



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
SPECIAL MEETING
MONDAY, AUGUST 6, 2018 – 1:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Special Meeting on Monday, August 6, 2018 at 1:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem Mike Sullivan; Commissioners Pat Kwiatkowski, Joe Butler, John Fletcher and Peter Freer; Town Manager David W. Hewett; Town Clerk Heather Finnell; Planning Director Tim Evans; CAMA/ Zoning Official Rhonda Wooten; Police Chief Wally Layne; and Fiscal Operations Clerk Margaret Lancaster. Attorney Noel Fox arrived at 11:25 a.m. She was in Superior Court.

PUBLIC HEARING: FIRM MAP ADOPTION AND AMENDMENTS TO THE FLOOD DAMAGE PREVENTION ORDINANCE

Mayor Holden called the public hearing to order. The documents in the back of the room ran out. CAMA/ Zoning Official Wooten provided more copies of the agenda.

Planning Director Evans explained the process up to this date. The ordinance is the model coastal version of the federal ordinance. The differences are those that are required. The NC Department of Public Safety has reviewed the document twice and feel like they would approve it if it came to them. The ordinance does have some changes, but they are part of the new model ordinance. The new building code and the new model ordinance have some components in them that are interlocked. By incorporating the components into the ordinance, the Town will get more CRS points. The Planning & Zoning Board (P&Z) wrote a consistency statement for this. The difference between this and what P&Z reviewed is that the technical bulletins are now incorporated, instead of just being referenced.

Mayor Pro Tem Sullivan asked for confirmation that the document today has been preapproved by FEMA. Planning Director Evans agreed. Commissioner Freer said there are some changes. It is one year versus two years for substantial improvements. Planning Director Evans explained why the impact of that should be minimal. Commissioner Freer asked about the coastal designation. He understands there will be a coastal designation different from the flood zones from off of the beach. Planning Director Evans said they might not have wave actions, but they do have A and V zones. Commissioner Freer asked the impact if the Board wanted to change any detail of this in the future. Planning Director Evans explained you can make a text amendment, but you need to be careful of doing something that would ruin the CRS rating. He confirmed that the ordinance was reviewed by the Town attorney and staff. He concurs this is the document that should be passed.

The Board discussed changing the order of hearing public comments. Mayor Holden announced the floor is open for public comments.

Dennis Harrington asked how the new flood ordinance impacts the current base flood plain and building height on the island. Planning Director Evans explained the Town's buildings are designed on a two foot freeboard from the BFE. All BFEs are coming down. They still measure the same way so if you are in an area where it drops two feet the house should be two feet lower than the one next to it.

Christine Potter asked about structural improvements to a home. Planning Director Evans explained that substantial improvement is when you improve your house more than 50% of what the structural value is. There are about four methods to determine that. He as the building official determines if the numbers used are the fair market value. The technical bulletin gives you several methods. He provided an example.

Mayor Holden declared the public hearing closed at 1:18 p.m.

DISCUSSION AND POSSIBLE APPROVAL OF FIRM AND AMENDMENTS TO THE FLOOD DAMAGE PREVENTION ORDINANCE

Planning Director Evans read the proposed statement of consistency and said Attorney Fox has reviewed all of the documents.

Motion by Commissioner Fletcher that the statement of consistency be approved; second by Commissioner Freer; approved by unanimous vote.

Planning Director Evans explained the FIRM process and read the proposed resolution.

Motion by Commissioner Fletcher to approve Resolution 18-09, Resolution to Adopt the Effective Flood Insurance Study and its Accompanying Flood Insurance Rate Maps (FIRM); second by Commissioner Butler; approved by unanimous vote.

Motion by Commissioner Fletcher to approve Ordinance 18-13, An Ordinance Amending the Holden Beach Code of Ordinances, Chapter 154: Flood Damage Prevention; second by Commissioner Kwiatkowski; approved by unanimous vote.

PUBLIC COMMENTS ON AGENDA ITEMS

Elaine Jordan said she is the general counsel for the Coastal companies and she is here to talk about the item on system development fees. She said after July 1st building permit fees increased dramatically. She said there was confusion and surprise. She provided the Board copies of information from the website that was listed in March. She said when you read it, it doesn't give an understanding that what is coming up is a huge potential increase in building permit fees. Ms. Jordan said she sees the questions in the Board's packets and it seems to her there is some of the same confusion among the Board. She said we need to fix this problem. She said other areas didn't increase as much as Holden

Beach. Holden Beach increased building permit fees to the maximum. She read from House Bill 436. She said the building permit application fees being requested now will burden new development. Ms. Jordan wants the proposed questions answered and for this to be fixed.

Barbara Andrews stated she called an appraiser and they said they won't be able to appraise a house because the fees went up. They need to wait until the market absorbs the fees. She said it will affect the new construction appraisals negatively. Ms. Andrews said the builders' margins are so narrow, they can't afford to raise the permit fees that much and then expect to get them from the customers.

Gerald Brown asked why the rates had to increase so much on building permits. He provided an example; he said the fee is going from \$7,000 to \$22,000. He explained that people are outraged. He said we need capital improvements, but it should be a shared cost. Everyone should participate, not just the new people coming in.

Rick Nelson from Coastal asked if the commissioners did the calculations and if they were aware of the actual numbers. He wants to make sure the impact to the island is clear. He stated based on the fees they are facing they are looking at focusing their work in other areas. He said it also means loss of real estate sales. To him, it would be fair if it was shared across the whole island for all residents.

DISCUSSION AND POSSIBLE ACTION ON THE DEPARTMENT OF TRANSPORTATION'S REQUEST FOR A RECOMMENDATION ON SAFETY RAIL FOR THE HOLDEN BEACH BRIDGE

Chad Kimes and Anthony Law from the NC Department of Transportation were in attendance. Mr. Kimes explained they have a bridge rehab project coming up and provided background details. The HB Bridge is considered a high value bridge. He talked about the scope of work. They attempted to let this once. The bids came back high. They decided to change the scope a little and described the details. They want to add the railing system into this project. The existing railing doesn't meet guidelines for cycling and pedestrians. The existing railing is only 27" high. A brand new structure is 54" high. Federal requirements are 48"; that's what they are proposing for the HB Bridge. Mr. Kimes reviewed the two options they feel would work best. The intent is to re-let the project in September. They need feedback from the Town as soon as possible so they can put the guidelines in the project.

Town Manager Hewett asked if they have an estimate on the amount the railing would cost. Mr. Kimes replied between \$1.5 and \$2 million. Town Manager Hewett inquired if there would be a penalty if this isn't installed. Mr. Kimes responded that they would prefer it be installed, it comes down to safety being a priority. Town Manager Hewett said to his knowledge there has not been any safety incidents since it has been built. He inquired about the potential for reprogramming that safety money into paving Ocean Boulevard. He said the bridge wasn't designed as a pedestrian overpass onto the beach. Mr. Kimes answered that they are two different pots of money and they can't be swapped. They will look at Ocean Boulevard and see where it stands on the resurfacing list. Mayor Holden stated at the GSATS meeting he always brings this topic up and it is his understanding that March 2019 is when resurfacing will take place. He asked for verification on that.

Mr. Kimes confirmed there is no cost to the Town for the safety railing. Commissioner Kwiatkowski stated she prefers the horizontal model, it won't cause strobing problems. Commissioner Fletcher said from the perspective of seeing the beauty of the island when crossing the bridge, he would prefer the horizontal. Commissioner Freer agrees. Commissioner Butler stated it concerns him that people would try to climb on the horizontal rails. He heard Town Manager Hewett say the bridge wasn't intended for bicycling or walking. He inquired if this would be sending a message that it's okay to cross. Commissioner Kwiatkowski said people do ride their bikes over the bridge, as do mopeds.

Motion by Mayor Pro Tem Sullivan to adopt the horizontal railings; second by Commissioner Fletcher.

Mayor Holden asked for confirmation that the Board is blessing the one part of the proposal. Mr. Kimes confirmed that is correct. Commissioner Freer stated he is okay with what they are looking at. Mayor Holden confirmed they are looking at an aluminum finish.

Mayor Holden confirmed they are voting on three rails, like the picture in an aluminum finish.

The motion passed by a 4-1 vote with Mayor Pro Tem Sullivan and Commissioners Kwiatkowski, Fletcher and Freer voting for the motion and Commissioner Butler voting in the negative.

Mayor Holden asked what materials they will use for the dolphins. Mr. Kimes said he believes they would be wooden, but he can send him the details from the plan. Mayor Holden asked if there are any other alterations to the design other than the rails. Mr. Kimes replied that is it. The bridge deck will have a brand new riding deck and there will be the rails, so it will appear as a new bridge. The timeframe is about 18 months. Traffic will always be flowing, but they can do lane closures. He talked about lane closure timeframes. He needs a list of events from the Town so the bridge can be open during those times. Mayor Holden asked if house moving can continue. Mr. Kimes responded that it shouldn't be a problem.

DISCUSSION AND POSSIBLE ACTION ON WASTE AND RECYCLE ISSUES

Commissioner Kwiatkowski explained the background on this item.

Commissioner Kwiatkowski said we had two different options raised concerning recycling: the opt-out option and the other was to continue the voluntary program. A problem that was raised with the opt-out program is that you would have to pay for the cans. If a lot of people opt-out, it is an investment and storage issue. Commissioner Freer stated if we are going to be on the hook, it is pretty easy to say voluntary. Commissioner Butler agreed because the Town would need to pay for the cans and store them. Mayor Pro Tem Sullivan said he was the advocate of the opt-out option. Once we got into the details it seems clear that the voluntary program is the one the Town should pursue. Commissioner Fletcher said the chapel has a blue can and it's overflowing. He explained other people are using it. He is on the voluntary side. Commissioner Kwiatkowski agreed she thinks voluntary is the way to go. She said they will put voluntary forward in a couple of weeks.

Commissioner Kwiatkowski said there was discussion of going to every Tuesday for recycling from mid-May to the end of September timeframe. Waste Industries cannot provide Saturday pickup so it would be weekly on Tuesday. If the change is made, it adds about \$20 - \$25 for the overall cost. Commissioner Kwiatkowski would like to see weekly during the summer because she thinks it would help the rentals. The program would be for everyone participating in the recycling program if they do it. Commissioner Fletcher asked if there is an issue saying the second can for the rental homes' ordinance could be a blue can. Commissioner Kwiatkowski stated she thinks it would be pushing it to go to one of each. She thinks recycling is in addition to the garbage cans. Commissioner Fletcher said there are two people at his house. They pack the recycling bin, but only use about half the can for the regular solid waste. Commissioner Kwiatkowski said she believes the rental houses need both. Town Manager Hewett said to remember that the requirement for extra cans is for rental properties only. The Town's solid waste contract is a three year contract. Mayor Pro Tem Sullivan pointed out that individuals could opt out though, so it isn't a three year contract for people who subscribe. Commissioner Freer inquired if the change could be tried out for one year. Town Clerk Finnell stated that the former manager, Greg Brinkley has said the Town could try it for a year, but he is no longer with Waste Industries. His replacement has agreed to honor the rates, but she is not sure about if it could be done on a temporary basis. Mayor Pro Tem Sullivan said the individuals can opt out and taking that into consideration he would be in favor of expanding the service to weekly in the summer. It might also help with the overflowing trash can problem. He is in the program and would not be imposing something on someone that he isn't imposing on himself. The Board agreed weekly is a good idea in the summer. Town Manager Hewett stated he will follow up and check what's required for the change. Mayor Pro Tem Sullivan said if the Town does this we will need to collaborate with the rental companies to inform them of the change.

Commissioner Kwiatkowski stated she believes the Board needs to rework the solid waste ordinance with the Town attorney's opinion. We need to better define the waste types, firm up the policies, make some strong suggestions on the time to put it at the curb and remove it from the curb and where to store containers. She thinks the cans should be under or at houses because they can be a blowing hazard otherwise. She said getting the cans back to the shade would be good. She said we need to clarify what constitutes citable violations and have an enforcement policy and fines better described. Commissioner Kwiatkowski wants to do this in a way that we can educate and get the word out as far in advance as possible for next season. She would like the commissioners to authorize that we do some work on the ordinances to try and improve them and start bringing the suggestions to the meeting in September. Commissioner Freer asked if it would make sense to send this to the Planning & Zoning Board (P&Z). Commissioner Kwiatkowski said she thinks this is Public Works and staff. She offered to write down her ideas and give it to staff. Mayor Pro Tem Sullivan suggested if the Town is going down that road we will need to hire someone to be an enforcement agent and that we should look at the cost and details for that. Commissioner Kwiatkowski said she doesn't disagree, but she would like to see where we get with the ordinance and then revisit it. Commissioner Freer said right now Planning Director Evans does the enforcement. Planning Director Evans stated that if they see areas that have accumulated trash or notice homes without enough cans, they contact homeowners. Commissioner Fletcher asked Town Manager Hewett's input on if staff should do the work or if it should go to P&Z. Town Manager Hewett replied that one of things they are currently developing is a data set that will allow for easier identification of compliance. It will probably be another month before it is finalized. He

would like to have that developed so we can assess how bad the circumstance is. He thinks Public Works Director Clemmons would be the point person on this. It would be helpful if some specifics are identified. Commissioner Kwiatkowski provided some examples of what needs to be addressed to take care of the problem. She will send some ideas and wording for staff to look at. She suggested other commissioners do the same. Town Manager Hewett said to send the ideas to Town Clerk Finnell.

Town Manager Hewett said staff is making good progress on the data set. He talked about paragraph E in Section 50.04. He said the current wording does not work for enforcement.

Commissioner Kwiatkowski said her memory is the yard waste is being used considerably more than what was envisioned and that we were going to keep it for the foreseeable future. She added that efforts would be made to keep educating people on the rules for pickup and the contractor is keeping track of what people are doing wrong. Town Manager Hewett said we haven't had the fall pickup occur yet so we don't have complete data. The Board agreed to continue to monitor it.

Rollback – Commissioner Kwiatkowski said with a preference to not increase our budget, she is interested in what the Board thinks is the best solution. Commissioner Butler stated it is frightening now. Commissioner Fletcher said we have a significant number of weekend vacation homes. They are not there so if their neighbors don't roll those back, they don't get rolled back. Commissioner Freer said the service the Town has now isn't working. Town Manager Hewett explained that the rollback contractors doesn't roll full cans back. He said the logic is that if nobody is in the home, the trash could stay there a long time. After discussion, Commissioner Kwiatkowski said she believes the contractor should rollback full cans. Town Manager Hewett stated he had a conversation with the rollback contractor. He knows the solid waste report recommends getting rid of the corals, but the contractor said if it was mandatory to have corals at the road, he can push them out Friday and do rollback Saturday. The contractor doesn't foresee it as being more expensive because the cans would be at the road and he wouldn't have to push them to the house. Commissioner Kwiatkowski said the current cost is about \$34,000. She said Oak Island charges their property owners for the service. Her problem with the corals is when a storm hits. She feels securing them under or near the house is a better place for them. Right now there is no consistency with the corals. Commissioner Butler added we have the recycling cans as well. He asked if the Town or the people using the service pay. Town Manager Hewett replied it is paid from occupancy tax. Commissioner Kwiatkowski inquired if the service is needed on both days or in the offseason. Commissioner Freer said Oak Island charges people for the service if they are using it. Commissioner Kwiatkowski said she doesn't know the details of how they charge. Town Manager Hewett is not sure if it is a contract with the Town or with the subscriber. He will need to check. Mayor Pro Tem Sullivan said it seems to him it all comes down to enforcement. He suggested the Town leave it status quo until we enforce the new rules and then reassess. He said use education and enforcement and then see if we need to do something differently after a year. Commissioner Butler stated that whatever we do, we need to give everyone significant time to make the adjustment. Commissioner Freer said he thinks there are a lot of people who are in the position that they can't adhere to the rules. He said Oak Island created a solution where it cost more money, but they get better service. Commissioner Kwiatkowski asked Town Manager Hewett to check with Oak Island and then the Board can revisit this.

Commissioner Kwiatkowski said there is the question of if the rental management companies should be responsible for hauling cans, full or empty, after the established deadline. She believes the Town should produce educational material for property owners and rental agents once things are refined. We will need to do some pretty heavy education, with consistent messaging. Commissioner Freer said he thinks the homeowner is responsible, not the rental agency. Rental management companies' role was further discussed.

Commissioner Kwiatkowski summarized the discussion:

- Voluntary recycling, weekly on Tuesday during the summer, every other Tuesday the rest of the year.
- Work on the ordinances to give them more meat, more explanation and more information on citable violations, enforcement and fines.
- Audit procedure for rentals is well underway.
- Rollback service needs to be left as is for now. Will all think about it.
- Need to develop educational materials once we change the policies so the rental management companies have up-to-date information in time to develop the next year's materials.

Commissioner Kwiatkowski talked about the timeline in her backup information. She said to send ordinance improvement suggestions to Town Clerk Finnell.

DISCUSSION AND POSSIBLE ACTION ON BOATING ACCESS AREA PARKING

Mayor Holden said this item is on the agenda following a communication he received from NC Wildlife Resources Commission's Deputy Director of Operations, Erik Christofferson. They are getting complaints concerning parking. Chief Layne said he is not sure the origin of the complaints and doesn't know the specifics of the complaint. His understanding is the Police Department was supposedly writing parking tickets at the Wildlife Boating Ramp, which is state property. To date, the Police Department has written no tickets on state property. His guess is someone may have received a ticket in the public area across from the ramp, which is Town property. Chief Layne explained what is considered state parking. A couple of years ago, we did put some signs in the Pavilion area saying no boats or trailers because we had parking problems. Town Manager Hewett clarified what we are talking about is state right-of-way (ROW), which falls within the footprint of the bridge. Commissioner Freer said we write tickets on Ocean Boulevard, which is also state owned. Chief Layne replied we are dealing with two different entities of the state. Ocean Boulevard is DOT, they don't care if we ticket on Ocean Boulevard. The Wildlife Ramp belongs to NC Wildlife.

Commissioner Freer said this note is inaccurate. Commissioner Butler stated he sent emails to Town Manager Hewett about this. He thanked Town Manager Hewett and Chief Layne for looking into this. He said this seemed serious and he felt the Town needed to take action real quick. He thinks the letter was not warranted and the facts don't add up. He looked at the boating access locator. It says there are a total of 15 boat/ trailer spaces. Chief Layne said you probably find upwards of 40 here on an average weekend. Commissioner Butler said that area is not adequate anymore. People are parking in the designated parking areas identified by the citizens' committee. He would like to respond to this and indicate what our findings are, including that we didn't have any tickets issued and there is

insufficient parking. We can ask the state to come down and evaluate what can be done. Mayor Pro Tem Sullivan stated before we ask the state to come in and make an assessment we should make sure they don't have other properties they could take control of. Commissioner Fletcher asked that Mayor Holden respond and ask for specifics on the tickets issued. He doesn't think this happened. Commissioner Kwiatkowski said she thinks the first step is answering politely that we have checked and can confirm that we have no tickets issued in this area. We can think about if there are additional steps the Board wants to address. Attorney Fox said she would be happy to send the email.

The Board came to consensus that Attorney Fox will write a response.

DISCUSSION AND POSSIBLE ACTION TO REVISE TOWN ORDINANCE 18-07

Commissioner Butler read the current Section K from the ordinance. He said there should have been more documentation included in the ordinance. He was referring to the nine designated parking areas when he previously brought this up. He recommended to further clarify Section K and include the statement about the nine designated parking areas. He said someone asked what if someone parks in the ROW on their lot. This verbiage says someone can park in the ROW. Commissioner Freer stated this is a first step. If parking in ROW in the middle of the night becomes an issue, we can address that. Commissioner Butler said at the end of the season the Town is supposed to assess and evaluate the parking situation. Mayor Pro Tem Sullivan reviewed the process from the beginning. He said everything done was in conjunction with trying to limit parking in the ROW. After discussion, the Board agreed to leave ROW parking as it was and also decided to take out the 72 hour parking restriction and put no parking from 2:00 a.m. – 5:00 a.m. Mayor Pro Tem Sullivan said the Board took the least intrusive and complicated way to meet the goals set out by the advisory committee and they instituted it by making the limited changes that were made. He asked if people would prefer to have someone park under the bridge from 2:00 a.m. – 5:00 a.m. or would you prefer someone next to the home. He thinks the current language takes care of the vast majority in the best way possible. Commissioner Fletcher said the island is covered with people who park in the ROW at their own home. Commissioner Butler stated the Town has a number of residents who need to park in that ROW. Commissioner Kwiatkowski said she thought one of the intents was that the way people would declare that the area is not open to parking is to put shrubbery or potted plants in. So if someone is saying this isn't a legal parking place, they will have items up. Mayor Pro Tem Sullivan asked if the Police Department is issuing summons for parking in the ROW next to homes from 2:00 a.m. – 5:00 a.m. Chief Layne answered that they do not, they exercise extreme amounts of discretion. Mayor Pro Tem Sullivan said the Police Department has discretion, knows the intent of the law and will enforce it with that intent. Commissioner Butler stated there were eight citations and eight warnings issued in public lots. He likes the idea of issuing a warning first. Chief Layne said that is possible if the person is there. Commissioner Butler said we have folks who have a need to park in that ROW. After discussion, Chief Layne stated he is fine with the current wording. They ticket people in the public parking areas, but use discretion with people in the ROW in front of homes.

DISCUSSION AND POSSIBLE ACTION TO DIRECT TOWN MANAGER TO CREATE FREQUENTLY ASKED QUESTIONS (FAQ) TO ADDRESS QUESTIONS REGARDING NEW SYSTEM DEVELOPMENT FEES FOR PUBLIC WATER AND SEWER SYSTEM FOR REVIEW AND APPROVAL FOR NEXT BOC MEETING

Commissioner Freer said the questions in the packet are questions received from different people within the Town. He thinks it is important to take a look back and understand the justification. It was a recommendation from McGill to charge the fees. He would like to take a second look. Commissioner Fletcher stated that the Audit Committee was asked to examine the document and the work by the engineering firm to see if they did the calculation correctly using the formulas that were allowed to be used and the answer was yes, they did. He said they recommended that the maximum that could be charged would be the rate. He said the town manager also recommended that the Board charge that fee. We now have a month's worth of experience and he is curious if there is an impact on the permits going down. Planning Director Evans replied that some months have more than others. He thinks they may have collected the fees once. People are taking permits back, changing the number of bedrooms and are waiting to see if the Board will change the fee. He explained you have to remember for the homes that are three bedrooms, we are not collecting anything.

Attorney Fox said what the Board adopted came out of a case called Quality Homes. The legislature's solution was House Bill 436 which provided enabling legislation to municipalities for system development fees, but they are required to follow a very specific process for determining the need for system development fees. It could not be done in house. It had to be done by an outside professional. It had to be posted for 45 days for public comments. No comments were received during the 45 days. If there were comments, the professional who the Town needed to hire would have needed to take each comment received and review and make a recommendation back to the Board based on the comments. It had to be adopted by July 1st. As a Board, you are able to adopt a fee less than what the professional recommended, but it is important to know that the recommendation came after not just the Audit Committee, but after the outside professional looked through the infrastructure needs of this specific town and determined what this Town's needs are for collection of things that will impact the system in the future. The previous fees the Town charged must go away, this is the replacement for that. It encompasses a bunch of moving parts that municipalities have been forced to adhere to.

Planning Director Evans said they have collected the fees for two bedrooms, roughly \$14,000. It was a five bedroom so they paid for two bedrooms (credit for three bedrooms). He believes for that one they hadn't paid their water assessment fee which was additional. Commissioner Fletcher asked if every permit gets the three bedroom exclusion. Planning Director Evans replied not all of them, it is according to what they have already paid for. Commissioner Butler asked if it would cost him roughly \$20,577 if he built a three bedroom house and came in for a permit. Planning Director Evans said roughly somewhere around there. Town Manager Hewett said if you haven't paid your sewer fee previously. Commissioner Butler asked what that the cost would be if he did pay previously and is now building a three bedroom house. Town Manager Hewett said \$5,000 for water. Planning Director Evans explained that these are not building permit fees, they are system development fees that are being collected at the Building & Inspections Department. Building fees actually went down. The average cost for a five bedroom house if they already paid their water and their sewer is now roughly \$7,000, plus almost \$14,000, the permit fee being \$7,000. Mayor Holden asked how much the one house who paid was

charged. Planning Director Evans responded over \$20,000. One of the reasons it was higher was because it hadn't paid its water assessment.

Commissioner Freer said people didn't respond during the comment period. He thinks it is important to get the FAQs out now. Commissioner Fletcher said if we lose the buildings, we will lose the taxes and if they are rental homes, we lose the rental income. He said it could be very expensive if this impacts the tendency to build on the island. Mayor Pro Tem Sullivan asked if McGill took into consideration the upgrades to the sewer system when they did its computations and the potential cost for the new water tower. Town Manager Hewett replied the fee for the mitigation and repair to the sewer system cannot be included, but the second water is an allowable expense. The cost of replacing capacity is what the costs are predicated on. Mayor Pro Tem Sullivan asked the average increase in revenue for new construction in the past few years. Town Manager Hewett explained our tax base has been fairly consistent, although it has increased some. He would need to check that. Planning Director Evans stated that structural value ranges from \$10 million to \$22 million per year. Mayor Pro Tem Sullivan inquired what that comes to if you are figuring the tax rate. Commissioner Kwiatkowski said we are talking in the range of \$30,000 – \$35,000, at \$0.22 on \$100.

The Board talked about the process and revisiting this item. Commissioner Freer said what is on the agenda is asking Town Manager Hewett to answer the questions. He said if he needs to go to McGill that is fine. Commissioner Kwiatkowski asked if we will need to pay McGill for doing extra work. Town Manager Hewett replied yes. Mayor Holden asked if the Town could retroactively refund people if the commissioners were to change the fees. Attorney Fox replied she thinks it would be on a moving forward basis. It would be a change to the fee schedule and the budget. She will look at it. She talked about the process. She said you can lower the rate, you just can't go over the maximum amount.

Town Manager Hewett asked for clarification on the Board's expectation to answer the questions. He thinks that since the questions are follow-ons to the official report rendered by McGill that we need to have them assist with preparing the answers to the questions. August 21st is two weeks out and he doesn't know their availability to respond to the request. The Board asked for Town Manager Hewett to follow-up with them.

DISCUSSION AND POSSIBLE CLARIFICATION OF ROLE OF THE AUDIT COMMITTEE AND THE CHAIR OF THE AUDIT COMMITTEE

Commissioner Freer stated he thinks there was discussion and misunderstanding about the Audit Committee's role. There are two audits taking place right now, the annual audit and the internal control audit. His understanding was that the chair of the Audit Committee was going to be involved in every meeting with the internal control auditors and that did not happen. He wants to take the time to clarify the Audit Committee's role in the audits. Commissioner Fletcher said he thinks when the Board resurrected the Audit Committee the intention was that the Audit Committee would support the Board by assessing internal controls, selecting an auditor for the Board to approve, working with the auditor and looking at the final audit. He said what has come to pass is an interpretation of the Town that the only thing the Audit Committee is supposed to do is look at the final report. He said once the auditor has reported finally, it is done. You can't change it. He thought the Board wanted the committee to

work with the auditor to make sure the issues were resolved and to make sure internal controls were implemented properly. Commissioner Fletcher said when he tried to meet with the auditor this year he was told he couldn't do that, that the Board only wanted the Audit Committee to meet with the auditor when the final report was issued. He said last year the Audit Committee didn't get the report. This year they didn't get it until January. He stated everyone has the best practices from the Government Financial Officers Association in Chicago. He has talked to the CEO a number of times about these issues and has gone to the Local Government Commission, the League of Municipalities and senior partners of big audit firms. Commissioner Fletcher said they are all in agreement that the best practices is the right way to go. He is asking the Board to clarify the role they want the Audit Committee to perform over the next few months.

Motion by Commissioner Fletcher that the BOC confirm the following bylaws for the Audit Committee. He would like to separate them in parts.

With regard to the annual audit of the Town's annual financial statements, the Audit Committee will provide oversight of the work performed by the independent accounting firm.

Commissioner Fletcher said everyone at the table has the document he is reading from. Town Manager Hewett stated he has not seen one. The public does not have a copy. Commissioner Kwiatkowski said in the Rules of Procedure, when the Board receives documents at an actual meeting, they were not going to approve them at that meeting. The Board could discuss them for approval at the next meeting when the public sees it. She stated this is another case when she is confronted with something at the meeting and you are asking me to approve it with no time to consider it and the public hasn't seen it. This goes against the proposed rules on how we are going to operate that the Board just accepted. Commissioner Freer said last month, the Board directed the Town to have the Audit Committee chair be in all of the meetings and that didn't happen. He said this is a result of that. Commissioner Kwiatkowski said in 2016, the Audit Committee was asked in the ordinance to establish bylaws. She believes that is what this is, but it should be the entire committee that establishes the bylaws per the ordinance. Attorney Fox said the existing ordinance does require that the committee adopt bylaws and then bring them to the Board for consideration. She said she hasn't seen the bylaws so she is unsure what they say, but she has reviewed the Government Finance Officers Best Practices and there is another entity that might be better for a municipality, which is the Association of Local Government Auditors. One of the best practices suggests the elimination of the Sunshine Law, but also the best practices state that all of the members of the committee have to be members of the governing board. That's how local areas operate. They have a balance of governing board members, citizens. Some don't have citizens. After she saw this agenda item, she reached out to lawyers across the state and took a poll as to how they have their committees. She does have information that she would be happy to share. Commissioner Fletcher said he asked to have an Audit Committee meeting and was denied. Town Clerk Finnell said that during their conversation she said the Audit Committee has not met with the auditor in the past and felt more comfortable if the Board was okay with them meeting. She said she cannot deny the Audit Committee from having a meeting. Commissioner Kwiatkowski stated she doesn't think the Board has any problem with a value added activity. She said that in going back, the entire Audit Committee has to develop the bylaws. She would assume the attorney would also want to

see them and then they could be brought to the Board for discussion and approval. She said it isn't the content, it is the procedure.

Commissioner Fletcher asked the Board to authorize the chair of the Audit Committee to call a meeting to do that. Commissioner Kwiatkowski and Commissioner Freer agreed with the request. Town Clerk Finnell said the Board does not need to do that. He is the chair of the committee and he just needs to let her know. She apologized if he misunderstood her during their conversation, her advice was just that it never was done before. Commissioner Fletcher said he will call a meeting of the Audit Committee to establish bylaws before the next Board meeting.

Mayor Holden said on page 2 it says the Audit Committee meeting chair alone or with another member of the Audit Committee or the entire Audit Committee may meet with any external firms hired, He said that sounds reasonable, but what concerns him is the authority implied by whoever the representative is at the meeting. He asked if they could give any directives or requests or if they are there to observe. Commissioner Fletcher said they are there to collect information to bring back to the Board. The Audit Committee represents and supports the Board in its oversight. He said it has no authority to make decisions. Mayor Holden said he doesn't have a problem with the Board having representatives to monitor things, but he does have a concern with any committee appointed by the commissioners feeling like they have authority to represent the wishes of the Board unless they are directed to do so specifically. Commissioner Fletcher said they are an investigator for the Board that brings information back to the Board. Mayor Holden said he hasn't had the chance to review it. It seems it can be presented to the Board in time to read it.

Commissioner Butler asked if Commissioner Fletcher is being invited to the meetings with the auditor. Commissioner Fletcher replied he sat with the new auditor. He sat with the internal auditor also after the review began.

Commissioner Fletcher said for things to go smoother in the future, the Board needs to know what it wants the Audit Committee to do and authorize it to be done. He will set an Audit Committee meeting. Commissioner Kwiatkowski suggested that he take into account Mayor Holden's comments.

Mayor Holden inquired if the contracts address the possibility of the Town having representatives in place during the meetings and possibly participating. After discussion, Attorney Fox said she believes one of the contracts calls for an hourly rate. Commissioner Fletcher said if the Board has the right Audit chair, they won't have a problem with that because the auditor would be more than happy to talk to an Audit Committee member and make sure everything is smooth in the audit.

Mayor Pro Tem Sullivan asked that Commissioner Fletcher have the Audit Committee meet and approve the proposed bylaws in time to have them included in the next packet.

PUBLIC COMMENTS

Dolly Mitchell stated she has been here since 1976 and trash is worse now than she has ever seen it. She just wanted to make it clear that rollback is for Ocean Boulevard only. Mrs. Mitchell said at one

point she pulled the bylaws of all of the committees. Under the Audit Committee it says they serve for a term of one year. She doesn't remember any advertisement for openings on that committee. She talked about the selection process. She appreciates the work the Audit Committee is doing, but is unsure if the guidelines as they were originally written are being followed.

Elaine Jordan asked the Board to look at the conclusion of the engineer's report where it says the Town may elect to charge less than the cost justified system development fee documented in the report. That is what they are asking the Board to do. Ms. Jordan doesn't think additional engineering analysis is required. She said the fees are a burden. She said they are asking that the Board charge less and she appreciates expedited consideration because building permit applications are being withheld.

Rick Nelson stated that even though the proper protocol is being followed, the question is about how much people knew at the time. He spoke to every member in the Building Inspections Department. He said they were all equally as surprised when these numbers came out as the contractors. He added Mayor Holden's own construction company didn't know about it. He said to argue that the public knew about it is crazy. He said the information was buried and covered up.

Gina Martin thanked the Board for addressing the trash issue. This is the worst she has ever seen it in the seven years she has lived here fulltime. She said the island looks like a trash dump. She stated some of the things mentioned may be corrective. She said rules are listed in rental literature. She stated you can't force anyone to comply. Mayor Holden's company takes care of trash that isn't collected. She believes if the Town could develop a relationship with some of the companies it may help. Mrs. Martin said she as a company owner would find it difficult to fine an out of town homeowner if their trash can isn't put out in time, unless you hire staff and write down who is out of compliance.

ADJOURNMENT

Motion by Commissioner Fletcher to adjourn at 4:05 p.m.; second by Commissioner Butler; approved by unanimous vote.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk