



**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
TUESDAY, DECEMBER 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, December 8, 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; Commissioner Elects H. Ashley Royal, Peter Freer, Kim Isenhour and John Fletcher; Town Manager David W. Hewett; Town Clerk Heather Finnell, Police Chief Wally Layne; Building Official Tim Evans; Shoreline Protection & Recreation Manager Christy Ferguson; and Public Works Director Chris Clemmons.

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 November 10, 2015 as presented; second by Commissioner Miller; approved by unanimous vote.*

**PUBLIC COMMENTS ON AGENDA ITEMS**

Peggy Schiavone, chair of the Parks & Recreation Advisory Board (PRAB) commented that in regards to dedicating the PAR Course in Tom Decker's memory, he was a very dedicated and active member of the PRAB and this would mean a great deal to his family.

Lewis Mitchell stated that Tom Decker was the instrumental person in getting the PAR Course started and he supports the agenda item.

**DISCUSSION REGARDING ESTABLISHING A MEMORIAL FOR TOM DECKER DEDICATING THE PAR COURSE IN HIS MEMORY  
– COMMISSIONER DENNIS HARRINGTON**

Commissioner Harrington stated many knew Tom Decker and knew what a giving person he always was. He was particularly giving to the youth that visited. He worked with Commissioner Harrington's grandson each summer trying to teach him how to switch hit and he did a great job of that.

*Motion by Commissioner Harrington to honor one of our past citizens with a plaque for the PAR Course dedicating it in his memory.*

Commissioner Harrington stated Tom Decker was my friend and to all who knew him he was their friend also. He was a strong advocate for sports and physical fitness. He was the driving force on the PRAB to put in place the PAR Course. This summer his 12 year old granddaughter got up and exclaimed she was going to do the entire course. It has been used and enjoyed by many and will serve many more in the future. He stated the Town is honored that Tom Decker served on the PRAB and blessed to have had him as a leader in the community.

*The motion was seconded by Commissioner Young.*

Commissioner Harrington would like the plaque to be made out of bronze and have it erected close to the water fountain or in the general area. Commissioner Young stated she would like to see the basketball court across the street be put up so that could be dedicated to him also.

*The motion passed by unanimous vote.*

#### **PRESENTATION OF PLAQUE TO THE OUTGOING BOARD OF COMMISSIONERS BY TOWN MANAGER HEWETT**

Town Manager Hewett presented the plaque to the outgoing Board.

#### **PRESENTATION OF PLAQUES TO INDIVIDUAL MEMBERS OF THE OUTGOING BOARD OF COMMISSIONERS BY MAYOR HOLDEN**

Mayor Holden presented plaques to Commissioner Sandy Miller, Commissioner Sheila Young, Commissioner Dennis Harrington and Commissioner Gina Martin.

#### **BOARD OF COMMISSIONERS' COMMENTS**

Mayor Pro Tem Kyser

- Thanked everyone who came to the tree lighting and made it such a huge success. Thinks it was the biggest crowd to date.
- Breakfast with Santa will be Saturday at 9:00 a.m. Mrs. Claus will also be here.

Commissioner Miller

- Has thoroughly enjoyed spending the 14 years with everyone. Will come back and watch.

Commissioner Young

- Thanked everyone for the support. Some people may have voted for her, some may not have. Some people who are not permanent residents here are not even able to vote for the people who represent them. Has tried to represent everyone to the best of her ability. It has been a learning experience. Sure it will be for the new people.
- To the newly elected Board: you need to remember who put you here; remember the people on the other side of table; and keep your sense of humor.

#### Commissioner Harrington

- Would like to take the opportunity to recognize one of our citizens who unselfishly contributes his time each month to inform everyone what is going on. Many look forward to the monthly Lou's Views. Asked everyone to applaud Lou Cutajar for his efforts.
- Would like to thank all who voted for him. Hopes he has lived up to the vote. It's been fun, but not all fun. You have elected incumbents who he feels will do a great honor in replacing some of the current members.
- Thanked everyone for the opportunity to work for the Town, to give of his time and his ideas in the hopes of furthering the Town and hopefully saving some dollars as the Town moved forward.

#### Commissioner Martin

- Thanked for the opportunity to serve.
- Has been a privilege to be part of the island for 54 years. Wished the incoming commissioners the best. Looks forward to seeing the Town move forward. Would like to remind everyone that the Board is only elected by the people who live here, but they serve a much larger body.

### **2015 – 2017 BOARD OF COMMISSIONERS' OATH OF OFFICE BY JUDGE PAULINE HANKINS**

Judge Pauline Hankins administered the Oath of Office to Mayor Holden and Commissioners Royal, Freer, Isenhour, Fletcher and Kyser.

### **NEW BUSINESS AGENDA AS REQUESTED BY COMMISSIONER ROYAL, COMMISSIONER FLETCHER AND FORMER COMMISSIONER HARRINGTON**

#### **ELECTION OF MAYOR PRO TEM**

*Motion by Commissioner Freer to nominate Commissioner Royal to serve as Mayor Pro Tem; second by Commissioner Fletcher; approved by unanimous vote.*

#### **REPLACEMENT OF TOWN ATTORNEY**

Commissioner Isenhour stated the Town Attorney serves at the pleasure of the Board. She would like to enter into a period of investigation to determine the best attorney for the Town. She stated the Board will need to be represented by a competent municipal lawyer, who will also be a financial asset to the Town. Commissioner Isenhour stated Mr. Tyson is invited to be a part of the process. They are very grateful for the job he performed. Allen Trask of Ward and Smith will serve as the interim attorney. Neither Mr. Trask nor any other lawyer from Ward and Smith will be considered for the position. They will just perform the interim services. Commissioner Isenhour stated that this initial period of investigation will help the Board examine the Town's current legal status and to reexamine our needs of a Town Attorney. She spoke with Mr. Tyson about their interest in evaluating the position of the Town Attorney and asked him to resign so they could begin the search. Mr. Tyson did tender his resignation. She stated the opinions of Mayor Holden, Commissioner Kyser and Town Manager Hewett are valued and appreciated when it comes to evaluating the past performance of Mr. Tyson.

*Motion by Commissioner Isenhour to adopt the resolution for the replacement of the Town Attorney as it is written in the form presented; second by Commissioner Fletcher.*

Mayor Holden stated there is no litigation of any kind outstanding, so we are beginning this new day with a clean slate. He asked about the terms of the agreement with the interim attorney. He asked that Commissioner Isenhour consider amending her motion.

*Commissioner Isenhour amended her motion to include approval of the engagement agreement. Nobody had a problem with the amendment. The motion passed by unanimous vote.*

#### **RE-ADOPTION OF BOARD OF COMMISSIONERS' RULES OF PROCEDURES**

Commissioner Isenhour stated each year the Board adopts the Suggested Rules of Procedure for a City Council. She stated that in the document there were a few blanks that she filled in. The only major change to the document is to ask for the agenda and the agenda package five business days before the meeting.

*Motion by Commissioner Isenhour to adopt the Rules of Procedure; second by Mayor Pro Tem Royal; approved by unanimous vote.*

#### **STORM SEWER VULNERABILITY**

Mayor Pro Tem Royal explained the purpose of the proposed committee is to review and make recommendations concerning the vulnerability of the Town's sanitary sewer system to potential flooding damage in the event of a serious storm. He stated this was an issue that was highlighted by the Holden Beach Property Owners Association's survey and discussion of the issue during the recent campaign. He stated it is his further understanding that some Town employees have expressed concerns about the problem. He stated the resolution is intended to establish a Community Advisory Committee to help the Board assess the magnitude of the problem and look for alternative solutions. Mayor Pro Tem Royal stated he thinks everyone agrees this is a critical issue. Some assessments have determined that the electrical panels are vulnerable to a storm surge and if damaged the impact of repair and replacement could force an evacuation of affected areas for many weeks or possibly months. He stated he is introducing his resolution in writing and provided copies. He stated an electronic copy was also provided to the Town Clerk. He stated the resolution directs P&Z to establish a five member committee comprised of two P&Z members and three members of the public to study the issue and provide the Board with alternatives for addressing it. He stated this is an urgent matter and the cost to address the problem could be significant so the resolution directs P&Z to provide the Board with interim cost estimates so that we can begin to assess the potential budget impact.

*Motion by Mayor Pro Tem Royal to adopt the resolution in the written form presented; second by Commissioner Freer; approved by unanimous vote.*

#### **STATUS OF BEACH PROTECTION PROJECTS AND PLANS, INCLUDING TERMINAL GROIN AND CENTRAL REACH PROJECTS**

*Motion by Commissioner Freer to postpone this item until the January Board meeting; second by Mayor Pro Tem Royal; approved by unanimous vote.*

#### **NOISE NUISANCE AND DISTURBANCE**

Commissioner Fletcher stated that they are prepared to render for review a noise ordinance. He stated it is based on a more broadly applicable provision of Brunswick County's and a specifically authorized exercise of the Town's municipal police power. It replaces the current subject excessive noise ordinance the Town has not been able to effectively enforce.

Commissioner Fletcher stated it is only enforceable in R-1 and R-2 residential zoning districts and the adjacent beach strand. It only applies to noise that is caused by amplified music or other sound, musical instruments and outdoor crowd noise involving 10 or more people. It does not apply to barking dogs, lawn mowers, noisy air conditioners and things like that. Enforcement requires a complaint from a neighbor. He stated the noise ordinance prohibits noise disturbance in residential districts, 60 decibels during the daytime or 50 decibels or plainly audible during the night. Decibel levels and plainly audible standards are both measured from a neighboring property or the street. Commissioner Fletcher reviewed enforcement actions.

*Motion by Commissioner Fletcher to consider this ordinance and put it out for review to be voted on at the next meeting, second by Mayor Pro Tem Royal.*

Commissioner Kyser stated in the new ordinance it talks about a Director of the Noise Enforcement Authority. He asked who that is going to be. Commissioner Fletcher stated they do not know yet, but they think they might have a retired New York Police Lieutenant who is willing to serve as the director and who would help develop the program relating to this. He confirmed it would be a volunteer. Mayor Holden asked if the way this is presented meets the proper format for it to be voted on at the next meeting. Commissioner Fletcher stated Town Clerk Finnell has agreed to put it in the proper format. Commissioner Kyser wanted to know if the statement regarding neighbors asking the court for an injunction on repeated violations puts the Town at any type of risk. He would like to check with the Town Attorney. Commissioner Fletcher stated they will subject it to legal review. Mayor Holden asked if it applies to commercial areas. Commissioner Fletcher stated no. Mayor Holden stated that residential is allowed in the commercial district. He stated if he understands it correctly, residential people in a commercial area would not have the right to complain about noise. Mayor Pro Tem Royal questioned if Mayor Holden was entering into debate. Mayor Holden passed the gavel to Mayor Pro Tem Royal and stated he was just asking a question. He asked if it was their intent for this not to apply to residential residences in a commercial area. Commissioner Fletcher stated he thinks that would be one of the questions that would come out during legal review. Mayor Pro Tem Royal passed the gavel back to Mayor Holden. Mayor Pro Tem Royal stated this is introduced to apply to R-1 and R-2 zoning. He would expect that if there are issues with commercial entities the Board would act on it accordingly.

*The motion passed by unanimous vote.*

## **BOARD OF COMMISSIONERS PROCEDURAL MATTERS**

Commissioner Isenhour stated she would like to introduce as a resolution, a series of amendments to the procedural provisions of Chapter 30 of the Town's ordinances. She stated together these minor amendments are basically designed to improve transparency, inclusiveness in the Town government process and to approve our ability to be more effective in many areas. She stated she is only introducing the proposed amendments so the public can review them. She said the Board can vote on them at a subsequent meeting. She stated that the resolution requires that each amendment be voted on separately. She stated the first amendment creates an office called Executive Secretary among the Board to help oversee meeting agendas and packages. The person selected would work directly with Town Clerk Finnell to create the agenda and packages. Commissioner Isenhour stated the second amendment would establish a normal one year term for the Mayor Pro Tem and Executive Secretary. The proposed amendments also clarify that all of the meetings of boards, committees, subcommittees and working groups are all subject to the requirements of North Carolina Open Meetings and Public Record laws and that records of those meetings are to be made promptly available to the public. Commissioner Isenhour stated the proposed amendments introduce a more rigorous conflict of interest policy for boards and committees appointed by the Board. The proposed amendments would re-establish the Audit Committee. They would require that all material consulting engagements entered into by the Town must specifically be authorized by the Board.

*Motion by Commissioner Isenhour to adopt this written resolution to introduce the procedural ordinance amendments in the form presented in writing. There are copies available and the text has been given to everyone. The electronic version will also be given to the Town to codify it. Second by Mayor Pro Tem Royal.*

Commissioner Kyser asked for clarification on what was being voted on. Commissioner Isenhour said it was to introduce the proposed changes.

*The motion passed by unanimous vote.*

## **PLANNING & ZONING BOARD PROCEDURAL MATTERS**

Commissioner Freer stated he would like to introduce two proposed amendments to Chapter 155 of the Town's ordinances. The amendments would make changes to the operations of P&Z that would address problems that have arisen; and are designed to make P&Z's operations more transparent and open to input from knowledgeable and concerned residents, homeowners and business operators on the island. The resolution is intended to introduce the proposed amendments for comments, debate and vote at a later meeting. The resolution and proposed amendments were presented in writing. The Board and Town Clerk Finnell have been given copies. Commissioner Freer stated the proposed amendments are designed to do two things. First they set up a template for P&Z to establish Community Advisory Boards as directed by the Board. He stated the Town is a community blessed with lots of retired and semi-retired homeowners with great credentials and vast real world experience. He thinks everyone agrees we need to do a better job of taking advantage of that. The amendment is intended to facilitate that. The second amendment changes the role of the Town's Director of Planning as the secretary to P&Z. He stated an important function of P&Z is to provide the Board with independent information and advice on issues affecting planning matters relating to the Town and to zoning matters. He stated that independence is better served if Town officials play a more supportive role and do not function as officers of the Board.

*Motion by Commissioner Freer to adopt the resolution in the form presented in writing. He emphasized that the resolution merely introduces the proposed amendments so that they can be commented on, debated and voted upon in a subsequent meeting; second by Commissioner Fletcher; approved by unanimous vote.*

## **BOARD OF COMMISSIONERS' MEETING SCHEDULE**

Mayor Pro Tem Royal explained that tonight the Board has voted to introduce three sets of ordinance amendments, first relating to government procedures; secondly the noise ordinance was introduced based upon the county's ordinance and modified for the Town; and thirdly they introduced an ordinance amendment improving the operations of P&Z.

Mayor Pro Tem Royal would like to make a motion to adopt a resolution calling a Special Meeting of the Board at 7:00 p.m. on Wednesday, December 16, 2015 at Town Hall for that purpose, to hear public comments, debate and vote on the three proposals and matters relating to them. He is submitting a written resolution to that effect. It presents a detailed agenda for the meeting and attaches the draft amendments that were attached to each commissioners' resolutions. The Town Clerk has a copy of the resolution, he has copies for the Board and additional copies were available in the back. He stated one of the amendments that was also proposed will include distribution of materials on the Town website one week in advance.

*Motion by Mayor Pro Tem Royal for adoption of the motion to hold a Special Meeting of the Board on Wednesday, December 16<sup>th</sup> in the form presented in writing; second by Commissioner Fletcher; approved by unanimous vote.*

## **PUBLIC COMMENTS ON GENERAL ITEMS**

Dolly Mitchell asked about the study of the sewer. She stated Chris Clemmons probably knows more about sewer than anyone else on the island. She feels that the committee needs to pull him in and get his input. She also inquired about the break-ins on the island. The Board agreed Chief Layne could address the topic. Chief Layne stated the Town had two break-ins in the last three weeks and provided information on them. He advised everyone to look out for each other and to record the serial numbers of their electronic equipment.

Tony Marwitz stated at Candidates' Night the candidates were asked about block votes. He stated they were assured that was not going to happen. He was concerned about the Special Meeting resolution that the Board voted on. He inquired how they hired an interim attorney if they hadn't been issued the oath of office. He stated he was concerned that they would be getting four people that voted one way. In his opinion they are starting out that way. He cautioned them to watch out for that.

## **ADJOURNMENT**

Mayor Holden adjourned the meeting at 8:03 p.m.

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J. Alan Holden, Mayor

ATTEST:

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Heather Finnell, Town Clerk