



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
REGULAR MEETING
TUESDAY, FEBRUARY 21, 2017**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, February 21, 2017 at 7:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem John Fletcher; Commissioners H. Ashley Royal, Peter Freer, Kim Isenhour and Ken Kyser; Town Manager David W. Hewett; Town Clerk Heather Finnell; Police Chief Wally Layne; Public Works Director Chris Clemmons; Shoreline Protection & Recreation Manager Christy Ferguson; Administrative Assistant Kendra McDonald; and Town Attorney Noel Fox.

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

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

Commissioner Freer would like to move item 14, Guest Speaker: Mike Sullivan – HB Property Owners Association – FEMA Flood Maps in front of item 8, Discussion and Possible Approval of Resolution 17-01, Resolution Urging Action on the FEMA Flood Map Process.

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

APPROVAL OF MINUTES

Motion by Commissioner Royal to approve the minutes of the Regular Meeting of January 17, 2017 as written; second by Commissioner Freer; approved by unanimous vote.

Town Manager Hewett pointed out that the Board neglected to establish a time for the workshop on March 15th. He asked that the Board set a time during his report.

Motion by Commissioner Freer to approve the minutes of the Special Meeting of January 23, 2017 as written; second by Commissioner Royal; approved by unanimous vote.

PUBLIC COMMENTS ON AGENDA ITEMS

Mark Fleischhauer said he is here to discuss item 9, Sunset Slush's request to sell Italian ice on the strand, on behalf of his wife, Karen. He read an excerpt from a letter she wrote in 2008 when the topic came up at that time. He said commercial activities should be contained within the designated zones.

Beverly Compton said commercialization is a slippery slope. She thinks Holden Beach is good for what we don't have.

Sheila Young said several years ago a parasailing company and a food vendor requested permission to do business on the beach; neither was approved. Soon after the request was denied, a fatal accident occurred with the parasailing company that wanted to do business here. Several years later, Sunset Slush requested again and it was not approved. She said the vendor seems to have a well-established business. Ms. Young said many choose Holden Beach because it is less commercial. She asked if this is allowed, will others follow. She said it is up to the Board to make the best choices for the Town.

Irvin Woods said he intentionally built his house 4' above base flood elevation. He said it is currently in a VE Zone and will go to an AE Zone with the new maps. Mr. Woods said this has been dragging out a long time. He urged the Board to do whatever they can to get the maps approved. Mr. Woods said he is fully supportive of item 13, Lockwood Folly dredging. He said if his numbers are right, it is a sweet deal; any time you can get sand at that price you ought to do it.

POLICE REPORT – CHIEF WALLY LAYNE

- A month ago was feeling pretty good about break-in season. Since that time, we had six. Provided details on the break-ins. To date, we do not have a suspect. It is happening in the county and other beaches. The South End Task Force is working diligently. If you see something that doesn't look right, please give us a call so we can investigate it. It is an average of one a week. None reported this week. If he owned an oceanfront home and someone wasn't there fulltime, would have an alarm system.

GUEST SPEAKER: MIKE SULLIVAN – HOLDEN BEACH PROPERTY OWNERS ASSOCIATION (HBPOA) – FEMA FLOOD MAPS

Mike Sullivan, HBPOA, said just about everyone on the island will be affected when the maps are moved from the preliminary to the effective stage. He provided background on the process and provided statistics on how the new maps would benefit Holden Beach. He stated Town Manager Hewett explained at the last meeting, that the anticipated implementation of the maps had been postponed indefinitely. HBPOA has some simple suggestions. They request the Board take a proactive role by getting our senators and congressman involved and sending FEMA representatives a letter. The HBPOA will have a form letter available on their website for people to send out. Mr. Sullivan is happy to see that the resolution incorporating the suggestions is on the agenda.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 17-01, RESOLUTION URGING ACTION ON THE FEMA FLOOD MAP PROCESS

Commissioner Freer stated he has been speaking to the HBPOA, individuals that are affected and realtors. He knows a lot of activity behind the scenes has been happening, but agrees it is time to get proactive and raise our voices to anyone who will listen. He stated a question came up on the date in the first paragraph. He asked if they were first published in August 2014. Town Manager Hewett explained both dates are correct. Brunswick County had its preliminary maps done first in August 2014 and then the rest of the state followed. Commissioner Freer asked if we could add the August 2014 date as related to Brunswick County. Commissioner Royal doesn't want to have something in the resolution that isn't correct and can be challenged, so he wants to make sure we use the correct date. The Board discussed the date. Commissioner Freer suggested changing the first paragraph to start with The Federal Emergency Management Agency ("FEMA") and North Carolina Emergency Management ("NCEM") issued new preliminary flood maps for the Town in August 2014 ~~and other affected communities in the State in 2016~~. Commissioner Isenhour asked if the process is that the maps have to be approved for the entire county at the same time. Town Manager Hewett replied that it is on a panel basis, by county. He said FEMA is working through appeals. Commissioner Isenhour added there are some areas in the county that will not benefit from the new maps. Commissioner Freer talked about how the resolution could be communicated to the County Commissioners. The Board discussed the resolution. Town Manager Hewett said in regards to the monthly status report, please don't look at that as the staff is responsible for FEMA getting the maps done. Staff has communicated at a bunch of different levels on the map. He clarified his understanding of the wording on Commissioner Freer's proposed change to the resolution.

Motion by Commissioner Freer to approve Resolution 17-01 as amended; second by Mayor Pro Tem Fletcher; approved by unanimous vote.

GUEST SPEAKERS: SELLERS FAMILY – OWNERS OF SUNSET SLUSH – SELL ITALIAN ICE ON THE BEACH STRAND

Susie Sellers said she understands the concerns people have, but every year customers ask why they aren't on the beach strand. She provided details on their business. It will be their 8th season on the beach. Her son, Devon, explained their proposal to provide service on the beach. Her other son, Drew, talked about their business and how they control trash on the beach. In addition to picking up trash on the beach, they sponsor a Trash Bash on Ocean Isle Beach. Mrs. Sellers stated the tourists want the service.

Commissioner Royal inquired if their business model requires them to sell on the beach. The Sellers answered no. Commissioner Royal asked if their current business would be in jeopardy if they don't sell it on the beach. Mrs. Sellers replied no. She said it would enhance their business. Commissioner Freer said the key is regulations that control. Devon stated they would be willing to work with whatever regulations the Town is comfortable with. Mrs. Sellers talked about Ocean Isle's regulations. Commissioner Freer asked about a one year pilot. Mrs. Sellers replied they are willing to do whatever the Board asks of them to have the opportunity. Commissioner Freer would like to have all information before a decision is made. Commissioner Isenhour said she has a lot of legal questions. She would like to know if it is okay if the Town says for example we will permit three food carts and we prevent businesses that are not established on the island from getting them. Attorney Fox explained there are lots of different approaches to beach

services. She provided examples. She said the Town has a prohibition on peddlers. Commissioner Freer thinks the biggest attraction for this is that this company has a presence on the beach. Mayor Pro Tem Fletcher asked if it could be an issue to stop in front of ice cream shops. Attorney Fox thinks there are a number of factors the Board will want to consider in awarding contracts. Commissioner Freer thinks the next step would be for Attorney Fox to work with the staff to come up with the options so an informed decision could be made.

Commissioner Kyser had a point of order question. He said the agenda said guest speaker, not debate. He asked if it is appropriate. Mayor Holden agreed with the point of order.

DISCUSSION AND POSSIBLE ACTION ON ORDINANCE 17-01, AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE TOWN OF HOLDEN BEACH

Town Clerk Finnell explained Ordinance 17-01 would adopt Supplement 15 to our Code of Ordinances. The supplement codifies all amendments since the last supplement.

Motion by Mayor Pro Tem Fletcher to approve Ordinance 17-01, Enacting and Adopting a Supplement to the Code of Ordinances; second by Commissioner Isenhour; approved by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF SOLID WASTE CONTRACT BETWEEN THE TOWN AND WASTE INDUSTRIES

Administrative Assistant McDonald explained the only change is a 2% increase on some of the fees and possibly getting rid of the yard waste collection. If the Board doesn't want to get rid of it, staff suggests bidding the service out to control costs. Commissioner Kyser asked about yard waste service. Administrative Assistant McDonald said it is \$0.98 per residence, per pick-up. Only 200 – 300 properties participate. Town Manager Hewett said it is about \$14,000 a year for yard waste. Commissioner Kyser said he and the people on his street utilize the service. Commissioner Freer asked if the Town could use a different model since we have history that not everyone uses the service. Administrative Assistant McDonald said Waste Industries said it was not cost efficient for them to provide the service. Public Works Director Clemmons added the cost would double if Waste Industries keeps the service in the contract. Commissioner Royal said we do have a precedent of people paying for recycling if they choose to recycle. Paying for yard waste could be an alternative. Town Manager Hewett said we haven't put together a statement of work. If the Board desires to provide the service, we would cost it separately. The Board talked about recycling services. Town Manager Hewett said in September we will have a year's worth of data (amount of time since the centralized recycling was removed). At that time he would like to assemble a stakeholder group to look into the service level requirement. Attorney Fox said in Section 2 of the contract, the word exclusive should be removed; in the 2nd paragraph it should say Holden Beach, not Brunswick County; and the contract needs to have a pre-audit statement.

The Board voted 4 – 1 to approve the contract amended with Attorney Fox's suggestions with Mayor Pro Tem Fletcher, and Commissioners Royal, Freer and Isenhour voting for the motion and Commissioner Kyser voting in the negative.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 17-02, RESOLUTION APPROVING THE BRUNSWICK COUNTY GREENWAY, BIKE ROUTES AND PADDLE TRAIL PLAN

Shoreline Protection and Recreation Manager Ferguson provided background on the countywide plan. The Town participated by paying \$500 to be included in promotional material. The county is looking for a resolution of support from all of the communities that agreed to participate.

Motion by Commissioner Royal to approve Resolution 17-02; second by Mayor Pro Tem Fletcher; approved by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF LOCKWOOD FOLLY DREDGING PIGGYBACK PROJECT

Shoreline Protection and Recreation Manager Ferguson stated the Corps will be performing navigation maintenance at the Lockwood Folly Inlet channel and fifty feet of the widener at the AIWW inlet crossing. Staff will be meeting with them tomorrow to discuss the location of the pipeline on the beach. The Corps/ will be using the least cost method of disposal to place the sand on the east end of Holden Beach. They have approached the Town about piggybacking on the project. The Town would be able to use the Corps' state memorandum of agreement, which means we don't need to dip into our permits. The NC Division of Water Resources pays two thirds of the estimated cost, making the local match \$152,000. The county agreed to pay half, which would leave \$76,000 for the Town's portion. Shoreline Protection and Recreation Manager Ferguson stated staff believes the additional 60,000 cubic yards at the decreased cost per yard is worth capitalizing on.

Commissioner Freer asked if the Town has done this before. Shoreline Protection and Recreation Manager Ferguson replied in 2014. Town Manager Hewett added probably many times more before that. Commissioner Royal asked about the county. Shoreline Protection and Recreation Manager Ferguson said the county has already voted on and approved their portion.

Motion by Mayor Pro Tem Fletcher to approve Ordinance 17-02; second by Commissioner Isenhour; approved by unanimous vote.

DISCUSSION AND POSSIBLE ACTION ON DEVELOPING REGULATIONS ON SHARK FISHING

Mayor Pro Tem Fletcher stated after he heard the presentation from Oak Island where people are shark fishing from the beach and two people were bit, he thinks the Town should lead the way setting regulations saying we don't allow shark fishing anywhere on the beach, on the Intracoastal Waterway from the island or from the pier. Attorney Fox stated there are two components in regulating shark fishing. The Division of Marine Fisheries is the state component and they basically follow the federal regulations regarding sharks. She placed a call to the Division of Marine Fisheries. Their position is they regulate it. The Town doesn't have enabling legislation to adopt a local ordinance. There is some distinction between fishing and chumming. She could look into the possibility of adopting an ordinance on that. Commissioner Royal said his interest would be doing something on the chumming if the Town has appropriate jurisdiction. Chief Layne stated the year Oak Island had the two shark bites was an unusual year for sharks. He provided information on those circumstances. He is not sure a regulation would have an impact on

shark bites. Commissioner Kyser would be opposed to chumming. Commissioner Isenhour asked Attorney Fox to find information about chumming.

TOWN MANAGER'S REPORT

- The Central Reach Project cleared the pier over the weekend. Looks like we are about 65% of the way done.
- FEMA Matthew Damages – the project worksheet the Town submitted to try and capitalize on the dredge's presence and not having to mobilize cleared the Office of Legislative Affairs late last week. He understands it is now in the Office of Management and Budget.
- Bridgeview Park – broken ground on the picnic shelter. The estimated completion date on the facility is April 1st.
- Sewer Vulnerability Assessment - Michael Norton met with staff. We assembled a whole bunch of documents. He benchmarked Sunset Beach's and Oak Island's operations. Looking at the end of March for a deliverable on the report.
- Intended to send decals out in March, with a limit of two. Couldn't get the Fee Schedule amended in time so it looks like it will be the April timeframe. By reducing the supply, we believe it will get their attention. It would be two free. You could buy another two to get a total of four. There is not a need for more than two vehicles when we are controlling access to the beach. After discussion, the topic will be a March agenda item.
- The Board agreed to hold the March 15th budget meeting at 9:00 a.m.

MAYOR'S COMMENTS

- Heard nothing but positive comments from property owners and visitors on the sand project. It is such a good project. The shell seekers are more than happy. Doesn't think he has ever seen as many people on the stand in February as now.
- Has one concern. Asked if he is still the person representing the Town when there is a legal meeting for a mayor of a town in a closed session. If a commissioner is going to sit in his chair in a closed, legal meeting he would appreciate the forewarning and would like to have the opportunity to understand it so he won't be embarrassed. He would like to know about it ahead of time.
- Need a spokesperson for the Town. When this administration took office, Congressman McIntyre offered his services. We have nobody speaking for the Town in Washington or Raleigh. We are playing catch up in regards to the flood insurance, wind and hail and so forth. He is pleading with the Town to hire someone to speak for us in these meetings. We do not have anyone anymore. To get things done you need someone carrying the ball for you. Encouraged the Board if they do not want McIntyre to find someone who has the connections, knowledge and know how to help the Town. With all due respect, letters will not get the Town priority. If you do not have a personal relationship with those in power, you will not get anything. He said nothing is going to speed up the flood maps. Was the first to tell you last year that they wouldn't be delivered on time. He said you are not going to get the maps this year. The only whisper he heard is maybe December, no later than February next year. Sharing a summary of the knowledge he has. We need all of the interested parties to help. Individual phone calls and letters are good. Our map crosses the waterway. When we send a letter about Holden Beach you need to be careful. You need to have people with knowledge and expertise talking for us at the right places at the right time.

Need to get a game plan together and implement the game plan. When he was Congressman McIntyre's spokesperson/ manager for Brunswick County for 18 years, he went to a lot of meetings. We received millions of dollars for Holden Beach with the help of Town Manager Hewett and some others. That money is gone and we have nobody trying to get it for us.

BOARD OF COMMISSIONERS' COMMENTS

Mayor Pro Tem Fletcher

- Was here when Congressman McIntyre made his comments, was surprised a motion wasn't made to hire him. Knows he went to another island and was hired.
- Asked if Mayor Holden was suggesting the Board held a closed meeting without him. Mayor Holden replied no, he is talking about a closed meeting that was not a Town meeting and someone was there in his place. Mayor Pro Tem Fletcher asked if he was talking about the investigation. He said he was invited by the District Attorney.
- Thanks for coming to the meeting tonight.

Commissioner Royal

- Good to see everyone here tonight. It indicates interest, it is a good thing.
- Will strongly consider some of the things heard tonight. One of the things that comes to his mind over the past year is that people serve a two year term. His understanding is previous boards had terms that overlapped each other. From his own personal perspective, believes it casts undue hardship on Town staff. Seriously considering reinstating staggered terms so that the members would have more experience and could possibly make better decisions. Has no aspirations of enacting anything that would extend the current term. Believes we need to consider implementing staggered terms.

Commissioner Freer

- Thanked everyone for coming.
- Appreciates the input from the HBPOA and the rest of the community on the FEMA flood maps. Understands it means a lot to the community and they are doing everything they can to make that effective as soon as possible.

Commissioner Isenhour

- Thanked the staff for their hard work this past month. Understands the Valentine's Dance was a huge hit.

Commissioner Kyser

- Thanked everyone for coming tonight.
- Expressed the desire for the Board to put an item on the agenda to see if there is any public interest on yard debris pick-up.

PUBLIC COMMENTS

Peter Pallas is in favor of Sunset Slush peddling on the beach. It needs to be regulated. We are a growing community and he thinks it would be a great thing to have a business on the beach picking up trash and providing a service.

Sheila Young said in regard to the McIntyre comment, we do have a representative, Congressman Rouzer. She said it might be nice if he would get down here to see what we need from him as our representative. Ms. Young said it is a shame we don't have the Brunswick Beaches Consortium anymore to work on common goals and lobbying. She said apparently the new group is falling apart. Mayor Holden stated he will be meeting with Congressman Rouzer later this week. He added the new group meets quarterly. He thanked Ms. Young for her time and effort on that board.

Lewis Mitchell stated he thinks Commissioner Royal has a good point with staggered terms and it should be considered.

Larry Blume said he has a few big bundles of limbs that he was holding. He would like to see yard waste picked up.

EXECUTIVE SESSION TO DISCUSS A PERSONNEL MATTER PURSUANT TO NORTH CAROLINA GENERAL STATUTE 143-318.11(A)(3)

Town Clerk Finnell read the reason to hold Executive Session.

Motion by Mayor Pro Tem Fletcher to go into Executive Session at 8:55 p.m.; second by Commissioner Royal; approved by unanimous vote.

OPEN SESSION

The Board went back into Open Session at 10:10 p.m. Mayor Holden announced that no action was taken.

ADJOURNMENT

Motion by Commissioner Royal to adjourn at 10:10 p.m.; second by Commissioner Freer; approved by unanimous vote.

J. Alan Holden, Mayor

Attest:

Heather Finnell, Town Clerk