



**Town of Holden Beach  
Board of Commissioners  
Regular Meeting**

**Tuesday, April 30, 2024  
5:30 PM**

**Holden Beach Town Hall  
Public Assembly**



**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS' REGULAR MEETING  
HOLDEN BEACH TOWN HALL – PUBLIC ASSEMBLY  
TUESDAY, APRIL 30, 2024 - 5:30 P.M.**

---

1. Invocation
2. Call to Order/ Welcome
3. Pledge of Allegiance
4. Agenda Approval
5. Conflict-of-Interest Check
6. Approval of Minutes
  - a. Minutes of the Special Meeting of February 20, 2024 (Page 1)
  - b. Minutes of the Special Meeting of March 8, 2024 (Pages 2 – 5)
  - c. Minutes of the Special Meeting of March 18, 2024 (Pages 6 – 8)
  - d. Minutes of the Regular Meeting of March 19, 2024 (Pages 9 – 22)
7. Public Comments on Agenda Items
8. Police Report – Chief Dixon (Pages 23 – 30)
9. Inspections Department Report – Inspections Director Evans (Pages 31 – 33)
10. Finance Department Report – Finance Officer McRainey (Pages 34 – 36)
11. Discussion and Possible Action on Ordinance 24-06, An Ordinance Amending Holden Beach Code of Ordinances, Title VII: Traffic Code – Town Clerk Finnell (Pages 37 – 39)
12. Block Q (Pages 40 – 47)
  - a. Discussion and Possible Action on the Block Q Site Plan – Assistant Town Manager Ferguson
  - b. Discussion and Possible Action on Constructing Bathrooms at Block Q – Mayor Pro Tem Myers and Commissioner Thomas
13. Discussion and Possible Approval of Ordinance 24-07, An Ordinance Amending Holden Beach Code of Ordinances, Section 92.32, Unlawful Lights – Inspections Director Evans (Pages 48 – 51)

14. Discussion and Possible Scheduling of a Date to Hold a Public Hearing on Ordinance 24-08, An Ordinance Amending the Holden Beach Code of Ordinances, Chapter 154: Flood Damage Prevention - Inspections Director Evans (Pages 52 - 62)
15. Discussion and Possible Action on the Transfer of Files and Papers from the Former Attorney - Mayor Pro Tem Myers and Commissioner Thomas (Pages 63 - 64)
16. Discussion and Possible Action on Selecting a New Town Attorney - Mayor Pro Tem Myers and Commissioner Thomas (Pages 63 - 64, Separate Packet)
17. Discussion and Possible Action on Conflict-of-Interest Concerns Related to the Holden Beach Property Owners Association - Mayor Pro Tem Myers and Commissioner Thomas (Pages 65 - 66)
18. Holden Beach Pier Property (Pages 67 - 98, Separate Packet)
  - a. Holden Beach Community Alliance Presentation of Their Petition to Save the Pier - Commissioners Smith and Dyer
  - b. Discussion and Possible Action on Pier Property Development - Mayor Pro Tem Myers and Commissioner Paarfus
  - c. Discussion and Possible Action to Request Staff to Issue a Request for Proposals to Repair or Rebuild the Holden Beach Pier that will Meet North Carolina Building Codes - Commissioners Smith and Dyer
  - d. Discussion and Possible Action to Request Staff to Issue a Request for Proposals to Repair or Replace the Building at the Town Property Located at 441 Ocean Boulevard West - Commissioners Smith and Dyer
19. Discussion and Possible Action on Placing the Town Manager's Report on the Board of Commissioners' Meeting Agenda - Mayor Pro Tem Myers and Commissioner Thomas (Page 99)
20. Public Comments on General Items
21. Town Manager's Report
22. Mayor's Comments
23. Board of Commissioners' Comments
24. Adjournment

\* Visit <https://www.facebook.com/holdenbeachtownhall/> to watch the livestream of the meeting. Public comments can be submitted to [heather@hbtownhall.com](mailto:heather@hbtownhall.com) prior to 12:00 p.m. on April 30, 2024.



**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS  
SPECIAL MEETING  
TUESDAY, FEBRUARY 20, 2024 – 2:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Special Meeting on Tuesday, February 20, 2024 at 2:00 p.m. Present were Mayor J. Alan Holden; Mayor Pro Tem Tom Myers; Commissioners Rick Smith, Tracey Thomas and Rick Paarfus; Town Manager David W. Hewett; Town Clerk Heather Finnell; Assistant Town Manager Christy Ferguson; Finance Officer Daniel McRaney; Public Works Director Chris Clemmons; Inspections Director Tim Evans; Police Chief Jeremy Dixon; and Lieutenant Frank Dilworth. Commissioner Page Dyer was unable to attend.

Mayor Holden called the meeting to order.

**PUBLIC COMMENTS**

No comments were made.

**BUDGET WORKSHOP**

The Board discussed how to proceed. They went through the list, evaluated the list and assigned a priority to each one. The revised list is hereby incorporated into the minutes.

The Board agreed to use the objective of continue to support and monitor Lockwood Folly Inlet access to the ocean as the third earmark request.

The Board discussed financial reporting for the monthly meetings.

Upcoming budget meetings and the schedule were discussed.

**ADJOURNMENT**

*Motion by Commissioner Paarfus to adjourn at 3:52 p.m.; second by Commissioner Thomas; approved by unanimous vote.*

\_\_\_\_\_  
J. Alan Holden, Mayor

ATTEST:

\_\_\_\_\_  
Heather Finnell, Town Clerk



**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS  
SPECIAL MEETING  
FRIDAY, MARCH 8, 2024 – 4:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Special Meeting on Friday, March 8, 2024 at 4:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem Tom Myers; Commissioners Rick Smith, Tracey Thomas and Rick Paarfus; Town Manager David W. Hewett; Town Clerk Heather Finnell; Assistant Town Manager Christy Ferguson; Public Works Chris Clemmons; Inspections Director Tim Evans. Commissioner Page Dyer was unable to attend the meeting. Finance Officer Daniel McRainey arrived late.

**PUBLIC COMMENT**

Martie Arrowood reminded the Board of their vision statement. She said the statement makes the Parks & Recreation budget a high priority. She talked about the importance of ADA accessibility. Mrs. Arrowood suggested the land in the 800 block would be an ideal location for pickleball courts. She suggested treating the sand fund like the canal dredging funds and having a yearly assessment to all property owners and include a percentage of BPART to guarantee funding without having to take away budget items.

**BUDGET WORKSHOP**

Town Manager Hewett explained Finance Officer McRainey should be here by 4:30 p.m. He was at the Finance Officers' Conference. For the salary related items, he used the most recent CPI index and included a 3.2% increase for COLA and a 5% merit pool to get us started. Those numbers will be embedded in the budget numbers unless he is directed otherwise. He provided information regarding the current budget numbers. He explained how merit increases are issued.

Commissioner Thomas would like to add an ADA self-assessment of the Town as a must do. She suggested looking at all Town properties and determining needs. It doesn't need to be done immediately, but we need a plan. Town Manager Hewett said as long as the Board is asking that the self-assessment be conducted over the course of the next fiscal year to produce a document so that the items can be added to the Capital Improvement Plan, that makes sense. He doesn't know what that entails. Commissioner Paarfus suggested adding the word explore to the beginning of the item.

Assistant Town Manager Ferguson went over the three earmarks. Currently, the earmarks are any beach nourishment federal issues, which is currently the Coastal Storm Damage Reduction Study, the

stormwater and the Lockwood Folly operations and maintenance money so dredging will occur out of the federal budget.

The Board discussed scoring their priorities. For the pier items, they will score it as two items, pier building and the pier. Mayor Pro Tem Myers asked if there are any must do items required by the grants relating to the pier. Assistant Town Manager Ferguson will prepare a list.

The Board agreed to combine the April 3<sup>rd</sup> and April 12<sup>th</sup> meetings and hold the combined meeting on April 12<sup>th</sup>. Town Clerk Finnell will send an amended calendar.

Assistant Town Manager Ferguson explained this budget presents a dive into what expenses will look like for the next fiscal year built from a zero-based budget approach. It is more project and general operations based. It does not include any professional services for either the pier or Block Q because those are not known at this time. It also doesn't currently allocate any money towards pier repair because the process is on hold. It gives an estimate for stormwater for the part of Block Q where the bathroom and associated parking will be housed. In speaking to the architect yesterday, he thinks the amount will be \$200,000 rather than the \$150,000 in the notes. That means the next time around you would see the line say \$760,000 instead of the current \$710,000. The grant requirement is also included in that line. Assistant Town Manager Ferguson stated the budget also includes the ADA projects that the staff has communicated will need to be moved to next year as an obligation because they were not accomplished this year. It also takes care of your debt service for central reach, Block Q and the pier along with the associated debt interest. The note that is highlighted regarding the dumpster is an internal note. We have always had a dumpster, but it is usually housed in Access and Recreation. We need to cost it out of the Contracted Services Sanitation line. The numbers as presented gamble with the idea that \$83,000 will be enough for the dredging of the Lockwood Folly Inlet, coupled with what remains in the federal appropriation budget for operations & maintenance. If more maintenance is needed or another Miss Katie event is required, the Board would be looking at a budget amendment. She explained what money is in the current budget for Lockwood Folly dredging.

Town Manager Hewett explained the Corps' project on the east end is going pretty good. It should be finished by the middle of next week.

Staff answered the Board's questions. Assistant Town Manager Ferguson explained that only part of Ward and Smith's contract comes out of Professional Services in BPART. The other part comes out of canal dredging. She reviewed the other items in Professional Services. Town Manager Hewett said group insurance numbers are not updated yet because we have not received the new numbers. He will check on the increase in the Retirement line. Assistant Town Manager Ferguson said if you don't use the promotion money you would be out of compliance with BPART law. Items in the Promotions line item were discussed. Assistant Town Manager Ferguson said staff is working on deciding what is a tourism related expense and what is a sand related expense for this budget to determine compliance. The Chamber of Commerce is a tourism-related expense. Assistant Town Manager Ferguson explained what has been taken from the Contributions line in the past. Town Manager Hewett explained the policy for asking for a contribution.

Assistant Town Manager Ferguson explained the Key Bridge items are in the Access and Recreation line. Under the Halstead line, there is some handrail work that needs to be done. The estimate is based on what we have been paying for handrails. It could change.

The Salaries Beach Project line includes the rec tech and 75% of an employee in the Public Works Department. Town Manager Hewett will look at those retirement numbers also. The Beach Ranger Program was discussed.

The program for plantings was discussed. 441 NCLM Insurance is the insurance through the League of Municipalities. Town Manager Hewett and Assistant Town Manager Ferguson provided information on the calculation for the line for the Transfer County Accommodations Tax.

Public Works Director Clemmons explained there are no big needs for the Streets Department and Sanitation Department. He reviewed the Water & Sewer Department needs. He is requesting an F-150 truck for \$50,242. He needs a 150 kw genset and trailer at \$74,642. One of the biggest ticket items he needs is an air conditioning system for pump station #4. The verbal quote he received on the air conditioning system is \$47,800. That doesn't include the \$10,600 deck you need behind the building so the total would be around \$60,000. He needs to do an inventory check, but he may be able to absorb that cost into this year's budget if it was sent out to bid and the numbers came back in that amount. He would like to do more research. Public Works Director Clemmons would like to see the Pump Station #2 upgrade completed. One item that is not on the list is the portable vacuum skid. He would love to research it before moving forward.

The proposed list was discussed. Commissioner Paarfus would like to keep the portable vacuum skid on the list so the Board doesn't lose sight of the item. The proposed portable vacuum skid was discussed. Town Manager Hewett stated these requests would fall under Fund 30. Public Works Director Clemmons explained the requested genset would replace the generator at station #2 now. From his experience it is cheaper to purchase it outright than with the project. He said if he had to prioritize the items, his first item would be the pump station, air conditioning and the generator. He said in his mind, he can't do without any of the items he listed. Current vehicles in the Public Works Department were discussed. The proposed truck would replace an older truck currently in his department. Public Works Director Clemmons will check the spreadsheet on current vehicles.

Commissioner Thomas inquired about take home vehicles. Public Works Director Clemmons said they have late night calls. Take home vehicles save time and employees would have their tools. Also, when the employees were hired, take home vehicles were part of the package. Personal use is not allowed. The Public Works Department is usually the last group to leave and the first to return during storms. Parking spaces for personal vehicles would also be an issue.

The program regarding street assessments and repair was discussed. Public Works Director Clemmons said he will need to increase the sidewalk replacement line.

**ADJOURNMENT**

*Motion by Commissioner Smith to adjourn at 5:08 p.m.; second by Commissioner Paarfus; approved by unanimous vote.*

\_\_\_\_\_  
J. Alan Holden, Mayor

**ATTEST:**

\_\_\_\_\_  
Heather Finnell, Town Clerk





**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS  
SPECIAL MEETING  
MONDAY, MARCH 18, 2024 – 5:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Special Meeting on Monday, March 18, 2024 at 5:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem Tom Myers; Commissioners Rick Smith, Tracey Thomas and Rick Paarfus; Town Manager David W. Hewett; Town Clerk Heather Finnell; Assistant Town Manager Christy Ferguson; Finance Officer Daniel McRainey; Fiscal Operations Supervisor Margaret Lancaster; Inspections Director Tim Evans; Public Works Director Chris Clemmons; Police Chief Jeremy Dixon; and Lieutenant Frank Dilworth. Commissioner Page Dyer arrived late.

Mayor Holden called the meeting to order.

**PUBLIC COMMENTS**

No comments were made.

**BUDGET WORKSHOP**

The Board reviewed the scored objectives (hereby incorporated into the minutes).

Town Clerk Finnell said the Governing Body budget will most likely only have three big changes. The first would be Professional Services. We will look into getting a consultant to perform the ADA assessment of the Town that the Board discussed and prioritized. We need to codify the ordinances, which will be a few thousand dollars. There will also be a cost associated with the audio/visual system based on how the Board decides to move forward.

Town Clerk Finnell explained that the only line we anticipate going up for the Admin budget is the Property and Liability line. We do not have the quote on that, so it will be determined. The application will be made within the next month. Staff will research what they think the rate would be for the upcoming budget.

Inspections Director Evans said the Inspections Department has no big-ticket items. They are reducing it by the cost of a vehicle. Printing is the only thing he is anticipating going up. They are investing in a plotter to help with operations. Contracted services will be reduced. The overall operating budget will be in line with the last 13 – 14 years. Current vehicles and how the Board sells old vehicles were discussed. Inspections Director Evans provided information on personnel in his

department, overtime and training. He detailed what Contracted Services and Communications are used for.

Chief Dixon explained how he prioritized his rough estimates and requests. The Phase 2 Radio Upgrade implementation must be completed by July 2025. That is his number one request at \$33,600. The second priority is to demilitarize and maintain the Humvees from the federal 1033 program at \$14,000. The program and what the Town will do with the vehicles were discussed. The Police Department's third priority request would be replacing two vehicles at approximately \$160,000. That would include the vehicle and the equipment. Current and requested vehicles were discussed. Chief Dixon reviewed his request for a detective, which would be his fourth priority. The Board discussed his request. The Police Department's fifth priority is legal services. There are agencies who do policy and risk review for law enforcement agencies. It could potentially mitigate some liability to the Town and help towards a future goal of accreditation. Chief Dixon provided information and answered questions on accreditation. The Police Department's sixth request is a mobile app for communications with the community. Next year, the Police Department will be looking at a ballistic vest replacement program and two more trucks. The Inoculations line is typically used for drug screening and psychological screening. That item fell short this year.

Town Manager Hewett reviewed the canal dredging funds. These funds are for a stand-alone shovel ready project. These numbers represent what we are forecasting in terms of the same assessments we made last year, but we have not met with the canal working group yet. That normally takes place after Easter. We are not planning on doing a full dredging project until 26/27. He explained why it will show in the current year in the Capital Improvement Plan (CIP).

Town Manager Hewett explained staff talked to Fran Way, our coastal consultant engineer for the Beach Inlet CIP. Where we got to is that our most likely next nourishment project will be a FEMA project unless there are changes to that program, which are likely. We developed a hypothetical Town sponsored project to develop a planning horizon for 15 years. Based on the input from Mr. Way, we have semi-widely estimated that \$51 million would be what it would take for a Town project. Staff looked at applying the Corps' methodology for the 15-year plan. Town Manager Hewett explained how they came to the numbers in the packet. The proposed numbers and the Fund Balance Policy were discussed. The Beach Inlet Capital Reserve Fund was discussed. Moving forward was discussed.

Town Manager Hewett reviewed the CIP for the General Fund. For the streets assessment, we are using a programming number of \$200,000 for the streets to be determined. When we get the updated streets conditions survey, those numbers will be updated. For the stormwater he is still using \$2 million. The funding for that would be the 5113 federal money, in addition to the Town's portion of that. After seeing Chief Dixon's budget, the Police vehicles are off by one year in the CIP. The \$170,000 for the upcoming year is right, but then we will need to compress 25/26, 26/27 numbers. Streets and Sanitation reflects Public Works Director Clemmons glide scope for Streets and Sanitation replacement trucks.

Assistant Town Manager Ferguson explained the number for the lift station project in the Water & Sewer CIP reflects the number the Town supplied to the state. Public Works Director Clemmons

would like to revisit the amount for the Fire Hydrant Replacement Program. The Lift Station Generator Replacement Program was discussed. Town Manager Hewett said he is not sure what to do for 796 OBW.

Assistant Town Manager Ferguson reviewed the BPART Fund CIP. Playground Equipment/Parks & Rec Facilities is a catchall. It represents anything that has been identified for upcoming and is correlated to the 2021 Master Plan. She provided information on the Access and Recreation line. For Block Q, \$760,000 is from the budget sheets the Board received the other day. It represents the restrooms and the stormwater portion that goes with the restrooms. The grant is reflected in the revenue side. The project and the grant were discussed. Assistant Town Manager Ferguson provided information on the Lockwood Folly line.

**ADJOURNMENT**

*Motion to adjourn at 6:38 p.m. by Commissioner Paarfus; second by Commissioner Thomas; approved by unanimous vote.*

\_\_\_\_\_  
J. Alan Holden, Mayor

ATTEST:

\_\_\_\_\_  
Heather Finnell, Town Clerk



**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
TUESDAY, MARCH 19, 2024 – 5:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, March 19, 2024 at 5:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem Tom Myers; Commissioners Rick Smith, Tracey Thomas, Page Dyer and Rick Paarfus; Town Manager David W. Hewett; Town Clerk Heather Finnell; Assistant Town Manager Christy Ferguson; Police Chief Jeremy Dixon; Public Works Director Chris Clemmons; Inspections Director Tim Evans; Finance Officer Daniel McRainey; and Town Attorney Sydnee Moore.

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

**PLEDGE OF ALLEGIANCE**

**AGENDA APPROVAL**

Mayor Pro Tem Myers requested that we move the April meeting.

*Motion by Mayor Pro Tem Myers that we put it on the agenda right after the conflict of interest check, 5a; second by Commissioner Thomas; approved by unanimous vote.*

*Motion by Commissioner Thomas to accept the agenda as amended; second by Mayor Pro Tem Myers; approved by unanimous vote.*

**CONFLICT OF INTEREST CHECK**

Commissioner Smith said it is apparent after viewing the emails from the FOIA request that there is a conflict of interest that exists with Mayor Pro Tem Myers and Commissioner Thomas in regard to matters with the pier since they also serve on the board of the Holden Beach Property Owners Association. He said they should excuse themselves from any vote related to the pier this evening. After discussion, Attorney Moore explained she doesn't see a conflict. She would be happy to look into the specific information if it is provided to her for her review.

No member disclosed a potential conflict.

## **APRIL MEETING DATE**

Mayor Pro Tem Myers would like to move the April 16<sup>th</sup> meeting to April 30<sup>th</sup>.

*Motion by Mayor Pro Tem Myers to have the BOC meeting at 5:00 p.m. on April 30<sup>th</sup> and we will find another time for the budget meeting; second by Commissioner Thomas.*

Proposed dates were discussed.

*Motion by Mayor Pro Tem Myers that we cancel the budget meeting that is scheduled for the 30<sup>th</sup> and we move the BOC meeting to the 30<sup>th</sup> at 5:30; second by Commissioner Thomas; approved by a 3 – 2 vote with Mayor Pro Tem Myers and Commissioners Thomas and Paarfus voting for the motion and Commissioners Smith and Dyer voting in the negative.*

## **APPROVAL OF MINUTES**

*Motion by Commissioner Thomas to approve the minutes (Special Meeting of February 7, 2024, Special Meeting of February 9, 2024, Special Meeting of February 14, 2024 and Public Hearing/Regular Meeting of February 20, 2024); second by Commissioner Paarfus; approved by unanimous vote.*

## **PUBLIC COMMENTS**

Tracey Burger said she is representing the alliance named Neighbors of 796. They support selling the property at 796 Ocean Boulevard West. She submitted three letters in support of selling the property.

Sylvia Pate suggested getting a temporary stage to replace the pavilion if it needs to be demolished. It can then be looked at rebuilding it at its current location. Ms. Pate recommended leaving the parking fees as they are. She would support changing the program to year-round. She would like to see what kind of responses the Town receives for the item on the pier. She agreed that if 796 is not going to be used as a community center, the Town should sell it.

Martie Arrowood doesn't support free parking passes for homeowners. She had someone reach out offering to purchase hers if she receives it. Relating to 796 Ocean Boulevard West, she doesn't recommend the Town sell any assets until the ADA compliance study has been completed.

Cindy Ridenhour talked about the recent fire at her business. She is discouraged that comments not supporting her business were made at a recent meeting.

Jim Bauer said we are missing the ball on items 8, 9, 19 street work, the pavilion and the pier. He said the lift station should be the one and only priority. He suggested that the Board should ask the homeowners what they want to do with the pier property. He said the Board should sell any unused property. He provided feedback on the cameras and said it is great to see the Board moving forward to bring homeowners into the process.

Lisa Ragland said she is concerned about the pavilion and that we need the concerts. She is not opposed to giving homeowners a discounted pass, but not a free pass. She said you have no idea what kind of bids you could get for the pier. She suggested putting it out there. She thinks the Board should sell 796 Ocean Boulevard West. She said the Town will need to come up with bathrooms for the area.

Will Carter said he would like a new concrete pier with a community center. He talked about the design that is currently on social media.

Commissioner Paarfus apologized for his comments regarding the fire.

### **DISCUSSION AND POSSIBLE AWARD OF CONTRACT FOR ROADWAY WORK (HIGH POINT STREET)**

Public Works Director Clemmons explained Highland Paving was the only bidder for the resurfacing of High Point Street. The bid at \$115,250 falls into the informal bid procedures. The bid received is within budgeted amounts and the Board can make the award if they choose. Highland Paving is the company working on the Ocean Boulevard Project and he believes we received good pricing since they didn't have to mobilize.

*Motion by Commissioner Paarfus to approve; second by Commissioner Thomas.*

Commissioner Smith said this will be taken care of more economically if we do it now.

*Commissioner Paarfus clarified that motion also includes having the town manager execute the contract. The motion passed by unanimous vote.*

### **DISCUSSION AND POSSIBLE ACTION ON EVALUATION OF HOLDEN BEACH PAVILION**

Mayor Pro Tem Myers said the findings are clear and read from the report. He thinks the Board needs to follow the engineer's recommendations. He said the most responsible action is to take it down to avoid the risk of somebody getting hurt.

*Motion by Commissioner Thomas that we request that the staff send out a RFP (Request for Proposals) to tear down the current pavilion; second by Mayor Pro Tem Myers.*

Commissioner Smith asked why the suggested repairs were not completed in 2010. Town Manager Hewett replied they were not funded by the Board. Commissioner Smith said he thinks the roof section is the part in question. He suggested removing the dangerous part first and having our inspector get engineers to look at it to see if it is capable of having a simpler protective covering so we can have concerts. Inspections Director Evans said based off the report, the structure needs to be torn down. He provided details on the background of the structure and the process moving forward at this point. Mayor Pro Tem Myers and Commissioner Thomas confirmed they are talking about tearing the whole pavilion structure down. Commissioner Dyer suggested getting a quote to rebuild the structure when getting proposals to tear it down. Assistant Town Manager Ferguson advised the Board that she and the Police Department have been working with the property owners

located near Bridgeview Park where the concerts are proposed to be held. Town Manager Hewett explained the prime reason the structure failed is because it was not built in accordance with an engineered plan. In order to put out a RFP to rebuild, we need a plan from an engineer. Commissioner Thomas would like to take the one down and then plan where the new one will be. Commissioner Paarfus explained it may be in the Corps' right-of-way (ROW). Town Manager Hewett confirmed there is an encroachment agreement with the Corps.

*The motion was approved by unanimous vote.*

Commissioner Thomas suggested putting caution signs up.

### **DISCUSSION AND POSSIBLE ACTION ON ORDINANCE 24-02, AN ORDINANCE AMENDING HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 72: PARKING REGULATIONS**

Town Manager Hewett said the installation of the bike lanes is going to take up right-of-way on the east end to such an extent that it comprises our ability to use 50 spaces along McCray Street between Avenue A and Dunescape. The ordinance would delete the spaces from the paid parking table.

*Motion by Commissioner Paarfus to approve (Ordinance 24-02); second by Mayor Pro Tem Myers.*

Mayor Pro Tem Myers asked about an encroachment agreement and wetlands. Town Manager Hewett responded that if the Town would have to clean the ROW, we are assuming we would have to get an encroachment agreement with the DOT, especially if it included a stormwater solution. There would be significant permitting required. Town Manager Hewett and Inspections Director Evans explained why the area would be considered wetlands.

*The motion passed by unanimous vote.*

### **DISCUSSION AND POSSIBLE ACTION ON HOLDEN BEACH PAID PARKING FEES AND SCHEDULE**

Commissioner Thomas said the cover sheet provided information on what other areas are charging and the Town is undercharging. We are also losing revenue from 50 spots.

*Motion by Commissioner Thomas to extend the season and charge for parking year-round; second by Mayor Pro Tem Myers.*

Commissioner Dyer said she doesn't think it would be smart to extend the season for the whole year until we provide the amenities promised with the paid parking program. She said the Board took away boat parking and we haven't provided new bathrooms like was said. Commissioner Smith said the reason for the paid parking was to help offset the purchase of the pier. Tourism is the backbone of the community. He said it is hard to justify increasing the prices and we haven't done anything to Block Q or the pier. Mayor Pro Tem Myers said he continues to be amazed how many people are here in what we consider the offseason. He doesn't think an extra couple of dollars will change their view. It seems we are attracting more people each year. He hasn't heard

complaints that parking will drive them away; they are here for what we have to offer. Commissioner Thomas went over expenses for the pier. Commissioner Dyer said she isn't opposed to raising prices or doing it year-round, but we can't do it until we do what we said we would do when we started paid parking. Commissioner Thomas suggested starting the program on April 1<sup>st</sup> this year. Jim Varner from Otto Connect said it runs by calendar year so that would not be a problem. Year-round would include year-round enforcement. Mr. Varner said it will take an amendment to the contract.

*Commissioner Thomas amended her motion to instruct staff to do a contract amendment to extend the season to year-round. Mayor Pro Tem Myers agreed to the amendment. The motion passed by a 3 – 2 vote with Mayor Pro Tem Myers and Commissioners Thomas and Paarfus voting for the motion and Commissioners Smith and Dyer voting in the negative.*

*Motion by Commissioner Thomas to amend the contract to charge the rates of \$5 per hour, keep the \$20 per day, 80 per week and change the season to \$200; second by Mayor Pro Tem Myers.*

Commissioner Dyer asked how it would work for people who already purchased the pass at \$150. Commissioner Thomas said it would be considered an early bird special and the new rate could be implemented on April 1<sup>st</sup>. Mr. Varner replied any permits already sold for the season would be grandfathered in. Commissioner Paarfus suggested making the yearly pass \$175. Commissioner Smith agreed. Commissioner Dyer said she thinks it is unfair to raise the cost when we took away the proposed pull through boat parking by the ramp. She thinks the Town is doing a huge disservice to people with boats. Commissioner Smith agreed, he said in December the Town was going to have that parking put it. He is not okay with raising the price.

*Commissioner Thomas amended her motion to \$175 per year; Mayor Pro Tem Myers agreed.*

Mr. Varner asked for clarification on if it would be calendar year for the annual permit. Mr. Varner provided information on how the program currently works.

*Commissioner Thomas agreed the annual pass would be valid for the calendar year, with the new cost being effective April 1<sup>st</sup>.*

Mr. Varner explained once you hit the season pass rate on the same license plate, you are done for the year. They call that the season pass upgrade. Mayor Pro Tem Myers inquired if this change would have an impact on transaction fees. Mr. Varner said it will but he needs to get the specific amount.

*The motion passed by a 3 – 2 vote with Mayor Pro Tem Myers and Commissioners Thomas and Paarfus voting for the motion and Commissioners Smith and Dyer voting in the negative.*

Parking during festivals was discussed.

*Motion by Commissioner Thomas to enforce parking at the pier and the east end during festivals; second by Mayor Pro Tem Myers.*



*Commissioner Thomas amended her motion to not enforce parking for the festival in the festival area, (she would leave that to Town Manger Hewett to determine the area).*

Chief Dixon explained the festival area will vary by festival and by the time of day. Commissioner Dyer is concerned people would be confused if parking is only free in the festival area. In the past, it has been free on the entire island. Assistant Town Manager Ferguson said we don't have a precedent regarding advertising for parking during festival weekends. Commissioner Paarfus asked how much money for parking the Town takes in during a busy day. Mr. Varner said on a very busy day you are looking at \$10,000. Commissioner Paarfus said he thinks festival days can be good will days and allow free parking, however it needs to be enforced in the designated spaces instead of parking everywhere. Mr. Varner said on festival days people currently park everywhere. They have been told in the past to let it go so enforcing that would be a major change if the Town wanted his company to help the Police Department with the no parking areas. Mayor Pro Tem Myers said festival weekends are a zoo, he doesn't think free parking on the entire island should be allowed. That will bring people over that aren't going to the festival just for free parking. He said people at the pier and from McCray down are going to the beach, not the festival. He said the Town should charge for those to keep some of the crowd down. Commissioner Dyer said she thinks the Board should support the Merchants Association. They put these festivals on and give back to the Holden Beach community. The Town should make it as easy as possible to have a good turnout for the festival. The motion was further discussed. The Board will talk about enforcement at a later date.

The ordinance will need to be updated to reflect the new dates.

*The motion did not pass by a 2 – 3 vote, with Mayor Pro Tem Myers and Commissioner Thomas voting for the motion and Commissioners Smith, Dyer and Paarfus voting in the negative.*

Mayor Pro Tem Myers provided background on his proposal of having a reduced rate for homeowners.

*Motion by Mayor Pro Tem Myers that we revise the contract to implement fulltime seasonal passes for residents at \$20 per year for one car per household and only for cars that are registered here on the island; second by Commissioner Thomas.*

Mayor Pro Tem Myers explained homeowners would need to show their registration to get the discounted rate. Attorney Moore asked to table this item because a lot of research needs to be done.

*Mayor Pro Tem Myers withdrew his motion.*

Mr. Varner said they would need to understand how they would get the list of authorized license plates. He explained how other areas prove residency. This is a little different since it is vehicles registered. He said their system is automated and there would need to be research to see how that could be done. The number of spaces versus the number of passes that would be issued was discussed.

## **POLICE REPORT – CHIEF DIXON**

- The report is typical for this time of year.
- Went over an error in the way some tickets were issued.

## **DISCUSSION AND POSSIBLE ACTION ON RESOLUTION 24-03, RESOLUTION DECLARING LAW ENFORCEMENT PARTICIPATION IN THE FEDERAL 1033 PROGRAM**

Chief Dixon said we recently acquired two Humvees. He reviewed the proposed resolution. Mayor Pro Tem Myers said there is a spelling error in the title. Chief Dixon explained how the program works and answered questions from the Board.

*Motion by Mayor Pro Tem Myers to pass Resolution 24-03; second by Commissioner Paarfus; approved by unanimous vote.*

## **INSPECTIONS DEPARTMENT REPORT – INSPECTIONS DIRECTOR EVANS**

- Believes the Inspections Department had the busiest month it has ever had. Went over numbers.
- Asked for permission to revisit Section 94.03, the dune ordinance. Would like to take it to the Planning & Zoning Board (P&Z) and move it to Section 157, Land Usage. Provided background and examples of why he is making the request. He also would like P&Z to look at the lighting ordinance.

*The consensus of the Board was to send both items to P&Z as suggested by the inspector.*

## **FINANCE DEPARTMENT REPORT – FINANCE OFFICER MCRAINEY**

Finance Officer McRainey asked the Board if they have any feedback. Mayor Pro Tem Myers suggested doing the report for the fiscal year instead of the calendar year. Finance Officer McRainey explained the reason it is calendar year is there is a restraint in the new software. He could go to the old system and pull numbers; it would be a lot more work or going forward when there is two full years of fiscal year he can change it to that.

## **DISCUSSION AND POSSIBLE ACCEPTANCE OF A GRANT FROM THE NC DEPARTMENT OF ENVIRONMENTAL QUALITY FOR BATHROOMS, ASSOCIATED PARKING, SITE PREP AND LANDSCAPING ON BLOCK Q**

Assistant Town Manager Ferguson said last year the Board instructed the staff to submit a grant for Block Q for the bathrooms and associated parking. The total for the grant is \$560,000 of which the Town's obligation is \$140,000 for the restroom facility, associated parking, site prep and landscaping. There is a contractual obligation that we maintain the facilities built for 25 years. If the Board accepts the contract, they would need to authorize the town manager to execute the paperwork and also pass the associated budget amendment. Staff had an additional conversation with the architect today regarding stormwater. He said the stormwater needs to be done for the

entire site; it can't be done on the bathroom part only. Assistant Town Manager Ferguson said there is an approved stormwater plan. Town Manager Hewett said the stormwater plan was developed for max capacity. Assistant Town Manager Ferguson said the price estimate was increased to \$275,000. The \$300,000 in the budget this year would roll to fund balance and the Board would need to appropriate that next year as part of the project. How to move forward and the cost were discussed. Assistant Town Manager Ferguson would need to check if there is a deadline to accept the grant, but they were inquiring when the Board would consider it. There is a timeline of 18 months to complete the grant. Otherwise, you need to apply for an extension. Commissioner Paarfus said that would give the Board a certain amount of time to work out what to do with Block Q. He asked if it is possible to apply to modify the stormwater. Assistant Town Manager Ferguson responded yes. She explained the stormwater plan was part of the architect's services. She doesn't have the fee in front of her at the moment. The \$300,000 was to complete the work and that has not occurred. Inspections Director Evans said the stormwater plan was submitted to DEQ and approved. He detailed what's in the plan. It is a plan designed to protect the areas in the site and around it. How to proceed was discussed. Town Manager Hewett confirmed the Town could get a new stormwater plan but there would be a cost to design it. He said to keep in mind that if the plan is modified to only accommodate the bathrooms, should there be further development, you would run the risk of digging through what was put in. The cost to build the bathrooms, looking at modifying the stormwater plan and accepting the grant were discussed.

*Motion by Mayor Pro Tem Myers that we defer this to a later meeting; second by Commissioner Thomas.*

Mayor Holden said you wouldn't need to defer it, the Board just wouldn't take action.

*Mayor Pro Tem Myers withdrew his motion.*

*Motion by Commissioner Thomas that we have Assistant Town Manager Ferguson find out when we need to actually approve this so we can make an informed decision; second by Mayor Pro Tem Myers.*

Commissioner Smith said we have been working on this. He asked what it will entail to get another a permit. Inspections Director Evans said under normal conditions, the stormwater plan can be implemented under phases if it was designed that way. You could have it modified just for the bathrooms and add more later. It would be predicated on the impervious area as you install it. Most people do not like to mobilize each time you add something so you get all the sitework and land work done. That typically ends up being cheaper than phasing work. He said you can modify the plan. He is not sure if the grant allows that. He said if the Town can get ADA bathrooms, we should do it. You will have to go back to the engineer to get a cost and see if it could be modified. Commissioner Thomas said that makes sense, but she thought in the beginning Assistant Town Manager Ferguson said we had to do the whole thing because the architect wouldn't allow us to just do part of it. Town Manager Hewett said in accordance with the current plan today, if the Town doesn't modify it, that is true. The plan could be modified to include the bathrooms and associated parking. Mayor Pro Tem Myers said his understanding was originally the boat parking was going to be Phase 1 and the bathrooms Phase 2 so we are flipping that and doing the bathrooms now and

haven't decided on the rest of the parcel. Assistant Town Manager Ferguson agreed. She said something with stormwater does need to be done on the site.

*The motion didn't pass by a 2 – 3 with Mayor Pro Tem Myers and Commissioner Thomas voting for the motion and Commissioners Smith, Dyer and Paarfus voting in the negative.*

*Motion by Commissioner Smith that we have staff to work to finish the paperwork to accept the grant and the associated budget amendment (Ordinance 24-03, An Ordinance Amending Ordinance 23-11, The Revenues and Appropriations Ordinance for Fiscal Year 2023 – 2024); second by Commissioner Dyer.*

Commissioner Smith said his thought is to get the grant and then instruct the staff to re-do a stormwater study. Assistant Town Manager Ferguson said if the Board is going to direct staff to do additional work for a stormwater plan, the Board needs to appropriate funding. Town Manager Hewett said staff should bring what follow-on will be required associated with potential stormwater revisions.

*The motion passed by unanimous vote.*

#### **DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 24-04, AN ORDINANCE AMENDING ORDINANCE 23-11, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR 2023 – 2024 (AMENDMENT NO 4)**

Finance Officer McRainey explained that the amendment transfers the unassigned General Fund Balance in excess of 70% to the Beach and Inlet Capital Reserve Fund and appropriates funds to the FEMA fund to finish out the fund. The \$198,000 represents the cost of the \$27 million project to the Town. It is the interest on the loan. He said we had the option to close the loan or carry it over to the next fiscal year. It was going to cost significantly more to keep the loan going instead of closing it out.

*Motion by Commissioner Thomas to approve the budget amendment (Ordinance 24-04, An Ordinance Amending Ordinance 23-11, The Revenues and Appropriations Ordinance for Fiscal Year 2023 – 2024); second by Mayor Pro Tem Myers; approved by unanimous vote.*

#### **DISCUSSION AND POSSIBLE APPROVAL OF CONTRACT BETWEEN THE TOWN AND MARTIN STARNES AND ASSOCIATES FOR AUDIT SERVICES FOR FISCAL YEAR 2023 - 2024**

Finance Officer McRainey said staff recommends approving the contract with Martin Starnes for audit services for fiscal year 2023 – 2024. Mayor Pro Tem Myers said this is the item that was deferred from February so the Audit Committee could meet. The committee met and voted unanimously to recommend approval of the contract.

*Motion by Mayor Pro Tem Myers to approve the contract with Martin Starnes and Associates for the Town's 23 – 24 audit; second by Commissioner Paarfus; approved by unanimous vote.*

## **DISCUSSION AND POSSIBLE ACTION TO DIRECT STAFF TO DEVELOP AND ISSUE A REQUEST FOR PROPOSALS TO UPFIT THE PIER AND PIER HOUSE**

Commissioner Dyer said in lieu of two attempts to get bids to rebuild the pier with the different construction, she wanted to request that the Board get the staff to do a request for proposals (RFP) to upfit the pier and pier house for a private entity. She provided details on and examples of public/private enterprises. In this situation, the only thing the Town would be responsible for would be to pay down the debt service on the property itself. There was a lot of interest in using the building when the pier was purchased. Commissioner Dyer said the RFP would determine what could be done. It wouldn't cost the Town anything, the pier would be open and we would still be fulfilling our obligations to the grant. She said it would also help parallel with what we get back from the public input session. Commissioner Smith said we asked twice to have the work on the rebid with a different scope of work. He said it could still be done with a different process for less money, but we never had a chance to re-bid it. There are people in our community that have plans. The Board could restrict or suggest what businesses would be in there. He said the length of the lease would be on the proposal. Holden Beach owns the building on Holden Beach property. We could have a private entity come in, do all the work per what the engineer said needs to be done. The structure would need to be up to code. It would end up being no cost for the taxpayers. Commissioner Smith said all we are doing at this point is asking for RFPs.

*Motion by Commissioner Smith for staff to please put out a RFP for a private entity to rebuild or refurbish the pier building up to code per our building inspector and repair the pier to whatever engineering requirements there needs to be; second by Commissioner Dyer.*

Commissioner Paarfus said he has been doing a lot of research on how to move the pier forward. He has talked to three different engineering firms and we have to drive the piles. If we are going to save money, we will need to put equipment on the deck of the pier to do the driving. He talked about what it will involve to move forward. Commissioner Paarfus said it will take time to put together a plan to move forward. This idea is not a bad one, but it is premature. Soliciting proposals was further discussed. Assistant Town Manager Ferguson provided information on grant requirements. Commissioner Paarfus said it will take time to get a plan together. Commissioner Thomas asked if the pier is required for the grant. Assistant Town Manager Ferguson explained components listed the application include a recreational fishing pier, beach access, concessions, campground, parking and recreational use of the beach. Mayor Pro Tem Myers explained he thinks there are a lot of details that need to be addressed. He is intrigued but it looks like a lot needs to be put together for an outsourcing RFP. He would like to hear what the results from the public input session are before changing direction. Commissioner Dyer doesn't understand what it would hurt to get a proposal.

*The motion failed by a 2 – 3 vote, with Commissioners Smith and Dyer voting for the motion and Mayor Pro Tem Myers and Commissioners Thomas and Paarfus voting in the negative.*

## **DISCUSSION AND POSSIBLE ACTION ON 796 OCEAN BOULEVARD WEST**

Commissioner Thomas said she put background on the property in the cover sheet. She said we should sell the property so we can get taxes on it and get out from a \$68,000 a year payment.

*Motion by Commissioner Thomas to instruct staff to get bids from local realtors to sell 796 Ocean Boulevard West; second by Mayor Pro Tem Myers.*

Mayor Pro Tem Myers said we owned this for almost five years and still haven't figured out what to do with it. It is a residential house in a residential neighborhood. To turn it into a commercial building would be extremely expensive and complicated. It is a water and sewer asset so if we sell it could be used for lift station #2. Town Manager Hewett said the Town would need to pay off the loan. Mayor Pro Tem Myers said it could free up some borrowing capacity by paying off the loan. He asked when and how if became encumbered for so much money. Finance Officer McRainey explained the loan is a reimbursement loan for the whole project. 796 Ocean Boulevard West was a portion of the non-taxable part of the loan. Mayor Pro Tem Myers said he thinks the Town needs to sell it and we can work out the financial transaction. Commissioner Dyer explained there is a plan. She thinks the Board needs to hold on to it until the ADA assessment is completed. She talked about the need for bathrooms in the area. She thinks the bike lanes will increase the bike traffic in the area. Commissioner Smith agreed, there will need to be some ADA facilities available in the area. He can't support selling it right now until we figure out what we need to have with an ADA assessment. Town Manager Hewett said regarding the process, the Town is authorized to sell property in a few ways. He explained the methods. He suggested that the Board may want to consider the upset bid process instead of contacting real estate companies to solicit sealed bids. He would like to work with Attorney Moore and bring details to the Board on what they deem the best process to use. Attorney Moore will meet with Town Manager Hewett to review the processes available and present the best options to the Board.

*Commissioner Thomas amended her motion to instruct staff to sell 796 OBW; second by Mayor Pro Tem Myers; approved by a 3 – 2 vote with Mayor Pro Tem Myers and Commissioners Thomas and Paarfus voting for the motion and Commissioners Smith and Dyer voting in the negative.*

Town Manager Hewett asked if it is the Board's understanding that staff is supposed to move forward with what their best judgement is or bring it back to the Board. After discussion, Mayor Holden clarified staff does not need to come back, they are moving forward with selling it.

## **DISCUSSION AND POSSIBLE ACTION ON AUDIO/VISUAL BROADCASTING OF TOWN MEETINGS**

Mayor Pro Tem Myers said the Town continues to improve audio and video so that people who cannot be here can still participate. We have new cameras and microphones that based on feedback are better than before but there is still room for improvement.

He would like to direct staff to review what others are doing and come back with recommendations on how to improve. He has specifically heard that it would be good for people to be able to see what is being presented on the screens. He added to also look at making the audio clearer.

*Motion by Mayor Pro Tem Myers to direct staff to review and assess options for audio/video and come back with recommendations; second by Commissioner Thomas.*

Town Manager Hewett asked when they would like staff to report back. He said if the Board wants full professional broadcast quality that integrates with agendas, we can do that. When we brought it to the Board in the past it was not a priority. It was not cheap. That type of solution not only involves IT solutions, but also manpower to operate and maintain. We can do that but we need time. Mayor Pro Tem Myers said they are looking for what others are doing, what works well and the cost. Town Manager Hewett said he knows it is a priority. Commissioner Paarfus would like to see the professional option looked at, but if it doesn't suit the Board, maybe there is another level. How to move forward was discussed. Staff will do research.

*The motion passed by a 4 – 1 vote, with Mayor Pro Tem Myers and Commissioners Thomas, Dyer and Paarfus voting for the motion and Commissioner Smith voting in the negative.*

## **PUBLIC COMMENTS ON GENERAL ITEMS**

Brent Sholwalter talked about the ordinance for building a walkway to the beach. He provided a picture to the Board and explained why he thinks the ordinance needs to be changed.

Lisa Ragland said the FOIA emails were sent to her. She explained why she thinks two Board members should have not voted on the pier agenda item.

Keith Smith talked about moving forward with a new A/V system. He talked about addressing the reason the Board switched to year-round parking. He talked about grants being the people's money, coming back to where they spend their money.

Martie Arrowood talked about the recent FOIA request. She provided examples on why she feels the information is very offending.

Regina Gobble Martin talked about her dissatisfaction with the results from the meeting tonight regarding the pier and 796 OBW.

## **TOWN MANAGER'S REPORT**

- Personnel – still recruiting to fill one police officer vacancy. Officer Justin Hewett just started back with the Police Department. In Admin we filled the vacancy. Penny King will start April 1<sup>st</sup>.
- Coastal Storm Damage Risk Management Study – the Corps will not need to go pencils down now that the most recent budget impasse has been resolved. We believe all matching funds for the study are in place but we still need to work with our Congressional delegation to make sure the federal end game appropriations are made.
- Stormwater PPA (Project Partnership Agreement) - we are awaiting the draft project agreement in order to scope five or six stormwater projects. As a reminder, that is approximately \$2 million worth of programs with a 75% funding rate from the Corps.
- Beach Strand - the Lockwood Folly Inlet Maintenance Project has wrapped up. They are currently demobilizing. They used the least cost method of placement that occurred on the east end. We do not have the yardage quantified yet, but it is above 100,000 cubic yards. Our

rock racking documentation has been provided to the Division of Coastal Management. We believe we will be given some relief on the non-compatible material placement on the beach notice of violation that we received at the end of the project. Our sand fence repairs are underway and should be wrapping up at the end of the week, with vegetation planting to follow as the weather warms up.

- Federal Funding Priorities - we are wrapping up the preparation for the Congressionally directed spending projects that are due by the end of the week. Those three elements are the CSDRM Project, the Stormwater Project and Lockwood Folly Dredging. If there is any deviation for that he needs it today.
- Lift Station 2 – Greensboro Street Uplift – we submitted our preliminary paperwork to the Division of Environmental Quality to receive the state appropriation of \$2 million. We will be receiving an offer to fund as soon as the division’s backlog clears. It will require formal Board action to accept.
- Canal Dredging – TD Eure is onsite at Harbor Acres and has been dredging in the entrance canals. We have not been notified of any issues.
- Paid parking starts in April.
- Hurricane Decals – be on the lookout for them in the April water bill.
- 441 OBW Walkway/Emergency Ramp – carpentering has been completed. We need to get Public Works to assist with the configuration and placement of the blue mats.
- 114 OBE (Quinton Street Access) – working on plans and specs to get the bid solicitations out for the bathrooms.
- Ocean Boulevard Resurfacing and Bike Lanes – they are still on schedule to be finished by Memorial Day.
- Easter Egg Hunt will be held on April 5<sup>th</sup>.

Commissioner Thomas asked about the emergency access at 441 OBE. Town Manager Hewett said they are working on that too. The idea is to finalize the configuration.

### **MAYOR’S COMMENTS**

- The HB Chapel will be sponsoring the sunrise service at the HB Pier on Easter Sunday and will have three other services at the Chapel.

### **BOARD OF COMMISSIONERS’ COMMENTS**

Mayor Pro Tem Myers

- Quite an agenda, hopes he made his position clear. You may not agree but hope you understand it.

Commissioner Smith

- Sad for the loss at the Trolley Stop. Knows it is devastating any time a fire takes away your livelihood. His thoughts and prayers go out to them.
- Disappointed in the increase in the paid parking without anything to show on the other end. We are going to be forced to be ADA compliant. We can’t wait around forever or we will be forced to do it.



- This Board has tried to come together on the pier project. Here we are with no boat parking, no action on the pier. We are right back to where we were just about when he started.

Commissioner Thomas

- Thanked everyone for coming out. Appreciates your input.

Commissioner Dyer

- Extended condolences to the family of the Trolley Stop. As a small business owner knows what it takes to do a lot of work. Those employees are now unemployed. Thinks they provided a great service to the community. Thanked the first responders.
- Have a safe Easter holiday.

Commissioner Paarfus

- Thanked everyone for putting in the seat time.
- Thanked staff for all the hard work.
- Thanked everyone for coming out and speaking up. Hope everyone has a good evening.

## ADJOURNMENT

*Motion by Commissioner Thomas to adjourn at 8:38 p.m.; second by Commissioner Paarfus; approved by unanimous vote.*

---

J. Alan Holden, Mayor

ATTEST:

---

Heather Finnell, Town Clerk



## Holden Beach Police Department

110 Rothschild St  
Holden Beach, NC 28462  
[www.hbtownhall.com](http://www.hbtownhall.com)

Phone: 910-312-6707  
Fax: 910-316-6907  
[hdpcd@hbtownhall.com](mailto:hdpcd@hbtownhall.com)



Calls For Service (March '24)

Printed on April 21, 2024

Descriptions	Totals	
911 Hang Up (911HU)	1	1
Administrative Call	1	1
Alarm (SIG45 Signal 45)	11	11
Allergies or Envenomations [Delta]	1	1
Animal Control Call	9	9
Assault [Bravo]	1	1
Assist Other Agency (EMS)	1	1
Attempt to Locate (ATL)	5	5
Call By Phone (10-21Law x21L)	13	13
Commercial or Industrial Structure Fire [Delta]	1	1
Crime in Progress (10-64 x64)	3	3
Debris in Roadway	2	2
Disabled Motorist (10-87 x87)	6	6
Disturbance or Disorderly Subject	4	4
Falls [Alpha]	2	2
Falls [Bravo]	1	1
Fight in Progress (10-40 x40)	1	1
Hemorrhage [Bravo]	1	1
Hit and Run (Property Damage Only 10-54 x54)	2	2
Improperly Parked Vehicle (10-70 x70)	43	43

Descriptions	Totals	
Improperly Parked Vehicle (10-70 x70); Special Check - Business - Residence (10-79 x79)	1	1
Investigation (Law)	2	2
Keys In Vehicle or Lockout	1	1
Lost or Found Property	3	3
Meet with Complainant (10-83 x83)	39	39
Meet with Subject or Officer (10-25 x25)	31	31
Missing or Abandoned Person	1	1
Noise Complaint	1	1
Open Door	4	4
Outside Fire with Threatened Structures [Bravo]	1	1
Sick Person [Alpha]	1	1
Single Residential Fire Alarm [Bravo]	2	2
Single Residential Structure Fire [Echo]	1	1
Special Check - Business - Residence (10-79 x79)	493	493
Special Operations Assignment (Signal 55 SIG55)	2	2
Stopping Vehicle (10-61 x61)	17	17
Structure Fire (Electrical Problem) [Echo]	1	1
Suicidal (Violent) [Bravo]	1	1
Suspicious Vehicle or Subject (10-60 x60)	10	10
Take Written Report (10-92 x92)	3	3
Test Call (Training or Maintenance)	1	1
Traffic Accident (Property Damage Only 10-50PD x50PD)	3	3
Traumatic Injuries [Alpha]	1	1

Descriptions	Totals	
Traumatic Injuries [Alpha]; Assist Other Agency (Fire)	1	1
Unconscious or Fainting [Alpha]	1	1
Unconscious or Fainting [Charlie]	2	2
Unknown Problem [Delta]	2	2
Water or Sewer Problems	5	5
	3	3
<b>Totals</b>	743	743



# Holden Beach Police Department

110 Rothschild St  
Holden Beach, NC 28462  
www.hbtownhall.com  
Phone: 910-842-6707  
Fax: 910-846-6907  
hbp@hbtownhall.com



HBPD Monthly Report (March '24)

Printed on April 21, 2024

Reported	Case Number	Address	Offenses	Disposition
03/01/24 09:12	HBP24-00014	313 BRUNSWICK AVE	FIRE - UNDER INVESTIGATION	Closed - Leads Exhausted
03/03/24 15:38	HBP24-00015	193 SWORDFISH DR	14-72(A) - FELONY LARCENY	Investigator Requested
03/13/24 11:29	HBP24-00016	115 SUNSHINE LN	DAMAGE TO REAL PROPERTY	Closed - Unfounded
03/14/24 23:08	HBP24-00017	108 JORDAN BLVD	STRUCTURE FIRE - NO CRIME	Closed - Unfounded
03/15/24 11:34	HBP24-00018	217 LOIS AVE	14-72(A) - LARCENY FROM BUILDING; 14-54(A) - BREAKING AND OR ENTERING (F)/ LARCENY	Investigator Requested
03/15/24 18:56	HBP24-00019	441 OCEAN BLVD W	20-127(D) - WINDOW TINTING VIOL; 20-135.4(d) - Alter Suspension of Motor Vehicle; 20-128 - IMPROPER MUFFLER; 90-113 - MARIJUANA PARAPHERNALIA; 90-95(A)(3) - SIMPLE POSS LESS THAN 1/2 OZ	Closed - By Other Means
03/18/24 13:41	HBP24-00020	102 JORDAN BLVD	DAMAGE TO REAL PROPERTY	Closed - Unfounded
03/25/24 22:27	HBP24-00021	JORDAN BLVD /	20-28(A) - DWLR; 90-113 - MARIJUANA PARAPHERNALIA; 90-95(D)(4) - SIMPLE POSSESS SCH VI CS (M)	Closed - By Other Means
03/26/24 01:59	HBP24-00022	3550 HOLDEN BEACH	20-7(A) - NO OPERATORS LICENSE; 90-113.22 - POSS DRUG PARAPHERNALIA; 90-108(A)(7) - MAINTN VEH/DWELL/PLACE CS (M); 90-95(A)(3) - POSSESS METHAMPHETAMINE	Closed - Cleared By Arrest
03/31/24 23:52	HBP24-00023	SABBATH HOME RD /	90-113.22A - POSSESS MARIJ PARAPHERNALIA; 90-95(A)(3) - SIMPLE POSS LESS THAN 1/2 OZ; 20-28(A) - DWLR NOT IMPAIRED REV	Closed - By Other Means

**Reported    Case Number    Address    Offenses    Disposition**

**Total Records: 10**



## Holden Beach Police Department

110 Rothschild St  
Holden Beach, NC 28162  
[www.hbtownhall.com](http://www.hbtownhall.com)

Phone: 910-342-6797  
Fax: 910-346-6907  
[hbtpr@hbtownhall.com](mailto:hbtpr@hbtownhall.com)



Ordinance Violations (March '24)

Printed on April 21, 2024

Date	Defendant	Citation/Warning	Ordinance
03/01/24	GREENE, JOSEPH	Warning	Parking - No Parking Zones (All Other)
03/01/24	DOWNIE, ROBERT	Warning-Compliant	Parking - In Area for Other Than Designated Use
03/01/24	LINEBERRY, GERALD	Warning	Animal Control - Leash Law Violation
03/02/24	LAPCEVICH, RICHARD	Citation	Parking - No Parking Zones (All Other)
03/02/24	TRIPP, CHARLES	Warning	Parking - Roadway/Travel Lane
03/02/24	CONSTRUCTION, EMESLAR	Warning-Compliant	Parking - Right-of-Way Violation
03/02/24	RODRIGUEZ, LAURA	Citation	Parking - No Parking Zones (All Other)
03/03/24	LYONS, DAVID	Citation	Parking - Roadway/Travel Lane
03/03/24	MARTIN, KEITH	Citation	Parking - Right-of-Way Violation
03/03/24	JOHNS, BETTY	Citation	Parking - Non-LSV in LSV Only Area
03/05/24	BAKER, CARRY	Citation	Parking - In Area for Other Than Designated Use
03/05/24	BARLOW, LORY	Citation	Parking - No Parking Zones (All Other)
03/06/24	OMNI, VT LT	Warning-Compliant	Parking - Roadway/Travel Lane
03/06/24	CLEMMONS, KAYLA	Warning-Compliant	Parking - Roadway/Travel Lane
03/07/24	MORTON, JENNIFER	Citation	Parking - Non-LSV in LSV Only Area
03/07/24	BISSETT, JAY	Citation	Parking - Non-LSV in LSV Only Area
03/11/24	HECTOR, MONTALBAN	Warning-Compliant	Parking - Roadway/Travel Lane
03/11/24	ELMORE, JIMMIE	Warning-Compliant	Parking - Block Crosswalk/Sidewalk/Pedestrian Accessway

Date	Defendant	Citation/Warning	Ordinance
03/12/24	INC, KENNEDY	Citation	Parking - Non-LSV in LSV Only Area
03/15/24	WETZEL, TERRI	Warning-Compliant	Parking - Block Mailbox/Driveway
03/15/24	WOOGERD, PATRICIA	Warning-Compliant	Parking - Right-of-Way Violation (Ocean Blvd)
03/16/24	MACDONALD, DEREK	Citation	Parking - Roadway/Travel Lane
03/17/24	WITNIK, JILL	Citation	Parking - Roadway/Travel Lane
03/24/24	NANCY, MAWRA	Citation	Parking - No Parking Zones (All Other)
03/25/24	ALLEN, BETTY	Warning-Compliant	Parking - Block Crosswalk/Sidewalk/Pedstrian Accessway
03/25/24	TRUST, TESLA	Warning-Compliant	Parking - Roadway/Travel Lane
03/26/24	TRAFLET, GARY	Warning-Compliant	Parking - Roadway/Travel Lane
03/26/24	GONZALEZ, BARRERA	Warning-Compliant	Parking - Roadway/Travel Lane
03/29/24	GOBBLE, STEPHANIE	Warning-Compliant	Parking - Non-LSV in LSV Only Area
03/30/24	MEADOWS, JOYCE	Warning-Compliant	Parking - Right-of-Way Violation (Ocean Blvd)
03/30/24	AVALOS, GLENN	Warning-Compliant	Parking - Roadway/Travel Lane
03/31/24	MCGLADE, LIANA	Citation	Parking - Right-of-Way Violation (Ocean Blvd)
03/31/24	JOHNSON, EDWARD SR	Citation	Parking - Roadway/Travel Lane
03/31/24	WATKINS, CHRISTOPHER	Warning	Parking - Right-of-Way Violation (Ocean Blvd)
03/31/24	HARDIN, SUZANNA	Citation	Parking - Roadway/Travel Lane

**Total Records: 35**

LSV = 0





**Holden Beach Police Department**

110 Rothschild St  
Holden Beach, NC 28162  
[www.hbtownhall.com](http://www.hbtownhall.com)

Phone: 910-312-6707  
Fax: 910-316-6907  
[hbp@hbtownhall.com](mailto:hbp@hbtownhall.com)



State Citation (March '24)

Printed on April 21, 2024

Date	Defendant	Statutes/Charges
03/04/24	HOLDEN, COLBY	20-135.2A - FAIL TO WEAR SEAT BELT-DRIVER
03/15/24	CARROLL, ISIAH BRYAN	20-127(D) - WINDOW TINTING VIOL; 20-135.4(d) - Alter Suspension of Motor Vehicle; 20-128 - IMPROPER MUFFLER; 90-113 - MARIJUANA
03/17/24	HAYES, CHRISTOPHER ALLEN	20-309 - NO LIABILITY INSURANCE
03/25/24	DANIELS, SH'KWON JAMAR	20-28(A) - DWLR; 90-113 - MARIJUANA PARAPHERNALIA; 90-95(D)(4) - SIMPLE POSSESS SCH VI CS (M)
03/30/24	TUBBS, NICHOLAS JAMES	20-111(1) - DRIVE/ALLOW MV NO REGISTRATION; 20-137.1 - FAIL TO SECURE PASSEN UNDER 16
03/31/24	DUNCAN, CRAIG LEE	90-113.22A - POSSESS MARIJ PARAPHERNALIA; 90-95(A)(3) - SIMPLE POSS LESS THAN 1/2 OZ; 20-28(A) - DWLR NOT
03/31/24	REED, JOHN PATRICK	20-135.2A - FAIL TO WEAR SEAT BELT-DRIVER

**Total Records: 7**

LSV = 1

# Permit Report

03/09/2024 - 04/09/2024

Issued Date	Permit #	Permit Type	Project Cost	Total Fees	Total Payments
4/9/2024	240278	Renovation	71,550	\$1,078.95	\$1,078.95
4/9/2024	240277	Repair	46,429	\$442.86	\$442.86
4/8/2024	240276	Repair	4,000	\$125.00	\$125.00
4/8/2024	240275	Repair	9,500	\$125.00	\$125.00
4/8/2024	240274	Mechanical	0	\$100.00	\$100.00
4/8/2024	240273	Swimming Pool	70,000	\$1,905.00	\$1,905.00
4/5/2024	240272	Electrical	2,200	\$100.00	\$100.00
4/5/2024	240271	Renovation	800	\$125.00	\$125.00
4/5/2024	240270	Mechanical	12,417	\$200.00	\$200.00
4/5/2024	240269	Renovation	15,000	\$210.00	
4/4/2024	240268	Mechanical	14,100	\$200.00	\$200.00
4/4/2024	240267	Mechanical	11,942	\$200.00	\$200.00
4/4/2024	240266	Repair	5,900	\$125.00	\$125.00
4/4/2024	240265	Zoning	25	\$25.00	\$25.00
4/2/2024	240264	Single Family Construction	446,000	\$8,917.42	\$8,917.42
4/2/2024	240263	Bulkhead	75,000	\$700.00	\$700.00
4/2/2024	240262	Swimming Pool	285,965	\$2,798.69	
4/1/2024	240261	Repair	4,000	\$125.00	\$125.00
4/1/2024	240260	Renovation	20,000	\$205.00	\$205.00
3/28/2024	240259	Mechanical	12,289	\$100.00	\$100.00
3/28/2024	240258	Electrical	800	\$100.00	\$100.00
3/28/2024	240257	Repair	8,000	\$125.00	\$125.00
3/28/2024	240256	Repair	2,500	\$125.00	\$125.00
3/28/2024	240255	Mechanical	5,171	\$100.00	\$100.00
3/28/2024	240254	Mechanical	10,253	\$100.00	\$100.00
3/28/2024	240253	Plumbing	2,000	\$100.00	\$100.00
3/27/2024	240252	Electrical	2,000	\$100.00	\$100.00
3/27/2024	240251	Mechanical	15,000	\$200.00	\$200.00
3/27/2024	240250	Demolition	350	\$350.00	\$350.00
3/27/2024	240249	Bulkhead	26,000	\$259.00	\$259.00
3/27/2024	240248	Mechanical	8,300	\$100.00	\$100.00
3/27/2024	240247	Electrical	2,000	\$100.00	\$100.00
3/27/2024	240246	Electrical	2,500	\$100.00	\$100.00
3/27/2024	240245	Residential Building	5,000	\$225.00	\$225.00
3/27/2024	240244	Swimming Pool	50,865	\$682.79	\$682.79
3/27/2024	240243	Residential Building	31,000	\$304.00	\$304.00
3/26/2024	240242	Repair	11,500	\$128.50	\$128.50

3/26/2024	240241	Residential Building	26,500	\$263.50	\$263.50
3/26/2024	240240	Electrical	2,000	\$100.00	\$100.00
3/26/2024	240239	Zoning	50	\$50.00	\$50.00
3/26/2024	240238	New Construction	23,995	\$340.96	\$340.96
3/26/2024	240236	Electrical	1,200	\$100.00	\$100.00
3/25/2024	240235	Electrical	1,500	\$100.00	\$100.00
3/25/2024	240234	Repair	12,000	\$133.00	
3/25/2024	240233	Mechanical	400	\$100.00	\$100.00
3/25/2024	240232	Electrical	1,400	\$100.00	\$100.00
3/25/2024	240231	Electrical	7,500	\$200.00	\$200.00
3/21/2024	240230	Mechanical	5,064	\$100.00	\$100.00
3/21/2024	240229	Mechanical	15,000	\$200.00	
3/21/2024	240228	Renovation	37,455	\$1,910.48	\$1,910.48
	240227	Renovation	24,000	\$241.00	\$241.00
3/21/2024	240226	Repair	8,000	\$125.00	\$125.00
3/15/2024	240225	Repair	29,550	\$290.95	\$290.95
3/15/2024	240224	Repair	17,000	\$178.00	\$178.00
3/18/2024	240223	Addition	88,000	\$817.00	
3/20/2024	240222	Mechanical	8,950	\$100.00	\$100.00
3/20/2024	240221	Mechanical	13,026	\$100.00	\$100.00
3/20/2024	240220	Mechanical	23,520	\$200.00	\$200.00
3/20/2024	240219	Mechanical	11,452	\$100.00	\$100.00
3/18/2024	240218	Electrical	2,500	\$100.00	\$100.00
3/18/2024	240217	Electrical	2,500	\$200.00	\$200.00
3/15/2024	240216	Electrical	1,000	\$100.00	\$100.00
3/15/2024	240215	Residential Building	45,000	\$430.00	\$430.00
3/15/2024	240214	Electrical	1,000	\$100.00	\$100.00
3/15/2024	240213	Mechanical	8,961	\$100.00	\$100.00
3/15/2024	240212	Repair	15,000	\$160.00	\$160.00
3/14/2024	240211	Single Family Construction	420,327	\$19,920.35	\$19,920.35
3/14/2024	240210	Mechanical	15,425	\$200.00	\$200.00
3/14/2024	240209	Mechanical	15,197	\$200.00	\$200.00
3/13/2024	240208	Plumbing	6,000	\$100.00	\$100.00
3/13/2024	240207	Electrical	5,000	\$100.00	\$100.00
3/13/2024	240206	Bulkhead	22,375	\$226.38	\$226.38
3/13/2024	240205	Mechanical	17,050	\$200.00	\$200.00
3/12/2024	240204	Mechanical	850	\$100.00	\$100.00
3/12/2024	240203	Repair	40,000	\$385.00	\$385.00
3/11/2024	240202	Single Family Construction	700,000	\$10,424.25	\$10,424.25
3/11/2024	240201	Boat Lift	20,000	\$205.00	
3/11/2024	240200	Single Family Construction	650,000	\$25,528.70	\$25,528.70
3/11/2024	240199	Mechanical	7,598	\$100.00	\$100.00

3/11/2024	240198	Mechanical	10,096	\$100.00	\$100.00
			<b>\$3,643,701.00</b>	<b>\$85,836.78</b>	<b>\$81,473.09</b>

**PERMIT SUMMARY REPORT**

**COMMERCIAL**

Count 1  
 Total Fees \$350  
 Fees Paid \$350  
 Total Project Cost \$350

**RESIDENTIAL**

Count 75  
 Total Fees \$84,845.78  
 Fees Paid \$80,482.09  
 Total Project Cost \$3,621,947

**TOTAL**

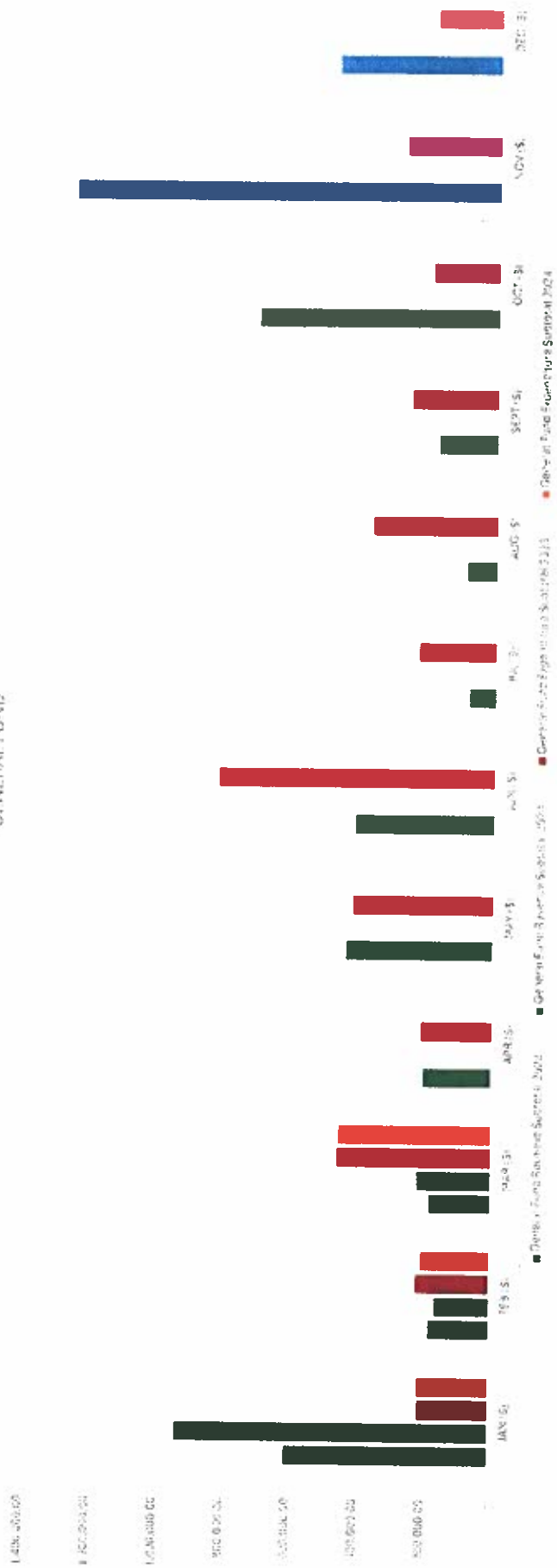
Count 76  
 Total Fees \$85,195.78  
 Fees Paid \$80,832.09  
 Total Project Cost \$3,622,297

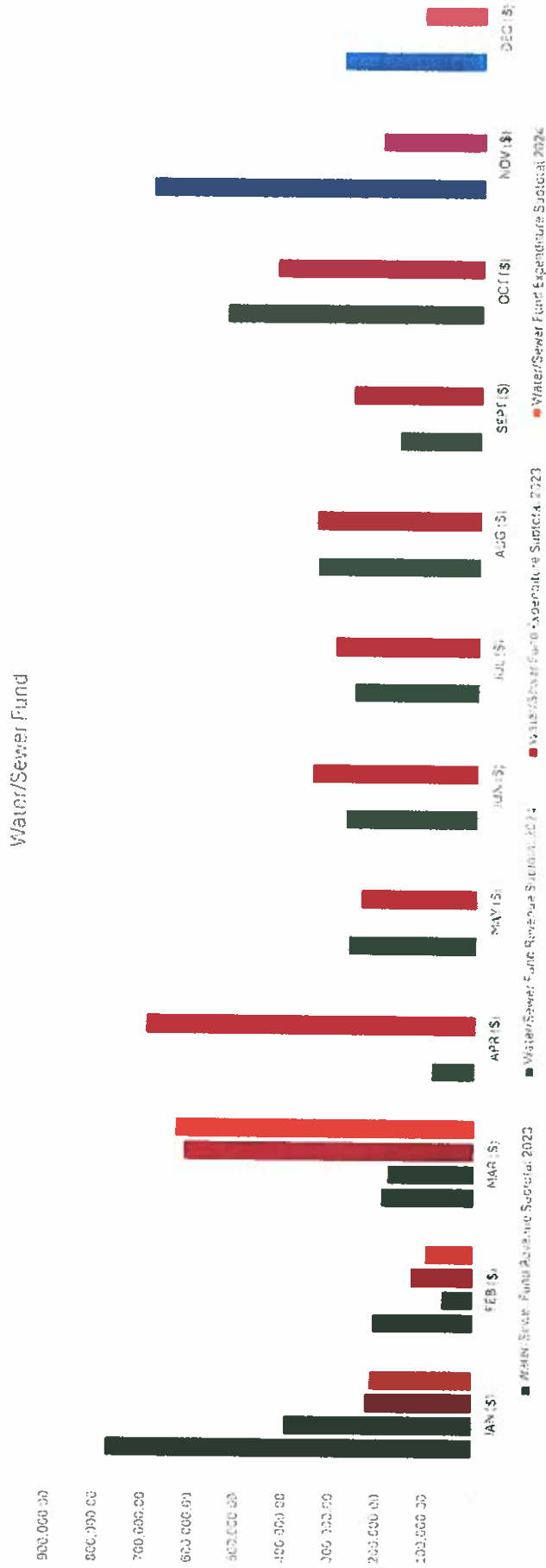
ACTIVE NEW HOME PERMITS = 41  
 OTHER ACTIVE PERMITS= 312  
 PERMITS ISSUED OVER \$30,000 = 45(AMOUNT INCLUDED IN ACTIVE TOTAL)  
 PERMITS ISSUED OVER \$100,000 = 15 (AMOUNT INCLUDED IN ACTIVE TOTAL)  
 PERMITS - SUBSTANTIAL IMPROVEMENTS =4(AMOUNT INCLUDED IN ACTIVE TOTAL)  
 PERMITS ISSUED WAITING PICK UP = 16  
 TOTAL PERMITS= 369

PERMITS IN REVIEW= 4  
 CAMA ISSUED= 1  
 ZONING ISSUED = 6

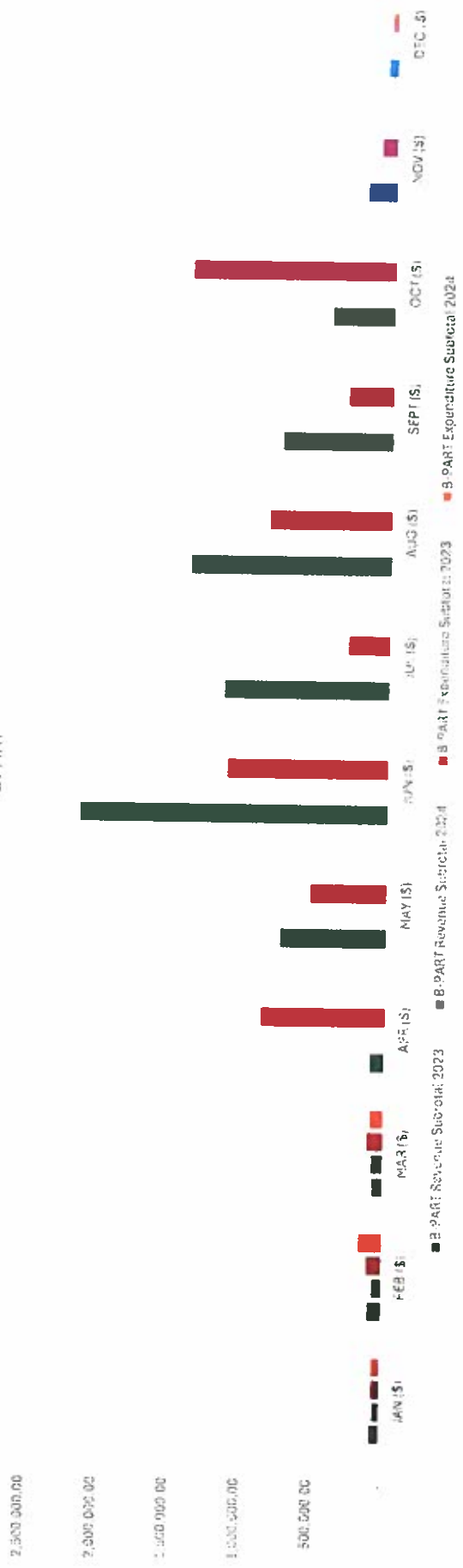
PERMITS SERVICED FOR INSPECTIONS FROM 3/09-4/09 = 136  
 TOTAL INSPECTIONS MADE= 507

GENERAL FUND





# BPART





Town of Holden Beach  
AGENDA TOPIC COVER SHEET

TO: Holden Beach BOC

MEETING DATE: April 30, 2024

FROM: Heather Finnell, Town Clerk

DATE SUBMITTED: April 19, 2024

**ISSUE/ACTION REQUESTED:**

Discussion and Possible Action on Ordinance 24-06, An Ordinance Amending the Holden Beach Code of Ordinances, Title VII: Traffic Code

**BACKGROUND/PURPOSE OF REQUEST:**

The proposed ordinance allows the Town to extend the paid parking program to year round. It also removes H63 from Section 72.02(B) to reflect the changes made at the March meeting.

**FISCAL IMPACT:** (select one)

BUDGET AMENDMENT REQUIRED:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
CAPITAL IMPROVEMENT PLAN ITEM:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
PRE-AUDIT CERTIFICATION REQUIRED:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
REVIEWED BY FINANCE DIRECTOR:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

**CONTRACTS/AGREEMENTS:** (select one)

REVIEWED BY TOWN ATTORNEY:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
----------------------------	------------------------------	--

**ADVISORY BOARD RECOMMENDATION:**

N/A

**FINANCE RECOMMENDATION:**

N/A

**TOWN MANAGER'S RECOMMENDATION:**

Recommend approval if the Board would like year round parking.

**ATTACHMENT:** Ordinance 24-06



**ORDINANCE 24-06**  
**AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES,**  
**TITLE VII: TRAFFIC CODE**

**BE IT ORDAINED BY** the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina, that Title VII: Traffic Code be amended as follows.

**Section One:** Amend Section 72.02 (B) as follows:

- (B) Parking shall not be authorized in any of the following locations:
- (1) Street intersections or adjacent right-of-way, within 40 feet.
  - (2) Any portion of the roadway, pavement or travel lane.
  - (3) Pedestrian crosswalks, sidewalks, or pedestrian access ways.
  - (4) Blocking access to driveways or mailboxes.
  - (5) Facing opposing traffic.
  - (6) Blocking or adjacent to fire hydrants and emergency beach accessways, within 15 feet, and blocking or within fire lanes.
  - (7) Designated handicapped or disabled veteran space without placard or registration plate.
  - (8) From 2 a.m. to 5 a.m. in all public authorized parking areas included in the table below.

**Parking Prohibited from 2 a.m. to 5 a.m.**

<b><u>Location</u></b>	<b><u>Parking Zone</u></b>
792-788 Ocean Blvd West	H20
441 Ocean Blvd West	H28
Davis St	H39
120 Davis St	H40
Ferry St (South)	H55
Holden St	H55
Ranger St	H56
Elizabeth St	H58
220 Ocean Blvd East	H60
Bendigo St	H61
McCray St (All Zones)	H63, H69, H70
Ocean Blvd East	H64
Ave A	H66
Ave B	H67
Dunescape Dr	H68
Ave D	H71

**Section Two:** Amend Section 72.02 (D)(11) as follows:

(D) Exceptions.

- (11) Parking is authorized without a permit on street rights-of-way in accordance with the following:
  - (a) In accordance with all of the provisions of 72.02(B) and (C), and
  - (b) Only between 5 p.m. and 9 a.m., ~~April 1<sup>st</sup> through October 31<sup>st</sup>~~, and
  - ~~(c) Anytime between November 1<sup>st</sup> and March 31<sup>st</sup>, and~~
  - ~~(d)~~ (c) On all streets except Ocean Blvd West and Ocean Blvd East between Jordan Blvd and the intersection with McCray St.

**Section Three:** Amend Section 72.03 (A)(1) as follows:

**§ 72.03 PARKING AUTHORIZED BY PERMIT ONLY.**

- (A) No person shall park a vehicle in any designated parking area or location without first obtaining a valid parking permit in accordance with the following, unless a specific exemption exists in 72.02:
  - (1) Parking permits will be required ~~from April 1<sup>st</sup> through October 31<sup>st</sup>~~ between the hours of 9 a.m. and 5 p.m. each day.

**Section Four:** The Town Clerk is directed to forward this ordinance to American Legal Publishing for inclusion in the next published supplement to the Holden Beach Code of Ordinances.

**Section Five:** This ordinance shall be effective the 1<sup>st</sup> day of May, 2024.

This the 30<sup>th</sup> day of April, 2024.

\_\_\_\_\_  
J. Alan Holden, Mayor

ATTEST:

\_\_\_\_\_  
Heather Finnell, Town Clerk



Town of Holden Beach  
AGENDA TOPIC COVER SHEET

TO: Holden Beach BOC

MEETING DATE: 4/30/2024

FROM: Town Manager Hewett *[Signature]*

DATE SUBMITTED: 4/18/2024

**ISSUE/ACTION REQUESTED:** Discussion and possible action on the Block Q site plan. The PRAB worked on this concept design for several months which included holding special meetings.

**BACKGROUND/PURPOSE OF REQUEST:** The BOC directed the PRAB to work with the current architect to develop a new site plan for Block Q that includes a concert space with dance floor, the planned ADA compliant bathrooms, greenspace, and other potential amenities. Some items from the list were eliminated as part of the PRAB's meeting discussion.

**FISCAL IMPACT:** (select one)

BUDGET AMENDMENT REQUIRED:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	N/A
CAPITAL IMPROVEMENT PLAN ITEM:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	
PRE-AUDIT CERTIFICATION REQUIRED:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	N/A
REVIEWED BY FINANCE DIRECTOR:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	

**CONTRACTS/AGREEMENTS:** (select one)

REVIEWED BY TOWN ATTORNEY: YES  NO

**ADVISORY BOARD RECOMMENDATION:** The members of the PRAB voted to adopt the Block Q plan presented at their last meeting and attached to this document.

**FINANCE RECOMMENDATION:**

**TOWN MANAGER'S RECOMMENDATION:** BOC receive and favorably consider the PRAB's conceptual plan.

---

**ATTACHMENT: 1. Staff Memo**

**2. Conceptual Site Plan**



**3. BOC Tasker and Minutes 1/23/2024**

Attachment 1



Date: April 18, 2024

To: Mayor Holden and Board of Commissioners

From: Christy Ferguson, Assistant Town Manager   
Town Manager- In Turn 

Re: Block Q Site Plan

The attached site plan (attachment 2) was developed in response to the tasker (attachment 3) sent from the BOC to the PRAB (Parks and Recreation Advisory Board). The PRAB held meetings, including special meetings over the last few months, working with the architect to develop what they deemed the best conceptual plan for the site. The final document considered the public feedback they received throughout the process. The tasker mentioned things like playground equipment and food trucks and those were eliminated because Bridgeview Park already has equipment on site and food trucks could be positioned in other parts of Jordan Boulevard if the BOC voted for an ordinance change. There was also feedback from a local restaurant owner that this type of service would severely impact his business. The conceptual plan as presented does not show details like sidewalks or benches and picnic tables because their location could change based on final stormwater installation, etc.

Attachment 2: site plan

Attachment 3: BOC tasker and minutes 1/23/24

# Attachment 2



TOTAL SEATGES:  
 CARS: 15  
 BOAT TRAILERS: 15



## BLOCK Q - SITE DESIGN HOLDEN BEACH, NC

ARCHITECTURAL SITE PLAN

Attachment 3



Town of Holden Beach  
AGENDA TOPIC COVER SHEET

TO: Holden Beach BOC

FROM: Tom Myers and Tracey Thomas

MEETING DATE: 1/23/2024

DATE SUBMITTED: 1/12/2024

**ISSUE/ACTION REQUESTED: Discussion and Possible Action on Block Q**

Task the Parks and Recreation Board to work with the current architect to develop a new site plan for Block Q that includes a concert space with dance floor, the planned ADA compliant bathrooms, greenspace, and other potential amenities (e.g., playground equipment, shaded areas, benches, picnic tables, informational panels, areas for food trucks, usage during festivals).

**BACKGROUND/PURPOSE OF REQUEST:** The plans for Block Q are being re-visited, and since the pavilion may need to be demolished, the concerts could be moved to Block Q and the property could become more of a "Town Center." The Parks and Recreation Board is the appropriate board to address this issue and develop recommendations for moving ahead.

**FISCAL IMPACT:**

- BUDGET AMENDMENT REQUIRED: NO
- CAPITAL PROJECT ORDINANCE REQUIRED: NO
- PRE-AUDIT CERTIFICATION REQUIRED: NO
- REVIEWED BY FINANCE DIRECTOR: NO

**CONTRACTS/AGREEMENTS:** (circle One)  
REVIEWED BY TOWN ATTORNEY: (YES/NO) N/A

**ADVISORY BOARD RECOMMENDATION:** N/A

**TOWN MANAGER'S RECOMMENDATION:**

**FINANCE RECOMMENDATION:**

ATTACHMENT - None

are reaching a point that if the Board doesn't take action, staff will take action to condemn it. Commissioner Dyer asked if the stage is in good condition. Inspections Director Evans said the problem is that when it was originally built, it was not built to the design perimeters of the engineer that designed it. That caused it to rack. When a structure racks, you either need to bring it back to where it needs to be or you have to take action to keep it from racking more. It is the whole structure.

*Motion by Mayor Pro Tem Myers that we engage Right Angle to come back out, do a reassessment of the condition of the pavilion and report to us and instruct staff not to use it until we get that report; second by Commissioner Paarfus.*

Commissioner Dyer asked if that would involve canceling the concerts. Mayor Pro Tem Myers said if it is not safe to use the pavilion, yes and if we cannot find another place to hold them. Based on what he has heard our building inspector say and what he reads in the engineering report, he is not comfortable using it. Holding concerts was discussed. Assistant Town Manager Ferguson explained contracts need to be signed. Also, we need to go to press since we do a combined ad with the county. She understands the Board's position; we may lose the slots. Commissioner Thomas suggested looking at portable stages that could be used in Block Q. Inspections Director Evans explained the top of the structure is the problem. The stage is safe. Commissioner Dyer asked if the top could be removed until we get the engineer's report. Inspections Director Evans said from a planning standpoint, his recommendation would be to go to guardrail height, cut the top off and get shade sails over the top for the concerts. Commissioner Paarfus said he and Inspections Director Evans discussed that and they want to have Right Angle confirm that gets rid of the safety issue. Commissioner Smith said he doesn't see the need to spend money to have Right Angle Engineering come out to say the same thing. He thinks tax dollars would be better spent removing the top and eliminating the issue. Inspections Director Evans stated when you alter a structure, it will need a new engineer seal. Any structural engineer could do that. The Board further discussed how to move forward.

*The motion passed by a 3 – 2 vote with Mayor Pro Tem Myers and Commissioners Thomas and Paarfus voting for the motion and Commissioners Smith and Dyer voting in the negative.*

## **DISCUSSION AND POSSIBLE ACTION ON BLOCK Q**

Mayor Pro Tem Myers said there is potential in the short-term and long-term to have concerts at Block Q. The plan is assuming the pavilion is going away, the Town should explore the opportunity to move the concerts to Block Q. He said this is focused on the interior of Block Q. It is not dealing with right-of-way. There is still boat parking around the right-of-way, which is 30 spots. This is for the green space within Block Q.

*Motion by Mayor Pro Tem Myers to task the Parks & Recreation Advisory Board (PRAB) to work with the current architect because he has the drawings and he has the site plans to develop potential site plans that would include the concert space, dance floor, the ADA compliant bathrooms, greenspace and other amenities as they see desirable; second by Commissioner Thomas.*

*Commissioner Paarfus would like to amend the motion to specifically state boat parking. He said it could be put in the perimeter, but he doesn't want to tie PRAB's hands. Mayor Pro Tem Myers and Commissioner Thomas agreed to the amendment.*



Town Manager Hewett asked for clarification on parking. Commissioner Paarfus said they could consider boat trailer parking and some type of car parking.

Commissioner Smith said we have a plan that includes green space for the pavilion. He asked why we are having the architect do what was already done. He said it seems to be a terrible waste of time and money to start all over again. We need to have pull through parking for boats. Commissioner Smith said the plan was a good plan and still would give ample space for the pavilion and amenities we want. Commissioner Dyer stated we already have the plan for the pull through parking and the ADA bathrooms. They have discussed putting the pavilion over there. From her understanding the reason they held off in the first phase was to keep from slowing the boat parking down since they did say with paid parking they would provide bathrooms and boat parking specifically at the property. She said they still left space. The original plan for Block Q was for 288 parking spaces. That is when they backed off and said let's put pull through parking in and leave the parallel parking. Commissioner Dyer said the problem with putting the pavilion over there is you will be facing residential homes. We need public input before concerts are held over there. Mayor Pro Tem Myers said he has asked for the site plan showing the pavilion on the property. Commissioner Dyer explained the space is there, but it wasn't put on the plan to keep from slowing the project down.

*The motion passed by a 3 – 2 vote with Mayor Pro Tem Myers and Commissioners Thomas and Paarfus voting for the motion and Commissioners Smith and Dyer voting in the negative.*

#### **AUDIT COMMITTEE ITEMS**

*Motion by Commissioner Thomas to recommend Tom Myers; second by Commissioner Paarfus.*

*No other nominations were made. The Board agreed by consensus to have Mayor Pro Tem Myers serve on the Audit Committee.*

*The Board voted by ballot and selected Mary Vail Ware and Tim Thronson to serve as regular members of the Audit Committee. Votes were as follows: Mary Vail Ware – unanimous, Tim Thronson – Mayor Pro Tem Myers and Commissioners Thomas and Paarfus, Grace Lam – Commissioners Smith and Dyer.*

#### **DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 24-01, RESOLUTION APPROVING TRUIST SIGNATURE CARD**

Town Manager Hewett requested that the Board update the existing bank signature cards to include the assistant town manager and the subsequent designation of the assistant town manager as the deputy finance officer. The Fiscal Control Act requires that all checks be signed by the finance officer or a properly designated deputy finance officer and countersigned by another local government official. Recent events and current manpower configuration have illuminated the need to formally upgrade the Town's procurement procedures.

*Motion by Commissioner Paarfus to approve Resolution 24-01; second by Commissioner Thomas; approved by unanimous vote.*



Town of Holden Beach  
AGENDA TOPIC COVER SHEET

TO: Holden Beach BOC

MEETING DATE: 4/30/2024

FROM: Tom Myers & Tracey Thomas

DATE SUBMITTED: 4/19/2024

**ISSUE/ACTION REQUESTED:**

Discussion and possible action on constructing bathrooms at Block Q

**BACKGROUND/PURPOSE OF REQUEST:**

The Parks & Recreation Advisory Board (PRAB) has recommended a site plan for the development of Block Q, including bathrooms, a pavilion, and parking.

Block Q will be developed in phases. This first phase will only involve the bathrooms and bathroom parking since a grant has been accepted for this work. Additional Block Q features will be developed and approved in future phases of work. Since this future work is still tentative, at this time storm water plans will only be developed for the bathrooms and bathroom parking.

Possible action: Approval to move forward with construction of bathrooms at Block Q and the development of the associated storm water plans only for the bathroom and bathroom parking.

**FISCAL IMPACT:** (circle one)

BUDGET AMENDMENT REQUIRED: NO

CAPITAL PROJECT ORDINANCE REQUIRED: NO

PRE-AUDIT CERTIFICATION REQUIRED: NO

REVIEWED BY FINANCE DIRECTOR: NO

**CONTRACTS/AGREEMENTS:** (circle One)

REVIEWED BY TOWN ATTORNEY: (YES/NO) NO

**ADVISORY BOARD RECOMMENDATION:** N/A

**FINANCE RECOMMENDATION:**

**TOWN MANAGER'S RECOMMENDATION:**

ATTACHMENT – Block Q site plan drawings



Town of Holden Beach  
AGENDA TOPIC COVER SHEET

TO: Holden Beach BOC

MEETING DATE: 4/30/2024

FROM: Planning and Inspections

DATE SUBMITTED: 4/19/2024

**ISSUE/ACTION REQUESTED** Text Amendments to Light Ordinance 92.32

**BACKGROUND/PURPOSE OF REQUEST:** Revision of The light ordinance to remove conflicting portion of the ordinances.

**FISCAL IMPACT:** (select one)

BUDGET AMENDMENT REQUIRED:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	N/A
CAPITAL IMPROVEMENT PLAN ITEM:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	
PRE-AUDIT CERTIFICATION REQUIRED:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	N/A
REVIEWED BY FINANCE DIRECTOR:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	

**CONTRACTS/AGREEMENTS:** (select one)

REVIEWED BY TOWN ATTORNEY:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
----------------------------	------------------------------	--

**ADVISORY BOARD RECOMMENDATION:** N/A

**FINANCE RECOMMENDATION:**

**TOWN MANAGER'S RECOMMENDATION:**

**ATTACHMENT: 1. Revised Ordinance**

### § 92.30 DEFINITIONS.

**DECORATIVE LIGHTS.** Lights used to enhance the appearance of an area rather than to provide illumination. These include Christmas lights and low voltage (less than sixty (60) volts) driveway and landscaping lights.

### \*CURRENT ORDINANCE\*

#### § 92.32 UNLAWFUL LIGHTS

It shall be unlawful for any outside light to be installed or directed:

- (A) To interfere with the vision of the operator of any motor vehicle on any street or waterway; or cast any amount of direct light more than 15 feet from the footprint of the residence, with the exception of light directed into a pool area.
- (B) Decorative, safety, security uplights or other lights on the south side of oceanfront homes which are set with automatic timers or day/night photocells.
- (C) Decorative lights on the south side of oceanfront homes on walkways and walkway seating.
- (D) Any unnecessary oceanfront lighting during turtle nesting/hatching season from May 1 through October 31.
- (E) That is not in compliance with the provisions of this subchapter.

### \*ORDINANCE WITH PROPOSED REVISIONS\*

#### § 92.32 UNLAWFUL LIGHTS.

It shall be unlawful for any outside light to be installed or directed:

- (A) To interfere with the vision of the operator of any motor vehicle on any street or waterway; or cast any amount of direct light more than 15 feet from the footprint of the residence, with the exception of light directed into a pool area.
- (B) **Decorative**, safety, security uplights or other lights on the south side of oceanfront homes which are set with automatic timers or day/night photocells.
- (C) **Decorative lights on the south side of oceanfront homes on walkways and walkway seating.**
- (D) Any **decorative** and unnecessary oceanfront lighting during turtle nesting/hatching season from May 1 through October 31.
- (E) That is not in compliance with the provisions of this subchapter.

**\*FINAL ORDINANCE AFTER REVISIONS\*****§ 22-32 UNLAWFUL LIGHTS**

It shall be unlawful for any outside light to be installed or directed:

- (A) To interfere with the vision of the operator of any motor vehicle on any street or waterway; or cast any amount of direct light more than 15 feet from the footprint of the residence, with the exception of light directed into a pool area.
- (B) Safety, security uplights or other lights on the south side of oceanfront homes which are set with automatic timers or day/night photocells
- (C) Any decorative and unnecessary oceanfront lighting during turtle nesting/hatching season from May 1 through October 31.
- (D) That is not in compliance with the provisions of this subchapter.

**ORDINANCE 24-07**  
**AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, SECTION 92.32,**  
**UNLAWFUL LIGHTS**

**BE IT ORDAINED BY** the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina, that Section 92.32, Unlawful Lights be amended as follows.

**Section One:** Amend Section 92.32 as follows:

§ 92.32 UNLAWFUL LIGHTS.

It shall be unlawful for any outside light to be installed or directed:

(A) To interfere with the vision of the operator of any motor vehicle on any street or waterway; or cast any amount of direct light more than 15 feet from the footprint of the residence, with the exception of light directed into a pool area.

(B) ~~Decorative~~, safety, security uplights or other lights on the south side of oceanfront homes which are set with automatic timers or day/night photocells.

~~(C) Decorative lights on the south side of oceanfront homes on walkways and walkway seating.~~

~~(D)~~(C) Any ~~decorative~~ and unnecessary oceanfront lighting during turtle nesting/hatching season from May 1 through October 31.

~~(E)~~ (D) That is not in compliance with the provisions of this subchapter.

**Section Two** The Town Clerk is directed to forward this ordinance to American Legal Publishing for inclusion in the next published supplement to the Holden Beach Code of Ordinances.

**Section Three:** This ordinance shall be effective the 1<sup>st</sup> day of May, 2024.

This the 30<sup>th</sup> day of April, 2024.

\_\_\_\_\_  
J. Alan Holden, Mayor

ATTEST:

\_\_\_\_\_  
Heather Finnell, Town Clerk



Town of Holden Beach  
AGENDA TOPIC COVER SHEET

TO: Holden Beach BOC

MEETING DATE: 4/30/24

FROM: Planning + Inspections

DATE SUBMITTED: 4/19/24

ISSUE/ACTION REQUESTED:

Amendments to the NFIP Section 154 of the Town's Ordinance as recommended by FEMA. Public Hearing needs to be scheduled.

BACKGROUND/PURPOSE OF REQUEST:

Recommendations by FEMA + NC Department of Public Safety

FISCAL IMPACT: (select one)

BUDGET AMENDMENT REQUIRED:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
CAPITAL IMPROVEMENT PLAN ITEM:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
PRE-AUDIT CERTIFICATION REQUIRED:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
REVIEWED BY FINANCE DIRECTOR:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

CONTRACTS/AGREEMENTS: (select one)

REVIEWED BY TOWN ATTORNEY: YES  NO

ADVISORY BOARD RECOMMENDATION:

Approved unanimously

FINANCE RECOMMENDATION:

TOWN MANAGER'S RECOMMENDATION:

ATTACHMENT:

Proposed Consistency statement BOC  
P2 consistency statement  
Proposed changes  
Proposed Ordinances



## **TOWN OF HOLDEN BEACH BOARD OF COMMISSIONERS STATEMENT OF CONSISTENCY AND ZONING RECOMENDATION**

The Town of Holden Beach Board of Commissioners has reviewed and hereby recommends approval of amendments to Section 154 of the Towns Floodplain Management Ordinance adopted from the National Flood Insurance Program (NFIP).

After review, the Board of Commissioners has found that the recommended amendments are consistent with the adopted CAMA Land Use Plan and are considered reasonable and in the public interest for the following reasons.

**Use of Property:** The amendment as recommended by the Federal Emergency Management Agency (FEMA) and the North Carolina Department of Public Safety to align better with the NFIP goals.

**Economic Impacts:** The CAMA Land Use Plan Goals and Objectives 3.1; Policies 3.1(A), 3.1(C), and 3.1(G). The changes will support not alter the current Goals, Objectives, and Policies.

**Environmental Impacts:** Amendments align with current Goal 3.2 and Objective 3.2 of the CAMA Land Use Plan.

Upon approval by the Board of Commissioners the Comprehensive Plan will be deemed amended and shall not require any additional request or application for amendment.

The statement and Motion were adopted by a \_\_\_\_\_ vote this \_\_\_\_\_ day of April 2024.

---

Mayor, J. Alan Holden





**TOWN OF HOLDEN BEACH PLANNING & ZONING BOARD STATEMENT  
OF CONSISTENCY AND ZONING RECOMENDATION**

The Town of Holden Beach Planning & Zoning Board has reviewed and hereby recommends approval of amendments to Section 154 of the Towns Floodplain Management Ordinance adopted from the National Flood Insurance Program (NFIP).

After review, the Planning and Zoning Board has found that the recommended amendments are consistent with the adopted CAMA Land Use Plan and are considered reasonable and in the public interest for the following reasons.

**Use of Property:** The amendment as recommended by the Federal Emergency Management Agency (FEMA) and the North Carolina Department of Public Safety to align better with the NFIP goals.

**Economic Impacts:** The CAMA Land Use Plan Goals and Objectives 3.1; Policies 3.1(A), 3.1(C), and 3.1(G). The changes will support not alter the current Goals, Objectives, and Policies.

**Environmental Impacts:** Amendments align with current Goal 3.2 and Objective 3.2 of the CAMA Land Use Plan.

Upon approval by the Board of Commissioners the Comprehensive Plan will be deemed amended and shall not require any additional request or application for amendment.

The statement and Motion were adopted by a 4/0 vote this 2<sup>nd</sup> day of April 2024.

  
\_\_\_\_\_

Pete Pallas, Chair

§ 154.01 STATUTORY AUTHORITY, FINDINGS OF FACT

(A) ~~The legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143, Article 6 of Chapter 153A; Article 8 of Chapter 160A, and Articles 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Commissioners of the Town of Holden Beach, does ordain as follows:~~

(A) The legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143, Article 6 of Chapter 153A; Article 8 of Chapter 160A, and Articles 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Commissioners of the Town of Holden Beach, does ordain as follows:

§ 154.05 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The special flood hazard areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated August 28, 2018 for Brunswick County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this chapter. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the town are also adopted by reference and declared a part of this chapter, ~~and all revisions thereto. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within three months~~

The special flood hazard areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated August 28, 2018 for Brunswick County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this chapter, and all revisions thereto. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the town are also adopted by reference and declared a part of this chapter.

### § 154.03 DEFINITIONS

**ADD BREAKAWAY WALLS.** Means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

**SUBSTANTIAL IMPROVEMENT.** Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,

(2) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

**SUBSTANTIAL IMPROVEMENT.** Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any two-year period for which the cost equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and the alteration is approved by variance issued pursuant to Section 154.38 of this Ordinance.

### § 154.36 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS

(B)(11) A statement that all materials below BFE/RFPE must be flood resistant materials. ~~(Optional).~~

(11) A statement that all materials below BFE/RFPE must be flood resistant materials.

§ 154.21 SPECIFIC STANDARDS

(1) Additions/improvements

(2) -- Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

(2) Due to free of-obstruction requirements in V zone and all AE is regulated as V zone in the Town of Holden Beach

(ii) Tanks. When gas and liquid storage tanks are to be placed within a special flood hazard area, the following criteria shall be met:

(a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty,

(b) Above-ground tanks, elevated. Above ground tanks in flood hazard areas shall be elevated to or above the regular flood protection elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area,

(c) Above ground tanks, not elevated. Above ground tanks that do not meet the elevation requirements of § 154.23 shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions

(d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be

1 At or above the regulatory flood protection elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood, and

2 Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(j) Other development

(a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of § 154.23

(b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of § 154.23

(c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of § 154.23

( '85 Code, § 8-4.5b ) (Ord. 31, passed 7-1-85, Am. Ord. 5-87, passed 3-24-87, Am. Ord. 03-01, passed 2-24-03, Am. Ord. 05-06, passed 5-22-06, Am. Ord. 18-13, passed 8-6-18, Am. Ord. 20-11, passed 9-3-20, Am. Ord. 21-10, passed 6-15-21) Penalty, see § 154.99

**ORDINANCE 24-08**  
**AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 154:**  
**FLOOD DAMAGE PREVENTION**

**BE IT ORDAINED BY** the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina, that Chapter 154: Flood Damage Prevention be amended as follows.

**Section One:** Amend Section 154.01 (A) as follows:

§ 154.01 STATUTORY AUTHORIZATION; FINDINGS OF FACT.

(A) The Legislature of the State of North Carolina has in ~~Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes~~, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Commissioners of the Town of Holden Beach, does ordain as follows:

(A) The legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Articles 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Commissioners of the Town of Holden Beach, does ordain as follows:

**Section Two:** Amend Section 154.05 as follows:

§ 154.05 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The special flood hazard areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated August 28, 2018 for Brunswick County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this chapter. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the town are also adopted by reference and declared a part of this chapter, **and all revisions thereto.** ~~Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within three months.~~

The special flood hazard areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated August 28, 2018 for Brunswick County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this chapter. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the town are also adopted by reference and declared a part of this chapter, **and all revisions thereto.**

**Section Three:** Amend Section 154.03 as follows:

§ 154.03 DEFINITIONS

**ADD- BREAKAWAY WALLS-** Means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

**SUBSTANTIAL IMPROVEMENT.** Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any ~~one~~-year period for which the cost equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, **and the alteration is approved by variance issued pursuant to Section 154.38 of this Ordinance.**

**SUBSTANTIAL IMPROVEMENT.** Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any two-year period for which the cost equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, **and the alteration is approved by variance issued pursuant to Section 154.38 of this Ordinance.**

**Section 4:** Amend Section 154.36 (B)(11) as follows:

§ 154.36 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS

(B)(11) A statement that all materials below BFE/RFPE must be flood resistant materials. ~~(Optional)~~

(B)(11) A statement that all materials below BFE/RFPE must be flood resistant materials.

**Section 5:** Amend Section 154.21 as follows:

§ 154.21 SPECIFIC STANDARDS.

(E) *Additions/Improvements*

~~(2) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.~~

~~(2) Due to free of obstruction requirements in V zone and all AE is regulated as V zone in the Town of Holden Beach.~~

~~(3) (I) Tanks. When gas and liquid storage tanks are to be placed within a special flood hazard area, the following criteria shall be met:~~

~~(a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;~~

~~(b) Above-ground tanks, elevated. Above ground tanks in flood hazard areas shall be elevated to or above the regular flood protection elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;~~

~~(c) Above ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of § 154.23 shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.~~

~~(d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:~~

~~1. At or above the regulatory flood protection elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and~~

~~2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.~~

~~(4) (J) Other development.~~



(a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of § 154.23.

(b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of § 154.23.

(c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low- water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of § 154.23.

('85 Code, § 8-4.5b.) (Ord. 31, passed - - ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 03-01, passed 2-24-03; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18; Am. Ord. 20-11, passed 9-3-20; Am. Ord. 21-10, passed 6-15-21) Penalty, see § 154.99

**Section Six:** The Town Clerk is directed to forward this ordinance to American Legal Publishing for inclusion in the next published supplement to the Holden Beach Code of Ordinances.

**Section Seven:** This ordinance shall be effective the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
J. Alan Holden, Mayor

ATTEST:

\_\_\_\_\_  
Heather Finnell, Town Clerk



Town of Holden Beach  
AGENDA TOPIC COVER SHEET

TO: Holden Beach BOC

FROM: Tracey Thomas & Tom Myers

MEETING DATE: 4/30/2024

DATE SUBMITTED: 4/19/2024

---

**ISSUE/ACTION REQUESTED:**

Discussion and possible action on the transfer of files and papers from the former attorney  
Discussion and possible action on selecting a new Town Attorney

---

**BACKGROUND/PURPOSE OF REQUEST:**

Our former attorney was terminated in January and has not transferred files or surrendered papers as required by the NC State Bar Rules of Professional Conduct. Our interim attorney has contacted the former attorney three times by phone (on Feb 8<sup>th</sup>, Mar 12<sup>th</sup>, and Mar 21<sup>st</sup>) and twice by email (on Feb 12<sup>th</sup> and 21<sup>st</sup>) requesting the documents. Enough time has now passed to refer this issue to the NC State Bar Attorney-Client assistance program.

We have received responses to our RFP from multiple law firms and need to proceed with selecting a new Town Attorney.

Possible action:

- Determine finalist(s)
- Schedule interviews, if needed
- Instruct the Town to contact the Attorney-Client assistance program with the NC State Bar regarding the prompt transfer of files and surrender of papers from our former attorney

---

**FISCAL IMPACT:** (circle one)

BUDGET AMENDMENT REQUIRED: NO  
CAPITAL PROJECT ORDINANCE REQUIRED: NO  
PRE-AUDIT CERTIFICATION REQUIRED: NO  
REVIEWED BY FINANCE DIRECTOR: NO

---

**CONTRACTS/AGREEMENTS:** (circle One)  
REVIEWED BY TOWN ATTORNEY: (YES/NO) NO

---

**ADVISORY BOARD RECOMMENDATION:** N/A

---

**FINANCE RECOMMENDATION:** N/A

---

**TOWN MANAGER'S RECOMMENDATION:** N/A

---

ATTACHMENT – RFP Responses



Town of Holden Beach  
AGENDA TOPIC COVER SHEET

TO: Holden Beach BOC

MEETING DATE: 4/30/2024

FROM: Tracey Thomas & Tom Myers

DATE SUBMITTED: 4/19/2024

**ISSUE/ACTION REQUESTED:**

Discussion and possible action on conflict-of-interest concerns related to the HBPOA

**BACKGROUND/PURPOSE OF REQUEST:**

During the March BOC meeting, Commissioners Smith and Dyer raised concerns that the Freedom of Information Act (FOIA) emails made it very apparent that there is a conflict of interest that exists with Commissioner Myers and Thomas in regards to matters related to the pier since they also serve on the board of the HBPOA, and because they are on the two different boards and they are discussing business about the pier, they think it would be a conflict of interest doing business as a board of the POA and then voting on it in the Town as a board. Therefore, they should recuse themselves from any vote related to the pier.

The Town Attorney stated that she had already cleared them of a conflict-of-interest for solely serving on the HBPOA board and offered to provide extra research reviewing the emails and the possibility of a conflict when voting on matters related to the pier.

That extra work has now been completed and the Town Attorney has made her determination.

Possible Action: Accept the Town Attorney's findings and determination related to the conflict-of-interest matter.

**FISCAL IMPACT:** (circle one)

BUDGET AMENDMENT REQUIRED: NO

CAPITAL PROJECT ORDINANCE REQUIRED: NO

PRE-AUDIT CERTIFICATION REQUIRED: NO

REVIEWED BY FINANCE DIRECTOR: NO

**CONTRACTS/AGREEMENTS:** (circle One)

REVIEWED BY TOWN ATTORNEY: (YES/NO) N/A

**ADVISORY BOARD RECOMMENDATION:** N/A

**FINANCE RECOMMENDATION:** N/A

**TOWN MANAGER'S RECOMMENDATION:** N/A

# Moore Law

910.240.4878

EST. 2020

PLLC

---

 23 April 2024

Heather Finnell  
via e-mail

## Re: Conflicts of Interest

Dear Town of Holden Beach Board of Commissioners,

During the Board of Commissioners meeting on March 19, 2024, this Board discussed conflicts of interest. As with any potential conflict of interest, I ask that you provide me with any and all information relevant to the potential conflict so said conflict may be explored in full. In North Carolina, a governing board member has a duty to vote and may only be excused from voting in specific situations allowed by statute. The North Carolina General Statutes (G.S.) allow governing board members to be excused from voting only on the following matters:

- (1) Matters involving the consideration of the member's own official conduct of financial interest; or
- (2) Matters on which member is prohibited from voting under statutes:
  - When directly benefit under a public contract approved or considered by the Board (G.S. 14-234);
  - Zoning matters likely to have a "direct, substantial, and readily identifiable impact on the member" (G.S. 153A-340(g); G.S. 160A-381(d)); and
  - Quasi-judicial decisions on land-use matters where member's participation would violate the constitutional requirement of an impartial decision maker (G.S. 153A-341.1; G.S. 160A-388(e2))

In all of these matters, there are requirements necessitating some sort of gain, be it personal financial impact, personal interest, or direct benefit.

After analyzing the statutes, Town Conflict of Interest Policy, and other relevant literature, as well as reading every email distributed in the Freedom of Information Act (FOIA) Request for emails released in February 2024, there does not appear to be any direct benefit, personal impact or interest, or familial benefit directly related to any Town business that can be attributed to Commissioner Tom Myers or Commissioner Tracey Thomas. As a result, no conflicts of interest have been declared for Commissioners Myers and Thomas to serve on the Board of the HBPOA and on the Board of Commissioners for the Town of Holden Beach.

Given the subject matter of this letter, I believe it is best that I also formally inform the public and the Board that I have no ties to the HBPOA. I have never been hired by or worked for the HBPOA in any capacity. I am not a member of the HBPOA nor have I ever attended a meeting. This letter and a similar letter I submitted to the HBPOA for its March 2024 meeting only serve to clarify my answer to the conflict of interest question raised at the March 2024 Board of Commissioner's Meeting.

Best Regards,  
Sydnee Moore

---

 1208 OCEAN BLVD WEST, HOLDEN BEACH, NC 28462

www.moorelaw-llc.com



Town of Holden Beach  
AGENDA TOPIC COVER SHEET

TO: Holden Beach BOC

MEETING DATE: 4/30/24

FROM: Page Dyer/ Rick Smith

DATE SUBMITTED: 4/22/24

**ISSUE/ACTION REQUESTED:**

Allow a Representative from the Holden Beach Community Alliance to present their Petition to Save the pier.

**BACKGROUND/PURPOSE OF REQUEST:**

The Holden Beach Community Alliance is a 501 (c)(3) registered NC nonprofit organization. They conducted a petition drive to Save the pier and would like to present the petition, go over the results and how they conducted the project. This information came from property owners, ( registered and non - reg stered voters) and the surrounding community.

**FISCAL IMPACT:** (select one)

BUDGET AMENDMENT REQUIRED:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
CAPITAL IMPROVEMENT PLAN ITEM:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
PRE-AUDIT CERTIFICATION REQUIRED:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
REVIEWED BY FINANCE DIRECTOR:	YES <input type="checkbox"/>	NO <input type="checkbox"/>

**CONTRACTS/AGREEMENTS:** (select one)

REVIEWED BY TOWN ATTORNEY:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
----------------------------	------------------------------	-----------------------------

**ADVISORY BOARD RECOMMENDATION:**

**FINANCE RECOMMENDATION:**

**TOWN MANAGER'S RECOMMENDATION:**

**ATTACHMENT:**



Town of Holden Beach  
AGENDA TOPIC COVER SHEET

TO: Holden Beach BOC

MEETING DATE: 4-30-2024

FROM: Rick Paarfus, Tom Myers

DATE SUBMITTED: 4-19-2024

**ISSUE/ACTION REQUESTED:**

Discussion and possible action on Pier Property Development

**BACKGROUND/PURPOSE OF REQUEST:**

The purpose is to develop a project approach for the pier property based on the attached information

**FISCAL IMPACT:** (select one)

BUDGET AMENDMENT REQUIRED:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
CAPITAL IMPROVEMENT PLAN ITEM:	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
PRE-AUDIT CERTIFICATION REQUIRED:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
REVIEWED BY FINANCE DIRECTOR:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

**CONTRACTS/AGREEMENTS:** (select one)

REVIEWED BY TOWN ATTORNEY: YES  NO

**ADVISORY BOARD RECOMMENDATION:**

NA

**FINANCE RECOMMENDATION:**

NA

**TOWN MANAGER'S RECOMMENDATION:**

NA

**ATTACHMENT:** Pier Property Development discussion paper

## PIER PROPERTY DEVELOPMENT

### INTRODUCTION

The purpose of this document is to initiate discussion concerning development of the pier property by providing a baseline approach to that development. It is also intended to ensure that critical elements such as project cost estimates, life cycle costs, and a clearly defined project approach are addressed in the process. It is not intended to be the final project plan, but to serve as a starting point and to lay out the process for proceeding. Information presented below is partially based on discussions held with Bowman Murray Hemingway Architects (BMH), Andrew Consulting Engineers, and Mid Atlantic Engineering Partners. See attachments A and B for discussion summaries.

Development of the pier property should encompass the entire property, not just the pier and pier building. Development can however be separated into two separate components, namely the pier structure and the land parcels. Separation of the components (and components into phases) is necessary as funding is limited. Given that the pier is the primary feature of the property and considering its deteriorated condition, it is recommended that it be given first priority for funding. Development of the land parcel should not be constrained by a requirement to retain the current pier building, but should be based on a "clean sheet" approach to broaden the potential uses for the property. Renovation of a building in such poor condition that is several feet below the flood plain in an ocean front location is not advisable. A constraint that will have to be considered however are the requirements of the PARTF grant agreement that was entered into in 2022 which restricts the use of the property to recreational purposes indefinitely.

For each of these components, some form of financial/business case analysis should be performed to determine the development, operational and maintenance costs of any proposed options, as well as the potential revenue that can offset the above costs. Initial development costs will be produced in the preliminary design process and refined in the detailed design process. This information will assist decision makers in determining how/if the town can move forward as well as provide a foundation for seeking outside funding sources and partnerships. This is likely to be more complicated for parcel development in that several possible uses may have to be iteratively analyzed. Further, consideration must be given as to whether the town should enter into commercial real estate development that could compete with local businesses on the island (and off). Lessees would have to cover 100 percent of the debt service, maintenance and operations cost, insurance, etc. Otherwise they would be essentially subsidized by the tax payers which would not be fair to tax paying businesses on the island. Given today's delivery oriented society, dedicated space for deliveries from local businesses may be a viable option.

### PIER

The pier component of the project needs to be addressed from two perspectives, namely repair and replacement. Preliminary design work, project cost estimates and life cycle costs (30 years) need to be developed by the technical agent for each perspective to support decision making.

### PIER REPAIR

With regard to repairing the pier, the initial RFP issued by the town came in with a low bid that was 100% over the budgeted amount. This RFP was considered the minimum amount of work to be done to reopen the pier as efficiently as possible. In order to more closely match the budget, it was suggested that the scope be reduced and the project rebid. At that time, the primary cost reduction tool was to water jet the new pilings in versus driving them in. Subsequent discussions with BMH, Andrew



Consulting Engineers and Mid-Atlantic Engineering Partners determined that the piles must be driven in. Driving piles provides a determination/verification of the pile capacity (bearing load and uplift resistance) and greater resistance to lateral loading which cannot be obtained by jetting alone. However, cost savings could be achieved by doing the piling installation from the pier deck to minimize the use of floating plant (a significant cost driver). To accomplish repairs from the deck, the pier would have to be repaired from the shore out (replacing fasteners, bracing, etc) and possibly strengthened (additional stringers) to support equipment and materials for replacing piles and other structure. The added benefit of this approach is that future pile replacement, maintenance and storm damage repairs could likely be done from the deck avoiding considerable cost and accomplished in a more timely fashion. A structural analysis and design will be required to support this approach. The existing pier building would have to be razed to provide access for equipment and materials onto the pier. It should be noted that all present at the BMH meeting agreed that the building is a tear down. Since the building is in such poor condition that is several feet below the flood plain in an ocean front location, razing it should not be an issue.

The pier repairs will likely need to be accomplished in phases to fit within the available funding and not jeopardize higher priority projects. Preliminary design work, and project cost estimates for each phase must be developed for proper decision making. Suggested phases would be as follows:

1. Structural Stabilization of the existing pier – This will include replacement of all 16 major/ severely damaged piles, replacement of all fasteners, and a significant portion of the bracing, if not all, depending on analysis results. Analysis may call for additional bracing as well.
2. Safety repairs – This phase would complete repairs to make the pier safe for the public, to include handrails, ADA access, etc.
3. Complete remaining repairs – These repairs include plumbing, electrical and decking replacement.
4. Extend the pier to 250 feet – This final phase would restore the pier to its original 1000 feet and reach significantly deeper fishing waters than that available at the current 750 ft (4-8ft).

These phases could be combined into combinations of base bids with options based on funding availability.

#### PIER MAINTENANCE

Given the age of the pier components, (anywhere from 25 to 65 years), maintenance costs must be planned for. Contrary to what was originally reported in the pier inspection reports, the pier pilings are not greenheart hardwood (Greenheart wood is naturally decay and marine organism resistant, has a service life of 50 years, and is significantly stronger than treated pine or fir), but are pressure treated green wood of an unknown species (see final Mid Atlantic Report). Unfortunately, there are no maintenance or repair records available for the pier, so the exact age of the piles is not known. The current assumption is the last pile installation was possibly in 1999. Based on discussions with industry professionals, pressure treated pilings have an expected service life of 25 years. Fortunately, piling inspection results that included pic penetration and hammer testing found most, if not all the piles to be sound, except those with cracks or fissures. It should be noted that several of the damaged piles had damage at the pile cap where the dowel pin connection was made, which is likely to be an ongoing problem in the future. Consequently, a condition based maintenance program should be implemented with periodic and post storm inspections of the pier to allow for planned maintenance and repair. In addition to planned maintenance, repairs from storm damage need to be considered as well.

Given this consideration and the maintenance challenges cited above, a capital reserve fund for supporting the pier may be advisable.

### PIER REPLACEMENT

The initial assumption here is that a new wood pier will be constructed as opposed to a concrete pier primarily due to cost. Although a concrete pier is preferred, it may not be financially supportable for a small tax base like Holden Beach. While the upfront cost to replace the pier will be higher than repairing the pier, the life cycle costs will likely be less. A better design with more robust components (larger/concrete piles, better bracing, known pile embedment, greater height above the surf) will provide a more storm resistant structure and new materials will greatly reduce maintenance costs for many years after construction. It may also be possible to leverage off the Oak Island pier replacement project to reduce engineering and cost estimating costs as well (Andrew Consulting was the design agent). It should be noted that the Oak Island pier was replaced for approximately 2.6M in the 2017-2019 time frame.

Funding a pier replacement will likely require financing the project with some sort of loan or bond. Any option to finance a pier replacement should be approved by the property owners/voters in a referendum or by some other reliable method. It is also possible to phase this project too by replacing the current 750 feet initially and constructing the last 250 feet at a different time to for funding flexibility.

Again, a condition based maintenance program should be implemented with periodic and post storm inspections of the pier to allow for planned maintenance. In addition to planned maintenance, repairs from storm damage need to be considered as well. Given this consideration and the maintenance challenges cited above, a capital reserve fund for supporting the pier may be advisable.

### SITE DEVELOPMENT

Public (primarily the tax payers) input and the aforementioned financial analysis will drive the features to be developed on the site. In addition, site development will have to comply with the requirements of the PARTF grant contract. If a conflict arises, a contract modification could be possibly negotiated. For the features that are chosen, an annual cost for maintenance, repair and operation (life cycle cost) must be developed. This along with any debt service payments will be needed for decision making and budgeting purposes. In the event that some sort of building(s) are considered, the design should not impede access to the pier for maintenance and repair purposes. All features must be ADA compliant of course.

### GOING FORWARD

It is recommended that the following tasks be initiated as soon as financially possible to provide decision making information for the BOC to determine how and when to proceed with the project. Specific Statements of Work should be developed for the technical agent to ensure the desired outcomes are obtained. In addition, a competent project manager needs to be identified to oversee this work.

- Task 1 - Initiate preliminary design work for repair of the current pier from the deck (in phases similar to that outlined above), to include cost estimates for each phase and a draft Maintenance and Repair Plan with yearly cost estimates.
- Task 2 - Initiate preliminary design and cost estimates for a new wooden pier (in phases as outlined above), to include cost estimates for each phase and a draft Maintenance and Repair Plan with yearly cost estimates.
- Task 3 - Initiate preliminary land site wide conceptual design(s) that comply with PARTF requirements to include initial cost estimates for construction, operation and maintenance.
- Task 4 - Conduct a financial/business case analysis should be performed to determine potential revenue that can offset the development costs. This should include some type of market analysis of any potential commercial/retail facilities that may be on the site.

#### FINANCING

Unexpended funds from the pier repair account should be available this year to fund the above preliminary design and financial work. For constructing the project, see attachment C, Town of Holden Beach Debt Service. It can be seen that in FY25-26, debt service will be reduced by approximately 484K. In FY26-27, another 702K debt is eliminated providing a running total of 1.186M that could be available to fund pier construction. It should be noted that in FY 27-28 the Central Reach Beach Renourishment debt will be paid off, but that the available funds may be applied to the Beach and Inlet reserve fund.

It is imperative that it be understood that **the pier is an amenity and will have to compete against critical infrastructure and other non critical projects for funding.** Examples of critical infrastructure projects include water system capacity increases, stormwater projects, fire station replacement (for 24/7 manning), road paving, beach and inlet maintenance, etc.

If the project cannot be funded within the existing budget, alternative financing such as a loan, bond, or grants, or some other method may be an option. In order to pursue these options, the above tasks must be complete so prospective financiers can adequately evaluate the request. It should also be noted, that from a state and county perspective, there are four other ocean fishing piers within an hour's drive from the Holden Beach causeway. This fact could adversely affect the attractiveness of state and county assistance. This is further exacerbated by the beach, canal and several fishing locations already in existence at Holden Beach.

Last, and perhaps most important, any financing arrangement must be approved by the voters/property owners given the magnitude of the costs involved. While a public hearing may be all that is legally required, they typically result in very poor attendance in part due to the fact that around 70% of the property owners do not live here and the hearings are not extensively advertised. A referendum during an election year (2025) may be more appropriate or some other iron clad way of assessing the property owners' position.

#### NOTIONAL TIMELINE

The following time line is an educated guess based on experience and will necessarily have to be refined based on more detailed discussion. It is also based on using the current technical agents (BMH,

Andrew Consulting) to leverage off the already completed work and Andrew Consulting's experience with designing the Oak Island Pier

Task 1 – 3 months – 7/1/2024-10/1/2024

Task 2 - 3 months – 09/1/2024-12/01/2024

Task 3 - 6 months – 02/01/2025-07/01/2025

Task 4 – Pier portion– 7/1/2024-10/1/2024; Site Portion - TBD depends on task 3 results

Actual construction times for pier repairs and land parcel development will depend on available funding and selected site features. Replacement of the pier is estimated to take 3 years based on construction of the Oak Island pier.

#### OTHER OPTIONS

Suggestions have been made to pursue a Public Private Partnership (PPP) in an effort to reduce the financial and operational burden on the Town. While a PPP is a viable option, attachments D, E and F clearly demonstrate that a lot of work must be completed before a partnership can be considered.

#### STAKEHOLDERS

The primary stakeholders for this project are the Holden Beach property owners as they have the financial responsibility for all costs associated with the pier, whether they use it or not. Businesses on the island are secondary stakeholders in that financial support for the pier could affect their overhead and for those businesses near the pier, their foot traffic volume. Day visitors are secondary stakeholders in that they are not financially responsible for the pier given that using the pier is optional for them. Renters/vacationers and are not considered stakeholders as they are customers of the rental property owners. Consequently, their interests are presumably represented by the rental property owners.

#### SUMMARY

The purpose of this document is to initiate discussion concerning development of the pier property by providing a baseline approach to that development. It is not intended to be the final project plan, but to serve as a starting point. Development of the pier property should encompass the entire property, not just the pier and pier building, with priority given to addressing the pier. Phases have been suggested to make the development financially manageable. A notional timeline for preliminary work has been outlined with possible funding scenarios to accomplish it. Last information concerning public private partnerships is provided along with stakeholder information.

### 3-14-2024 Meeting Summary

The following is a summary of the meeting discussions held on Thursday, March 14, at 10:30 between Rick Paarfus, Chip Hemingway of Bowman Murray Hemingway Architects (BMH), Neal Andrew and Zachery Norris of Andrew Consulting Engineers (structural engineering).

At the onset of the meeting, Mr. Paarfus, who is a sitting commissioner for the Town of Holden Beach, stated that he was not there representing the Town of Holden Beach, had no authority to direct or authorize any participants to take action on behalf of the Town or encumber the town in any manner. He further stated that he was there seeking information concerning the Holden Beach pier on his own accord as a private individual and was solely responsible for all costs incurred for the meeting.

Mr. Paarfus inquired if the structural repairs were based only on the documentation provided by the Town or if they had performed their own inspections and incorporated their findings into the repair design. Mr. Andrew stated that they had done their own inspections as well as reviewed the provided documentation to develop the repair designs.

Mr. Paarfus inquired about formal project cost estimates that were developed by the firms for the Town and was informed that they were not requested and consequently not provided. Mr. Hemingway was pressed by the Town Manager for a number for budgetary purposes and he provided a guestimate verbally of 2.1M. It was noted by Mr. Paarfus that without a proper cost estimate it limits the owner's ability to negotiate with a contractor and that it is not good practice to go to bid without a formal cost estimate on a project of this value. It was agreed that formal project cost estimates should be developed prior to any future bidding.

Pile installation methods were discussed next. After consulting with their geotechnical engineer, it was determined that the piles must be installed in the same manner as originally called for in the pier repair bid documents, i.e. driving. It was noted that some jetting may be necessary to penetrate hard pan beneath the mud line, but the final portion of the installation has to be done by driving. Driving not only provides a determination of the pile capacity (bearing load and uplift resistance), but also provides greater resistance to lateral loading of the pile which cannot be obtained with jetting alone.

Mr. Paarfus inquired if jetting piles in could have contributed to the pile cap failures (breakage) and loss of load bearing contact in the inspection reports. Mr. Andrew did not attribute those issues to jetting, but did note that the dowel pins used to attach the horizontal members to the pile caps can corrode and expand sufficiently that when combined with lateral loading can break the pile cap. His preferred method to connect the structure would be through bolting vs. doweling.

The possibility of repairing pile caps vs. replacing piles was briefly discussed and it was determined that this is not recommended unless it is the only repair that the town could afford.

Reduction of the scope was then discussed. The approach to reduce the scope would be to minimize the need for floating plant to make repairs and accomplish the work from the pier deck. To accomplish this, the pier structure would have to be repaired from the shore out (replace all fasteners, bracing, etc.) and possibly strengthened (additional stringers) to be able to support equipment and materials to do the work. Mr. Paarfus noted that the inspection reports indicated that the stringers were held in place with nails, brackets, or no visible form of attachment to the horizontal structural members. A structural analysis will be required to support this approach.

ATTACHMENT A

In order to accomplish repairs from the pier deck, the center of the pier house will have to be removed to allow equipment to access the pier. Importantly, it should be noted that all in attendance consider the pier house a tear down. It was agreed by all present that it did not make sense to renovate a building in such poor condition that was several feet below the flood plain in an ocean front location. In fact, BMH nearly turned down the job because of the previous BOC's insistence that the pier house be renovated.

The discussion turned to how the pier repairs might be phased in order to accommodate a limited budget. Structural stabilization of the pier is the first step to be considered. The second phase would be to complete repairs to make the pier safe for the public (handrails, other safety issues). The third phase would be to complete ADA requirements, electrical and plumbing repairs. Formal cost estimates for each of these phases will have to be prepared to see if the current budget can support them.

Maintenance and repair of the pier was also briefly discussed. Mr. Paarfus noted that the existing piles are not green heart wood as stated in the original inspection reports, but that the species is not known (see final Mid-Atlantic Engineering report). In addition, pressure treated piles are thought to have a service life of roughly 25 years in the marine environment. He stated that he understands that remaining service life is difficult to assess, but some sort of starting point is necessary for maintenance planning. Plans can be adjusted based on inspections over time. Mr. Andrew also noted that planning for the inevitable storm damage repairs must also be considered.

Future tasking relative to the pier project was discussed. It was agreed that a clear scope of work/task statement should be developed for the whole property. The plan should include

- Repair of the current pier in phases, with cost estimates
- Preliminary design and cost estimates for a new wooden pier (possibly leverage off of Oak Is. Design)
- Preliminary site wide design and cost estimates for entire property with cost estimates
- Preliminary Draft Maintenance & Repair plan with yearly cost estimates

All of the above should be divided into phases to support multi year funding due to limited resources. Mr. Paarfus addressed the fact that the property's use is currently constrained by a Parks and Recreation Trust Fund grant that will have to be considered in planning for the property. He also said that pier project funding has to compete against other higher priority critical infrastructure projects for resources. However, if the above project information was available, the BOC would be in a much stronger position to develop a funding strategy and to pursue other funding sources.

Last, Mr. Paarfus inquired about the evolution of the project with regard to direction from the previous BOC. Based on the dates on the pier house drawings and the pier repair drawings, it appears that the BOC focus had initially been on the pier house for the first year, until around the May 2023 timeframe and then the direction shifted to the pier repairs to get it open. BMH confirmed that this is correct. Mr. Paarfus stated that he felt the pier project was handled in a way others do not agree with which was also the general consensus of those in attendance. It was noted that the intent was to get the pier reopened as cost efficiently as possible but the cost still proved to be over budget.

The meeting adjourned at roughly 11:34 a.m.

Prepared by Rick Paarfus

Discussion with Stuart Lewis, P.E., MidAtlantic Engineering Partners 2-27-24@9:45 a.m.

Subject: Project GES-2201, Holden Beach Pier - Due Diligence Inspection

Stuart and I discussed the findings of the subject report (2022-05-17\_GES-2201\_LetterReport\_2.0), potential issues with the pier, and areas for consideration before proceeding with repairs. The inspection and following report were generated as part of a due diligence inspection of the pier in 2022 before Holden Beach's acquisition. The MidAtlantic Engineering Partners was contracted under Geosyntec to inspect the pier elements underwater. This discussion included the following items:

1. Inspection
2. Piles
3. Overall Pier Structure
4. Pre-Construction
5. Cost Benefit Analysis
6. Construction Approach

**Inspection:**

- We performed the Due Diligence Inspection following ASCE Manuals and Reports on Engineering Practice No. 130 – "Waterfront Facilities Inspection and Assessment" standards. A Due Diligence inspection aims to form an engineering opinion of the general condition of a structure and estimate the order-of-magnitude replacement costs and repair costs.
- All timber piles were inspected visually and tactilely during the inspection, from the caps down to the mudline.
- Tactile inspection included hammer and pic penetration on the piles. The tactile inspection aims to determine the physical condition of the elements compared with the original as-built condition.
- We found most, if not all, of the piles to be sound, except for those with cracks or fissures, as noted in the report.
- The timber piles (except where noted) were in minor condition, i.e., looked good from the mud line up to the bracing, with no significant damage or deterioration noted.

**Piles:**

- Typically, 1-2 ft. below the mudline, timber piles are usually in good shape due to a lack of oxygen, no marine bores, rot, or deterioration.
- The timber piles' point of fixity results in piles either breaking at the mudline or at other points of fixity (near bracing).
- Most piles from the current shoreline to the offshore end are pressure-treated green piles but unknown timber species or pressure-treated material. Based on Mr. Lewis's experience, these piles have a service life of 25 years. The pressure treatment does not penetrate the pile fully and can wash out on the exterior. EPA rules/regulations no longer permit creosote timber piles in the marine environment.
- Mr. Lewis recommends replacing piles with pre-cast concrete piles for longevity. He also noted that composite piles are around 1.75 times as expensive as pre-cast concrete piles.
- You can install pre-cast concrete piles without causing damage.
- Mr. Lewis has used composite piles in the New York City harbor; they have superior abrasion resistance compared to concrete and timber.

ATTACHMENT B

- Mr. Lewis does not recommend jetting piles in for public access structures like a fishing pier. Resistance to uplift forces is a big concern (surface friction), and the pile capacity (end bearing and surface friction) cannot be determined/evaluated as with pile driving.

#### **Pier Structure:**

- Overall, Mr. Lewis thought the structure needed a more robust design for the environmental forces from the Atlantic Ocean.
- Current bracing could be more adequate.
- Pier deck height requirements can vary based on local requirements.
- We did not perform a load rating analysis as part of MidAtlantic's scope. However, the pier likely was designed to be 100 lbs/SF.

#### **Pre-Construction:**

- As per the ASCE Manual, a design-level inspection and additional engineering activities should be performed before construction.
- Pile bracing needs to be redesigned, as they appeared to be undersized based on the level of braces broken.
- Should a re-build of the pier be considered, using pre-cast concrete piles for replacements. However, due to the geographic location and possible hurricanes, even concrete piles can fail with specific loads.
- To open the pier before repairs, the city should develop Pier closure criteria to include the number of people allowed on the pier, certain load limits around specific areas where known failed piles and caps exist, weather conditions that dictate temporary closure, etc.

#### **Cost-Benefit Analysis**

- Given the geographic location of the pier and the unpredictability of the Atlantic and Hurricanes, even the most robust pier can fail to mother nature.
- A more robust pier will be more expensive. The alternative could involve installing a lower-quality pier that we can replace. Certain criteria for use would be implemented, i.e. weather restrictive use.
- Perform annual inspections of the pier before peak-season tourism to minimize downtime of the pier. (perform inspection between Feb-March to allow for repairs to be completed in April)

#### **New Pier Construction**

- Build out from shore, remove the need for floating construction.
- We should evaluate pier loading to determine what equipment loads are acceptable, if any.
- Wilmington, NC, and Charleston have reputable marine contractors for this work.
- Create a nationwide solicitation for qualified contractors for the new pier construction.



## Town of Holden Beach, NC

### Debt Service By Issue for All Types from 07/01/2022 to 07/01/2038

All Types

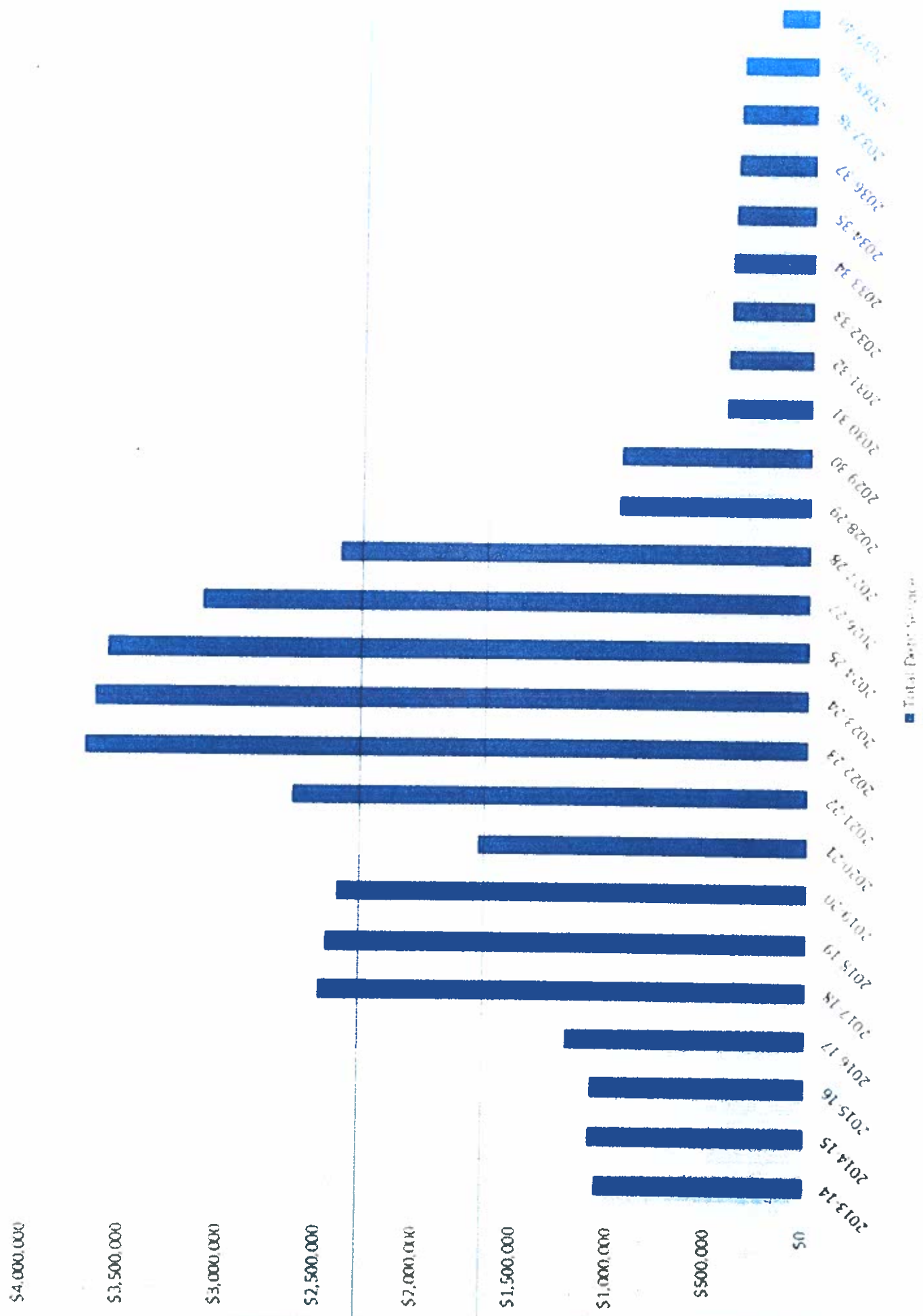
Schedule	Maturity Dates
Profile as Of	07/01/2022
Frequency	Annual
First Period End	07/01/2023
End Date	07/01/2038

	Interest rate	FY 23	FY 24	FY 25	FY 26	FY 27
BLOCK Q 2022 Promissory Note	3.180%	365,133.33	354,533.33	343,933.33	-	-
EOC 2015 Note - Real Estate	2.420%	93,334.83	93,334.83	93,334.83	-	-
VAC TRUCK 2021 Capital lease	2.100%	64,770.39	64,770.39	64,770.39	64,770.40	-
2005 Sanitary Sewer Revolving Loan	2.205%	181,366.67	177,691.67	174,016.67	170,341.67	-
2004 Sanitary Sewer Revolving Loan	2.205%	415,821.67	415,821.67	415,821.65	415,821.66	-
CENTRAL REACH 2016 Note - Flood and Erosion Control	2.180%	1,317,720.00	1,291,580.00	1,265,400.00	1,239,240.00	1,213,080.00
TOWN HALL 2008 Note - Real Estate	3.810%	237,793.45	230,173.45	222,553.45	214,933.45	198,267.48
2019B Taxable Enterprise Systems Revenue Refunding Bonds	2.347%	518,174.85	518,964.01	519,407.29	519,176.31	519,505.64
LS REIMBURSEMENT 2021 Note - Sanitary Sewer	1.920%	152,443.06	150,153.55	147,864.05	145,574.54	143,285.03
LS REIMBURSEMENT 2021A Note	2.290%	68,312.07	68,120.48	68,928.91	65,737.33	64,545.75
PIER 2022 Installment Financing Contract	3.180%	277,959.90	279,175.12	273,099.04	267,022.95	260,946.86
<b>Annual Debt Payment</b>		<b>3,693,830.22</b>	<b>3,644,298.51</b>	<b>3,587,129.81</b>	<b>3,102,618.31</b>	<b>2,400,630.76</b>

ATTACHMENT C

FY 28	FY 29	FY 30	FY 31	FY 32	FY 33	FY 34	FY 35	FY 36	FY 37	FY 38
-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	-
520,152.04	517,583.78	-	-	-	-	-	-	-	-	-
140,995.53	138,706.02	136,416.51	134,127.00	131,837.49	129,547.99	127,258.48	124,968.97	122,679.46	120,389.95	-
63,354.16	62,162.58	60,971.00	59,779.41	58,587.82	57,396.24	56,204.66	55,013.08	53,821.50	52,629.92	-
254,870.78	248,794.69	242,718.60	236,642.52	230,566.44	224,490.35	218,414.26	212,338.18	206,262.09	200,186.00	194,109.84
<b>979,372.51</b>	<b>967,247.07</b>	<b>440,106.11</b>	<b>430,548.93</b>	<b>420,991.75</b>	<b>411,434.58</b>	<b>401,877.40</b>	<b>392,320.23</b>	<b>382,763.05</b>	<b>373,205.87</b>	<b>194,109.84</b>

# Debt Service



■ Total Debt Service

<https://canons.sog.unc.edu/2014-03/new-construction-delivery-methods-delivering-public-private-partnerships/>



## Coates' Canons NC Local Government Law

### New Construction Delivery Methods – Public-Private Partnerships (P3)

**Published: 03/05/14**

**Author Name: Norma Houston**

In my last two posts, I described the new **design-build** and **design-build bridging** construction delivery methods authorized by the General Assembly during the 2013 legislative session. This post completes our discussion of the new delivery methods by outlining the third method authorized in **S.L. 2013-401/H857** – public-private partnerships (P3).

#### **What is a Public-Private Partnership?**

The basic concept of the P3 legislation is to provide flexible contracting authority under which units of government can partner with a private developer for the construction, operation, and financing of a capital project. Prior to the legislation's enactment, local governments had to seek authorization from the General Assembly through local acts to enter into public private partnerships. The new legislation makes this development and financing option available statewide to all public entities.

Public-private partnerships are not new in North Carolina. This type of contracting method has been authorized from time to time by the General Assembly, such as for the Department of Revenue's Tax Information Management System in 2009 (**S.L. 2009-451, Sec. 6.20**), the Town of Matthews in 2010 (**S.L. 2010-52**), Onslow County in 2013 (**S.L. 2013-37**), and certain Department of Transportation projects (**G.S. 136-28.1**) and toll roads (**S.L. 2012-184**). Similar public-private financing authorization has been available for well over a decade for NCSU's Centennial Campus, UNC-CH's Horace Williams Campus, and the Millennial Campuses of other UNC constituent institutions (**Article 21B of Chapter 116**). Public schools have had public-private partnership authorization since 2006 for built-to-suit capital leases (**G.S. 115C-532**; this statute expires July 1, 2015). Public-private partnerships were the subject of a **2009 legislative study commission** and a study by **NCSU's Institute for**

Copyright © 2009 to Present School of Government at the University of North Carolina

ATTACHMENT D

D-1

4/16/2024, 4:23 PM

<https://canons.sog.unc.edu/2014/03/new-construction-delivery-methods-public-private-partnerships-p3/>

**Emerging Issues.** What is new is the statutory framework for entering into a P3 contract and the availability of this contracting and financing method for any unit of local government without having to obtain specific legislative authorization through a local act.

A public private project is defined under the new **G.S. 143-128.1C** as a “capital improvement project undertaken for the benefit of a governmental entity and private developer pursuant to a development contract that includes construction of a public facility or other improvements, including paving, grading, utilities, infrastructure, reconstruction, or repair, and may include both public and private facilities.”<sup>[1]</sup> Under the P3 construction delivery method, the unit of government is authorized to acquire, construct, own, lease (as lessor or lessee), and operate a public-private project or facilities within a public-private project, and may make loans or grants for these purposes. Importantly, the private developer must provide at least 50% of the financing for the total cost of the project.<sup>[2]</sup> The Local Government Commission must approve the contract if it involves a capital or operating lease.<sup>[3]</sup>

### **P3 Contracting Process**

To enter into a P3 contract, units of government must comply with the statutory requirements set out in **G.S. 143-128.1C**. The procedures are similar to those required for design-build and design-build bridging contracts only in that they are based on the Mini-Brooks Act. Otherwise, the P3 procurement requirements are substantially different.

**Adopt Written Findings:** To begin the P3 contracting process, the unit of government must make written findings that it has a critical need for the project. While the statute does not specifically require governing board approval, entities that are a public body under the Open Meetings Act (**Article 33C of Chapter 143**) must adopt these findings at an open meeting of the body, which for local governments means the governing board must approve the findings. Unlike the design-build and design-build bridging statutes, there are no specific criteria that must be adopted by the governing board other than a finding that there is a critical need for the project.

**Determine Programming Needs:** After approving the use of the P3 method, the unit must determine its programming requirements for the facilities to be constructed under the P3 contract and the form in which private developers submit their qualifications. This information forms the basis of the RFQ the unit advertises.

**Publish Notice of RFQ:** Next, the unit must advertise notice for interested private developers to submit their qualifications. The advertisement must be published in a newspaper of general circulation within the county in which the unit is located. The statute does not specify a minimum timeframe for the publication period, but units should choose a time sufficient for interested parties to develop a proposal taking into consideration the complexity of a P3 project. While the unit is not required to

Copyright © 2009 to Present School of Government at the University of North Carolina

<https://canons.sog.unc.edu/2014/03/new-construction-delivery-methods-public-private-partnerships-p3/>

publish the programming requirements in the advertisement itself, it must make these requirements available to potential respondents in whatever form the unit deems appropriate.

**Receive Responses:** Units may choose to receive responses to its RFQ in any form it deems appropriate; sealed proposals and a public opening are not required. Private developers must submit the following information as part of their response to the RFQ:

- 1) Evidence of financial stability (the statute specifies that information that constitutes a “trade secret” under G.S. 66-152(3) remains confidential).
- 2) Experience with similar projects.
- 3) An explanation of project team selection by either listing licensed contractors, licensed subcontractors, and licensed design professionals whom the private developer proposes to use for the project’s design and construction, or a statement outlining a strategy for open contractor and subcontractor selection based competitive bidding procedures.
- 4) A statement of the developer’s availability to undertake the public-private project and projected time line for project completion.
- 5) Any other information required by the unit.

**Evaluate Responses and Select Developer:** The unit may award the development contract to the private developer it determines to be best qualified, which is the standard of award under the Mini-Brooks Act (G.S. 143-64.31). However, unlike a traditional Mini-Brooks Act selection process, the unit may negotiate with one or more of the respondents during the evaluation process. The statute is silent on the criteria the unit must use in evaluating the qualifications of the respondents, so the unit is free to develop their own criteria based on its programming needs, project scope, and any other factors related to the project it deems appropriate.

**Award Development Contract:** The unit’s governing board must award the development contract at an open meeting after a public hearing and at least 30 days’ published notice of the terms of the contract. The advertisement of the terms of the contract and the public hearing must be in a newspaper of general circulation within the county in which the unit is located. The unit must also make available a summary of the contract terms and conditions, and indicate how to obtain a copy of the complete contract.

**Development Contract Terms and Conditions:** The development contract between the unit and the private developer specifies the parties’ interests, roles, and responsibilities for the project. At a minimum, the contract must address:

- 1) The property interests of the unit and the private developer (this could include ownership, lease arrangements, or both).

Copyright © 2009 to Present School of Government at the University of North Carolina.

<https://canons.sog.unc.edu/2014/03/new-construction-delivery-methods-public-private-partnerships-p3/>

- 2) The development responsibilities of the unit and the private developer (this could include both construction and on-going operation and maintenance activities).
- 3) The financing responsibilities of the unit and the private developer (remember that the private developer must provide at least 50% of the financing for the total cost of the project).
- 4) The parties' good faith efforts to comply with HUB participation requirements and to recruit and select small business entities (the term "small business entities" is not defined in the statute).

The development contract also may require the developer to be responsible for some or all of the construction, purchase of materials and equipment, compliance with HUB participation requirements, and to use the same contractor(s) as the unit. It also may require the developer to purchase materials for the project at a reasonable price. If the project utilizes the design-build construction delivery method, the procurement requirements of the new design-build statute (G.S. 143-128.1A) apply.

Performance and payment bond requirements also apply, and the statute sets out specific procedures for claims under a payment bond made against the private developer.<sup>[1]</sup>

The private developer with whom the unit contracts cannot perform any design or construction work on the project unless a contractor defaults, a qualified replacement cannot be obtained in a timely manner, and the unit approves.

Finally, the private developer and its contractors must comply with state HUB participation requirements, which include bidders' good faith efforts to solicit historically underutilized businesses on building construction projects costing \$300,000 or more (G.S. 143-128.2).

[1] G.S. 143-128.1C(a)(8).

[2] G.S. 143-128.1C(b).

[3] G.S. 143-128.1C(j). A capital or operating lease involving a public school cannot contain provisions relating to student assignment (G.S. 143-128.1C(l)).

[4] G.S. 143-128.1C(g).

All rights reserved. This blog post is published and posted online by the School of Government to address issues of interest to government officials. This blog post is for educational and informational use and may be used for those purposes without permission by providing acknowledgment of its source. Use of this blog post for commercial purposes is prohibited. To browse a complete catalog of School of Government publications, please visit the School's website at [www.sog.unc.edu](http://www.sog.unc.edu) or contact the Bookstore, School of Government, CB# 3330 Knapp-Sanders Building, UNC Chapel Hill, Chapel Hill, NC 27599-3330; e-mail [sales@sog.unc.edu](mailto:sales@sog.unc.edu); telephone 919.966.4119; or fax 919.962.2707.

## Public-Private Partnership

A new law became effective on October 10, 2023, and applies to any covered public enterprise agreements executed on or after that date.

**Part IV of S.L. 2023-138** (See attachment F) compels LGC approval of any agreement in which a local government concedes or transfers control of a public enterprise that the local government owns or operates to a nongovernmental entity.

The requirements for these arrangements include holding a public hearing describing the terms of the agreement. After the public hearing, the local unit's governing board may proceed only after adopting a resolution declaring that the proposed arrangement is in the public interest. In making this determination, the board must consider ALL the following:

1. The physical condition of the public enterprise;
2. The capital replacements, additions, expansions, and repairs needed for the public enterprise to provide reliable service and meet all applicable federal standards;
3. The availability of federal and State grants and loans for system upgrades and repairs of the public enterprise;
4. The willingness and the ability of the nongovernmental entity to make system upgrades and repairs and provide high-quality and cost-effective service;
5. The reasonableness of the amount to be paid to the unit of local government to enter the arrangement;
6. The reasonableness of any amounts to be paid by the unit of local government to exit the arrangement;
7. The service quality guarantees provided by the arrangement and the consequences of any failure to satisfy the guarantees;
8. The most recent income and expense statement and asset and liabilities balance sheet of the nongovernmental entity and any consolidated nongovernmental entity;
9. The projected rates to customers of the public enterprise during the term of the arrangement and the affordability of the services of the public enterprise resulting from such projected rates;
10. The experience of the nongovernmental entity (and, if applicable, its affiliates within the consolidated nongovernmental entity) in the operation of utility systems similar to the public enterprise that is the subject of the arrangement; and
11. The alternatives to entering the arrangement and the potential impact on utility customers if the arrangement is not entered.

Local units should record the governing board's findings addressing all these considerations as part of the written resolution or supporting documentation.

Once the governing board adopts its resolution, the LGC may consider the proposed arrangement for approval. Like a bond issuance, the local government will apply to the LGC for approval and work with Department of State Treasurer staff to prepare the appropriate documentation and address any concerns.

ATTACHMENT E

E-1



### Public-Private Partnership

The LGC may only approve the proposed arrangement if it finds and determines that the customers of the public enterprise will enjoy reasonable and material short-term and long-term savings and other net benefits from the arrangement during the term of the arrangement without the imposition of any material cost or charge upon termination of the arrangement.

The LGC may consider any of the following in making its determination (this is a non-exclusive list):

1. The projected financial feasibility of the proposed arrangement in the short-term and long-term, its effect on rates to be charged to the customers of the public enterprise under the arrangements being proposed, and its effect on the quality of services to be provided by the public enterprise under the arrangement.
2. The projected rates to customers of the public enterprise during the term of the arrangement, the basis for the establishment of such rates and the reasonableness of the basis, and the affordability of the services of the public enterprise resulting from such projected rates.
3. If the unit of local government will receive an initial payment for participating in the arrangement, a summary of the unit of local government's proposed plans for the use of the initial payment.
4. If there is any indebtedness of the unit of local government associated with the public enterprise, the plans for the retirement or defeasance of such indebtedness.
5. The financial condition of the nongovernmental entity and its affiliates within the consolidated nongovernmental entity and its ability to carry out the undertakings required of the nongovernmental entity in the arrangement.
6. The experience of the nongovernmental entity and its affiliates within the consolidated non-governmental entity in the operation of utility systems similar to the public enterprise that is the subject of the arrangement.
7. The nongovernmental entity's plans to finance its initial participation in the arrangement and future improvements to the public enterprise and the expected participation of the unit of local government in any financing.
8. The obligations of the nongovernmental entity set forth in the agreement for the maintenance of the public enterprise and the installation of improvements to the public enterprise during the term of the arrangement and the requirements of the agreement that adequate reserves be maintained during the term of the arrangement for such maintenance and improvements.
9. The plans set forth in the agreements for the arrangement for maintaining the quality of the components of the public enterprise to be returned to the control of the unit of local government at the end of the term of the agreement.
10. Any ongoing financial and other commitments of the unit of local government under the arrangement during its term.
11. Any financial payments the unit of local government is expected to be required to pay to the nongovernmental entity or any other person or entity at the end of the arrangement.

**Public-Private Partnership**

12. The effect, if any, of the arrangement on the tax status of interest on debt obligations issued by the unit of local government, or any other units of local government on account of contractual arrangements the other unit of local government may have with the unit of local government proposing the agreement being considered.

As with other contracts requiring LGC approval, any agreement subject to this new law that is executed without LGC approval is void. And the law makes it unlawful for any officer, employee, or agent of a local unit to take any actions pursuant to the agreement.

alteration, or removal, the cost shall (i) include all labor and materials costs associated with the project for the applicable dam and (ii) not include the costs associated with acquisition of land or right-of-way, design, quality control, electrical generating machinery, or constructing a roadway across the dam.

- (3) Immediately upon completion of construction, repair, alteration, or removal of a dam, the owner shall file a certification with the Director, on a form prescribed by the Department, and accompanying documentation, which shows actual cost incurred by the owner for construction, repair, alteration, or removal of the applicable dam.
- a. The owner's certification and accompanying documentation shall be filed with the as-built plans and the engineer's certification.
- b. If the Director finds that the owner's certification and accompanying documentation contain inaccurate cost information, the Director shall either withhold final impoundment approval, if applicable, or revoke final impoundment approval, if applicable, until the owner provides accurate documentation and that documentation has been verified by the Department.
- (4) Final approval to impound shall not be granted until the owner's certification and the accompanying documentation are filed in accordance with subdivision (3) of this subsection and the remainder of the application processing and compliance fee has been paid as provided by this subsection.
- (5) Payment of the application processing and compliance fee shall be by check or money order made payable to the Department and reference the applicable dam.

(b) The Dam Safety Account is established as a nonreverting account within the Department. Fees collected under this section shall be credited to the Account and shall be applied to the costs of administering this Part."

**PART IV. REQUIRE APPROVAL BY THE LOCAL GOVERNMENT COMMISSION FOR LOCAL GOVERNMENTS TO ENTER INTO AGREEMENTS TO CEDE OR TRANSFER CONTROL OVER A PUBLIC ENTERPRISE TO A NONGOVERNMENTAL ENTITY; PROHIBIT LOCAL GOVERNMENTS FROM ENTERING NONDISCLOSURE AGREEMENTS IN ORDER TO RESTRICT ACCESS TO PUBLIC RECORDS SUBJECT TO DISCLOSURE UNDER THE PUBLIC RECORDS ACT**

SECTION 5.(a) Article 8 of Chapter 159 of the General Statutes reads as rewritten:

"Article 8.

"~~Financing Agreements and Other Financing Arrangements~~; Arrangements; Arrangements for Nongovernmental Control of Public Enterprises.

...  
**"§ 159-154. Nongovernmental control of public enterprises.**

- (a) For purposes of this section, the following definitions apply:
- (1) Adjusted revenues. – Gross revenue of a public enterprise minus the cost of commodity purchases and wholesale electricity purchases for the public enterprise.
- (2) Consolidated nongovernmental entity. – Collectively, all affiliated nongovernmental entities, which includes each entity's parents,

ATTACHMENT F

F-1

4/16/2024, 4:31 PM

subsidiaries, and each other entity that owns, directly or indirectly, at least ten percent (10%) of the capital or voting rights of the entity, and each other entity in which the entity owns, directly or indirectly, at least ten percent (10%) of the capital or voting rights.

- (3) Control. – Any one or more of the following, except that a contractual arrangement by a unit of local government with a nongovernmental entity to provide specified maintenance services for a fixed fee or fee per service basis alone does not create control of the public enterprise for purposes of this section:
- a. The authority to expend or otherwise manage during any fiscal year more than fifty percent (50%) of a public enterprise's adjusted revenues.
  - b. Responsibility for provision to the public of the services previously provided by the public enterprise.
  - c. Responsibility for operation and maintenance of a material portion of the assets and facilities of the public enterprise.
  - d. The authority to manage a material portion of the staff responsible for operation and maintenance of the assets and facilities of the public enterprise.
- (4) Nongovernmental entity. – Any person or entity other than (i) the State, (ii) a unit of local government, or (iii) a public body created pursuant to Chapter 159B of the General Statutes.
- (5) Public enterprise. – All or a material portion of one or more of the systems set forth in G.S. 160A-311, G.S. 153A-274, and Chapter 162A of the General Statutes.
- (6) Unit of local government. – A "unit of local government" as defined in G.S. 159-7 and a "public authority" as defined in G.S. 159-7.

(b) No unit of local government may concede or transfer control of any public enterprise that the unit of local government owns or operates to any nongovernmental entity or consolidated nongovernmental entity or enter into an agreement to do so unless the concession or transfer of control and the agreement thereunder have been approved by the Commission pursuant to this section as evidenced by the secretary's certificate thereon. Any agreement subject to Commission approval under this section that does not bear the secretary's certificate thereon shall be void, and it shall be unlawful for any officer, employee, or agent of a unit of local government to take any actions thereunder.

(c) Before executing an agreement subject to this section, the governing board of the unit of local government shall file an application for Commission approval of the agreement with the secretary of the Commission. The application shall state such facts and have attached to it such documents concerning the proposed agreement and the arrangements proposed to be carried out thereunder as the secretary may require. The Commission may prescribe the form of the application. Before the secretary accepts the application, the secretary may require the governing board or its representatives to attend a preliminary conference at which time the secretary and deputies may informally discuss the proposed agreement and arrangements proposed to be carried out thereunder.

(d) Prior to the Commission's consideration of whether to approve an agreement subject to this section and the arrangements thereunder, the governing body of the unit of local government shall conduct a public hearing on whether the proposed arrangement is in the public interest and following the public hearing the governing body shall adopt a resolution or take a similar action stating that it determines that the proposed arrangement is in the public interest. The public hearing shall be held by the governing body of the unit of

local government proposing the arrangement following publication of notice of the public hearing at least 10 days prior to the public hearing. The notice of public hearing shall describe the proposed arrangement in general terms. In determining that the arrangement is in the public interest, the governing body of the unit of local government shall consider, at a minimum, all of the following:

- (1) The physical condition of the public enterprise.
- (2) The capital replacements, additions, expansions, and repairs needed for the public enterprise to provide reliable service and meet all applicable federal standards.
- (3) The availability of federal and State grants and loans for system upgrades and repairs of the public enterprise.
- (4) The willingness and the ability of the nongovernmental entity to make system upgrades and repairs and provide high-quality and cost-effective service.
- (5) The reasonableness of the amount to be paid to the unit of local government to enter into the arrangement.
- (6) The reasonableness of any amounts to be paid by the unit of local government to exit the arrangement.
- (7) The service quality guarantees provided by the arrangement and the consequences of any failure to satisfy the guarantees.
- (8) The most recent income and expense statement and asset and liabilities balance sheet of the nongovernmental entity and any consolidated nongovernmental entity.
- (9) The projected rates to customers of the public enterprise during the term of the arrangement and the affordability of the services of the public enterprise resulting from such projected rates.
- (10) The experience of the nongovernmental entity and its affiliates within the consolidated nongovernmental entity in the operation of utility systems similar to the public enterprise that is the subject of the arrangement.
- (11) The alternatives to entering into the arrangement and the potential impact on utility customers if the arrangement is not entered.

(e) The Commission may approve an agreement for a unit of local government to concede or transfer control of a public enterprise and the arrangement to do so if it finds and determines that the customers of the public enterprise will enjoy reasonable and material short-term and long-term savings and other net benefits from the arrangement during the term of the arrangement without the imposition of any material cost or charge on the unit of local government or its customers upon termination of the arrangement. In determining whether a proposed agreement and the arrangements thereunder shall be approved, the Commission shall have authority to inquire into and to give consideration to such matters that it may believe to have bearing on whether the proposed agreement and the arrangement thereunder should be approved. Such matters may include any of the following:

- (1) The projected financial feasibility of the proposed arrangement in the short-term and long-term, its effect on rates to be charged to the customers of the public enterprise under the arrangements being proposed, and its effect on the quality of services to be provided by the public enterprise under the arrangement.
- (2) The projected rates to customers of the public enterprise during the term of the arrangement, the basis for the establishment of such rates and the reasonableness of the basis, and the affordability of the services of the public enterprise resulting from such projected rates.

- (3) If the unit of local government will receive an initial payment for participating in the arrangement, a summary of the unit of local government's proposed plans for the use of the initial payment.
  - (4) If there is any indebtedness of the unit of local government associated with the public enterprise, the plans for the retirement or defeasance of such indebtedness.
  - (5) The financial condition of the nongovernmental entity and its affiliates within the consolidated nongovernmental entity and its ability to carry out the undertakings required of the nongovernmental entity in the arrangement.
  - (6) The experience of the nongovernmental entity and its affiliates within the consolidated non-governmental entity in the operation of utility systems similar to the public enterprise that is the subject of the arrangement.
  - (7) The nongovernmental entity's plans to finance its initial participation in the arrangement and future improvements to the public enterprise and the expected participation of the unit of local government in any financing.
  - (8) The obligations of the nongovernmental entity set forth in the agreement for the maintenance of the public enterprise and the installation of improvements to the public enterprise during the term of the arrangement and the requirements of the agreement that adequate reserves be maintained during the term of the arrangement for such maintenance and improvements.
  - (9) The plans set forth in the agreements for the arrangement for maintaining the quality of the components of the public enterprise to be returned to the control of the unit of local government at the end of the term of the agreement.
  - (10) Any ongoing financial and other commitments of the unit of local government under the arrangement during its term.
  - (11) Any financial payments the unit of local government is expected to be required to pay to the nongovernmental entity or any other person or entity at the end of the arrangement.
  - (12) The effect, if any, of the arrangement on the tax status of interest on debt obligations issued by the unit of local government, or any other units of local government on account of contractual arrangements the other unit of local government may have with the unit of local government proposing the agreement being considered.
- (f) The Commission may require that any projection or other analysis provided to the Commission in connection with its consideration of the arrangement be prepared by a qualified independent expert approved by the Commission.
- (g) If the Commission tentatively decides to deny the application because it cannot be supported from the information presented to it, it shall so notify the unit of local government filing the application. If the Commission approves or denies the application, the Commission shall enter its order setting forth such approval or denial of the application. If the Commission enters an order denying the application, the proceedings under this section shall be concluded. An order approving an application shall not be construed as an approval of the legality of the agreement in any respect.
- (h) If the Commission approves an agreement and the arrangements thereunder as provided in this section and thereafter the parties determine to terminate the agreement voluntarily prior to the expiration of its stated term, the unit of local government shall not enter into any such termination arrangement unless the termination is approved by the

Commission following a procedure similar to the procedure for initial approval of the agreement and arrangement required by this section. This section shall not prohibit the termination of an agreement in the exercise of legal remedies following a breach of the agreement in accordance with its terms.

(i) If the Commission approves an agreement and the arrangements thereunder as provided in this section and thereafter the parties determine to amend the agreement in a material respect, the unit of local government shall not enter into any such amendment unless the amendment is approved by the Commission following a procedure similar to the procedure for initial approval of the agreement.

(j) Nothing in this section shall be construed to apply to the sale of a public enterprise to a utility regulated by the North Carolina Utilities Commission."

**SECTION 5.(b)** G.S. 132-1 is amended by adding a new subsection to read:

"(c) No political subdivision of this State may enter into a nondisclosure agreement in order to restrict access to public records subject to disclosure under this Chapter. The contract by which a political subdivision of this State agrees not to disclose information deemed confidential under State law shall be a public record, unless the existence of the contract is also deemed confidential under State law. If a nondisclosure agreement is associated with one or more closed session meetings under Article 33C of Chapter 143 of the General Statutes, the nondisclosure agreement shall be included in the minutes of each closed session meeting."

**SECTION 5.(c)** Subsection (b) of this section becomes effective November 1, 2023, and applies to any nondisclosure agreement entered into on or after that date. The remainder of this section is effective when it becomes law.

## **PART V. EMPLOYEE CLASSIFICATION AND COMPENSATION EXEMPTIONS FOR UTILITIES COMMISSION AND PUBLIC STAFF**

**SECTION 6.(a)** G.S. 62-14 reads as rewritten:

**"§ 62-14. Commission staff; structure and function.**

(a) The Commission is authorized and empowered to employ hearing examiners; court reporters; a chief clerk and deputy clerk; a commission attorney and assistant commission attorney; transportation and pipeline safety inspectors; and such other professional, administrative, technical, and clerical personnel as the Commission may determine to be necessary in the proper discharge of the Commission's duty and responsibility as provided by law. The chairman shall organize and direct the work of the Commission staff.

(b) The salaries and compensation of all such personnel shall be fixed in the manner provided by law for fixing and regulating salaries and compensation by other State ~~agencies~~ agencies, except that the Commission and its employees are exempt from the classification and compensation rules established by the State Human Resources Commission pursuant to G.S. 126-4(1) through (4); G.S. 126-4(5) only as it applies to hours and days of work, vacation, and sick leave; G.S. 126-4(6) only as it applies to promotion and transfer; G.S. 126-4(10) only as it applies to the prohibition of the establishment of incentive pay programs; and Article 2 of Chapter 126 of the General Statutes, except for G.S. 126-7.1.

(c) The chairman, within allowed budgetary limits and as allowed by law, shall authorize and approve travel, subsistence and related expenses of such personnel, incurred while traveling on official business."

**SECTION 6.(b)** G.S. 62-15 reads as rewritten:

**"§ 62-15. Office of executive director; Public Staff, structure and function.**

(a) There is established in the Commission the office of executive director, whose salary and longevity pay shall be the same as that fixed for members of the Commission.



Town of Holden Beach  
AGENDA TOPIC COVER SHEET

TO: Holden Beach BOC

MEETING DATE: 4/30/24

FROM: Rick Smith/Page Dyer

DATE SUBMITTED: 4/18/24

**ISSUE/ACTION REQUESTED:** Request staff to issue an RFP (request for proposal) to repair or rebuild the Holden Beach Pier that will meet North Carolina Building Codes.

**BACKGROUND/PURPOSE OF REQUEST:** This is a continuing effort to have the pier repaired to have it serve as a recreational activity for property owners, tourists, and the local community. The pier is a staple to Holden Beach, a part of history that has served many generations of family activities, producing memories that these generations want to pass on to future generations. There have been numerous attempts to get reasonable bids by a wider range of contractors, however the staff has not been allowed to submit RFP since original bids. There is no reason for the town to not submit RFP to see what the cost would be with different methods of engineering.

**FISCAL IMPACT:** (select one)

BUDGET AMENDMENT REQUIRED:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
CAPITAL IMPROVEMENT PLAN ITEM:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
PRE-AUDIT CERTIFICATION REQUIRED:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
REVIEWED BY FINANCE DIRECTOR:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

**CONTRACTS/AGREEMENTS:** (select one)

REVIEWED BY TOWN ATTORNEY:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
----------------------------	------------------------------	--

**ADVISORY BOARD RECOMMENDATION:**

N/A

**FINANCE RECOMMENDATION:**

N/A



---

**TOWN MANAGER'S RECOMMENDATION:**

N/A

---

**ATTACHMENT:**



Town of Holden Beach  
AGENDA TOPIC COVER SHEET

TO: Holden Beach BOC

MEETING DATE: 4/30/24

FROM: Rick Smith /Page Dyer

DATE SUBMITTED: 4/18/224

**ISSUE/ACTION REQUESTED:**

Request staff to issue a RFP ( request for proposal) to repair or replace the building located at the town property located at 441 OBW HB. The building will need to meet NC building code requirements

**BACKGROUND/PURPOSE OF REQUEST:**

The purpose is to have recreational space on the property that allows for retail, food vendors , restrooms/ outdoor showers and a entry / ticket booth to the towns Pier. A private / public partnership with town would be welcomed . The staff would direct this type of partnership.

**FISCAL IMPACT:** (select one)

BUDGET AMENDMENT REQUIRED:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
CAPITAL IMPROVEMENT PLAN ITEM:	YES <input checked="" type="checkbox"/>	NO <input checked="" type="checkbox"/>
PRE-AUDIT CERTIFICATION REQUIRED:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
REVIEWED BY FINANCE DIRECTOR:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

**CONTRACTS/AGREEMENTS:** (select one)

REVIEWED BY TOWN ATTORNEY:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
----------------------------	------------------------------	--

**ADVISORY BOARD RECOMMENDATION:**

N/A

**TOWN MANAGER'S RECOMMENDATION:**

N/A

**FINANCE RECOMMENDATION:**

N/A

**ATTACHMENT:**

Public-Private Partnership

## Public-Private Partnership for the Pier Properties

A public-private partnership could be a viable arrangement for the pier property, and it is prudent for the BOC to explore this option further.

A new law became effective on October 10, 2023, and applies to any covered public enterprise agreements executed on or after that date.

**Part IV of S.L. 2023-138** compels LGC approval of any agreement in which a local government concedes or transfers control of a public enterprise that the local government owns or operates to a nongovernmental entity.

The requirements for these arrangements include holding a public hearing describing the terms of the agreement. After the public hearing, the local unit's governing board may proceed only after adopting a resolution declaring that the proposed arrangement is in the public interest. In making this determination, the board must consider ALL the following:

1. The physical condition of the public enterprise;
2. The capital replacements, additions, expansions, and repairs needed for the public enterprise to provide reliable service and meet all applicable federal standards;
3. The availability of federal and State grants and loans for system upgrades and repairs of the public enterprise;
4. The willingness and the ability of the nongovernmental entity to make system upgrades and repairs and provide high-quality and cost-effective service;
5. The reasonableness of the amount to be paid to the unit of local government to enter the arrangement;
6. The reasonableness of any amounts to be paid by the unit of local government to exit the arrangement;
7. The service quality guarantees provided by the arrangement and the consequences of any failure to satisfy the guarantees;
8. The most recent income and expense statement and asset and liabilities balance sheet of the nongovernmental entity and any consolidated nongovernmental entity;
9. The projected rates to customers of the public enterprise during the term of the arrangement and the affordability of the services of the public enterprise resulting from such projected rates;
10. The experience of the nongovernmental entity (and, if applicable, its affiliates within the consolidated nongovernmental entity) in the operation of utility systems similar to the public enterprise that is the subject of the arrangement; and
11. The alternatives to entering the arrangement and the potential impact on utility customers if the arrangement is not entered.

## Public-Private Partnership for the Pier Properties

Local units should record the governing board's findings addressing all these considerations as part of the written resolution or supporting documentation.

Once the governing board adopts its resolution, the LGC may consider the proposed arrangement for approval. Like a bond issuance, the local government will apply to the LGC for approval and work with Department of State Treasurer staff to prepare the appropriate documentation and address any concerns.

The LGC may only approve the proposed arrangement if it finds and determines that the customers of the public enterprise will enjoy reasonable and material short-term and long-term savings and other net benefits from the arrangement during the term of the arrangement without the imposition of any material cost or charge upon termination of the arrangement.

The LGC may consider any of the following in making its determination (this is a non-exclusive list):

1. The projected financial feasibility of the proposed arrangement in the short-term and long-term, its effect on rates to be charged to the customers of the public enterprise under the arrangements being proposed, and its effect on the quality of services to be provided by the public enterprise under the arrangement.
2. The projected rates to customers of the public enterprise during the term of the arrangement, the basis for the establishment of such rates and the reasonableness of the basis, and the affordability of the services of the public enterprise resulting from such projected rates.
3. If the unit of local government will receive an initial payment for participating in the arrangement, a summary of the unit of local government's proposed plans for the use of the initial payment.
4. If there is any indebtedness of the unit of local government associated with the public enterprise, the plans for the retirement or defeasance of such indebtedness.
5. The financial condition of the nongovernmental entity and its affiliates within the consolidated nongovernmental entity and its ability to carry out the undertakings required of the nongovernmental entity in the arrangement.
6. The experience of the nongovernmental entity and its affiliates within the consolidated non-governmental entity in the operation of utility systems similar to the public enterprise that is the subject of the arrangement.
7. The nongovernmental entity's plans to finance its initial participation in the arrangement and future improvements to the public enterprise and the expected participation of the unit of local government in any financing.
8. The obligations of the nongovernmental entity set forth in the agreement for the maintenance of the public enterprise and the installation of improvements to the public enterprise during the term of the arrangement and the requirements of the

## Public-Private Partnership for the Pier Properties

agreement that adequate reserves be maintained during the term of the arrangement for such maintenance and improvements.

9. The plans set forth in the agreements for the arrangement for maintaining the quality of the components of the public enterprise to be returned to the control of the unit of local government at the end of the term of the agreement.
10. Any ongoing financial and other commitments of the unit of local government under the arrangement during its term.
11. Any financial payments the unit of local government is expected to be required to pay to the nongovernmental entity or any other person or entity at the end of the arrangement.
12. The effect, if any, of the arrangement on the tax status of interest on debt obligations issued by the unit of local government, or any other units of local government on account of contractual arrangements the other unit of local government may have with the unit of local government proposing the agreement being considered.

As with other contracts requiring LGC approval, any agreement subject to this new law that is executed without LGC approval is void. And the law makes it unlawful for any officer, employee, or agent of a local unit to take any actions pursuant to the agreement.

The request for proposals to partner with the Town on the development and operation of the pier property should address the items described above in case the LGC decides to get involved with approval of the arrangement. Otherwise, we could end up wasting time and money pursuing an arrangement that can't be executed. In any case, addressing the LGC requirements represents a best practice approach for the Town to follow.



Town of Holden Beach  
AGENDA TOPIC COVER SHEET

TO: Holden Beach BOC

MEETING DATE: 4/30/2024

FROM: Tracey Thomas & Tom Myers

DATE SUBMITTED: 4/19/2024

**ISSUE/ACTION REQUESTED:**

Discussion and possible action on placing the Town Manager's report on the BOC meeting agenda.

**BACKGROUND/PURPOSE OF REQUEST:**

The Town Manager typically provides the Commissioners with an update on the status of key projects and programs, such as:

- The sale of 796 OBW
- Sewer Station #2 grants and upgrade work
- Stormwater Study
- Water System Assessment
- RFP to demolish the pavilion

This information is typically provided to the Commissioners in written format at the beginning of the BOC meeting and discussed by the Town Manager after the Public Comments towards the end of the meeting.

Moving this report up onto the regular agenda similar to the Police Chief, Building Inspector, and Finance Director reports will allow for more discussion and possible action. It will also increase transparency by including the report information in the meeting packet for the public to review prior to the meeting.

**FISCAL IMPACT:** (circle one)

BUDGET AMENDMENT REQUIRED: NO

CAPITAL PROJECT ORDINANCE REQUIRED: NO

PRE-AUDIT CERTIFICATION REQUIRED: NO

REVIEWED BY FINANCE DIRECTOR: NO

**CONTRACTS/AGREEMENTS:** (circle One)

REVIEWED BY TOWN ATTORNEY: (YES/NO) N/A

**ADVISORY BOARD RECOMMENDATION:** N/A

**FINANCE RECOMMENDATION:** N/A

**TOWN MANAGER'S RECOMMENDATION:**