



**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS  
SPECIAL MEETING  
WEDNESDAY, DECEMBER 16, 2015 – 7:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Special Meeting on Wednesday, December 16, 2015 at 7:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem H. Ashley Royal; Commissioners Peter Freer, Kim Isenhour, John Fletcher and Ken Kyser; Town Manager David W. Hewett; Building Official Tim Evans; Zoning/ CAMA Official Rhonda Wooten; Shoreline Protection and Recreation Manager Christy Ferguson; Public Works Director Chris Clemmons; and Police Chief Wally Layne.

Mayor Holden called the meeting to order at 7:02 p.m.

**PUBLIC COMMENT PERIODS**

- A. PROPOSED AMENDMENTS TO CHAPTER 30 OF THE TOWN'S ORDINANCES RELATING TO TOWN GOVERNMENT AND OFFICIALS
- B. PROPOSED AMENDMENTS TO CHAPTER 92 OF THE TOWN'S ORDINANCES RELATING TO NOISE CONTROL
- C. PROPOSED AMENDMENTS TO CHAPTER 155 OF THE TOWN'S ORDINANCES RELATING TO THE PLANNING & ZONING BOARD AND THE ESTABLISHMENT OF COMMUNITY ADVISORY COMMITTEES OF THE PLANNING & ZONING BOARD

Commissioner Fletcher stated that he listened to many comments over the past week and based on that he would like to withdraw any reference to civilian enforcement in the noise ordinance. He stated as of now the ordinance will only apply to residential properties. Commercial properties will be looked at in the future, but it needs more work. He stated it will be enforced by the Police Department only.

Bill Cohen stated this is a family beach and he is not excited about impounding someone's equipment. He stated he is against changing the term of chairman of the Planning & Zoning Board (P&Z) from three years to one. As a past chairman of that board, it takes a while to figure out what to do.

Anne Arnold stated there are nine changes presented in the ordinance that amends Section 30.05. She stated the public had only eight days to review the changes and inquired how they were supposed to follow through with all that was put before them when the changes are occurring so fast. Ms. Arnold stated she supports having the records available prior to a Board meeting. Ms. Arnold inquired who wrote the resolution and proposed ordinance changes prior to the December 8<sup>th</sup> meeting. Commissioner Fletcher replied they were individually written by different people. He confirmed John Witten, an attorney, did help guide them and the work was done pro bono. Ms. Arnold said that in regards to the proposed changes to Section 30.17, transparency is important to everyone. She appreciates that. She is confused about the need for a sitting commissioner to be in charge of getting an agenda together as an executive secretary. She stated in the past the public has been able to contact Mayor Holden or Town Manager Hewett to get an item on the agenda. She inquired what the new plan will be. Commissioner Isenhour replied you should still be able to call Mayor Holden or Town Clerk Finnell. She stated the purpose was not to cut everyone out, but was to make sure there is a commissioner there to assist Town Clerk Finnell. Ms. Arnold inquired who that would be. Commissioner Isenhour answered she thinks she might suggest

Commissioner Fletcher. Mayor Pro Tem Royal added they will need to vote on that position. Ms. Arnold stated that Section 30.25 tells the public who cannot serve on Town boards and committees. She stated that part of the proposed changes says that real estate agents cannot serve on the Board of Adjustment (BOA), which she does, so she has now been fired. Ms. Arnold asked Commissioner Isenhour what the test is and what the BOA does. Commissioner Isenhour replied it is a judiciary group that is there to make judgements. She thinks the purpose of what they have set up is that for the future there is nobody on the BOA that would profit or seem to profit from a case personally. Commissioner Fletcher stated he served with Ms. Arnold on the BOA and voted seven times on decisions. He stated almost all of the cases were for variances that had something to do with planning or permitting. He has a lot of time working with government and boards of directors and conflict of interest is always in the back of his head. Commissioner Fletcher stated he sat through all of those votes and asked himself what it would look like if he was a real estate agent and was making the decision. Ms. Arnold said that she was appalled, they are subject to a code of ethics. She said the test is if something is a hardship and being a realtor would not prevent her from making that decision. Ms. Arnold asked if the Board is sure they do not know what people will serve on and the bylaws for the Audit Committee in order to make the deadline in the proposed changes to Section 30.26, regarding the Audit Committee. Commissioner Fletcher provided his background with audit committees and stated he does not know what the Board will conclude as a final decision as to the role of the committee. He was concerned that an organization this large did not have a committee. He stated it is just to convince the public the Town is watching over ourselves. They would keep the Board apprised financially and operationally and work with the external auditor to make sure the Town is safe. Ms. Arnold asked what style of government the Town is. She stated this is a manager style of government and it seems the Board is moving towards an administrator style. She stated the Board has a manager and a budget that is adopted. She inquired if that determines how money is spent. Commissioner Fletcher replied that shows what is proposed as the budget for next year, it doesn't have anything to do with how it will be spent. Ms. Arnold stated she doesn't have any problems with Section 30.27. She stated that the rules for the community advisory committees say only residents or people who own property can serve on a committee. She stated this would prevent Chris Clemmons from serving on a committee regarding the sewer system. She stated Dolly Mitchell had already asked about this at a previous meeting. Commissioner Freer stated that staff could be advisors to the committee and not actually be on them.

Other audience members started to speak. Mayor Holden explained that for the floor to be passed to someone else, the Board would need to agree to allow it. He stated everyone needs to speak into the microphones to record.

Dolly Mitchell stated her question at the last meeting had been addressed to Mayor Pro Tem Royal because the motion had been to have two from P&Z and three at large. Her comment was that Public Works Director Clemmons should be an advisor because of his knowledge. She didn't mean he should be a committee member. Mrs. Mitchell stated her only concern is that she would like input and discussion to come up with the final decisions. She believes the Board has to be trained on state law and procedural matters. She stated the Board hasn't been through the training yet. At the last meeting Sheila Young made the comment that when you move to that side of the desk, you represent all people. She stated you can see the concern of people in attendance.

Stephen Veenker stated he is currently chair of the BOA. He continued that one of the provisions in the proposed changes for Section 30.27 states that nobody who is employed by the Town or married to someone who is employed by the Town shall serve upon the Board. He stated it is ambiguous to him if that means they also can't serve as the administrative support that handles scheduling, etc. He stated if the Board votes to prohibit realtors and construction experts from sitting on the BOA there will be some vacancies. He added it might be good to give a six month window so that the Board would still have a quorum while new members are being recruited. He said there is no case where you can profit. He stated if you represent someone who is having their case heard, you would recuse yourself. Each case is heard individually. He stated in each case the petitioner has to establish that there is a hardship. Mr. Veenker asked if the interim attorney is serving pro bono. He also would like to know a little about the search process for the interim attorney. He asked if Mayor Holden, Town Manager Hewett or Town Clerk Finnell knew that a contract was being prepared. Commissioner Freer stated that in regards to Section 30.27, staff is encouraged to help and advise boards. He stated they shouldn't be voting members, but the Town does rely on them for their expertise.

Sheila Young stated that up until last year the Town did have an Audit Committee while she served as commissioner. She sat in on some of those meetings and feels they did a fine job. She feels it is an extra layer of protection for the Town. Mayor Holden stated the previous committee was a finance Audit Committee. This is activity and finance.

Barbara Andrews inquired if the attorney the Board worked with on the proposed ordinances approved and reviewed them. Commissioner Fletcher stated the attorney did look at the ones he prepared. Mayor Pro Tem Royal stated he did edit the ones he worked on after working with the attorney. Ms. Andrews stated she feels that Section 30.25 is discriminatory. She stated that the way it is written it eliminates hundreds of people from serving. She said the realtors spend thousands of dollars of their own money promoting the island. Ms. Andrews serves on a professional standards board for the Realtors Association. They recuse themselves if necessary. She stated she can see some possible lawsuits coming as a result of some of the proposed ordinances.

Amy Archer stated she did her own research regarding the noise ordinance. From December 1, 2013 – December 1, 2015, there were 26 noise complaint calls from the east end of the island to the west end. Of the 26 calls, there were 21 calls pertaining to 1355 Ocean Boulevard West. In her opinion, the numbers do not suggest there is a noise issue on Holden Beach, but rather on one property. She asked if this warrants that the Town has a noise issue and needs to spend thousands of dollars on equipment. She thinks a time period could be added and fines could be stricter. She asked how the proposed ordinance will affect the rental industry, income of the island, property values and growth to the island; and what the plan is to educate the rental industry. She asked how the ordinance would affect people visiting the island. She stated there are 2,386 sewer bills and 1,000 rental homes, which is about 43% of the island. She asked if the Board is ready to implement a noise ordinance that is geared to one property, versus the good of the entire island.

Brian Murdock stated he has the Holden Beach West Phase II Property Owners Association Bylaws in his hand. He stated in the bylaws, it appears to him that the noise problem was addressed by their community, which is private. He thinks that an ordinance is being created to be a solution for one person. He provided examples of what would be over 50 decibels. He stated a majority of the ordinance was created to address a problem on the west side of the gate. He feels their POA addressed the issue and they are the ones who need to enforce it.

Robert Ingraham stated that training for the commissioners was brought up earlier. He stated he finds it hard to understand that the Board has gained all the expertise needed without attending the school. He stated what was done prior to taking office was at their own will, not the Town's. He said an attorney was employed during that time and that their expertise is in corporate law, which is significantly different than municipal law. He asked if an opinion letter from the attorney was granted for all of the documents. Mayor Pro Tem Royal responded no. Mr. Ingraham asked if the Board expects to open themselves up to legal challenges once they are adopted. Mayor Pro Tem Royal stated that based on the comments that could be a possibility. Mr. Ingraham stated he believes it would be better for everyone if the Board takes their time before voting on the proposed changes. Mr. Ingraham stated if transparency was important all of this would not have been done with another one of the beyond the gate homeowners, Mr. Witten. It would have been done with the Town Attorney. He doesn't understand what he did to be fired. Mr. Ingraham asked the Board if they realize they have some residential properties in multifamily zoning. He added there are some planned for others also so they are not covered by the ordinance. He stated dogs have been left out of the ordinance. He suggested a nuisance ordinance. He asked who the Board proposes provide expertise if professionals are being eliminated from committees. Commissioner Fletcher stated that is for the BOA only. Mr. Ingraham stated that he has served on a Board of Adjustment, if there is a conflict you recuse yourself.

Beverly Compton stated that someone said there was 26 complaints regarding the noise ordinance. She stated she checked with the County since they were advised to contact 911. She stated on her list the 26 calls were from the whole island.

Lynn Holden stated he lived here his whole life and he is concerned. He congratulated the Board for being elected. He explained there has been problems in the Town in the past. He stated there was a problem where the commissioners liked

a couple of employees and paid them a lot more. Another time, when the Town was getting a sewer system, the Town didn't get engaged in time. The Town had to work with what the county allowed. Mr. Holden stated another problem was the Town Hall. The Town needed a building, but not one this large. There were people set on building this building and they didn't listen to the people. He stated that when you get elected, you have good intentions. He doesn't want to see the Board rush in and do something that Holden Beach will regret. He stated the island is in a vulnerable area. The Town needs to have a pot of money for a disaster. He would like the Board to be conservative and save money. He stated state and federal money is going away. He said the Town is going to have to look at the project on the east end. He would hate to see the Board do away with that. It took 12 years to get the permit to put the Cape Fear River jetty in. He stated the Town needs to do something. He would like to see the Board headed in the right direction. He would like to see the Town remain a conservative beach.

Bill Cohen stated P&Z meets more frequently than the BOA. He doesn't agree with what is being done, but if you look at one you need to look at them all.

Gay Atkins stated she has served as a mayor and commissioner on the island. She was in shock that the work was done by members prior to taking office. She stated she thought when she talked to members before they were elected that there would be transparency and discussion. She thought there would be input. She is surprised that the new members haven't gone to school yet and are telling the public what they are going to do. Ms. Atkins stated that renters who are registered to vote are being eliminated from serving. She thinks they should go to school before making decisions.

Richard Weigand would like to commend the Board for their advance planning and anticipation, rather than having a reactionary style of management. He stated the Town has issues that need to be dealt with. He stated the sewer system needs to be looked at. He said the needs of the island need to be prioritized. The east end was mentioned, he stated the central reach has been sitting around for years. He stated if there is a breach in the center of the island, a majority of houses become uninhabitable. He feels the thinking on the Audit Committee is anticipatory. He asked why people are worried about the noise ordinance if there has only been 26 complaints over two years. He commends the Board for listening to the citizens of Holden Beach.

Mike Sullivan stated he is an advocate of the noise ordinance, but he thinks it should be as limited and easy to enforce as possible. He stated the ordinance presented tonight is too complicated for the limited problem the island has. He stated for the Board to forget about the properties in a commercial area is wrong. The homes across from him are in a commercial area. He asked if the Police could even enforce rules in those areas since they are not in the R-1 zone. He thinks the Board should review the issues and then wait for P&Z to present their findings to the Board. P&Z has been studying this for the past two – three months. He stated that P&Z thought the current ordinance was too vague and couldn't be enforced, so they wanted to put decibel levels in. He stated it was put in at one part of the proposed ordinance, but not another. He doesn't think it is in an objective manner. Mr. Sullivan also brought up equitable relief. He thinks an attorney needs to review the ordinance. He thinks there are some issues that should be modified before the ordinance is adopted.

Ray Compton is in favor of looking at the noise ordinance carefully. He attended a presentation by the police officer at Brunswick County when it was adopted by the county by a 5 – 0 vote. He stated Moses Highsmith was the officer. Officer Highsmith spent a year studying this in New Jersey and is certified in the equipment. He suggested that the Town really needs to hear his presentation. Mr. Compton stated he testified at the meeting and at the time they felt all towns should adopt the ordinance. He would like to see a group really investigate it. Mr. Compton stated he has heard loud music and there was an incident where he was chest pumped. He added there was another incident where someone was threatened with being body slammed. He said this really needs to be looked at.

Gay Atkins stated the Board has been sworn in and right now has to go by the bylaws that you can only have two commissioners together at a time to talk. She stated the whole reason she voted for them was that there wasn't a group. People wanted to hear them discuss issues, not present a typed piece of paper. Ms. Atkins stated that the west end is where the water was in 1981.

Regina Martin asked the Board to answer the questions Stephen Veenker asked about the interim attorney. Mayor Pro Tem Royal stated he heard the question about the attorney that provided pro bono work before they were elected. He stated the question was if the attorney approved the ordinances proposed. He answered no the attorney did not. He said there has been questions if the Town Attorney has reviewed the ordinances that are being proposed. He stated that in his mind that does warrant some discussion. The last thing he would like to do is to propose something that is intended to reduce vulnerability to the Town, which will subject the Town to legal action. He stated an agreement was drafted for the interim attorney. A condition of that is that he would not be filling the permanent attorney role. Before the Board was sworn in there was no binding contract for the temporary attorney. Commissioner Isenhour added the interim attorney is a member of Ward and Smith. She stated the idea was for the Board to find an attorney quickly. He is there to protect the Town in the interim only. Commissioner Isenhour stated the contract is that the Town pays him for when his service is used only. She was hoping they would have an attorney by January. She stated they are looking for someone who is familiar with municipal law; someone who will give the Town a good deal financially; and someone who is familiar with the area. She stated they are looking at Mac Tyson.

Mr. Weigand asked if it has been past practice of the Town to have legal review of every ordinance and every amendment. Mayor Holden stated to his knowledge that is standard practice. Before an ordinance was passed, the Town Attorney reviewed it. Mayor Holden answered yes to Mayor Pro Tem Royal's question if it could be voted on subject to review by the Town Attorney.

Robert Ingraham stated this is the second meeting without a Town Attorney present to offer assistance during the meeting. He inquired why the Board would entertain passing an ordinance knowing you need legal review and it might need to be changed.

#### **DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE 15-08, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 30: TOWN GOVERNMENT AND OFFICIALS (SECTION 30.05)**

Commissioner Freer explained that the proposed amendment adds a commissioner to act as an Executive Secretary to the Board and establishes a normal term of one year for the Mayor Pro Tem. He explained there has been a point of confusion on how to add items to the agenda. He stated they are trying to clarify the process by appointing one person that can interface with Mayor Holden and the staff. Commissioner Freer stated they thought it would be a good opportunity to allow other members to act as the Mayor Pro Tem after a year term. Commissioner Kyser stated it seems like a lot of the ordinance changes the Board is getting ready to make is removing all the responsibility and job functions of the Manager and staff. It seems to him the Town is moving away from the Manager/ Commissioner form of government and towards an Administrator. He asked if the Board is going to petition the state legislature to change the form of government if that is the way we are heading. He stated one of the proposed changes says the Audit Committee evaluates employees. That is what the Manager does. Commissioner Kyser stated he is not sure if everything they are getting ready to do is legal. Mayor Pro Tem Royal asked for clarification on what item Commissioner Kyser's comment was on. Commissioner Kyser replied he is addressing everything now. He feels they are rushing to do things that haven't been reviewed and he is not sure it is appropriate. Commissioner Fletcher stated the only change for the agenda is that someone will have the job of collecting it all for Town Clerk Finnell. Mayor Pro Tem Royal stated he looked at the statute for the Town's government. He stated the Board is the governing board for the Town. The ordinance proposal is a proposed action the Board is taking so he doesn't see how that is in conflict with the way the Town government is established. He stated the agenda would be assembled by the Executive Secretary and it would not rest in any single person's authority. It is his intent that any agenda item that seems to make sense should be included. Commissioner Isenhour stated some of the things they heard while they were running was that people couldn't get things on the agenda and also that some Commissioners couldn't get things on the agenda. Mayor Holden asked for an example. Mayor Pro Tem Royal stated that Town Clerk Finnell explained that she collects the items and it goes to the Mayor for approval. Commissioner Freer stated that they want to make sure everyone has the opportunity. Mayor Holden stated he would like to know of a time when something was ever vetoed by him. He stated there were times when things were out of procedure or when he pointed out the timeliness of

an issue, but he doesn't think he ever refused something. He said there was some contention when he suggested that if a member wants something on the agenda, the name would be added to the item so they could speak to it. He stated that didn't go over well, but it helps everyone be aware of who is going to speak and what is going on. He pointed out the proposed amendments says the agenda will be assembled in consultation with the other members of the BOC, the Manager and Clerk. He is not mentioned. He asked what town in America has an executive secretary. He stated he was Mayor Pro Tem in 1976, has served on every board the Town has and has served as Mayor for a few years. Mayor Holden stated he has never heard of this in North Carolina.

Comments from the public were allowed. Rhonda Dixon asked how the agenda in the past has been prepared. Mayor Holden stated the Clerk assembled the information she had and then she would consult with the Mayor for additional items. He stated everyone who requested something was getting what they wanted. The Commissioners would then approve the agenda at the beginning of the meeting. Ms. Dixon stated she thinks the governing board wants to approve what's on the agenda. Commissioner Freer stated that they want to make it clear that everyone should have input on the agenda. Mayor Holden stated at some point someone needs to approve it. He said he was totally removed from the agenda. Commissioner Fletcher stated that was not intentional. Commissioner Isenhour stated that they are happy that people came and shared their opinion, which is what they wanted. They also listened to people as they were running for office who said that there are certain things they were having difficulty with, so they put this information together. They are not perfect. Commissioner Isenhour stated they will continue to listen and make modifications. She stated they need to get things done. She said the Executive Secretary was not a slam to Mayor Holden, it was in response to people who said they couldn't get things on the agenda. Their answer was to have someone who could assist the Clerk, Mayor and Manager in establishing the agenda.

Mayor Pro Tem Royal stated he would like to amend the ordinance to read (2) assembling all supporting agenda package materials, in consultation with the *Mayor*, other members of the BOC and the Town Manager and Town Attorney, as applicable. He believed that the Mayor was part of the BOC, but the word could be added to avoid any confusion.

*Motion by Commissioner Freer to accept Mayor Pro Tem Royal's insertion of the word Mayor to clarify that line in the ordinance; second by Commissioner Isenhour.*

Commissioner Kyser stated that the motion was to add the word and inquired if it was also to adopt Ordinance 15-08. Commissioner Freer replied he will do that after.

*The motion passed by unanimous vote.*

*Motion by Commissioner Freer to approve Ordinance 15-08; second by Commissioner Isenhour; approved by unanimous vote.*

## **DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE 15-08, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 30: TOWN GOVERNMENT AND OFFICIALS (SECTION 30.17)**

Mayor Pro Tem Royal read from the resolution passed at the December 8<sup>th</sup> meeting introducing the ordinance. He stated that it says all proceedings will be documented in their entirety and that all public records will be published and made available on the Town's website.

*Motion by Mayor Pro Tem Royal to adopt Ordinance 15-09; second by Commissioner Freer.*

Commissioner Kyser asked if the website would support the information being placed on it. Town Manager Hewett stated it has unlimited storage. Commissioner Kyser asked if Town Clerk Finnell has time to add the documents. Town Manager Hewett stated they serve at the pleasure of the Board.

*The motion passed by unanimous vote.*

**DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE 15-10, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 30, TOWN GOVERNMENT AND OFFICIALS (SECTION 30.25)**

Mayor Pro Tem Royal introduced the ordinance.

*Motion by Mayor Pro Tem Royal to adopt the amendment; second by Commissioner Fletcher.*

Mayor Pro Tem Royal stated he heard about the restrictions that were being placed. His intention is to remove any perception of conflicts of interest. He stated the purpose is not to restrict any expertise, it would remove these people from being members. He stated input would still be solicited. Commissioner Fletcher stated he was the one with the issue on conflict of interest. He has listened to the input and has faith in the chair of the BOA. His position has changed and he thinks the trust should be given to the chair to decide if there is a conflict of interest. He stated they can at that point decide to recuse themselves. Commissioner Kyser stated he believes this says you have to live here and own property. He stated in that case the head of the BOA is a renter so he couldn't serve. He thinks this ordinance is excluding a lot of citizens who pay taxes and have a right to serve. Commissioner Fletcher recommends amending that. Mayor Pro Tem Royal stated the ordinance could be amended. Commissioner Kyser stated then they are still excluding the contractors and real estate agents.

Commissioner Fletcher stated he would move to amend the ordinance to delete the restriction on the real estate and construction people and that renters be added to the people who can serve. Mayor Holden explained that the motion maker has to agree. Mayor Pro Tem Royal does not agree to the amendment. Mayor Holden added it also adds the employees of these people.

*The motion passed by a 3-2 vote, with Mayor Pro Tem Royal and Commissioners Freer and Isenhour voting for the motion and Commissioners Fletcher and Kyser voting in the negative.*

**DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE 15-11, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 30: TOWN GOVERNMENT AND OFFICIALS (SECTION 30.26)**

Commissioner Fletcher feels an Audit Committee is an appropriate function for the Town to have. We had one before and he thought it did a good job.

*Motion by Commissioner Fletcher to adopt the ordinance as published without change; second by Commissioner Freer.*

Commissioner Kyser stated the function of the old committee was to review the audit completed by the independent auditor. He read from the proposed ordinance and stated that to him it sounds more like a Town Oversight Committee. It will look at software and insurance. It sounds like a lot more than an Audit Committee. Mayor Holden stated the chairman of the Audit Committee as he understands it will be choosing people from the public. These people who are not elected will be evaluating the Manager and staff, making recommendations and having hearings. He is concerned about delegating the Town Manager's authority to people who have not been elected. Commissioner Freer stated that he thinks the clarification is to assist and advise the Board. Commissioner Kyser stated he thinks something is trying to be pushed through, without being reviewed by an attorney. Mayor Pro Tem Royal stated he is aware that the statute prohibits the Board from engaging in evaluation of staff, other than the Manager. He stated the wording is confusing and could be contrary to the General Statute. Town Manager Hewett would like to address the part where the committee would be advising the Board with respect to litigation. Many times aspects of litigation are subject to Closed Session proceedings and as such cannot be divulged outside of the responsible Board. Mayor Holden stated it is correct the Board cannot interact with employees. The only person the Board can communicate with is the Town Manager.

*Commissioner Fletcher withdrew his motion. He stated it will be reviewed and can be discussed at a future meeting.*

**DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE 15-12, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 30: TOWN GOVERNMENT AND OFFICIALS (SECTION 30.27)**

Commissioner Isenhour explained this is an ordinance about the hiring or engagement of lawyers, consultants and other similar service providers. It is a housekeeping ordinance where the Board makes sure they review providers before they are hired. She stated they want to make sure grants are thoroughly reviewed before they are applied for.

*Motion by Commissioner Isenhour to adopt Section 30.27; second by Mayor Pro Tem Royal.*

Commissioner Kyser asked if existing contracts will be reviewed. Commissioner Isenhour stated this is for this point forward. Commissioner Kyser inquired if contracts for cell phone, surveying, water tower maintenance and beach grass would all need to be reviewed by the Board before approval. Commissioner Isenhour replied yes. Mayor Pro Tem Royal asked if that is part of the budget process. Commissioner Kyser stated yes. He stated grants all come to the Board for approval before they are applied for since there are usually matching funds. After we receive a grant, it goes before the Board again. He stated this is a duplication of things that the Board already does. Commissioner Freer asked if that is required. Town Manager Hewett explained that most grants require supporting resolutions before an application will be accepted. Commissioner Isenhour asked if he thought the ordinance was a little bit of overkill. Town Manager Hewett responded yes. Mayor Pro Tem Royal asked about the hiring of lawyers and consultants. Town Manager Hewett asked to what level. He stated for a Town Attorney, the Board would need to approve a contract, but if he needs to get a survey at the lift station which would occur as normal business, the Board would not. He stated items like that occur on a frequent basis. Mayor Holden stated you have to give the Town Manager Hewett some latitude otherwise, the Board will need to meet all of the time. He stated you have to give 48 hours notice for meetings.

*Commissioner Isenhour withdrew her motion.*

**DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE 15-13, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES: NUISANCES**

Commissioner Fletcher stated he listened to the input on the proposed noise ordinance. Having civilians involved was eliminated completely. If there are weaknesses in it, he thinks the Board will attack them quickly. They will also attack the fact that some commercially zoned properties have residences on them. He also spoke to some people who asked to make this applicable to commercial property, with the exception of Castaways, Mermaids and Captain Pete's.

*Motion by Commissioner Fletcher to accept the noise ordinance with the exclusion of the civilian involvement, which has been identified in the paperwork; second by Mayor Pro Tem Royal.*

*Mayor Pro Tem Royal stated he would like to recommend a revision to this regarding the time period. He would like 10:00 p.m. to be changed to 11:00 p.m. Commissioner Fletcher asked if it would be year round 11:00 p.m. Mayor Pro Tem Royal replied yes. Commissioner Fletcher agreed to the amendment.*

Commissioner Kyser thinks the Board is forcing through an issue before making sure everything is correct. He stated it has already been said that it doesn't say anything about commercial or mixed use property. He asked what the hurry is to do it tonight and not get it right the first time. He thinks beach strand should be defined. He stated he is not sure the 60 decibel limit is high enough. He conducted a test with a decibel meter by having someone speak in their normal voice 10 feet away and it ranged anywhere from 45 – 75 decibels. He would like to see a demonstration by the county before this is approved. He would like dogs to be covered also. He stated he is glad the volunteer part was taken out and explained why. Town Manager Hewett stated even with the removal of the volunteer portion, the Police Department will still need training and equipment. Commissioner Freer stated they looked into that and they think the \$5,000 would cover that.

Mayor Holden asked the position of the Town for dredge boats, construction, motor vehicles and any noise other than a human beings. Commissioner Freer stated the county listed all those things, but they have not accepted those lists. They are geared specifically towards the high volume loud speakers. He stated they tried to simplify it. He stated he feels this addresses about 98% of the issues raised. He said 70% of the POA wanted a noise ordinance to address residential issues. He stated the Board could always go for amendments. Mayor Holden asked how many people turned in the survey. Audience members replied. Mayor Holden stated what he is hearing is less than 200. Mayor Pro Tem Royal stated his view is the county adopted a noise ordinance. He stated the decibel levels is what makes it objective to enforce. The Town's existing one subjects the Police Department to a level of judgement that he believes is prone to inconsistency. He worked in an industry where sound is measured in decibel levels. Mayor Pro Tem Royal believes in limited government and if they proposed commercial properties being addressed in this, it would have been overly cumbersome because he has not heard of any complaints about commercial property. He stated the other issues brought up are minor issues that can be resolved. From his experience when you have an issue it is best to proceed with the best effort you can, get it decided on and then you can have it reviewed. He doesn't see how this could subject the Town to any litigation when what they are proposing is far less than what the county proposed. Commissioner Kyser agrees that now that the citizens have been taken out of it the chances of litigation are far less, but he is still trying to see the urgency of solving this in the middle of winter. He believes this is a great start, but he would like to see a demonstration.

*The motion passed a 4 – 1 vote with Mayor Pro Tem Royal and Commissioners Freer, Isenhour and Fletcher voting for the motion and Commissioner Kyser voting in the negative.*

#### **DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE 15-14, AN ORDINANCE AMENDING ORDINANCE 15-06, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR 2015 – 2016 (AMENDMENT NO. 2)**

*Motion by Commissioner Fletcher to approve Ordinance 15-14, appropriating \$5,000 to provide training and the purchase of the meters for the noise ordinance; second by Commissioner Isenhour.*

Town Manager Hewett advised the Board to be cognizant that this Noise Authority is placed in the Governing Body's Department because it was drafted based on the previous ordinance which had the Noise Authority reporting directly to the Governing Body. Since it is going to be a Police function, it should now be a Police Department line item. Town Manager Hewett explained it is an Equipment line item, but he does not have the number of the line item specifically in his head. He would recommend that the line item title be revised to Equipment and then allow him to add the appropriate line item. He stated he believes the line item is actually Equipment and Training.

*Commissioner Fletcher amended his motion to accept the ordinance, with the changes proposed by Town Manager Hewett. Commissioner Isenhour agreed with the amendment.*

*The amended motion passed by unanimous vote.*

#### **DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE 15-15, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 155: PLANNING (SECTION 155.12)**

Commissioner Freer stated this is a housekeeping issue. He stated currently a Town employee is the secretary. He stated they still look for employees for support, but they should not be a member of the boards.

*Motion by Commissioner Freer to adopt Ordinance 15-15; second by Mayor Pro Tem Royal; approved by unanimous vote.*

#### **CONSIDERATION AND POSSIBLE ACTION ON THE COMPOSITION OF THE PLANNING & ZONING BOARD**

Mayor Pro Tem Royal read a resolution withdrawing the Board's directive that P&Z draft a noise ordinance and reconstituting the membership of P&Z. The new Regular Members will be Vicki Myers, Bob Hunter, Mark Fleischhauer and

Mike Sullivan. The Alternate Members will be David Burriss and Peter Pallas. He stated one Regular Member seat will remain vacant until the Board fills the position.

*Motion by Mayor Pro Tem Royal to adopt the Resolution; second by Commissioner Freer.*

Commissioner Kyser asked how many members are being removed. Mayor Pro Tem Royal replied one member who was the chair of P&Z. Commissioner Kyser stated it bothers him that someone is being removed. The Board has never removed someone in office on a board. If they did something that wasn't liked, they were counseled. If they didn't agree with the Board that was okay. He stated it looks like someone is being removed because he didn't do what they wanted him to do. Mayor Pro Tem Royal stated the reason he is proposing the chair be removed is because the subcommittee met without public notice, thereby subjecting the Town to potential legal action. He stated this is not a personal vendetta, it is to protect the Town. Town Manager Hewett stated that current and past Town representatives are protected under the public duty doctrine.

*The motion passed with a 4 – 1 vote, with Mayor Pro Tem Royal and Commissioners Freer, Isenhour and Fletcher voting for the motion and Commissioner Kyser voting in the negative.*

#### **DISCUSSION AND POSSIBLE ADOPTION OF ORDINANCE 15-16, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 155: PLANNING (SECTION 155.15)**

*Motion by Commissioner Freer to adopt Ordinance 15-16.*

Commissioner Freer explained that the ordinance provides a mechanism for P&Z to establish community advisory committees under the direction of the Board. He stated it is an important clarification of how P&Z functions. He stated that it also clarifies that subcommittees are subject to the Public Records Law.

*The motion was seconded by Mayor Pro Tem Royal.*

Commissioner Kyser asked who picks the members of advisory boards. Commissioner Freer stated the Board picks the members. He stated he was at a P&Z meeting when a motion was made to have five people on a subcommittee and that action was subsequently ignored when the chairman assigned eight people to the committee. Commissioner Kyser stated it looks like it says P&Z will establish the committees. Commissioner Freer confirmed that is correct, the ordinance shows P&Z selects the members.

*The motion passed by unanimous vote.*

#### **DISCUSSION AND POSSIBLE APPROVAL OF 2016 BOARD OF COMMISSIONERS MEETING SCHEDULE**

Mayor Holden stated there has been some discussion that the meeting date was going to change, but it is now being proposed to go back to the second Tuesday of each month at 7:00 p.m. in the Town Hall Public Assembly.

*Motion by Mayor Pro Tem Royal to adopt the meeting schedule for 2016; second by Commissioner Isenhour.*

Commissioner Kyser asked if we need to also revise the Suggested Rules of Procedures the Board already approved. Mayor Holden stated this would supersede what was already passed.

*The motion passed by unanimous vote.*

**ADJOURNMENT**

*Motion by Mayor Pro Tem Royal to adjourn at 9:38 p.m.; second by Commissioner Kyser; approved by unanimous vote.*

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J. Alan Holden, Mayor

ATTEST:

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Heather Finnell, Town Clerk