



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
SPECIAL MEETING
TUESDAY, DECEMBER 18, 2018 – 10:00 A.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Special Meeting on Tuesday, December 18, 2018 at 10:00 a.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; Assistant Town Manager Christy Ferguson; and Planning Director Tim Evans.

Mayor Holden called the meeting to order. Commissioner Kwiatkowski said we had several citizens/owners write in to ask for discussion about rollout, as well as rollback. She said this meeting is discussing rollback. If the Board wants to have a discussion on rollout without making a formal decision on it, she thinks it would be up to the Board to say okay or defer it to a different meeting because it is a separate topic. Commissioner Fletcher said the Board also needs to make a motion to waive the rules of order. Commissioner Freer would like to discuss rollout. Commissioner Butler needs to leave at 11:30 a.m. for an appointment. Commissioner Kwiatkowski suggested having a separate meeting for rollout. She asked if the Board would waive their standard rules to allow input from the public during the discussion on rollback.

Motion by Commissioner Kwiatkowski to allow input from the public during the rollback discussion upon recognition from the Board; second by Commissioner Fletcher.

Commissioner Freer stated it would be a suspension of rules.

The motion was approved by unanimous vote.

PUBLIC COMMENTS

No public comments were made.

DISCUSSION AND FINALIZATION OF ORDINANCE 18-16, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 50: SOLID WASTE (FOR POSSIBLE ADOPTION AT THE DECEMBER 18, 2018 REGULAR MEETING)

Commissioner Kwiatkowski explained this ordinance in different draft forms has been out there for three – four months. She worked with Town Clerk Finnell to include the feedback from the input that could be included. This is the final amended proposed ordinance that has been through legal. The Board has had it for a few days. She said if there are a questions, we can go through them.

Commissioner Fletcher said he had four questions. He said his first suggestion was that when people needed multiple cans, the alternate cans could be a blue can. Commissioner Kwiatkowski stated the Board discussed that at previous meetings and decided not to do that. Commissioner Fletcher said he is getting a lot of feedback from people who would like to do it. He said it is cheaper for the homeowners to buy a blue can than a brown can. Commissioner Kwiatkowski said the problem is you can put recyclables in a black bin, but you can't put trash in a blue bin. She said when a renter runs out of room in the black bin, they will use the blue can and that becomes mixed waste that doesn't get picked up. She said there is a lot of wet waste and she thinks that trying to have a blue bin when we have overflowing wet waste is probably asking for trouble. Commissioner Fletcher said his observation is the extra stuff out there is bags of bottles and cans. Commissioner Freer stated the added benefit is it would encourage recycling. Commissioner Fletcher suggested that they could say the first two have to be brown bins, after that they can be blue.

Commissioner Fletcher said under B it says commercial establishments need an adequate number of refuse containers. He said he is not sure what that means. Commissioner Kwiatkowski explained this is carryover language. Town Manager Hewett said commercial enterprises on the island have dumpsters and overflowing dumpsters haven't been a problem that has been brought to our attention. Planning Director Evans added that all of the commercial dumpsters are required to be screened. Commissioner Fletcher inquired who decides what is adequate.

Commissioner Fletcher said under D it says containers on Town-owned property and other public areas are for the use of the town and for the general use of residents and visitors using the public area. It shall be unlawful for anyone otherwise to place commercial or residential waste or refuse in such containers. He asked who else would be using it. Commissioner Kwiatkowski explained that is for if a homeowner runs out of room and deposits their trash in the common area bins. Those bins are for the trash generated while in those areas.

Commissioner Fletcher said under Section 50.06, Yard Waste it talks about a civil fine of \$50 per day, per offense. He stated that would be a violation of the state statute. Commissioner Kwiatkowski said our Town attorney is the one that said a fine of \$50 per day would be allowable and would probably be appropriate to discourage the piles of yard waste at the road for weeks on end. She actually proposed that. Mayor Pro Tem Sullivan said he looked at it and it is every day. Planning Director Evans added it does have language in the code book that says every day is considered a separate offense. Commissioner Fletcher is concerned with the daily fines since most of the Town's homeowners don't live here. Commissioner Kwiatkowski said the Board's intent is not to create a revenue stream from fines. The intent is to educate in the first months. If you drive the island there are heaps of yard waste and we don't have another pick up until March. If we pass this in January, we can use the time to issue warnings. Commissioner Freer asked who enforces the ordinance and how flexible it would be. Commissioner Kwiatkowski replied the enforcement is something the Town will need to go through, but she finds it hard to believe that if they found out someone was out of commission for a long time we couldn't show leniency. Town Manager Hewett explained generally speaking the Town strives for compliance first. Planning Director Evans explained how their letters for violations worked in the past. He talked about how trash is currently enforced.

Commissioner Kwiatkowski said she thinks the outstanding point is Commissioner Fletcher's request that at some stage we allow a blue can to replace a black bin. The proposal was made that after two cans you

could then have a blue bin instead of a black bin. Commissioner Fletcher said maybe for the third, fifth and seventh. He thinks that would work and give people the option to recycle. Town Manager Hewett said he wanted to point out that Waste Industries is adding a surcharge onto the recycling annual fee that will drive that price up. He said he has not done the math, but in terms of the recycling pickup do we know if it is a one for one volumetric tradeoff for a blue can and black can on an annual basis. We changed the frequency, but he thinks when we calculated that in the past the blue can was half of a black on an annual basis. Commissioner Kwiatkowski said although we will be doing weekly pickups from mid-May through the end of September that still leaves six months of the year. At that point you are only getting every other week pickup for the blue bins. She said that is a consideration.

Motion by Commissioner Fletcher to amend this ordinance to allow a blue can to replace a brown can on the third, fifth and seventh can requirement; second by Commissioner Freer.

Commissioner Kwiatkowski is concerned that somebody would decide the third and fifth would be recycle and they would get into the off season where they would really only have three waste bins that would get picked up weekly. She said she thinks she is more open to the idea of after two black bins, one black bin could be substituted with a blue bin. Mayor Pro Tem Sullivan said he would think if we are talking about a home that would require that many bins they would also generate a lot of recyclables. You would need more than one blue bin. He said the Board is trying to juggle and to service the most people in the best way possible. He doesn't think the Board will come up with a perfect solution until they try it for a year. He said they should try what they think is best for the most people. Planning Director Evans asked if Waste Industries has any idea of the percentage of recycling and regular waste. Commissioner Butler said the problem now is that you can only recycle plastics 1 and 2, which means a lot of what used to be able to go in the blue bin no longer can. The Board discussed what is used by renters.

Commissioner Fletcher withdrew his motion; Commissioner Freer agreed.

Motion by Commissioner Fletcher to amend the ordinance to allow the third can to be a blue can; second by Commissioner Freer.

Town Manager Hewett asked for clarification. Commissioner Fletcher responded that the third can could be a blue can. He said as of now the Board would only allow one blue can to replace a black can.

The motion passed by unanimous vote.

Mayor Pro Tem Sullivan asked that the Board consult with the Town attorney because a number of the violations are both criminal and civil. It seems a criminal offense is a little bit beyond reasonable. If it is not necessary he asked to remove the criminal penalties and just have civil penalties. The Board agreed to ask Attorney Fox tonight. Commissioner Fletcher asked about restrictions on civil penalties the Town can assess to people. Town Manager Hewett replied that is an Attorney Fox question.

Commissioner Freer said the ordinance the Board is discussing does have rollback in it. He doesn't understand how the Board can vote on the ordinance without deciding on rollback. Commissioner Kwiatkowski said that is the reason why they said they need to make a decision on rollback. If they don't have a rollback decision that gives a level playing field for all owners, there is no reason to change the

ordinance to make something enforceable. She said tonight is when the Board should vote on the ordinance and at the same time they should give their proposal on rollback.

DISCUSSION AND DECISION ON PREFERRED ROLLBACK OPTION FOR THE TOWN

Commissioner Kwiatkowski reviewed her Rollback Options Summary she provided to the Board. Commissioner Freer suggested adding a D to the summary - fee only, no Town payment. Commissioner Freer asked the current cost for rollback on Ocean Boulevard. Town Manager Hewett said he believes it is around \$35,000, but will check. Mayor Pro Tem Sullivan asked what the \$85,000 estimate entails. Town Manager Hewett replied all cans back to the house annually. Commissioner Freer said he views it as an option like recycling, you pay a yearly fee and you get a service. He views it as an option, so it should be a fee. He would not use the service. Commissioner Kwiatkowski said she is not sure the person who gave the quote figured in an opt out option because that adds a level of complexity. She agreed she won't use the service, but she is willing to spend money to make the island look clean and neat. Mayor Pro Tem Sullivan said he looks at it like he pays taxes for children to go to school, but he doesn't have children going to school anymore. He said increasing the pickup and having the cans taken off the street benefits all of us because it is a more attractive community. His quick math is if it is \$85,000, it would cost homeowners a little less than \$4 per month. He said when they are considering the options, he doesn't think that any decision the Board comes up with will have a terrible impact. Commissioner Fletcher said it significantly simplifies the process.

Commissioner Freer asked if the Board can talk about rollout. Commissioner Kwiatkowski said rollout becomes more complicated. People keep their cans in different places. It's not standardized. She thinks it would be good if there were some providers of rollout where people can contract directly with them. She thinks there are a tremendous amount of complications and legal issues about hunting around someone's property that she is not sure if the Town would like to get involved in. Town Manager Hewett did check with Waste Industries, there is a program for residents with disabilities that you can enroll in that they will rollout and rollback for residents. That wouldn't apply to second homeowners or rental properties.

Town Manager Hewett said the Town budgeted \$35,000 for rollback, it is a little under that. Commissioner Kwiatkowski said we have been paying that amount out of BPART for the past couple of years. Town Manager Hewett said the quote is a working estimate. He would insist the Town develop a statement of work and solicit bids.

Commissioner Butler stated the Board received and appreciated the feedback. He wished they could get a little more. He thanked Commissioner Kwiatkowski for taking this project on and the Holden Beach Property Owners Association for sending their email out to the property owners. He said he supports a rollback program for numerous reasons. He is concerned about those folks that aren't here and the containers needing to be located street side no earlier than 6:00 p.m. Commissioner Butler said it is easy to say we will have a program in place and to say it will be enforced. He wants to do what is fair for everyone pertaining to the 6:00 p.m. requirement. He is concerned about part-time people. He said a lot of the groups here have their own covenants, but that's only a limited amount of people on the island. Mayor Pro Tem Sullivan asked how people comply in his community. Commissioner Butler stated his neighbor beside him rents his house and puts it in the renter's agreement that it is the renter's responsibility to rollout and rollback. If there is non-compliance, Winding River has a security group that goes out after 11:00 p.m. Violators receive a letter that they are in violation of the ordinance. He talked

about the consequences if they don't come into compliance. Commissioner Kwiatkowski said she was a second homeowner before she moved here. She talked about what she did with her trash. She said they have put in there that there is a 48-hour window for the offseason. That's trying to accommodate that with the wording in the ordinance. She said it takes planning, but for five years she planned. She understands it is not perfect, but there are way too many cases with cans sitting out there for a week. Commissioner Fletcher explained his observation while he was living at 515 Ocean Boulevard was that a major issue is the renters are not putting the trash out on time. His thought is that you must have it out the night before. He does that; it makes sure it is out there for pickup. If they would do that it would avoid having full cans put out there after the trash is picked up. Commissioner Kwiatkowski said if trash is put out after the trucks have gone by, the new rollback will be both full and empty bins. If the bins are full they should contact the rental company. Commissioner Freer asked if full or empty is the agreement now. Commissioner Kwiatkowski said not currently, but it was discussed earlier this year and the Board decided all bins need to go back. She knows the rental management companies do have instructions that encourage the renters to put the bins out the night before, they just don't all do it. Mayor Pro Tem Sullivan said in certain issues there is a fee involved if someone rents a home and the home needs work. He said the fee gets passed to the property owner. He asked if it is legal to retain some of the deposit or to bill the owner if someone doesn't put their cans out and how much of a pain it would be as the management company. Mayor Holden said his company has a dump truck. Most check-in days he pays his people to be available so when this problem comes up they pick it up and haul the excess away. He doesn't ever recall charging a renter or homeowner for this service and explained why. Commissioner Kwiatkowski asked if he has an estimate on the percentage of his properties he ends up doing trash removal for. Mayor Holden explained there is nothing consistent about it. If he needed to give a swag of how many houses they needed to accommodate with some level of service, he said they maybe average a dozen on check-in days. Mayor Holden agreed that the bags left on the ground are looked at as an opportunity by animals. The Board talked about people checking out and missing the trash rollout timeframe. Commissioner Kwiatkowski said rollout to her is something that is voluntary. It is something people would contract directly with a provider. The Board talked about the current rollback program and the timing of rollout. Commissioner Fletcher suggested meeting with the rental agencies to see what they would do to help with the issue. Commissioner Kwiatkowski stated she still believes rollout is different from island wide. She doesn't think they need to be tied together.

The Board talked about how to fund island wide rollback. Mayor Pro Tem Sullivan said if we continue the way we are for rollback service the \$35,000 would increase due to weekly recycling during the season. He suggested the Board could look at the difference between the increase for the current service and \$85,000. Town Manager Hewett said the \$85,000 quoted is for all cans, full and empty and the increased frequency back to the house. Commissioner Fletcher said he spoke with the current provider; if the Board is looking at having the work done within a couple of hours you would need a lot of people to do the work. Commissioner Kwiatkowski went over the options from her Rollback Summary Option again and said Commissioner Freer added a fee only option. Commissioner Freer said if you are going to do a fee at any level you should either do all or none. Town Manager Hewett inquired how nonpayment of the fee would be handled if there is a consideration of applying a fee. Mayor Pro Tem Sullivan said the Town can provide the service with no opt out option. The Board further discussed options for funding the service.

Commissioner Kwiatkowski said as she understands it the discussion is leaning towards a combined General Fund and BPART payment to cover rollback for island wide and all year. She added to stay consistent we are allocating \$35,000 and the rest from the General Fund to stay BPART neutral.

Commissioner Freer agreed. Town Manager Hewett asked about the effective date of putting this type of program in place. Commissioner Kwiatkowski said we are now to BPART and the General Fund will cover the cost. We want to have it in place in the beginning to mid-May so there will be General Fund implications in the ongoing budget year. Town Manager Hewett stated that gives time to develop a statement of work and put it out to bid. He asked if what he said about full cans, year-round, full or empty back to the house captures generally what the Board is talking about. Commissioner Fletcher said he would say the statement of work would need to limit the time they take to get the job done. Commissioner Kwiatkowski said rollback has to be achieved by 6:00 p.m. If the decision is to have island wide rollback service and the commissioners say 2:00 p.m. instead of 6:00 p.m. it is not too late to change the proposed ordinance. Commissioner Freer said in the contract the Town could put any time they want. The Board talked about changing the time. Town Manager Hewett stated the tighter the time constraint is that it will reduce the window and the cost may go up. Commissioners Butler and Freer said they are okay with leaving it at 6:00 p.m.

Commissioner Kwiatkowski summarized that for the purpose of this workshop the Board made a decision that there will be whole island rollback every Tuesday and Saturday during the season. It will be paid for from BPART, staying revenue neutral in that fund and the additional costs being paid out of the General Fund. Town Manager Hewett commented that it is subject to a definitive statement of work and an acceptable cost coming back for the Board's consideration. The Board agreed. Commissioner Kwiatkowski said this is what will be presented tonight at the meeting.

Lou Cutajar asked if the property management companies gave any input. Commissioner Kwiatkowski replied no. Mr. Cutajar said he sent a link to the proposed ordinance to all of the managers.

ADJOURNMENT

Motion by Commissioner Fletcher to adjourn at 11:30 a.m.; second by Commissioner Kwiatkowski; approved by unanimous vote.