



**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
TUESDAY, APRIL 19, 2016 – 7:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, April 19, 2016 at 7:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Commissioners Peter Freer, Kim Isenhour, John Fletcher and Ken Kyser; Town Manager David W. Hewett; Town Clerk Heather Finnell; Police Chief Wally Layne; Building Official Tim Evans, Shoreline Protection and Recreation Manager Christy Ferguson; and Town Attorney Charlotte Noel Fox. Mayor Pro Tem H. Ashley Royal was unable to attend the meeting.

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

**PLEDGE OF ALLEGIANCE**

**AGENDA APPROVAL**

*Motion by Commissioner Freer to approve the agenda as presented; second by Commissioner Fletcher; approved by unanimous vote.*

**APPROVAL OF MINUTES**

*Motion by Commissioner Fletcher to approve the minutes of the Regular Meeting of March 8, 2016 as written; second by Commissioner Isenhour; approved by unanimous vote.*

*Motion by Commissioner Freer to approve the minutes of the Special Meeting of March 11, 2016 as written; second by Commissioner Isenhour; approved by unanimous vote.*

**PUBLIC COMMENTS ON AGENDA ITEMS**

Rich Weigand stated if people have to sign up in advance to speak under General Comments, it might limit obtaining the public's opposing views.

**POLICE REPORT – CHIEF WALLY LAYNE**

- The speed limit west of the pier has changed to 35 MPH and will remain that way until after tourist season.
- Have now transitioned from house break-ins to vehicle break-ins. Uses the term break-ins loosely because they are going to unlocked cars and looking for items of value. Had two or three this past weekend.
- Look out for extra people that are here for the festival.
- Getting ready for tourist, hurricane and budget seasons.
- Commissioner Fletcher asked if the Town has developed a mechanism to get the word to the rental agencies for visitors to lock their doors. Chief Layne replied the Police Department typically visits the rental agencies each season to educate them. The Town uses all of the media applications available to us to get the word out.

Commissioner Fletcher asked if fridge magnets would be an option. Chief Layne said it is an option and he can facilitate that if the Board wants to do that.

**DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 16-05, RESOLUTION AMENDING REGULATIONS GOVERNING PUBLIC COMMENT PERIODS, RULE 28(B) OF THE BOC RULES OF PROCEDURE**

Town Clerk Finnell explained the resolution updates Rule 28(B) of the Board of Commissioners' Rules of Procedures.

*Motion by Commissioner Freer to approve Resolution 16-05; second by Commissioner Fletcher.*

The Board discussed the General Public Comment period and agreed that speakers who wish to speak during it should not need to sign up.

*Motion by Commissioner Freer to defer the approval of Resolution 16-05; second by Commissioner Fletcher.*

Mayor Holden received clarification regarding item 2 on the resolution. Town Clerk Finnell asked for clarification if the General Public Comment would be included within the 30 minute time period. The Board discussed the time limit.

*The motion to defer the approval of the resolution passed by unanimous vote.*

**DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 16-06, RESOLUTION ADOPTING THE SOUTHEASTERN NC REGIONAL HAZARD MITIGATION PLAN – BUILDING OFFICIAL EVANS**

Building Official Evans explained the Town was tasked by the North Carolina Department of Public Safety to enter into a multi-jurisdictional hazard mitigation plan. He provided background on the process and the importance of the plan. We carry autonomy inside the plan. Commissioner Freer asked if there are limitations on updating the plan. Building Official Evans replied you can update the plan.

*Motion by Commissioner Kyser to approve Resolution 16-06; second by Commissioner Freer; approved by unanimous vote.*

**DISCUSSION AND APPROVAL OF ORDINANCE 16-09, ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 92: NUISANCES (NOISE ORDINANCE)**

Attorney Fox worked with staff based on direction from the Board. She answered the Board's questions on the proposed ordinance. She explained prima facie. Chief Layne explained the Police Department has options to enforce the ordinance through North Carolina General Statute 14-1 if someone does not comply with the Town ordinance. Attorney Fox said that property owners can be held civilly liable for a fine after a second violation. She added there is a huge education component that is necessary if the Board updates the ordinance.

Commissioner Freer stated the intent was to give the Police Department a tool. They trust the discretion of the officers. Commissioner Freer asked about 100 feet away. Attorney Fox responded that the intent was that would apply to nonresidential areas. The language needs to be revised.

Commissioner Fletcher stated when he was campaigning, he heard lots of comments. People want Holden Beach to stay a family beach. His personal approach would be to give a warning and progress up the chain only as necessary. He also would like to use more of the term of plainly audibly sound. Attorney Fox provided information on recent case law.

Commissioner Kyser asked if Attorney Fox thinks the Town could go to court and defend the proposed decibel levels. Attorney Fox provided examples of opportunities to challenge. Noise readings are most applicable in places with continuous sound. Commissioner Kyser asked why the ordinance needs to have a decibel reading. Attorney Fox stated the Board could take it out. She thinks the Town is covered with the other language. She doesn't think it harms anything to have both in the ordinance, but it isn't necessary. Attorney Fox explained there are higher and lower decibel levels throughout North Carolina. Commissioner Freer stated in his view, it is another tool for the Police Department to use and it is also consistent with the Brunswick County ordinance. Commissioner Kyser asked if Chief Layne could do a demonstration tonight. Commissioner Freer stated he doesn't think it is applicable tonight because it isn't as simple as measuring a voice. He thinks it would be giving a false impression by doing it in this room.

Attorney Fox will make revisions and send out another draft for review.

### **TOWN MANAGER'S REPORT**

- Central Reach Project is underway. The Town Attorney is working on getting the easements together. Need easements on the oceanfront for 240 OBE – 781 OBW. Will start seeing communications from the attorney over the next several weeks. Asking for volunteers for those who would like to get theirs done first.
- Received formal approval from FEMA for Project 559, the damages from Irene. Been holding off so could we could incorporate the project into a larger project so we could take advantage of economies to scale.
- Piggyback Project in 2014 – the sand is gone. Have requested relief from the compaction monitoring requirement.
- Restroom facility has been delivered. Needs power before it will be ready to use. Multipurpose court should be surfaced this week or next. Two week cure time on that. The majority of the park is shut down, with the exception of the playground and recycling center.
- Bridge Beautification Project – the contractor has some equipment issues. The completion date on the contract is June 6<sup>th</sup>. Our obligation for the project to provide utilities is complete.
- Sewer Advisory Committee has been working diligently over the past few months. The sewer collection tank cleaning indicates corrosion. Thinking we have about seven years of useful life remaining.
- Computer server migration is complete.
- Will be doing a self-assessment to ensure we are in compliance with the payment card industry standards.
- Concert schedule has been finalized and is posted.
- Installed a bulkhead at Sand Dollar Park. It was completed with partial funding from the Brunswick County Soil and Water Community Assistance Grant.
- A memory mailbox has been installed at Sailfish Park. It was donated by Cheryl Causey Cox.
- Days at the Dock is this weekend. The Town is sponsoring a hospitality tent at the Dock Shred Surf Contest.

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

Mayor Holden

- No comments.

Commissioner Freer

- Extended best wishes for Mayor Pro Tem Royal and his family. His daughter is giving birth today.
- Thanked Attorney Fox for her efforts on the ordinance. Just a couple of changes. Looking forward to closing that out.

- Appreciates comments about agenda items and general comments. Makes total sense. That is why it's good for people to come and contribute. Appreciates the input.

#### Commissioner Isenhour

- Thanks for being here this evening.
- Thanked Attorney Fox for all of her hard work on the noise ordinance. Likes the way it is shaping up. Really wanted it to be a tool to use to protect our officers. Wants it to be something that is enforceable, that our community can benefit from.
- Held a budget meeting not too long ago. Town Manager Hewett had a lot of information for the Board. Excited to hear what he brings back. Would like to see a chart with the large long term projects so we can see what is overlapping. Would make it a lot easier to see when the projects will start and how they overlap.

#### Commissioner Fletcher

- Has similar desires. We are in a stage as an island where we need to spend money to protect the island. Lots of things are going on. Need to work hard as a Board so people know what is going on. Thanked Town Manager Hewett, he takes them on tours and gives weekly reports.
- Thanked people who come to meetings. If someone has a major point they want to make, the Board wants to hear it. Welcomes comments. Thanked people for participating.

#### Commissioner Kyser

- Town Manager Hewett recently went to the Shallow Draft Inlet meeting in New Bern. Read his note about sharing the burden for cost funding. Would like that item on the agenda to talk about potential strategies with the county and state. Mayor Holden and Town Manager Hewett interface with so many people. We have a tremendous opportunity to have them work on the Town's behalf to help secure some additional funding. Thinks they should talk about and pursue that.

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

John McIntyre stated at the April 8<sup>th</sup> budget meeting, the Board provided staff with useful direction for the budget process. He applauds the Board for attempting to control costs. He stated the Town has a capable staff. He encouraged the Board to explore remedies in other areas of the budget to avoid a reduction in benefits. Mr. McIntyre said he feels the comments regarding Chief Layne were inappropriate and insulting and could place the Town at risk. He thinks the Board majority has reacted harshly to those who refuse to support their agenda. Mr. McIntyre said he likes what he heard from the Board tonight in addressing the new public comment rules.

Jay Holden said Ordinance 15-01 needs changes. He said it doesn't work in all areas. He explained why the ordinance doesn't work for Dunescape. Mr. Holden said the ordinance doesn't allow fill in the X Zone and doesn't account for the new flood zone that appears on the new flood maps. He reviewed his suggested changes. Commissioner Freer asked if Building Official Evans agreed with the changes. Mr. Holden said he did in November, but the latest communication he received from him said that he feels there are no need for the changes. Commissioner Freer said he thinks the Board needs to talk to Building Official Evans and understand his position.

Tony Marwitz said longtime resident, Ed Weller, husband of Bev Weller who was a commissioner passed away last Saturday. He suggested that people who wish to speak under general public comments should not need to sign up to speak prior to the meeting. Commissioner Freer replied that he believes that is the change the Board requested be made.

**ADJOURNMENT**

*Motion by Commissioner Isehour to adjourn at 8:28 p.m.; second by Commissioner Freer; approved by unanimous vote.*

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J. Alan Holden, Mayor

ATTEST:

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Heather Finnell, Town Clerk