protection and Recreation Manager Ferguson. Came to the Valentine party. It was adorable. It was an all around well planned, well executed evening. Thanked Shoreline Protection and Recreation Manager Ferguson for all she puts into parks & recreation.

PUBLIC COMMENTS ON GENERAL ITEMS

No comments were made.

EXECUTIVE SESSION PURSUANT TO NORTH CAROLINA GENERAL STATUTE 143-318.11(A)(5), TO ESTABLISH OR INSTRUCT STAFF OR AGENT CONCERNING THE NEGOTIATION OF THE PRICE AND TERMS OF A CONTRACT CONCERNING THE ACQUISITION OF 246CE006 (567 OBW), OWNED BY ROBERT AND MARY BEACH AND NORTH CAROLINA GENERAL STATUTE 143-318.11(A)(3) TO CONSULT WITH THE TOWN ATTORNEY

Town Clerk Finnell read the reasons for Executive Session – 1) to establish or instruct staff or agent concerning the negotiation of the price and terms of a contract concerning the acquisition of 246ce006 (567 OBW), owned by Robert and Mary Beach and 2) To consult with the Town attorney (a. Marlowe and Company, LLC vs. Brunswick Beaches Consortium, Wake County District Court File Number 14 CvD 14738, b. Jerry A. Mannen, Jr. as Substitute Trustee and Violet Portfolio LLC, a Delaware Limited Liability Company vs. the Town of Holden Beach and Six at 109, LLC, A North Carolina Limited Liability Company, Brunswick County Superior Court File Number 14 CvS 1366 and c. Six at 109, LLC vs. the Town of Holden Beach, Brunswick County Superior Court File Number 12 CvS 1986.

Motion by Commissioner Miller to go into Executive Session at 8:08 p.m.; second by Mayor Pro Tem Kyser; approved by unanimous vote.

OPEN SESSION

The Board went back in Open Session at 8:46 p.m. Mayor Holden announced no action was taken.

DISCUSSION AND POSSIBLE SCHEDULING OF A DATE TO HOLD A PUBLIC HEARING ON A CONDEMNATION/ DEMOLITION ORDINANCE FOR 109 OBW

No action was taken.

ADJOURNMENT

Motion by Mayor Pro Tem Kyser to adjourn at 8:47 p.m.; second by Commissioner Miller; approved by unanimous vote.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk