

## **RESOLUTION 18-02**

### **Withdrawal of All Applications for Terminal Groin**

**WHEREAS**, on September 13, 2011 The Board of Commissioners adopted Resolution 11-12, directing the Town Manager “to make application to the North Carolina Division of Coastal Management/Coastal Resources Commission for a permit to construct a Terminal Groin on the east end of Holden Beach adjacent to the Lockwood Folly Inlet;” and

**WHEREAS**, thereafter the Town Manager executed various contracts and agreements with, among others, the United States Army Corps of Engineers (USACE), Dial Cordy & Associates, a surveying company, outside legal counsel, and others for the purpose of applying to the USACE for Section 10 and Section 404 permits, and preparing the associated National Environmental Policy Act (NEPA) documentation; and

**WHEREAS**, various public scoping meetings and interagency team meetings have been conducted, and a Draft Environmental Impact Statement (DEIS) and Final Environmental Impact Statement (FEIS) produced, with the FEIS signed on March 8, 2018, and officially noticed to the public on March 15, 2018, thereby commencing a final 30-day comment period, after which the USACE normally would draft, sign and publicly notice its final Record of Decision (ROD) document, constituting the agency’s final decision on the Town’s pending federal permit applications; and

**WHEREAS**, the Division of Coastal Management (DCM) previously informed the Town that no permit applications for a terminal groin may be made to that agency until the aforementioned federal NEPA process associated with the Town’s pending Section 10 and Section 404 permit applications is complete; and

**WHEREAS**, the Town has noticed and conducted special and regular meetings of the Board of Commissioners, including a Regular Meeting held on April 6, 2018, where the entire meeting agenda was devoted to obtaining information from a number of experts, engineers, environmental interest groups, property owner associations, property owners and other interested members of the public; and

**WHEREAS**, on December 19, 2017, the Town retained special outside environmental counsel to advise the Board and Town Attorney on issues related to shoreline protection, specifically including assessment of the pending Lockwood Folly Inlet Terminal Groin project; and

**WHEREAS**, the federal permit process described above was commenced by the Town without any meaningful cost benefit analysis or stated plan in place for the required 30-year (and longer) funding of the long-term costs of the project, obtaining necessary easements or permissions from private property owners directly affected by the proposed construction of the terminal groin or funding for any of the necessary financial instruments required to maintain the terminal groin; and

**WHEREAS**, the analyses contained in the DEIS and FEIS of the positive and negative physical impacts of the terminal groin on beach front properties it is intended to protect, on other beach front properties and on the involved inlet are based on computer models done based upon out-of-date data and without regard to more recent coastline and inlet changes, and is not modified to consider material issues from the perspective of a local unit of government, such as the Town of Holden Beach, or its governing Board of Commissioners, who are charged by law to act only in the best interests of ALL of the Town's citizens and residents, and ALL guests who come to use and enjoy the Town's ocean beaches and other amenities; and

**WHEREAS**, over the past two years, the Town has completed the Central Reach Project to the west of the beach areas proposed to be affected by the terminal groin project, and the Town has engaged in significant beach nourishment on the East End, including beach nourishment utilizing low cost sand available as a by-product of the continued dredging of the Lockwood Folly Inlet at costs orders of magnitude lower than costs utilized by the USACE in the DEIS and FEIS; and

**WHEREAS**, a number of leading coastal scientists, including Dr. Stan Riggs and Dr. Len Pietrafesa, have expressed serious concerns and opposition to the use of terminal groins generally, and the proposed Lockwood Folly Inlet Terminal Groin in particular; and

**WHEREAS**, Professor Andrew Coburn of Western Carolina University, Associate Director of the Program For the Study of Developed Shorelines has written the Town a letter, dated April 5, 2018, in which Professor Coburn states that the Town's proposed Terminal Groin project "**will not achieve any of the town's aforementioned objectives**" (emphasis in original) and that it is his professional opinion that this project "is fiscally irresponsible and a breach of fiduciary duty" for the Board of Commissioners to support; and

**WHEREAS**, each Member of the Holden Beach Board of Commissioners has carefully reviewed not only the DEIS and FEIS, but also many hundreds of pages of relevant data, information, published articles, and other published environmental documents, including the confidential report and public notebooks prepared for each Member of the Board by its special environmental counsel, as well as the environmental documents associated with the Ocean Isle Beach terminal groin project, the Bald Head Island terminal groin project, the Figure Eight Island terminal groin project and the recently published FEIS for the Bogue Banks 50 year renourishment project (in which document a terminal groin alternative was discussed in detail and rejected); and

**WHEREAS**, during its April 6, 2018 Regular Meeting devoted to review of the proposed Lockwood Folly Inlet Terminal Groin project, the Board of Commissioners was informed by officials representing the Southern Environmental Law Center (SELC) and the North Carolina Coastal Federation (NCCF) that issuance of the pending federal permits and any subsequent issuance of a CAMA Permit by DCM – would result in federal and state litigation challenging such permits and associated NEPA documentation; and

**WHEREAS**, while the Board of Commissioners does **not** consider the threat of such litigation as a material or substantive basis for the making of its decisions, the Board does consider such information relevant to the Board's overall duty to evaluate the costs and benefits of the proposed Lockwood Folly Inlet Terminal Groin project; and

**WHEREAS**, the Board of Commissioners has concluded that, in carrying out its duties to equitably and fairly protect the health, safety and welfare interests of all of its citizens, as well as the thousands of guests who come to visit the Town of Holden Beach each year, the total costs to the Town, its citizens and visitors of the proposed Lockwood Folly Inlet Terminal Groin greatly outweigh the potential benefits thereto, both financially and otherwise.

**NOW, THEREFORE BE IT RESOLVED**, that the Holden Beach Board of Commissioners hereby revoke Resolution 11-12, Terminal Groin Permit Application; and

**BE IT FURTHER RESOLVED**, that the Board of Commissioners does direct that Clark Wright, Special Environmental Counsel to the Town of Holden Beach immediately communicate with the USACE electronically, followed by the sending of a formal letter via certified mail, the decision by the Board of Commissioners to withdraw fully and cease any and all further processing of, or action on, the Town's currently pending Section 10 and Section 404 Permit Applications and associated NEPA documents—USACE Action ID No. SAW-2011-01914.

---

J. Alan Holden, Mayor

ATTEST:

---

Heather Finnell, Town Clerk