



**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
TUESDAY, JANUARY 12, 2016 – 7:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, January 12, 2016 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; Town Clerk Heather Finnell; Public Works Director Chris Clemmons; Police Chief Wally Layne; Building Official Tim Evans; Shoreline Protection and Recreation Manager Christy Ferguson; and Fiscal Operations Clerk Mandy Lockner.

Mayor Holden called the meeting to order at 7:14 p.m.

**PLEDGE OF ALLEGIANCE**

**AGENDA APPROVAL**

Town Manager Hewett requested that item 7 be moved to item 4a and his supplemental memo be added to item 18b. Commissioner Kyser would like to move item 20 to after item 11, but before item 12. Mayor Holden suggested adding it as 11A. Mayor Holden stated Marty Cooke from the County Commissioners is here to discuss the terminal groin item and Chris May from the Council of Governments is going to discuss a recently passed ordinance. He stated they can speak during public comments or can be added to the agenda.

*Motion by Mayor Pro Tem Royal to approve the agenda as amended; second by Commissioner Isenhour; approved by unanimous vote.*

**PRESENTATION OF NC RECREATION AND PARK ASSOCIATION AWARD TO THE HOLDEN BEACH PARKS AND RECREATION ADVISORY BOARD – MICHELLE WELLS, EXECUTIVE DIRECTOR OF NC RECREATION AND PARK ASSOCIATION**

Michelle Wells provided information on the Distinguished Recreation Board Award for 2015 and presented it to the Holden Beach Parks & Recreation Advisory Board (PRAB).

**APPROVAL OF MINUTES**

*Motion by Mayor Pro Tem Royal to approve the minutes of the Regular Meeting of December 8, 2015 as written; second by Commissioner Fletcher; approved by unanimous vote.*

*Motion by Commissioner Fletcher to approve the minutes of the Special Meeting of December 16, 2015 as written; second by Commissioner Isenhour; approved by unanimous vote.*

## PUBLIC COMMENTS ON AGENDA ITEMS

Marty Cooke, Vice-Chair of the County Commissioners congratulated the new Board. He originally thought terminal groins would not work. He started looking at case histories and started to see something that really was profound. He stated they tended to work. Brunswick County is unique in that you have Representative Frank Iler, Mayor Holden, Mayor Debbie Smith and others who have lobbied the General Assembly and who have been involved in the meetings and studies. Commissioner Cooke has walked both of the ones in place. He felt they are the best case solution. He provided information on studies pertaining to terminal groins. He feels it is a cost effective, fiscally responsible perspective. He talked about navigation, public safety and commercial and recreational fishing perspectives. Commissioner Cooke stated if you look at beach nourishment, there was a study done in 1999 that as he understands it for every \$1 spent at the local level, they would get \$17 back for beach nourishment. Former Congressman McIntyre has said for every \$1 local expenditure, it brings back \$300 to the local economy. Studies show you would not need to renourish as often. Commissioner Cooke said that regardless of your position, there has been a great deal of work that has gone into this and he doesn't see a better solution out there. He stated it will probably lower the instances where you need to spend money to renourish the island, it will give you a greater chance to have stability for the island and will not only benefit just Holden Beach, but also other beaches.

Chris May from the Cape Fear Council of Governments provided his background and information on the Council of Governments. He stated he commends anyone who serves in a public office. He would like to make sure the Board has all resources at their disposal. He understood there has been questions if a Board can get together before they are sworn in. Mr. May explained yes, before they are sworn in they are citizens and can plan what they want to do. Once members are sworn in, it would be a violation of the Open Meetings Law. Mr. May stated he heard some people had questions and asked if the Board had any questions of him. He stated he is not an attorney so he can only give professional advice. Mr. May talked about the School of Government. He said you can make a law that says you can't have a conflict of interest, but you can't say someone can't serve on a board because of their job title. That would be discriminatory. He said there is a rule that you can't have a financial interest. That is defined as having a direct, substantial and readily identifiable financial conflict. Mr. May stated that three statutes deal with that. N.C.G.S. 160A-381(d) talks about the direct, substantial and readily identifiable impact. N.C.G.S. 14-234(b1) prohibits direct benefit. N.C.G.S. 160A-75 talks about financial interest being a reason why a person would ask to be recused from voting.

Mr. May stated he knows people have questions on the big house. He stated in North Carolina you can regulate the use of a building, the parking, or the amount of impact from a structure. In the past 10 years, beach communities have been wrestling with what to do with mega houses. A lot of people use their beach homes for large gatherings. There are many complications when trying to limit the amount of people who can stay in a home. You can regulate parking. You can regulate noise, but you need to be careful on the level you use. He stated noise ordinances are probably about the most contested things in the state. The best way to go after it is to look at the parking, then the capacity and intensity of use, but that doesn't help with the existing structure. He said we did win the rule on beach clubs. With enough people looking into this in the near future, there may be another solution for this. He stated elected officials are charged with weighing both sides of the issue and proceeding based upon sound legal advice. Mr. May encouraged the Board to constantly seek advice from the School of Government. He has a list of all of their attorneys sorted by topic. He advised them about the Coates' Canons blog. He recommended doing research first and then contacting the local attorney. He also recommended keeping the book from the Essentials of Municipal Government class and asking Town Manager Hewett questions. He offered his services.

Commissioner Isenhour stated with respect to the Board of Adjustment she did research about what these boards looked like around the country and the state. There is a continuum of restrictions. She has found places that do restrict people in real estate. Mr. May stated in his opinion you cannot tell someone they are disqualified because of their job. He thinks there needs to be balance on a board. Commissioner Freer would like to take Mr. May up on his offer to come back when they have more time to come up with questions. Mr. May stated most of the time that would be done in the form of a retreat. Mayor Pro Tem Royal asked how the law addresses the proper way of recusing oneself based

on their perception of a conflict of interest. Mr. May responded a board member can ask another if they think there is a conflict of interest or a person can ask to be recused. Mayor Holden added that then gets voted on by the members. Mr. May stated everyone must follow the Open Meetings Law. The penalty for violating the Open Meetings Law is that you need to do it again.

Dennis Harrington asked if the terminal groin application has been approved. Mayor Holden stated the application is still in process. Mr. Harrington asked why the Town would like to consider withdrawing the application if we are not sure it is approved. Mayor Holden explained there is concern from the citizenry that the plug is going to be pulled on it. The purpose is to decide if the Board is still supporting the terminal groin. Mr. Harrington said the Town has already invested considerable dollars on the issue. He suggested having the engineer meet with the public so they can have a better understanding of what the project would entail.

Fred Barton stated he appreciated what Mr. May said. He learned a lot. As a citizen he would like to be able to attend those meetings. Mr. Barton recognized Mayor Holden and provided information on his experiences with him. He also acknowledged Jay Holden. He recommended adding three or four more officers because we live in a dangerous society. He would pay more taxes for the increases. He stated the Town needs more protection at night.

Dolly Mitchell stated in regard to items 14 & 15 pertaining to the Audit Committee, she has no problem with the Board doing an audit committee. Her concern is there are some people who think the Town doesn't do an audit. She asked the Board to be sure people understand that we have a certified audit that is then sent to the state for certification. Mrs. Mitchell is concerned with having one of the Board members chairing the committee. She thinks it should be an independent look at the audit.

Karen Fleischhauer stated she is a member of the PRAB and without Shoreline Protection and Recreation Manager Ferguson, they wouldn't have received the award. She added it has been a pleasure and honor to serve with her.

Regina Martin stated at the last meeting the Board reconstituted the Planning & Zoning Board (P&Z). She quoted Mayor Pro Tem Royal's response to when Commissioner Kyser asked who had been excluded. She stated all meetings are taped and people can request a copy of them. Mrs. Martin stated after Mr. May spoke she believes we all understand now that we only needed to hold the meeting again, which she believes is what they did. She reminded the Board they took an oath of office so they are obligated to take legal action against the chair, Ralph Martin if they believe he committed an illegal act. She doesn't believe he did anything illegal. Mrs. Martin stated she believes the slanderous remarks during an open meeting have opened the Board and the Town up to a possible lawsuit. Mrs. Martin advised the Board to be mindful that when working on an event planning ordinance (item 11b), they will be exposing the Town to a possible lawsuit. She stated citizens are guaranteed certain rights and most people do not like to be told how to use their property. She would like to see proposed ordinances in correct form prior to being passed, which would eliminate the need for an amendment. She would also like them to be reviewed by the Town Attorney so they can be ready for codification. She said a member of P&Z in its reconstituted form has been in violation of a building ordinance in the Town for over three months.

Richard Weigand stated in regards to item 19, he feels it is unfair to ask the Board to vote on an issue that they haven't had the opportunity to be properly educated in. He suggested the engineer should come in to answer questions. He thinks it is important that all residents be considered for boards. He asked the Board to reconsider the possible impact of narrowing down the potential pool of candidates.

David Plumridge said it was terrific whoever brought in Chris May. There was a lot of good information. He stated in regard to 11, event planning, he is concerned about the legality. He suggested the Board put together a search committee and have a lawyer in place before making these decisions. He stated the Town needs to be careful about how we address the treatment of the people who visit here. If people feel that Holden Beach is becoming hostile to thing like weddings, it is bad for the economy and bad for Holden Beach. Commissioner Fletcher stated he lives on the

beach and has probably seen over 20 weddings. He said weddings aren't the problem. The only time it is a problem is the noise from the speakers during parties and the noise ordinance addresses that.

Rhonda Dixon appreciated Marty Cooke talking about the terminal groin. She asked if the new Board is prepared to vote on this and move forward. She feels there needs to be a lot more education done with the Board and the public about the groin to decide if the Town should move forward. Mayor Holden stated it is a simple decision to continue to support or not. Mayor Holden stated the process is ongoing and the information is there. We have been having meetings for years and the public was invited. Ms. Dixon asked why they are only talking about the terminal groin and not talking about other projects like the Central Reach Project. Mayor Holden replied that is a totally separate item.

Anne Arnold read from the minutes of the December 8<sup>th</sup> Board of Commissioners' meeting that pertained to the Town Attorney. She asked if Commissioner Kyser participated in the action. He responded no. She asked the other Board members if they participated.

### **POLICE REPORT – CHIEF WALLY LAYNE**

- Provided information on the recent break-ins. Suggested everyone fill out the Keep Check Form if your house is empty. Requested everyone fill out the form that lists the serial numbers of their property.

Chief Layne provided information on the next topic. He explained the Police Department recently had occasion to utilize the North Carolina General Statute pertaining to dangerous dogs. The Police Department would like to impose stricter regulations to guarantee a dangerous dog would not have the opportunity to attack someone again. Town Manager Hewett stated that the interim attorney provided his opinion that the ordinance is appropriate as written as long as they are afforded due process. Chief Layne stated he supports the change. He provided information on the one situation the Town had. This change would give the Police Department the ability to get a dog off the island once it is deemed dangerous.

Sheila Young asked if anyone else reported the fireworks at 4:15 a.m. on Friday morning. Dolly Mitchell stated someone else reported it and a police officer went out. Chief Layne stated he can look into it.

### **DISCUSSION AND POSSIBLE ACTION ON ORDINANCE 16-01, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 90: ANIMALS**

*Motion by Commissioner Freer to accept and adopt Ordinance 16-01, second by Commissioner Fletcher.*

Mayor Pro Tem Royal stated he reviewed the ordinance and the recommended change. He supports removing a dangerous dog if one is identified, but it seems to be a stretch to add it to the exotic animal ordinance. He suggested taking the information, adding the due process section per the attorney's recommendation and establishing another section.

*After discussion, Commissioner Freer and Commissioner Fletcher agreed to withdraw the motion.*

Town Manager Hewett will have a new document based on the feedback for the Board's review at the February meeting.

### **FLOOD MAP STATUS REPORT – BUILDING OFFICIAL TIM EVANS**

Building Official Evans stated we have 17 more days on the review period of the flood maps. We have three appeals that were sent off. The Town reviewed them, agreed with the appeals and forwarded them. When a determination is made on the appeals, they will move to the next stage, which is a letter of final determination. The Town then has a

six month period to adopt the maps. If the maps are not adopted, then we are dropped out of the National Flood Insurance Program. We are keeping a close eye on this. Building Official Evans explained we are looking for a draft resolution that might allow the Town to adopt the maps pending the letter of final determination. He has reviewed the Town's flood ordinance. There may be one area that we need to do a text amendment based on a changing designation on the maps. That is a minor thing. He is trying to see if the Town can use an early map decision.

Building Official Evans is working on the Hazard Mitigation Plan update. The plan has been finalized. It has been sent to FEMA. One of his main goals since being here is to lower the Town's CRS rating. This plan has the potential to lower the rating. You also need to have a plan in place to apply for FEMA reimbursements.

Mayor Pro Tem Royal asked when the provisional approval could be drafted since it is in the best interest of the Town to adopt the new maps. Building Official Evans replied that the Town is waiting on verification that the maps can be approved pending the letter of final determination. We were told in the past that we could do that. We do not have a timeframe to receive the letter. Town Manager Hewett stated staff plans to bring a resolution to the Board at the February meeting to adopt the maps whenever FEMA approves them, unless we are told we are not able to do that. Mayor Pro Tem Royal asked when the Hazard Mitigation Plan would be approved. Building Official Evans stated it has been approved by the state. It has been sent to FEMA for their approval. He hopes to have an answer in 45 days.

Mayor Holden stated this is not official since he is not in the flood insurance business, but he has a paper from agentsfloodsmart.gov. The projected preliminary date was 2014. The projected effective date is January 20, 2017. He said we need to research that.

#### **DISCUSSION AND POSSIBLE DIRECTION ON PLANNING & ZONING BOARD TASKERS – COMMISSIONER FREER**

Commissioner Freer stated he had a few Planning & Zoning Board (P&Z) members seek direction on a couple of topics.

#### **A - AMEND THE DATE P&Z IS TO REPORT TO THE BOARD ON THE SANITARY SEWER VULNERABILITY ADVISORY COMMITTEE FROM FEBRUARY TO MARCH**

Commissioner Freer stated that in the ordinance the Board passed, the Sanitary Sewer Vulnerability Advisory Committee was supposed to report back to the Board in February. That would only give them a couple of days to do the work. He would like to push that date to March. Mayor Pro Tem Royal asked if the committee was in place. Commissioner Freer replied no, they need to form the committee at the next meeting and do the work, so the earliest they could do anything would be March. Mayor Pro Tem Royal added that the committee would have the expertise of the Public Works staff.

#### **B - DIRECT P&Z TO DEVELOP A DRAFT ORDINANCE REGARDING EVENT PLANNING AND THE USE OF RENTAL PROPERTY**

Commissioner Freer explained that P&Z had been directed to look into event planning. Members wanted to know if the Board still wants them to look into it. He is of the opinion that the Board should make it a low priority or table the item and bring it back if needed. Mayor Pro Tem Royal stated to him the central point of the issues they have been discussing are all about adhering to the Certificate of Occupancy you are issued. He thinks the Town should just rely on that. He is in favor of deleting that item from P&Z. Commissioner Fletcher added he is also good with that.

#### **C - DIRECT P&Z TO DEVELOP A DRAFT AMENDMENT (WITH OPTIONS) TO THE NOISE ORDINANCE, WHICH INCLUDES COMMERCIAL ZONE PROPERTY**

Commissioner Freer explained this next item is to direct P&Z to develop a draft amendment, with options, to the noise ordinance, which includes commercially zoned properties. Commissioner Kyser stated he thinks mixed use properties

should also be added. Commissioner Freer said that is the intent, it is a little more complicated than just saying commercial properties. Commissioner Kyser thinks dogs should also be added to the ordinance. Mayor Pro Tem Royal stated he understood there is also a disturbing the peace ordinance. Chief Layne explained that realistically there are several ordinances that cover that situation. If someone in that situation called the Police Department, the Police would respond and take care of that situation. It would be a nuisance violation. Mayor Pro Tem Royal asked if the commercial portion was there for people who have residences in a commercial zone. He is supportive of addressing residential in commercial areas, but he has not heard significant complaints from commercial properties. He asked if it is the intent to include commercial properties in the ordinance. Commissioner Freer replied yes, there are several types of property in play when you say commercial, so he would like P&Z to look at it in its entirety and present some options. Chief Layne stated according to his research if you have a specific exclusion, it opens it up for challenge. So if commercial properties are not included, that could be a problem down the road. Commissioner Freer suggested that Chief Layne could be involved with consulting on that item.

Mayor Holden stated he has some new information in regards to 11a, sewer vulnerability. He discovered there is a cooperating entity. The Town was concerned about not having enough money to stockpile the necessary parts to repair the sewer system immediately if there was an event. An alternative to having all of the parts is to be part of a cooperating entity. Everyone signs an agreement and can share parts in an emergency. That might lighten some of the worries the Town has. He will do further investigation on that. Mayor Pro Tem Royal echoed Mayor Holden's comments. That concept is used in the nuclear industry. Commissioner Freer stated that is risk assessment planning. The Town needs to understand exactly what the risks are and assess them. The Town has already done some mitigation. We have a pump truck and some other things.

Mayor Holden stated at the February regular meeting, the Sheriff's Office will have an officer here to demonstrate noise and decibels. Chief Layne stated the Town's noise meters will be in by the end of the week. Training will be completed the next week and then they will be up and running. The Phasers will also be in soon.

#### **D – DIRECT P&Z TO CALL FOR NOMINATIONS TO THE P&Z SANITARY SEWER VULNERABILITY COMMUNITY ADVISORY COMMITTEE**

*Motion by Commissioner Freer to send the information to P&Z (Items a, b, c, d).*

Mayor Pro Tem Royal asked for clarification that P&Z will be advised that item b is deleted. Commissioner Freer responded yes.

*The motion was seconded by Commissioner Fletcher and approved by unanimous vote.*

#### **DISCUSSION AND POSSIBLE ACTION ON CHANGES MADE IN ORDINANCE 15-10 TO THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 30, TOWN GOVERNMENT AND OFFICIALS**

*Motion by Commissioner Kyser to remove the restrictions for realtors, realtor employees, realtors' family members, contractors and contractors' family members and employees; second by Commissioner Freer.*

The Board discussed the first paragraph. Commissioner Freer stated Mr. May did advise the Board on this topic. He was unaware of that. Commissioner Kyser stated that as part of this, he believes the Board should reinstate those that were removed by the Board by taking this action. Commissioner Freer agreed with the action. Town Clerk Finnell confirmed with Commissioner Kyser that he was proposing to remove only the one paragraph of the existing ordinance, not the whole ordinance.

*Commissioner Kyser amended his motion to take out the last paragraph on page 47 and reinstate the people; Commissioner Freer agreed with the amendment.*

Mayor Pro Tem Royal would like to propose that within the communication to those removed, the Town explain and consider apologizing for the hasty action.

*The motion passed by unanimous vote.*

#### **DISCUSSION AND POSSIBLE NOMINATION OF MEMBERS TO FILL VACANCIES ON TOWN BOARDS**

*The Board voted by ballot. Tiffany Hobbs was selected to serve as the Regular Member to the Planning & Zoning Board (Tiffany Hobbs – Mayor Pro Tem Royal, Commissioners Freer, Isenhour and Fletcher and Robert Ingraham – Commissioner Kyser).*

The Board took a recess from 9:28 p.m. - 9:35 p.m.

*Town Clerk Finnell tallied the vote. There was a tie between Ben Baker and Larry Reinhart to serve as the Regular Member to the Board of Adjustment (Larry Reinhart – Mayor Pro Tem Royal and Commissioner Kyser, Ben Baker – Commissioners Freer and Fletcher and Dennis Harrington – Commissioner Isenhour)*

*The Board voted to break the tie. Larry Reinhart was selected to serve as a Regular Member to the Board of Adjustment by a 4 – 1 vote (Larry Reinhart – Mayor Pro Tem Royal and Commissioners Isenhour, Fletcher and Kyser and Ben Baker – Commissioner Freer).*

Town Clerk Finnell passed out new ballots for the Alternate Member position.

*Mayor Holden announced that Dennis Harrington was selected to serve as the Alternate Member to the Board of Adjustment (Dennis Harrington - Mayor Pro Tem Royal and Commissioners Isenhour and Kyser, Joseph Butler – Commissioners Freer and Fletcher).*

#### **DISCUSSION AND POSSIBLE NOMINATION OF BOARD MEMBER TO THE EXECUTIVE SECRETARY POSITION**

*Motion by Commissioner Freer to appoint John to the position of Executive Secretary; second by Commissioner Isenhour; approved by unanimous vote.*

Commissioner Fletcher explained this is a new position, but in most regards nothing changes. He stated the mayor is the senior member of the Board. If the mayor would like an item on the agenda, it is going on the agenda. He stated we have a town manager who we picked to run the Town. If he has an item he wants on the agenda, it will go on the agenda. He said his job is to make sure all of the materials get out earlier than in the past so the public can see the things on the agenda a few days before the meeting.

*Mayor Holden announced that Becky Willis was selected to serve on the Parks & Recreation Advisory Board (Becky Willis – Mayor Pro Tem Royal and Commissioners Freer and Isenhour, Robert Ingraham – Commissioner Fletcher and Ken Weston – Commissioner Kyser).*

Mayor Pro Tem Royal stated he recognizes that the Board has essentially changed course with the changes and some of the restrictions made.

*Motion by Mayor Pro Tem Royal Ashley to reinstate Mr. Ralph Martin as the chair of P&Z if he is willing to do so; second by Commissioner Kyser. The motion passed by a 4 – 1 vote, with Mayor Pro Tem Royal and Commissioners Isenhour, Fletcher and Kyser voting for the motion and Commissioner Freer voting in the negative.*

Town Clerk Finnell explained that would void the action taken by the Board to add a new member since there would not be a vacancy. The Board discussed the regular member position.

*Motion by Mayor Pro Tem Royal to nullify the vote on the regular seat for the Planning & Zoning Board and to fill the vacancy with Ralph Martin if he is so inclined; second by Commissioner Kyser. The motion passed by a 4 – 1 vote, with Mayor Pro Tem Royal and Commissioners Isenhour, Fletcher and Kyser voting for the motion and Commissioner Freer voting in the negative.*

#### **DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 16-02, ORDINANCE ADOPTING AMENDMENTS TO CHAPTER 30 OF THE ORDINANCES OF THE TOWN OF HOLDEN BEACH PROVIDING FOR ESTABLISHMENT OF AN AUDIT COMMITTEE OF THE BOARD OF COMMISSIONERS – COMMISSIONER FLETCHER**

Commissioner Fletcher explained that at the last meeting it was proposed that an audit committee be established. He stated it is the recommendation of the School of Government, the external audit firm and the town manager that the Board have an audit committee. Commissioner Fletcher worked with Town Manager Hewett to develop a list of functions that the Audit Committee would perform. He reviewed the proposed duties in the ordinance.

*Motion by Commissioner Fletcher to adopt the ordinance; second by Commissioner Isenhour; approved by unanimous vote.*

#### **DISCUSSION AND POSSIBLE NOMINATION OF BOARD MEMBER TO CHAIR THE AUDIT COMMITTEE**

Commissioner Isenhour stated Dolly Mitchell raised the issue of having a commissioner sit on the committee. She is interested in hearing the other commissioners' thoughts on that before nominating someone. She felt it was important for one of the commissioners to be part of the committee, maybe not the chair. When this was introduced Commissioner Isenhour thought Commissioner Fletcher would be perfect because of his background. Commissioner Freer asked the history of the past committee. He was advised that a commissioner was not on the committee. Commissioner Kyser stated his experience is that when you have commissioner on a committee, the committee defaults to the commissioner. He doesn't think a commissioner should be on it. Mayor Pro Tem Royal stated that is consistent with what he has been informed. He stated commissioners aren't restricted, but they shouldn't attend committees appointed by the Board because of the real or perceived influence on the outcome. Town Manager Hewett stated the Board just adopted an ordinance that states a Board member will be chair.

Commissioner Freer recommended to defer this to next month's agenda and also to amend the previous ordinance.

#### **DISCUSSION AND POSSIBLE ACTION ON ANNUAL AUDITING SERVICES**

Fiscal Operations Clerk Lockner explained the contract with the current auditor is up in April. Staff needs direction on if the Board would like to keep the current auditor or search for new auditors for the upcoming audit. Mayor Pro Tem Royal asked if there was a reason the Town switched from Thompson, Price, Scott, Adams & Co. to Martin Starnes and Associates and then back to Thompson, Price, Scott, Adams & Co. Town Manager Hewett stated it was a Board decision to change auditors, there was not a bad reason to change. Fiscal Operations Clerk Lockner said we have not had a bad experience with either company. Mayor Holden explained it is common practice that you don't get locked in with one firm for years. He added there hasn't been any problems with any of the Town's auditors. Mayor Pro Tem Royal asked if the staff had a recommendation. Town Manager Hewett stated he hesitates to help pick the auditor since it is his work that is being audited. Commissioner Fletcher stated if you change auditors, the new auditors are not as effective as the one that just left. We haven't had this company too long and they are doing a good job. He see no need to change this year. He said they are pretty much dictated by the state as to what they actually do. Commissioner Fletcher stated they might have the Audit Committee ask that they are through as fast as they can be so the report can be out earlier than in the past. Commissioner Kyser stated the thing to remember is that they have a deadline that is set by

the state. They need to get it to the state by the deadline, but then the state has to review it. Commissioner Fletcher stated the Audit Committee will be working with the auditor and if the Board needs to change the auditor next year that can be done.

Town Manager Hewett stated staff can bring the new annual contract to the next meeting for Board consideration.

#### **DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 16-01, RESOLUTION APPROVING BB&T SIGNATURE CARD**

*Motion by Commissioner Kyser to approve Resolution 16-01; second by Commissioner Freer; approved by unanimous vote.*

#### **DISCUSSION AND POSSIBLE APPROVAL OF COMPONENTS BRIDGEVIEW PARKS (PARTF GRANT, BOATING INFRASTRUCTURE GRANT AND MULTIPURPOSE COURT)**

Shoreline Protection and Recreation Manager Ferguson stated that due to the timeliness of the different elements, the Board needs to decide if the Town is going to move forward or back away from the elements. The first item to consider is the multipurpose court. The Parks & Recreation Advisory Board discussed the court at length. They made recommendations of components they wanted to see for the court. The original estimate didn't include lights or fencing around the court. It also didn't include the subgrade. The original estimate from two years ago was \$40,000. We received information back from four companies, the lowest bid to include the lights, fencing and the grading prep work is \$51,553.70 for the court and fence and an additional \$13,750 for the lights. Shoreline Protection and Recreation Manager explained that in order to move forward with the multipurpose court in the spring, which is the optimal time to construct the court, we would need a budget amendment in the amount of \$25,000.

Shoreline Protection and Recreation Manager Ferguson stated that the second item that we need an amendment for is the Boating Infrastructure Grant. There was a budget shortfall of \$51,000. She said they met with the North Carolina BIG Grant's coordinator in late November. The engineer and apparent low bidder entered into some value engineering conversations. Those adjustments, along with the Marine Sewer Pump-out Grant in the amount of \$26,040, as well as taking out \$15,000 in contingencies from the apparent low bidder got us to the \$51,000 shortfall number. Town Manager Hewett has provided the Board with additional memo and budget amendment to recognize the Marine Sewer Pump-out Grant.

Shoreline Protection and Recreation Manager Ferguson stated Lou Cutajar asked some questions that she would like to answer for everyone's benefit. The Marine Sewer Pump-out Grant award letter was received in July. The fully executed contract was received in October. This grant was mentioned in the August PRAB meeting. The Town will receive \$19,530 from the Department of Environmental Quality, with the match from the Town being \$6,510.

Shoreline Protection and Recreation Manager Ferguson stated when we first talked about the modular restrooms, the time estimate was sixteen weeks. However when the estimates came back so much over we contacted the modular company and put the bathrooms on hold. We are under contract for the bathrooms, but found it more fiscally responsible to wait until the size of the building could be decided on. The size would depend on if the docks went through, making the laundry room and shower necessary.

Shoreline Protection and Recreation Manager Ferguson stated the third component would be to decide if the Town is going to accept the PARTF Grant that we were just rewarded. The contract for the Town's match is \$183,374 to fund a picnic shelter, kayak launch, shade structures for the playground, splash pad and secondary amenities as outlined in the contract. Each one of these amenities affects the others. The PARTF Grant paperwork has to be returned by January 20<sup>th</sup> so the Board would need to make a decision tonight if they want to accept the contract.

Town Manager Hewett explained that the Board has his supplemental memo, along with the budget amendment for the Marine Sewage Pump-out Grant. The money spent to date is \$174,257. That is \$40,807 on the playground. Those were donated funds from the Holden Beach Property Owners Association. The Rothschild line, which is \$117,929 encompasses, the bulkhead that has been constructed, the bocce courts, preliminary permitting, design and stormwater. It also includes the preliminary work on the BIG in the amount of \$15,520. The Town's portion is being funded from the occupancy taxes or the BPART Fund. The proposed budget amendments would be appropriated from an unobligated fund balance in the BPART Fund of \$5.6 million. The total amount of the Town's portion for all of the proposed amendments is \$265,884. The total cost from the Town for all elements of the park is \$699,045, with matching funds from the grants in the amount of \$302,900. The total project cost is \$1,001,945.

Mayor Holden asked for an explanation of the monies that came from occupancy tax versus ad valorem taxes. Town Manager Hewett explained that the Town collects an occupancy tax of 6% of the gross revenue from rentals. We give the County's Tourism Development Authority 1% and then retain the other 5%, which is split into 2% and 3%. 3% goes to tourism related expenses and the other 2% is for erosion control. The money being proposed to be spent is from the occupancy tax money, not ad valorem taxes.

Shoreline Protection and Recreation Manager Ferguson stated the person who gave us the bid does all of the county's courts and are highly recommended.

*Motion by Commissioner Kyser to approve all four budget amendments; second by Commissioner Fletcher.*

Mayor Pro Tem Royal checked the Parks & Recreation Plan to see how many of the elements of the park aligned with the public's viewpoints. There was a high degree of correlation. He is glad we had the discussion on the funding coming from the BPART Fund. He is reluctant to support spending this amount of money when we have threats to the island with regard to the sewer system vulnerability to storm surge. The Board was given this to act on. He realizes grants are probably going away. In the future he would like to see grants and components of the grant to not be dependent on each other. Mayor Pro Tem Royal said they are kind of obligated to approve them all or nothing. He asked if the Town knows what the maintenance costs will be year to year. Town Manager Hewett replied we do not know the estimated cost. Mayor Pro Tem Royal asked about the longevity of the components. He also asked the intention of lights for the multipurpose court. Shoreline Protection and Recreation Manager Ferguson answered it would allow nighttime play. They would be on a timer or turned off at certain time. Mayor Holden added that lighting was also discussed for the safety of people walking around the area. Commissioner Kyser agreed that there is sewer vulnerability, but he doesn't believe the Town can use BPART to fix that. Town Manager Hewett stated that is a discussion that is subject to debate and interpretation of how the law was written. Mayor Holden read from the law; expenses incurred above and beyond the normal operation of the Town. Commissioner Isenhour does think this is a whole lot of money to spend so it needs to be carefully considered. After looking at everything, she feels it will be a benefit to the island that will draw people to us and increase our tourism. Commissioner Freer agreed. He also agreed with the unknown expenses that may be associated with the sewer system, but a lot of work has been done with this. It is part of the master plan. The Town already invested \$174,000. A lot of work has been done to obtain the PARTF Grant. If the Board decided not to do this, the Town probably won't be able to get that funding again. Commissioner Freer agreed it would be a nice addition even though it is a lot of money to spend. Commissioner Fletcher stated it is highly visible across the bridge. You see the playground and this will be one more thing for people to look at and say wow. He thinks a lot of work has been done and he supported that the Town finish it.

*The motion passed by unanimous vote.*

Town Manager Hewett explained the award for the BIG dock construction would need to be approved.

*Motion by Commissioner Freer to approve the award for the BIG dock construction; second by Commissioner Isenhour; approved by unanimous vote.*

Mayor Pro Tem Royal stated the maintenance on the dock will be an ongoing cost.

Town Manager Hewett asked to clarify that item 18 is approved in its entirety, including the contracts and budget amendments, etc. and that the manager is to execute the appropriate paperwork.

*The Board came to a consensus on Town Manager Hewett's clarification.*

## **DISCUSSION AND POSSIBLE REVOCATION OF RESOLUTION 11-12, TERMINAL GROIN PERMIT APPLICATION**

Mayor Holden stated to take no action means to continue to support the position the Town has already taken. Mayor Pro Tem Royal stated there are a lot of questions he still has about the terminal groin. He would like to hear more information before the Town commits totally. He feels a lot of citizens are in the same position. He would like someone with expertise to be brought in so questions can be asked. Commissioner Freer agreed. He would like to have a public forum. He would like to see pros and cons. He stated there are other communities in the same process and he will attend some of their meetings, but he would like to have a public forum here. His understanding is that this is on the agenda as a vote of confidence for continuing with the permitting process. It is not a yes or no to the actual building of the terminal groin. Commissioner Isenhour asked the timeline the Board has. Town Manager Hewett stated the Town doesn't have a decision on if we are going to get a permit. The only decision we had was if the Town was going to make application to the Corps because it is a federal permit. That has already been done and is the resolution in front of the Board. We are in the Corps' permitting process. Once a permit decision is rendered by the Corps, the decision is based on the best alternative. If it isn't a good alternative, the Town will not receive a permit. Once we get a permit, which as he understands it should be by the end of the year, that is when the Town would be in the position to decide to fund it or not. The permit is good for five years. Commissioner Kyser stated part of what the Corps is looking at is if it would make financial sense to do it. Town Manager Hewett stated if it is not the most practical, least damaging, you would not get a permit. Commissioner Freer asked if the Town could get the Corps to come to the Town and answer questions. Town Manager Hewett replied maybe, probably not. He explained the NEPA process is so highly defined and regulated that they are real particular about varying from the specific timeframes. He will ask, but he thinks the answer will be no. Mayor Holden stated the Town has done all of this. He said we had the Corps here and did all of the processes being discussed. The ball is in the Corps' court. They will tell us if a permit will be issued. They have a process to follow. The public has had the opportunities. We can ask them, but they don't have to and may not be allowed to. Mayor Pro Tem Royal doesn't want people to confuse his comments. He has questions, but he isn't against it. He said before he was elected that he supports the concept of the terminal groin, central reach project and anything that will protect the beach, especially something that would reduce the erosion to where we are not just putting sand on the beach and it erodes away. County Commissioner Cooke stated there is a report that addresses the issues. Mayor Holden stated one of his big concerns is that if we send the message that we are unsure, that will not weigh well with those who are evaluating if we are going to get a permit. Commissioner Freer supports the process, he just wants to ask questions. Mayor Pro Tem Royal stated he supports continuing with the process to get the permit, however we already spent \$500,000. He inquired what additional costs the Town is projecting for when we get to end of the process. Town Manager Hewett stated we are 75% of the way there on a \$424,000 contract.

## **TOWN MANAGER'S REPORT**

- This is unofficial, we don't have confirmation from the Board of Elections, but it is his understanding that the Emergency Operations Center will be hosting the next election for the area. There has been special consideration given since it is out of the precinct. Will get the formal word from the Board of Elections soon.
- Status on the Department of Transportation (DOT) Bridge Beautification Project— advertisements will be posted on January 16<sup>th</sup>. The bid opening is February 4<sup>th</sup>, the start date is March 7<sup>th</sup> and they should finish by May 28<sup>th</sup>, depending on where the bids come in relation with the state's budget.

- Commissioner Freer mentioned the new fountain out front. Town Manager Hewett said the fountain when you come in is courtesy of the Beautification Club.
- Mayor Pro Tem Royal asked about the broken DOT sign on the bridge. Public Works Director Clemmons stated he has contacted the DOT.

### **MAYOR'S COMMENTS**

- The Holden Beach sign at the intersection of Sabbath Home Road and Old Ferry continues to get stolen every year, several times a year.
- Just realized he should have mentioned this earlier. Had a phone call from Mr. Burris. He has family health issues that require he be gone. He requested to be relieved of his P&Z position.

*It was the consensus of the Board to add Tiffany Hobbs as the Alternate Member to replace Mr. Burris.*

- Wants to make sure everyone understands that NC 130 is a DOT road. Paving is on schedule. It is on the list to be done in 2017, but it hasn't been funded yet. This has been an ongoing project for several years to get it on the list. Gay Atkins commented that it would be nice for the Town to pay for an extra five or six feet on the southside for people to be able to walk or run on. Mayor Holden stated we will continue to ask.

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

Mayor Pro Tem Royal

- Received feedback, listened to it and appreciates it. Pleased with the actions taken tonight. Thinks the discussion has been healthy. Publicly apologized for the action and statements made last month with regards to the chair of P&Z. Pleased with the action taken tonight removing the restrictions. Still stands behind them because he thinks it is important if you can to remove any perception of any unethical behavior or any perception of conflicts of interest, but sees where he overreacted and is glad they took the action.

Commissioner Freer

- Thanked everyone for coming.
- Thinks they did a lot today, had a lot of discussion and is pleased with the outcome of everything.

Commissioner Fletcher

- Thanked everyone for the comments. Open for feedback, both good and bad. Keep it up. Tries to be open, transparent and think it through. If they make a mistake, they fix it. Thanks for being here for the long night.

Commissioner Isenhour

- Thanked everyone for coming and staying so late.
- Thanked the Town employees for the orientation. We are beyond blessed by the people who work for the Town. Appreciative for the time spent with them and for their willingness to answer questions. Found out they do things that she bets people have no idea about. Hoping in the future we can highlight a few of the staff members from time to time to let you know more of what they do.

Commissioner Kyser

- Thanked the Parks & Recreation Advisory Board for all of their hard work. Very pleased the Board took the actions tonight to continue with their efforts.
- Thanked Shoreline Protection and Recreation Manager Ferguson for all of her hard work. She does a terrific job.
- Thanked everyone for coming out and for everyone who volunteered to be on the boards.

- Read a statement – Per a conversation with the Cape Fear Council of Governments, I was advised that I needed to make a public statement for the record to distance myself from some of the actions taken by this Board. After being elected, but prior to being sworn in, the newly elected Board members had several meetings that I was not part of. This was not a problem until they started taking actions on these meetings prior to being sworn in. At this point, they potentially violated the Public Meeting Law. They contacted an attorney, who they instructed to write ordinances. They negotiated a contract with an attorney to be our interim attorney because they called the Town attorney and told him he needed to turn in his letter of resignation. Again, all of this was done prior to being sworn in. I was also told by one of them that they planned on removing three members of P&Z, but based on my reaction to hearing that they had asked the Town attorney for his resignation, they delayed these actions. Since I am not a judge or juror, I cannot say whether this was a misconduct of public office, a violation of Article 31 §14-229, acting as an officer before being qualified as such, but what I do know is these things were done without potential opening meeting. In making this statement I am letting everyone know that if this issue is taken to the district attorney by anyone that I was not part of this and should not be guilty of a Class 1 Misdemeanor and not be removed from office.

### **PUBLIC COMMENTS ON GENERAL ITEMS**

Sheila Young stated sitting here tonight, it seems someone from the outside was brought in to attempt to chastise the new members. She is very disappointed. She said she hopes this doesn't start to sound like national politics. She thanked the Board for agreeing to serve.

Fred Barton stated he is impressed by the whole bunch. He stated the Board should keep working together and we will get good results.

Will Carter stated he really wants the terminal groin. He would like the Board to get educated so the Town can move forward.

### **ADJOURNMENT**

The meeting was adjourned at 10:44 p.m.

---

J. Alan Holden, Mayor

ATTEST:

---

Heather Finnell, Town Clerk