



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
REGULAR MEETING
TUESDAY, MARCH 17, 2020 – 7:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, March 17, 2020 at 7:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem Gerald Brown; Commissioners Woody Tyner, Brian Murdock, Mike Sullivan and Pat Kwiatkowski; Town Manager David W. Hewett; Town Clerk Heather Finnell; Assistant Town Manager Christy Ferguson; and Police Chief Jeremy Dixon.

Mayor Holden suggested the public hearing on Holden Beach Code of Ordinances, Sections 157.060, Residential District (R-1) and 157.075, Off-Street Parking Regulations be canceled. The Board had no objection.

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

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

Town Manager Hewett said as a matter of expedience for the Board's consideration and out of abundance of care for those who may be hesitant to attend tonight because of the circumstances (COVID-19), it is his recommendation to delete items 7, 11, 12, 14, 15, 16, 17a, 17b, 20, 22, 23 and 24.

Motion by Commissioner Tyner to accept the town manager's recommendation and consider that as our agenda for this evening; second by Commissioner Kwiatkowski; approved by unanimous vote.

APPROVAL OF MINUTES

Motion by Mayor Pro Tem Brown to approve the minutes of February 11, 2020 and February 13, 2020; second by Commissioner Murdock.

Commissioner Sullivan said in the minutes on page six, paragraph 2 it says should *narrow the perimeters*. It should be *parameters*.

The Board unanimously approved the minutes as corrected.

PUBLIC COMMENTS ON AGENDA ITEMS

No comments were made.

DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 20-05, AN ORDINANCE AMENDING ORDINANCE 19-10, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR 2019 – 2020 (AMENDMENT NO. 10)

Town Manager Hewett explained the budget amendment is a zero-sum adjustment that recognizes \$296,264 in revenues from state and federal FEMA funds that we received that haven't been budgeted. It requires no additional appropriations to provide for the approval of the Martin Starnes' audit contract, the replacement for two HVAC units at Town Hall, a genset replacement at Town Hall, anticipated shortfall in legal fees and a current shortfall in the new Town Hall operations and maintenance line item. The actions are enabled by recognizing the \$296,264 in reimbursements of \$177,437 from Hurricane Irene, \$97,073 from Brunswick County for the Lockwood Folly Inlet Crossing Navigation Project and \$21,754 from the NC Division of Water Resources for damage surveys we received after the hurricane. By recognizing these unbudgeted, yet received revenues in the BPART Fund, it allows for a corresponding decrease in the transfer from the General Fund over to the BPART Fund. There is no new money put on the table.

Commissioner Tyner asked if it would automatically approve the items listed if the Board approved the amendment. Town Manager Hewett replied with the exception of the selection of the Martin Starnes contract, yes. Commissioner Sullivan inquired about the genset. Town Manager Hewett replied it doesn't approve the action. The Board would have to do that, but in order to do that you would need to set the chips on the table. He said if you approve the budget amendment and then decide you don't want to do something, for example the genset, you can amend the budget amendment subsequently. Commissioner Sullivan asked how much is in the BPART Fund and sand fund. Town Manager Hewett responded as of the beginning of this year, there was right at \$3.5 million in the BPART Fund and right at \$3.2 million in the Beach & Inlet Capital Reserve Fund. We spent about \$400,000 of the BPART Fund, primarily for the Inlet Crossing Project. We are about \$120,000 ahead in the BPART Fund. If you net that out it is approximately \$6.3 million of those funds combined. The occupancy tax collections are at 97% in the current year's budget. Commissioner Tyner asked if the Board would need to circle back and amend this if they don't make a decision on the genset or if they make a lesser decision as far as the dollars. Town Manager Hewett replied if you wish to do that. Commissioner Kwiatkowski asked what happens if the amount is greater. Town Manager Hewett answered that the Board would need to amend the budget amendment because we programmed the midpoint proposal. Commissioner Kwiatkowski asked if it is appropriate to discuss the genset replacement because she is having trouble making the numbers match. Town Manager Hewett said he believes it includes tax. Commissioner Murdock said he has substantial questions about the generator. Town Manager Hewett stated this budget amendment provides for that discussion. If you approve this, he won't spend the money until the Board authorizes it in item 10. If they don't want to do it, he will go back and amend it.

Motion by Commissioner Sullivan to approve the budget amendment; second by Commissioner Tyner; approved by unanimous vote.

DISCUSSION AND POSSIBLE AWARD OF CONTRACT FOR ROADWAY WORK

Town Manager Hewett explained every year for the past four years the Town has been paving approximately a penny's worth of tax rate on roads. There is a capital improvement plan. This year's section is Brunswick Avenue from High Point down to about 400 feet from Boyd Street. Three bids were

received. The apparent low bidder is Highland Paving in the amount of \$111,250. They have done work for us. It has been good work. There are other projects in the area that they have performed well on. Right Angle Engineering's recommendation is to make the award to Highland Paving in the amount of \$111,250. The money is in the budget and the bids were within budget. All three of the bids were under the engineer's budget. Town Manager Hewett said normally we try to get these projects done between Easter and Memorial Day, when the weather is warm, but before the crowds. Mayor Holden stated there are many people that use that section of Brunswick Avenue and it has been a constant complaint for several years.

Motion by Commissioner Tyner that the Board approve Highland Paving to do the work; second by Commissioner Sullivan.

Commissioner Murdock said the responses are not apples to apples. He said he is sure all these people are qualified. He said the difference in the quotes are minimal. He said Brunswick Avenue is in terrible condition. Commissioner Tyner agreed. Commissioner Murdock reviewed some of the differences he sees. He said his main concern is that the road is fixed perfect. It looks to him from the information he was provided that Southern Asphalt has the edge on this. Town Manager Hewett pointed out that the Board is not under the obligation to accept the low bidder. The Board is authorized to accept the most responsive bid; it is the Board's determination. Commissioner Murdock said the information received is too vague and asked if there is more information. Mayor Pro Tem Brown stated the price of oil dropped in the past couple of weeks. He inquired how old the bid is and if it would be good to do it again. Town Manager Hewett responded we accepted bids through February 12th. Mayor Pro Tem Brown asked how hard it is to rebid. Town Manager Hewett answered that it is not hard, but he does not know if the world will allow to get it done in the timeframe between April and Memorial Day. Commissioner Kwiatkowski said she looked at all of these. She also felt some of the things Southern Asphalt said they would do at \$250 more in terms of the total cost were items that were not included by Highland. From this perception she thinks it might be a better bet to go with Southern Asphalt. She stated that this is the new procedure for doing the wedging and leveling of the road. Since Right Angle was the one who did the evaluation, she is assuming that they know that any of the three of these would be qualified to do that part. A lot of this becomes the extras. It looks like Southern Asphalt covers more of the extras. She agreed with Commissioner Murdock; it is really hard with one paragraph to determine apples to apples.

Town Manager Hewett said Southern and Highland have both done projects for the Town and we have not had any problems with them. Commissioner Murdock asked if we can get them to add it to the quote. Town Manager Hewett responded that if we are going to add something, we would need to rebid the project. Commissioner Kwiatkowski asked if it would become something the Town did or is it something that you leave to the owners if the shoulders needed to be seeded and mulched for appearance sake. Town Manager Hewett said he is not sure that some of the people who have sodded yards would want their yards seeded. Commissioner Sullivan asked if we require contractors to indemnify the Town and list us as additional insured on projects. Town Manager Hewett confirmed yes. Commissioner Sullivan said the Town should demand that anyone who works for us indemnify us in the contract and list us as an additional insured so we get that protection and do not need to do it on our insurance policy. Town Manager Hewett reviewed the specifications addressing the shoulder treatment from the bid documents. He confirmed Commissioner Sullivan's question of whether they put the information in their response or not, they are obligated contractually to do it. Town Clerk Finnell said the bid document was 93 pages. Shane Lippard from Right Angle Engineering would have talked to the document today if he attended the

meeting. Commissioner Tyner asked if part of Mr. Lippard's responsibility is to make sure the bids match up against what was put out. Town Clerk Finnell answered that he reviews them and he made a recommendation based on what they gave. He only gave us one page, we have not seen the rest of the documents they submitted to him. Town Manager Hewett said a bid would be deemed non-responsive if it did not qualify.

Commissioner Kwiatkowski said she is still struggling with the items not included by Highland because it seems to be in contradiction with the items that were just read. Town Clerk Finnell said the documents will be signed that have the description of what Town Manager Hewett read. Commissioner Murdock stated he wanted to make sure it gets done right.

The motion passed by unanimous vote.

DISCUSSION AND POSSIBLE ACTION ON ALTERNATIVE SELECTION FOR GENERATOR PLACEMENT AT TOWN HALL

Town Manager Hewett explained that Right Angle Engineering has prepared a preliminary engineering report. He asked Shane Lippard to provide the Town with three options to replace the Town Hall generator, to include the potential relocation of the genset. The generator went out the week before the last hurricane. Since then, we got through hurricane season with a rental unit. Town Manager Hewett believes there is a matrix that summarizes the three options. The first option is to replace it in place with a sound barrier cover around it. The next option is to place it on the triangle property across from Town Hall and the third option is to relocate it under the water tower. He provided the estimates in opposite order, but the estimate to replace it over at the water tower is \$265,650. The second option is \$154,000. The matrix has a typo in it. The third option is the same location at \$197,400.

Mayor Holden asked if Inspections Director Evans reviewed the sound protection and approved it. Town Manager Hewett replied no. Mayor Holden said the Town has a noise ordinance. Within so many feet of the property line there can only be so much noise. He cautioned the Board to be in compliance with their own ordinance with whatever they pass. Commissioner Tyner said according to Right Angle Engineering it meets the numbers, but he understands Inspections Director Evans is the final say. Commissioner Sullivan stated the sound ordinance has an exception, when it comes to noise levels. He read Section 92.26, Exceptions. This section makes this exempt from the ordinance as long as the Town follows the specifications. Mayor Holden would like a legal official to look at it. Commissioner Sullivan asked if an enclosure is part of the equipment or if it is an addition. He thinks it is a question that should be answered. Town Manager Hewett stated this is a neighbor type of thing. Regardless of an exemption it has been his experience over the last 11 years that when the generator comes on it is very loud. He doesn't know if it is an OSHA issue with the amount of sound that comes with it. We can talk about government being exempt, but in this case, it is right on the property line. He thinks it would be a shame to subject the property owner to that.

Commissioner Murdock said in a conversation with the town manager, Town Hall is deemed a critical facility and it has to have a generator. Town Manager Hewett confirmed that is his understanding; you need to have an alternate means of power. He said it is in the Hazard Mitigation Plan, which identifies critical facilities for the operations of the Town. This building was deemed a critical facility before the lift stations. If the Board does not deem this building a critical facility, we need to amend the Hazard

Mitigation Plan, but don't expect the building to run in a storm scenario. We cannot provide the service of a town hall in a reconstitution scenario whenever there is no power, without a generator.

Commissioner Murdock provided the Board with a list of outages on the building for the last 10 years from BEMC. He listed the outages. He said it was roughly a total of five and a half to six hours, except for major storms. That was off for a period of about three days. He said the generator in the case of a major storm would run about 40 – 48 hours on the fuel. Commissioner Murdock stated he met with the vice president of engineering for BEMC. The KW usage running to this building is usually around 40 – 55 KW. The Town has a 300 KW capable generator. Their recommendation is the Town Hall should be around 80 – 100 KW, which would be a lot cheaper. He also provided the Board with a provision to not have one at all. He called Gregory Poole. They can have a rental generator sitting at the Emergency Operations Center (EOC) and have it hooked up to the building within 30 minutes of when the bridge opens. Commissioner Murdock also attached an example of a bill for a sample rental. It was rented in Florence from September 28th to October 2nd at a cost of \$4,600. He said he is having a problem with spending \$200,000 on a generator that the Town is going to use for five hours. He said for the case of a storm if there is a way to do it, we need to look at an outside vendor to bring one as needed. He said if we need to put this off and if we need to have one this next month, let's rent one and put it out there until we can make a logical decision. It is a ton of money. It is sitting on the oceanfront. He added no matter where you put it, it is not going to last. He suggested that if there needs to be a backup, the Town needs to look at solar panels and batteries that would get us by a couple of days. He knows \$200,000 is a ton of money to spend on something that only lasted nine years. Commissioner Murdock inquired what would happen to the current one and who determined the size and capacity of it when it was installed. Town Manager Hewett replied the installation came as part of the construction of the building and it was scoped as part of the projected overall occupancy of the building. Commissioner Murdock said BEMC would do an analysis of what the Town needs. He is going by people who are in this business and they are all willing to come out at no cost to the Town and provide the information for free. Town Manager Hewett questioned if the rental company can guarantee the provision of a genset on an as needed basis. Commissioner Murdock responded yes, it would be at the EOC available as soon a storm is over. Town Manager Hewett asked if the genset with the lower KW voltage would be compatible with our electrical interfaces. Commissioner Murdock stated that would take an electrician to answer, but that is a service that is provided to the members of BEMC for free. Commissioner Tyner stated before the Board goes further with the recommendation, he agreed he would like BEMC or Gregory Poole to come onsite to look at the situation to make sure what is being discussed would work. He has heard enough that he would like to look at some of the other alternatives. Commissioner Sullivan stated since this is an emergency location, we would need to find out whether having the capability of bringing something here would meet the requirements or if you need to have something permanent. If we are going to keep this as an emergency facility and it does need to be permanent, then the Board would need to decide if they are going to keep this as a permanent facility. He stated he thinks the permanent versus temporary availability is the first issue that needs to be determined. Mayor Pro Tem Brown said we already have the EOC and inquired why this building needs to be a critical facility. Commissioner Tyner agreed we need to look at the plan and see if this would hurt us in any way. Mayor Pro Tem Brown stated he thinks it is good on the Board's part to look into. He said \$200,000 is a lot of money, especially if it will sit out and rust. Town Manager Hewett added the second piece is the location. Mayor Pro Tem Brown said the Board needs to do more work on this first.

Commissioner Kwiatkowski asked what the Board's directive to the town manager is. Commissioner Sullivan said he thinks the first thing is to ask Inspections to determine whether we need a permanent

generator at an emergency building. After that is determined, we would have BEMC come do an evaluation of what size generator we would need. Commissioner Murdock added or Gregory Poole. Mayor Pro Tem Brown said we need to look at the emergency status. Commissioner Tyner said he thinks before Inspections Director Evans, we need to look at the Hazard Mitigation Plan to determine if this building needs to be critical. Town Manager Hewett stated that is part of asking Inspections if it is permanent or temporary. The Hazard Mitigation Plan is his wheelhouse. Commissioner Tyner asked that he look at if it is critical or not. Commissioner Sullivan clarified justification on why it is a critical location. Mayor Holden mentioned that if you shut down the ability to manage the air/humidity and it sits idle for a few days you will have mold. Then you have many problems. Commissioner Tyner added you also have a lot of paper records. Mayor Holden cautioned the Board to keep mold out. Once it gets behind the wallpaper and in the records, you are talking about more than \$200,000 to clean the building up.

Town Manager Hewett stated what he understands is the Board wants him to investigate other options available, but those were refined as asking Inspections to check the Hazard Mitigation Plan whether the requirement is a permanent versus a temporary application. The second piece of that is to evaluate the size needed to run the building, whether we use BEMC or Caterpillar. The Board hasn't addressed the location of it. Mayor Pro Tem Brown said that is the unknown at the moment. It may be really small and not have any sound issues. He said we are going to need to get BEMC involved, then go from there. Commissioner Murdock said Gregory Poole would not be the cheapest generator, however they can offer warranty programs up to 20 years. They offer maintenance plans. If a part fails on a generator other than regular maintenance, his understanding is it would be covered under the warranty policy. At the end of five years, you can reevaluate it and purchase another five-year warranty policy, up to the term of 20 years. Commissioner Murdock stated if we can buy one; get it to last 20 years; take care of it; it is quiet; and get a non-corrosive enclosure, we may be able to set it back at its current location. If we need one now, let's get it, rent it and give it another month. He will give Town Manager Hewett the information he has. Commissioner Tyner asked if we have one now. Town Manager Hewett replied no, it was costing \$3,000 a month so we got through the end of hurricane season and sent it back. Town Manager Hewett stated that answers his fourth point; do the other background stuff, go get a temporary generator in the interim because it will be June before we know it. The Board agreed.

Town Manager Hewett stated the budget amendment was predicated on making a decision of buying something. He asked if the Board wanted to amend it. He proposed the Board leave it alone. He won't spend the money. He does need money for a temporary generator. He doesn't know how long it will take to get this work done; how long we will need the temporary generator. We are \$20,000 in the hole for the new Town Hall operation and maintenance line from hurricane expenses and the unforeseen expenses on the generator. Right now, we don't have anything so we need to do something on an interim basis. Commissioner Murdock stated maybe the Town can rent what we might need and it could be cheaper. He added you can gain the knowledge of purchasing one out of renting something comparable. Town Manager Hewett said he believes the one we rented was 150 KW. Commissioner Murdock stated they are saying we can get by with less than that. He would start with Gregory Poole. Town Manager Hewett asked how fast the Board wants this done. Mayor Pro Tem Brown replied hurricane season is coming. He said we need to be as smart as we can to spend this kind of money. Commissioner Sullivan said the Board would want this done as quickly as possible. The Board agreed. Town Manager Hewett stated he would propose to set one out there tomorrow, just like we had out there. If it is \$3,000 a month, it is \$3,000 a month. Then we can go through the issue of seeing how big a generator we need. The Board is okay with that.

DISCUSSION AND POSSIBLE ACTION ON ORDINANCE 20-06, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, SECTION 30.05: MAYOR PRO TEMPORE (EXECUTIVE SECRETARY)

Town Clerk Finnell explained the ordinance removes the executive secretary from the ordinances as discussed by the Board at the last meeting.

Motion by Commissioner Sullivan to approve; second by Commissioner Murdock; approved by unanimous vote.

RECOMMENDATION BY AUDIT COMMITTEE FOR SELECTION OF AUDIT FIRM TO PERFORM 2019 – 2020 AUDIT, ACTION BY BOARD OF COMMISSIONERS ON RECOMMENDED AUDIT FIRM AND DIRECTION TO TOWN MANAGER TO FINALIZE CONTRACT

Commissioner Tyner stated he is representing the work of the Audit Committee, Tony Chavonne, Mark Fleischhauer, Jeannine Richman and Jeff Tansill. He reviewed the background on the item. The request for proposal (RFP) went out on February 14th. The Audit Committee met to review what they would like to see in the RFP. It was advertised in the Star News, posted on the Finance Officers' listserv and the Town's website. We also directly solicited several firms. Commissioner Tyner explained the Town received three responses. They were S. Preston Douglas and Associates, Sharpe Patel, and Martin Starnes and Associates. The committee reviewed the responses and met on March 3rd to rate them. He described the selection criteria, weighting and scoring process. He reviewed the scores of each company. He said S. Preston Douglas was the cheapest, but in the reference check research we found that in February 2019 they were sanctioned by the NC State Board of Examiners. They didn't admit to that in the RFP. The Audit Committee's recommendation is to go with Martin Starnes and Associates out of Hickory. They are a larger firm. Martin Starnes has done work for the Town in the past. 85% of their billed hours is government work. They provided the Town with their current client list. The other two didn't. Brunswick County is one of their clients.

Motion by Commissioner Kwiatkowski that the Board accept the Audit Committee recommendation that the Town contract with Martin Starnes and Associates for the audit; second by Commissioner Sullivan.

Commissioner Tyner asked if the information met the criteria in the directive to the Audit Committee. Commissioner Kwiatkowski responded that it did even more. It was an excellent job by the Audit Committee. Commissioner Sullivan said he attended the meeting as a citizen. He was impressed with the thoroughness and the hard work they put in. He is fully in favor of voting for this firm. Mayor Holden stated the Town is now looking at twice what we used to pay. He can't help but believe that one of the reasons is because the Town established a new rate when the potential companies saw what was paid in the past. Commissioner Tyner said this is \$6,000 less than what was paid last year. Compared to four or five years ago we are paying a lot more.

The motion passed by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 20-08, AN ORDINANCE AMENDING ORDINANCE 19-10, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR 2019 – 2020 (AMENDMENT NO 11)

Assistant Town Manager Ferguson said the Town recently had the Florence and Michael worksheets approved from FEMA. This starts the monthly reporting process. We need to adopt budgets for each storm in order to house the associated expenses and reimbursements. The proposed budget will satisfy the initial capital programming requirements.

Motion by Commissioner Kwiatkowski that the Board approve Ordinance 20-08, Ordinance Amending 19-10, the Revenues and Appropriations Ordinance for Fiscal Year 2019 – 2020 (Amendment No. 11); second by Commissioner Tyner; approved by unanimous vote.

DISCUSSION AND POSSIBLE ACTION ON RESOLUTION 20-02, RESOLUTION AMENDING THE HOLDEN BEACH FEE SCHEDULE (ANNUAL RECYCLING FEE)

Town Clerk Finnell said we received the updated processing fees assessed by Waste Industries for people who utilize the curbside recycling program. The monthly rate has increased by \$0.77 per cart per month for biweekly recycling and \$1.54 per cart per month for weekly recycling. The annual 2020 cost for people participating in the program will be \$93.29 per bin. The fee schedule needs to be amended to reflect the new amount. Staff recommends approving Resolution 20-02.

Motion by Commissioner Sullivan to approve the motion, the new fees; second by Commissioner Tyner.

Commissioner Kwiatkowski inquired if there is any indication if there will be any more changes in what is/isn't recyclable. Town Clerk Finnell replied no, that information has not been provided.

The motion passed by unanimous vote.

PUBLIC COMMENTS ON GENERAL ITEMS

Town Manager Hewett read Dean Thomas's email (hereby incorporated into the minutes).

EXECUTIVE SESSION PURSUANT TO N.C.G.S. 143-318.11(A)(5) TO ESTABLISH OR INSTRUCT STAFF OR AGENT CONCERNING THE NEGOTIATION OF THE PRICE OR TERMS OF A CONTRACT CONCERNING THE ACQUISITION OF REAL PROPERTY

Town Clerk Finnell read the reason for Executive Session.

Motion by Commissioner Murdock to go into Executive Session at 8:31 p.m.; second by Mayor Pro Tem Brown; approved by unanimous vote.

OPEN SESSION

Motion to go into Open Session at 9:00 p.m. by Commissioner Kwiatkowski; second by Mayor Pro Tem Brown; approved by unanimous vote.

No action was taken.

ADJOURNMENT

Motion to adjourn at 9:00 p.m. by Mayor Pro Tem Brown; second by Commissioner Murdock; approved by unanimous vote.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk