



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
EMERGENCY MEETING
TUESDAY, APRIL 7, 2020 – 4:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for an Emergency Meeting on Tuesday, April 7, 2020 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 Inspections Director Tim Evans. Attorney Jennifer Carpenter attended via telephone. The meeting was livestreamed on the Town's Facebook page. Comments were sent by email.

PUBLIC COMMENT

Town Clerk Finnell said there are three written public comments that are before the Board (Rich Weigand, Ashley Royal and Wendy Beaver).

REPORT, REVIEW AND EVALUATE STATUS OF EMERGENCY OPERATIONS OF THE TOWN AND CONSIDERATION OF FURTHER PROTECTIVE MEASURES

Mayor Holden reviewed the restrictions other towns have put in place. Mayor Holden said he was seeking guidance from the Board, attorney and staff on ideas to move forward. Town Manager Hewett said we received a lot of feedback regarding the closure of the public accesses and the inability of the public to access the beach. The public being both non-beachfront owners and visitors to the island. Chief Dixon stated they have written about 20 tickets for parking violations for the public parking areas. They have been monitoring that. Inspections Director Evans said contractors seem to be being responsible.

Commissioner Tyner said he thinks if we close the beach strand down it will make it less enticing for people to come here. He thinks the beach strand needs to be shut down at a minimum. Some people have cut the tape down at accesses and are using other people's accesses. He suggested that the Town needs to require decals. He stated he doesn't know if you need to close the bridge 24 hours a day. Commissioner Tyner stated he thinks the Town needs to get to VRBO Corporate or get the list of the homeowners to email them to tell them rentals are not going to be allowed and we will fine them.

Commissioner Sullivan thanked Mayor Holden because the mayor has the authority to make decisions without consulting them. He appreciates being able to provide input. He said the Town has taken a gradual increase on the restrictions and is trying to do this in a reasonable and conscientious way. When he goes down the beach, we are not as limited in population as we normally would be. There are twice as many people here. Commissioner Sullivan said on March 23rd, Holden Beach issued our State of Emergency with no short-term rentals. On March 27th, Governor Cooper issued his Stay at Home Order. Every day, both the county and the state issue updates on the Coronavirus. On March 28th, there were 944 cases in the state, four deaths and 12 cases in the county. On April 4th, it went from 944 cases to 2,402 and from four deaths to 24 deaths. The county went to 24 cases and had one death. Since Saturday, the latest numbers show 3,221 cases, an increase of 351 from yesterday. There are 46 deaths, when Governor Cooper was speaking this afternoon, he said 53. The United States has 377,000 cases with 11,816 deaths.

Commissioner Sullivan said every time you turn on the news everyone says the next two weeks will be the worst. He understands that logistically the Town has a lot of problems closing the bridge, but he doesn't think that we can let problems and logistics stop the Town from doing what he believes is necessary. Commissioner Sullivan said the Town needs to close the bridge, but we even need to keep people who own property here from accessing the bridge from the moment the bridge is closed. He said if we leave it open to all property owners, it will be like the season the whole time and it defeats the purpose. If you look at Mecklenburg, Durham and Wake counties they have over 1,300 cases of the Coronavirus. These people aren't doing this intentionally; they have no idea they are sick. They are violating the order the governor put in place. You are supposed to stay in place.

Commissioner Kwiatkowski agreed with Commissioner Sullivan. She doesn't like the idea of keeping people from their properties, but they shouldn't be coming to their second home for no good reason. The only reason you need to travel is if you are needing to help a family member. There are legitimate businesses open. Otherwise the people who are not here now should not be coming here. She is dreading Easter. We will end up with multiple sources here. She doesn't think closing the beach will keep people from coming. We now know that Brunswick County has community transfer. It will only get worse if we let more people come in from particularly the high incidence counties, Wake, Mecklenburg and Durham. Their average age is under 40. The Town's average age is 63. She said you are letting people come from an area that is perhaps more suited to get over the virus and bring it to people who are less likely to get over it without complications. Commissioner Kwiatkowski stated she thinks the Town needs to close the bridge and monitor it so people who are not already here cannot come. For people who are here, we need to make allowances for how they can go back and forth for groceries and medical supplies.

Commissioner Murdock asked if it is even legal to do what is being discussed. He said he wishes we could snap our fingers and make it go away. Nobody wants anyone to get sick. The decisions of some people are forcing his hand. He thinks there are a lot of people that he sees that are taking it seriously. Closing the strand, everyone else has done it. The Board probably needs to consider that. He said you need to get on with your day-to-day life. If you want to shut yourself in, you have the right to do that. We can do our best to help our neighbors to get through this. He doesn't know the consequences either way. He said we can ask people to not come here. We need to get up with VRBO and shut that down. He doesn't have the answers. Commissioner Murdock said he has heard from just as many people who want to walk on the beach and maintain social distance. He sat on the beach for 20 minutes before he came here and saw three people out there. The weekend will probably be bad. You know what Easter is and if you believe it is pretty important. You will hurt a lot of people either way. Commissioner Murdock said you will destroy 1,000 construction workers and an economic crisis will come out of it. People can stay in the house and everyone has the right to do that. He stated decals are simple to get and will stop a lot of traffic. It is horrible to put these guys in that position. He doesn't see how if you own property here you can tell them not to come to their house. Commissioner Kwiatkowski said the governor has told them that.

Mayor Pro Tem Brown said there hasn't been a Board that he remembers that had to make choices like this. Either way you go, it will hurt someone. We get a lot of people coming here. This weekend will prove it. They may be asymptomatic. We have a lot of people coming in over the weekend and they won't even know they are carrying disease. He would hate to tell someone with a million-dollar home they can't come here. We are all trying to hash this thing out to come up with an answer. Mayor Pro Tem Brown said we all heard it will be hard to do police wise, but it can be done if it has to be done. He questioned if the Town should just close the beach. Mayor Pro Tem Brown said a lot of people come and have a pool. He doesn't know what the answer is. We need to figure out how to get the renters out of here. He provided an example of someone still renting. VRBO knows the deal. He stated if two people on this island get sick and 10 die, it will be on our shoulders. It can happen here just as easy as anywhere. It's a tough call.

Town Manager Hewett pointed out that the Town has closed public parking lots. The pier is privately owned. Mr. Gil Bass was extremely cooperative and reached out to Chief Dixon. As a cooperative effort, the Town assisted in securing the parking lot. Commissioner Sullivan said he believes the Town does monitor and get occupancy tax from

VRBO. He asked how we can use that to make sure those locations are not being rented out. He thinks it would be easier to enforce the limitation of allowing people on the island, rather than figuring out if the people on the island should be there. He said if we don't have the manpower to monitor the bridge, we don't have the manpower to do that. Chief Dixon explained they have reached out to find out how the process works. The companies do not take responsibility for blacking out homes. It is the individual's responsibility to take the listing off the website. Commissioner Sullivan inquired if it would be easier to enforce the closure of the bridge rather than going to the various houses to make sure the people are there legally. Chief Dixon responded he thinks the houses would be an easier approach; if you take it from a complaint driven approach. Commissioner Sullivan said he is not talking about complaint driven because that won't accomplish what they are trying to accomplish. Town Manager Hewett stated the details of the VRBO tax collections are a tax collector specific question. He would hate to wager a guess on something he is not familiar with. The collection is done monthly. He doesn't think you would be able to ascertain if it was rented that week. Commissioner Tyner suggested the Town needs to see if there is a way to communicate with the owners and tell them the fine.

Attorney Carpenter said there aren't going to be any right answers, this is uncharted territory. We need to remember that whatever measures are implemented need to be tied to reasons that are specific for Holden Beach. It seems like the powers authorized under a State of Emergency are very broad, but not limitless. She would caution against some kind of nuclear response to what is going on. If the mayor's determination is that the State of Emergency requires significant drastic measures to be taken, then you can do that. She thinks it needs to be based on articulated reasons for doing so. She said there is a tradeoff that needs to be made between enforcement issues and how we can better allocate resources currently in place versus implementing new measures that may or may not work better, but still need to be enforced. Commissioner Sullivan requested the answer to the legal question of can the bridge be closed. Attorney Carpenter responded the answer is likely yes. The statute that authorizes local governments to close roads that do not belong to a town does not specifically authorize local governments to close those roads. There was some confusion in the law about that. The statute was amended late 2019 to specifically include authorization for local governments to be able to close roads that do not belong to the municipality, however the statute requires that those authorities be included in the municipalities' ordinance. The way the Town's ordinance is written now, you are still in the gray area. You probably can, but you are not specifically authorized. Commissioner Tyner asked about the question of preventing property owners that are not here as of a certain date from coming on the island. Attorney Carpenter replied that she believes that is one of the areas that in hindsight would be decided by the courts. Other localities are implementing measures like that. She thinks when you apply restrictions to a group of people you are inviting some challenges. Commissioner Sullivan asked if it would justify preventing people from coming on the island based on the fact that the governor has made the Stay at Home Order and that the order allows local authority to enforce that. Attorney Carpenter said that would invite discretion in whether people are violating the order or not. It would assist the Town's argument in implementing a measure like that, but she is not sure it would give cart blanche to deny people access to their property.

Assistant Town Manager Ferguson said the second information sign will be here tomorrow. She is assuming one would be placed on each side of the bridge. She does not know what the Board will decide to do about the bridge, but she is not sure how those reimbursements would come back for personnel.

Commissioner Kwiatkowski stated the best way to reduce risk is to not let people come onto the island other than people already here. The next best risk reduction is you don't let anyone on the island that is not a property owner or their immediate family and you ask them to quarantine themselves for 14 days. Leaving the island open doesn't reduce risk, it will increase it. The more influx we get, the more the people who service us, the more the likelihood they get infected and we get larger community transmission. She said we are the retirement communities. She stated we do not have the hospitals and the medical capability that Wake, Mecklenburg or Durham counties do. Commissioner Kwiatkowski thinks the Town needs to close the bridge. She thinks that is the responsible thing. She doesn't think closing the beach will keep the county from getting an acceleration of cases. She said the Board could consider closing it from 8:00 a.m. – 8:00 p.m.

Mayor Holden explained the list goes on and on with special circumstances for each owner. He doesn't have a magic bullet or an idea to solve each issue. He thinks it is fair to say we are at the point that we probably need to close the beach strand. For the idea of restricting property owners to their property, we have unsuccessfully implemented that plan after hurricanes in the past. People will not abide by that rule. It is a case of a handful disobeying the orders and the whole group suffering. Mayor Holden said as far as closing the bridge, he would like to hear from the chief. He has not found any source of support for the Police Department. He doesn't know how the idea of the stickers getting passed out to everyone who wants or needs one would work. For example, construction jobs have service trucks, different delivery people, landscapers and supplies. He doesn't think we can get a sticker in everyone's hands. Town Manager Hewett stated the process we have in place for decal access to the beach is one that is predicted on two decades of doing that for hurricanes. We just sent out decals to property owners and residents. What probably is not in place is the decals for contractors. Normally we sell those at the front window. Traditionally they don't come get them until right before a storm. Contractors that do have decals are probably a very small fraction of those who provide services to Holden Beach.

Chief Dixon said he has heard several different options. He asked about details and what the end result would be. It would be impossible for the Police Department to differentiate between someone who went to the grocery store and someone who went to Raleigh if they have the same decal. Commissioner Kwiatkowski stated there would need to be a second indicator sticker for when a car leaves the island. Town Manager Hewett inquired how the distribution of a secondary decal would be made. There is an interface that would need to be made. Commissioner Kwiatkowski said when people leave the island, they get the sticker or at some point there is a delivery of two stickers to any house that has vehicles. Mayor Pro Tem Brown asked for confirmation that right now all of our neighbors do not have their bridges closed. Town Manager Hewett agreed. Mayor Pro Tem Brown said he has listened to everybody. He thinks the Town should at least close the beach and enforce it. Chief Dixon said that is something visible that can be enforced. Mayor Pro Tem Brown said we can take the steps that Ocean Isle Beach, Sunset Beach and everyone has done, rather than something drastic. He has heard all of the comments. He doesn't want to have to tell someone, especially a property owner, to not come. The governor already told them. He proposed the Town find out what we need to do for VRBO. We will need to crack down. He stated he thinks the Town should take steps. If we get inundated and need to come back Monday, then we can go that way.

Commissioner Tyner said the only other suggestion he would make is that we should ask everyone to have the decals on their car. He suggested doing random checks. Commissioner Sullivan said you can't do that. He has children who have their own car and they don't need a sticker. Chief Dixon said checking stations are authorized for Chapter 20 violations. A sticker has nothing to do with Chapter 20, which is the Motor Vehicle Code so checking for stickers is not authorized. Attorney Carpenter agreed, her understanding is checkpoints must specifically address motor vehicle violations. Commissioner Tyner suggested sitting on the side of the road to spot them. Commissioner Sullivan said it wouldn't serve any purpose because people are allowed to be on the island without stickers. He said the Board wants to do something that is effective and accomplishes something.

Commissioner Kwiatkowski said she is for closing the bridge, but if the bridge isn't closed, she would ask the Town to send a message to all owners and lay all of the facts out for Brunswick County. She is not sure how many people follow what is going on in Brunswick County. She suggested language. Commissioner Sullivan stated we are talking about doing things gradually. He thinks at some point the Board agrees they will close the bridge. He had suggested getting a different color decal. He firmly believes it should be limited to the people that are here. He already suggested we get the decals that are different, that hasn't been done. He asked that the Emergency Management Director make that request so that if that day comes, we can implement that plan without needing to wait. Mayor Pro Tem Brown said he thinks the Town needs to give closing the beach and enforcing it a chance. Commissioner Murdock said you could put verbiage in what will come next if people don't listen. Mayor Pro Tem Brown agreed that you put verbiage in that the next step is closing the bridge. Commissioner Sullivan said that would make people come here before we close the bridge. Commissioner Kwiatkowski said she thinks you should put the dollar value

of what you can fine people. We can make it clear we are not talking about \$50 fines, this is serious. She said there needs to be messaging appealing to people to follow the governor's rules.

Town Manager Hewett asked what the Board thinks about the boat ramp. Mayor Holden said the head of the Fisheries Division called him. The representative from the division expressed his response to the many complaints they received regarding the tickets the Town is giving to boat owners who are outside of the designated boat ramp spaces. Mayor Holden said the Town currently has a ban on rights-of-way and public parking so the Police Department has been doing its job as directed. He explained we are within our rights to control our rights-of-way and we recognize his Division's right to control their designated parking spots. We know other towns have closed their boat ramps. We can't ban commercial fisherman from using the boat ramp. Some people have communicated they want to use the boat ramp. He is having great difficulty in closing the boat ramp. Commissioner Sullivan said if the day comes that the bridge is closed that would close the boat ramp. Mayor Holden said depending on the stipulations.

Commissioner Kwiatkowski said the Board will see what the weekend brings. They need to tentatively think about getting together Monday to discuss potential next steps. She said the idea of a second decal and getting it started doesn't need to wait for that. Commissioner Sullivan asked if we have PPE for the staff. Town Manager Hewett responded we have masks ordered and a few gloves. We have very few masks on hand.

Mayor Holden stated his feeling is the Town will close the beach strand and all accesses. We will probably make it effective tomorrow afternoon. He agreed with what has been said about sending out communication with the intent of educating those impacted by the decision; letting them know what a Class 2 misdemeanor is and the maximum penalty. He also agreed that in the communication, which is outside of the amended proclamation, we will try to send educational material. Effectively, we will close the beach strand tomorrow afternoon and make it two weeks out from yesterday to coincide with our neighbors. Mayor Holden said he fully expects they will consider alternative measures before the two-week period ends. They will react to information as it comes to us. He said we will get information educating people on what is taking place and will work with the attorney to close the beach strand. It will not solve all of our problems, but he agrees it is the next step. Commissioner Kwiatkowski inquired if the Town will appeal to all people with private accesses. Town Manager Hewett answered it doesn't matter what access is used. When they are on beach strand, they are in violation. His understanding is the strand is being closed. Mayor Holden said the public accesses are already closed.

Commissioner Tyner asked about VRBO. Chief Dixon responded he will look into it. Town Manager Hewett added that gets into technique. The staff will work that; he understands it is the Board's wish to look into it.

ADJOURNMENT

The Board adjourned at 5:29 p.m.

ATTEST:

J. Alan Holden, Mayor

Heather Finnell, Town Clerk