



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
REGULAR MEETING
TUESDAY, DECEMBER 18, 2018 – 7:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, December 18, 2018 at 7:00 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; Assistant Town Manager Christy Ferguson; Planning Director Tim Evans; Public Works Director Chris Clemmons; Detective Jeremy Dixon; 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 Commissioner Fletcher to approve the agenda as presented; second by Commissioner Butler; approved by unanimous vote.

APPROVAL OF MINUTES

Motion by Commissioner Fletcher to approve a, b and c (minutes of the Special Meeting of October 23, 2018, minutes of the Special Meeting of November 20, 2018 and minutes of the Regular Meeting of November 20, 2018); second by Commissioner Freer; approved by unanimous vote.

PUBLIC COMMENTS ON AGENDA ITEMS

Tom Myers, President of the Holden Beach Property Owners Association (HBPOA), said he is speaking on behalf of the HBPOA on items 14 & 15, solid waste and rollback services. He said based on their most recent analysis 89% of the property owners do not live here fulltime and 30% of those don't live in the state of North Carolina. More than half of the property owners do not rent their properties, those that do are predominately seasonal rentals. He said in general property owners are concerned about the additional burdens that might be placed on them and that they could incur severe penalties and possibly criminal violations for things that are out of their control. They feel they pay property taxes and are entitled to services including trash pickup. Mr. Myers said the Town needs to consider the unique demographics of the island. The majority of the island has a high percentage of non-resident owners who don't always know each other. He talked about how non-residents use the trash service and said these property owners are being turned into villains. He said their only crime is not being here fulltime. The

HBPOA tried to communicate the information on the proposed ordinance and received a lot of feedback. He said collecting feedback takes time and it was impossible to get feedback on what was discussed this morning. He said the HBPOA is willing to help communicate the information to the property owners. They just hope it is fair to the non-resident property owners, who represent the vast majority of our tax base.

GUEST SPEAKER, FOCUS FIBER OPTIC SERVICE PRESENTATION – KRIS WARD, DIRECTOR OF BUSINESS DEVELOPMENT, ATMC

Kris Ward, Business Development Manager, said he is here to announce their fiber optic project that will hopefully start in the first quarter of 2019. The project is estimated at \$5.5 million, all of that is coming from the cooperative. It will make internet speeds up to 1 GB available to all residents and businesses on the island. There are 13 phases listed on the map. As phases are completed service will be offered to those areas. As soon as they have crews available they will be moving to Holden Beach. They are anticipating in January/ early February. Construction should take nine – twelve months. He showed the map, which is also available online. Mr. Ward reviewed the benefits of fiber optics. More information is available online at www.iwantATMC.com. He said he is sure before construction starts they will hold a pre-construction meeting with Town Manager Hewett.

Commissioner Freer asked if the go live is by phase. Mr. Ward confirmed it is by phase. Phases might not be completed in numeric order as listed on the map. Mayor Holden asked about the order of installing the services on the islands. Mr. Ward explained about timing and the different construction services.

DISCUSSION AND POSSIBLE NOMINATION OF BOARD MEMBER TO THE MAYOR PRO TEM POSITION

Motion by Commissioner Kwiatkowski to nominate Mayor Pro Tem Sullivan to continue as mayor pro tem in the second year. No second was made.

Motion by Commissioner Freer to nominate John Fletcher as mayor pro tem; second by Commissioner Butler.

Mayor Pro Tem Sullivan said there is a clear divide on how the Board votes and discusses issues. This vote will place all three positions beyond the regular authority of the commissioners in the hands of the three people that ran together in the last election. He wants to point out that all power rests in the hands of the three people who have voted the same way on every issue since they came onto the Board. Commissioner Freer stated there were four people who ran together and the three that are being referred to have not voted the same on every item. Commissioner Kwiatkowski stated when the Board came into office last year she was told the mayor pro tem generally goes to the commissioner with the most votes which is why she was proposing it is appropriate for Mayor Pro Tem Sullivan to continue. She said if that is no longer the case, the next time it comes up that it not be considered that the person with the most votes becomes the mayor pro tem. Commissioner Freer said if you look at the backup material, it is by election. It was done before, two years ago. Commissioner Fletcher was voted in as mayor pro tem the second year and Ashley Royal, the top vote getter, did it the first year. He said they are just going by the rules. Mayor Holden said it is not mandatory that the top vote getter get it. It was more an honoree type thing. Commissioner Butler said when he looked at the backup material he saw that the ordinance says the normal term of office for mayor pro tem and executive secretary shall be one year. Commissioner Fletcher

said he nominated Mayor Pro Tem Sullivan last year and it wasn't because he got the most votes. He felt he would be the best.

The motion passed with a 3 – 2 vote with Commissioners Butler, Fletcher and Freer voting for the motion and Mayor Pro Tem Sullivan and Commissioner Kwiatkowski voting in the negative.

DISCUSSION AND POSSIBLE NOMINATION OF A BOARD MEMBER TO THE EXECUTIVE SECRETARY POSITION

Motion by Commissioner Sullivan to nominate Commissioner Kwiatkowski to the position of executive secretary. No second was made.

Motion by Commissioner Butler to nominate Peter Freer, he has done a great job and he knows he will continue to do a great job in that position. The motion was seconded by Mayor Pro Tem Fletcher, he agrees he has done a good job and should continue it.

Commissioner Sullivan said he shouldn't be surprised by the variances that go on, but he thought he heard two minutes ago that the reason he should no longer be the mayor pro tem was because he already served a year. Commissioner Freer has served as the executive secretary for at least two, if not three years. If you use the same logic it seems he should be replaced. He said it seems to reinforce what he said, this is just another instance of people wanting to get their way without using logic or a good explanation.

The motion passed by a 3 – 2 vote with Mayor Pro Tem Fletcher and Commissioners Butler and Freer voting for the motion and Commissioners Sullivan and Kwiatkowski voting in the negative.

DISCUSSION AND POSSIBLE ACTION ON BRIDGE REHABILITATION PROJECT

Town Manager Hewett explained that Chad Kimes, Kevin Bowen and Anthony Law from the Department of Transportation are in attendance to discuss the options. Mr. Law said since they were here in August they came up with another idea so he wanted to show the Board another option. He reviewed the scope of work of the project. The contractor has been awarded the project. The expected start date is January 2019, with an overall contract completion date of October 1, 2019. He showed the option chosen for the safety railing at the last meeting and the option that was presented that the Board didn't choose. The third option that came up recently is a vertical bar, but it is much thinner. He showed the recently completed Surf City Bridge. He wanted to see if the Town is interested in the newer option. Commissioner Butler asked if the path in the slide was a walking/ bicycle path. Mr. Law replied yes. Commissioner Freer asked if it will be three rails or the two rails. Mr. Law said there will be two horizontal bars. He confirmed it would be four feet from the surface of the bridge in response to Mayor Pro Tem Fletcher's questions. He talked about the view for cars. Commissioner Kwiatkowski said she thinks it is less likely for strobe effect because it is so narrow. She thinks it looks nice. Commissioners Butler and Freer agreed. Mr. Law talked about the price of the project and confirmed they will have time restrictions for construction. They would like a Town representative to be present at the pre-construction meeting. They will probably start in January/ February.

Motion by Mayor Pro Tem Fletcher to accept the new proposal; second by Commissioner Freer; approved by unanimous vote.

RECEIPT OF THE INLET AND BEACH PROTECTION BOARD REPORT

Commissioner Freer explained that as required the report was sent to the Board. He has no problems or comments. He thanked the board for their hard work and told them to continue working on addressing beach and inlet issues.

POLICE REPORT – DETECTIVE JEREMY DIXON

- Having a mild winter. Only have taken one report in November. It was for a vehicle that was broken into. No other reports in that area.
- The County Board of Commissioners approved a resolution in appreciation of emergency services in the county for their services during Hurricane Florence. Read from the resolution.

DISCUSSION AND POSSIBLE ACTION - CONSTRUCTION MANAGEMENT SERVICES OF THE VACUUM SEWER SYSTEM #4 UPGRADE STATUS REPORT

Public Works Director Clemmons explained that Leo Green had a projected startup date of December 17th at the last meeting. We are not going to make the date. The contractor couldn't fulfill that. The revised schedule for startup is January 15th. Air Vac will be onsite all of that week for troubleshooting. As the operator, the change is not too bad for him because the Town will probably have increased flow during the old date due to the holiday. By January 15th the flow should be down. After the week of startup they have a completion date of the end of February, beginning of March. They had to work around issues. The steel beams arrived about three days ago. He talked about holdups to date and thanked Planning Director Evans for his assistance. He provided the Board with a copy of expenses to date.

Mayor Pro Tem Fletcher asked if we have a projected completion date. Public Works Director Clemmons replied the last of February, beginning of March. We should be operational the week of January 15th if there are no glitches. Commissioner Kwiatkowski asked if staff will send out a flag of items that are going to happen in case there are some glitches. Public Works Director Clemmons replied that he didn't plan to. He is sure Air Vac will test run some of the equipment. We will have their expertise onsite. If we have any issues we will get the word out to the people that are here. There are no change orders to date. If there are any they should be pretty minimal at this time unless there is a major catastrophe that nobody has foreseen.

DISCUSSION ON THE FINAL PROPOSAL OF WASTE ORDINANCE AND POSSIBLE ADOPTION OF ORDINANCE 18-16, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 50: SOLID WASTE

Commissioner Kwiatkowski explained the Board had a meeting earlier today where the commissioners and the public who came went through the proposed amended ordinance, followed by a discussion on rollback. There is one change that had been put into the packet. There have been a number of requests that recycle bins should be allowed to substitute for some of the waste bins for rental properties. The Board discussed it and decided that in instances where three trash cans or more are needed, substituting one of those cans with a recycling can could be permissible. In Section 50.08, Rental Homes the last sentence will read in instances where three trash cans or more are required, one can may be replaced

with a contractor approved recycling bin. That was the only change made to the document although it was raised again to ask the Town attorney whether having a criminal penalty is necessary. Attorney Fox explained that in North Carolina, the violation of a municipal ordinance is a criminal penalty so you would need to specifically exclude that. Commissioner Sullivan suggested removing the criminal penalty.

Motion by Commissioner Sullivan that the Board remove the criminal penalty from 50.99; second by Mayor Pro Tem Fletcher.

The Board talked about the method of approving the ordinance. Attorney Fox said the easiest way to do it would be to say violation of this ordinance would not be subject to a criminal penalty. Commissioner Kwiatkowski said the Board has the one change from this morning and the Board now heard from Attorney Fox that language can be put into the ordinance saying there would not be a criminal penalty.

Commissioner Freer said the Board is integrating rollback, but what they don't have is a price. He said they requested that Town Manager Hewett put a request for proposals out for the whole Town rollback. Commissioner Freer said rollback is in the ordinance. Commissioner Kwiatkowski said what is included in the ordinance is the timing for rollback. The fact that the Board made a decision that the Town can have island wide rollback means that the rollback issue is not a big issue. If the Board had decided to stay where they were it wouldn't be a level playing field. She said the kind of rollback program the Town has isn't a part of this ordinance. Attorney Fox said in the ordinance there are requirements for cans to be placed at the curb at a certain time and retrieved from the curb at a certain time and that they be stored at certain locations. Commissioner Freer added that there are penalties associated with not doing it. Commissioner Sullivan said they are interrelated, but they are two different issues. Commissioner Freer said he agrees with what the Board discussed earlier, but it is really contingent on an acceptable contract. There is no contract, only a concept. He said we have time, once we get that we will have an understanding on the linkage of the rollback and the Board can vote on it then. Commissioner Kwiatkowski stated the Board wanted to implement this so that in the first months of the year we wouldn't be imposing fines, but would issue warnings. The idea was to give January - April as the educational phase. The fines do not start until May. If the Board's intent is to provide rollback service she doesn't think we need to wait for a firm bid, we have an estimate. If the Board doesn't approve the ordinance they can't start on the education process. Commissioner Freer said he would be voting on something that he doesn't know the price impact. That is a risk he is not comfortable with. He said they are voting on something he wouldn't use, but he would be paying for. He said there are lots of people like the Board that live here fulltime. He is willing to pay a reasonable amount if it makes sense for the whole island. Mayor Holden said until the Board approves a contract nobody is paying anything. Commissioner Sullivan asked for an estimate on how long the process would take. Town Manager Hewett answered that it would probably be mid-January to have a statement of work. He is anticipating he would have a bid package back for the Board's consideration at the February meeting. Mayor Pro Tem Fletcher suggested the Board could also call a special meeting. Commissioner Freer said he thinks that would be the prudent thing to do, otherwise the Board is voting on something they don't have information on. It would hopefully give the Board a couple of months to educate the public and the rental folks.

The Board talked about how to proceed. Mayor Holden explained the previous motion needs to be clarified.

Motion by Commissioner Sullivan to amend the proposed ordinance to delete and decriminalize any of the violations contained therein; second by Mayor Pro Tem Fletcher; approved by unanimous vote.

Commissioner Kwiatkowski suggested replacing the proposed language in red to in instances where three trash cans or more are required, one can may be replaced with a contractor approved recycling bin.

Motion by Commissioner Kwiatkowski to alter what is written in red to what she just stated.

Town Clerk Finnell read what the change would be. Commissioner Sullivan suggested using substituted instead of replaced. Commissioner Kwiatkowski agreed. The motion passed by unanimous vote.

Motion by Commissioner Sullivan to adopt the proposed ordinance as amended; second by Commissioner Kwiatkowski; approved by a 4-1 vote with Mayor Pro Tem Fletcher and Commissioners Sullivan, Kwiatkowski and Butler voting for the motion and Commissioner Freer voting in the negative.

DISCUSSION AND POSSIBLE ACTION TO IMPLEMENT BOARD ROLLBACK DECISIONS FROM THE DECEMBER 18TH WORKSHOP

Commissioner Kwiatkowski said the Board had a good meeting this morning and discussed trash can rollback and the problems that come with the current situation of partial island rollback. The general consensus of the Board is there should be whole island rollback not only during season, but also on the Tuesdays offseason and it will be covered by continuing the BPART contribution and paying the rest out of the General Fund. Rollback will be provided island wide every day there is trash pickup. Rollback will be empty or full cans. There will be no rollback fee applied in addition to the normal taxes already paid.

Commissioner Kwiatkowski asked Town Manager Hewett to proceed with the statement of work. Town Manager Hewett confirmed he understands what is expected.

DISCUSSION AND POSSIBLE APPROVAL OF AMENDING THE FEE SCHEDULE (RESOLUTION 18-13, RECYCLING CHARGES AND RESOLUTION 18-14, SPECIAL EVENT FEES

Town Manager Hewett explained that Waste Industries is passing along a \$14.92 processing fee for recycling. In order to pass that on to the subscribers, Resolution 18-13 would need to be approved by the Board, which would amend our fee schedule. Resolution 18-14 regarding special event fees is an item discussed at the November meeting. It establishes a race event fee of \$1,500. The Board would need to approve both resolutions to implement the revisions to the fee schedule. Commissioner Freer asked if the Town is in a middle of a contract with Waste Industries. Town Manager Hewett replied yes and the contract says they will pass on the processing fee. We are currently not assessed one. Commissioner Freer commented that the special event fee is for races only. He said the Board wants to discuss in the future other for profit events that the Town occurs expenses on to determine how to address those.

Motion by Commissioner Kwiatkowski to adopt both Resolution 18-13 and 18-14 as written; second by Commissioner Freer; approved by unanimous vote.

DISCUSSION AND POSSIBLE ACTION ON POYNER SPRUILL LLP PROPOSAL CONCERNING CONSULTING SERVICES

Town Manager Hewett said the Board had specifically requested that the two previous proposals submitted by Poyner Spruill for consulting services be scaled down into a single proposal that had two primary focus areas. One being federal issues related to the Lockwood Folly Inlet maintenance and the second federal issues related to beach nourishment, with the expressed desire for a scope of work that addressed goals, actions, projected and probable results to include associated timelines of the same. They also expressed the desire for a client list that articulated some of their successes. The proposal has been amended in response to the Board's desires. It is in the package, complete with the required budget amendment necessary to carry us through the rest of year. The monthly bill is just shy of \$7,000 a month. The budget amendment totals \$41,850. Town Manager Hewett knows Commissioner Kwiatkowski had provided a letter of support. Specific to the revised proposal, Commissioner Butler has provided revision specific feedback on the proposal. His input is on page 78 in the agenda package.

Commissioner Freer said he agrees with Commissioner Butler's two points. He asked if Town Manager Hewett sees any issues with requesting the updates and voting on it, assuming the changes can be made. Town Manager Hewett answered that the Board could do that. He said in discussions with Poyner Spruill there is an understanding of refining and crafting the asks that are in there. He would also propose to have the authority that if they refine it a bit more the fee can be whittled down as well. Commissioner Freer stated the Board is concerned with the distribution of sand on the east end. He is sure they understand that, but it is not explicitly stated in the document. Commissioner Freer said that Commissioner Butler suggested that and he is comfortable with adding it. He added the other point is he doesn't know much about the 50-Year Project and the Board hasn't discussed that. He thinks the Board should set that aside. They can add that later if they learn more about it. He feels comfortable with adding clarification on the one item. Commissioner Kwiatkowski said the Board discussed that the two priorities were the east end and progressing on finding ways to help get federal help for nourishment. She inquired if he is proposing that as a start all we do is focus on the east end renourishment, Lockwood Folly area. Commissioner Freer responded yes, he is proposing to not include the 50-Year Plan, but if something comes up about sand that doesn't apply to the east end, the Board could certainly make the adjustment. He is not comfortable with the 50-Year Plan because he doesn't know much about it. He said the Board could say east end and renourishment of other areas. Commissioner Kwiatkowski added other opportunities.

Mayor Pro Tem Fletcher said he was waiting on some input from Poyner Spruill on the projects they worked on. Poyner Spruill sent 10 pages of projects they worked on in the last few years and not one has to do with the Corps, beach nourishment or sand. He said that worries him. He said we need to be really restrictive if we do anything with them now. We need to limit the input until we see what they do. Mayor Pro Tem Fletcher said we have not heard from anyone else. He had dinner last night with a person that works for the Governor in South Carolina. They have 40 companies under contract to lobby for them. He said if we go out to bid we would get a lot of input from a lot of good companies. He does not feel comfortable representing the Town owners to spend their money on something that he does not know if there is a better deal. If the Town is going to spend \$100,000, he would like to go out to bid to see who else would do it for us; to see if they are focused on sand, beach nourishment and shoreline protection. He said Poyner Spruill is a good firm, but they are not focused on that. He would only give them a limited contract and it would focus on getting sand from the inlet onto the east end. Mayor Pro Tem Fletcher

stated if they could do that successfully he would be happy to expand that and to look at other things they can do for us.

Commissioner Butler stated he is sure folks on the east end could go out, look at the beach and look at the amount of erosion that is currently taking place as a result of the storms. We knows that we lost 88,000 cubic yards of sand to our neighbor. He said he can hear all of the excuses in the world, but the bottom line is we never received a phone call or even an email about it until we went to a meeting and found out about it. He said something is wrong there. Commissioner Butler said as you notice in the document he wrote, the Town's primary focus at this point and time is to receive beach quality sand to address the east end erosion problems. The other primary concern he has is to add additional representation at the federal and state levels to support all of the items identified in Resolution 18-10. He thinks the Town needs support and help. We have an email about 250,000 cubic yards of sand; a dredging project potentially down the road. The email was sent to both Holden Beach and Oak Island to see if we are interested in the sand. He said the answer is yes. Commissioner Butler said the position we are in is we need help. He said let's focus on the areas we need help in.

Motion by Commissioner Freer that we accept this contract with the following changes that are on page 78 in our package where we would add along with beach nourishment efforts for placement of beach quality sand on the east end of Holden Beach and also add any other beach nourishment opportunities and the second one is to remove the 50-Year Plan as part of the contract; second by Mayor Pro Tem Fletcher.

Commissioner Sullivan asked if the Board is ready to vote on this not knowing what the cost will be. Now that we are amending what we are asking them to do he is sure there will be a difference in cost. He is not sure if they would be willing to vote on that now, not knowing what the cost will be. Commissioner Freer said we just voted on something we didn't know what the cost would be and he was the only one that voted against it. He said he is reducing it so he would assume the cost wouldn't be any more. He would also assume that it's an hourly contract so instead of devoting their hours against two objectives, they are using the hours against one objective, the same amount of hours. Mayor Pro Tem Fletcher said his understanding is they can't spend more than the retainer. Commissioner Sullivan said he understands that, but there is a figure just shy of \$7,000 to do what they proposed. The Board is cutting it down. He asked if they will still charge \$7,000 and if the Board is willing to pay that for less work on their part. He thinks they should lower their retainer and he thinks the Board should know what the number is. The Board talked about the previous proposals. Commissioner Freer said he thinks the lower one was very close to this proposed one. He said he doesn't expect much reduction. Commissioner Kwiatkowski said the question is whether the Board would accept it on the understanding that it would cost no more than the proposal and there is likely to be a slight reduction. Commissioner Freer said we are taking off about the 50-Year Plan, but we are adding other beach nourishment. Commissioner Kwiatkowski stated that is the kind of stuff that will come out when they do legislative updates to the Board because that's what flags those sorts of activities. Commissioner Freer said he thinks the Board is substituting the 50-Year Project for not a specific project, but anything that presents itself as nourishment, other than the east end. Commissioner Kwiatkowski asked if what people are happy to approve is engaging Poyner Spruill with the understanding that the cost will not exceed the proposal. Commissioner Butler also asked for clarification in his email that any Ferguson involvement is contained within the monthly retainer. He said that Town Manager Hewett responded yes it is. Commissioner Freer agreed with what Mayor Pro Tem Fletcher said, but the Board should have talked about that three months ago. It is a lot of money, but if it works it is worth the money. Mayor Pro Tem Fletcher said he would be willing to pay a lot more if they

came back and say they found a way to get the Town the 250,000 cubic yards out of the inlet on our east end. Commissioner Freer added and fund it. Commissioner Sullivan said he is not against this, he was trying to point out the way the Board conducts business is not done rationally. He suggested the motion be amended because it doesn't include any language about the cost not exceeding the proposed price. Commissioner Freer said he doesn't think the Board has to because the price is there, but we can say not to exceed the price in the contract. Commissioner Sullivan stated we are not accepting that offer. He talked about basic contracting laws. He said the Board is giving Poyner Spruill a counter offer, they do not need to honor what they sent to us. He said if the Board makes a counter offer, the Board should include what they expect to pay. Attorney Fox agreed that in contract law offer objection voids the current offer on the table. She understood Town Manager Hewett has said he believes from his discussions that if the items were modified as outlined in the packet, you would be able to enter into the contract for a lesser amount. She also understood the Board to say that they would give Town Manager Hewett the authority to do that. The discussion however has not been incorporated into the motion.

Mayor Holden passed the gavel and said he wanted to make sure he is hearing what is being considered. He asked if we are hiring Poyner Spruill for only pertaining to the east end of the beach. Commissioner Freer responded no, he amended that to say other beach nourishment opportunities on any part of the island. Mayor Holden confirmed for east end sand and other nourishment is what we are hiring them for. Commissioner Freer said as a start. Mayor Holden said he gets in his fishing boat and takes half a dozen rods and reels and is headed offshore. He looks at all of these schools of fish as he is going out, they are good fish, but he is only going to catch that one kind of fish that day. He is going to bypass all of the other good stuff he is looking at. He stated that is the way he sees giving whoever the Board chooses to hire a limitation on what they are there for. You wouldn't be allowing them to work on any other issues than what was just described. He said it makes no sense to him. He hates to be critical and is excited about the possibility of getting help. Commissioner Freer said Town Manager Hewett has a relationship with the firm and they would come to him with other opportunities. He said if you are going tuna hunting, are you going to say there are other fish here so I am going to divert from that. He stated no, he would want them to focus on tuna. Mayor Holden said if they are in Washington and talking about several things, the representative is only going to get involved in the issues discussed, unless they call Town Manager Hewett and say we are in Washington and ask for permission to discuss another topic. He said we are either in or out. Commissioner Freer inquired why a list was made and Poyner Spruill presented us with two different options. He said they are just extending that logic to focus their work. Mayor Holden said he fought like hell for the 50-Year Project and he watched Ocean Isle get their project in place. They outran us and we got left in the dust. He said what we are doing is going hunting with a BB gun and there are elephants out there. We need someone that wherever they are if they have an opportunity to represent us, they have the authority to do something to help us. Commissioner Butler said he is looking for a grenade to throw at the elephant. We have an immediate problem, an immediate concern that needs to be addressed and we need help. He would like to focus on the immediate problem because he doesn't want to see the east end of the island end up the way it was before. Commissioner Kwiatkowski stated the Board can go back and remember that in the presentation Poyner Spruill made they are used to having municipalities start small and continue to work with them and add things. She thinks it will behoove everyone to learn more on the situation with the 50-Year Plan and maybe as this progresses that is where we put our next priority. Commissioner Butler said he likes that. Commissioner Freer said he is all for that; give him some information on the 50-Year Plan. The Board should make a decision on the 50-Year Plan as a Board before we pay someone to advocate for us on that.

The motion passed by unanimous vote.

Motion by Mayor Pro Tem Fletcher to approve Ordinance 18-07, An Ordinance Amending Ordinance 18-10, The Revenues and Appropriations Ordinance for Fiscal Year 2018 – 2019; second by Commissioner Butler; approved by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 18-18, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 30, TOWN GOVERNMENT AND OFFICIALS (SECTION 30.26 AUDIT COMMITTEE OF THE BOC)

Motion by Mayor Pro Tem Fletcher to approve Ordinance 18-18, An Ordinance Amending the Holden Beach Code of Ordinances, Chapter 30: Town Government and Officials (Section 30.26 Audit Committee of the BOC); second by Commissioner Freer.

Commissioner Kwiatkowski said she still sees that there is an inconsistency in how members are placed on the Audit Committee. The Board had a discussion on this last time and she remembers that the attorney said it is better to have consistency on how members are appointed to the various boards and committees. In other boards and committees, the Board interviews and votes for the members that will be added. Only the Audit Committee says the chair appoints the members. She would look to the Audit Committee to provide the Board with a priorities list for qualifications and then let the Board interview the candidates and make the selection. Mayor Pro Tem Fletcher said the Board would hear every candidate before they decide if the proposal from the chair is the right one. Commissioner Sullivan stated the essence of it is, if five people submit their names to be on the board, the chair and the existing people interview those five people and then say they want one or two. The Board gets to vote on the people they selected, instead of actually talking to the other three. Mayor Pro Tem Fletcher said the Board would see everyone. Commissioner Sullivan said since the last meeting he had people say they submitted their name and never had an interview or if they got an interview it was a phone call from Mayor Pro Tem Fletcher and they didn't even realize it was an interview. He said there is no reason that his colleagues do not have the ability to look at a resume, especially if they have guidelines on what they are looking for. This is the only committee that the Board allows the chair to make the decisions and then put it to the Board. He said last meeting Commissioner Freer asked what practices are in Fayetteville. He read from the minutes. He said we hired an attorney to get her professional opinion and for whatever reason we are going to disregard that and leave ourselves open to criticism. Commissioner Kwiatkowski stated it would be a simple thing to change this to members will be appointed by the Board based on general guidance and qualifications provided by the Audit Committee. Commissioner Butler said shouldn't the committee have the ability to be able to assess and evaluate the number of candidates for the position and to screen the candidates like an HR Department would do. Commissioner Kwiatkowski said the Board doesn't do that for other committees and they are asking for consistency. Mayor Pro Tem Fletcher said they only have a one year term. Mayor Holden said he thought committee members serve at the pleasure of the Board. Attorney Fox replied yes. Commissioner Freer thinks the point is the other committees are more than a year. He said this is a unique board. Mayor Pro Tem Fletcher agreed. He said he has worked this for many years. They are pushing now to get financially experienced people on that board. He said if it turns out to be a political deal they won't be doing the job. Commissioner Kwiatkowski asked if he doesn't think the Board is capable of conducting a proper interview and to judge the qualifications. Mayor Pro Tem Fletcher said it is an attitude thing as well. Commissioner Sullivan explained that is subjective. He asked Commissioner Freer if he thinks he is qualified. Commissioner Freer said Commissioner Sullivan referenced Fayetteville,

but they do it differently. Attorney Fox reviewed how Fayetteville's committee is composed; she said it is not apples to apples. She said this is an advisory board that can be disbanded, that should support the Board in the Board's role of overseeing the Town's finances, unlike the Planning & Zoning Board that is mandated by statute. Mayor Holden asked if it is correct that the members of the Audit Committee meet, but they don't have the authority to go to Town staff to ask questions. Attorney Fox replied they would go through a staff liaison. Mayor Holden said that would be the town manager. He has a mayor friend in another part of the state that had problems with appointed people going directly to staff and it interrupted things. Mayor Pro Tem Fletcher added they make recommendations to the Board, they don't make any decisions. He said the Board will hear from everyone that sends a resume. The Board talked about the process in the past. Commissioner Freer said he would change the word appointed to recommend. Then the Board can ignore the recommendation or accept it. Commissioner Sullivan agreed that would work. Mayor Pro Tem Fletcher said the Board can then talk to every person.

Attorney Fox asked if the Board is okay with the language the chairman of the BOC Audit Committee should recommend to the BOC the member to be appointed, subject to confirmation by the BOC. Mayor Holden asked if it is implied or written anywhere that anyone who applies for the position will be made known to the commissioners. Attorney Fox asked the current process. Town Clerk Finnell said she sends out a request for resumes and resumes are sent to her. A special meeting is scheduled to interview everyone and the Board receives everyone's application. Attorney Fox said there shouldn't be a deviation. Commissioner Freer said the Board is adding one step that prior to coming to the Board they go to the Audit Committee so they can present their recommendations as well. Town Manager Hewett said that is not what the ordinance says, it says appointed by the chair. Commissioner Kwiatkowski said it does not say that the Audit Committee as a whole interviews them. Town Clerk Finnell said she is not sure having the Audit Committee interview the candidates makes sense since their terms all technically expire after a year. If they are interested in serving again, they would be interviewing themselves if they did it as a committee. Mayor Pro Tem Fletcher said that is why the chair does it, rather than the group. Attorney Fox said when the candidates are interviewed by the Board as a whole, the chair would make a recommendation. Mayor Pro Tem Fletcher said the Board would have complete control of saying yes or no to the recommendation. Mayor Holden said all that applied through the clerk would be interviewed by the Board. Attorney Fox agreed. Commissioner Sullivan said if they were looking for the Planning & Zoning Board, whoever submitted their name would give a presentation and the Board would vote on it. For the Audit Committee, we have an intermediate step. Mayor Pro Tem Fletcher said the difference is the other group picks their chair, there are no commissioners on those boards. Commissioner Sullivan still doesn't understand why his colleagues do not feel qualified, especially if the Board has a qualification list to look at. Attorney Fox stated she is suggesting that the town clerk advertise and receive all of the applicants. All of the information should be disseminated to the Board. The Board should conduct the interviews just like they do for other committees. The chair is also a member of the Board, at the meeting where he has interviewed with the Board, he will make his recommendation on who he thinks should be on the committee, but the Board as a whole will make the appointment by voting on each candidate. Commissioner Sullivan stated he understands that would be in addition to the presentation, at a subsequent time. Mayor Pro Tem Fletcher said he would do it at a previous time.

Attorney Fox said it should say the chairman of the Board of Commissioners' Audit Committee shall make a recommendation to the Board of Commissioners on who shall serve as the public members. She said the remaining part would stay. She added the Town should follow its normal procedures. Town Clerk Finnell read what the change would be.

Motion by Mayor Pro Tem Fletcher to accept the charter as amended; second by Commissioner Freer; approved by unanimous vote.

DISCUSSION AND POSSIBLE ACTION ON AMENDING THE RULES OF PROCEDURE

Commissioner Butler said he is recommending that the second sentence contained in Rule 13, Agenda, on page 5 of the Suggested Rules of Procedure for the Town of Holden Beach Board be revised. To be consistent at both regular and special meetings, he would like for the current wording in that sentence to be standardized for both regular and special meetings to encourage public participation to provide comments on agenda items. Also from the last meeting in reviewing page 16 he noted that would be a perfect place to also put that comment. He would like to make his comments his motion; second by Commissioner Freer.

Commissioner Kwiatkowski stated she is all for public comment and discussion. She is just questioning whether the Board needs to do this because it is not prohibited to have public comment at special meetings. It simply isn't specified. The Board used a document that Attorney Fox sent them as a template to develop the Town's rules. It doesn't prohibit it. Commissioner Freer said to him it is a clarification; he said it doesn't have to be put in, the Board can vote on a suspension of rules. He thinks the public will know at special meetings they can so they will show up. Commissioner Kwiatkowski said it is not a suspension of rules because it isn't prohibited. Mayor Holden said if it is on the agenda the commissioners don't have the ability to vote and deny people the opportunity to talk. If it is not on the agenda people can't speak unless the Board votes to allow them to speak. Mayor Pro Tem Fletcher stated the Board could just set a policy that it is added to every agenda. Commissioner Freer said that is what this is. Commissioner Sullivan asked about when the Board had the special meeting about the Amicus Brief and he made a motion to have public comments that was denied. The Board talked about that circumstance. Commissioner Kwiatkowski said if this would keep that from happening again she would like it to be put in the document. Commissioner Sullivan said there is nothing that prohibits people from making comments at a special meeting. Mayor Pro Tem Fletcher said there is something that precludes you from changing the agenda at a special meeting. Attorney Fox clarified that the Board can as a board allow comments on a matter that is on the agenda. The restriction on special meetings is that you have to only discuss the items that were noticed. That does not preclude you from allowing the public to comment on that. Most boards do not receive public comments during special meetings unless it is something that requires a public hearing. She explained you are allowed to let the public make comments during a special meeting, but you are not required to do so. Commissioner Freer asked for clarification because he said that was an added item to the agenda. Attorney Fox responded that it is not an additional item to receive public comment on a matter that was advertised as an agenda item that the Board is discussing. She provided information on public comment periods and public hearings.

The motion passed by unanimous vote.

Commissioner Kwiatkowski said the Board had so many discussions around last minute things being added to meetings it occurred to her one of the best things the Board could do would be to clarify Part VI, Rule 13, Part B. She suggested that the Board should remove the word significant so it reads items that are added to the agenda at a meeting in combination with supporting documentation will be designated "For Discussion", with action deferred to a later session. It allows introduction of a point onto the agenda for

discussion. If you bring something in writing that needs to be read and the public doesn't have opportunity to review it ahead of time the Board shouldn't take action, it should be limited to discussion.

Motion by Commissioner Kwiatkowski to amend Part VI, Rule 13, Part B removing the word significant from the last sentence; second by Commissioner Sullivan; approved by unanimous vote.

DISCUSSION AND POSSIBLE ACTION RELATED TO LARGE/ PARTY HOUSES ON HOLDEN BEACH

Commissioner Sullivan said prior to being elected to the Board he was on the Planning & Zoning Board (P&Z) and they were asked to look at the issue of large party houses on Holden Beach. At that point, they came to a decision that there probably wouldn't be a need to change our zoning laws because the existing laws would be enough to limit the amount of such houses that could be built on the island. He said sadly he thinks we came up short. In the last year we had three houses built that advertise you could have 20 – 30 people renting the house. Our current zoning doesn't accomplish what most people on the island would hope. There was an article in the paper where it said a couple of municipalities have suggested some different ways to approach the situation. He would propose P&Z be asked to contact people in these municipalities, get copies of the rules and regulations they are proposing and see if they are feasible or applicable to be potentially used on Holden Beach. Commissioner Freer said he agreed.

Motion by Commissioner Sullivan that the proposal would be that P&Z consider the feasibility and applicability of the zoning proposals instituted by municipalities within Dare County, #1 - Southern Shores, creation of a residential overlay district. The proposal will require stricter development standards for homes built within the district based on the size of the proposed home and #2 – Duck which is proposing to use lot size in determining allowable septic capacity and house size. The motion was seconded by Commissioner Butler.

Commissioner Freer said Holden Beach doesn't have septic. He said that is an example of something that could be done, but don't restrict it to septic systems. Planning Director Evans said you can't limit the amount of people in the houses because you can't limit the number of bedrooms. Commissioner Sullivan said this is another attempt to get around the limit on bedrooms. Planning Director Evans said Oak Island has done something similar and provided an example of what they did. He explained you can't legislate what's inside the house. We have a house that is half the size of the big house, but it has 11 bedrooms in under 4,000 square feet. Commissioner Sullivan asked if the Town has a rule requiring so many parking spaces per bedroom. Planning Director Evans replied yes and that the house in his example meets the requirements. He said Oak Island has done it, but the problem is while they are limiting the size of houses, they can't limit the number of bedrooms or behavior. Commissioner Sullivan said if a person rents the house and has to sleep in a cubicle like a monk, they may not want to rent that house again. Commissioner Freer said time has changed and let's readdress the situation. Commissioner Sullivan said the Board is asking for P&Z to investigate and see if feasible. If it is, the Board will implement it, if not they won't. Commissioner Freer said he doesn't want to restrict them.

Commissioner Sullivan stated the Board can change #2 from Duck to investigate the proposals that Duck has suggested.

Planning Director Evans said if Duck is talking about septic systems, septic systems are the only way you can legitimately limit the number of bedrooms because septic systems are governed by onsite wastewater. He suggested looking more towards Oak Island.

The motion passed by unanimous vote.

DISCUSSION AND POSSIBLE SCHEDULING OF A DATE FOR SETTING 2019 BOC OBJECTIVES WITH TOWN MANAGEMENT

Commissioner Kwiatkowski said as we go into a new year she thought it would be beneficial if the Board set up a workshop to agree on major 2019 objectives. She thinks it would be a good organization meeting to start the year off. The Board agreed to communicate their January availability to Town Clerk Finnell.

DISCUSSION AND POSSIBLE ACTION ON LOCKWOOD FOLLY DREDGING ISSUES

Vicki Myers, Chair of the Inlet and Beach Protection Board (IBPB), explained that last summer the county applied for a grant from the State Department of Water Resources Shallow Draft Inlet Fund to dredge the outer bar of the Lockwood Folly Inlet wider and deeper than it has been in the past. Their goal is to create a more durable channel and reduce the frequency and costs of dredging. In addition the project would take 250,000 cubic yards of sand from the inlet that would be placed on Oak Island or Holden Beach. The county received the grant. The total project is estimated at \$4.1 million. The state will pay 2/3. The county and the town receiving the sand will pay the remaining third of \$1.4 million. The county is suggesting that the receiving town pay 75% of that or \$1.3 million. The IBPB held a special meeting to discuss Deputy County Manager Steve Stone's email requesting a response by the first part of January. Mrs. Myers said the IBPB recommends that the Town pursue this opportunity and that the sand be placed on the east end, as indicated in the grant application. She said they feel this is especially important as the Town is missing out on this cycle of the Lockwood Folly Crossing sand. They recommend that Town staff follow up with the county regarding comments in the email about the project being determined to be a success, how they define success. She said the IBPB wants people to understand that participation in the project should not be construed as supporting the sharing of the sand from the outer bar with neighboring beaches. The IBPB recommends that the proposed cost sharing arrangements be discussed. Mrs. Myers stated in summary the IBPB unanimously feels that if this project goes forward it is essential the sand come to Holden Beach. As the down drift beach we cannot afford for the dredging to occur without the sand coming to our beach.

Town Manager Hewett said he intends to communicate what he assumes the Board's position is in support of what the IBPB recommended to Mr. Stone and also to enter into some other dialogue along those lines with him. Commissioner Freer said he would support the four recommendations on page 109. Town Manager Hewett asked that the Board not limit our recommendations to that. Commissioner Freer said fair enough.

DISCUSSION AND POSSIBLE APPROVAL OF BOARD OF COMMISSIONERS' MEETING SCHEDULE

Motion by Mayor Pro Tem Fletcher to adopt the schedule; second by Commissioner Butler; approved by unanimous vote.

TOWN MANAGER'S REPORT

- Chief Layne has officially announced his retirement effective April 1st. Detective Dixon has been designated as next Chief of Police. It will become effective upon Chief Layne's last day.
- Ava Cain has announced her retirement effective January 1st. Filling that position with our former Beach Ranger, Maddy Zehnder on a temporary basis.
- Officer Colton filled the vacant Police Officer position. Comes to us from the Brunswick Sheriff's Department and is currently processing through the Police Department's field training program.
- Megan Hegadore has transitioned from her temporary status at the reception desk to regular fulltime status.
- Waste Industries does provide, on a by request basis, rollback service for special needs individuals. You need a doctor's note to prove special needs.
- Canal dredging is well underway. Got started last week, although the contractor is about two weeks behind where they want to be. Working in the canals from east to west. Holden Beach Harbor is scheduled through January 25th, Heritage Harbor: January 26th – February 25th and Harbor Acres: end of February – the first week of April. If you don't have your boat out of the way, make arrangements as soon as you can.
- No name storm of 2018 Thanksgiving – had significant tidal and stormwater flooding on several of the canal subdivision streets. It caused numerous issues. These circumstances are similar to those we see during a hurricane event, with one major difference. The island was populated and the system was on. If this would have happened for a longer period of time we do not think we could have maintained our operations. No sewage spills occurred. Lessons learned are we have a lot of entry points in the closed system. Missing/ broken cleanouts and snorkels are most readily apparent. Developing an inspection protocol that will allow further investigation.
- We still have \$350,000 outstanding with Hurricane Matthew.
- Florence and Michael – our Beach Technical Advisor has met with the staff to gather the necessary information to write the project worksheets for Florence and to prepare the submittal for Michael. Governor Cooper has requested Hurricane Michael federal declaration for 21 North Carolina counties, including Brunswick County. We like to think our input helped the governor to make the request on our behalf. There is some additional surveying that will be required for strand losses in order to meet new federal guidelines. That is underway.
- We had some cosmetic damage with the Town Hall gutters and at the Starfish Fire Station. Those won't qualify for reimbursements so we are evaluating our options. The fascia being removed at the Fire Station has revealed some rot that we haven't programmed in.

MAYOR'S COMMENTS

- Complimented the staff for making a merry Christmas event at the Pavilion. Had a lot of positive comments about it.
- Overall thinks we are finishing up a good year. Condition of island - still have a lot of repairs going on from the storms. Most all of the contractors are telling him they are at least two – six months out on catching up on repair work. When the spring rush gets here everything will be backed up more. There is a lot going on and he doesn't see anything slowing up. Thanked everyone involved.

BOARD OF COMMISSIONERS' COMMENTS

Commissioner Sullivan

- Thanked everyone here tonight. Thanked the people who gave their input on solid waste. It is the most correspondence he thinks he had on any item since he has been a commissioner. Good to get the input beforehand rather than after they made a decision.
- Wished everyone a merry Christmas and happy and healthy New Year.

Commissioner Kwiatkowski

- Thanked everyone for coming. Actually finishing an hour earlier than the last couple of meetings. Thanks for hanging in there with us all year.
- Merry Christmas and happy New Year.

Commissioner Butler

- Thanked everyone for hanging in there this evening.
- Merry Christmas to you and your families. Stay healthy and God bless.

Mayor Pro Tem Fletcher

- Thanked everyone who sent information. Was also flooded with inputs, they were all good inputs.
- Wished everyone a safe and happy holiday season. See you next year.

Commissioner Freer

- Thanked everyone for attending and their patience.
- Merry Christmas and happy New Year.

PUBLIC COMMENTS ON GENERAL ITEMS

No comments were made.

ADJOURNMENT

Motion by Mayor Pro Tem Fletcher to adjourn at 9:37 p.m.; second by Commissioner Butler; approved by unanimous vote.