



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
REGULAR MEETING
TUESDAY, MARCH 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, March 10, 2015 at 7:00 p.m. 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; Detective Jeremy Dixon; Building Official Tim Evans; CAMA Official Rhonda Wooten; Public Works Director Chris Clemmons, Fiscal Operations Clerk Mandy Lockner; and Shoreline Protection and Recreation Manager Christy Ferguson. Sergeant Frank Dilworth and Officer Sean Watson also attended a portion of the meeting.

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

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

Mayor Holden asked the Board to consider the addition of Marty Arrowood and guest regarding an award. Commissioner Miller suggested adding it as item 6a.

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

APPROVAL OF MINUTES

Motion by Mayor Pro Tem Kyser to approve the minutes of the Public Hearing of February 10, 2015 as written; second by Commissioner Young; approved by unanimous vote.

Motion by Commissioner Young to approve the minutes of the Regular Meeting of February 10, 2015 as written; second by Mayor Pro Tem Kyser; approved by unanimous vote.

Motion by Commissioner Miller to approve the minutes of the Public Hearing of March 3, 2015 as written; second by Mayor Pro Tem Kyser; approved by unanimous vote.

PUBLIC COMMENTS ON AGENDA ITEMS

Greg Eichman, 1355 OBW, stated that the Planning & Zoning Board (P&Z) previously stated that Holden Beach has ordinances in place that could enforce the issues his neighbors have regarding his home. He stated there is not a need for more ordinances that would affect other homeowners. He requested that if an ordinance was established he would like current residences to be grandfathered in. Mr. Eichman stated he had a hard time identifying the problem. He stated there are property owner associations that have the control they need to make changes for the perceived problem. Mr. Eichman stated the issue is that his home is next to a fulltime resident. He stated he has been trying to communicate and work out the issues. He said last year he had eight events. He said his restrictions for his renters are greater than the Town's.

MARTY ARROWOOD AND GUEST

Marty Arrowood introduced Hannah Isenhour, an 8th grader at the Shallotte Middle School. Hannah is a member of the Jr. National Beta Society. Hannah took 1st place in the photography portion of the state competition with her picture of the sinking shrimp boat in the waterway. She will now compete on the national level. Hannah showed her picture to the Board and audience.

RECOGNITION OF MR. ELWOOD NEWMAN FOR HIS SERVICE TO THE TOWN AS ONE OF THE 1ST MEMBERS OF THE HOLDEN BEACH POLICE DEPARTMENT

Mayor Holden stated Mr. Newman and his family started coming to the beach in the 40s. His wife, Doris Newman was a very integral part of Holden Beach in the early days. Mr. Newman was a little guy with a lot of energy that did a lot of good things. He passed away a few years ago. Mayor Holden found the police officer shirt, the original uniform, after his house was sold. Mayor Holden provided history on the early days of the Police Department. Mayor Holden, Chief Layne, Detective Dixon, Sergeant Dilworth and Officer Watson showed the shadow box that contains the original shirt and Mr. Newman's first check (\$1 for one year). Mayor Holden commented that he wished Mr. Newman's family was able to attend and advised everyone to stay for cake after the meeting. Town Manager Hewett read the proclamation honoring Mr. Newman and the Police Department.

Motion by Mayor Pro Tem Kyser to approve the proclamation; second by Commissioner Young; approved by unanimous vote.

FIRE REPORT – FIRE CHIEF DOUG TODD

Chief Todd provided the Board with an annual update. He went over the stats for the calls on the island. There was a major structural fire at 1079 OBW on February 27th. In addition to that fire, there was a mobile home fire. Three people were asleep on the mainland. They did get out. 22 firefighters from Tri-beach responded to the fire at 1079 OBW. There were 45 total personnel. All equipment responded. There was an 8.5 minute response time. The fire could be seen from the bridge by first responding units. The fire damaged the houses on both sides of the fire. There were no injuries. There was another mobile home fire that had three fatalities later in the week. Chief Todd said the water pressure on the island was great. He called Public Works Director Clemmons and the County on his way. The pressure on the truck never went below 40, 20 is the minimum. Right now the cause is undetermined.

Commissioner Young asked if they have volunteers who live on the island. Chief Todd replied there are three. The Fire Department started a new program where they have a paid staff member at station one at night. Volunteers have been signing up, so they have two people on duty, which has improved response time. They will still be able to staff two people on the island during the summer. Commissioner Miller stated that some citizens saw sea oats on fire while walking on the beach during the fire. They helped out by trying to stomp the fire out. Chief Todd confirmed there were some people helping out. Mayor Holden thanked the Tri-Beach Fire Department for their efforts and for working well with the Police Department. Chief Todd stated the Police Department did help out; it was a good team effort. Chief Todd also thanked other fire departments.

POLICE REPORT – CHIEF WALLY LAYNE

- Things have settled down. They arrested the people who stole the flatscreens. They are still in jail, which means things should remain quiet.
- Gave kudos to Chief Todd. For the other two houses to be standing is miraculous. They did a great job.

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

Tony Marwitz, Chair of P&Z, read the memo from P&Z. After review on other towns' ordinances, they decided it is up to the Board if they want to limit mega houses. P&Z determined that the Town has sufficient ordinances in place to help resolve the complaints on the house located at 1355 OBW. The memo provided suggestions including establishing an ordinance to limit the square footage of a house; establishing an ordinance limiting the numbers of bedrooms; differentiating between a typical rental home and a mega house; and establishing an event ordinance.

Commissioner Young asked if P&Z is aware of other beaches that they haven't seen the paperwork on. She mentioned Kure Beach. Mr. Marwitz stated that the changes in Kure Beach have happened since P&Z had their meeting. He stated he is unsure what they are trying to accomplish. He stated they are talking about short term rentals. Commissioner Young asked if P&Z found that the Oak Island moratorium helped them. Mr. Marwitz replied that the Oak Island ordinance is one of the most complex ordinances he has ever read. He assumes they put the moratorium in place so they could write the ordinance. Commissioner Harrington stated it is obvious we need to do something. He stated what is at stake is the Town's reputation, safety and the nuisance of the situation of needing to turn in your neighbor. He said it is unfortunate that we allowed a 16 bedroom mega house to be built. He suggested imposing a moratorium on building a house bigger than eight bedrooms and 5,000 square feet. He also suggested that the Board have P&Z look at an events ordinance for events that exceed a certain number. Commissioner Harrington would like P&Z to determine what would qualify as an event. Commissioner Martin asked how big the house is. Mr. Eichman said 8,000 square feet. Mr. Marwitz stated there has been a 12 bedroom house on the island for eight years. P&Z asked the Police Department about complaints on that house. He thinks it was less than two a year. Commissioner Martin asked if the Police Department talked about the 16 bedroom house. Chief Layne said complaints have been minimal and spread out over the entire season. He added that usually when the Police Department would get there everything would be under control. Commissioner Martin asked if the complaints were before or after the event coordinator. Chief Layne replied that they were throughout. He thinks the event coordinator was brought in last year and that might have helped out. He thinks the owner offered to have an off duty officer on site for large events, which might help even more. Chief Layne stated that the house hasn't been a huge problem for his department. It hasn't been any different than any of the other houses.

Motion by Commissioner Harrington to put a moratorium on construction on any residential homes that exceeds eight bedrooms or 5,000 square feet to give us the opportunity to study this further, second by Commissioner Young.

Mayor Pro Tem Kyser stated he opposes a moratorium. He thinks it is a behavioral issue and the same thing could happen at any house on the beach. He stated that to make a law restricting the size of the house doesn't make sense because it doesn't solve the issue. The issue is the complaints on noise. Mayor Pro Tem Kyser stated if the behavioral issue is noise, if the Board does anything they should strengthen the noise ordinance. He recommends Chief Layne handle that. He stated it doesn't make sense to limit the size of the house if that isn't the issue. He gave an example of noise problems at a smaller house. He stated that if he purchased property when there were no restrictions, he would be upset if rules were added and he would take you to court. He stated you would be stopping someone from using the property as they intended to when they purchased it. Chief Layne stated the noise ordinance is vague, but his department can write Town citations. He came from a place that had a noise ordinance that was probably 20 pages long. If everything worked out, you still could only issue a citation. The current one has been working forever and his department uses good judgment when enforcing it. Mayor Pro Tem Kyser stated that in the summer there are many people who have had too much alcohol on the beach, not just at the party house. The Police Department can handle that. Commissioner Harrington stated that when you have a house that will entertain 150, you are asking for trouble. He thinks the Town is sticking their head in the sand if no action is taken. He stated that if more mega houses are built, the more problems you can expect. Commissioner Harrington stated that once you exceed a certain bedroom limit, you are running a risk of a major fire, which could injure or kill a number of people. He also thinks when you build a house that large, the building codes should be changed. He thinks they should be built to handle a fire, like having sprinklers, etc. He thinks ground rules should be developed to prevent problems. Building Official Evans stated residential dwellings are not required to have sprinklers. Sprinklers do not prevent fires; they only give the occupants the time to get out of larger buildings. He stated Town Hall doesn't have sprinklers because it isn't required to. He stated that every occupancy has to

exceed a certain size, a certain limit and a certain design before it is required to have sprinklers. He stated there is a 12 bedroom house that is 5,000 square feet. The 16 bedroom house has 8,000 square feet. He would think that people in that house would have a better opportunity of escaping a fire based on density and occupancy load for bedrooms than a 1,500 square foot house with four bedrooms. The density is less. The area to escape is less. Every bedroom needs to have escapable windows. He stated the large house has more egress points. He stated when you talk about construction safety, and size, the building code does not limit residential dwellings. It just provides structural requirements. Commissioner Harrington asked if the building codes are different for a 20 bedroom home. Building Official Evans stated no at this point the building code doesn't address bedrooms. He stated certain safety features, for example smoke alarms are required in bedrooms. If the number of bedrooms is restricted, you will have people still using them as bedrooms, but not designating them as a bedroom so the safety features would not be required.

Town Manger Hewett read information on establishing a moratorium. A public hearing, along with notice is required prior to establishing a moratorium. An ordinance with specific information has to be adopted to establish the moratorium. Commissioner Harrington asked if it is possible to pass an ordinance that limits the size to eight bedrooms and 5,000 square feet. Town Clerk Finnell explained that would be a change to the zoning code so you would have to hold a public hearing prior to making that change. Commissioner Harrington stated the Board needed to start thinking about the future. Commissioner Martin stated she thinks residents would be more upset to know they would not be able to build what they would like. If they have a piece of property large enough that meets all the codes, it wouldn't be any different than when the Town had public sewer and the amount of bedrooms was limited. She asked how many houses have a couple of dens. She stated that is what is going to happen if we start telling people how many bedrooms they can have. She doesn't see the Town has an exceedingly large problem with the type of houses being built. It seems the problem is noise. Commissioner Martin stated if that is a problem, the Town has always had it. When you get down to it, we are a family beach that rents homes. Commissioner Young stated she thinks the best way to handle this would be to get a consensus over who is concerned because if only a couple are in favor of this, there is no use in wasting more time discussing the issue.

Commissioner Miller called the question.

Commissioner Young stated they can't vote on something that can't be done. Commissioner Harrington stated it can be done, but it would just take time. Town Clerk Finnell confirmed that the Board can vote on the issue, amend the motion or withdraw the motion.

The motion to call the question was unanimous.

The motion to establish a moratorium failed by a 2 – 3 vote with Commissioners Young and Harrington voting for the motion and Mayor Pro Tem Kyser and Commissioners Miller and Martin voting in the negative.

Motion by Commissioner Harrington to ask P&Z to take a look at the event ordinance and to come back with recommendations on what an event ordinance would entail; second by Commissioner Young.

Commissioner Harrington stated he fears for people who might be impacted by these houses. He stated unless the Town does something, we will see more and more of them. His issues include where to park, is anyone overseeing music, swimming, people on balconies. He thinks the Town needs to adopt something to protect citizens.

Town Clerk Finnell read the motion per Commissioner Young's request.

The motion failed by a 2 – 3 vote with Commissioners Young and Harrington voting for the motion and Mayor Pro Tem Kyser and Commissioners Miller and Martin voting in the negative.

PRESENTATION ON THE COASTAL RESOURCES COMMISSION'S PROPOSED ALTERNATIVES TO THE STATIC VEGETATION LINE – BUILDING OFFICIAL TIM EVANS

Building Official Evans explained that the vegetation line refers to the first line of stable and natural vegetation. The line represents the boundary between the normal dry sand beach, which is subject to constant flux. Currently, the Town uses a natural stable vegetation line as established by our CAMA Local Permit Officer (LPO). Other municipalities have a required static vegetation line, based on regulatory requirements triggered by large scale beach nourishment projects. The large scale trigger is 300,000 cubic yards of fill. We never had a project that exceeded that so we do not have a static vegetation line. Building Official Evans explained that based on our current policy of small beach nourishment projects, we are not required to have a stable vegetation line. The current policy has allowed us to increase buildable lot size. The policy limits us to small scale nourishment projects. Town Manager Hewett stated that the economies of scale for large projects are much greater. Building Official Evans stated right now when we grow the beach, the LPO can go out there and move the line so that people's properties are more buildable. For a static vegetation line under the current rules you could not recover lots after the vegetation line moves seaward; there would be a five year waiting period after application; and after application is made there are limitations based on structure and lot size. The proposed CRC change is to allow governments to establish a developmental line that the CRC would need to approve. The CRC is developing a committee that Town Manager Hewett and Building Official Evans will be on that will set the rules on how to approve the line. Building Official Evans stated that all development would be predicated off that line. The general concept is that no new development and expansion of structures would be allowed seaward of the approved development line. The second proposed change eliminates the 2,500 square feet maximum building size limit under the static line; eliminates the five year waiting period after an initial large beach fill project; and it increases the existing 300,000 volumetric trigger for the static vegetation line. Building Official Evans showed an example of what we gained by putting in vegetation and fertilizing.

Town Manager Hewett stated that they are meeting tomorrow with the working group. The vote will be in a few months. The information was presented conceptually at the CRC meeting. Commissioner Harrington asked what happens if a hurricane comes through and wipes the vegetation out. Building Official Evans explained that under the current rules, CAMA Official Wooten would need to establish where the line is. Under the proposed rules we could build to the developmental line and have a large scale project. As he understands it you could keep the line. If the vegetation grows, the Town can request the line be moved further out. CAMA Official Wooten explained the options you can apply for if a structure is imminently threatened.

DISCUSSION AND POSSIBLE APPROVAL OF FINANCIAL ADVISORY SERVICES AGREEMENT

Town Manager Hewett stated the agreement with Doug Carter and Associates would provide for consulting services allowing the Town to determine the methods, amounts, sources and coordination required to procure the necessary funding for our large scale central reach project. This is a storm damage protection project that would place 1.3 million cubic yards of sand on the central portion of the island. The Town has had the permit in hand to construct the project for several years. We do not have funding identified or sourced. The costs are to be determined based on market availability, but are anticipated to be in the same order of magnitude as the Town's sewer system. The fee for the services is \$25,000 based on the assumption that the preferred funding alternative will be special funding through the USDA. Funds for these professional services were included in this year's budget. Town Manager Hewett anticipates this effort will take six months, probably more, given the magnitude, complexity and nature of the variables the Town is dealing with.

Motion by Mayor Pro Tem Kyser to approve the agreement; second by Commissioner Miller.

Commissioner Harrington stated we are saying this would be in the same magnitude of our sewer program. He stated if he remembers correctly that ended up at about \$18 million. Town Manager Hewett stated a round number he likes to use is \$10 per cubic yard. \$10 per cubic yard times 1.3 million cubic yards is \$13 million. He explained the project in Nags Head was \$24 a cubic yard using similar construction techniques, although it was a larger scale project it was about \$64 million. Sand isn't cheap. He stated it is extremely volatile what the costs can be; he is just using \$10 as an example.

Town Manager Hewett stated the project is for a 4.5 mile reach in the center portion of the island (240 OBE – 741 OBW). There is a rider in the financial services agreement that if we elect to add the terminal groin into the mix we can. Commissioner Young asked if the Town has ever employed a financial consultant for any other area that was nourished on the beach. Town Manager Hewett replied not that he knows of. The projects the Town has done since he has been here have been small projects that were paid out of the BPART cash balance or were FEMA cash reimbursement projects. Mayor Holden added he doesn't recall doing it before, but this is a bigger project. Town Manager Hewett explained it involves searching out the placing of the money. It involves working with the Local Government Commission. It involves finding the different mechanisms the Town could employ to pay for it. Commissioner Young asked if this would go out to bid. Town Manager Hewett explained this is a direct contract with Doug Carter and Associates. They were picked based on feedback from Nags Head and North Topsail Beach. It was funded for in the budget and was in the Budget Message. Town Manager Hewett stated this is the way to do it if the Board wants to proceed with this large project. It is highly specialized banking.

The motion passed by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF THE FIRST AMENDMENT TO WATER TOWER OPTION AND LEASE AGREEMENT WITH NEW CINGULAR WIRELESS PCS, LLC (AT&T)

Fiscal Operations Clerk Lockner explained the Town's agreement with Atlantic Seawinds has expired. New Cingular Wireless (AT&T) has requested to take over the contract. They are requesting the agreement be renewed for four additional terms of five years each. They are also requesting to modify the equipment on the water tower. A structural analysis was completed to ensure that would not be problematic for the water tower. All other terms would remain the same. Attorney Tyson has reviewed the agreement. Commissioner Harrington asked if this is a binding contract for four additional terms of five years each. Mayor Pro Tem Kyser read the contract terms saying it can be canceled after the initial term.

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

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 15-05, RESOLUTION ESTABLISHING THE 1ST SATURDAY IN MARCH AND THE 2ND SATURDAY IN OCTOBER AS THE OFFICIAL DATES OF THE SEARCH 5K

Shoreline Protection and Recreation Manager Ferguson explained the coordinator of the event, Nick Westfall, is asking that the dates for the program be permanently set for the 1st Saturday in March and the 2nd Saturday in October. It is a very successful program. She showed a short video and pictures from the March event. There were about 1,000 participants this year. The resolution was presented to the Parks & Recreation Advisory Board (PRAB) and received their full support. Commissioner Harrington asked if consideration was given to holding this the dates of the festival. Shoreline Protection and Recreation Manager Ferguson thinks that parking might be an issue. The Merchants Association is talking about holding a 5k during the festival. She thanked the Police and Fire Departments, the PRAB members and all other volunteers for their help at this year's event.

Motion by Mayor Pro Tem Kyser to approve Resolution 15-05; second by Commissioner Miller; approved by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 15-06, RESOLUTION RECOGNIZING APRIL 22, 2015 AS EARTH DAY AND ENCOURAGING ENVIRONMENTAL STEWARDSHIP AMONG THE CITIZENS OF HOLDEN BEACH

Shoreline Protection and Recreation Manager Ferguson explained the purpose of Earth Day. This will be the 45th anniversary. We envision that an Earth Day event be a signature event of the Town. Many activities including a flag raising ceremony, beach vegetation planting, an adopt-an-access program, volunteer luncheon and dedication of a Christmas tree at Bridgeview Park would be part of the event.

Motion by Commissioner Young to approve Resolution 15-06, second by Mayor Pro Tem Kyser; approved by unanimous vote.

UNVEILING OF NEW SOCIAL MEDIA TOOL – RED SHARK APP

Town Clerk Finnell explained that the new app is a mobile friendly version of our website. The app can send push notifications, which could be another tool to assist in emergency situations. It is a free app. She showed a demonstration.

TOWN MANAGER'S REPORT

- Emergency Operations Center – the refinancing application was approved by the LGC. The closing is scheduled for March 12th. We are finalizing all the documents now.
- We have received over \$32,000 from the sale of surplus property sold on Govdeals. We can now finalize the sourcing of the backup generator that we need to have in place before Easter.
- We had an incident over the weekend. There were some brackets on the water tower that gave us cause for concern. We are working with T-Mobile to get the issue remedied.
- Public Works Director Clemmons has been diligent in getting Public Works and the administrative staff up to speed on some of the finer points of the automated meter reading system.
- Showed pictures of the status of the bulkhead at Sailfish. Lewis Mitchell brought the issue to our attention several months back.
- Provided information on the Brunswick County Gator games.

MAYOR'S COMMENTS

- The Southern Kingfish Association visited the area to meet with towns and community leaders. We lost the national championship to Moorehead City. Was disappointed it wasn't supported financially by neighboring communities. We would have had 400- 500 boats here. Appreciates the support of the Board and the citizens.
- There is a dredge sitting in intersection of the Lockwood Folly Inlet and the Intercoastal Waterway. It is pumping sand from the Long Beach Channel over on the west end of Oak Island. Was there at extremely dead low water and could have driven a vehicle a quarter of a mile into the Atlantic Ocean in a southern direction and never would have gotten his tires wet. Has never seen that. Also has never seen the entrance of the Lockwood Folly Inlet as far west as it is now. It continues to change.
- On the western most point of the island we are experiencing some erosion that continues to concern him. Never seen what is going on there before. Thinks it is caused by the channel dredging in the Shallotte Inlet. We will watch that.

BOARD OF COMMISSIONERS' COMMENTS

Mayor Pro Tem Kyser

- Thanked everyone for being here. Knows the crowd has thinned out.
- Thanked the Newman family for their service. Knows there is nobody here, but it deserves to be said.
- Thanked Lewis Mitchell for pointing out the problem at Sailfish so it could be bulkheaded.

Commissioner Miller

- Thanked those who stayed. Hopefully the next meeting won't be so long.
- Thanked Shoreline Protection and Recreation Manager Ferguson for all of the work she does. It seems she works seven days a week.

Commissioner Young

- Thanked everyone for their interest and patience, please come back.

Commissioner Harrington

- Everyone should thank the Police Department and Fire Department for the excellent job they did. Thanked Public Works Director Clemmons for turning on the water.
- Thanked Shoreline Protection and Recreation Manager Ferguson for her excellent job in involving the community.

Commissioner Martin

- Thanked everyone for coming, staying and having an interest in the community. Hopes to see everyone at the next meeting.

PUBLIC COMMENTS ON GENERAL ITEMS

No public 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

Town Clerk Finnell read the reason for Executive Session.

Motion by Commissioner Miller to go into Executive Session at 9:20 p.m.; second by Mayor Pro Tem Kyser; approved by unanimous vote.

OPEN SESSION

The Board went back into Open Session at 9:34 p.m.

Motion by Commissioner Harrington to offer \$67,500 for 567 OBW for 10' property to access the beach; second by Mayor Pro Tem Kyser.

Town Clerk Finnell asked if the Board wanted to add to move forward with the contract.

Commissioner Harrington and Mayor Pro Tem Kyser agreed to add to move forward with the contract to the motion.

Commissioner Young wanted to clarify that the property would be used for emergency access.

The motion passed by unanimous vote.

ADJOURNMENT

Motion by Mayor Pro Tem Kyser to adjourn at 9:36 p.m.; second by Commissioner Martin; approved by unanimous vote.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk