



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
REGULAR MEETING
TUESDAY, OCTOBER 17, 2017 – 7:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, October 17, 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 and Ken Kyser; Town Manager David W. Hewett; Town Clerk Heather Finnell; Public Works Director Chris Clemmons; Building Official Tim Evans; Police Chief Wally Layne; Shoreline Protection and Recreation Manager Christy Ferguson; Fiscal Operations Clerk Mandy Lockner; 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

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

APPROVAL OF MINUTES

Motion by Commissioner Royal to approve the minutes of the Regular Meeting of September 19, 2017; second by Mayor Pro Tem Fletcher; approved by unanimous vote.

PUBLIC COMMENTS ON AGENDA ITEMS

Mike Sullivan said Leo Green, who owns property on the island, was a member of the Sewer Advisory Committee and is an engineer. He said Mr. Green was invaluable in drafting and helping the committee make an evaluation of the current system and the needed modifications. He said Mr. Green did a tremendous amount of work. Mr. Sullivan discussed the reasons the Board should select Mr. Green's company. Mr. Sullivan said there was some concern expressed that Mr. Green was going to retain some of the consultants that were used for the original sewer project. He said as the Sewer Advisory Committee Chair, they were never asked to identify why the sewer was built the way it was. He talked to Mr. Green about it and was told that there was a similar sewer committee in place for the original project. That committee hired URS and their directive to URS was to put the system underground based on the possibility of hurricane damage. The subcontractors who worked on the project just built it as they were hired to. Mr. Sullivan said Mr. Green feels there is a benefit to using the people who originally worked on the system. He is in favor of selecting Green Consulting.

ANNUAL BEACH MONITORING REPORT – FRAN WAY, APPLIED TECHNOLOGY AND MANAGEMENT

Fran Way said annual monitoring analysis is done to look at volume and shoreline change. The Town has been doing it annually since 2001. It helps with nourishment planning and FEMA eligibility. Mr. Way reviewed the 2016 hurricane season. It was a relatively busy year. The big one was Hurricane Matthew. FEMA was involved for Hurricane Matthew. The dune system got hit pretty hard. We lost about 40 acres of the dune system. Volume-wise,

the entire beach lost about 300,000 cubic yards of material. FEMA only reimburses for the engineered portion of the beach so we could claim about 131,000 cubic yards. The Central Reach Nourishment Project (CRP) occurred after Hurricane Matthew. It was a successful project using an offshore borrow source. The other project this past year was the Lockwood Folly Inlet Crossing Project. Usually Holden Beach loses about 100,000 – 150,000 cubic yards of material a year. The project put out 1.5 million so that is anywhere from 10 – 15 years' worth of sand. Mr. Way talked about volume analysis and reviewed volume change. The total volume change was 1.48 million. He showed a slide with the mean high water change. The Town has a very successful beach management program. Mr. Way said Holden Beach is mild to moderate erosion so the activities here have proved beneficial and cost effective. He showed an image of the Central Reach Project borrow area. Ideally we wanted to use the borrow area for two nourishment projects, but we ran into a few issues so they moved into the area that we planned to use later. There still is 600,000 -700,000 cubic yards of sand available. He recommends for long range planning to continue to look for additional sources of sand. When this was first discussed there were four borrow areas that were looked at. This was the preferred one, but there are some areas where the material may be suitable and work for future nourishments. Mr. Way reviewed ongoing beach management activities that include the Central Reach Borrow planning area; the static vegetation line/ development line; and permit extensions. Ongoing projects include the Terminal Groin Project, the Shallow Draft Inlet Program, annual monitoring data collection and reporting and federal projects.

Commissioner Freer asked for confirmation that this was as of six months ago. Mr. Way said the survey data was, but some recent activity was included. Commissioner Freer asked if he had a quick evaluation as of now. Mr. Way replied that they haven't done survey data or formal measurements. Commissioner Freer asked about the development line/ static vegetation line. Town Manager Hewett said the benefit of replacing the static vegetation line with a development line hasn't become evident yet. We are evaluating that. Mayor Pro Tem Fletcher asked if the borrow area will fill in naturally over time. Mr. Way said this one will probably not and explained why. Commissioner Royal said it sounds like if we do another project of the magnitude of the CRP we would need to find another site. He asked the level of effort and cost in finding another site. Town Manager Hewett said he estimates the location testing of this site was in the neighborhood of \$100,000. Mr. Way said Oak Island has expressed interest in using the current borrow area and there is really nothing the Town can do to prevent them from doing that. He said it is still permitted though and has enough for a sizable nourishment. He said a few years ago we established four priority areas, so we can reevaluate those other three areas.

POLICE REPORT

- Crime on the island so far is fairly calm. Don't let your guard down. Remain vigilant and look out for each other. If you see something that doesn't look right, let us know.
- So far so good on the tropics. Looks like it is calming down.
- Boo at the Beach is Friday night from 5:30 – 7:30 p.m.

Commissioner Freer asked about beach patrol now that the Ranger Program is over because he said he is hearing complaints about dogs. Chief Layne said people need to call the Police Department so problems can be dealt with. He said they patrol the beach every day.

DISCUSSION AND POSSIBLE APPROVAL OF AMENDING THE 2017 BOARD OF COMMISSIONERS' MEETING SCHEDULE

Commissioner Freer said the next meeting is two days before Thanksgiving and he has a conflict.

Motion by Commissioner Freer to change the meeting date to the Tuesday before which is November 14th; second by Mayor Pro Tem Fletcher.

Town Manager Hewett said he has a conflict that entire week except for Friday. He has a conference that was previously schedule. He said the 14th is doable but would be a mighty long day. Mayor Holden asked the Board to

not change the date. He said when it was changed two years ago he had to rearrange his schedule to accommodate the new date. He said this now conflicts with his schedule. Mayor Holden said unless there is something major, the Board can cancel it. Town Manager Hewett said the major thing the Board will be considering is the sewer contract for whichever firm that is chosen. He said we won't be able to get one ready to be entertained a week ahead of the normal meeting. Commissioner Freer asked if a week later would be good or suggested scheduling a special meeting. The Board discussed the options.

Commissioner Freer withdrew his motion with Mayor Pro Tem Fletcher in agreement.

Motion by Commissioner Freer to cancel the November meeting; second by Mayor Pro Tem Fletcher.

Commissioner Royal said the Board can always call a special meeting if issues emerge.

The motion passed by unanimous vote.

DISCUSSION AND POSSIBLE SELECTION OF ENGINEERING FIRM FOR ENGINEERING DESIGN AND CONSTRUCTION MANAGEMENT SERVICES OF THE VACUUM SEWER SYSTEM STATION #4 UPGRADE

Public Works Director Clemmons said we have two proposals for engineering services. Information on the proposals were provided at the last meeting. Commissioner Royal said he is accustomed to having sealed bids submitted when you have two or more companies so a decision could be made based on cost. Public Works Director Clemmons said at this point we are just selecting an engineering firm, any costs will come before the Board at a later point. Attorney Fox explained North Carolina law for Request for Qualifications for engineering services says you are not supposed to include a price. You are supposed to select an engineer based on the qualifications. It is part of federal law, the Mini Brooks Act and North Carolina law. Town Manager Hewett said the actual engagement of the firm will be subject to a contract. Attorney Fox said the actual construction contract will be based on the bidding process. The Board discussed the process.

Commissioner Freer said he spoke with Mr. Green. He said the Citizen Advisory Committee did a great job. He does not regret getting a second opinion. Mr. Green provided the history of the project to him. He agrees that they were subcontractors and didn't initiate the design so it is an advantage to have them. He thinks little issues he had, like distance could be mitigated in the contract. They are both highly qualified. Commissioner Royal said so what he is hearing is that the Board is going to decide which company will provide the engineering services for design and construction management services. He asked for confirmation that there is a bidding process for the actual construction. Town Manager Hewett replied yes.

Motion by Commissioner Royal to select Green Engineering as the engineering services provider; second by Commissioner Kyser.

Mayor Pro Tem Fletcher said this was an example of a Citizen's Committee that proved to be very good. He wasn't questioning if the committee's work was right or wrong. He talked about a recent experience with a doctor where a second opinion was valuable. He would like to try using Mr. Green's firm first.

The motion passed by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF SEWER REFUND FOR LOTS 24 AND 25 ON BY THE SEA DRIVE, OWNED BY FLETCHER WRIGHT

Building Official Evans said they noticed in the trending of the Beach Ranger Program that later in the evenings dogs are turned loose. In the future he was going to propose having two people scheduled at different times of the day.

Building Official Evans said Mr. Fletcher Wright contacted the Town and requested a refund for some lots he had that are in the marsh. His department looked at it from zoning aspects and from building code and FEMA requirements. They required surveys and additional information for verification. Lot 25 was in the marsh in its

entirety, which made it unbuildable. Lot 24 only had a small portion of land that once you add the buffer and looked at minimum home size it made it unbuildable as well. Building Official Evans said their recommendation was to combine lots 24 and 25 and take the dry land portion off of 24 and add it to 23. That made a lot that become buildable with a little more land to the left of it. Mr. Wright asked for a refund for the sewer allocations for lots 24 and 25. Mayor Holden said this is not the first time this has happened. Building Official Evans said the recombination was done three – four months ago. He explained the information in last month’s packet did not talk about the correct statute, which was why the item was removed from that agenda. Commissioner Royal said he thinks it is the right thing to do if others have been refunded in the past for similar reasons.

Motion by Commissioner Kyser to approve refunding the money for lots 24 and 25; second by Commissioner Royal.

Town Manager Hewett said he is not sure if the Town billed Mr. Wright for the 17/ 18 year. He asked if the Board would be okay amending the motion that if the amount was billed this year he could also scrub that amount.

Commissioners Kyser and Royal agree with the amendment.

The motion passed by unanimous vote.

DISCUSSION AND POSSIBLE ACTION ON BEACH VITEX TREATMENT

Mayor Pro Tem Fletcher provided background on Beach Vitex.

Motion by Mayor Pro Tem Fletcher that the Town be responsible for monitoring and eradicating the plant Beach Vitex from the dunes and the beach strand as soon as possible.

Attorney Fox said there is a current ordinance that resulted from a task force that was created. In the past there was some funding for the eradication of Beach Vitex. The ordinance requires property owners to eradicate it from their property. The Town is charged with the responsibility and collection of it once it is removed. Building Official Evans added there was funding available in 2004 – 2011 so there was a task force formed. He met with the task force twice. They identified all the lots where Beach Vitex was found. Those homeowners were all sent letters. The lots were treated twice; as far as he knows every lot still has it. We can’t get a response from the task force. Building Official Evans spoke with someone who was with the task force early on and was told there is no more funding. He talked about different methods to get rid of it. Commissioner Freer asked if we currently fund any eradication. Town Manager Hewett replied no, we only would if it was on a public facility. He said the toe of the frontal dune is private property; spraying on private property is probably problematic. Attorney Fox said anything past the toe is private property. Building Official Evans said in the past property owners were giving permission to the task force to treat it. Town Manager Hewett talked about the current ordinance. Commissioner Freer asked about penalties. Attorney Fox read from the general penalties from the ordinance. Commissioner Freer said he wants to protect our investment (Central Reach Project plantings). Commissioner Royal said what he is hearing is the treatment would likely kill our plants. Commissioner Freer responded that he doesn’t believe it has reached the Town’s vegetation yet, it is on people’s private property. Commissioner Royal asked if it would require an easement for the Town to go onto private property to treat it. Attorney Fox said it would depend. She suggested that if this is a priority, the ordinance can be amended to better protect the Town. Town Manager Hewett provided an example of crafting the ordinance to put the responsibility of removing it on the homeowner. Commissioner Freer asked if a possible first step would be education. Building Official Evans said you have to be very careful because another plant looks just like it. Mayor Pro Tem Fletcher asked if anyone had any idea how much it would cost to treat the 20 areas we know about. Town Manager Hewett stated we would have to get estimates; we would have to see the programmatic impact. Mayor Pro Tem Fletcher said he feels this is important enough for the island that the Town should be responsible for paying for it. Attorney Fox said right now the burden is on the homeowner. She thinks the question is what an acceptable means of removal is. She could work with Town staff to try to identify something that protects the Town legally, but also addresses the concerns. Mayor Pro Tem Fletcher recommended that it also looks at the Town funding it. Attorney Fox said if that is legally possible.

Mayor Pro Tem Fletcher repeated what his motion was.

Attorney Fox suggested a consensus is for the staff and attorney to look at a Beach Vitex ordinance that would allow for the removal on private property, with or without permission from the owners.

Commissioner Royal said we may need to clean up the ordinance, but he sees too many problems with funding it because then it becomes the responsibility of the Town. He knows he would be upset if his landscaping was damaged in the process.

Mayor Pro Tem Fletcher withdrew his motion.

Commissioner Royal said he heard our council advise we clean up the wording. Attorney Fox said it is currently a nuisance in the ordinance, but it puts the burden on the property owner to work with the task force that may no longer be operational. The Town's role is to collect the material once it is removed.

Mayor Holden asked if the consensus is for the staff to bring back a recommendation after their review of the topic. The Board agreed. Commissioner Kyser said yes as long as the Town is not funding it.

Commissioner Freer said it sounds like a task force is no longer there. We need to understand what ball was dropped and how the Town has to pick it up. Building Official Evans said he thinks the task force was formed and they went to beaches to encourage them to adopt these ordinances. Mayor Holden said he thinks the Town did all it could at the time. Mayor Pro Tem Fletcher said the state ordinance is that it is illegal to transport or sell it.

DISCUSSION AND POSSIBLE ACTION ON PROPOSED CHANGES TO THE LEASE AGREEMENT BETWEEN THE TOWN AND AT&T FOR CELLULAR ANTENNA EQUIPMENT LOCATED ON THE WATER TOWER

Fiscal Operations Clerk Lockner explained the current contract is not up until 2020, but they are proposing to pay less money. She said the offers are in front of the Board. She would need to pull the original contract to see if the current terms are binding. Town Manager Hewett said he would recommend the Board wait another year before entertaining a change. No action was taken.

FOLLOW-UP ON SEPTEMBER 19TH REQUEST FOR SPEED REDUCING DEVICES ON SHELL DRIVE

Town Manager Hewett said staff contacted the Town's insurance provider. There is no specific exclusions for general liability claims caused by speed bumps on Town streets, but there are examples of claims and payouts the League has made relating to speed bumps. There are also several claims pending. We received information from the two transportation planning organizations to our north and south. That information is included in the packets. Mark Hoeweler in Georgetown said he doesn't like speed bumps. We also received information from the Cape Fear Council of Governments, the regional planning element for transportation in Brunswick County. Town Manager Hewett stated in his opinion speed bumps are one of a number of types of traffic calming devices. The Town needs to think in terms of what types of criteria should be instituted before choosing an option. The information in the packets is available online.

Commissioner Freer said there is a dead end sign on the road. A couple of streets down has a no turnaround sign. He proposed the Town include a no turnaround sign on Shell Drive to see if it alleviates the issue. He said he would like it as close to Ocean Boulevard as possible. Town Manager Hewett stated it is a public street, so he not sure if the Town can tell people they cannot go down it. Commissioner Freer said there is already a street in that area with a no turnaround sign. Building Official Evans stated the signs on the main road before you get to the gate and the turnaround sign at the gate were approved by a DOT engineer. Commissioner Freer said it is a pretty informative sign, but he thinks most people see the gate and turn onto Shell to turnaround. He said this is kind of unusual since the street is near the gate. Mayor Pro Tem Fletcher said he see a big issue is that there is a sign at the gate, but it isn't clear enough. He said there is plenty of room to turnaround, but people don't see the sign. He said if there was a way to correct the signage, it might give the street some relief. Public Works Director Clemmons said if that is

what the Board thinks is the solution, he doesn't have any problem posting the street. Commissioner Freer said he doesn't agree with setting a precedent, everyone will want speed bumps. He thinks the Board should try to resolve it by signage.

Commissioner Royal asked if the Board should consider having the staff recommend something to the Board in lieu of speed reducing devices. That was the consensus of the Board. Mayor Holden said the Board is asking staff to come up with a suggestion and a solution in regards to this matter. Commissioner Royal, with the Board in agreement, clarified that the solution shouldn't include speed reducing devices.

TOWN MANAGER'S COMMENTS

- Flood Map Status: we have not received a letter of final determination yet.
- Inadvertently left the budget to actual report off the agenda. The line item budget is posted to the website. In the General Fund, as it happens every year at this time, we are deficit spending. We are in arrears about 11%. Likewise in the Water and Sewer Fund; we are down about one point there. In the BPART Fund we are to the good about \$1.7 million. That includes some FEMA money. The canal dredging program hasn't incurred any expenses. The negative balances highlight the importance of having adequate Fund Balance. Will see those numbers equalize as we go through the holiday season. Commissioner Royal said he remembers hearing when the second meter for irrigation was instituted it could have a negative impact for the revenue for water and sewer. Town Manager Hewett said he hasn't seen a bit of consumption slack off. Commissioner Royal asked if he foresees that the Town has seen the last of FEMA reimbursements. Town Manager Hewett replied we are still cleaning up. We have some pending expenses. Contrary to the guidance we received last month we have been processing reimbursements. We haven't had anyone tell us that is it cut off. We are awaiting the final inspection on Irene reimbursements. He explained how that process works.
- Elizabeth Street Walkway – wasn't able to get a handicapped walkway there so we just rebuilt the old walkway with a significantly more robust structure.
- Bridge inspections will begin tomorrow with intermittent lane closures.
- Friday November 10th is Veterans Day observed, Town Hall will be closed.
- November 9th is the Veterans Day Luncheon.
- Commissioner Royal asked if the Town notified DOT that the turtle sign is broken in half. Town Manager Hewett said we can.

MAYOR'S COMMENTS

- Thanked everyone for being here.

BOARD OF COMMISSIONERS' COMMENTS

Mayor Pro Tem Fletcher

- Very appreciative that so many people showed up. Recognized former Mayor Norman Meares and his wife, Sally.

Commissioner Royal

- Apologized for missing last month's meeting. Was away on business, which is the reason for not running this year.
- Thanked Public Works Director Clemmons and staff for posting confined space signs at pump stations. That represents the right focus on personnel safety.

Commissioner Freer

- Thanked everyone for coming. It's great to see a big crowd tonight.
- The Sewer Advisory Committee did a great job. The sewer upgrade is proceeding. Hopefully will get Station 4 done as soon as possible.

Commissioner Kyser

- Thanked everyone for coming. It's nice to see a big crowd.
- Early voting starts on the 19th. A lot of people fought and died for that privilege, don't let them down.

PUBLIC COMMENTS ON GENERAL ITEMS

Lynn Holden said the Town has been real fortunate the last few years, we had no major hurricanes. He talked about looting. He said the Police Department does a great job, but a couple of police are no match for the looters. He asked if the Town has a plan for that. Mr. Holden thinks the Town needs to have a program in place. He thinks it should be the residents. He also thinks the Town should incorporate the Sheriff's Department and their boats.

Dolly Mitchell said the National Guard was called out for one of the past storms. She thinks the Sheriff's Department was at the end of their canal this year.

ADJOURNMENT

Motion by Mayor Pro Tem Fletcher to adjourn at 8:42 p.m.; second by Commissioner Royal; approved by unanimous vote.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk