



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
REGULAR MEETING
TUESDAY, SEPTEMBER 17, 2019 – 7:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, September 17, 2019 at 7:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem John Fletcher; Commissioners Mike Sullivan, Pat Kwiatkowski, Joe Butler and Peter Freer; Town Manager David W. Hewett; Town Clerk Heather Finnell; Public Works Director Chris Clemmons; Assistant Town Manager Christy Ferguson; Fiscal Operations Clerk Margaret Lancaster; Police Chief Jeremy Dixon; and Sergeant Frank Dilworth.

Mayor Holden asked for a moment of silence and then called the meeting to order.

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

Commissioner Kwiatkowski asked that under #7, Presentation of Oceanfront and Inlets Management Plan and Discussion and Possible Action on the Plan, that the Board use the opportunity to hear Fran Way and ask questions. Due to the importance of the document, she would like to push Discussion and Possible Action back to October. Mayor Pro Tem Fletcher said he is okay with striking the action part.

Motion by Commissioner Kwiatkowski to amend the agenda by striking Possible Action on 7; second by Mayor Pro Tem Fletcher; approved by unanimous vote.

Mayor Holden announced the amended agenda is approved.

APPROVAL OF MINUTES

Mayor Pro Tem Fletcher would like to request a change on page 3. He read from the minutes where it talked about Town Manager Hewett being the only one Rives reports to. He stated if he said that it was an error, they report to the Board. He meant to say the town manager is the only one who would provide them information with regard to the audit. Town Clerk Finnell said the minutes reflect what is said in the meeting. She offered to listen to the audio. Mayor Holden suggested having a statement in this meeting so it is reflected in the minutes and it is on the record.

Motion by Mayor Pro Tem Fletcher to approve both sets of minutes (minutes of the Special Meeting of August 12, 2019 and the Regular Meeting of August 20, 2019); second by Commissioner Freer; approved by unanimous vote.

PUBLIC COMMENTS ON AGENDA ITEMS

No comments were made.

PRESENTATION OF OCEANFRONT AND INLETS MANAGEMENT PLAN – FRAN WAY & CATHY FOERSTER, APPLIED TECHNOLOGY AND MANAGEMENT (ATM)

Assistant Town Manager Ferguson explained that as part of Ordinance 18-02, the Board directed the Inlet & Beach Protection Board (IBPB) to work on a long-term plan for the inlets and beach. ATM has been facilitating that and they are here to present the plan. Commissioner Freer asked how frequently the plan will be reviewed and updated. Assistant Town Manager Ferguson replied the Board has considered a yearly review. The IBPB would lead that. Commissioner Freer inquired when she sees the plan being better aligned with the GRR, the Corps' long-term plan. Assistant Town Manager Ferguson responded that a couple of meetings ago before the GRR presentation, the IBPB said they would wait until next year to focus on it. At the past meeting, they said they wanted to at least put a statement in there since some things have happened. Right now minimum content is being proposed. More would be looked at during the yearly review.

Fran Way introduced Cathy Foerster. Ms. Foerster said they kicked off the process in February. They had their initial meeting where they talked about the overall framework and data collection. Since then they had five different work sessions with the IBPB that resulted in the plan before the Board. There were four main principles the IBPB wanted to discuss and give direction on. The IBPB wanted the end product to be goal based and an adaptively managed plan. The second principle was to build upon the existing 2009 Beach Management Plan. The third principle was to figure out what the planning horizon would be. They settled on a 10-year planning period. They are considering years 1 - 5 as short-term and years 6 - 10 as long-term. Ms. Foerster said Chair Myers was adamant about having funding options in the plan. There is one chapter in the plan set aside to discuss the options there are at this point in time.

Within the eight miles of oceanfront, they delineated six different specific areas. From east to west they are the Lockwood Folly Inlet, the east end, the central reach, the west end and the Shallotte Inlet. The last areas are what they have already identified as sand sources. Mr. Way showed the areas on the PowerPoint presentation.

Ms. Foerster stated there are 15 goals in the plan. They are proactive rather than reactive. Within the goals, they do have no net sand loss, from the 2009 plan. In Section 2.7, 19 projects and activities are identified for implementation within the next ten years. The projects vary from the Central Reach Restoration to sand placement, to sand investigation, additional monitoring, mapping, etc. As you look through the 19 projects you will see that most of them are focused on the next five years.

There is an entire chapter devoted to adaptive management. This plan will not be static. They intend to evaluate it each year jointly with ATM and the IBPB. They will recommend adjustments to the Board as needed. During the year, actions and activities that can be undertaken are the continued monitoring and reporting that ATM does for the Town. You can also take a look at the projects that have occurred.

Mr. Way said at the next Board meeting he will probably be here to present on the annual monitoring so he will be available for this as well.

DISCUSSION AND POSSIBLE ACTION ON ASSET AND INVENTORY ASSESSMENT GRANT APPLICATION – LEO GREEN, GREEN ENGINEERING

Mr. Green said the Board has information in their packets pertaining to a state grant program that was initiated in 2015. It is an asset and inventory assessment grant program. It was put into place to assist municipalities with indexing and inventorying their existing utility systems. It is a grant program based on a scoring criteria. It is somewhat objective as to how the points are applied. This goes in and prepares a global positioning system of every piece of the utility system. If the Town gets six inches of sand across the roadway the problem is not fixing the utility, it is finding it. This is GPS accuracy. They fund about 30 of these per cycle. Mr. Green explained he thinks the Town has a good chance. The local share can be anywhere from 5 – 20%. The local share could be in kind. There will need to be participation from staff to provide records and with Public Works to identify and locate the features. The Town will have hard copies and maps and Public Works Director Clemmons will have records on his computer. Everything will be compatible with the Town's software. Commissioner Freer asked if spare parts are included. Mr. Green said not necessarily. Town Manager Hewett said it could be used to ascertain what type of spare parts you need. In addition to what you have, where it is. He said that is how it dovetails into a capital improvement plan. Mr. Green said he answered that a little quickly, it should be.

Mayor Holden stated Public Works Director Clemmons and some of the rest of us have been here when some of the lots have been covered with sand. There was no way of knowing where the lines or meter boxes were. This is something he has been supportive of for years. Public Works Director Clemmons and the Police Department have been too. Public Works Director Clemmons added it is a wonderful thing. If everything is covered in sand, it completely changes the landscape and you have no idea where things are. He said it gives the Town a good file for the future. We need it bad. Mayor Holden said you don't know where the street or fire hydrant is when that stuff is covered up. Commissioner Sullivan asked if he had an estimate on the cost to the Town. Mr. Green responded that the application is due at the end of this month. Typically they will announce the recipients early next year. They are going after \$150,000 for water and \$150,000 for sewer. It could be in the range of \$7,500 each to \$30,000. If you don't get funded, you try again. Public Works Director Clemmons asked for confirmation that the cost to the Town can be substituted for in-house labor. Mr. Green agreed. Commissioner Butler said the idea of being able to find the meters and everything else in the event of a storm is a God sent. Mr. Green stated it would be tied into the radio read system.

Motion by Mayor Pro Tem Fletcher to adopt Resolution 19-04, Resolution by Governing Body of Applicant; second by Commissioner Freer; approved by unanimous vote.

POLICE REPORT – CHIEF JEREMY DIXON

- Explained how he broke the bone in his hand.
- Numbers in the report are average for August. They are being more proactive in police work.
- In August, the state does a Booze it or Lose it campaign. We participated and conducted a traffic checking station. We issued five state citations and one driving with license revoked arrest.
- If you are walking your dog he needs to be on leash.
- Hired a new officer, Officer Roman, to fill Wally's position.
- The Police Department seemed to have gotten a lot of heat over Hurricane Dorian and the evacuation process. If a mandatory evacuation is ordered and it says it is effective at 8:00 a.m. at 8:01 a.m. you are in violation of the order. Everyone knew it was coming this way. Commissioner Freer said it did not say effective, it said beginning and it was confusing. He knows it was not us, but it was confusing. He said it was inconsistent. Chief Dixon said after 8:00 a.m. nobody should have been let back on the beach. Due to the situation they were dealing with, he thinks the roadblock started at 10:00 a.m. If someone got hurt after the 8:00 a.m. timeframe he would think whoever failed to follow the orders would have a lot of liability. If it says beginning or effective, it starts then. Hates to run homeowners off the island. The Police Department are here during the storm and are not able to go home so they understand.

DISCUSSION AND POSSIBLE ACTION RELATIVE TO SECTION 72.02 PARKING REGULATED ON PUBLIC STREETS & RIGHTS-OF-WAY

Commissioner Sullivan said as the Board they have discussed this topic on numerous occasions, both a year ago and in the last couple of months. After due discussion and consideration, in April 2018 the Board voted to revise Section 72.02 Parking Regulated on Public Streets and Rights-of-Way (ROW). The revised ordinance contains Section (k), it shall be a violation of this chapter to leave standing any portion of a vehicle in a lawful parking area between the hours of 2:00 a.m. and 5:00 a.m. The stated purpose for the revision was a concern for the safety, privacy and property rights of the property owners of Holden Beach. Due to an increase in proactive enforcement measures of the Police Department related to parking in the ROW, the benefit of the revision has been questioned by some residents and visitors. In an attempt to address the stated concerns and also protect the stated purposes of the revised ordinance, he suggested that rental agencies include the number of available legal spaces in all advertisements for rental properties. This will give potential renters an opportunity to determine if a rental home has sufficient parking for their needs. He also suggested to allow property owners displaying a valid Holden Beach vehicle decal to park in the ROW adjacent to their property as long as such parking is not otherwise prohibited.

Commissioner Sullivan said this limited exception, coupled with other ordinance provisions should address the vast majority of complaints without expanding the potential for overcrowding and the conversion of small rental properties into "event" properties. He said there has been an increase in

summons for people parking in the ROW. It seems that if people know they need 10 parking spaces, they should rent a home with 10 spaces. He thinks this should keep people out of the ROW, but will also allow people to use their ROW with four more vehicles. Commissioner Sullivan stated one of things they were elected to do was to keep the Town the same. This meshes with keeping it the way it is today. Commissioner Butler stated he thinks Commissioner Sullivan did a great job. One of the problems brought up was someone who had a son come in and they had nowhere to park. With what is being proposed, the property owners can park their cars in the ROW. Attorney Fox said the ordinance will need to be very carefully worded. There are some restrictions on residency based restrictions. They will need to make sure there is a rational basis between the fix and the objective. Town Manager Hewett pointed out that right now the Town provides four free decals and people can purchase additional decals. We don't have a limit, but they do have to be purchased by a property owner.

Motion by Commissioner Sullivan that we revise the ordinance so that it is legally enforceable and that it allows for parking in the ROW on your own property if you display the Holden Beach issued decal; second by Mayor Pro Tem Fletcher.

Mayor Holden asked if that was subject to the attorney's review and approval. Commissioner Sullivan replied yes.

The motion passed by unanimous vote.

DISCUSSION AND POSSIBLE ACTION ON PARTICIPATING IN THE MULTI-JURISDICTIONAL DISASTER DEBRIS PLANNING & SUPPORT MANAGEMENT CONTRACT

Public Works Director Clemmons said the Town is a member of the Brunswick County Multi-Jurisdictional Disaster Debris Planning & Support Management Agreement. Beginning September 27th, the county's new contract will take affect with Tetra Tech as the primary contractor and Thompson Consulting as the secondary. He provided background information on the county's selection process. If the Town would like to continue to be a member of the agreement, we will need to execute the paperwork. Staff recommends the Town continue to participate in the agreement and that Town Manager Hewett is authorized to execute any paperwork on behalf of the Town, subject to final approval of the contracts by the attorney. Commissioner Freer asked what triggers the Town getting the benefit of this. He heard during the last storm, they didn't come to Holden Beach. Town Manager Hewett said we activate it. Public Works Director Clemmons confirmed we activate it. He recommended the Town follow through with this.

Motion by Commissioner Sullivan that we join into the plan; second by Mayor Pro Tem Fletcher; approved by unanimous vote.

RSM DISBURSEMENT DISAPPROVAL

Town Manager Hewett explained that RSM has billed the Town an additional \$988 for services to remedy an oversight on their part. He disapproved the payment. The Board had established a ceiling

of \$20,000 for the services. There is no action needed other than if the Board wishes to pay the bill, it would be subject to the Board making an appropriation and a formal resolution stating the Board's reason for allowing the claim. Mayor Pro Tem Fletcher stated when the Audit Committee recommended that RSM do the internal control report, he promised the Board the Town would not be charged any more than the \$20,000 that had been bid by them for work that they chose to do beyond that contract. His understanding is RSM sent the Town a draft of the final report, the Town responded to the draft, a final report was prepared and briefed to the Board. He said at that point, RSM was asked to do additional work in addition to what was in the contract. He said the Board approved that, but RSM didn't know what they would charge. It turns out they worked 17 hours and billed us one third of that, a little less than \$1,000. Mayor Pro Tem Fletcher said his personal view is the Town ought to pay it, the Town asked for the work and received a great report from them. He had conversations with RSM and reminded them of arrangement we had, with the \$20,000 maximum. They have agreed to withdraw the invoice. He said he won't make a motion, but suggested the Board consider paying them the money in good faith for the work they did. Commissioner Kwiatkowski said the additional work was because they issued a report where they said something didn't exist, but it did exist. They issued a report without having confirmed that everything they had asked for had indeed been provided. She said this had to do with job descriptions and compensation schemes that they reported we didn't have, but we did have it. This was a snafu on their part. Commissioner Kwiatkowski said this is a correction of an error, it wasn't additional work. She thinks \$20,000 is the amount they got paid and it should be no more. Attorney Fox explained what they needed to do if they wanted to approve the payment.

DISCUSSION AND POSSIBLE APPROVAL FOR TOWN MANAGER TO ENTER INTO A LICENSE AGREEMENT WITH WEST END PROPERTY OWNERS ASSOCIATION

Town Manager Hewett said the proposed licensing agreement is with the Holden Beach West Property Owners Association for basically a 20' strip around the perimeter of the property that lift station 4 is located on. He requested the Board's approval, subject to the attorney's review and refinement as needed and coordination of the document with the West End POA. This is similar to the license agreement the Town has for the pier property. It is at no cost to the Town.

Motion by Commissioner Butler to approve the license agreement; second by Mayor Pro Tem Fletcher; approved by unanimous vote.

DISCUSSION AND POSSIBLE SCHEDULING OF A DATE TO HOLD INTERVIEWS FOR VACANCIES ON THE BOARD OF ADJUSTMENT

The Board came to a consensus to hold the interviews on October 15th at 6:45 p.m.

TOWN MANAGER'S REPORT

- Audit Year Ending 2019 – The kickoff meeting with him, Mayor Pro Tem Fletcher, Mark Fleischhauer and Jay Sharpe was held on August 27th. Laid out a calendar that will hopefully allow us to have the audit completed on time. The audit effort is underway in earnest. Rives personnel

are onsite this week. Believes a special meeting of the Audit Committee has been scheduled for Thursday to review the calendar and update the Audit Committee on the progress so far.

- The Local Government Commissions' (LGC) Unit Assistance List dated July 12th and current as of September 12th does not include Holden Beach. Earlier this spring, the Town was placed on the list for a late audit. With the circumstance remedied, the Town was not included on the most recent list for any of the four reasons the LGC contemplates. Those are lateness, internal controls, general fund financial issues and water and sewer fund financial issues. Holden Beach is not on the Unit Assistance List and has not been this summer. Mayor Holden asked if the auditors received extra money since the Town was on the list. Town Manager Hewett replied he believes the Board approved a contract with the auditor after the 12th of July. Mayor Holden said his recollection is they received more money because of the extra work they would need to do to get the Town off of the list. Commissioner Sullivan said they got the additional money for all of the extra work they did to do the audit. It didn't have anything to do with the list. They were retained so they would be able to do the work quickly and get the Town off the list we were supposedly on. Town Manager Hewett said the retention of them happened after the list was published. Commissioner Butler asked about the letter the Town received. Town Manager Hewett replied we received it from the LGC in the spring. Commissioner Kwiatkowski stated there were two reasons we retained them at what she would call a premium rate. One was the consideration that because of all of the findings from last year that made them need to do extra auditing, we would be considered a higher risk audit, which automatically triggers more work. The second reason was they felt there was a higher chance of staying on schedule if we used the same auditor, who is now familiar with the Town's books, which made it worth spending the extra money to not be put on the list again.
- General Revaluation Report – we do not have anything new on that. It will probably be at least through the end of the month before anything breaks on it.
- Lockwood Folly Bend Widener Navigation Maintenance Project – The bend widener was part of the alternate bid for the Lockwood Folly Inlet Crossing contract. The contract bid opening was held August 23rd. They received two bids. One twice the amount of the engineer's estimate and the apparent low bidder was considered to be non-responsive by the Wilmington District. This project is subject to federal contracting protocols, in addition to needing the final biological opinion so there is another series of contracting processes that is underway now before we can get an adjudication and a contract award. More to come later.
- Central Reach Project Sand Source – Survey data has been completed. Got it done before Dorian hit. ATM has the data and is prepping the report. The initial feedback is that we are going to need a couple more core borings based on the hydrographic survey. Probably will come back to the Board for additional appropriations, but we need to work the estimates out first.
- Commissioner Freer asked about the crossing dredging. Town Manager Hewett explained that it is the same contract. The bend widener was a module that was on the base contract.
- FEMA – we currently have four federal declarations that we are working simultaneously. Florence and Michael both are still in the environmental que with FEMA. Matthew and Irene revisions have been submitted. Initial storm damages from Dorian: in the central reach area we have close to 200,000 cubic yards and island wide about 340,000 is roughly estimated at this time. The federal declaration for Brunswick County is pending. There is a meeting tomorrow with FEMA to aid in the Brunswick County determination. Will attend.

- Hurricane Operations – staff conducted a post-storm out brief with Mayor Holden as the emergency management director and identified several issues in the emergency plan that need to be refined. Is not going to talk about the evacuation. Will leave that to the Governor. His opinion is that those decisions need to be left to the local level. We did get a taste of what our lift station upgrades can and will do for the Town. From what he saw, the best case scenario on reenergizing the sewer system is six hours. Do not think we will be able to get the sewer system up every time in six hours. There was minimal flooding, the generator sets were not needed and various systemic issues were not encountered. Water was turned back somewhat. During Florence we had a water main that was compromised. The Town Hall generator is toast. Will need to work through a probable cost matrix to have it fixed. Noise, relocation of the generator are some of the things we will need to deal with in making the assessment. Right now we have a temporary generator set up. Hopefully we can get an assessment done in sixty days or so to introduce for the Board's consideration around Christmas. We did some ditching at the canal dredging site at Scotch Bonnet. We were concerned that a massive deluge might impact the levy. It appears that worked. It will also facilitate drying the area out and keeping the mosquitoes out. We exceeded the revenues budgeted for the decals line item. We had eight building permits that could have been impacted. Planning Director Evans and CAMA Officer Wooten came over early while the Police Department was controlling the entry point and Public Works Director Clemmons was making sure the sewer system was getting back up and running. There was no impact on any of those site plans.
- The Amicus Brief for the system development fees in Oak Island has been filed and submitted.

MAYOR'S COMMENTS

- Thanks to all Town employees, the Police Department, maintenance and staff. Everyone did a great job. Feels bad for the Police Department for taking some of the bad rap for the unexpected mandatory evacuation. It surprised all of us. We thought we had a good plan of attack to handle the storm. It all got undermined with the statewide mandatory evacuation of barrier islands. It put all barrier islands in the same position, from the South Carolina line to the Virginia line. Even after the storm went by here, we still were under the governor's mandatory stuff. Nobody in Holden Beach had any part of it. The situation was bad. We solicited an opinion. Town Manager Hewett said the League of Municipalities provided us with the School of Government's opinion from Norma Houston. Mayor Holden said we went and got a decision from the powers to be in Raleigh about whether Holden Beach reacted to the Governor's order per the law. We were the ones that did the right thing. Our neighbors chose not to abide by the Governor's order. We were given kudos for doing what we were supposed to do, even though it angered many people. The Police Department watched one gentleman swim from Sea Aire Estates to Greensboro Street. He was hauled to Bolivia. Thanks to the Police Department for watching the waterway, as well as the streets. One of the concerns we had in trying to get people back on the island were the low places on the boulevard that couldn't support vehicular traffic because of the depth of the water. Overall it was almost like a nor'easter, not a hurricane.
- Lived here 70 years. When he was small child he watched eagles fly occasionally. He and Town Manager Hewett were on the west end, going down the strand to check erosion and wash over. As they were heading west, they were between the high tide mark and the waterline. There was a

big bird flying about 20 feet off the ground. It was an eagle, then they saw another one. To see that was a blessing.

BOARD OF COMMISSIONERS' COMMENTS

Mayor Pro Tem Fletcher

- The hours the staff spend and the skill level they need to get the system up so quickly and the Police Department are really impressive. Recognized the staff and especially the service guys. Well done.

Commissioner Sullivan

- Echoed what Mayor Pro Tem Fletcher said. Doesn't think the Town can do anything to make everyone happy, but he thinks they try. He thinks on a whole, the Town staff did an excellent job of getting everything up and running.
- Thanked everyone for showing up tonight. Hopes we continue to have good turnouts. There are a lot of issues coming up that will affect the Town. Next month they will talk about the Inlet Plan and the more people who are here to hear what is going on, the better. Thank you for being here.

Commissioner Kwiatkowski

- Really impressed, not just how the staff operates during a hurricane, but she doesn't know how they got all caught up doing the regular stuff. It is really impressive that we seem to be caught up.
- The Town has made an acquisition of property. Thanked Mayor Holden for acting as the real agent on behalf of the Town at no charge to the Town and saving that commission. He did a great job with negotiating and saved the Town money that way as well.

Commissioner Butler

- Thanked the staff for a great job and their continued efforts. It is truly impressive. Thanked the Police Department as well. Always enjoys coming back over the bridge and smiling at the officers.
- Thanked people for coming this evening, appreciates it. Continue to come out and support us.

Commissioner Freer

- Thanked the entire staff. Knows it is a lot of work and it is tough to get back to the regular grind.
- The Oak Island System Development Fees Amicus brief was a no brainer to do. He said with that behind us, we can now look into our fees. Attorney Fox said she submitted the brief, but the case won't be heard by the Supreme Court until sometime in 2020. We filed a brief in support of Oak Island's position, but the court has not decided anything yet. She would prefer to give further advice in closed session under the attorney client privilege.

EXECUTIVE SESSION PURSUANT TO NORTH CAROLINA GENERAL STATUTE 143-318.11(A)(6), TO DISCUSS A PERSONNEL MATTER AND NORTH CAROLINA GENERAL STATUTE 143-318.11(A)(3), TO CONSULT WITH THE TOWN ATTORNEY

Motion by Commissioner Kwiatkowski at 8:27 p.m. to go into Executive Session pursuant to North Carolina General Statute 143-318.11(A)(6), To Discuss a Personnel Matter and for Attorney Client Discussion; second by Mayor Pro Tem Fletcher; and approved by unanimous vote.

OPEN SESSION

Motion by Mayor Pro Tem Fletcher to come out of Executive Session at 10:07 p.m.; second by Commissioner Butler; approved by unanimous vote.

Motion by Mayor Pro Tem Fletcher to go back into Regular Session; second by Commissioner Butler; approved by unanimous vote.

Motion by Commissioner Kwiatkowski that based on his performance appraisal for 2018, that David Hewett, town manager and finance director, be given a 2% increase in pay retro to his anniversary date; second by Mayor Pro Tem Fletcher; approved by unanimous vote.

ADJOURNMENT

Motion by Mayor Pro Tem Fletcher to adjourn at 10:08 p.m.; second by Commissioner Butler; approved by unanimous vote.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk