

RESOLUTION 16-03
Town of Holden Beach
BOARD OF COMMISSIONERS
Special Meeting on February 16, 2016

**MOTION TO ADOPT REGULATIONS GOVERNING PUBLIC
COMMENT PERIODS PURSUANT TO RULE 28(b) OF THE BOC
RULES OF PROCEDURE**

WHEREAS North Carolina G.S. §160A – 81.1 requires that the BOC provide a comment period for members of the Town of Holden Beach public at one regular meeting of the BOC each month (the “Public Comment Period”);

WHEREAS Rule 28(b) of the BOC Rules of Procedure adopted pursuant to §30.19 of the Ordinances of the Town, implements that Public Comment Period requirement;

WHEREAS North Carolina G.S. §160A – 81.1 provides with respect to Public Comment Periods that the “[BOC] may adopt reasonable rules governing the conduct of the public comment period, including, but not limited to, rules (i) fixing the maximum time allotted to each speaker, (ii) providing for the designation of spokespersons for groups of persons supporting or opposing the same positions, (iii) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall, and (iv) providing for the maintenance of order and decorum in the conduct of the hearing;”

WHEREAS Rule 28(b) of the BOC Rules of Procedure adopted pursuant to §30.19 of the Ordinances of the Town provides that: “[T]he board may adopt reasonable regulations governing the conduct of its public comment periods, including but not limited to rules (a) fixing the maximum time allotted to each speaker; (b) providing for the designation of spokespersons for groups of persons supporting or opposing the same positions; (c) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the public comment period exceeds the capacity of the hall (so long as arrangements are made, in the case of public comment periods subject to the open meetings law, for those excluded from the hall to listen to the hearing); and (d) providing for the maintenance of order and decorum in the conduct of the public comment period. The board shall not restrict speakers based on subject matter, point of view, or the fact that the board may find the remarks offensive or insulting, as long as the comments pertain to a subject that is within the board’s real or apparent jurisdiction;”

WHEREAS regulations governing the conduct of public comment periods are typical in most towns and cities throughout North Carolina, including the neighboring Town of Oak Island whose regulations were used as a model for Exhibit A hereto;

NOW, THEREFORE, BE IT RESOLVED that regulations in the form attached as Exhibit A hereto (and presented to the BOC in writing at this meeting) are hereby adopted pursuant to the express provisions of Rule 28(b) of the BOC Rules of Procedure (adopted pursuant to §30.19 of the Ordinances of the Town) to be effective immediately upon adoption to govern the conduct of Public Comment Periods at meetings of the BOC.

This the 16th day of February, 2016.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk

Town of Holden Beach BOARD OF COMMISSIONERS

Regulations for Public Comment Periods During Regular and Special BOC Meetings Under Rule 28(b) of the BOC Rules of Procedure

Rule 28(b) of the BOC Rules of Procedure*, which implements North Carolina G.S. §160A – 81.1**, provides for comment period for members of the Town of Holden Beach public (that is, registered voters, residents, property owners and business owners in the Town -- the “THB Public”) at each monthly regular meeting of the BOC (the “Public Comment Period”). Generally, there are no Public Comment Periods at special or emergency meetings, unless the BOC decides otherwise, and the notice so provides. This rule is designed to foster constructive participation by members of the Town of Holden Beach at Public Comment Period, and to thereby provide a venue at which members of that public can raise concerns and draw issues to the attention of the BOC.

These regulations, which are expressly provided for by Rule 28(b) and by North Carolina G.S. §160A – 81.1**, reflect the need for fair and consistently applied procedures in the interests of efficiency, comity and providing a fair opportunity for respectful and constructive participation by all members of the Town of Holden Beach public in the Public Comment Period.

As required by the BOC Rules of Procedure and North Carolina law, during Public Comment Periods, individual members of the Town of Holden Beach public may speak to the BOC on any topic that is within the BOC’s real or apparent jurisdiction, including but not limited to items of business on the agenda for that regular meeting. Such individuals may make comments on their own behalf or as a spokesperson for a designated association, organization, business entity or other group that represents or is comprised of registered voters, residents, property owners and business owners in the Town.

At the discretion of the executive secretary of the BOC, the public comment period may or may not be divided on the agenda for the regular meeting into separate periods for comments of items of business that are on the agenda and other proper topics.

The Public Comment Period provided for in Rule 28(b) is not a substitute for public hearings and public meetings, which are provided for in other Rule 28(a) or invited speakers, which are provided for in Rule 5. Other individuals or spokespersons groups who wish to address the BOC on any topic that is within the BOC’s real or apparent jurisdiction may make a request to be placed on the agenda to speak or may be invited by the BOC to speak at a regular or special meeting pursuant to the procedures under Rule 5 of the BOC’s Rules of Procedure. These regulations under Rule 28(b) are not generally applicable to such invited speakers or spokespersons.

The BOC may, from time-to-time, in its discretion, hold a public meeting on a specific topic of public interest that is within its real or apparent jurisdiction as provided for under Rule 28(a) of the BOC’s Rules of Procedure. At any public meeting, members of the Town of Holden Beach public and other speakers or spokespersons invited by the BOC will have the opportunity to speak subject to regulations for the meeting adopted under Rule 28(a); these rules are not applicable to such public meetings.

Subject to waiver by an express resolution of the BOC, the following regulations shall apply and be enforced with respect to any public comment period at any regular, special or emergency meeting of the BOC.

1. Time and Location: Unless posted otherwise as required by law, the BOC convenes its monthly public hearings and regular meeting on the second Tuesday of each month at 6:30 p.m. at Town Hall. The agenda will contain one or more items entitled "Public Comment Period."

2. Sign-up Sheet: Any member of the THB Public who wishes to address the BOC as a speaker or as a spokesperson for a group during the Public Comment Period must register on the sign-up sheet located at the Town Clerk's seat between 6:00 p.m. and 6:25 p.m. on the night of the meeting by listing his/her name, address, the name of any group for which he or she is a spokesperson, and comment topic(s), and signing to confirm that he/she is a member of the THB. Speakers or spokespersons who are not members of the THB Public who wish or who are invited by members of the BOC, the Mayor or other public officials to address the BOC on any subject matter must use the procedure provided for under Rule 5 of the BOC Rules of Procedure.

3. Time Allotted for Public Comment Period: A total time of 30 minutes will be allotted for the Public Comment Period, plus an additional 15 minutes after all speakers and spokesperson have completed their comments for response to comments from the BOC. Additional time may be allotted only by motion and majority vote of the BOC.

4. Carry Over: If the time allotted for the Public Comment Period expires before all persons who have signed up are called on to speak, the names remaining will be carried over to the next Public Comment Period and placed first on the list. Remaining speakers may also submit written comments to the Town Clerk for distribution to the BOC the following business day.

5. Speaking Order: Speakers and spokespersons will be called on in the order in which the names appear on the sign-up sheet. Each speaker or spokesperson will then proceed, one at a time in order of sign-up. Before beginning comments, each speaker or spokesperson will state his/her name and the name of any group for which he or she is the spokesperson.

6. Time Allotted for Each Speaker: Each speaker will be allotted 3 minutes to comment during the designated public comment period or periods at any meeting, unless this speaker or spokesperson time limit is extended for all speakers or spokesperson on the sign-up list by majority vote of the BOC. To allow an opportunity for others to participate, each speaker or spokesperson shall have only one opportunity to speak during any meeting. Except for such designated comment periods, persons in attendance at any meeting shall not speak or otherwise interrupt the meeting, except with the consent of the BOC by majority vote.

7. Timekeeper: The designated timekeeper will be the Town Clerk, who will begin timing the speaker or spokesperson after recording the speaker's name and address for the public record and will announce "Time" when the allotted time expires.

8. Written Comments: At the end of the allotted time, a speaker or spokesperson may also submit written comments to the Town Clerk, who will copy written comments to the mayor and all BOC members the following business day, if a sufficient number of copies is not provided by the speaker or spokesperson. A speaker's or spokesperson's comments may

be summarized in the meeting minutes if a legible, written copy is not submitted to the Town Clerk, and all such written comments or materials shall be available as public records.

9. Number of Speakers on Each Topic: It is recommended that large groups or delegations select their spokesperson in advance of sign-up.

10. Topic Exclusions: Speakers or spokespersons will not comment on matters which concern: the candidacy of any person seeking public office, including the candidacy of the speaker or spokesperson; discussion of the sale or lease of fixed assets if the speaker or spokesperson's group is a party to the transaction; matters which are closed session topics, including, but not limited to, matters within the attorney-client privilege, anticipated, threatened or pending litigation, personnel, land acquisition; and all other matters which are made confidential by law.

11. Address to the BOC: Speakers will address all comments to the BOC as a whole; and will not address or question one or more BOC members, the Mayor or any town staff members, officials and employees as individuals. Speakers will address members of the BOC, the Mayor, town staff members, officials and employees and other members of the THB Public with courtesy and will not do or say anything that will interfere with the dignity and decorum of the meeting. Discussions between speakers or spokespersons and the audience will not be allowed, and no member of the BOC, the Mayor or any town staff members, official or employee will respond to the comments or questions of any speaker or spokesperson until after all speakers and spokespersons on the sign-up have completed their comments.

12. Response to Comments: At the end of all speakers' and spokespersons' comments, any member of the BOC may request that the Town Manager (or his or her designee) respond to a concern raised by the speaker.

13. Questions on Comments: At the end of all speaker's and spokesperson's comments, any member of the BOC may ask the speaker such questions as they might deem necessary and appropriate for clarification.

14. Action by Town Council: Speakers and spokespersons should not expect BOC deliberation or action on any subject matter brought up during the Public Comment Period. Topics requiring further investigation will be referred to the Town Manager (or his or her designee), and may be scheduled for consideration as an agenda item during a future regular meeting.

15. Monitoring and Enforcement. The Executive Secretary of the BOC shall act as the monitor for all public comment periods for the purpose of recognizing speakers and spokespersons from the sign-up list, monitoring and enforcing the time allotted to speakers or spokesperson and reply times of the Commissioners and the enforcement of these regulations. Any ruling by the Executive Secretary may be appealed to the presiding officer as a point of order, and any ruling on such point of order may be appealed as provided for in Rule 18 of the BOC Rules of Procedure.

FOOTNOTES

**The BOC Rules of Procedure are adopted pursuant to THB Ordinance §30.19 and are based upon model rules of procedure for town councils developed by the University of North Carolina School of Government. These rules with minor changes have been in effect for many years*

Rule 28(b) Public Comment Periods. *The board shall provide at least one period for public comment per month during a regular meeting, unless no regular meeting is held that month. The board may adopt reasonable regulations governing the conduct of its public comment periods, including but not limited to rules (a) fixing the maximum time allotted to each speaker; (b) providing for the designation of spokespersons for groups of persons supporting or opposing the same positions; (c) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the public comment period exceeds the capacity of the hall (so long as arrangements are made, in the case of public comment periods subject to the open meetings law, for those excluded from the hall to listen to the hearing; and (d) providing for the maintenance of order and decorum in the conduct of the public comment period. The board shall not restrict speakers based on subject matter, point of view, or the fact that the board may find the remarks offensive or insulting, as long as the comments pertain to a subject that is within the board's real or apparent jurisdiction.*

All notice and other requirements of the open meetings law applicable to regular board meetings shall also apply to public comment periods, since each public comment period is considered to be part of a regular meeting of the board.

**** § 160A-81.1. Public comment period during regular meetings.**

The council shall provide at least one period for public comment per month at a regular meeting of the council. The council may adopt reasonable rules governing the conduct of the public comment period, including, but not limited to, rules (i) fixing the maximum time allotted to each speaker, (ii) providing for the designation of spokesmen for groups of persons supporting or opposing the same positions, (iii) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall, and (iv) providing for the maintenance of order and decorum in the conduct of the hearing. The council is not required to provide a public comment period under this section if no regular meeting is held during the month. (2005-170, s. 3.)

****These regulations have been adapted from the rules adopted by the Town Council for Oak Island, NC.*