



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
REGULAR MEETING
TUESDAY, SEPTEMBER 8, 2015 – 7:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, September 9, 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; Building Official Tim Evans; CAMA/ Zoning Official Rhonda Wooten; and Shoreline Protection and Recreation Manager Christy Ferguson.

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

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

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

APPROVAL OF MINUTES

Motion by Commissioner Young to approve the minutes of the Regular Meeting of August 11, 2015 as written; second by Mayor Pro Tem Kyser; approved by unanimous vote.

PUBLIC COMMENTS ON AGENDA ITEMS

Carl Joyner provided information on problems he said he recently had with the Police Department and the Town's current noise ordinance. He would like the Town to put some teeth in our noise ordinance.

Sally Caldwell thanked the commissioners for adding items 11, 13 and 14. She explained the Holden Beach Property Owners Association (HBPOA) sent a letter out asking those items be addressed. She stated the HBPOA sent out a survey to all homeowners. They currently have 222 responses. She stated those three issues are on the survey. She stated the majority of the results received show people are concerned about those issues.

Dwight Willis asked the Board to support the resolution opposing offshore drilling. He wasn't passionate about this issue until the oil spill a few years back. He stated just a few weeks ago his sister was picking up balls of oil from the sand from that area, five years after the spill. He stated we cannot let that happen. He hopes the Town will make county commissioners aware of our ordinance if it is adopted.

ANNUAL BEACH MONITORING REPORT – FRAN WAY, APPLIED TECHNOLOGY AND MANAGEMENT

Mr. Way explained there are about 50 transects up and down Holden Beach, a few in the inlets and a few in Oak Island. For the annual report, they look at volume and shoreline change. The Town has been doing this since 2001. It is required

to maintain FEMA eligibility. Mr. Way showed a slide on the 2014 Lockwood Folly Inlet Piggyback Project. The project helped with navigation and put sand on the beach. The 2014 hurricane season was mild for the Town. In May, Tropical Storm Ana made landfall in Myrtle Beach. There was significant scarping, which did recover. Volume analysis shows erosion on the east end which is expected because of the sand placed from the 2014 project. The central reach is benefiting from the 2014 nourishment. The sand is working its way west. Mean high water is pretty much stable. The beach is healthier and wider than it was in 2000. Mr. Way reviewed the current Murden Project. They will track and monitor how it goes. We are working on the Central Reach Project, which is for up to 1.31 million cubic yards over 22,000 feet of shoreline. The project would be for 264 OBE – 785 OBW. A major nourishment like this should probably been done about every 10 years to keep up with the mild erosion on the island. The Terminal Groin Project is another major project the Town is working on. Other ongoing projects include shallow draft inlets and working with the Corps on some of their projects.

Commissioner Harrington asked about the every 10 year comment. Mr. Way explained the beach loses about 100,000 cubic yards a year, maybe 200,000 in bad years. There are smaller projects to help offset losses. Mr. Way explained the last major project was in 2002. You can maybe go every 10 – 15 years, possible 20 years. Commissioner Harrington inquired about the terminal groin. Mr. Way said the east end is the primary area that would be affected. Commissioner Young asked how the Town is able to have the Murden here. Town Manager Hewett stated that is something the Town has been lobbying for ever since he has been here. The sidecaster dredge seems to be a waste of effort. The Town was able to take advantage of the Corps' schedule of when the Murden was traveling down the coast. Mr. Way stated the state has funding set aside for shallow draft inlet navigation. A benefit of those projects is it is not just clearing the inlet, but it is also putting sand on our beach. The state comes in and it is a 50/ 50 share so it makes sense to take advantage of that.

The Board allowed questions from the audience. Shallow draft inlet permitting is to maintain the inlet. Town Manager Hewett explained the Shallow Draft Inlet 5 process. Town Manager Hewett stated the terminal groin meeting in September is the public hearing for the Draft Environmental Impact Statement. It is part of the Corps' permitting effort. Mr. Way and Town Manager Hewett discussed dredging with the Murden.

POLICE REPORT – CHIEF WALLY LAYNE

- Apologized to Mr. Joyner about his noise issues. Will look into it.
- It has been a fairly uneventful summer.
- Caught the last of the people breaking into cars about three weeks ago. It is the end of the rental season. Look out for your neighbors. Call if you see anything suspicious.
- This Saturday is Run HB. The bridge will be closed between 7:00 a.m. – 7:30 a.m.
- The Board allowed Chief Layne to give his opinion on item 14. He stated the current noise ordinance works fine if the officers do what they are supposed to do. He has read the County's ordinance. It is great on paper, but it says in about eight pages the same as ours does in one paragraph. Marty Cooke, our County commissioner, said at our last meeting that the County's noise ordinance doesn't apply to municipalities. Commissioner Harrington stated he believes he said there are elements that wouldn't apply to a municipality.

Commissioner Harrington asked how many citations were issued this summer for cabanas, holes and loose dogs. Chief Layne responded he could get the information for next month, he wasn't prepared for that today. Commissioner Harrington received information that people were leaving items on the beach at night and inquired if the items are still being removed if left. Chief Layne stated the policy is the same, items are tagged at night and collected in the morning. Mrs. Joyner stated when her daughter had a noise complaint a few years ago she was told there wasn't a noise ordinance. She stated her husband was told there wasn't much of one when he called. Chief Layne read the existing ordinance. He stated the ordinance is fine, it was the officer who didn't do what he should have. He will take care of that. Chief Layne stated beach patrol stopped for the season yesterday. Commissioner Martin asked if the report in

the Board's packets is just calls to the Police Department or if it included 911 calls also. Chief Layne responded it is both. Chief Layne talked about using decibels and enforcing a noise ordinance.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 15-08, RESOLUTION RECOGNIZING THE 25TH ANNIVERSARY OF THE HOLDEN BEACH BEAUTIFICATION CLUB

Mayor Holden asked the members to stand to be recognized.

Motion by Commissioner Young to approve Resolution 15-08; second by Mayor Pro Tem Kyser.

Town Clerk Finnell read the resolution. Commissioner Harrington thanked the Beautification Club for their time and efforts.

The motion passed by unanimous vote.

Mayor Holden thanked the members.

DISCUSSION AND POSSIBLE APPROVAL OF AGREEMENT OF INDEMNIFICATION BETWEEN THE COUNTY AND THE TOWN FOR THE HOLDEN BEACH BRIDGE BEAUTIFICATION PROJECT

Town Manager Hewett stated the agreement says the Town is responsible for everything in the agreement between the County and the Department of Transportation (DOT). DOT won't contract directly with the Town because the project lies outside the Town's corporate limits. The County is acting as the administrative middleman. The project was previously authorized by the Board. Project installation is estimated to be in November.

Motion by Mayor Pro Tem Kyser to approve the agreement between the Town and the County for the Holden Beach Bridge Beautification Project; second by Commissioner Miller.

Commissioner Harrington asked if the County is going to contribute any funds to the project. Town Manager Hewett replied no.

The motion passed by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 15-09, RESOLUTION IN OPPOSITION TO OFFSHORE GAS AND OIL EXPLORATION AND DRILLING OFF THE NORTH CAROLINA COAST – COMMISSIONER MILLER, COMMISSIONER HARRINGTON

Commissioner Miller stated she worked with Dwight Willis on this. Mr. Willis worked on the resolution. The Board asked that everyone in the audience stands who supports opposing offshore oil exploration and drilling. A large majority of the audience stood.

Motion by Mayor Pro Tem Kyser to approve Resolution 15-09, Resolution in Opposition to Offshore Gas and Oil Exploration and Drilling; second by Commissioner Miller.

Commissioner Harrington asked that a copy of the resolution be sent to the County Board of Commissioners.

The motion passed by unanimous vote.

REPORT BY PLANNING & INSPECTIONS DIRECTOR TIM EVANS (HEIGHT LIMITS/ THREE STORY HOMES – COMMISSIONER YOUNG, COMMISSIONER HARRINGTON) (UPDATE ON ENFORCEMENT ACTION TAKEN AT 1355 OCEAN BOULEVARD WEST – COMMISSIONER YOUNG)

Commissioner Young stated most people can understand buildings needing to be higher because of flood regulations. She stated she understood that the envelope of a building could only be 35 feet. She would like to know how three floors can be built within the 35 feet envelope. Building Official Evans stated if built correctly, the envelope only encompasses 31 feet. He stated you lose the truss area when it is measured. The envelope itself is the beginning of the top floor to the roof. He explained how height is measured. He stated the three floors in the building being questioned is within 31 feet. He stated there are several houses that are three stories that existed before the ordinance was changed. Before a final inspection is scheduled a V-Zone certificate, which shows the height, needs to be turned in. The contractor and owner of the three story home that is being constructed explained how they are constructing the home. Building Official Evans explained height with the old and new ordinances. He stated you cannot get a certificate of occupancy if you violate the Town's height requirements. Mayor Pro Tem Kyser mentioned Session Law 86, the new regulation regarding placing restrictions on properties.

Building Official Evans stated he sent out a warning letter to the owners of 1355 Ocean Boulevard saying some of the activities occurring at that property resembled assembly occupancy. He explained that he is obligated under statutory law to determine if structures are being used the way they were designed to be used when built. Building Official Evans stated that the argument could be made that at certain times last week every house on the beach did not meet the requirements of a residential dwelling. At the same time, he needs to determine where to draw the line. He provided a couple of examples. He received evidence so he sent notice to 1355 OBW that said it appeared the dwelling was being used as an assembly occupancy. Building Official Evans stated he told them they needed to stop using it in that manner. He told them if they were found to be in violation again, he would contact the Department of Insurance and a notice of violation could be sent. If they are found to be in violation again, he would send another notice and schedule a hearing. They are given the option to cease and desist or they could be shut down. Building Official Evans stated he can't discuss it any further because at this point it is between attorneys.

MEGA HOUSES – COMMISSIONER HARRINGTON

Commissioner Harrington stated the HBPOA had written a letter that asked that this subject be brought back up. He stated that all the other surrounding communities have taken action to prevent these houses from being built. He stated that Holden Beach hasn't done anything. He stated he thinks the Town is leaving itself exposed as a community. Commissioner Harrington stated we recently received information from the state, Session Law 86, saying the Town can't tell people how many bedrooms can be put in a house. As a result of that action, Ocean Isle Beach has taken their ordinance and rephrased it, taking out the restrictions on bedrooms. Commissioner Harrington stated that this is a mini hotel that is imposing different issues on the community. He reviewed safety, parking, noise and overcrowding issues. He thinks the Town is placing employees in a difficult position. Commissioner Harrington would like to propose an ordinance that limits residential construction to 5,000 square feet. Any exceptions would need to be brought to the Board of Adjustment for approval and then be voted on by the Board of Commissioners. Building Official Evans stated the Town can limit the size of houses, but it has to be applied so it is uniform. He thinks the Town would need a legal opinion to see if you can limit a house to a certain size. His opinion is any rule would need to be applied equally. You would need a reason to justify why someone couldn't use their property the same as someone else. He provided size under roof of some of the houses on the west end. Commissioner Young stated it may not be size that is the issue. Commissioner Martin stated square footage will not affect how people behave when they come to a residence. Commissioner Harrington stated he outlined what to do if someone wants to build a home larger than 5,000 square feet. Mayor Holden stated the Board of Adjustment can only issue a variance if there is a hardship. Building Official Evans stated if you change it to 5,000 square feet, you would probably have to deny about one out of three houses. What you count is what is under the roof. Commissioner Young mentioned a moratorium. Building Official Evans stated

something else you need to remember is the existing houses that are larger than 5,000 square feet would become nonconforming.

Motion by Commissioner Harrington to approve a Town of Holden Beach ordinance that limits residential construction, heat and air space to 5,000 square feet. Any exceptions must be brought to the Board of Commissioners and voted on for approval, second by Commissioner Young.

Commissioner Harrington stated the Board heard tonight that the HBPOA took a poll of homeowners and the poll showed a huge amount of homeowners were in favor of doing something about preventing future mega houses. He thinks the Town needs to listen and act accordingly. He believes if someone says you legally can't do something, there is nothing that says the Town can't readdress the issue at a later time. Commissioner Martin stated that the HBPOA mailed out 2,500 letters, of that they received 222 back. She stated that is 90% of 10%. She stated if people felt so strongly against it, they would have responded to the survey. Commissioner Harrington stated that is a good return on a survey. Commissioner Martin stated people have the right to use their property. If the Town starts limiting that, we will push development off this island. She stated we will have a ghost town and property values will go down accordingly. Mayor Pro Tem Kyser stated 40 years ago, most homes were single story, 800 square feet houses. If those people set rules based on what they had, none of the current homes would be here today. He is not saying that he would like to see big houses built, but the scale of economy will take care of itself. Building Official Evans stated if you combine lots on oceanfront, there are larger setback requirements. He stated that wouldn't be profitable for people. Commissioner Young stated she doesn't think it is the size, it is the use of the building. She thinks there must be a solution that protects the people, but doesn't restrict them. She asked if there is a way to designate that as a commercial venture. Building Official Evans stated lots of people allow weddings. It is hard to define when a use crosses the line. He talked about residential and assembly uses. He can't assume something will be used in a certain way until it is used in that manner.

Commissioner Miller called the question. Mayor Pro Tem Kyser and Commissioners Young, Harrington and Martin were not in favor of calling the question. Commissioner Miller was in favor.

The Board took a break from 8:56 p.m. – 9:04 p.m.

Commissioner Harrington stated that he sees that solving this issue tonight will not happen. He suggested the Board appoint a committee, chaired by Building Official Evans to look into what can be done to solve the problem.

Commissioner Harrington withdrew his previous motion.

Commissioner Harrington would like to ask Planning & Zoning (P&Z) to look at it again and maybe involve the Town attorney. Mayor Pro Tem Kyser stated he thinks before action is taken, they should get the Town attorney involved. The Board discussed having a committee. Town Manager Hewett stated as a point of process, what the Board is contemplating is a zoning ordinance revision. Those types of recommendations are a product of P&Z. Building Official Evans suggested that P&Z review it and come up with recommendations. Before they approve the recommendations, the attorney should look at it. Building Official Evans stated his understanding is that the Board is asking P&Z to look at ways that can deter or limit the size of structures by their use. The Board agreed. Mayor Holden asked for a report on the progress at the October meeting.

COUNTY NOISE CONTROL – COMMISSIONER HARRINGTON

Motion by Commissioner Harrington for the Town to adopt the County's noise ordinance and police officers be equipped with decibel meters for enforcement of said policy; second by Commissioner Young.

Mayor Pro Tem Kyser stated he thinks to adopt the whole ordinance would be overkill. He thinks the Board needs to send it to P&Z to come up with something more specific to the Town, rather than to the whole County. Commissioner Harrington agrees the Town doesn't need to adopt the whole ordinance. He would like to get his hands on it and pick and choose what parts to use. He doesn't like to see the Police Department have to enforce the current ordinance. He would like to put the tools in the hands of officers so they can equably enforce the law. Mayor Holden stated the motion as he understands it was to approve the ordinance. The discussion is to adjust it to the Town's needs.

Commissioner Harrington amended his motion to be we take a strong look at the County noise ordinance and adopt the portions that would pertain to our community.

Commissioner Miller inquired if we meant P&Z. Commissioner Harrington responded yes. Commissioner Young suggested looking at other local areas as examples. Mayor Holden asked for clarification on the motion.

Commissioner Harrington rescinded his previous motion.

Motion by Commissioner Harrington that the Town of Holden Beach bring the County noise ordinance to P&Z for their review and adoption of what we can use for our community from that ordinance; second by Commissioner Young.

Building Official Evans clarified that the Board is sending it to P&Z to edit it so the Town can use the portions that apply to us. The Board agreed.

The motion passed by unanimous vote.

TOWN MANAGER'S REPORT

- We have a new certified population number of 603 fulltime residents of Holden Beach from the State Demographer. That number is up and important. It is the number used for State shared revenues.
- You might have noticed a change in the chief's appearance. That is a result of him assisting sister agencies.

MAYOR'S COMMENTS

- Thanked everyone for being here.
- Thinks has been a positive summer. Feels more encouraged than has been in the last six to seven years.

BOARD OF COMMISSIONERS' COMMENTS

Mayor Pro Tem Kyser

- Thanked everyone for attending.
- Bill Spiers collects food on Saturdays for the food bank. This year he collected 18,000 pounds of food. Thinks that is extraordinary.

Commissioner Miller

- Thanked everyone who lasted the length of the meeting.
- Provided important dates and information for the upcoming election.

Commissioner Young

- Thanked everyone for their patience. Hopes people will continue to give their opinions on things they are concerned about.

Commissioner Harrington

- Thanked everyone for their patience. Appreciates everyone coming and participating.

Commissioner Martin

- Thanked for coming. Was thrilled to see so many people here. Hopes they receive that much participation every time because it makes the Board's job so much easier.

PUBLIC COMMENTS ON GENERAL ITEMS

Irvin Woods commended the Board for voting in opposition of oil drilling off the coast.

ADJOURNMENT

Motion by Commissioner Miller to adjourn at 9:29 p.m.; second by Mayor Pro Tem Kyser; approved by unanimous vote.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk