



**Town of Holden Beach  
Board of Commissioners  
Public Hearing/Regular Meeting**

**Tuesday, February 16, 2021  
5:00 PM**

**Holden Beach Town Hall  
Public Assembly**



**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS' PUBLIC HEARING/REGULAR MEETING  
HOLDEN BEACH TOWN HALL – PUBLIC ASSEMBLY  
TUESDAY, FEBRUARY 16, 2021 - 5:00 P.M.**

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**PUBLIC HEARING:** Ordinance 21-02 (formerly Ordinance 20-18), An Ordinance Amending the Holden Beach Code of Ordinances, Section 157.006: Definitions (Height Measuring Point)  
(Pages 72 – 74)

**REGULAR MEETING:**

1. Invocation
2. Call to Order/ Welcome
3. Pledge of Allegiance
4. Agenda Approval
5. Approval of Minutes
  - a. Minutes of the Public Hearing/Regular Meeting of January 19, 2021 (Pages 1 – 9)
6. Public Comments on Agenda/General Items
7. Report on Bike Lane Potential and Associated Ocean Boulevard Status – Caitlin Marks & Chad Kimes, NC Department of Transportation (Town Manager Hewett) (Pages 10 – 13)
8. Discussion and Possible Action on System Development Fees Report – Mihaela Coopersmith, Raftelis (Town Manager Hewett) (Page 14, Separate Packet)
9. Discussion and Possible Action on Brunswick County Proposed Wholesale Water Rates – Town Manager Hewett (Page 15)
10. Police Report – Chief Dixon (Pages 16)
11. Report and Possible Action on Speed Limit on Ocean Boulevard– Chief Dixon (Pages 17 – 66)
12. Discussion and Possible Action on Ordinance 21-01 (Formerly Ordinance 20-17), An Ordinance Amending the Holden Beach Code of Ordinances, Section 94.03: Frontal Dune Policy and Regulations– Inspections Director Evans (Pages 67 – 71)

13. Discussion and Possible Action on Ordinance 21-02 (Formerly Ordinance 20-18), An Ordinance Amending the Holden Beach Code of Ordinances, Section 157.006: Definitions (Height Measuring Point) (cannot be adopted until 24 hours from time of the public hearing) – Inspections Director Evans (Pages 72 – 74)
14. Discussion and Possible Approval of Resolution 21-01, Resolution Adopting the NC Regional Hazard Mitigation Plan – Inspections Director Evans (Pages 75 – 77)
15. Discussion and Possible Approval of Resolution 21-02, Resolution of the Board of Commissioners of the Town of Holden Beach, North Carolina, Adopting the 2019 Town of Holden Beach Land Use Plan – Town Clerk Finnell (Pages 78 – 79)
16. Discussion and Possible Action on a Revised Waste Trash Ordinance (Holden Beach Code of Ordinances, Chapter 50: Solid Waste) – Commissioners Sullivan and Kwiatkowski (Pages 80 – 85)
17. Review and Discussion of Board of Commissioners’ Objectives Set for this Budget Year with Consideration of Priorities for the Second Half of this Budget Cycle – Commissioner Kwiatkowski (Pages 86 – 88)
18. Discussion and Possible Action on Setting a Budget Calendar – Town Manager Hewett (Page 89)
19. Discussion and Possible Approval of Contract Between the Town and Martin Starnes and Associates for Audit Services for Fiscal Year 2020 – 2021 – Town Manager Hewett (Pages 90 – 108)
20. Discussion and Possible Approval of Ordinance 21-03, An Ordinance Amending Ordinance 20-10, The Revenues and Appropriations Ordinance for Fiscal Year 2020 – 2021 (Amendment No. 6) – Town Manager Hewett (Pages 109 – 110)
21. Discussion and Possible Approval of Lease Agreement for Vactor Truck – Public Works Director Clemmons (Pages 111 – 139)
  - a. Resolution 21-03, Resolution of Governing Body, Extract of Minutes
22. Discussion and Possible Action on Parking Recommendations – Commissioners Tyner and Murdock (Pages 140 – 142)
23. Town Manager’s Report
24. Mayor’s Comments
25. Board of Commissioners’ Comments

26. Executive Session Pursuant to North Carolina General Statute 143-318.11(a)(6), To Discuss Qualifications, Competence, Performance of a Public Employee (Commissioners Tyner and Kwiatkowski) and North Carolina General Statute 143-318.11(a)(3), To Consult with the Town Attorney (Town Manager Hewett)

27. Adjournment

**\* Due to the Town of Holden Beach's State of Emergency Restrictions and Governor Cooper's Safer at Home Order, in person public attendance is prohibited. The meeting will be livestreamed on the Town's Facebook page. Visit <https://www.facebook.com/holdenbeachtownhall/> to watch the livestream. Public comments can be submitted to [heather@hbtownhall.com](mailto:heather@hbtownhall.com) or deposited in the Town's drop box at Town Hall prior to 3:00 p.m. on February 16, 2021. Comments for the public hearing will be accepted until February 17, 2021 at 5:00 p.m. If you would like the comments to be heard at the public hearing, they must be submitted by February 16, 2021 at 3:00 p.m.**



**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS  
PUBLIC HEARING/REGULAR MEETING  
TUESDAY, JANUARY 19, 2021 – 5:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Public Hearing/Regular Meeting on Tuesday, January 19, 2021 at 5:00 p.m. in the Town Hall Public Assembly. Present were Mayor Pro Tem Gerald Brown; Commissioners Woody Tyner, Brian Murdock, Mike Sullivan and Pat Kwiatkowski; Town Manager David W. Hewett; Town Clerk Heather Finnell; Inspections Director Tim Evans; Assistant Town Manager Christy Ferguson; Police Chief Jeremy Dixon; and Town Attorney Noel Fox. Mayor Holden was unable to attend the meeting. The meeting was streamed on the Town's Facebook page and an opportunity for public comments was provided prior to the meeting due to the restrictions in place for COVID-19.

**PUBLIC HEARING: ORDINANCE 21-01 (FORMERLY 20-17), AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, SECTION 94.03: FRONTAL DUNE POLICY AND REGULATIONS**

Inspections Director Evans provided background on the proposed change. When the Town's frontal dune is different than CAMA's and CAMA's is further out, then you can go up to fifty feet on the other side on the toe of our frontal dune and have a pool. Mayor Pro Tem Brown inquired if someone on the oceanfront with a pool under the house could move the pool and build a larger deck under this proposed ordinance. Inspections Director Evans provided different scenarios on what could be done. Commissioner Sullivan asked if Inspections Director Evans has any concerns that placing pools between the two dunes will weaken the dune structure. Inspections Director Evans replied they require a letter from an engineer stating that the pool will not be a hazard to the properties on either side and it won't be a detriment to the existing dune system. Commissioner Tyner asked if they would need to build a walkway over the dune in that example. Inspections Director Evans answered that you are allowed to have a walkway to the toe of it and you can have a walkway all the way to the CAMA dune. They aren't allowed to damage a dune. The sand that is removed for the pool could be used to shore up the dune that is already out there as long as it is not taken offsite.

No comments were submitted by the public.

*Motion by Commissioner Tyner to close the Public Hearing at 5:14 p.m.; second by Commissioner Murdock; approved by unanimous vote.*

## **REGULAR MEETING**

Mayor Pro Tem Brown asked for a moment of silence and asked everyone to keep Mayor Holden in their prayers to help him recover from COVID-19. He called the meeting to order.

## **PLEDGE OF ALLEGIANCE**

## **AGENDA APPROVAL**

*Motion by Commissioner Tyner to approve the agenda as presented; second by Commissioner Kwiatkowski; approved by unanimous vote.*

## **APPROVAL OF MINUTES**

*Motion by Commissioner Sullivan to approve the minutes (Public Hearing/Regular Meeting of December 15, 2020); second by Commissioner Tyner; approved by unanimous vote.*

## **PUBLIC COMMENTS ON AGENDA/GENERAL ITEMS**

No comments were submitted.

## **UNCW PRESENTATIONS – INLET INDUCED SHORELINE CHANGES AND DUNE VEGETATION CHARACTERISTICS (DR. SHERI SHIFLET) AND BASELINE MONITORING (DR. JONI BACKSTROM)**

Assistant Town Manager Ferguson provided background on the studies and introduced Dr. Shiftlett and Dr. Backstrom. Dr. Shiftlett reviewed her findings (hereby incorporated into the minutes). Her conclusions included that the Town should consider planting some additional species; the east end is an area to focus on; and the east reach needs additional efforts. She also suggested looking at the several areas of notable bare patches.

Commissioner Kwiatkowski asked if soil testing could be done to see if some of the bare spots are from overwash/salinity. She asked if there are alternatives that have a higher tolerance for high salinity if that were the case. Dr. Shiftlett replied you could compare those areas to non-bare areas to see if there is a difference. She said you could then look at species that would tolerate the soil. Commissioner Tyner asked if she compared us to other islands. Dr. Shiftlett said she is in the process of looking at Masonboro. They also have collected some post-hurricane data from Holden Beach.

Dr. Backstrom presented his study information on the inlets (hereby incorporated into the minutes). The Shallotte Inlet has been relatively stable. As the ebb channel changes orientation it has major impacts on the adjacent shoulders. Dr. Backstrom said when the main ebb channel is orientated towards Holden Beach, it tends to be accretional along the western area of Holden Beach. When the ebb channel is orientated in the southerly direction it tends to be accretional on both islands. When it is oriented southwest, we start to see some erosion taking place. The Lockwood Folly Inlet is in an overall stable position, though the midpoint has shifted 150 miles to the east since 1938. When the

main ebb channel is oriented southeast, we have erosion along the eastern side of Holden Beach. When the main channel is oriented south the erosion stops.

Commissioner Tyner asked if dredging has an impact on the inlet. Dr. Backstrom explained it is unlikely that it would have a major influence on the ebb channel here. Dr. Backstrom and Dr. Shiftlett reviewed the information that they will provide to the Town as part of their research. Commissioner Sullivan said if he heard correctly, it is Dr. Backstrom's professional opinion that the accretion on the east end is more the result of the flow of the inlet rather than the stabilization efforts we take by putting sand on the beach almost every other year. Town Manager Hewett added that the Town's nourishment efforts stop at Blockade. The Corps' dredge projects end at Blockade Runner, coming from the east, starting at about Amazing Grace. Every other year, the Corps is placing 100,000 – 200,000 cubic yards primarily from the inlet crossing and waterway. Dr. Backstrom said it is great to put it there, but he can't tell which is more dominate. Assuming from what they see, the influence of the inlet is significant. Commissioner Kwiatkowski asked if there is anything in the data that suggests we need to be doubling our inlet hazard area at each inlet. Dr. Backstrom said he thinks Dr. Cleary is probably talking about one kilometer from the inlet is probably where they are seeing the major changes. That is probably a place you would want to avoid any hard structures, infrastructure or anything that may become in peril, especially right near the water. If you are inside the dunes or places like that you are probably okay. Dr. Backstrom said he doesn't have all the data to base an answer on what the hazard area should be. Dr. Shiftless provided information on old topo maps she reviewed during her research.

#### **POLICE REPORT – CHIEF DIXON**

Chief Dixon said we made it through Christmas and New Year's. We recently swore in a new officer, Preston Conley. He will spend the next eight – twelve weeks in their field training program.

#### **DISCUSSION AND POSSIBLE ACTION ON ORDINANCE 21-01 (FORMERLY ORDINANCE 20-17) AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, SECTION 94.03: FRONTAL DUNE POLICY AND REGULATIONS**

Inspections Director Evans explained this is the ordinance we presented at the last meeting and we just held the public hearing on. The Board can discuss it and then take action at the next meeting.

*Motion by Commissioner Kwiatkowski that we put this on the February agenda for approval of this ordinance; second by Commissioner Tyner.*

Commissioner Murdock inquired if the Board needs to approve this before then. Inspections Director Evans explained it is up to the Board, but he thinks it will be fine until the next meeting.

*The motion passed by unanimous vote.*

## **DISCUSSION AND POSSIBLE SCHEDULING OF A DATE TO HOLD A PUBLIC HEARING ON ORDINANCE 21-02 (FORMERLY ORDINANCE 20-18), AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, SECTION 157.006: DEFINITIONS (HEIGHT MEASURING POINT)**

Inspections Director Evans explained this item is to set the public hearing. We do have a consistency statement that was written by staff. The Planning & Zoning Board scheduled a meeting but did not have a quorum. It is adding an exemption into the height measuring point to allow those structures located in an X zone to be able to build to the same standards as those in A or V zones based on height restrictions. He provided background on the proposed change. If you choose to use this exception, you will gain four extra feet, but you will lose the ability to do anything under the structure, other than parking and storage. Commissioner Tyner asked if the Town has a lot of land in the X zone. Inspections Director Evans replied yes. He explained current impacts of building in X zones. Commissioner Sullivan asked if the four feet will allow more homes to be built that are three stories. Inspections Director Evans answered that X zones can already have three stories because they can build on the ground. It would be harder if you take the exception.

*Motion by Commissioner Tyner that we put this on the agenda for a public hearing at our February meeting prior to the regular meeting; second by Commissioner Murdock; approved by unanimous vote.*

## **DISCUSSION AND POSSIBLE ACTION ON LAND USE PLAN**

Inspections Director Evans explained once we do this, we will have a comprehensive Land Use Plan that will meet all 7b requirements under state guidelines. It will also help us meet the statutory requirements under 160d. He provided information on the process.

*Motion by Commissioner Kwiatkowski that the Board of Commissioners adopt the new Land Use Plan as was presented with changes a couple of months ago; second by Commissioner Sullivan; approved by unanimous vote.*

## **DISCUSSION AND POSSIBLE ACTION ON PARKS & RECREATION MASTER PLAN RESPONSES**

Assistant Town Manager Ferguson said we need to update our current Parks & Recreation Plan. She explained the solicitation process. She said staff recommends the update be awarded to McGill. Commissioner Sullivan asked what made McGill stand out from the other firms. Assistant Town Manager Ferguson responded that they had a better understanding and are currently working with the county on their update. They have technologies in place to host meetings during COVID-19. Also, their PARTF response outnumbered the other companies.

*Motion by Commissioner Tyner that we select McGill and Company to help with the Town of Holden Beach Parks and Rec Master Plan and authorize the town manager to negotiate within his bounds; second by Commissioner Sullivan; approved by unanimous vote.*

## **DISCUSSION AND POSSIBLE ACTION ON LEGAL SERVICES PROPOSALS**

Town Clerk Finnell said as directed, staff solicited for attorneys and received four responses. Commissioner Kwiatkowski explained the process from last time. She thinks it is best if the whole Board is involved in the interview process. After discussion, the Board agreed to eliminate the firm in Chapel Hill and to interview the other firms. They will get their availability to Town Clerk Finnell.

## **DISCUSSION AND ELECTION OF CHAIRMAN TO THE AUDIT COMMITTEE/SELECTION OF AUDIT COMMITTEE MEMBERS**

Commissioner Kwiatkowski proposed that Commissioner Tyner's term be extended. Commissioner Tyner is willing to continue serving. Commissioner Sullivan said he has attended meetings and has confidence in the current members. He suggested they be reappointed for another term.

*Motion by Commissioner Sullivan to have Commissioner Tyner remain as the chairman and the current members remain to serve another term on the Audit Committee; second by Commissioner Kwiatkowski; approved by unanimous vote.*

## **DISCUSSION AND POSSIBLE ACTION ON REVISITING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 50: SOLID WASTE**

Commissioner Sullivan explained the background of the current trash ordinance. Since there are no rules on the timing of putting your cans out, the Town has hundreds of trash cans on Ocean Boulevard that can be there for two – ten days. He said in the ordinance that was replaced they had made accommodations for people who don't rent and put their trash out on a Sunday. In the offseason you could have your trash out 48 hours before pickup. He has never lived in a place that doesn't have a rule about when you have to put your trash out and take it back in. Commissioner Sullivan said if you look at the plan that had been put in place, it was a reasonable expectation of what people should do to keep this Town attractive. He said the ordinance had a six-month educational period before fines would be issued. He said they made a mistake, they tried to allow people to use a recycling can in place of the can the ordinance calls for depending on the size of your house. He said all that did was cause confusion. Commissioner Sullivan said at the very least that should be changed. He said it makes no sense to pay approximately \$55,000 a year to rollback trash cans if there is still going to be a couple hundred cans at the street. Commissioner Kwiatkowski added that the ordinance that had passed had designated rollback of all bins so they would be off the street. There was pushback that the trash would be under the house stinking. One of the major objectives was to get the cans off the street, on Saturday in particular. Obviously, that has not been achieved. Commissioner Kwiatkowski said that is not an unreasonable expectation, especially if safety and health are the objectives. She found the Emerald Isle example that is in the packet. In Emerald Isle, they specify times you can roll out your trash and they have a statement that rollout responsibility is the property owners'. They do rollback. They specify a distance, which she feels is appropriate. They seem to be doing what the Town's intent was. She said she was hoping to get public comment today. Commissioner Kwiatkowski would like to give another month for the public to comment. She agreed with Commissioner Sullivan that having hundreds of cans out is not a good thing and that it was a mistake to allow recycling to replace one of the required trash cans.

Commissioner Tyner agrees that seeing two hundred cans on the boulevard doesn't look good. He suggested that if the Board is going to make a change, he would like Commissioner Sullivan or Kwiatkowski to bring the exact change they would like the Board to vote on to the next meeting for discussion. He added the Board could then give the public 30 days to comment on the proposed change. The Board talked about what was in the packets and the proposed changes. Corrals were also discussed.

Commissioner Kwiatkowski said they will bring back the proposed ordinance to the next meeting. She asked for people to comment.

#### **UPDATE ON THE PARKING COMMITTEE MEETING OF JANUARY 8, 2021**

Commissioner Tyner summarized the first meeting of the parking committee. The committee agreed to four tasks. The tasks were to develop the costs and work estimates and estimate the number of potential spots that would result from building a bulkhead in the 800 block; develop costs and work estimates and estimate the number of potential spots utilizing the two cross-through streets between Ocean Boulevard West and Brunswick Avenue West; develop the cost and work estimates and estimate the number of potential spots by creating angled parking spots on Avenue A; and investigate the potential of using the space previously known as Hillside Drive where Ocean Boulevard East ends and McCray Street begins on the ocean side for potential spots. Meetings will be held on the first Friday of each month. At that time, staff will present their input on the items. Commissioner Murdock said he would appreciate as much input as possible from the public.

#### **TOWN MANAGER'S REPORT**

- Budget Report – The Water/Sewer Fund and the BPART Fund appear to be in the red, but they really aren't. We are on course for the revenues that are "like tax" collections (ad valorem, sewer capital and canal dredging fees). Major NC Distributed Revenues are up. Building Inspections continues to be strong. They are at 65% of budgeted revenues. We are seeing the continued manifestation of the "COVID Refugees" Syndrome. All of the revenues directly tied to occupancy tax are up. Water and sewer use charges are at 65% and occupancy tax is at 102%, even with the budget amendment adopted last month. That is at least \$100,000 greater than any other complete fiscal year before. Reviewed amounts per fund. We are about \$1 million ahead in the General Fund. The Water/Sewer Fund is in the red about \$653,000, as is BPART for about \$901,000. Canal dredging remains strong at \$235,000. The Water/Sewer and BPART are in the red, but they are really not. Those funds have interfund transfers and fund balances that have been appropriated. The lift station upgrade is \$1.5 million. We paid that up front. We only make fund balance recordations on the revenue side at the end of the year. We are ahead if you take that into consideration. We paid \$1.5 million of debt service on our special obligation bond in the BPART Fund, That doesn't reflect the interfund transfer offset from our Beach Capital Reserve Fund. The monthly budget to actual report is posted on the Town's website.
- Will be moving into budget season. Would like to possibly put it on the agenda for February to set up the budget calendar for the upcoming budget year.

- **NCLM Legislative Agenda** – The Town has been engaging with the NLCM to develop goals for the upcoming General Assembly’s legislative session. The result is there are 17 draft municipal goals that are being considered by the membership. The Town voted for the ten that are the Town’s goals. One in particular is to create a permanent and adequate funding stream for local infrastructure needs. We were able to get language included in this goal that specifically articulates beaches and parks. This effort has great potential for paying off for us in the long run, at least for getting beaches identified as infrastructure. That is critical to access the big dollars.
- **Lockwood Folly Dredging** – The Merritt has been here for three weeks. Included a survey for the Board to review with the progress made. After three weeks it looks like we have half of a channel to the inlet.
- **Sand Fence Project Installation** – well underway. Approximately 4,000 feet installed as of yesterday afternoon. They are moving from west to east and were at about Blockade Runner.
- **Federal Work Plan** – Last week he and Assistant Town Manager Ferguson held a next steps call with Ward and Smith regarding the Federal Coastal Storm Damage Study. Holden Beach is competing for a new study start as part of the Corps’ Fiscal Year 2021 Work Plan. The Wilmington District Corps has affirmed the Town is at the top of their priority list. Town staff is working with Ward and Smith to maintain formal contact with the Office of Management and Budget and the Corps to ensure that the continuity of the Town’s position is maintained through changes in federal administration. Ward & Smith reiterated that if the Town is included in the work plan, the Town would need to sign an agreement with the Corps committing the Town to participate in a study effort at a cost of \$1.5 million spread over three years. \$500,000 would need to be included in the Fiscal Year 2021 – 2022 budget. Right before this meeting, received a call from Bob Kistler, the program manager at the Corps. Holden Beach has been selected for initialization of a general revaluation report. It is number four on the Corps’ worklist and number one out of NC. Will have more specifics that he will provide to the Board as he gets it.
- **Street Petition Status** – Reached a majority for Seagull, however some of those need a wife or co-owner to sign. Haven’t had much from Deal and Canal. Street maintenance efforts will not be cost effective in the future without paving. It is an unrealistic service level expectation.
- **Sewer Lift Station 3** – Has been in service over a month. Final inspection has been performed. There are some minor items to wrap-up. We are awaiting as-builts before a final certificate of occupancy is issued and the final bill is paid.
- **System Development Fees** – Draft review and discussion was held between staff and Raftelis last week. Should be on the March agenda.
- **Canal Subdivision Dredging** – The Scotch Bonnet site continues to improve. Seeing continued shrinkage of the material in the site. It was dry enough to plant and grow rye grass.
- **FEMA** – We are in the public notification stage for our Dorian project. That is required by FEMA before they issue project worksheets. If it is approved, it may be able to be included with the Florence/Michael Project.
- **Parks & Rec Programs** – Seems like more people are seeking outside activities. Bridgeview Park is bustling. Transient dock revenues are ahead of last year. Yoga has 100 more participants as of this time last year. Proceeding with the concert schedule in the hopes that the show can go on.

Commissioner Kwiatkowski asked about servicing dirt roads. Town Manager Hewett said Town maintained roads are normally responded to on a complaint basis.

Commissioner Murdock inquired on the timeframe to pave Seagull if the petition is affirmed. He said he is getting questions that he is unable to answer. Town Manager Hewett responded there are required public engagements, the plan needs to be developed, there is an assessment roll. He doesn't anticipate it will be done before Memorial Day. He was hoping they could dovetail the project with the paving of Brunswick Avenue, but we won't be able to get the administrative side done. He said we can do a public service announcement with information on the process. Stormwater concerns were a common theme when talking to people about the project. Any design for paving will need to have an engineered solution for stormwater.

## **BOARD OF COMMISSIONERS' COMMENTS**

### **Mayor Pro Tem Brown**

- Hope for a peaceful transfer of power tomorrow.
- Would like to keep Mayor Holden in your prayers.
- Remain safe, keep the mask on, keep social distancing. Be thankful we live where we live.

### **Commissioner Murdock**

- Encouraged everyone to stay safe.
- Thanked Town staff. There is a lot of work to do and we are pushing through it.
- Is not getting a lot of comments from the public. His decision to sit up here is to do the will of the community. We have things like parking, paving, trash and fees. Encouraged anyone with concerns to voice your opinions. Doesn't want to be held accountable for not doing what the community wants.
- Stay safe.
- Keep Mayor Holden in your prayers. We miss him up here.

### **Commissioner Kwiatkowski**

- Thanks for listening.
- Echoed what Commissioner Murdock says. Anything that the Board is discussing, if you have something you would like to express, send it to Town Clerk Finnell before the meeting so the Board can discuss the comments and implement what the people want to see.

### **Commissioner Tyner**

- Echoed what Commissioner Murdock said. We need the public's feedback and input. Would like to hear feedback on how things are going. We need input on trash and parking.
- Thanked staff for their efforts.
- Wished everyone a happy New Year.
- Keep Mayor Holden in your prayers.

### **Commissioner Sullivan**

- Wished Mayor Holden the best and hopes he has a quick and full recovery. Hopes we all take the precautions necessary. Hopefully, we are at the light at the end of the tunnel and people will be vaccinated. Please take care of yourself and be kind and considerate to one another to limit the spread of this terrible sickness as much as we can.

- Thanked Town staff and also the people on the Land Use Plan Committee. It was a long, arduous endeavor. It takes a lot of time. A Town like this benefits greatly by the input of the people who live here. Thanked everyone on any committee and those who volunteer their time in any way.
- Happy New Year and be safe.

**EXECUTIVE SESSION PURSUANT TO NORTH CAROLINA GENERAL STATUTE 143-318-11(A)(3), TO CONSULT WITH THE TOWN ATTORNEY**

Town Clerk Finnell read the reason for Executive Session.

*Motion by Commissioner Tyner that we go into Executive Session pursuant to North Carolina General Statute to consult with the Town attorney at 7:31 p.m.; second by Commissioner Kwiatkowski; approved by unanimous vote.*

**OPEN SESSION**

The Board went back into Open Session at 7:53 p.m. No action was taken.

**ADJOURNMENT**

*Motion to adjourn at 7:53 p.m. by Commissioner Tyner; second by Commissioner Murdock; approved by unanimous vote.*

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

ATTEST:

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

## Heather Finnell

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**From:** Marks, Caitlin M <cmmarks@ncdot.gov>  
**Sent:** Monday, January 25, 2021 11:31 AM  
**To:** David Hewett  
**Cc:** Heather Finnell  
**Subject:** RE: [External] Re: Holden Beach Bike Lane Estimates

Great – thanks for the info. See you on the 16<sup>th</sup>.

**From:** David Hewett <david.hewett@hbtownhall.com>  
**Sent:** Monday, January 25, 2021 11:30 AM  
**To:** Marks, Caitlin M <cmmarks@ncdot.gov>  
**Cc:** Heather Finnell <heather@hbtownhall.com>  
**Subject:** Re: [External] Re: Holden Beach Bike Lane Estimates

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Caitlin

Yes- we've got projection capabilities for attendees via three big screens located throughout the room. If you wish you can email in advance any ppt slides to the Town Clerk (Heather- included herein cc) or just bring them on a thumb drive and we can get them loaded at the meeting.

Thanks so much for your help.

David

On Jan 25, 2021, at 9:33 AM, Marks, Caitlin M <[cmmarks@ncdot.gov](mailto:cmmarks@ncdot.gov)> wrote:

Hi David,

Sounds good. Chad and I will be there. I'm not sure if Chad is just going to want to discuss or show a PowerPoint but do you have PowerPoint capabilities at these meetings?

Thanks,  
 Caitlin

**From:** David Hewett <[david.hewett@hbtownhall.com](mailto:david.hewett@hbtownhall.com)>  
**Sent:** Sunday, January 24, 2021 3:41 PM  
**To:** Marks, Caitlin M <[cmmarks@ncdot.gov](mailto:cmmarks@ncdot.gov)>  
**Subject:** Fwd: [External] Re: Holden Beach Bike Lane Estimates

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Sent from my iPhone

Begin forwarded message:

**From:** David Hewett <[david.hewett@hbtownhall.com](mailto:david.hewett@hbtownhall.com)>  
**Date:** January 24, 2021 at 3:40:31 PM EST  
**To:** "Marks, Caitlin M" <[cmmarks@ncdot.gov](mailto:cmmarks@ncdot.gov)>  
**Subject:** Re: [External] Re: Holden Beach Bike Lane Estimates

Caitlin

5 pm in the Town Hall 110 Rothschild Street Holden Beach. Right at south end foot of the bridge. Big Yellow bldg silver roof flagpole. Hard to miss.

We have similar protocols for meetings. Room is about as big as a half basketball court. It's rated capacity is 239 people! Plenty big for 10 people six feet spacing , masks etc. - we have been limiting board meetings to the board and specific staff members only as the agenda may dictate.

David

Sent from my iPhone

On Jan 24, 2021, at 2:30 PM, Marks, Caitlin M <[cmmarks@ncdot.gov](mailto:cmmarks@ncdot.gov)> wrote:

Hi David,

A few questions: What time is the meeting and where is it located? Also how many people will be in attendance and how large is the room? We are limited to attending meetings where 10 or less people will be in attendance and where spacing greater than 6' can be obtained. Chad would be joining me as well.

Thank you,  
 Caitlin

**From:** David Hewett <[david.hewett@hbtownhall.com](mailto:david.hewett@hbtownhall.com)>  
**Sent:** Saturday, January 23, 2021 9:23 AM  
**To:** Marks, Caitlin M <[cmmarks@ncdot.gov](mailto:cmmarks@ncdot.gov)>  
**Cc:** Heather Finnell <[heather@hbtownhall.com](mailto:heather@hbtownhall.com)>  
**Subject:** Fwd: [External] Re: Holden Beach Bike Lane Estimates

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Caitlin

Would you be available to brief the bike lane potential and associated Ocean Blvd status to the Board Of Commissioners at their regular meeting on Tues 16 February. I know that COVID is an issue; we have procedures (not virtual) in place to distance etc - pls advise.

Thank You  
David Hewett  
Sent from my iPhone

Begin forwarded message:

**From:** "Marks, Caitlin M" <[cmmarks@ncdot.gov](mailto:cmmarks@ncdot.gov)>  
**Date:** August 3, 2020 at 3:09:48 PM EDT  
**Subject:** RE: [External] Re: Holden Beach Bike Lane Estimates

Hi David,

I wanted to touch base about getting something scheduled to go over the estimates we provided earlier this year for bike lines. Assuming everything is pretty minimal with this storm, let me know what your availability is next week or the week after.

Thanks and stay safe!  
Caitlin

**From:** David Hewett <[david.hewett@hbtownhall.com](mailto:david.hewett@hbtownhall.com)>  
**Sent:** Thursday, April 16, 2020 7:54 PM  
**To:** Marks, Caitlin M <[cmmarks@ncdot.gov](mailto:cmmarks@ncdot.gov)>  
**Subject:** [External] Re: Holden Beach Bike Lane Estimates

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [report.spam@nc.gov](mailto:report.spam@nc.gov)

Thank you so much for providing such a detailed estimate. We surely will enjoy hosting your next visit once all this mess clears up.

Sincerely  
David

Sent from my iPhone

On Apr 16, 2020, at 7:42 PM, Marks, Caitlin M <[cmmarks@ncdot.gov](mailto:cmmarks@ncdot.gov)> wrote:

Mayor Holden and David,

We have completed the estimates for bike lanes – please see attached. As discussed there are two separate estimates – one for the East and one for the West in case you do not wish to do the full stretch.

How are you holding up with all of the changes brought about by the virus? Once things get back to “normal” Chad and I would be happy to come back to Holden Beach to discuss the estimates in more detail.

Stay healthy,  
Caitlin

**Caitlin M. Marks, PE**  
Division Planning Engineer  
Division 3  
NCDOT – Division of Highways

910 341 2000 office  
910 675 0143 facsimile  
[cmmarks@ncdot.gov](mailto:cmmarks@ncdot.gov)

5501 Barbados Boulevard  
Castle Hayne, NC 28429-5647

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Email correspondence to and from this sender is subject to the N.C. Public Records Law and may be disclosed to third parties.

<Holden Beach  
EngineersEstimate\_EAST\_041420.pdf>  
<Holden Beach  
EngineersEstimate\_WEST\_041420.pdf>

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Memo to: Board of Commissioners

10 Feb 2021

RE: System Development Fees Report

FROM: Town Manager

The System Development Report herein has been developed by Raftelis in accordance with Board direction to develop an update prior to the expiration of its five-year shelf life. Representatives from Raftelis will provide an introductory review of the report for the Board in addition to outlining the statutory process for consideration and adoption.

# BRUNSWICK COUNTY ADMINISTRATION

BRUNSWICK COUNTY GOVERNMENT CENTER  
DAVID R. SANDIFER COUNTY ADMINISTRATION BUILDING  
30 GOVERNMENT CENTER DRIVE, N.E.  
BOLIVIA, NORTH CAROLINA 28422

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TELEPHONE  
(910) 253-2000  
(800) 442-7033

FAX  
(910) 253-2022

January 20, 2021

Dear Wholesale and Industrial Customer:

Brunswick County has been supplying potable water to you and this letter is intended to provide you information to assist in the 2021/2022 budget process.

The County is under construction expanding its potable water capacity and adding advanced treatment to its Northwest Water Treatment Plant. The new facilities will add Low Pressure Reverse Osmosis (LPRO) advanced water treatment and increase capacity from 24 million gallons per day to 48 mgd conventionally treated and minimum 36 mgd LPRO treated water. Brunswick County issued revenue bonds to cover the costs of construction and the debt service is to begin in the next fiscal year.

A water rate study had been performed by financial consultant Rafetelis (May 2019) based on the cost of service methods outlined in the American Water Works Association M-1 Manual "Water Rates, Fees, and Charges". This method is now the industry standard for water rate setting. Brunswick County has been using the Producer Price Index (PPI) for wholesale and industrial rate-setting for many years. The Water Rate Study was updated using actual project costs, timing and the projected customer base, and recommends wholesale and industrial rate adjustments.

Staff is recommending that the Brunswick County Board of Commissioners set the wholesale and industrial rate beginning January 1, 2022 using the industry standard for rate setting as follows:

Wholesale – per 1,000 gallons \$5.25

Industrial – per 1,000 gallon \$4.35

Please feel free to contact me or John Nichols with any questions.

Sincerely,

Randell Woodruff  
County Manager

cc: John Nichols, Public Utilities Director



# Activity Log Event Summary (Totals)

HOLDEN BEACH POLICE DEPT.

(01/01/2021 - 01/31/2021)

<No Event Type Specified>	3	911 Hang Up/Open Line	2
Alarm Activation	25	Animal Carcass	1
Animal Control	5	Attempt to Locate-ATL	15
B&E in Progress	3	Business Check	225
Disturbance/Fight	1	Domestic Disturbance	6
EMS/Medical Call	5	Fire Call	1
Fireworks	1	Incident Report	4
Keep Check	38	Lost/Found Property	4
Meet Complainant	8	Message Delivery	2
Open Door	4	Parking	11
Phone Call Request	12	Public Works/Water Leak	6
Special Assignment	15	Suspicious Activity	12
Traffic Stop	8	Trespassers	10
Welfare Check	6		

**Total Number Of Events: 433**



*Holden Beach Police Department*  
*J. Dixon, Chief of Police*

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

Phone: 910-842-8747  
 Fax: 910-846-6907  
[jeremy.dixon@hbtownhall.com](mailto:jeremy.dixon@hbtownhall.com)

February 3, 2020

To: Holden Beach Board of Commissioners

Ref: Speed Limit – Ocean Blvd West (RP1116)

Over the last several months the Board of Commissioners has considered the option of amending the seasonal speed limit change on Ocean Blvd West from Greensboro St to its western terminus. This change would mean the speed limit on SR1116 (Ocean Blvd West) from a point 1.76 miles west from NC130 (Greensboro Street) to a point 5.01 miles west of NC130 (western terminus) would remain 35 MPH year-round instead of increasing to 45 MPH from October 1 to March 31 as stated in current ordinance. This detailed report is a collection of data from numerous sources to assist the Board of Commissioners in reach an educated and well-informed decision.

Section 1 – Minutes from January, February, July and September BOC meetings. These minutes summarize the discussions had pertaining to this topic.

Section 2 – During the January 2020 BOC meeting, Chief Dixon made a detailed presentation with statistical data on vehicle speeds, travel times and braking distances. An 18-page report of Chief Dixon's presentation is included herein for you review.

Section 3 – NC General Statute 20-141 Speed Restrictions. Subsections (B)(1) and (F) are most applicable to this conversation. In summary, speed limits within municipal corporate limits are not to exceed 35 MPH, unless supported by an engineering and traffic investigation (4 pages included). Upon researching this topic, no such study was found on record by the Town of Holden Beach or the NC Department of Transportation. Based upon this information, a study was recently completed by the Department of Transportation. This 17-page report and its conclusion is included herein for you review.

Respectfully,

A handwritten signature in black ink that reads "Jeremy Dixon".

Jeremy Dixon, Chief of Police  
 Holden Beach Police Department

# Section 1

## BOC Minutes

Jan 2020

Feb 2020

July 202

Sept 2020

formulated. Town Manager Hewett stated it hasn't been until this winter that the Division of Coastal Management has been able to articulate a real proposal when it was rolled out in earnest just before the holidays. Inspections Director Evans has personally and formally addressed the CRC at the last two meetings and vigorously inserted himself into the CRC advisory committee's dialogue to include presentations to the Science Panel on the matter. Town Manager Hewett said he updated the Board on several occasions and raised the issue at the H8POA meeting recently. There are a host of problems with the proposal, the least of which is the manner of how it was rolled out. If it wasn't for Inspections Director Evans bulldogging the issue, the workshops at Brunswick County, Ocean Isle and Holden Beach would probably not have occurred. Staff, elected officials and property owners made up more than half of the two-dozen people there. Town Manager Hewett, Assistant Town Manager Ferguson, Inspections Director Evans and Commissioner Kwiatkowski attended the Ocean Isle workshop that probably had about 35 people there. Holden Beach had over 90 people in attendance. Congressman Rouzer's representative, Chance Lambeth, who he and Assistant Town Manager Ferguson met with for over an hour prior to the meeting, Representative Iler, five members of the Board and a CRC member were in attendance. Town Manager Hewett stated they know there are problems with the inlet hazard areas as proposed. At the other meetings, they had one person. Three people were at Holden Beach. We had proposed the county adopt a resolution in support of the Town's position. The county manager chose to write a letter. They had some scheduling issues and he thought it more prudent to go the fastest route. He has been assured it will happen before January 31<sup>st</sup>.

Town Manager Hewett stated it has been his intent all along to proceed with vigor and provide comments to the contrary regarding the inlet hazard area. He thanked the Board for clearing the way so there will be no doubt that this does not work for the Town. He thanked people for the many comments and the assistance received since the meeting. He hopes to finalize the letter by the end of the week with release of the letter to the CRC early next week, before the deadline. We are pretty close, but we asked Fran Way of ATM, our coastal consultant engineer to provide some additional coastal engineering prospective.

#### DISCUSSION AND POSSIBLE ACTION ON SPEED LIMIT ON OCEAN BOULEVARD

Commissioner Sullivan said this is another item that some of the residents raised. Mr. Plumridge spoke on it a few minutes ago. He thinks it is an issue that the Board should have some discussion on. He stated both Inspections Director Evans and Chief Dixon have information. The speed limit is 35 MPH during the season. It goes to 45 MPH offseason. If we want DOT to mark crosswalks, the speed limit would need to be lowered. It would take an extra minute to get from Point A to Point B if we have the lower speed limit year-round.

Chief Dixon explained he has done extensive research on the speed limits. A vehicle versus a pedestrian at 30 MPH has a 45% death rate. If you increase the speed to 40 MPH, the death rate goes up to 85%. The 10 MPH difference is almost double the death rate. The stopping difference is a difference of 79 feet. The time distance from Greensboro to the guard shack is 1 minute and 16 seconds. Reducing the rate to 35 MPH would make the golf carts inclusive at that end of the island. At 45 MPH they are not. Chief Dixon said there has not been a vehicle versus pedestrian in the 45 MPH zone as long as he has been here.

*January 2010 Meeting*

Commissioner Murdock said he heard a lot of people say they want crosswalks marked and asked about DOT restrictions. Chief Dixon confirmed he has heard that they would not mark them in a 45 MPH zone. Inspections Director Evans stated one of the policies for permitting crosswalks is that the speed limit cannot be higher than 35 MPH. He explained there are six criteria that need to be met. We have identified four locations. Of the four locations, he believes three are in the area that goes to 45 MPH. He said while they may approve them, they will not allow them unless they are 35 MPH. Commissioner Murdock asked if the crosswalks will be allowed if the Town lowers the speed limit. Inspections Director Evans stated based on the application, he would say yes because we meet the criteria. He reviewed the criteria we already meet. The only thing we don't meet is the 35 MPH speed. He confirmed we only have four that meet the criteria that is necessary. He explained the process. Inspections Director Evans stated he turned the information in a month ago and was told it could be a couple of months before they review it. He reviewed the criteria you need to meet. Commissioner Murdock said his question was in hopes of getting more than four. Inspections Director Evans explained the numbers need to breakdown right to meet the criteria. Town Manager Hewett stated if the Board facilitates getting the first ones done, we could enter into a discussion to talk about the seasonal population counting towards the requirements. Inspections Director Evans said he included that in the letter.

Commissioner Tyner stated he had the opportunity to have breakfast with a number of residents that expressed displeasure about it going from 45 to 35 MPH. He thinks if the Board is thinking about this, they need to get more input before making a decision. Commissioner Sullivan said the HBPOA did a poll on the speed limit. He thinks it was 5 - 1 in favor of not lowering the speed limit. After discussion on next steps, Commissioner Kwiatkowski confirmed that the Board would put it on the next agenda for simple discussion and comment.

#### **DISCUSSION AND POSSIBLE ACTION ON CLASSIFICATION AND PAY STUDY AND THE UPDATED PERSONNEL POLICY CREATED BY THE MANAGEMENT AND PERSONNEL SERVICES GROUP**

Commissioner Kwiatkowski explained this is a carryover from the last Board. She said the Board had this information since September; had two explanations since then; and had questions and answers. There are a number of items that the Board needs to take action on. She stated this was asked for by the prior Board and it was found that the classifications need to be updated and the pay ranges need to be adjusted. There were three different options that were proposed as possible ways to change the pay grades. There was a 4 - 1 vote at one point that the Board would go ahead and approve Option I, which is the preferred option by the personnel experts. Commissioner Kwiatkowski explained that unfortunately at the next meeting, two of the commissioners who previously voted yes reversed it and said they didn't want to do it at that time. She said we have class specifications, a pay plan and implementation of Option I, which would require a budget amendment if the Board puts it in place effective January 1<sup>st</sup>. There is also a personnel policy. She had some comments on the personnel policy. If people want more time to digest the policy, she would imagine it would be possible to put off approving that until next month, however the other items are rather necessary. We do have a staff opening. It is difficult for the town manager to proceed to hire when things are in limbo.

Commissioner Tyner said he was at both meetings last year and has gone through the materials. He stated he has a pretty good understanding of it and has years of HR experience at his previous job. He said he thinks the consultant appears to have done a pretty good job in designing the class specifications, pay ranges and policy. He agreed that the Board needs to adopt at least items a - d. If

Page 40 – Commissioners Kwiatkowski and Sullivan agree that it doesn't make sense that you would have someone come to the meeting and approve the agenda and then during the meeting you would decide to not allow them to speak. They believe the sentence *alternatively the BOC, by majority vote may strike, defer to another meeting, change the order, change the order of presentation, limit the subject matter* should be removed. Under the sentence beginning *subsequently during the meeting*, it shouldn't say *defer or table*.

Commissioner Sullivan asked if on Page 38, (k) it should read *each speaker*, instead of *all speakers*. Commissioner Kwiatkowski answered the Board is supposed to allow everyone to speak before they address back. It was decided it should be *any speaker*.

Town Manager Hewett said on page 37, paragraph (c) he thinks *THB* is extraneous there.

Attorney Carpenter said on Page 37, Rule (b) and (c) the last sentence of both of those paragraphs address limiting the content of what is being addressed during public speaking. Similarly, with (h) and (m). She would caution the Board on trying to limit what people are saying when they are making public comments. She would probably strike those sections that address what can or cannot be said during the public comment period. The Board discussed Attorney Carpenter's suggestions and would like her to prepare her proposed amendments.

*Motion by Commissioner Sullivan to table it to the next meeting; second by Commissioner Murdock; approved by unanimous vote.*

Commissioner Kwiatkowski said she will prepare the request to the attorney to address this.

#### DISCUSSION PERTAINING TO SPEED LIMIT ON OCEAN BOULEVARD

Commissioner Sullivan said Mr. Plumridge gave a good synopsis of the information from the last meeting. He doesn't have much to add, except to say it is a hot topic of conversation as people are divided on whether the Town should maintain the speed at 45 or lower it to 35. His point of view is he is more interested in knowing what the people who live on the island think about it. The folks who live here need to put up with that speed limit every day. He asked that people email him with their position and the reason why they are for or against it. Commissioner Sullivan said he thinks next month they should vote on it one way or the other. Commissioner Kwiatkowski has been privy to some of the emails that have been flying back and forth. She said in her opinion what is important about this is the marked crosswalks. She lives on the west end so she is one of the people impacted by the extra minutes. She can live with the extra minutes. The golf carts are nice, but to her that is not the point of this. Commissioner Kwiatkowski stated the point is the benefit of having marked crosswalks. Commissioner Murdock said he has been asked by quite a few people to not budge because it has been like this for a long time. He thinks the repercussions of some of this are greater than getting there a little bit faster. He works on the island and loves it when the speed limit changes. He stated he is seeing people stay

February  
2020  
Meeting

longer and we need to keep them safe. Commissioner Murdock wants to listen to everyone's opinion and the Board needs input. He said if we save one person it is going to be worth it. He said he thinks we can all consider living with it. The crosswalks are the main deal. We need people to visit and rent houses. It is not over Labor Day weekend anymore. He stated he will do what most of the people want to do, but he asked people to consider it. Commissioner Tyner said he wants to hear from a lot of people on what they think about the subject so he sent out an email to about 100 people. He said it was a survey and he listed items like the speed limit and dog park. He presented the facts and asked what people thought. Commissioner Tyner said as of today he has 53 responses. On the speed limit it was 21 in favor of changing it, 24 opposed and 8 with no preference. What people did comment on was golf carts. There are underage kids driving. They are not using seatbelts and are not following the laws. He said a lot of folks said the first accident would be when a golf cart gets hit, not somebody crossing the street. He said he thinks we need to think more about golf carts. The feedback he got was basically 50/50. Chief Dixon said he is getting a lot of that too. Commissioner Murdock said when you are on a canal and you need to lug all of that stuff to the ocean, there are people that would fight you tooth and nail for golf carts. He said there is a lot of give and take. Commissioner Tyner said they were complaining about how the golf carts were being used.

The Board agreed to table the item until the next meeting.

**DISCUSSION AND POSSIBLE ACTION ON REQUEST TO THE PARKS & RECREATION ADVISORY BOARD (PRAB) FOR A RECOMMENDATION OF POSSIBLE USES FOR 796 OCEAN BOULEVARD WEST PROPERTY**

Commissioner Kwiatkowski explained her form. She said when the Town purchased 796 with the idea that it was going to help with noise buffering for lift station 3 there were a number of items discussed in executive session for potential uses. She suggested that before PRAB looks at the list, they brainstorm their own ideas. She would like to request that PRAB be commissioned to come up with a recommendation.

*Motion by Commissioner Kwiatkowski to ask PRAB; second by Commissioner Sullivan.*

Commissioner Murdock said he is contractor. He knows the house is residential and would need to be rezoned. Commissioner Murdock stated he has looked at it and it is in rough shape. He would like Inspections Director Evans to look at it first before we waste PRAB's time. He said there is definitely a lot of extra money being spent on the pump station for sound deadening. He said until the station is up and running we don't know if there will be a problem. Now that it will be in the air, everyone is under the opinion it will be louder. Commissioner Kwiatkowski said raising it does make it louder. Station 4 has a benefit because on the west end the houses are further apart and the station is much more removed from the nearest property. She added there were decibel levels that were measured going sideways. Commissioner Murdock said this one is different. There are acoustical panels and no windows facing the house. He is not convinced it will be as bad of an issue as we are thinking it is. Commissioner Kwiatkowski said Inspections Director Evans did go in it. He can't make a recommendation of what may be required without knowing what the use is. Her proposal is to get

~~The motion passed by unanimous vote.~~

#### DISCUSSION AND POSSIBLE DIRECTION CONCERNING THE SPEED LIMIT ON OCEAN BOULEVARD

Commissioner Tyner provided history on this topic. Chief Dixon's research was provided in the packet.

*Motion by Commissioner Tyner that we take the discussion and possible action on the speed limit west of the Holden Beach Pier off the table and have the discussion tonight; second by Commissioner Kwiatkowski. The motion passed by a 4 – 1 vote with Commissioners Tyner, Murdock, Sullivan and Kwiatkowski voting for the motion and Mayor Pro Tem Brown voting in the negative.*

Mayor Holden asked if the state controls the speed limit on the boulevard. Chief Dixon reviewed state law. Inside municipal limits the speed limit is 35 MPH on a state highway. The exception is the speed can be raised or lowered, but it has to be based on a traffic and engineering study done by the DOT. We are not able to locate that a study was ever done. He has contacted the DOT and is waiting for a response. Mayor Pro Tem Brown thinks the state needs to be involved before the Board votes on anything. Mayor Holden stated he remembers that when the speed limit was changed to 45 MPH, the state blessed what the Town did. Commissioner Sullivan suggested tabling the item again. There is an issue of if there is an engineering report. He questioned if there is a grandfather clause that would allow an existing speed limit to remain. Those two issues should be clarified before the Board moves forward.

*Motion by Commissioner Sullivan to table the item; second by Commissioner Tyner; approved by unanimous vote.*

#### ~~DISCUSSION AND POSSIBLE DIRECTION CONCERNING THE PETITION BY WILD DUNES NEIGHBORHOOD RESIDENTS TO INSTALL SPEED BUMPS AT SPECIFIC STREET LOCATIONS~~

~~Commissioner Tyner reviewed his meeting with a group of property owners that has concerns in the Wild Dunes section. The group presented him with a petition of 52 of the 60 property owners saying they would like the Town to approve speed humps at stop signs in the area or if that can't be done have the Town provide an alternative solution. Commissioner Tyner provided information on the owners' concerns. In addition to speed humps, they are interested in converting the intersections at Halstead/Carolina and Halstead/Brunswick Avenue East into four-way stops.~~

~~*Motion by Commissioner Tyner to recommend that Police Chief Dixon and other Town employees as needed review the situation and come back to the August Board meeting with their evaluation and any recommendation to address the residents' concerns; second by Commissioner Murdock.*~~

~~Mayor Pro Tem Brown asked if there are any legalities with speed humps. Town Manager Hewett replied he doesn't know and would need to find out. Mayor Pro Tem Brown thinks that would be a good first step before voting. Commissioner Sullivan stated this is an enforcement question. This is something where an officer sits there and gives out some tickets and it stops people from doing what they are doing. Speed humps won't be effective if people are rolling through the stop sign. Speed humps could expose the Town to civil liability if an accident occurs. Commissioner Murdock agreed enforcement may be a good solution, but there is weekly turnover. Maybe more police presence is the answer, but they are asking for something to be done.~~

July 30th Meeting

**APPROVAL OF MINUTES**

*Motion by Commissioner Kwiatkowski to approve all of the minutes as written (Special Meeting of July 21, 2020, Special Meeting of August 7, 2020, Special Meeting of August 18, 2020 and Regular Meeting of August 18, 2020); second by Commissioner Murdock; approved by unanimous vote.*

**PUBLIC COMMENTS ON AGENDA/GENERAL ITEMS**

Town Clerk Finnell and Assistant Town Manager Ferguson read public comments (comments from Earl Baker and Mack Tucker are hereby incorporated into the minutes).

**DISCUSSION AND POSSIBLE ACTION ON ORDINANCE 20-04, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 157: ZONING CODE**

Inspections Director Evans explained the background of the proposed ordinance. Commissioner Kwiatkowski would like to recess at the end of the meeting until Friday to get together to approve the ordinance. The Board agreed 11:00 a.m. is a good time.

**DISCUSSION AND POSSIBLE APPROVAL OF CONTRACT BETWEEN THE TOWN AND RAFTELIS (SYSTEM DEVELOPMENT FEES STUDY)**

Town Manager Hewett explained Raftelis has provided an engagement letter for the Board's consideration. The cost is \$23,858. The previous study cost the Town \$11,500. The Town has enough money in the Professional Services line in the Water and Sewer Fund, however this does exceed our budget estimate. We had included funds for the second water tower study and GIS location of utilities in the line item. We will come up short when moving forward on those items.

*Motion by Commissioner Kwiatkowski to accept this engagement letter and that the Town goes forward to finalize the contract; second by Commissioner Sullivan.*

Commissioner Sullivan said he is not thrilled that the cost has more than doubled. He thinks it is odd to have to accept a company and then discuss money, but explained why he feels the study needs to be done.

*The motion passed by unanimous vote.*

**REPORT AND POSSIBLE ACTION ON SPEED LIMIT ON OCEAN BOULEVARD**

Chief Dixon said part of the general statutes requires a traffic engineering study for speed limits in city limits to be in excess of 35 MPH. He talked to the Department of Transportation (DOT) and asked for a copy of the study. DOT's response is they don't have a copy of it because it was done so long ago. As a result, the DOT has started a study on the boulevard of the traffic flow. The study will probably run into

*September  
2020  
Meeting*

the spring. Chief Dixon will stay in contact with them. The way the current ordinance is written is okay. Nothing needs to be changed until a study is completed.

#### **REPORT IN RESPONSE TO WILD DUNES SPEED BUMP PETITION**

Chief Dixon provided the Board with a detailed packet and background on the petition from Wild Dunes property owners. He talked about speed bumps. He provided information on the department's traffic study for Wild Dunes and traffic statistics. The intersection of Brunswick Avenue at Halstead is the heaviest traveled in that area. Carolina and Quinton is the lowest traveled in the area. Of the total 216 motor vehicles, there was 17 violations, which is about 8%. All the stop signs at the intersections are visible, except the one at the intersection of Halstead and Brunswick Avenue East. There is shrubbery that inhibits visibility. Town regulations pertaining to line of sight and items in the rights-of-way were discussed. Chief Dixon summarized that there was eight stop sign violations observed. Nine vehicles were clocked in excess of 25 MPH. The fastest vehicle clocked was at 31 MPH. The average vehicle speed for those speeding was 27 MPH. The average speed was 17 MPH. Chief Dixon said based on the study, the installation of speed bumps is not supported. Possible solutions are clean shrubbery, paint the roadway and/or add reflectors. That would be the cheapest option. You could do an ordinance adoption of a four-way intersection. Flashing or LED signs could be added, but can be costly to implement. Chief Dixon talked about two-way versus four-way stop intersections. He showed slides with possible options for the six intersections in the area.

Chief Dixon said that you do not have to do the same thing in each intersection, but he thinks it will be confusing if it is not consistent. Four-way stops were discussed. Chief Dixon explained while the study was being completed, he didn't make traffic stops. He believes if people start getting ticketed, we will find it is homeowners and construction workers that are the violators. Commissioner Murdock said the Town needs to at least deal with the trees and anything else in violation. Commissioner Kwiatkowski suggested a period of enhanced police presence at this time. Then it can carry forward to see if it makes a difference next season. Public Works Director Clemmons suggested adding another sign. Commissioner Sullivan said speed bumps don't compliment the stop signs. He reviewed Chief Dixon's statistics. With enforcement, the word will get out and it will remedy the situation. Commissioner Sullivan said if that doesn't remedy it, the Board can look at it in the future.

#### **STATUS OF BEACH AND INLET PROJECTS**

Assistant Town Manager Ferguson said the Central Reach Project (CRP) is proof that beach nourishment is key to protecting valuable resources. Projects are long-lived; we just received the last Matthew reimbursement on July 15<sup>th</sup> and the last Irene payment in February. Both storms were tied to the CRP. FEMA can audit you three years after project closeout.

Assistant Town Manager Ferguson provided information on losses and the status of the projects from Florence, Michael and Dorian. Two new portal systems were introduced, one with the federal government and one with the state.

## Section 2

# Speed Limit Effect Whitepaper

Chief Jeremy Dixon  
Jan 2020

RUNNING HEAD: Holden Beach Speed Limit Effect

Holden Beach Speed Limit Effect

Ocean Blvd West (RP1116) from Greensboro St to HB West

Jeremy Dixon, Chief of Police

Holden Beach Police Department

January 10, 2020

## Holden Beach Speed Limit Effect

### **Abstract**

This project will explore the mathematical research behind travel speed as it relates to motoring traffic and pedestrians on Holden Beach. It is intended to provide the Holden Beach community and its commissioners with a brief oversight of the effects of speed on our island. By recommendation of the Holden Beach Police Department, this project will show that by reducing the speed limit on Ocean Blvd from 45 MPH to 35 MPH, travel times will be relatively unaffected while potential safety impacts will be greatly increased.

## Holden Beach Speed Limit Effect

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## Holden Beach Speed Limit Effect

### **Introduction**

The Town of Holden Beach is home to people and wildlife alike. With approximately 2,500 housing units and a population of deer, rabbits, birds, fox and coyotes, many living creatures call Holden Beach home. While census statistics place an estimated 650 full-time residents on our island (census.gov, 2016), our roadways host hundreds of traveling vehicles in the off-season and thousands during the summer months. On any given day our roadways are traveled by not only residents, but visiting property owners, renters, business owners, employees, contractors, vacationers and sight seers. In addition to the vehicular traffic on our roadways, the town has provided a cement sidewalk that runs almost the entire length of Ocean Blvd. This sidewalk, on a daily basis, hosts countless people walking, dog walking, biking, rollerblading, skateboarding and exercising. While doing any of these activities in the provided area, pedestrians are less than 10 feet away from life threatening danger. With the numerous hazards presented to motorists and pedestrians, a reduced speed limit on Ocean Blvd West would greatly improve the safety of Holden Beach and the many that call it home.

### **Vehicle Speed**

While the US standard measurement of speed is portrayed in miles per hour (MPH), to conduct this study we must look at speed on a much smaller scale. Speed calculations are equated using the formula speed=distance/time ( $S=D/T$ ). Simply stated, speed is how much distance one covers in a certain amount of time. A vehicle traveling at 35 MPH covers a distance of 35 miles in 1 hours' time. For this project however, miles per hour is too large a standard for comparison, as motorists will travel no further than 6 miles, nor travel for an hour of elapsed time. With this in mind, we must look at speed as calculated in feet per second (fps). The same speed formula still applies ( $S=D/T$ ), but on a much smaller scale.

### Holden Beach Speed Limit Effect

A mile is measured as 5,280 feet, and time will now be calculated in seconds rather than hours. A vehicle traveling 5,280 feet in 75 seconds for example travels what speed? Using the formula  $S=D/T$  ( $S=5,280/75$ ), we conclude that the vehicle in this example is traveling at 70.4 feet per second. A vehicle traveling 70.4 fps will travel 4,224 feet in one minutes' time, and 253,440 feet in one hours' time. By dividing the total footage by feet in a mile, we can see that a vehicle traveling 70.4 fps is traveling 48 MPH.

$$S=D/T \text{ where } S = 5280 \text{ ft} / 75 \text{ seconds; } S = 70.4\text{fps}$$

$$70.4 \text{ fps multiplied by } 3,600 \text{ (seconds in an hour)} = 253,440 \text{ feet per hour}$$

$$253,440 \text{ feet per hour divided by feet per mile (5,280)} = 48 \text{ MPH}$$

While this formula can be used for all speeds, this project will focus on two main speeds, 35 MPH and 45 MPH. The next chart will illustrate the results of numerous speeds which will henceforth be converted between fps and MPH.

*Table 1 – MPH converted to fps*

<b>Miles Per Hour (MPH)</b>	<b>Feet Per Second (fps)</b>
25 MPH	36.67 fps
30 MPH	44 fps
35 MPH	51.33 fps
40 MPH	58.67 fps
45 MPH	66 fps
50 MPH	73.33 fps
55 MPH	80.67 fps

## Holden Beach Speed Limit Effect

### **Travel Distance**

The Town of Holden Beach hosts two state-maintained highways, the Holden Beach Bridge (NC130) and Ocean Blvd (RP1116). Ocean Blvd extends from the eastern portion of the island to the western portion, covering a distance of approximately 6.2 miles. The portion of Ocean Blvd from its eastern terminus to Greensboro St maintains a consistent year-round speed limit of 35 MPH. From April 1 – September 30, Ocean Blvd maintains a 35 MPH speed limit from Greensboro St to its western terminus that is increased to 45 MPH from October 1 – March 31 (Town of Holden Beach Code of Ordinances, 2019).

The distance of Ocean Blvd West from NC130 to Greensboro St is approximately 1.75 miles or 9,240 feet. Measured distance of the section of Ocean Blvd from Greensboro St to its western terminus is approximately 3.35 miles or 17,688 feet. The total distance of RP1116 from NC130 to its western terminus is approximately 5.1 miles or 26,928 feet.

### **Travel Time**

Travel time is calculated using the formula  $\text{Time} = \text{Distance} / \text{Speed}$  ( $T = D/S$ ). Simply stated, travel time is determined by how much distance one covers at a certain speed. How long will it take a vehicle to travel 10 miles at 40 MPH?

$$T = D/S \text{ where } T = 10 \text{ miles} / 40 \text{ MPH}$$

$$T = 0.25 \text{ hours or 15 minutes}$$

Using the formula  $S = D/T$  and knowing the various distances of Ocean Blvd, we can determine travel times at various speeds. A vehicle that maintains a consistent speed of 35 MPH is traveling 51.33 fps (Table 1). With a distance of 26,928 feet (from NC130 to western terminus),

### Holden Beach Speed Limit Effect

we can determine that  $T = 26,928 \text{ feet} / 51.33 \text{ fps}$ , resulting in a travel time of 524.60 seconds. By dividing 524.6 seconds by 60 seconds per minute, travel time is equated to 8.74 minutes. By multiplying 60 seconds by the decimal (.74) we conclude that travel time is 8:44, or 8 minutes and 44 seconds.

While this formula can be used for all applicable time-distance equations, this project will focus on the portions of Ocean Blvd from the Holden Beach bridge, westward toward its western terminus. The next table will illustrate the different travel times for various speeds westward from NC130.

*Table 2 – Travel times at various speeds*

<b>Speed</b>	<b>Bridge to Greensboro St (9,240 feet or 1.75 miles)</b>	<b>Greensboro St to Western Terminus (17,688 feet or 3.35 miles)</b>	<b>Bridge to Western Terminus (26,928 feet or 5.1 miles)</b>
36.67 fps 25 MPH	251.97 seconds 4:11	482.35 8:02	734.33 12:13
44 fps 30 MPH	210 seconds 3:30	402 seconds 6:42	612 seconds 10:12
51.33 fps 35 MPH	180 seconds 3:00	344.59 seconds 5:44	524.6 seconds 8:44
58.67 fps 40 MPH	157.49 seconds 2:37	301.48 seconds 5:01	458.97 seconds 7:39

### Holden Beach Speed Limit Effect

66 fps 45 MPH	140 seconds 2:20	268 seconds 4:28	408 seconds 6:48
73.33 fps 50 MPH	126 seconds 2:06	241.21 seconds 4:01	367.21 seconds 6:07
80.67 fps 55 MPH	114.54 seconds 1:54	219.26 seconds 3:39	333.8 seconds 5:33

As we can see from Table 2, it will take a vehicle traveling at 35 MPH 3 minutes to travel from the Holden Beach Bridge to Greensboro St. While this speed limit remains constant throughout the year, the differential changes from Greensboro St to the western terminus of Ocean Blvd. During the months of October through March, a vehicle traveling at 45 MPH will take 4 minutes 28 seconds to reach the western terminus from Greensboro St. A vehicle maintaining a 35 MPH pace will take 5 minutes 44 seconds. The time difference in increasing the speed from 35 MPH to 45 MPH for a distance of 17,688 feet or 3.35 miles is 76.59 seconds, or 1 minute 16 seconds.

### **Safety Concerns**

As speeds increase, so too do the variables associated with safety and collisions. “A crash at a higher speed contains more energy that translates directly to more damage to you and your vehicle” (NHTSA, 2015). Not only are damages and injuries increased with higher vehicle speeds, but so too are the likelihood of those collisions. “Of the total 5.7 million crashes in 2013, one-third were rear-end collisions where stopping distance mattered. More people were injured in rear-end collisions than any other type of crash” (NHTSA, 2015).

### Holden Beach Speed Limit Effect

As speeds increase, so too do the braking distances required to safely stop a motor vehicle. A vehicle's stopping ability is dependent upon many factors, to include the driver's reaction time and decision making, the vehicle's braking ability, coefficient of friction, tires and the road surface conditions. Because of these variables, and the fact that each vehicle and driver will be different in its reaction to a collision, this project will use researched and established estimations from the National Highway Traffic Safety Administration.

The first variable to examine is reaction time. Before a vehicle can begin to brake during an emergency, the driver must see and recognize an event, only then may he or she react. Reaction times are characterized into three categories: expected, unexpected (familiar), and surprise.

Expected – When someone knows they must react and have already made a response selection. The average response for this type of event is 0.5 seconds to recognize the event and 0.2 seconds to move. The total reaction time for an expected event is 0.7 seconds.

Unexpected (familiar) – This occurs when someone is not expecting to react, but has seen this situation before. An example would be a vehicle braking in front of you. You are familiar with brake lights and know that you need to stop. You have seen this unexpectedly numerous times; therefore, it is familiar and you know how to respond. Under these circumstances, your perception, response and muscle movement reaction times are increased to a total of 1.25 seconds.

Surprise – This occurs when someone is not expecting to react and the situation is unfamiliar. Say for instance that a child darts in front of you. Your brain takes longer to perceive and process this new information, searching for an appropriate response. As you are reacting under stress, muscle movement is less fluid and takes longer. The total perception, response and muscle movement reaction time under these types of circumstances are increased to 1.5 seconds.

### Holden Beach Speed Limit Effect

By knowing and understanding our perception and reaction time, we can determine that a vehicle traveling at a higher rate of speed covers more ground as we attempt to react to a situation. The following table will illustrate distance covered at certain speeds before the brakes are ever applied to that vehicle.

*Table 3 – Perception / Reaction Time Distance*

<b>Speed</b>	<b>Expected (0.7)</b>	<b>Unexpected (1.25)</b>	<b>Surprise (1.5)</b>
36.67 fps 25 MPH	25.66 feet	45.83 feet	55 feet
44 fps 30 MPH	30.8 feet	55 feet	66 feet
51.33 fps 35 MPH	35.93 feet	64.16 feet	76.99 feet
58.67 fps 40 MPH	41.06 feet	73.33 feet	88 feet
66 fps 45 MPH	46.2 feet	82.5 feet	99 feet
73.33 fps 50 MPH	51.33 feet	91.66 feet	109.99 feet
80.67 fps 55 MPH	56.46 feet	100.83 feet	121 feet

### Holden Beach Speed Limit Effect

The next variable to consider is a vehicle's actual braking ability. "Highway traffic and safety engineers have some general guidelines they have developed over the years and now hold as standards. As an example, if a street surface is dry, the average driver can safely decelerate an automobile or light truck with reasonably good tires at a rate of about 15 feet per second" (nacto.org). Of course, this rate of deceleration does not account for uneven or broken pavement, loose gravel or sand, wet roads, or icy conditions. Using this standard, a vehicle with an initial velocity of 55 MPH (80.67 fps) would have a velocity of 65.67 fps after 1 elapsed second, 50.67 fps after 2 seconds, 30.67 fps after 3 seconds and so on until completely stopped. The stopping time for this vehicle from 80.67 fps would be 5.37 seconds. "To determine how far the vehicle will travel while braking, use the formula  $\frac{1}{2}$  the initial velocity multiplied by the time required to stop" (nacto.org).

$$\text{Braking Time} = \text{velocity}[\text{fps}] / 15$$

$$bt = 80.67 / 15$$

$$bt = 5.37 \text{ seconds}$$

$$\text{Braking Distance} = \text{Velocity} / 2 * bt$$

$$bd = 80.67 / 2 * 5.37$$

$$bd = 40.33 * 5.37$$

$$bd = 216.59 \text{ feet}$$

This formula will be used to establish braking distances at a consistent rate of deceleration established at 15 fps in the following table.

Holden Beach Speed Limit Effect*Table 4 – Braking Time and Distance*

<b>Speed</b>	<b>Braking Time</b>	<b>Braking Distance</b>
36.67 fps 25 MPH	2.44 seconds	44.73 feet
44 fps 30 MPH	2.93 seconds	64.46 feet
51.33 fps 35 MPH	3.42 seconds	87.77 feet
58.67 fps 40 MPH	3.91 seconds	114.69 feet
66 fps 45 MPH	4.4 seconds	145.2 feet
73.33 fps 50 MPH	4.88 seconds	178.92 feet
80.67 fps 55 MPH	5.37 seconds	216.59 feet

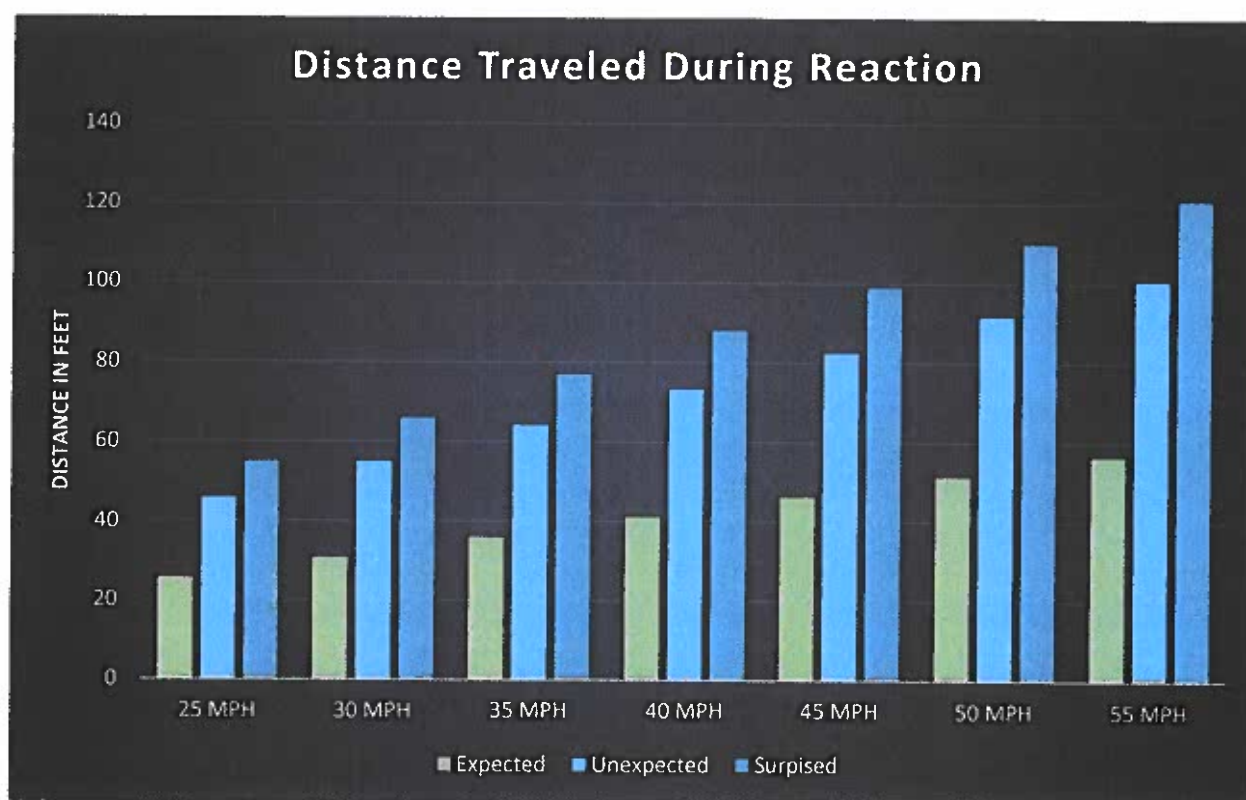
In order to determine the total stopping distance for a vehicle, we must calculate the perception reaction time and deceleration time together. As a driver is traveling at 50 MPH (73.33 fps) and encounters a surprise event, the driver will take an average of 1.5 seconds to apply his brakes, traveling a distance of 109.99 feet (Table 3). Once braking has begun, the vehicle stopping on dry, even pavement on good tires with good brakes will decelerate at an average rate of 15 fps, requiring 178.92 feet (Table 4). The total stopping distance from perception to reaction to

### Holden Beach Speed Limit Effect

complete stop will be approximately 288.91 feet. While traveling at 50 MPH any surprise incident that happens within a football fields length (100 yards) from the vehicle will almost certainly end with a collision.

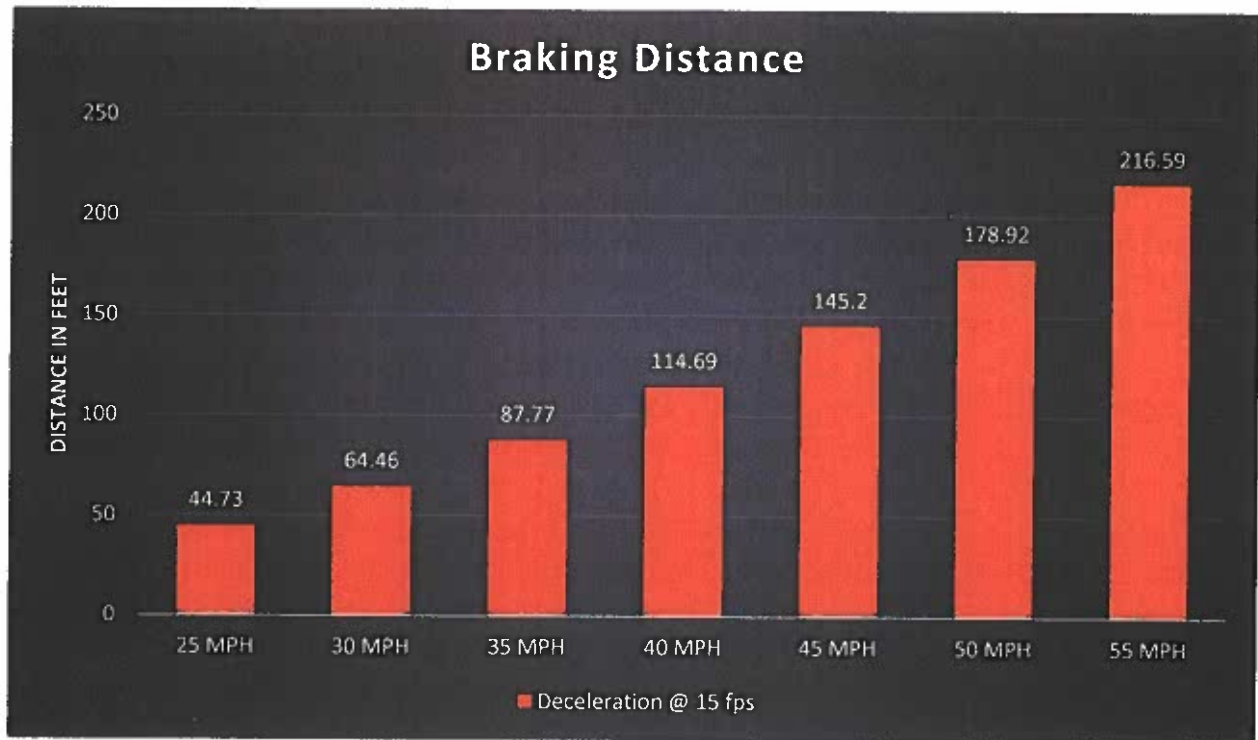
The following three graphs will illustrate reaction times, braking times, and total stopping distances at various speeds.

*Graph 1 – Perception / Reaction Time Distance*



## Holden Beach Speed Limit Effect

*Graph 2 – Braking Distance*



*Graph 3 – Combined Reaction / Braking*



## Holden Beach Speed Limit Effect

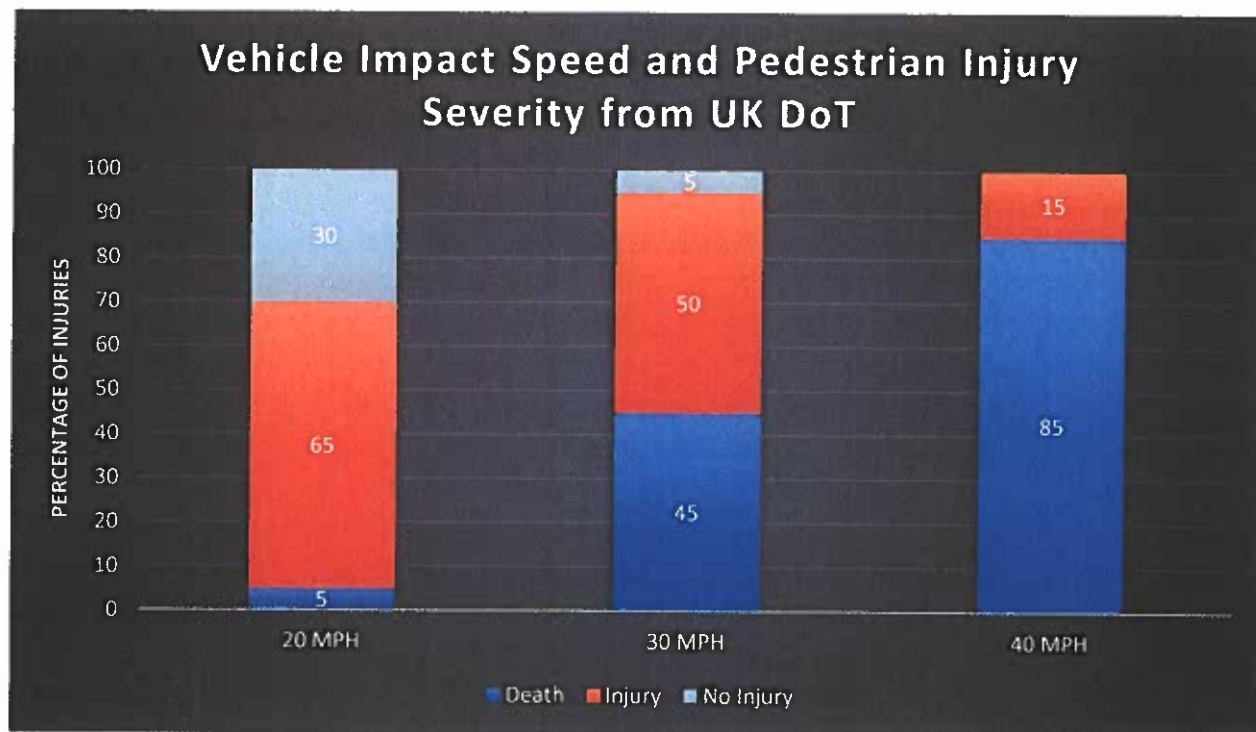
### **Vehicles vs. Pedestrians**

National Highway Traffic Safety Administration research found that “about 5 percent of pedestrians would die when struck by a vehicle traveling 20 MPH, about 40 percent for vehicles traveling 30 MPH, about 80 percent for vehicles traveling 40 MPH, and nearly 100 percent for speeds over 50 MPH” (Leaf & Preusser, pg. 4). This same report by Leaf & Preusser states that younger pedestrians are generally more able to resist serious injury and death, while elderly pedestrians are much more susceptible to more serious consequences as crash victims. “Overall, pedestrians age 65 and older are more than 5 times likely to die in crashes than pedestrians age 14 or less” (Leaf & Preusser, pg. 5).

Research during this project found that many of the studies of vehicles vs. pedestrians are conducted outside of the United States, and that US data is limited. The UK Department of Transport Traffic Advisory Leaflet published the following figures relating to vehicles vs. pedestrians. “For 20 mph impact speeds: 5 percent death, 65 percent injured, and 30 percent uninjured; for 30 mph impact speeds: 45 percent death, 50 percent injured, and 5 percent uninjured; for 40 mph impact speeds: 85 percent death and 15 percent injured” (Leaf & Preusser, pg. 15). This information is illustrated in the following graph.

## Holden Beach Speed Limit Effect

*Graph 4 – UK DoT*



Recommendations from the NHTSA include reduction of speed limits in areas with high pedestrian traffic. Not only do lower speeds reduce the likelihood of pedestrian injuries in a crash, “many pedestrian crashes would be prevented entirely had the vehicles been traveling more slowly” (Leaf & Preusser, pg. 49). Leaf and Preusser also express in their report that there is a strong correlation between the speeds of crash vehicles and the posted speed limit. Their report shows an increase in fatalities with increasing speed limits.

### **Conclusion**

The established seasonal speed limitations were adopted into ordinance by the Town of Holden Beach in 1986. In the 1980’s, census populations on Holden Beach were estimated to be around 232 residents (census.gov). Thirty-four years later, Holden Beach still follows the same seasonal speed limitations. While Holden Beach has maintained its family friendly environment,

### Holden Beach Speed Limit Effect

we have had a continual increase in residential construction, bringing in more home owners and visitors. The increases in population has also increased both vehicular and pedestrian traffic along Ocean Blvd. With the presence of a pedestrian sidewalk running parallel to Ocean Blvd, this project finds that vehicles and pedestrians would find themselves in a safer environment were the seasonal speed limitations amended. As we can conclude from mathematical equations, the travel impact of reducing the speed limit along Ocean Blvd from Greensboro St to its western terminus would be minimal. Travel times for that portion of roadway would increase by 1 minute and 16 seconds. With a reduction in speed comes added safety and security, as total stopping distances could be reduced by as much as 79 feet. Statistics also indicate that vehicle vs. pedestrian collisions result in an 85% fatality rate when traveling 40 MPH or more. By amending the seasonal speed limitations, and maintaining a consistent year-round 35 MPH standard on Ocean Blvd, we can provide a safer and more enjoyable environment for both motorists and pedestrians.

## Holden Beach Speed Limit Effect

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## Section 3

# NCGS 20-141 – Speed Restrictions

## DOT Engineer Report

**§ 20-141. Speed restrictions.**

(a) No person shall drive a vehicle on a highway or in a public vehicular area at a speed greater than is reasonable and prudent under the conditions then existing.

(b) Except as otherwise provided in this Chapter, it shall be unlawful to operate a vehicle in excess of the following speeds:

- (1) Thirty-five miles per hour inside municipal corporate limits for all vehicles.
- (2) Fifty-five miles per hour outside municipal corporate limits for all vehicles except for school buses and school activity buses.

(c) Except while towing another vehicle, or when an advisory safe-speed sign indicates a slower speed, or as otherwise provided by law, it shall be unlawful to operate a passenger vehicle upon the interstate and primary highway system at less than the following speeds:

- (1) Forty miles per hour in a speed zone of 55 miles per hour.
- (2) Forty-five miles per hour in a speed zone of 60 miles per hour or greater.

These minimum speeds shall be effective only when appropriate signs are posted indicating the minimum speed.

- (d) (1) Whenever the Department of Transportation determines on the basis of an engineering and traffic investigation that any speed allowed by subsection (b) is greater than is reasonable and safe under the conditions found to exist upon any part of a highway outside the corporate limits of a municipality or upon any part of a highway designated as part of the Interstate Highway System or any part of a controlled-access highway (either inside or outside the corporate limits of a municipality), the Department of Transportation shall determine and declare a reasonable and safe speed limit.
- (2) Whenever the Department of Transportation determines on the basis of an engineering and traffic investigation that a higher maximum speed than those set forth in subsection (b) is reasonable and safe under the conditions found to exist upon any part of a highway designated as part of the Interstate Highway System or any part of a controlled-access highway (either inside or outside the corporate limits of a municipality) the Department of Transportation shall determine and declare a reasonable and safe speed limit. A speed limit set pursuant to this subsection may not exceed 70 miles per hour.

Speed limits set pursuant to this subsection are not effective until appropriate signs giving notice thereof are erected upon the parts of the highway affected.

(e) Local authorities, in their respective jurisdictions, may authorize by ordinance higher speeds or lower speeds than those set out in subsection (b) upon all streets which are not part of the State highway system; but no speed so fixed shall authorize a speed in excess of 55 miles per hour. Speed limits set pursuant to this subsection shall be effective when appropriate signs giving notice thereof are erected upon the part of the streets affected.

(e1) Local authorities within their respective jurisdictions may authorize, by ordinance, lower speed limits than those set in subsection (b) of this section on school property. If the lower speed limit is being set on the grounds of a public school, the local school administrative unit must request or consent to the lower speed limit. If the lower speed limit is being set on the grounds of a private school, the governing body of the school must request or consent to the lower speed limit. Speed limits established pursuant to this subsection shall become effective when appropriate signs giving notice of the speed limit are erected upon affected property. A person who drives a motor vehicle on school property at a speed greater than the speed limit set and posted under this subsection is responsible for an infraction and is required to pay a penalty of two hundred fifty dollars (\$250.00).

(f) Whenever local authorities within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that a higher maximum speed than those set forth in subsection (b) is reasonable and safe, or that any speed hereinbefore set forth is greater than is reasonable and safe, under the conditions found to exist upon any part of a street within the corporate limits of a municipality and which street is a part of the State highway system (except those highways designated as part of the interstate highway system or other controlled-access highway) said local authorities shall determine and declare a safe and reasonable speed limit. A speed limit set pursuant to this subsection may not exceed 55 miles per hour. Limits set pursuant to this subsection shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

When local authorities annex a road on the State highway system, the speed limit posted on the road at the time the road was annexed shall remain in effect until both the Department and municipality pass concurrent ordinances to change the speed limit.

The Department of Transportation is authorized to raise or lower the statutory speed limit on all highways on the State highway system within municipalities which do not have a governing body to enact municipal ordinances as provided by law. The Department of Transportation shall determine a reasonable and safe speed limit in the same manner as is provided in G.S. 20-141(d)(1) and G.S. 20-141(d)(2) for changing the speed limits outside of municipalities, without action of the municipality.

(g) Whenever the Department of Transportation or local authorities within their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow speeds on any part of a highway considerably impede the normal and reasonable movement of traffic, the Department of Transportation or such local authority may determine and declare a minimum speed below which no person shall operate a motor vehicle except when necessary for safe operation in compliance with law. Such minimum speed limit shall be effective when appropriate signs giving notice thereof are erected on said part of the highway. Provided, such minimum speed limit shall be effective as to those highways and streets within the corporate limits of a municipality which are on the State highway system only when ordinances adopting the minimum speed limit are passed and concurred in by both the Department of Transportation and the local authorities. The provisions of this subsection shall not apply to farm tractors and other motor vehicles operating at reasonable speeds for the type and nature of such vehicles.

(h) No person shall operate a motor vehicle on the highway at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law; provided, this provision shall not apply to farm tractors and other motor vehicles operating at reasonable speeds for the type and nature of such vehicles.

(i) The Department of Transportation shall have authority to designate and appropriately mark certain highways of the State as truck routes.

(j) Repealed by Session Laws 1997, c. 443, s. 19.26(b).

(j1) A person who drives a vehicle on a highway at a speed that is either more than 15 miles per hour more than the speed limit established by law for the highway where the offense occurred or over 80 miles per hour is guilty of a Class 3 misdemeanor.

(j2) A person who drives a motor vehicle in a highway work zone at a speed greater than the speed limit set and posted under this section shall be required to pay a penalty of two hundred fifty dollars (\$250.00). This penalty shall be imposed in addition to those penalties established in this Chapter. A "highway work zone" is the area between the first sign that informs motorists of the existence of a work zone on a highway and the last sign that informs

motorists of the end of the work zone. The additional penalty imposed by this subsection applies only if signs are posted at the beginning and end of any segment of the highway work zone stating the penalty for speeding in that segment of the work zone. The Secretary shall ensure that work zones shall only be posted with penalty signs if the Secretary determines, after engineering review, that the posting is necessary to ensure the safety of the traveling public due to a hazardous condition.

A law enforcement officer issuing a citation for a violation of this section while in a highway work zone shall indicate the vehicle speed and speed limit posted in the segment of the work zone, and determine whether the individual committed a violation of G.S. 20-141(j1). Upon an individual's conviction of a violation of this section while in a highway work zone, the clerk of court shall report that the vehicle was in a work zone at the time of the violation, the vehicle speed, and the speed limit of the work zone to the Division of Motor Vehicles.

(j3) A person is guilty of a Class 2 misdemeanor if the person drives a commercial motor vehicle carrying a load that is subject to the permit requirements of G.S. 20-119 upon a highway or any public vehicular area at a speed of 15 miles per hour or more above either:

- (1) The posted speed; or
- (2) The restricted speed, if any, of the permit, or if no permit was obtained, the speed that would be applicable to the load if a permit had been obtained.

(k) Repealed by Session Laws 1995 (Regular Session, 1996), c. 652, s. 1.

(l) Notwithstanding any other provision contained in G.S. 20-141 or any other statute or law of this State, including municipal charters, any speed limit on any portion of the public highways within the jurisdiction of this State shall be uniformly applicable to all types of motor vehicles using such portion of the highway, if on November 1, 1973, such portion of the highway had a speed limit which was uniformly applicable to all types of motor vehicles using it. Provided, however, that a lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of such vehicle, including any load thereon. The requirement for a uniform speed limit hereunder shall not apply to any portion of the highway during such time as the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of the highway.

(m) The fact that the speed of a vehicle is lower than the foregoing limits shall not relieve the operator of a vehicle from the duty to decrease speed as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highway, and to avoid injury to any person or property.

(n) Notwithstanding any other provision contained in G.S. 20-141 or any other statute or law of this State, the failure of a motorist to stop his vehicle within the radius of its headlights or the range of his vision shall not be held negligence per se or contributory negligence per se.

(o) A violation of G.S. 20-123.2 shall be a lesser included offense in any violation of this section, and shall be subject to the following limitations and conditions:

- (1) A violation of G.S. 20-123.2 shall be recorded in the driver's official record as "Improper equipment – Speedometer."
- (2) The lesser included offense under this subsection shall not apply to charges of speeding in excess of 25 miles per hour or more over the posted speed limit.

No drivers license points or insurance surcharge shall be assessed on account of a violation of this subsection.

(p) A driver charged with speeding in excess of 25 miles per hour over the posted speed limit shall be ineligible for a disposition of prayer for judgment continued. (1937, c. 297, s. 2; c. 407, s. 103; 1939, c. 275; 1941, c. 347; 1947, c. 1067, s. 17; 1949, c. 947, s. 1; 1953, c. 1145;

1955, c. 398; c. 555, ss. 1, 2; c. 1042; 1957, c. 65, s. 11; c. 214; 1959, c. 640; c. 1264, s. 10; 1961, cc. 99, 1147; 1963, cc. 134, 456, 949; 1967, c. 106; 1971, c. 79, ss. 1-3; 1973, c. 507, s. 5; c. 1330, s. 7; 1975, c. 225; 1977, c. 367; c. 464, s. 34; c. 470; 1983, c. 131; 1985, c. 764, ss. 29, 30; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1987, c. 164; 1991 (Reg. Sess., 1992), c. 818, s. 1; c. 1034, s. 1; 1993, c. 539, ss. 366, 367; 1994, Ex. Sess., c. 24, s. 14(c); 1995 (Reg. Sess., 1996), c. 652, s. 1; 1997-341, s. 1; 1997-443, s. 19.26(b); 1997-488, s. 1; 1999-330, s. 3; 2000-109, s. 7(c); 2003-110, s. 1; 2004-203, s. 70(a); 2005-349, s. 11; 2007-380, ss. 1, 2; 2009-234, ss. 1, 2; 2011-64, s. 2; 2012-194, s. 9; 2013-360, s. 18B.14(k).)



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

ROY COOPER  
GOVERNOR

J. ERIC BOYETTE  
SECRETARY

January 27, 2021

Chief Jeremy Dixon  
[Jeremy.dixon@hbtownhall.com](mailto:Jeremy.dixon@hbtownhall.com)

Chief Dixon,

This is regarding your request for a speed limit evaluation on SR 1116 (Ocean Blvd.) in Holden Beach, Brunswick County. We share your concern for highway safety and appreciate you bringing your concerns to our attention.

The Department has completed an engineering investigation to determine if the technical warrants are met to recommend changing the speed limit. A speed study was conducted that includes evaluating the 85<sup>th</sup> percentile speed, road characteristics, existing conditions, and surrounding environment. The 85<sup>th</sup> percentile speed is the speed at or below which 85 percent of the sampled vehicles travel. Typically, the 85<sup>th</sup> percentile speed is used to determine the speed limit. This helps to avoid posting speed limits that are artificially low, which can become difficult to enforce. The 85<sup>th</sup> percentile speeds on SR 1116 (Ocean Blvd.) were 40mph, 50mph, 50mph, and 45mph in four different locations within the seasonal 45mph (off-seasonal) zone, and 43mph within the 35mph zone.

Based on the findings, these roads are posted appropriately for the data we collected (for Off-Peak Season Traffic). I have included the raw data for this study for your review. A pamphlet is included on speed limits produced by the NC Department of Transportation, which explains how speed limits are determined throughout the state. Feel free to contact me at (910) 341-2200 if you have any questions or need additional information.

Sincerely,

D. Allen Hancock  
Assistant Division Traffic Engineer

DAH/  
Attachments  
cc: File

Mailing Address  
NC DEPARTMENT OF TRANSPORTATION  
DIVISION OF HIGHWAYS  
5504 BARBADOS BOULEVARD  
CASTLE HAYNE NC 28429

Telephone (910) 341-2200  
Fax (910) 602-7079  
Customer Service 1-877-368-4968

Website [www.ncdot.gov](http://www.ncdot.gov)

Location  
TRAFFIC SERVICES  
5504 BARBADOS BOULEVARD  
CASTLE HAYNE NC 28429

## Speed Limit Change Investigation Checklist

Date: 01/04/2020 JCB County:	Brunswick
Road # & map grid	1116
Road Name	Ocean Boulevard W & E
Requestor's name	Jeremy Dixon (Chief of Police)
Requestor's address	
Requestor's phone & email	910-842-8474 910-269-7803 <a href="mailto:jeremv.dixon@hbtownhall.com">jeremv.dixon@hbtownhall.com</a>
Request came via (3 <sup>rd</sup> party)	Jessi Leonard, Allen Hancock
Nature of concern/request	Evaluate the speed limit
Location of concern	Entire
Current speed limit	A-B = 35 C-E = 45 (Seasonal)
A) 85 <sup>th</sup> -percentile speed	a.) 43mph b.) 40mph c.) 50mph d.) 50mph e.) 45mph
A1) Speed measured at location	a.) 0.5 mile west of NC 130 Holden Beach Rd. SW b.) 0.6 mile east of NC 130 Holden Beach Rd. SW c.) 2.4 miles west of NC 130 Holden Beach Rd. SW d.) 3.2 miles west of NC 130 Holden Beach Rd. SW e.) 4.3 miles west of NC 130 Holden Beach Rd. SW
A2) Speed measured how	Traffic Counter Plates
A3) Speed measured date(s)	12/29-30/2020
A4) Speed measured time(s)	1:00 – 1:00
B) Road surface type & condition	Bituminous; acceptable
C1) Road jurisdiction type	Urban (Holden Beach)
C2) Pavement width at speed site	
C3) Lane widths at speed site	
D) Shoulder width, type, condition	Varies fm 3' to 8'; turf: acceptable
E1) Horizontal alignment-curves	No. of curves with advisory speed plaques:
E2) Vertical alignment-grades	Relatively flat
E3) Sight distance	Acceptable
E4) Pace speed	Drove thru at posted legal & advisory speeds: Yes
F1) Roadside development & environment	Extensive: wooded areas: Farm/open fields: # intersections: # of driveways: Land Uses:
F2) Parking practices	none seen
F3) Pedestrian activity	none seen
Crash history requested by caller?	No
If run, # crashes in 5 years ending	crashes in 5 years ending
Other/Notes:	

9/9/2020

Holden Beach Rd SW, Holden Beach, NC 28462 to 204-232 State Rd 1116, Holden Beach, NC 28462 - Google Maps

A

Google Maps

Holden Beach Rd SW, Holden Beach, NC 28462 to 204-232 State Rd 1116, Holden Beach, NC 28462 Drive 0.5 mile, 1 min

403884 EBL  
403885 WBL

Imagery © 2020 Google Imagery © 2020 Maxar Technologies, U.S. Geological Survey, USDA Farm Service Agency, Map data © 2020 200 ft

**MH Corbin Traffic Analyzer Study**  
**Computer Generated Summary Report**  
**City: HOLDEN BEACH**  
**Street: SR 1116 (OCEAN BLVD. W)**  
**Location: 0.5 MILE WEST OF NC 130 (HOLDEN BEACH RD. SW)**

A study of vehicle traffic was conducted with the device having serial number 403884. The study was done in the EBL lane at SR 1116 (OCEAN BLVD. W) in HOLDEN BEACH, NC in BRUNSWICK county. The study began on 12/29/2020 at 01:00 PM and concluded on 12/30/2020 at 01:00 PM, lasting a total of 24.00 hours. Traffic statistics were recorded in 15 minute time periods. The total recorded volume showed 1,970 vehicles passed through the location with a peak volume of 63 on 12/30/2020 at [11:30 AM-11:45 AM] and a minimum volume of 0 on 12/29/2020 at [11:30 PM-11:45 PM]. The AADT count for this study was 1,970.

### **SPEED**

Chart 1 lists the values of the speed bins and the total traffic volume for each bin. At least half the vehicles were traveling in the 35 - 40 MPH range or lower. The average speed for all classified vehicles was 36 MPH with 62.39% vehicles exceeding the posted speed of 35 MPH. 0.66% percent of the total vehicles were traveling in excess of 55 MPH. The mode speed for this traffic study was 35MPH and the 85th percentile was 42.68 MPH.

< to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 to 39	40 to 44	45 to 49	50 to 54	55 to 59	60 to 64	65 to 69	70 to 74	75 to >
4	5	7	43	196	483	728	375	85	23	4	4	0	1	4

CHART 1

### **CLASSIFICATION**

Chart 2 lists the values of the classification bins and the total traffic volume accumulated for each bin. Most of the vehicles classified during the study were Passenger Vehicles. The number of Passenger Vehicles in the study was 949 which represents 48 percent of the total classified vehicles. The number of Vans & Pickups in the study was 925 which represents 47 percent of the total classified vehicles. The number of Busses & Trucks in the study was 53 which represents 3 percent of the total classified vehicles. The number of Tractor Trailers in the study was 35 which represents 2 percent of the total classified vehicles.

< to 17	18 to 20	21 to 23	24 to 27	28 to 31	32 to 37	38 to 43	44 to >							
549	834	91	15	15	30	13	8							

CHART 2

### **HEADWAY**

During the peak traffic period, on 12/30/2020 at [11:30 AM-11:45 AM] the average headway between vehicles was 14.063 seconds. During the slowest traffic period, on 12/29/2020 at [11:30 PM-11:45 PM] the average headway between vehicles was 900 seconds.

### **WEATHER**

The roadway surface temperature over the period of the study varied between 37.00 and 82.00 degrees F.

**MH Corbin Traffic Analyzer Study  
Computer Generated Summary Report  
City: HOLDEN BEACH  
Street: SR 1116 (OCEAN BLVD. W)  
Location: 0.5 MILE WEST OF NC 130 (HOLDEN BEACH RD. SW)**

A study of vehicle traffic was conducted with the device having serial number 403885. The study was done in the WBL lane at SR 1116 (OCEAN BLVD. W) in HOLDEN BEACH, NC in BRUNSWICK county. The study began on 12/29/2020 at 01:00 PM and concluded on 12/30/2020 at 01:00 PM, lasting a total of 24.00 hours. Traffic statistics were recorded in 15 minute time periods. The total recorded volume showed 1,999 vehicles passed through the location with a peak volume of 63 on 12/30/2020 at [12:45 PM-01:00 PM] and a minimum volume of 0 on 12/29/2020 at [11:45 PM-12:00 AM]. The AADT count for this study was 1,999.

### **SPEED**

Chart 1 lists the values of the speed bins and the total traffic volume for each bin. At least half the vehicles were traveling in the 35 - 40 MPH range or lower. The average speed for all classified vehicles was 38 MPH with 72.98% vehicles exceeding the posted speed of 35 MPH. 1.21% percent of the total vehicles were traveling in excess of 55 MPH. The mode speed for this traffic study was 35MPH and the 85th percentile was 43.88 MPH.

< to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 to 39	40 to 44	45 to 49	50 to 54	55 to 59	60 to 64	65 to 69	70 to 74	75 to >
3	9	10	36	108	370	758	504	130	32	7	5	5	3	4

CHART 1

### **CLASSIFICATION**

Chart 2 lists the values of the classification bins and the total traffic volume accumulated for each bin. Most of the vehicles classified during the study were Vans & Pickups. The number of Passenger Vehicles in the study was 770 which represents 39 percent of the total classified vehicles. The number of Vans & Pickups in the study was 1086 which represents 55 percent of the total classified vehicles. The number of Busses & Trucks in the study was 75 which represents 4 percent of the total classified vehicles. The number of Tractor Trailers in the study was 52 which represents 3 percent of the total classified vehicles.

< to 17	18 to 20	21 to 23	24 to 27	28 to 31	32 to 37	38 to 43	44 to >							
770	942	144	20	26	37	23	22							

CHART 2

### **HEADWAY**

During the peak traffic period, on 12/30/2020 at [12:45 PM-01:00 PM] the average headway between vehicles was 14.063 seconds. During the slowest traffic period, on 12/29/2020 at [11:45 PM-12:00 AM] the average headway between vehicles was 900 seconds.

### **WEATHER**

The roadway surface temperature over the period of the study varied between 37.00 and 81.00 degrees F.

9/9/2020

Holden Beach Rd SW, Holden Beach, NC 28462 to 178-182 State Rd 1116, Holden Beach, NC 28462 Google Maps

Holden Beach Rd SW, Holden Beach, NC 28462 to 178-182 State Rd 1116, Holden Beach, NC 28462

Drive 0.6 mile, 2 min

403882 EBL  
403883 WBL

Imagery ©2020 Google, Imagery ©2020 Maxar Technologies, U.S. Geological Survey, USDA Farm Service Agency, Map data ©2020 200 ft

**MH Corbin Traffic Analyzer Study  
Computer Generated Summary Report  
City: HOLDEN BEACH  
Street: SR 1116 (OCEAN BLVD. W)  
Location: 0.6 MILE EAST OF NC 130 (HOLDEN BEACH RD. SW)**

A study of vehicle traffic was conducted with the device having serial number 403882. The study was done in the EBL lane at SR 1116 (OCEAN BLVD. W) in HOLDEN BEACH, NC in BRUNSWICK county. The study began on 12/29/2020 at 02:00 PM and concluded on 12/30/2020 at 02:00 PM, lasting a total of 24.00 hours. Traffic statistics were recorded in 15 minute time periods. The total recorded volume showed 587 vehicles passed through the location with a peak volume of 25 on 12/30/2020 at [01:00 PM-01:15 PM] and a minimum volume of 0 on 12/29/2020 at [08:30 PM-08:45 PM]. The AADT count for this study was 587.

### SPEED

Chart 1 lists the values of the speed bins and the total traffic volume for each bin. At least half the vehicles were traveling in the 30 - 35 MPH range or lower. The average speed for all classified vehicles was 35 MPH with 48.55% vehicles exceeding the posted speed of 35 MPH. 0.68% percent of the total vehicles were traveling in excess of 55 MPH. The mode speed for this traffic study was 30MPH and the 85th percentile was 42.35 MPH.

< to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 to 39	40 to 44	45 to 49	50 to 54	55 to 59	60 to 64	65 to 69	70 to 74	75 to >
0	3	11	24	77	186	156	85	31	8	2	0	0	0	2

CHART 1

### CLASSIFICATION

Chart 2 lists the values of the classification bins and the total traffic volume accumulated for each bin. Most of the vehicles classified during the study were Vans & Pickups. The number of Passenger Vehicles in the study was 187 which represents 32 percent of the total classified vehicles. The number of Vans & Pickups in the study was 358 which represents 61 percent of the total classified vehicles. The number of Busses & Trucks in the study was 22 which represents 4 percent of the total classified vehicles. The number of Tractor Trailers in the study was 18 which represents 3 percent of the total classified vehicles.

< to 17	18 to 20	21 to 23	24 to 27	28 to 31	32 to 37	38 to 43	44 to >							
187	299	59	7	12	6	8	7							

CHART 2

### HEADWAY

During the peak traffic period, on 12/30/2020 at [01:00 PM-01:15 PM] the average headway between vehicles was 34.615 seconds. During the slowest traffic period, on 12/29/2020 at [08:30 PM-08:45 PM] the average headway between vehicles was 900 seconds.

### WEATHER

The roadway surface temperature over the period of the study varied between 39.00 and 81.00 degrees F.

**MH Corbin Traffic Analyzer Study  
Computer Generated Summary Report  
City: HOLDEN BEACH  
Street: SR 1116 (OCEAN BLVD. W)  
Location: 0.6 MILE EAST OF NC 130 (HOLDEN BEACH RD. SW)**

A study of vehicle traffic was conducted with the device having serial number 403883. The study was done in the WBL lane at SR 1116 (OCEAN BLVD. W) in HOLDEN BEACH, NC in BRUNSWICK county. The study began on 12/29/2020 at 02:00 PM and concluded on 12/30/2020 at 02:00 PM, lasting a total of 24.00 hours. Traffic statistics were recorded in 15 minute time periods. The total recorded volume showed 580 vehicles passed through the location with a peak volume of 24 on 12/29/2020 at [03:30 PM-03:45 PM] and a minimum volume of 0 on 12/29/2020 at [07:30 PM-07:45 PM]. The AADT count for this study was 580.

### **SPEED**

Chart 1 lists the values of the speed bins and the total traffic volume for each bin. At least half the vehicles were traveling in the 25 - 30 MPH range or lower. The average speed for all classified vehicles was 30 MPH with 21.84% vehicles exceeding the posted speed of 35 MPH. 0.17% percent of the total vehicles were traveling in excess of 55 MPH. The mode speed for this traffic study was 25MPH and the 85th percentile was 36.94 MPH.

< to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 to 39	40 to 44	45 to 49	50 to 54	55 to 59	60 to 64	65 to 69	70 to 74	75 to >
1	5	25	95	184	141	98	23	3	1	1	0	0	0	0

CHART 1

### **CLASSIFICATION**

Chart 2 lists the values of the classification bins and the total traffic volume accumulated for each bin. Most of the vehicles classified during the study were Passenger Vehicles. The number of Passenger Vehicles in the study was 287 which represents 50 percent of the total classified vehicles. The number of Vans & Pickups in the study was 264 which represents 46 percent of the total classified vehicles. The number of Busses & Trucks in the study was 15 which represents 3 percent of the total classified vehicles. The number of Tractor Trailers in the study was 10 which represents 2 percent of the total classified vehicles.

< to 17	18 to 20	21 to 23	24 to 27	28 to 31	32 to 37	38 to 43	44 to >							
287	240	24	5	8	5	4	4							

CHART 2

### **HEADWAY**

During the peak traffic period, on 12/29/2020 at [03:30 PM-03:45 PM] the average headway between vehicles was 36 seconds. During the slowest traffic period, on 12/29/2020 at [07:30 PM-07:45 PM] the average headway between vehicles was 900 seconds.

### **WEATHER**

The roadway surface temperature over the period of the study varied between 37.00 and 81.00 degrees F.

9/9/2020

Holden Beach Rd SW, Holden Beach, NC 28462 to 625 Ocean Blvd W, Holden Beach, NC 28462 - Google Maps

Google Maps

Holden Beach Rd SW, Holden Beach, NC 28462 to 625 Ocean Blvd W, Holden Beach, NC 28462

Drive 2.4 miles, 5 min



Imagery © 2020 Google, TerraMetrics, Data SIO, NOAA, U.S. Navy, NGA, GEBCO, Imagery © 2020 Maxar Technologies, U.S. Geological Survey, USDA Farm Service Agency, Map data ©2020

1000 ft

401415 EBL  
401417 WBL

<https://www.google.com/maps/dir/33.9140149,-78.2693661/33.9102733,-78.3115053/@33.9143393,-78.2924558,4971a,35y,2.42h/data=!3m1!1e3!4m2!4m1!3e0>

**MH Corbin Traffic Analyzer Study  
Computer Generated Summary Report  
City: HOLDEN BEACH  
Street: SR 1116 (OCEAN BLVD. W)  
Location: 2.4 MILES WEST OF NC 130 (HOLDEN BEACH RD. SW)**

A study of vehicle traffic was conducted with the device having serial number 401415. The study was done in the EBL lane at SR 1116 (OCEAN BLVD. W) in HOLDEN BEACH, NC in BRUNSWICK county. The study began on 12/29/2020 at 01:00 PM and concluded on 12/30/2020 at 01:00 PM, lasting a total of 24.00 hours. Traffic statistics were recorded in 15 minute time periods. The total recorded volume showed 1,133 vehicles passed through the location with a peak volume of 45 on 12/30/2020 at [12:00 PM-12:15 PM] and a minimum volume of 0 on 12/29/2020 at [10:00 PM-10:15 PM]. The AADT count for this study was 1,133.

### SPEED

Chart 1 lists the values of the speed bins and the total traffic volume for each bin. At least half the vehicles were traveling in the 40 - 45 MPH range or lower. The average speed for all classified vehicles was 42 MPH with 36.23% vehicles exceeding the posted speed of 45 MPH. 4.80% percent of the total vehicles were traveling in excess of 55 MPH. The mode speed for this traffic study was 40MPH and the 85th percentile was 49.69 MPH.

< to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 to 39	40 to 44	45 to 49	50 to 54	55 to 59	60 to 64	65 to 69	70 to 74	75 to >
26	4	6	5	29	76	238	334	255	99	36	10	3	2	3

CHART 1

### CLASSIFICATION

Chart 2 lists the values of the classification bins and the total traffic volume accumulated for each bin. Most of the vehicles classified during the study were Vans & Pickups. The number of Passenger Vehicles in the study was 332 which represents 29 percent of the total classified vehicles. The number of Vans & Pickups in the study was 592 which represents 53 percent of the total classified vehicles. The number of Busses & Trucks in the study was 159 which represents 14 percent of the total classified vehicles. The number of Tractor Trailers in the study was 43 which represents 4 percent of the total classified vehicles.

< to 17	18 to 20	21 to 23	24 to 27	28 to 31	32 to 37	38 to 43	44 to >							
332	352	240	100	35	38	17	12							

CHART 2

### HEADWAY

During the peak traffic period, on 12/30/2020 at [12:00 PM-12:15 PM] the average headway between vehicles was 19.565 seconds. During the slowest traffic period, on 12/29/2020 at [10:00 PM-10:15 PM] the average headway between vehicles was 900 seconds.

### WEATHER

The roadway surface temperature over the period of the study varied between 39.00 and 82.00 degrees F.

**MH Corbin Traffic Analyzer Study**  
**Computer Generated Summary Report**  
**City: HOLDEN BEACH**  
**Street: SR 1116 (OCEAN BLVD. W)**  
**Location: 2.4 MILES WEST OF NC 130 (HOLDEN BEACH RD. SW)**

A study of vehicle traffic was conducted with the device having serial number 401417. The study was done in the WBL lane at SR 1116 (OCEAN BLVD. W) in HOLDEN BEACH, NC in BRUNSWICK county. The study began on 12/29/2020 at 01:00 PM and concluded on 12/30/2020 at 01:00 PM, lasting a total of 24.00 hours. Traffic statistics were recorded in 15 minute time periods. The total recorded volume showed 1,113 vehicles passed through the location with a peak volume of 35 on 12/30/2020 at [12:15 PM-12:30 PM] and a minimum volume of 0 on 12/29/2020 at [11:15 PM-11:30 PM]. The AADT count for this study was 1,113

### **SPEED**

Chart 1 lists the values of the speed bins and the total traffic volume for each bin. At least half the vehicles were traveling in the 40 - 45 MPH range or lower. The average speed for all classified vehicles was 42 MPH with 36.25% vehicles exceeding the posted speed of 45 MPH. 2.98% percent of the total vehicles were traveling in excess of 55 MPH. The mode speed for this traffic study was 40MPH and the 85th percentile was 49.61 MPH.

< to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 to 39	40 to 44	45 to 49	50 to 54	55 to 59	60 to 64	65 to 69	70 to 74	75 to >
13	6	4	7	36	95	234	312	255	114	20	6	3	2	2

CHART 1

### **CLASSIFICATION**

Chart 2 lists the values of the classification bins and the total traffic volume accumulated for each bin. Most of the vehicles classified during the study were Vans & Pickups. The number of Passenger Vehicles in the study was 397 which represents 36 percent of the total classified vehicles. The number of Vans & Pickups in the study was 589 which represents 53 percent of the total classified vehicles. The number of Busses & Trucks in the study was 93 which represents 8 percent of the total classified vehicles. The number of Tractor Trailers in the study was 30 which represents 3 percent of the total classified vehicles.

< to 13	18 to 20	21 to 23	24 to 27	28 to 31	32 to 37	38 to 43	44 to >							
397	357	232	70	12	27	8	11							

CHART 2

### **HEADWAY**

During the peak traffic period on 12/30/2020 at [12:15 PM-12:30 PM] the average headway between vehicles was 25 seconds. During the slowest traffic period, on 12/29/2020 at [11:15 PM-11:30 PM] the average headway between vehicles was 900 seconds

### **WEATHER**

The roadway surface temperature over the period of the study varied between 37.00 and 82.00 degrees F.

12/28/2020

Holden Beach Rd SW, Holden Beach, NC 28462 to 796 Ocean Blvd W Holden Beach, NC 28462 - Google Maps

Holden Beach Rd SW, Holden Beach, NC 28462 to 796 Ocean Blvd W,  
Holden Beach, NC 28462

Drive 3.2 miles, 6 min



Imagery ©2020 Landsat / Copernicus, Maxar Technologies, U.S. Geological Survey, USDA Farm Service Agency, Map data ©2020 Google 2000 ft

303 200 WBL

303 202 EBL

**MH Corbin Traffic Analyzer Study**  
**Computer Generated Summary Report**  
**City: HOLDEN BEACH**  
**Street: SR 1116 (OCEAN BLVD. W)**  
**Location: 3.2 MILES WEST OF NC 130 (HOLDEN BEACH RD. SW)**

A study of vehicle traffic was conducted with the device having serial number 303202. The study was done in the EBL lane at SR 1116 (OCEAN BLVD. W) in HOLDEN BEACH, NC in BRUNSWICK county. The study began on 12/29/2020 at 01:00 PM and concluded on 12/30/2020 at 01:00 PM, lasting a total of 24.00 hours. Traffic statistics were recorded in 15 minute time periods. The total recorded volume showed 985 vehicles passed through the location with a peak volume of 43 on 12/30/2020 at [11:15 AM-11:30 AM] and a minimum volume of 0 on 12/29/2020 at [10:00 PM-10:15 PM]. The AADT count for this study was 985.

### **SPEED**

Chart 1 lists the values of the speed bins and the total traffic volume for each bin. At least half the vehicles were traveling in the 45 - 50 MPH range or lower. The average speed for all classified vehicles was 44 MPH with 47.09% vehicles exceeding the posted speed of 45 MPH. 7.35% percent of the total vehicles were traveling in excess of 55 MPH. The mode speed for this traffic study was 45MPH and the 85th percentile was 52.27 MPH.

< to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 to 39	40 to 44	45 to 49	50 to 54	55 to 59	60 to 64	65 to 69	70 to 74	75 to >
1	7	2	18	12	86	149	243	250	139	41	19	2	5	5

CHART 1

### **CLASSIFICATION**

Chart 2 lists the values of the classification bins and the total traffic volume accumulated for each bin. Most of the vehicles classified during the study were Vans & Pickups. The number of Passenger Vehicles in the study was 259 which represents 26 percent of the total classified vehicles. The number of Vans & Pickups in the study was 646 which represents 66 percent of the total classified vehicles. The number of Busses & Trucks in the study was 51 which represents 5 percent of the total classified vehicles. The number of Tractor Trailers in the study was 22 which represents 2 percent of the total classified vehicles.

< to 17	18 to 20	21 to 23	24 to 27	28 to 31	32 to 37	38 to 43	44 to >							
259	510	136	16	26	15	8	9							

CHART 2

### **HEADWAY**

During the peak traffic period, on 12/30/2020 at [11:15 AM-11:30 AM] the average headway between vehicles was 20.455 seconds. During the slowest traffic period, on 12/29/2020 at [10:00 PM-10:15 PM] the average headway between vehicles was 900 seconds.

### **WEATHER**

The roadway surface temperature over the period of the study varied between 39.00 and 81.00 degrees F.

**MH Corbin Traffic Analyzer Study**  
**Computer Generated Summary Report**  
**City: HOLDEN BEACH**  
**Street: SR 1116 (OCEAN BLVD. W)**  
**Location: 3.2 MILES WEST OF NC 130 (HOLDEN BEACH RD. SW)**

A study of vehicle traffic was conducted with the device having serial number 303200. The study was done in the WBL lane at SR 1116 (OCEAN BLVD. W) in HOLDEN BEACH, NC in BRUNSWICK county. The study began on 12/29/2020 at 01:00 PM and concluded on 12/30/2020 at 01:00 PM, lasting a total of 24.00 hours. Traffic statistics were recorded in 15 minute time periods. The total recorded volume showed 982 vehicles passed through the location with a peak volume of 30 on 12/30/2020 at [12:15 PM-12:30 PM] and a minimum volume of 0 on 12/29/2020 at [10:45 PM-11:00 PM]. The AADT count for this study was 982.

### **SPEED**

Chart 1 lists the values of the speed bins and the total traffic volume for each bin. At least half the vehicles were traveling in the 40 - 45 MPH range or lower. The average speed for all classified vehicles was 41 MPH with 27.12% vehicles exceeding the posted speed of 45 MPH. 1.33% percent of the total vehicles were traveling in excess of 55 MPH. The mode speed for this traffic study was 40MPH and the 85th percentile was 47.86 MPH.

< to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 to 39	40 to 44	45 to 49	50 to 54	55 to 59	60 to 64	65 to 69	70 to 74	75 to >
1	1	4	12	21	102	225	346	206	46	7	1	1	1	3

CHART 1

### **CLASSIFICATION**

Chart 2 lists the values of the classification bins and the total traffic volume accumulated for each bin. Most of the vehicles classified during the study were Vans & Pickups. The number of Passenger Vehicles in the study was 413 which represents 42 percent of the total classified vehicles. The number of Vans & Pickups in the study was 514 which represents 53 percent of the total classified vehicles. The number of Busses & Trucks in the study was 26 which represents 3 percent of the total classified vehicles. The number of Tractor Trailers in the study was 24 which represents 2 percent of the total classified vehicles.

< to 17	18 to 20	21 to 23	24 to 27	28 to 31	32 to 37	38 to 43	44 to >							
413	460	54	7	10	15	11	7							

CHART 2

### **HEADWAY**

During the peak traffic period, on 12/30/2020 at [12:15 PM-12:30 PM] the average headway between vehicles was 29.032 seconds. During the slowest traffic period, on 12/29/2020 at [10:45 PM-11:00 PM] the average headway between vehicles was 900 seconds.

### **WEATHER**

The roadway surface temperature over the period of the study varied between 37.00 and 79.00 degrees F.

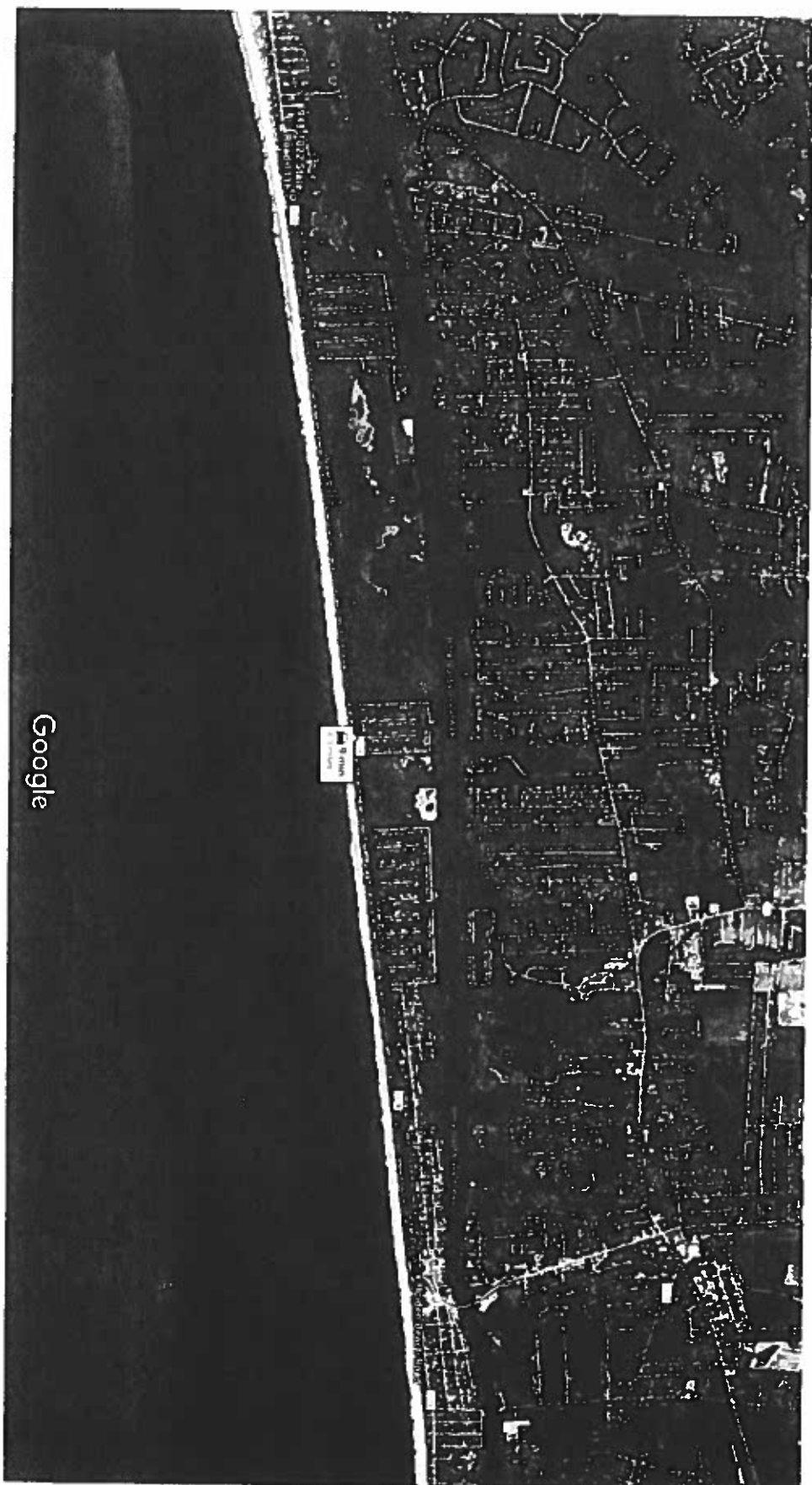
9/9/2020

Holden Beach Rd SW, Holden Beach, NC 28462 to 948-1022 State Rd 1116, Holden Beach, NC 28462 - Google Maps

Google Maps

Holden Beach Rd SW, Holden Beach, NC 28462 to 948-1022 State Rd 1116, Holden Beach, NC 28462

Drive 4.3 miles, 9 min



Imagery © 2020 Google, Data SIO, NOAA, U.S. Navy, NGA, GEBCO, Imagery © 2020 Landsat, Copernicus, Maxar Technologies, U.S. Geological Survey, USDA Farm Service Agency, Map data © 2021

THIRD 11

403913 EBL  
403915 WBL

**MH Corbin Traffic Analyzer Study  
Computer Generated Summary Report  
City: HOLDEN BEACH  
Street: SR 1116 (OCEAN BLVD. W)  
Location: 4.3 MILES WEST OF NC 130 (HOLDEN BEACH RD. SW)**

A study of vehicle traffic was conducted with the device having serial number 403913. The study was done in the EBL lane at SR 1116 (OCEAN BLVD. W) in HOLDEN BEACH, NC in BRUNSWICK county. The study began on 12/29/2020 at 01:00 PM and concluded on 12/30/2020 at 01:00 PM, lasting a total of 24.00 hours. Traffic statistics were recorded in 15 minute time periods. The total recorded volume showed 624 vehicles passed through the location with a peak volume of 21 on 12/29/2020 at [04:30 PM-04:45 PM] and a minimum volume of 0 on 12/29/2020 at [10:00 PM-10:15 PM]. The AADT count for this study was 624.

### **SPEED**

Chart 1 lists the values of the speed bins and the total traffic volume for each bin. At least half the vehicles were traveling in the 35 - 40 MPH range or lower. The average speed for all classified vehicles was 38 MPH with 20.33% vehicles exceeding the posted speed of 45 MPH. 3.90% percent of the total vehicles were traveling in excess of 55 MPH. The mode speed for this traffic study was 35MPH and the 85th percentile was 47.16 MPH.

< to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 to 39	40 to 44	45 to 49	50 to 54	55 to 59	60 to 64	65 to 69	70 to 74	75 to >
0	1	10	25	61	120	150	123	74	27	10	3	3	1	7

CHART 1

### **CLASSIFICATION**

Chart 2 lists the values of the classification bins and the total traffic volume accumulated for each bin. Most of the vehicles classified during the study were Vans & Pickups. The number of Passenger Vehicles in the study was 270 which represents 44 percent of the total classified vehicles. The number of Vans & Pickups in the study was 302 which represents 49 percent of the total classified vehicles. The number of Busses & Trucks in the study was 32 which represents 5 percent of the total classified vehicles. The number of Tractor Trailers in the study was 11 which represents 2 percent of the total classified vehicles

< to 17	18 to 20	21 to 23	24 to 27	28 to 31	32 to 37	38 to 43	44 to >							
270	260	42	7	15	11	5	5							

CHART 2

### **HEADWAY**

During the peak traffic period, on 12/29/2020 at [04:30 PM-04:45 PM] the average headway between vehicles was 40.909 seconds. During the slowest traffic period on 12/29/2020 at [10:00 PM-10:15 PM] the average headway between vehicles was 900 seconds.

### **WEATHER**

The roadway surface temperature over the period of the study varied between 37.00 and 84.00 degrees F.

**MH Corbin Traffic Analyzer Study**  
**Computer Generated Summary Report**  
**City: HOLDEN BEACH**  
**Street: SR 1116 (OCEAN BLVD. W)**  
**Location: 4.3 MILES WEST OF NC 130 (HOLDEN BEACH RD. SW)**

A study of vehicle traffic was conducted with the device having serial number 403915. The study was done in the WBL lane at SR 1116 (OCEAN BLVD. W) in HOLDEN BEACH, NC in BRUNSWICK county. The study began on 12/29/2020 at 01:00 PM and concluded on 12/30/2020 at 01:00 PM, lasting a total of 24.00 hours. Traffic statistics were recorded in 15 minute time periods. The total recorded volume showed 618 vehicles passed through the location with a peak volume of 23 on 12/29/2020 at [04:00 PM-04:15 PM] and a minimum volume of 0 on 12/29/2020 at [10:00 PM-10:15 PM]. The AADT count for this study was 618.

### **SPEED**

Chart 1 lists the values of the speed bins and the total traffic volume for each bin. At least half the vehicles were traveling in the 35 - 40 MPH range or lower. The average speed for all classified vehicles was 37 MPH with 9.62% vehicles exceeding the posted speed of 45 MPH. 1.47% percent of the total vehicles were traveling in excess of 55 MPH. The mode speed for this traffic study was 35MPH and the 85th percentile was 43.69 MPH.

< to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 to 39	40 to 44	45 to 49	50 to 54	55 to 59	60 to 64	65 to 69	70 to 74	75 to >
3	4	12	20	54	137	198	126	43	7	6	2	1	0	0

CHART 1

### **CLASSIFICATION**

Chart 2 lists the values of the classification bins and the total traffic volume accumulated for each bin. Most of the vehicles classified during the study were Passenger Vehicles. The number of Passenger Vehicles in the study was 371 which represents 61 percent of the total classified vehicles. The number of Vans & Pickups in the study was 212 which represents 35 percent of the total classified vehicles. The number of Busses & Trucks in the study was 18 which represents 3 percent of the total classified vehicles. The number of Tractor Trailers in the study was 12 which represents 2 percent of the total classified vehicles.

< to 17	18 to 20	21 to 23	24 to 27	28 to 31	32 to 37	38 to 43	44 to >							
371	198	14	2	5	14	6	3							

CHART 2

### **HEADWAY**

During the peak traffic period, on 12/29/2020 at [04:00 PM-04:15 PM] the average headway between vehicles was 37.5 seconds. During the slowest traffic period, on 12/29/2020 at [10:00 PM-10:15 PM] the average headway between vehicles was 900 seconds.

### **WEATHER**

The roadway surface temperature over the period of the study varied between 39.00 and 82.00 degrees F.



# Town of Holden Beach

## PLANNING & INSPECTIONS DEPARTMENT

2/8/2021

**Director**  
Tim Evans  
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**Assistant Inspector**  
Rhonda Wooten  
rhonda@hbtownhall.com

**Permits Administrator**  
Abbey Long  
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### Memo:

**Subject:** Ordinance 21-01 (Formerly Ordinance 20-17), An Ordinance Amending the Holden Beach Code of Ordinances, Section 94.03: Frontal Dune Policy and Regulations

**To:** Commissioners, Mayor

**From:** Planning and Inspections Director T.D.E

The Board of Commissioners held a public hearing prior to their January Regular Meeting. The subject text amendment was presented by staff during the Board's Regular January Meeting. Board consideration was given. The statutory waiting period of 24 hours has been satisfied.

**Recommendation:** Board approve Ordinance 21-01.

**TOWN OF HOLDEN BEACH  
ORDINANCE 21-01  
(FORMERLY ORDINANCE 20-17)**

**AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, SECTION 94.03: FRONTAL DUNE POLICY AND REGULATIONS**

**BE IT ORDAINED BY** the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina that the Holden Beach Code of Ordinances, Section 94.03: Frontal Dune Policy and Regulations be amended as follows:

**Section One:** Amend Section 94.03: Frontal Dune Policy and Regulations as follows (changes in purple):

**94.03 FRONTAL DUNE POLICIES AND REGULATIONS**

(A) Definition. For the purpose of this section, FRONTAL DUNES shall mean the dunes designated by the town's local certified CAMA official as the "frontal dunes"; otherwise, they are the first mounds of sand located landward of the ocean beach with sufficient vegetation, height, and configuration to offer protection from ocean storms. Considering the fact that oceanfront property limits extend to the mean high water mark, the frontal dune may be located on private property.

(B) Purpose of the frontal dune. It is desirable to maintain a continuous frontal dune along the ocean-front of the island, extending from Lockwoods Folly Inlet to Shallotte Inlet. A continuous frontal dune thus maintained provides a single, ocean water surge flood control structure that serves to mitigate the effects of storms, that could by their very nature cause damage to public and private property. It is the intent of the Town that the frontal dune be maintained to standard specifications and by sand renourishment, so that the above-mentioned protection can be provided.

(C) Frontal Dune Policy and Regulations. The following policies and regulations apply: (Penalty for failure to adhere is \$500.00 per violation.)

(1) It shall be unlawful for any person or vehicle to cross the designated frontal dune, except for official Town business or emergency access, unless such crossing is over a Town approved ramp and/or stairs.

(2) Frontal Dune Policy and Restrictions:

(a) Whenever property owners elect to construct a walkway across the frontal dune on their property, to provide pedestrian access to the beach strand, the following specifications shall apply. (Note: the same criteria applies when property owners seek to apply for town approval of an encroachment agreement to construct a walkway over public property adjacent to their residence.)

1. The walkway shall be constructed only of building materials approved by the N.C. State Building Code. The walking passageway shall be no wider than four feet. The underside of the walkway across the frontal dune shall be a minimum of 18 inches and a maximum of 36 inches above the crest of the sand. Exception: Town owned CAMA accessways may utilize a 6- foot walkway.

2. The first step down to the beach strand shall be placed no farther seaward than the beginning of the downward slope of the dune, or the existing line of escarpment determined by averaging the downward slope or escarpment line for the property in question and those properties directly adjacent.

3. Steps shall be of open tread construction with a maximum riser height of 8.25 inches and a minimum tread depth of 9.00 inches, and shall meet the requirements of the N.C. State Building Code.

4. In accordance with N.C. State Division of Coastal Management's enforcement of the Coastal Area Management Act (CAMA), the walkway access to the beach strand over the frontal dune shall be conclusively presumed to entail negligible alteration of the dune. The walkway shall be raised on posts or pilings a minimum of two feet and a maximum of five feet depth into the dune. In no case shall the walkway be permitted if it will, in the opinion of the Local CAMA Permit Officer, diminish the dune's capacity as a protective barrier against flooding and erosion.

5. Except for handicap ramps, steps from the walkway to the beach strand shall be placed only perpendicular to the frontal dune line.

6. No structure other than the four-foot wide wooden walkway shall be located south of the landward toe of the frontal dune. This applies to decks, gazebos, sitting areas and other additions that a property owner may desire to make to the allowed walkway. Structures (other than the four-foot walkway) that exist when this section is adopted may remain in place temporarily; however, all such structures must be removed no later than December 31, 2003, in order to be in compliance with this section. A building permit is required if there are any repairs needed to walkway load bearing surfaces, such as supporting posts. Adding additional lengths to supporting posts shall constitute a repair. **Exception:** Town owned CAMA accessways may utilize a 6-foot walkway. **Exception:** Property owners with lots that have more than 300 feet from the seaward toe of the frontal dune to the last line of natural stable vegetation, as determined by the local CAMA officer, may install a single walkway with a maximum width of four feet; the walkway shall be a minimum of three feet high with a maximum height not to exceed four feet; and shall terminate at the last line of natural stable vegetation. Walkways shall be permitted and built in accordance with all federal, state and local building requirements. **Exception:** Swimming Pools maybe located south of the town's designated frontal dune, placement of pools and decking shall not extend more than 50 feet from the established seaward toe of designated frontal dune. This exception only applies when the CAMA dune is more seaward than the town's frontal dune.

(b) Showers shall not be located on walkways over the dune south of its landward toe. Shower runoff must not drain onto any portion of the frontal dune or south of the landward toe.

(c) In those instances where a residence or other structure is located directly adjacent to the frontal dune, stormwater runoff from roofs shall be controlled by the property owner so as not to erode sand on any portion of the frontal dune.

(d) Sand fences:

1. The installation of sand fence along the oceanfront, when properly located and erected, is an effective method to control blowing sand which may lead to the formation of dunes. However, when improperly located and erected, sand fencing may interfere with emergency beach access, cause accumulation of debris, and discourage sea turtle nesting.

2. Sand fencing is defined as a fence normally constructed of untreated and unpainted wood held together with twisted wire, with the fence being nailed to a minimum of 1.5 inch by 3.5 inch (2x4) posts that are spaced at intervals not less than five feet and are embedded no more than two feet into the sand, and extending no higher than four feet above grade.

3. No sand fence shall be erected without a no-cost sand fence permit issued by the Town Inspections Department. The permit may be requested and returned by mail following completion.

4. All sand fencing shall be installed in individual lengths of ten feet or less, at an angle between 45 and 90 degrees to the shoreline, facing west. The lengths of sand fence will be spaced at least seven feet apart, parallel to each other, to allow sea turtles and pedestrians to pass through. This method of sand fencing encourages sand accretion and minimizes negative impacts to nesting sea turtles.

5. The Building Inspector shall have the authority to summarily remove, abate, or remedy a sand fence determined dangerous or prejudicial to the public safety whether by reason of its location, or its subsequent state of disrepair or damage. Any fence so removed will be delivered to its owner if known, and if not, will be disposed of by the Public Works Department in an appropriate manner.

(e) Property owners are encouraged to vegetate and fertilize the portion of the frontal dune on their property.

(f) An exception to this policy is that ocean front property owners or their agents may traverse on (or over) the specific portion of the frontal dune within the limits of their property (above the mean high water mark), so as to make minor dune repairs, plant vegetation, install sand fencing and otherwise maintain the frontal dune on their property so that it may afford the intended degree of flood protection per this section.

(Ord. 98-04, passed 4-27-98; Am. Ord. 99-04, passed 3-8-99; Am. Ord. passed 3-27-00; Am. Ord. 00-25, passed 12-11-00; Am. Ord. 02-08, passed 5-27-02; Am. Ord. 03-09, passed 11-24-03; Am. Ord. 17-04, passed 3-21-17; Am. Ord. 17-05, passed 4-18-17)

**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 \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Adopted this the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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

ATTEST:

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



# Town of Holden Beach

## PLANNING & INSPECTIONS DEPARTMENT

02/08/2021

### Director

Tim Evans  
Tevans@hbtownhall.com

### Assistant Inspector

Rhonda Wooten  
rhonda@hbtownhall.com

### Permits Administrator

Abbey Long  
planninginspections@hbtownhall.com

## Memo:

Subject: Ordinance 21-02 (Formerly Ordinance 20-18), An Ordinance Amending, the Holden Beach Code of Ordinances, Section 157: Definitions (Height Measuring Point)

To: Commissioners, Mayor T.D.E

From: Planning and Inspections Director

The above-mentioned amendment was presented at the last meeting for consideration. The Board of Commissioners scheduled a public hearing for February 16<sup>th</sup>, prior to the Regular Meeting.

The Board may consider the ordinance during the February meeting, but cannot approve the ordinance until the 24-hour statutory waiting period has been satisfied. The Board should review the provided consistency statement while considering adoption of the ordinance.

Recommended Action – Add Ordinance 21-02 to the March Board of Commissioners' Regular Meeting agenda for possible adoption.

**TOWN OF HOLDEN BEACH  
ORDINANCE 21-02  
(FORMERLY ORDINANCE 20-18)**

**AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, SECTION  
157.006: DEFINITIONS (HEIGHT MEASURING POINT)**

**BE IT ORDAINED BY** the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina that the Holden Beach Code of Ordinances, Section 157.006: Definitions be amended as follows:

**Section One:** Amend Section 157:006: Definitions as follows (addition in red):

157.006

**HEIGHT MEASURING POINT:** (HMP). Design flood elevation or base flood elevation plus two feet.

(1) (a) Wherever there is less than nine feet between the DFE and finished grade the HEIGHT MEASURING POINT may be moved to a maximum of nine feet above finished grade.

(b) All structures located in any A, V or X zones must have a minimum of eight feet clearance between the lowest horizontal structural member and finished grade.

(2) FEMA flood area "X" measuring point shall be the lowest original soil under the structure after the undisturbed soil has been balanced. **Exception: structures located in X zones may be measured as written in (1)(a) with a maximum height of 31 feet from the established Height Measuring Point.**

**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 \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Adopted this the \_\_\_\_\_ day of \_\_\_\_\_.

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

ATTEST:

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



## **Town of Holden Beach Planning Staff Consistency Statement**

The Town of Holden Beach Planning Staff has reviewed and recommends approval of Ordinance 21-02 regarding structure height for structures located in a X Zones.

After review, the Planning Staff has found that the amendment is consistent with the current 2009 CAMA Land Use Plan and is considered reasonable and in the public interest for the following reasons.

The amendment provides for the fair use of property across flood zones while conforming to the goal of maintaining height control of structures. See Policy 9.1.A.2 and Tables 2.1 Existing and Emerging Conditions and 2.2 Planning Issues, 9.4, 9.4.A6 Water Quality.

Staff finds the amendment is reasonable and in the public interest for it brings about consistency within the ordinance for maximum use of properties. Promote public health, safety, and general welfare within our community by potentially providing increased aesthetic values and better marketability resulting in an increased tax base and by increasing the maximum use of an individual's property.



# Town of Holden Beach

## PLANNING & INSPECTIONS DEPARTMENT

02/08/2021

**Director**

Tim Evans  
Tevans@hbtownhall.com

**Assistant Inspector**

Rhonda Wooten  
rhonda@hbtownhall.com

**Permits Administrator**

Abbey Long  
planninginspections@hbtownhall.com

### Memo:

Subject: Hazard Mitigation Plan Update

To: Commissioners, Mayor *TOE*

From: Planning and Inspections Director

This is an update to our regional Hazard Mitigation plan. This plan allows the town to be part of the required regional plan while maintaining autonomy within.

Staff has been involved with the process since the beginning of the update in July 2019. Some portions of the updates are mandatory on an associated regional basis. The only significant changes are those associated with our commitment to a stricter NFIP and the resiliency improvements to the town's sewer lift station upfits.

FEMA requires that hazard mitigation plans be updated every five years to remain eligible for federal mitigation and public assistance funding. To prepare the 2021 Southeastern NC Regional Hazard Mitigation Plan, ESP Associates, Inc. was hired by North Carolina Emergency Management to provide professional mitigation planning services for the plan update. Per the contractual scope of work, the consultant team followed the mitigation planning process recommended by FEMA (Publication Series 386 and Local Mitigation Plan Review Guide) and recommendations provided by North Carolina Emergency Management (NCEM) mitigation planning staff. Additionally, for the update, FEMA Community Rating System (CRS) and Community Wildfire Protection Plan requirements were integrated into the plan update.

As presented adoption of the Updated Regional Hazard Mitigation Plan guarantees points addition for our next available CRS evaluation.

Recommended Action: BOC approve Resolution 21-02, Resolution Adopting the NC Hazard Mitigation Plan.

**RESOLUTION 21-01  
ADOPTING SOUTHEASTERN NC REGIONAL  
HAZARD MITIGATION PLAN**

WHEREAS, the citizens and property within the Town of Holden Beach are subject to the effects of natural hazards that pose threats to lives and cause damage to property; and

WHEREAS, the Town of Holden Beach desires to seek ways to mitigate the impact of identified hazard risks; and

WHEREAS, 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; and

WHEREAS, the Legislature of the State of North Carolina has enacted General Statute Section 166A-19.41 (*State emergency assistance funds*) which provides that for a state of emergency declared pursuant to G.S. 166A-19.20(a) after the deadline established by the Federal Emergency Management Agency pursuant to the Disaster Mitigation Act of 2000, P.L. 106-390, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act; and

WHEREAS, Section 322 of the Federal Disaster Mitigation Act of 2000 states that local governments must develop a Hazard Mitigation Plan in order to be eligible to receive future Hazard Mitigation Grant Program Funds and other disaster-related assistance funding and that said Plan must be updated and adopted within a five-year cycle; and

WHEREAS, the Town of Holden Beach has performed a comprehensive review and evaluation of each section of the previously approved Hazard Mitigation Plan and has updated the plan as required under regulations at 44 CFR Part 201 and according to guidance issued by the Federal Emergency Management Agency and the North Carolina Division of Emergency Management; and

WHEREAS, it is the intent of the Holden Beach Board of Commissioners to fulfill this obligation in order that the Town of Holden Beach will be eligible for federal and state assistance in the event that a state of disaster is declared for a hazard event affecting the town;

NOW, THEREFORE, be it resolved that the Town of Holden Beach:

1. Adopts the Southeastern NC Regional Hazard Mitigation Plan.
2. Agrees to take such other official action as may be reasonably necessary to carry out the proposed actions of the Plan.

3. Appoints Town Emergency Management to assure that the Hazard Mitigation Plan is reviewed annually and every five years as specified in the Plan to assure that the Plan is in compliance with all State and Federal regulations and that any needed revisions or amendments to the Plan are developed and presented to the Town of Holden Beach Board of Commissioners for consideration.

4. Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the Hazard Mitigation Plan.

Adopted this the 16<sup>th</sup> day of February, 2021.

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

Attest:

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

Certified by: \_\_\_\_\_ (SEAL)

Date: \_\_\_\_\_



Date: February 10, 2021

To: Commissioners and Mayor Holden

From: Heather Finnell, Town Clerk HF

Re: Resolution 21-02, Resolution of the Board of Commissioners of the Town of Holden Beach, North Carolina, Adopting the 2019 Town of Holden Beach Land Use Plan

The Board approved the Land Use Plan at the January Regular Meeting. The Division of Coastal Management has asked that the Board approve a resolution confirming adoption of the plan. The proposed resolution (Attachment 1) is in your packets for consideration.

Proposed Action – Approve Resolution 21-02.

Attachment:

1 – Resolution 21-02

**RESOLUTION 21-02**  
**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE TOWN OF**  
**HOLDEN BEACH, NORTH CAROLINA, ADOPTING THE 2019 TOWN OF**  
**HOLDEN BEACH LAND USE PLAN**

**WHEREAS**, Town drafted a Land Use Plan with the assistance of its consultant Cape Fear Council of Governments, and conducted a series of public workshops and meetings as part of a comprehensive public participation program; and

**WHEREAS**, the 2019 Land Use Plan was unanimously recommended for approval by the Town's Planning and Zoning Board on September 17, 2019; and

**WHEREAS**, the Division of Coastal Management's (DCM) Wilmington District Planner found the 2019 Land Use Plan to be consistent with the rules of the Coastal Resources Commission; and

**WHEREAS**, at a duly advertised meeting on December 15, 2020 the Town Board of Commissioners held a public hearing on the draft 2019 Land Use Plan; and

**WHEREAS**, the adopted Plan will be sent to the Coastal Resources Commission for review and certification.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Town Board of Commissioners of the Town of Holden Beach have adopted the draft 2019 Holden Beach Land Use Plan; and

**BE IT FURTHER RESOLVED** that the Town Manager of Holden Beach is hereby authorized to submit the adopted 2019 Land Use Plan to the State for certification as described above.

Adopted this 16<sup>th</sup> day of February 2021.

Town of Holden Beach

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

Attest:

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

## Discussion and Possible Action on a Revised Solid Waste Trash Ordinance Commissioners Kwiatkowski and Sullivan

At the January 2021 BOCM, we were asked to bring our ordinance proposal to the February BOCM. Attached is a revised version of the December 2018 approved ordinance done with track changes.

During the discussion, there are several items that should be discussed, listed below.

### Proposed for Discussion:

1. penalties will not be imposed for a reasonable period of time after a revised ordinance goes into effect (recommended to be 6 months as was proposed in 2018)
2. rollback practice needs to be changed so that ALL bins, empty or full, are rolled back
3. a reasonable period of time for trash racks/corrals within 30 feet of the public right of way to be relocated (30 feet proposed in line with Emerald Isle information included in January 2021 packet)
4. rollout will be the responsibility of the resident, property owner or vacation rental company (see Emerald Isle information included in January 2021 packet)
5. what is needed for a valid report/complaint of violation?
6. can the Town establish the right to require that a property owner increase their container capacity for any property receiving repeated reports or complaints of garbage placed at curbside outside authorized containers?
7. what can be done to encourage compliance and/or discourage non-compliance in particular as relates to number of cans and adhering to a defined time window for cans at the street?

## CHAPTER 50: SOLID WASTE

### Section

- 50.01 Definitions
- 50.02 Container specifications
- 50.03 Burning or burying of garbage regulated
- 50.04 Accumulation and collection
- 50.05 Collections prohibited
- 50.06 Yard waste
- 50.07 Transporting waste materials; covering during transport
- 50.08 Rental homes
- 50.99 Penalty

### § 50.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BUILDING MATERIAL SCRAP.** All scrap material from the construction, reconstruction, remodeling or repair of a building, walkway, driveway, sign or other structure, including, but not limited to, excavated earth, tree stumps, rocks, gravel, bricks, plaster, concrete, lumber, insulation, fixtures (e.g., commodes, sinks) or wrappings for materials or any other materials necessary for the construction, reconstruction, remodeling or repair of a building.

**GARBAGE.** All animal, fruit and vegetable matter, all small cans, glassware, crockery, bags, and other small containers in which matter has been left or stored.

**LARGE HOUSEHOLD ITEMS.** Accessories or fittings for a particular use inside, outside or around a house including but not limited to tables and chairs; sofas and recliners; bed frames; dressers; mattresses and box springs; small electronics such as computers and televisions; refrigerators; ovens and microwave ovens; washing and drying machines.

**PUTRESCIBLE WASTE.** Solid waste that contains organic matter capable of being decomposed by microorganisms and of such a character and proportion as to cause obnoxious odors and to be capable of attracting or providing food for birds or animals.

**REFUSE.** All other types and kinds of materials intended to be discarded, scrapped, or otherwise disposed of.

**RECYCLABLE REFUSE.** Types and kinds of materials intended to be discarded, scrapped or otherwise disposed of that are defined as recyclable material under the current waste collection

contract, e.g., cardboard; newspaper; magazines; small metal and glass containers and certain type of plastic containers in which matter has been stored and possibly residues left.

**SUMMER RENTAL SEASON.** The period of time that garbage collection occurs twice weekly per town contract.

**YARD WASTE.** All wastes pertaining to a landscaped/managed property, including but not limited to tree limbs, leaves, shrubbery, weeds, plants or grass.

('85 Code, § 9-1.1) (Ord. 5, passed - - ; Am. Ord. 10-90, passed 5-15-90)

#### § 50.02 CONTAINER SPECIFICATIONS.

##### (A) Residential requirements.

(1) Garbage will be kept only in contractor-owned and provided standard, 90-gallon capacity roll-out containers. Each residence is authorized one container; however, additional containers are available for a set monthly fee.

(2) Recyclable refuse can be disposed of in standard garbage containers. Alternatively, 90 gallon capacity containers for recyclable materials only are available by contract through the town for a set annual fee. They will be provided to a property in addition to, not in replacement of, the required number of garbage containers.

(3) Property owners are responsible to assure they have sufficient 90-gallon containers to properly contain refuse prior to collection. Garbage placed on top of or beside the container(s) will not be picked up by the contractor, nor will garbage placed in non-standard containers.

Property owners who are found in violation may receive written notice from the town that they are in violation of town ordinance in that regard. Those so affected will be asked to correct the situation so they come into compliance with the code or receive a civil fine of \$50 per day per offense.

##### (B) Commercial requirements.

(1) All commercial establishments catering to the public in such a manner as to create refuse shall be required to place an adequate number of refuse containers in such positions and locations as to encourage their use.

(2) All such commercial related containers shall be maintained in a sound and presentable condition.

(C) No person shall throw, place, or deposit any garbage or refuse of any kind, in any place or in any public or private property, except in approved containers or as otherwise provided in accordance with the provisions of this section.

(D) Containers on town-owned property and other public areas are for the use of the town and for the general use of residents and visitors using the public areas. It shall be unlawful for anyone otherwise to place commercial or residential waste or refuse into such containers.

('85 Code, § 9-1.2) (Ord. 5, passed - - ; Am. Ord. 93-18, passed 10-20-93; Am. Ord. 94-02, passed 2-7-94; Am. Ord. 95-06, passed 2-22-95) Penalty, see § 50.99

#### § 50.03 BURNING OR BURYING OF GARBAGE REGULATED.

It shall be unlawful to burn or bury garbage or trash for the purpose of disposal unless a special permit has been issued by the Town Police Department.

('85 Code, § 9-1.3) (Ord. 5, passed - - ; Am. Ord. 10-90, passed 5-15-90) Penalty, see § 50.99

#### § 50.04 ACCUMULATION AND COLLECTION.

(A) All garbage and household refuse shall be kept in proper containers as required by this chapter and it shall be unlawful for any person to permit garbage to accumulate or remain on any premises longer than is reasonably necessary for its removal. It is the intent of the town that all containers be secured in such a manner either next to non-elevated or underneath elevated houses or in solid waste racks located at least 30 feet from the public right-of-way, except on collection days when they are to be placed at street side, so that the town street right-of-way remains clear of empty containers, and so that containers are not damaged or overturned by high winds or other occurrences. Containers will be located at street side no earlier than 6:00 p.m. the evening before designated collection days during the summer rental season. For the rest of the year containers will be located at street side no more than 48 hours before the designated collection. All containers should be returned to the normal house-side storage location by 6:30 p.m. the day after of collection during the summer rental season and 6:00 p.m. the day of collection for the rest of the year.

(B) It shall be the duty of every owner or occupant of every building or premises where garbage or refuse exists, to reasonably and regularly clean the 90-gallon containers and other legal refuse collection containers.

(C) The owners, occupants and lessees of all property, jointly and severally, are required to control all refuse, placing such refuse in proper containers and/or arranging for collection or other disposal disposition in accordance with the provisions of this chapter.

(D) Garbage and household refuse will be collected and removed from the aforesaid containers or cans in accordance with the schedule set forth in the garbage collection service contract, executed independently from this chapter.

(E) This chapter shall be enforced by the town either by civil proceedings or by removing and disposing of litter according to the provisions and procedures for abatement of litter as provided in this chapter and as prescribed by G.S. 160A-174, 160A-175, 160A-193, and 160A-303.1, including the provisions for notice and hearings provided or referred to therein.

#### § 50.05 COLLECTIONS PROHIBITED.

All matter, refuse, and materials such as industrial refuse, building materials and scraps, tree trimmings, walkway scraps, or any other refuse from building or remodeling, large containers, or large household items shall not be accepted or picked up as part of the regular garbage collection service contract.

('85 Code, § 9-1.5) (Ord. 5, passed - - ; Am. Ord. 10-90, passed 5-15-90) Penalty, see § 50.99

#### § 50.06 YARD WASTE

Yard waste will be accepted under certain conditions and at defined times under a contract separate from the standard waste collection contract. Permissible, properly bundled or bagged, yard waste must not be placed at roadside for collection more than two weeks prior to a scheduled collection. Property owners who are found in violation may receive written notice from the town that they are in violation of town ordinance in that regard. Those so affected will be asked to correct the situation so they come into compliance with the code or receive a civil fine of \$50 per day per offense.

#### § 50.07 TRANSPORTING WASTE MATERIALS, COVERING DURING TRANSPORT.

All persons transporting waste material, construction material, or any manner of loose materials over the public or private roadways in the town shall insure that such materials are not lost or scattered on or along the rights-of-way of such roadways. These materials shall be securely covered during transit in such manner as to prevent the loss thereof from the transporting vehicle.

('85 Code, § 9-1.7) (Ord. 10-90, passed 5-15-90) Penalty, see § 50.99

#### § 50.08 RENTAL HOMES.

(A) Rental homes, as defined in Chapter 157, that are rented as part of the summer rental season, are subject to high numbers of guests, resulting in large volumes of trash. This type of occupancy use presents a significantly higher impact than homes not used for summer rentals. In the interest of public health and sanitation and environmental concerns, all rental home shall have a **minimum of one trash can per two bedrooms**. Homes with an odd number of bedrooms shall round up (for examples one to two bedrooms - one trash can; three to four bedrooms - two trash cans; five - six bedrooms - three trash cans, and the like). ~~In instances where three trash cans or more are required, one can may be substituted with a contractor approved recycling bin.~~

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(B) Any property found in violation of division (A) above shall be subject to the penalties listed in § 50.99.

(Ord. 07-13, passed 11-27-07)

#### § 50.99 PENALTY.

(A) Criminal. Violators of Chapter 50 will not be subject to a criminal penalty.

(B) Civil. In accordance with § 10.99(B) of this code of ordinances, the civil fine for violation of any provision of this chapter shall be \$50 per offense.

('85 Code, § 9-1.8) (Ord. 5, passed - - ; Am. Ord. 7-87, passed 6-1-87; Am. Ord. 10-90, passed 5-15-90; Am. Ord. 93-11, passed 9-7-93; Am. Ord. 99-02, passed 2-8-99)

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Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left +  
Aligned at: 0.25" + Indent at: 0.5"

Review and Discussion of BOC objectives Set for this Budget Year with Consideration of Priorities for the Second Half of this Budget Cycle. Commissioner Kwiatkowski

Attached is a list of BOC objectives settled upon during various discussions during the last budget cycle (those receiving more than 13 points). As we enter the last months of the budget year a review of outstanding objectives and priorities is timely. The Board might also note any objectives that should carry forward into the next year's budget.

13 April 2020

## **BOC Objectives for Fiscal Year 2020/2021**

### **Financial/Budget**

#### **General**

1. Balance the budget while preserving the minimum fund balances as defined by the BOC
2. Ensure revenues from the Town's delivery of municipal services covers the associated expenses
3. Develop and track various financial ratios to flag any negative trends
4. Ensure the Town meets or exceeds annual financial budget goals

#### **Audits**

5. Ensure the Town achieves an unmodified opinion rating on annual fiscal audit and addresses noted deficiencies
6. Ensure staff is qualified to perform newly established audit and accounting procedures to ensure there are no material deficiencies noted in the annual fiscal audit.
7. Oversee progress on internal control plan with every 6 month reviews to the Board

#### **Funding**

8. Ensure funding and budgeting for sewer lift stations 3 and 2
9. Ensure funding for FLOMIKE and Dorian FEMA projects

#### **Personnel**

10. Examine total cost of employees, including health care costs, for benchmarking
11. Evaluate Police Department staffing against safety and enforcement wants to ensure adequate manpower and funding for the next 3-5 years.

### **Long-Term Plans**

1. Finalize and approve the Land Use Plan
2. Develop and implement a fire hydrant replacement plan for hydrants in disrepair
3. Develop a strategy and implement a plan to protect the beach and dune system, including keeping people off the dunes
4. Work with DOT to ensure all legal crosswalks are appropriately marked to protect residents and visitors
5. Find options to protect backup generators at the lift stations from salt and weather deterioration.
6. Complete a needs assessment for a second water tower.
7. Continue to support LWI access to the ocean.

### **Ordinance Related**

1. Make decision on zoning change regarding setbacks, parking and % permeablev for different sized homes

**Policies/Procedures/Resolutions**

1. Work together transparently, prioritizing the good of the Town

**Advocacy**

1. Ensure advocacy resources are given to limit expansion of the IHA
2. Support and participate in beach and inlet related advocacy efforts at local, state and federal level
  - a. Become more involved in and lead where possible regional advocacy groups and committees
  - b. Develop advocacy strategy, plan and material for county and state efforts and implement the plan
  - c. Review and as appropriate amend directions to Poyner Spruill for federal advocacy.
  - d. Support and participate in advocacy efforts and any level as appropriate.
3. Review Holden Beach marketing materials and methods aimed at renters and potential homeowners for updating



Date: February 10, 2021

To: Commissioners and Mayor Holden

From: David W. Hewett, Town Manager

Re: Budget Calendar

It is time to establish a calendar for the upcoming budget season. Please provide your availability through the end of June to me.

At the February meeting, the Board will discuss the objectives that were set for this budget year. If you have additional objectives you would like to be discussed for the upcoming budget, send them along with your availability. I will compile them and the Board can discuss them at a Budget Workshop.



Date: February 10, 2021

To: Commissioners and Mayor Holden

From: David W. Hewett, Town Manager

Re: Contract with Martin Starnes

The proposed contract documents between the Town and Martin Starnes for the fiscal year 2020 - 2021 audit (Attachment 1) are in the Board's packets for consideration. This is a standard LGC contract and is in keeping with the terms of Martin Starnes' year two price as set forth in their original three-year proposal.

The proposed contract has been provided to the members of the Audit Committee for their individual review. No concerns have been set forth by the four members that have responded to me as of the preparation of this memo.

Recommended Action - Approve the contract documents between the Town and Martin Starnes for the fiscal year 2020 - 2021 audit.

Attachment:

1 - Contract Documents

The	Governing Board
	Board of Commissioners
of	Primary Government Unit (or charter holder)
	Town of Holden Beach, NC
and	Discretely Presented Component Unit (DPCU) (if applicable)
	N/A

*Primary Government Unit, together with DPCU (if applicable), hereinafter referred to as Governmental Unit(s)*

and	Auditor Name
	Martin Starnes & Associates, CPAs, P.A.
	Auditor Address
	730 13th Avenue Dr. SE, Hickory, NC 28602

*Hereinafter referred to as Auditor*

for	Fiscal Year Ending	Audit Report Due Date
	06/30/21	10/31/21

*Must be within four months of FYE*

hereby agree as follows:

1. The Auditor shall audit all statements and disclosures required by U.S. generally accepted auditing standards (GAAS) and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit(s). The non-major combining, and individual fund statements and schedules shall be subjected to the auditing procedures applied in the audit of the basic financial statements and an opinion shall be rendered in relation to (as applicable) the governmental activities, the business- type activities, the aggregate DPCUs, each major governmental and enterprise fund, and the aggregate remaining fund information (non-major government and enterprise funds, the internal service fund type, and the fiduciary fund types).
2. At a minimum, the Auditor shall conduct his/her audit and render his/her report in accordance with GAAS. The Auditor shall perform the audit in accordance with *Government Auditing Standards* if required by the State Single Audit Implementation Act, as codified in G.S. 159-34. If required by OMB *Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) and the State Single Audit Implementation Act, the Auditor shall perform a Single Audit. This audit and all associated audit documentation may be subject to review by Federal and State agencies in accordance with Federal and State laws, including the staffs of the Office of State Auditor (OSA) and the Local Government Commission (LGC). If the audit requires a federal single audit performed under the requirements found in Subpart F of the Uniform Guidance (§200.501), it is recommended that the Auditor and Governmental Unit(s) jointly agree, in advance of the execution of this contract, which party is responsible for submission of the audit and the accompanying data collection form to the Federal Audit Clearinghouse as required under the Uniform Guidance (§200.512).

If the audit and Auditor communication are found in this review to be substandard, the results of the review may be forwarded to the North Carolina State Board of CPA Examiners (NC State Board).

3. If an entity is determined to be a component of another government as defined by the group audit standards, the entity's auditor shall make a good faith effort to comply in a timely manner with the requests of the group auditor in accordance with AU-6 §600.41 - §600.42.

4. This contract contemplates an unmodified opinion being rendered. If during the process of conducting the audit, the Auditor determines that it will not be possible to render an unmodified opinion on the financial statements of the unit, the Auditor shall contact the LGC Staff to discuss the circumstances leading to that conclusion as soon as is practical and before the final report is issued. The audit shall include such tests of the accounting records and such other auditing procedures as are considered by the Auditor to be necessary in the circumstances. Any limitations or restrictions in scope which would lead to a qualification should be fully explained in an attachment to this contract.

5. If this audit engagement is subject to the standards for audit as defined in *Government Auditing Standards*, 2018 revision, issued by the Comptroller General of the United States, then by accepting this engagement, the Auditor warrants that he/she has met the requirements for a peer review and continuing education as specified in *Government Auditing Standards*. The Auditor agrees to provide a copy of the most recent peer review report to the Governmental Unit(s) and the Secretary of the LGC prior to the execution of an audit contract. Subsequent submissions of the report are required only upon report expiration or upon auditor's receipt of an updated peer review report. If the audit firm received a peer review rating other than pass, the Auditor shall not contract with the Governmental Unit(s) without first contacting the Secretary of the LGC for a peer review analysis that may result in additional contractual requirements.

If the audit engagement is not subject to *Government Accounting Standards* or if financial statements are not prepared in accordance with U.S. generally accepted accounting principles (GAAP) and fail to include all disclosures required by GAAP, the Auditor shall provide an explanation as to why in an attachment to this contract or in an amendment.

6. It is agreed that time is of the essence in this contract. All audits are to be performed and the report of audit submitted to LGC Staff within four months of fiscal year end. If it becomes necessary to amend this due date or the audit fee, an amended contract along with a written explanation of the delay shall be submitted to the Secretary of the LGC for approval.

7. It is agreed that GAAS include a review of the Governmental Unit's (Units') systems of internal control and accounting as same relate to accountability of funds and adherence to budget and law requirements applicable thereto; that the Auditor shall make a written report, which may or may not be a part of the written report of audit, to the Governing Board setting forth his/her findings, together with his recommendations for improvement. That written report shall include all matters defined as "significant deficiencies and material weaknesses" in AU-C 265 of the *AICPA Professional Standards (Clarified)*. The Auditor shall file a copy of that report with the Secretary of the LGC.

8. All local government and public authority contracts for audit or audit-related work require the approval of the Secretary of the LGC. This includes annual or special audits, agreed upon procedures related to internal controls, bookkeeping or other assistance necessary to prepare the Governmental Unit's (Units') records for audit, financial statement preparation, any finance-related investigations, or any other audit-related work in the State of North Carolina. Approval is not required on contracts and invoices for system improvements and similar services of a non-auditing nature.

9. Invoices for services rendered under these contracts shall not be paid by the Governmental Unit(s) until the invoice has been approved by the Secretary of the LGC. (This also includes any progress billings.) [G.S. 159-34 and 115C-447] All invoices for Audit work shall be submitted in PDF format to the Secretary of the LGC for approval. The invoice marked 'approved' with approval date shall be returned to

the Auditor to present to the Governmental Unit(s) for payment. This paragraph is not applicable to contracts for audits of hospitals.

10. In consideration of the satisfactory performance of the provisions of this contract, the Governmental Unit(s) shall pay to the Auditor, upon approval by the Secretary of the LGC if required, the fee, which includes any costs the Auditor may incur from work paper or peer reviews or any other quality assurance program required by third parties (federal and state grantor and oversight agencies or other organizations) as required under the Federal and State Single Audit Acts. This does not include fees for any pre-issuance reviews that may be required by the NC Association of CPAs (NCACPA) Peer Review Committee or NC State Board of CPA Examiners (see Item 13).

11. If the Governmental Unit(s) has/have outstanding revenue bonds, the Auditor shall submit to LGC Staff, either in the notes to the audited financial statements or as a separate report, a calculation demonstrating compliance with the revenue bond rate covenant. Additionally, the Auditor shall submit to LGC Staff simultaneously with the Governmental Unit's (Units') audited financial statements any other bond compliance statements or additional reports required by the authorizing bond documents, unless otherwise specified in the bond documents.

12. After completing the audit, the Auditor shall submit to the Governing Board a written report of audit. This report shall include, but not be limited to, the following information: (a) Management's Discussion and Analysis, (b) the financial statements and notes of the Governmental Unit(s) and all of its component units prepared in accordance with GAAP, (c) supplementary information requested by the Governmental Unit(s) or required for full disclosure under the law, and (d) the Auditor's opinion on the material presented. The Auditor shall furnish the required number of copies of the report of audit to the Governing Board upon completion.

13. If the audit firm is required by the NC State Board, the NCACPA Peer Review Committee, or the Secretary of the LGC to have a pre-issuance review of its audit work, there shall be a statement in the engagement letter indicating the pre-issuance review requirement. There also shall be a statement that the Governmental Unit(s) shall not be billed for the pre-issuance review. The pre-issuance review shall be performed prior to the completed audit being submitted to LGC Staff. The pre-issuance review report shall accompany the audit report upon submission to LGC Staff.

14. The Auditor shall submit the report of audit in PDF format to LGC Staff. For audits of units other than hospitals, the audit report should be submitted when (or prior to) submitting the final invoice for services rendered. The report of audit, as filed with the Secretary of the LGC, becomes a matter of public record for inspection, review and copy in the offices of the LGC by any interested parties. Any subsequent revisions to these reports shall be sent to the Secretary of the LGC along with an Audit Report Reissued Form (available on the Department of State Treasurer website). These audited financial statements, excluding the Auditors' opinion, may be used in the preparation of official statements for debt offerings by municipal bond rating services to fulfill secondary market disclosure requirements of the Securities and Exchange Commission and for other lawful purposes of the Governmental Unit(s) without requiring consent of the Auditor. If the LGC Staff determines that corrections need to be made to the Governmental Unit's (Units') financial statements, those corrections shall be provided within three business days of notification unless another deadline is agreed to by LGC Staff.

15. Should circumstances disclosed by the audit call for a more detailed investigation by the Auditor than necessary under ordinary circumstances, the Auditor shall inform the Governing Board in writing of the need for such additional investigation and the additional compensation required therefore. Upon approval by the

Secretary of the LGC, this contract may be modified or amended to include the increased time, compensation, or both as may be agreed upon by the Governing Board and the Auditor.

16. If an approved contract needs to be modified or amended for any reason, the change shall be made in writing and pre-audited if the change includes a change in audit fee (pre-audit requirement does not apply to charter schools or hospitals). This amended contract shall be completed in full, including a written explanation of the change, signed and dated by all original parties to the contract. It shall then be submitted to the Secretary of the LGC for approval. No change to the audit contract shall be effective unless approved by the Secretary of the LGC, the Governing Board, and the Auditor.
17. A copy of the engagement letter, issued by the Auditor and signed by both the Auditor and the Governmental Unit(s), shall be attached to this contract, and except for fees, work, and terms not related to audit services, shall be incorporated by reference as if fully set forth herein as part of this contract. In case of conflict between the terms of the engagement letter and the terms of this contract, the terms of this contract shall take precedence. Engagement letter terms that conflict with the contract are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item 28 of this contract. Engagement letters containing indemnification clauses shall not be accepted by LGC Staff.
18. Special provisions should be limited. Please list any special provisions in an attachment.
19. A separate contract should not be made for each division to be audited or report to be submitted. If a DPCU is subject to the audit requirements detailed in the Local Government Budget and Fiscal Control Act and a separate audit report is issued, a separate audit contract is required. If a separate report is not to be issued and the DPCU is included in the primary government audit, the DPCU shall be named along with the primary government on this audit contract. DPCU Board approval date, signatures from the DPCU Board chairman and finance officer also shall be included on this contract.
20. The contract shall be executed, pre-audited (pre-audit requirement does not apply to charter schools or hospitals), and physically signed by all parties including Governmental Unit(s) and the Auditor, then submitted in PDF format to the Secretary of the LGC.
21. The contract is not valid until it is approved by the Secretary of the LGC. The staff of the LGC shall notify the Governmental Unit and Auditor of contract approval by email. The audit should not be started before the contract is approved.
22. Retention of Client Records: Auditors are subject to the NC State Board of CPA Examiners' Retention of Client Records Rule 21 NCAC 08N .0305 as it relates to the provision of audit and other attest services, as well as non-attest services. Clients and former clients should be familiar with the requirements of this rule prior to requesting the return of records.
23. This contract may be terminated at any time by mutual consent and agreement of the Governmental Unit(s) and the Auditor, provided that (a) the consent to terminate is in writing and signed by both parties, (b) the parties have agreed on the fee amount which shall be paid to the Auditor (if applicable), and (c) no termination shall be effective until approved in writing by the Secretary of the LGC.
24. The Governmental Unit's (Units') failure or forbearance to enforce, or waiver of, any right or an event of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.
25. There are no other agreements between the parties hereto and no other agreements relative hereto that shall be enforceable unless entered into in accordance with the procedure set out herein and approved by the Secretary of the LGC.

26. E-Verify. Auditor shall comply with the requirements of NCGS Chapter 64 Article 2. Further, if Auditor utilizes any subcontractor(s), Auditor shall require such subcontractor(s) to comply with the requirements of NCGS Chapter 64, Article 2.

27. **Applicable to audits with fiscal year ends of June 30, 2020 and later.** For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct and Governmental Auditing Standards, 2018 Revision (as applicable). Financial statement preparation assistance shall be deemed a "significant threat" requiring the Auditor to apply safeguards sufficient to reduce the threat to an acceptable level. If the Auditor cannot reduce the threats to an acceptable level, the Auditor cannot complete the audit. If the Auditor is able to reduce the threats to an acceptable level, the documentation of this determination, including the safeguards applied, must be included in the audit workpapers.

All non-attest service(s) being performed by the Auditor that are necessary to perform the audit must be identified and included in this contract. The Governmental Unit shall designate an individual with the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the services and accept responsibility for the results of the services performed. If the Auditor is able to identify an individual with the appropriate SKE, s/he must document and include in the audit workpapers how he/she reached that conclusion. If the Auditor determines that an individual with the appropriate SKE cannot be identified, the Auditor cannot perform both the non-attest service(s) and the audit. See "Fees for Audit Services" page of this contract to disclose the person identified as having the appropriate SKE for the Governmental Unit.

28. **Applicable to audits with fiscal year ends of June 30, 2021 and later.** The auditor shall present the audited financial statements including any compliance reports to the government unit's governing body or audit committee in an official meeting in open session as soon as the audited financial statements are available but not later than 45 days after the submission of the audit report to the Secretary. The auditor's presentation to the government unit's governing body or audit committee shall include:

- a) the description of each finding, including all material weaknesses and significant deficiencies, as found by the auditor, and any other issues related to the internal controls or fiscal health of the government unit as disclosed in the management letter, the Single Audit or Yellow Book reports, or any other communications from the auditor regarding internal controls as required by current auditing standards set by the Accounting Standards Board or its successor;
- b) the status of the prior year audit findings;
- c) the values of Financial Performance Indicators based on information presented in the audited financial statements; and
- d) notification to the governing body that the governing body shall develop a "Response to the Auditor's Findings, Recommendations, and Fiscal Matters," if required under 20 NCAC 03 .0508.

29. Information based on the audited financial statements shall be submitted to the Secretary for the purpose of identifying Financial Performance Indicators and Financial Performance Indicators of Concern.

30. Applicable to charter school contracts only: No indebtedness of any kind incurred or created by the charter school shall constitute an indebtedness of the State or its political subdivisions, and no indebtedness of the charter school shall involve or be secured by the faith, credit, or taxing power of the State or its political subdivisions.

31. All of the above paragraphs are understood and shall apply to this contract, except the following numbered paragraphs shall be deleted (See Item 16 for clarification).

32. The process for submitting contracts, audit reports and invoices is subject to change. Auditors and units should use the submission process and instructions in effect at the time of submission. Refer to the N.C. Department of State Treasurer website at <https://www.nctreasurer.com/state-and-local-government-finance-division/local-government-commission/submitting-your-audit>

33. All communications regarding audit contract requests for modification or official approvals will be sent to the email addresses provided on the signature pages that follow.

34. Modifications to the language and terms contained in this contract form (LGC-205) are not allowed.

## FEES FOR AUDIT SERVICES

1. For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct (as applicable) and *Governmental Auditing Standards, 2018 Revision*. Refer to Item 27 of this contract for specific requirements. The following information must be provided by the Auditor; contracts presented to the LGC without this information will not be approved.

Financial statements were prepared by: ☒ Auditor ☐ Governmental Unit ☐ Third Party

If applicable: Individual at Governmental Unit designated to have the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the non-attest services and accept responsibility for the results of these services:

Name:

Title and Unit / Company:

Email Address:

Alan Thompson

Partner, Thompson, Price, Scott Adams &amp; Co.

alanthompson@tpsacpas.com

OR Not Applicable ☐ (Identification of SKE Individual not applicable for GAAS-only audit or audits with FYEs prior to June 30, 2020.)

2. Fees may not be included in this contract for work performed on Annual Financial Information Reports (AFIRs), Form 990s, or other services not associated with audit fees and costs. Such fees may be included in the engagement letter but may not be included in this contract or in any invoices requiring approval of the LGC. See Items 8 and 13 for details on other allowable and excluded fees.

3. Prior to submission of the completed audited financial report, applicable compliance reports and amended contract (if required) the Auditor may submit invoices for approval for services rendered, not to exceed 75% of the billings for the last annual audit of the unit submitted to the Secretary of the LGC. Should the 75% cap provided below conflict with the cap calculated by LGC Staff based on the billings on file with the LGC, the LGC calculation prevails. All invoices for services rendered in an audit engagement as defined in 20 NCAC .0503 shall be submitted to the Commission for approval before any payment is made. Payment before approval is a violation of law. (This paragraph not applicable to contracts and invoices associated with audits of hospitals).

## PRIMARY GOVERNMENT FEES

Primary Government Unit	Town of Holden Beach, NC
Audit Fee	\$ See fee section of engagement letter
<b>Additional Fees Not Included in Audit Fee:</b>	
Fee per Major Program	\$ See fee section of engagement letter
Writing Financial Statements	\$ See fee section of engagement letter
All Other Non-Attest Services	\$ N/A
<b>75% Cap for Interim Invoice Approval</b> (not applicable to hospital contracts)	\$ 17,250.00

## DPCU FEES (if applicable)


Discretely Presented Component Unit	N/A
Audit Fee	\$
<b>Additional Fees Not Included in Audit Fee:</b>	
Fee per Major Program	\$
Writing Financial Statements	\$
All Other Non-Attest Services	\$
<b>75% Cap for Interim Invoice Approval</b> (not applicable to hospital contracts)	\$

## CONTRACT TO AUDIT ACCOUNTS

Rev. 11/2020

## SIGNATURE PAGE

## AUDIT FIRM

Audit Firm*	
Martin Starnes & Associates, CPAs, P.A.	
Authorized Firm Representative (typed or printed)*	Signature*
Amber Y. McGhinnis	
Date*	Email Address*
02/08/21	amcghinnis@martinstarnes.com

## GOVERNMENTAL UNIT

Governmental Unit*	
Town of Holden Beach, NC	
Date Primary Government Unit Governing Board Approved Audit Contract* (G.S.159-34(a) or G.S.115C-447(a))	
Mayor/Chairperson (typed or printed)*	Signature*
J. Alan Holden, Mayor	
Date	Email Address
	holden@atthebeachnc.com

Chair of Audit Committee (typed or printed, or "NA")	Signature
Woody Tyner	
Date	Email Address
	woody@tyner.net

## GOVERNMENTAL UNIT – PRE-AUDIT CERTIFICATE

Required by G.S. 159-28(a1) or G.S. 115C-441(a1).  
Not applicable to hospital contracts.

*This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act.*

Primary Governmental Unit Finance Officer* (typed or printed)	Signature*
David Hewett, Town Manager/Finance Director	
Date of Pre-Audit Certificate*	Email Address*
	dhewett@hbtownhall.com

**SIGNATURE PAGE – DPCU**  
(complete only if applicable)

**DISCRETELY PRESENTED COMPONENT UNIT**

DPCU*	
N/A	
Date DPCU Governing Board Approved Audit Contract* (Ref: G.S. 159-34(a) or G.S. 115C-447(a))	
DPCU Chairperson (typed or printed)*	Signature*
Date*	Email Address*

Chair of Audit Committee (typed or printed, or "NA")	Signature
N/A	
Date	Email Address

**DPCU – PRE-AUDIT CERTIFICATE**

Required by G.S. 159-28(a1) or G.S. 115C-441(a1).  
Not applicable to hospital contracts.

*This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act.*

DPCU Finance Officer (typed or printed)*	Signature*
N/A	
Date of Pre-Audit Certificate*	Email Address*

Remember to print this form, and obtain all  
required signatures prior to submission.

**PRINT**



Koonce, Wooten & Haywood, LLP

## Report on the Firm's System of Quality Control

To the Shareholders of Martin Starnes & Associates CPAs, P.A. and the  
Peer Review Committee, North Carolina Association  
Of Certified Public Accountants

We have reviewed the system of quality control for the accounting and auditing practice of Martin Starnes & Associates CPAs, P.A. (the firm) in effect for the year ended December 31, 2017. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at [www.aicpa.org/prsummary](http://www.aicpa.org/prsummary). The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

### Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

### Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

### Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including compliance audits under the Single Audit Act and an audit of an employee benefit plan.

As part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.

### Opinion

In our opinion, the system of quality control for the accounting and auditing practice of Martin Starnes & Associates CPAs, P.A. in effect for the year ended December 31, 2017, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiencies*, or *fail*. Martin Starnes & Associates CPAs, P.A. has received a peer review rating of *pass*.

Koonce, Wooten & Haywood, LLP

Koonce, Wooten & Haywood, LLP

May 3, 2018

Raleigh

Cumham

Pittsboro

# MARTIN ♦ STARNES

## & ASSOCIATES, CPAs, P.A.

*"A Professional Association of Certified Public Accountants and Management Consultants"*

February 8, 2021

Town of Holden Beach  
Attn: David Hewett, Town Manager  
110 Rothschild Street  
Holden Beach, NC 28462

You have requested that we audit governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the Town of Holden Beach, NC, as of June 30, 2021, and for the year then ended, and the related notes, which collectively comprise the Town of Holden Beach's basic financial statements as listed in the table of contents. We are pleased to confirm our acceptance and our understanding of this audit engagement by means of this letter. Our audit will be conducted with the objective of our expressing an opinion on each opinion unit applicable to those basic financial statements.

Accounting principles generally accepted in the United States of America (U.S. GAAP), as promulgated by the Governmental Accounting Standards Board (GASB) require that certain supplementary information be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the GASB, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the required supplementary information (RSI) in accordance with auditing standards generally accepted in the United States of America (U.S. GAAS). These limited procedures will consist primarily of inquiries of management regarding their methods of measurement and presentation and comparing the information for consistency with management's responses to our inquiries. We will not express an opinion or provide any form of assurance on the RSI. The following RSI is required by U.S. GAAP. This RSI will be subjected to certain limited procedures but will not be audited:

- Management's Discussion and Analysis
- Law Enforcement Officers' Special Separation Allowance schedules
- Local Government Employees' Retirement System's schedules

Supplementary information other than RSI will accompany the Town of Holden Beach's basic financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the basic financial statements and perform certain additional procedures, including comparing and reconciling the supplementary information to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and additional procedures in accordance with U.S. GAAS. We intend to provide an opinion on the following supplementary information in relation to the basic financial statements as a whole:

- Combining and individual fund financial statements
- Budgetary schedules
- Other schedules

### **Auditor Responsibilities**

We will conduct our audit in accordance with U.S. GAAS and *Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free from material misstatement. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the basic financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the basic financial statements, whether due to fraud or error, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements.

An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the basic financial statements. If appropriate, our procedures will therefore include tests of documentary evidence that support the transactions recorded in the accounts, tests of the physical existence of inventories, and the direct confirmation of cash, investments, and certain other assets and liabilities by correspondence with creditors and financial institutions. As part of our audit process, we will request written representations from your attorneys, and they may bill you for responding. At the conclusion of our audit, we will also request certain written representations from you about the basic financial statements and related matters.

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements (whether caused by errors, fraudulent financial reporting, misappropriation of assets, or violations of laws or governmental regulations) may not be detected exists, even though the audit is properly planned and performed in accordance with U.S. GAAS and *Government Auditing Standards* of the Comptroller General of the United States of America.

In making our risk assessments, we consider internal control relevant to the entity's preparation and fair presentation of the basic financial statements in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the basic financial statements that we have identified during the audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any other periods.

We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add an emphasis-of-matter or other-matter paragraph(s). If our opinions on the basic financial statements are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

## **Compliance with Laws and Regulations**

As previously discussed, as part of obtaining reasonable assurance about whether the basic financial statements are free of material misstatement, we will perform tests of the Town of Holden Beach's compliance with the provisions of applicable laws, regulations, contracts, and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance, and we will not express such an opinion.

## **Management's Responsibilities**

Our audit will be conducted on the basis that management and, when appropriate, those charged with governance, acknowledge and understand that they have responsibility:

1. For the preparation and fair presentation of the basic financial statements in accordance with accounting principles generally accepted in the United States of America;
2. For the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of basic financial statements that are free from material misstatement, whether due to error, fraudulent financial reporting, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements;
3. To provide us with:
  - a. Access to all information of which management is aware that is relevant to the preparation and fair presentation of the basic financial statements, such as records, documentation, and other matters;
  - b. Additional information that we may request from management for the purpose of the audit; and
  - c. Unrestricted access to persons within the entity from whom we determine it necessary to obtain audit evidence.
4. For including the auditor's report in any document containing basic financial statements that indicates that such financial statements have been audited by the entity's auditor;
5. For identifying and ensuring that the entity complies with the laws and regulations applicable to its activities;
6. For adjusting the basic financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the current period(s) under audit are immaterial, both individually and in the aggregate, to the basic financial statements as a whole;
7. For acceptance of nonattest services, including identifying the proper party to oversee nonattest work (if applicable);
8. For maintaining adequate records, selecting and applying accounting principles, and safeguarding assets.
9. For informing us of any known or suspected fraud affecting the entity involving management, employees with significant roles in internal control and others where fraud could have a material effect on the financials; and
10. For the accuracy and completeness of all information provided.

With regard to the supplementary information referred to above, you acknowledge and understand your responsibility (a) for the preparation of the supplementary information in accordance with the applicable criteria, (b) to provide us with the appropriate written representations regarding supplementary information, (c) to include our report on the supplementary information in any document that contains the supplementary information and that indicates that we have reported on such supplementary information, and (d) to present the supplementary information with the audited basic financial statements, or if the supplementary information will not be presented with the audited basic financial statements, to make the audited basic financial statements readily available to the intended users of the supplementary information no later than the date of issuance by you of the supplementary information and our report thereon.

As part of our audit process, we will request from management and, when appropriate, those charged with governance, written confirmation concerning representations made to us in connection with the audit.

We will perform the following nonattest services:

- Draft of financial statements and footnotes
- GASB 34 conversion entries
- Preparation of AFIR
- Preparation of LGC's data input worksheet
- Capital asset & depreciation listing maintenance

We will not assume management responsibilities on behalf of the Town of Holden Beach. However, we will provide advice and recommendations to assist management of the Town of Holden Beach in performing its responsibilities.

With respect to any nonattest services we perform as listed above, the Town of Holden Beach's management is responsible for (a) making all management decisions and performing all management functions; (b) assigning a competent individual to oversee the services; (c) evaluating the adequacy of the services performed; (d) evaluating and accepting responsibility for the results of the services performed; and (e) establishing and maintaining internal controls, including monitoring ongoing activities.

Our responsibilities and limitations of the engagement are as follows:

- We will perform the services in accordance with applicable professional standards.
- This engagement is limited to the services previously outlined. Our firm, in its sole professional judgement, reserves the right to refuse to do any procedure or take any action that could be construed as making management decisions or assuming management responsibilities, including determining account codings and approving journal entries.

## Reporting

We will issue a written report upon completion of our audit of the Town of Holden Beach's basic financial statements. Our report will be addressed to the governing body of the Town of Holden Beach. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions, add an emphasis-of-matter or other-matter paragraph(s), or withdraw from the engagement.

In accordance with the requirements of *Government Auditing Standards*, we will also issue a written report describing the scope of our testing over internal control over financial reporting and over compliance with laws, regulations, and provisions of grants and contracts, including the results of that testing. However, providing an opinion on internal control and compliance will not be an objective of the audit and, therefore, no such opinion will be expressed.

## Other

We understand that your employees will prepare all confirmations we request and will locate any documents or support for any other transactions we select for testing.

If you intend to publish or otherwise reproduce the basic financial statements and make reference to our firm, you agree to provide us with printers' proofs or masters for our review and approval before printing. You also agree to provide us with a copy of the final reproduced material for our approval before it is distributed.

Regarding the electronic dissemination of audited financial statements, including financial statements published electronically on your Internet website, you understand that electronic sites are a means to

distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

During the course of the engagement, a portal will be in place for information to be shared, but not stored. Our policy is to terminate access to this portal after one year. The Town is responsible for data backup for business continuity and disaster recovery, and our workpaper documentation is not to be used for these purposes.

### **Provisions of Engagement Administration and Fees**

During the course of the engagement, we may communicate with you or your personnel via fax or e-mail, and you should be aware that communication in those mediums contains a risk of misdirected or intercepted communications.

Marcie Spivey is the engagement partner for the audit services specified in this letter. Her responsibilities include supervising Martin Starnes & Associates, CPAs, P.A.'s services performed as part of this engagement and signing or authorizing another qualified firm representative to sign the audit report. To ensure that our independence is not impaired under the AICPA Code of Professional Conduct, you agree to inform the engagement partner before entering into any substantive employment discussions with any of our personnel.

Our fees for these services are as follows:

Audit Fee	\$ 21,285
Single Audit Fees (if applicable)	1,500
Financial Statement Drafting	2,365
Other Non-Attest Services	-
	<u>\$ 25,150</u>

Our invoices for these fees will be rendered in four installments as work progresses and are payable upon presentation. In accordance with our firm policies, work may be suspended if your account becomes overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for non-payment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our reports. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination.

We will notify you immediately of any circumstances we encounter that could significantly affect this initial fee estimate. Whenever possible, we will attempt to use the Town of Holden Beach's personnel to assist in the preparation of schedules and analyses of accounts. This effort could substantially reduce our time requirements and facilitate the timely conclusion of the audit. Further, we will be available during the year to consult with you on financial management and accounting matters of a routine nature.

If we determine that we are required to perform a single audit in accordance with the audit requirements of Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) and the State Single Audit Implementation Act, and these procedures and related fees were not included in our quoted fees, we may amend our audit contract and supplemental bill for these additional procedures.

We want our clients to receive the maximum value for our professional services and to perceive that our fees are reasonable and fair. In working to provide you with such value, we find there are certain circumstances that can cause us to perform work in excess of that contemplated in our fee estimate.

Following are some of the more common reasons for potential supplemental billings:

*Changing Laws and Regulations*

There are many governmental and rule-making boards that regularly add or change their requirements. Although we attempt to plan our work to anticipate the requirements that will affect our engagement, there are times when this is not possible. We will discuss these situations with you at the earliest possible time in order to make the necessary adjustments and amendments in our engagement.

*Incorrect Accounting Methods or Errors in Client Records*

We base our fee estimates on the expectation that client accounting records are in order so that our work can be completed using our standard testing and accounting procedures. However, should we find numerous errors, incomplete records, or the application of incorrect accounting methods, we will have to perform additional work to make the corrections and reflect those changes in the financial statements.

*Failure to Prepare for the Engagement*

In an effort to minimize your fees, we assign you the responsibility for the preparation of schedules and documents needed for the engagement. We also discuss matters such as availability of your key personnel, deadlines, and work space. If your personnel are unable, for whatever reasons, to provide these items as previously agreed upon, it might substantially increase the work we must do to complete the engagement within the scheduled time.

*Starting and Stopping Our Work*

If we must withdraw our staff because of the condition of the client's records, or the failure to provide agreed upon items within the established timeline for the engagement, we will not be able to perform our work in a timely, efficient manner, as established by our engagement plan. This will result in additional fees, as we must reschedule our personnel and incur additional start-up costs.

Our fees are based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. Our fees for such services range from \$75-\$300 per hour.

*Government Auditing Standards* require that we document an assessment of the skills, knowledge, and experience of management, should we participate in any form of preparation of the basic financial statements and related schedules or disclosures as these actions are deemed a non-audit service.

During the course of the audit, we may observe opportunities for economy in, or improved controls over, your operations. We will bring such matters to the attention of the appropriate level of management, either orally or in writing.

You agree to inform us of facts that may affect the basic financial statements of which you may become aware during the period from the date of the auditor's report to the date the financial statements are issued.

We agree to retain our audit documentation or work papers for a period of at least five years from the date of our report.

At the conclusion of our audit engagement, we will communicate to management and those charged with governance the following significant findings from the audit:

- Our view about the qualitative aspects of the entity's significant accounting practices;
- Significant difficulties, if any, encountered during the audit;
- Uncorrected misstatements, other than those we believe are trivial, if any;
- Disagreements with management, if any;
- Other findings or issues, if any, arising from the audit that are, in our professional judgment, significant and relevant to those charged with governance regarding their oversight of the financial reporting process;
- Material, corrected misstatements that were brought to the attention of management as a result of our audit procedures;
- Representations we requested from management;
- Management's consultations with other accountants, if any; and
- Significant issues, if any, arising from the audit that were discussed, or the subject of correspondence, with management.

The audit documentation for this engagement is the property of Martin Starnes & Associates, CPAs, P.A. and constitutes confidential information. However, we may be requested to make certain audit documentation available to the Local Government Commission, Office of the State Auditor, federal or state agencies and the U.S. Government Accountability Office pursuant to authority given to it by law or regulation, or to peer reviewers. If requested, access to such audit documentation will be provided under the supervision of Martin Starnes & Associates, CPAs, P.A.'s personnel. Furthermore, upon request, we may provide copies of selected audit documentation to these agencies and regulators. The regulators and agencies may intend, or decide, to distribute the copies of information contained therein to others, including other governmental agencies.

In accordance with the requirements of *Government Auditing Standards*, we have attached a copy of our latest external peer review report of our firm to the Contract to Audit Accounts for your consideration and files.

Please sign and return a copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our audit of the basic financial statements, including our respective responsibilities.

We appreciate the opportunity to be your financial statement auditors and look forward to working with you and your staff.

Respectfully,

*Martin Starnes & Associates, CPAs, P.A.*

Martin Starnes & Associates, CPAs, P.A.  
Hickory, North Carolina

**RESPONSE:**

This letter correctly sets forth the understanding of the Town of Holden Beach.

Acknowledged and agreed on behalf of the Town of Holden Beach by:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**Date:** February 9, 2021

**To:** Mayor Holden and Board of Commissioners

**From:** David Hewett, Town Manager *DH*

**Re:** Occupancy Tax Budget Amendment February

The Town's FY 20-21 budget forecast as related to occupancy tax was established with an uncertainty regarding collection. Acknowledging the many variables related to COVID-19 impacts, the staff took a conservative approach, knowing that tourism for the year was unpredictable. As stated in many of my previous monthly reports, we have actually seen one of the best years for visitors in recent history. To remain in compliance with the NC Fiscal Control Act, we need to recognize what staff is forecasting for the remainder of this fiscal year for occupancy tax revenue and the related expenses that coincide with those revenues.

The attached budget amendment forecasts a \$337,204 increase in accommodations tax for the remainder of the fiscal year. It recognizes the required transfer of Brunswick County Tourism Development Authority (TDA) funding in addition to programming the following expenses:

- Public parking lots' construction costs at the 800 block and 764 OBW
- Legal fees for easement acquisition
- Lockwood Folly Inlet May dredging event
- One walkway rebuild and one repair at public accesses secondary to increased wear and tear
- Replacement of funds expended with additional Covid cleaning requirements for public restroom facilities
- Port-a-john rentals, including new port-a-johns at new parking areas
- Court and dock maintenance at Bridgeview Park
- Repairs and upgrades to improve handicap access at Halstead Park

**Suggested Motion:** Approval of Ordinance 21-03, An Ordinance Amending Ordinance 20-10, The Revenues and Appropriations Ordinance for Fiscal Year 2020 – 2021 (Amendment No. 6).

**Attachment 1: Ordinance 21-03**

**Budget Ordinance 21-03, An Ordinance Amending Ordinance 20-10, The Revenues and Appropriations  
Ordinance for Fiscal Year 2020 – 2021 (Amendment No 6)**

Revise Accommodations Tax Estimates

	Description	Account	Amount	Action
<b>Revenues</b>				
	Accommodations Tax	50.0302.0000	<u>337204</u>	Increase
<b>Total</b>			<b>337204</b>	
<b>Expense</b>				
	Transfer County Accom Tax	50.0401.0000	55358	Increase
	Prof Svcs Beach	50.0710.0902	12320	Increase
	Jordan Blvd Ops, Mx, Repair	50.0710.0906	28476	Increase
	Public Restrooms	50.0710.1500	35000	Increase
	Access and Rec	50.0710.4300	152580	Increase
	Halstead Park	50.0710.5001	22995	Increase
	Rothschild Davis Park	50.0710.5004	8475	Increase
	Lockwood Folly Dredging	50.0710.7200	<u>22000</u>	Increase
<b>Total</b>			<b>337204</b>	

This the 16<sup>th</sup> day of February, 2021.

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

ATTEST:

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



Date: February 9, 2021

To: Commissioners and Mayor Holden

From: Chris Clemmons, Public Works Director

Re: Lease Purchase Contract Approval

The 20/21 budget included funding in the amount \$73,281.00 for the yearly installments to purchase a new vacuum truck. Quotes were obtained through the North Carolina Sheriff's Association Procurement Program. This program qualifies for the bidding process under N.C.G.S 143-129(e)(3).

The total purchase price of the vacuum truck is \$332,687. After the down payment of \$35,000 is applied, the Town would finance \$297,687. The first of five annual installments of \$64,773 will be due in December 2021.

Required Board Action: Approval of Resolution 21-03.



1520 Pineview Rd.  
Columbia, SC 29209  
Phone (803) 358-0221, Fax (803) 358-0431  
Website: [www.southern-vac.com](http://www.southern-vac.com)

North Carolina Sheriffs  
Association:  
Heavy Equipment Bid:  
19-03-0504RR



January 21, 2021

Town of Holden Beach  
Attn: Chris Clemmons  
110 Rothchild St.  
Holden Beach, NC 28462

Mr. Chris Clemmons,

Southern Vac is pleased to offer the ***Town of Holden Beach*** the following quote on a ***Vac Con Single Engine Combination Truck under NCSA Heavy Equipment Bid 19-03-0504RR.***  
Thank you for your consideration. If you have any questions regarding this quote, I can be reached at (704) 608-9276.

Regards,

Russell Senn



## Specifications for: Town of Holden Beach

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### Model Number – VPD4211HEN/1300 (827 at 18" Hg, Blower 5500 CFM) L H A

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#### Standard Equipment Includes:

Vacuum System (as specified by Model Number)  
 Vacuum Drive: Hydrostatic - Required  
 3/16" Corten Steel Debris Tank - (size as specified by model number)  
 Full opening rear door  
 Hydraulic rear door locks, with door grabber with safety latch  
 5" Butterfly valve with 10' layflat hose  
 Debris tank Dumping: minimum 50 deg., hydraulic scissors lift - power up/power down  
 Polyethylene water tank  
 Automatic Vacuum Breaker and overflow protection  
 8" vacuum intake hose  
 Boom travel tie down  
 4 Way hydraulic boom with 270 deg. Rotation and joystick controls  
 Front mounted 600' capacity (1" hose)/hydraulic hose reel  
 FMC Water Pump is Standard on Single Engine Unit: 60 gpm/2000 psi system  
 Water pump drive: Hydrostatic  
 400' high pressure jet rodder hose (1" or 3/4")  
 Manual hose rewind guide  
 Hose guide (Tiger Tail)  
 30" leader hose  
 20 gpm at 600 psi wash down handgun with 25' of hose and nozzle  
 Sealed and locking toolbox(es) (as indicated by model number)  
 1) each sanitary and penetrator nozzles  
 20.5' aluminum intake pipe (1-3', 1-5', 1-6', and 1-6.5' nozzle)  
 ICC lighting  
 DuPont Elite Polyurethane Paint  
 12-month standard warranty - see certificate for details  
 -  
 Note: Includes Hydrostatic Drive Option  
 5# Fire Extinguisher  
 Set of Triangles

#### Main Information

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Model	PD4211HEN/1300 (827 at 18")
Blower	Hydrostatic Drive
Boom	10' Aluminum Telescoping Boom with Pendant Control Station
Hose Reel	Front Mounted, Articulating to Driver Side (Std Pivot)
Jet Rodder Hose	500' x 3/4" Jet Rodder Hose
Water System	50 gpm/3000 psi FMC Pump - Single Engine - Hydrostatic Drive

#### Debris Body Options

##### Qty Description

- |   |  |
|---|--|
| 1 | A Flat Style Rear Door ilo Dome Style Door Including Hydraulic Opener will be Provided |
| 1 | Built in Body Prop - Rear Support Frame Mounted  |

- 1 Rear splash guard (2 - 10 O'clock) - tank mounted

### Water System Options

#### Qty Description

- 1 1/4 turn ball valve water drain (cannot choose both 2-1/2" gate valve and 1/4 turn ball valve, only choose one)
- 1 50' Capacity Retractable Handgun Hose Reel
- 1 Air Purge System
- 1 Debris Body "Power Flush" System, 8 jets
- 1 Gate Valve at Water Pump Inlet
- Hydroexcavation Pkg Inc- 50' Handgun Hose Reel w/ 1/2" hose 72" X 1/2" Sch. 80 QD Lance
- 1 w single Fwd Spray Nozzle, Storage Tubes for Lances Heavy Duty Unloader Valve Main Control Ball Valve Variable Flow Valve
- 1 Variable Flow Valve (Valve Only) - nozzles required
- 1 Water Pump Remote Oil Drain
- 1 Add Lateral Cart

### Misc Machine Options

#### Qty Description

- 1 12VDC Auxiliary Hydraulic Pump
- 1 Cone Rack, Hinged Style/Deck
- 1 Rear Mounted Tow Hooks
- Remote Boom Grease Zerk Assembly (Ground Level - includes water pump drive) - If
- 1 Applicable
- 1 Remote Debris Tank Grease Assembly (Ground Level)

### Lighting Options

#### Qty Description

- 1 LED 4 Strobes - (2) front bumper / (2) rear bumper - Whelen 50A03ZCR - Amber
- 1 LED Arrow Board, Rear Debris Tank Door Mounted - Whelen TA1251NF1 Traffic Arrow
- 1 LED Boom Mounted Flood Lights with Limb Guard - Whelen NP6BB Worklight
- 1 Midbody LED Strobes - Frame Mounted - Whelen 50A03ZCR - Amber
- 2 Mirror Mounted LED Beacon/Strobe Light with Limb Guard - Whelen L21HAP LED Beacon with Whelen BGH Branch Guard

### Electrical Options

#### Qty Description

- 1 Low Water Alarm with Light
- Omnibus Precision Power System (OPP)-Electronic Controller System-Includes: a color
- 1 monitor, electronic footage counter, and pressure compensated hydraulics. AVAILABLE: DUAL AND SINGLE ENG MACHINES.
- 1 Rear Camera Placement
- Remote Control (Wireless): Boom, Vacuum Breaker, Throttle & Debris Body (includes Hi-
- 1 Dump, if applicable). Does not include remote cable pendant controls for boom or hi dump.
- 1 Traffic Camera With Color Monitor - MUST PICK CAMERA PLACEMENT

### Pipe Storage Racks

**Qty Description**

- 2 Additional Pipe Rack(s), specify any requested locations in comments section, otherwise engineering will place in best available locations.
- 1 Lazy Susan Pipe Rack (Holds 5 Pipes) – **To be moved to more favorable location**

**Tool/Storage Boxes****Qty Description**

- 1 (2) 24x18x18 Aluminum Tool Box (Extended Frame Units w/o Rear Tanks)

**Paint****Qty Description**

Paint Notes Gray with black stripes

**Truck Chassis Information**

Pool Truck Chassis Model **Freightliner 114SD 6x4 66000GVWR ISL370 3000RDS** *Pool Trucks are subject to availability.*

**Qty Description**

- FR 114SD/SW 4700: 3yrs./200,000mi. ext. warranty: Includes- 3yrs. towing, Cummins-  
 1 ISL370 3yr./150,000mi. (PP1 W/Aftertreatment), Allison 3000 5yrs./UNLmi. (Requires  
 TransSynd Synthetic Transmission Fluid or TES-295)

**Total Price: \$392,687.00**  
**Trade-In Discount: -\$60,000.00**

**New Total Price: \$332,687.00**

\*Price good for 30 days

\*\*Truck in stock

**\*If Vac Con body is down for more than 5 business days and Southern Vac is performing the repair, Southern Vac will provide a no charge loaner until repair is complete\***

**\*\*Trade In must be in good working order and pass inspection by a Southern Vac service technician prior to acceptance\*\***

**\*\*ALL APPLICABLE SALES TAX AND FEES ARE NOT INCLUDED IN THE QUOTE\*\***

**Customer Signature: \_\_\_\_\_**

**Date:**

**Southern Vac Representative: \_\_\_\_\_**

**Date:**



*\*Please see additional options on next page\**

## **Additional Options**

1. KEG Nozzle Kit

Option Price: \$8,000.00





January 15, 2021

Sent via Email: [fiscalanalyst@hbtownhall.com](mailto:fiscalanalyst@hbtownhall.com)

Daniel McRaney  
Fiscal Analyst  
Town of Holden Beach, North Carolina

Re: Financing for a Vac-Con Vacuum Truck VPD4211HEN/1300 LHA

**Thank you for trusting Leasing 2 with your financing needs. Attached to this email are the required documents for execution, and their instructions are below.**

**PLEASE READ:** Carefully follow the instructions below, checking off each item as completed. Documentation completed improperly will have to be redone and possibly delay funding. If you have any questions, please call us at (800) 287-5155.

**ALSO:**

- ✓ Please execute documents in **BLUE** ink.
- ✓ As these are legal documents, we cannot accept double-sided printouts.

- ☐ **Lease Purchase Agreement**
  - Signed and dated by Lessee's authorized signatory.
- ☐ **Exhibit A – Resolution of Governing Body Extract of Minutes**
  - Enter the date your resolution was adopted.
  - Signed by Lessee's authorized signatory.
  - Signed and dated by Secretary/Clerk or other authorized board member of Lessee at bottom of page.
- ☐ **Exhibit B – Opinion of Lessee's Counsel**
  - Printed on attorney's letterhead and signed by attorney. Original signature required.
- ☐ **Exhibit C – Certificate as to Arbitrage**
  - Enter the date by which the equipment is expected to be fully acquired in Item 4.
  - Signed and dated by Lessee's authorized signatory.
- ☐ **Exhibit D – Description of Equipment**
  - Enter the address where the equipment will be located.
  - Signed and dated by Lessee's authorized signatory.
- ☐ **Exhibit E – Payment Schedule**
  - Signed and dated by Lessee's authorized signatory.
- ☐ **Exhibit F – Acceptance Certificate**
  - Please **DO NOT CHECK ANY BOXES** – this will be completed at closing and you will receive a fully executed Agreement post-closing.
  - Signed by Lessee's authorized signatory.
- ☐ **Exhibit G – Essential Use/Source of Funds Letter**
  - Enter a description of how the equipment will be used and the services it will provide.
  - Signed and dated by Lessee's authorized signatory.
- ☐ **Exhibit H – Designation of Bank Qualification**
  - Signed and dated by Lessee's authorized signatory.

- ☐ **Exhibit I – Notice and Acknowledgement of Assignment**
- Signed and dated by Lessee's authorized signatory.
- ☐ **Insurance Coverage Requirement**
- Enter the name, address & phone number of your insurance agent.
  - If self-insured, check Item 2 and provide information regarding the nature of your self-insurance program along with the amounts of liability and physical damage coverage listed on a certificate.
- ☐ **Billing Information**
- Enter all of the requested information.
- ☐ **Customer Identification Program Organized Entity**
- Enter all of the requested information.
  - Signed by Lessee's authorized signatory.
- ☐ **Internal Escrow Letter**
- Signed and dated by Lessee's authorized signatory.
- ✓ **POST FUNDING REQUIREMENTS**
- ☐ **IRS Form 8038-G (Form 8038-GC if the issue price is under \$100,000)**
- We will email you this form for signature after the lease is funded.
- ☐ **Vehicle Titling**
- You will have vehicle titled with security interest of first lienholder. Reference the back of the Certificate of Origin for the lienholder's name and address. If the lienholder is not listed on the Certificate of Origin, please contact us prior to titling.
  - Scan and email us a copy of the receipt from the titling authority when done.
- ☐ **Escrow Disbursements**
- Disbursement documents authorizing release of vendor payments upon equipment acceptance will need to be signed.

**ALL DOCUMENTATION SHOULD BE EMAILED OR FAXED FOR REVIEW PRIOR TO OVERNIGHTING.**

**PLEASE RETURN ALL DOCUMENTS BY: JANUARY 25, 2021**

Email/fax to:

Donna Womack

[dwomack@leasing2.com](mailto:dwomack@leasing2.com)

Fax: (813) 258-9333

Phone: (800) 287-5155, Ext. 14

Overnight to:

Leasing 2, Inc.

1720 W. Cass St.

Tampa, FL 33606

(800) 287-5155

Alternate contact:

Rick Carney

[rcarney@leasing2.com](mailto:rcarney@leasing2.com)

Fax: (813) 258-9333

Phone: (800) 287-5155, Ext. 16

**Thank you for your business.**

# LEASE-PURCHASE AGREEMENT

## LESSEE:

Town of Holden Beach, North Carolina  
110 Rothschild Street  
Holden Beach, NC 28462

## LESSOR:

Leasing 2, Inc.  
1720 West Cass Street  
Tampa, FL 33606-1230

**Dated as of January 20, 2021**

This Lease-Purchase Agreement (the "Agreement") dated as of January 20, 2021 by and between Leasing 2, Inc. ("Lessor"), and Town of Holden Beach, North Carolina ("Lessee"), a body corporate and politic duly organized and existing under the laws of the State of North Carolina ("State").

## WITNESSETH:

WHEREAS, Lessor desires to lease the Equipment, as hereinafter defined, to Lessee, and Lessee desires to lease the Equipment from Lessor, subject to the terms and conditions of and for the purposes set forth in this Agreement; and

WHEREAS, Lessee is authorized under the Constitution and laws of the State to enter into this Agreement for the purposes set forth herein;

NOW, THEREFORE, for and in consideration of the premises hereinafter contained, the parties hereby agree as follows:

## ARTICLE I DEFINITIONS

Section 1.01. The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"Agreement" means this Lease-Purchase Agreement, including the Exhibits attached hereto, as the same may be supplemented or amended from time to time in accordance with the terms hereof.

"Commencement Date" is the date when the term of this Agreement begins and Lessee's obligation to pay rent accrues, which shall be the commencement date shown on the Exhibit E Payment Schedule.

"Equipment" means the property described in Exhibit D and which is the subject of this Agreement.

"Lease Term" means the Original Term and all Renewal Terms provided for in this Agreement under Section 4.01.

"Lessee" means the entity which is described in the first paragraph of this Agreement and which is leasing the Equipment from Lessor under the provisions of this Agreement.

"Lessor" means (i) Leasing 2, Inc., acting as Lessor hereunder; (ii) any surviving resulting or transferee corporation; and (iii) except where the context requires otherwise, any assignee(s) of Lessor.

"Original Term" means the period from the Commencement Date until the end of the fiscal year of Lessee in effect at the Commencement Date.

"Purchase Price" means the amount indicated with respect to any date after payment of all Rental Payments (defined below) due through such date, all as set forth in Exhibit E hereto, or Supplemental Exhibit E hereto, as the case may be.

"Renewal Terms" means the renewal terms of this Agreement as provided for in Article IV of this Agreement, each having a duration of one year and a term co-extensive with the Lessee's fiscal year, except the last of such automatic renewal terms which shall end on the due date of the last Rental Payment set forth in Exhibit E to this Agreement.

"Rental Payments" means the basic rental payments payable by Lessee pursuant to the provisions of this Agreement during the Lease Term. Rental Payments shall be payable by Lessee to the Lessor or its assignee in the amounts and at the times during the Lease Term, as set forth in Exhibit E of this Agreement.

"Vendor" means the manufacturer of the Equipment as well as the agents or dealers of the manufacturer from whom Lessee has purchased or is purchasing the Equipment.

## ARTICLE II COVENANTS OF LESSEE

Section 2.01 Lessee represents, covenants and warrants, for the benefit of Lessor and its assignees, as follows:

- (a) Lessee is a public body, corporate and politic, duly organized and existing under the Constitution and laws of the State.
- (b) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a body, corporate and politic.
- (c) Lessee is authorized under the Constitution and laws of the State to enter into this Agreement and the transaction contemplated hereby, and to perform all of its obligations hereunder.
- (d) Lessee has been duly authorized to execute and deliver this Agreement under the terms and provisions of the resolution of its governing body, attached hereto as Exhibit A, or by other appropriate official approval, and further represents, covenants and warrants that all requirements have been met, and procedures have occurred in order to ensure the enforceability of this Agreement, and Lessee has complied with such public bidding requirements as may be applicable to this Agreement and the acquisition by Lessee of the Equipment hereunder. Lessee shall cause to be executed and delivered to Lessor an opinion of its counsel substantially in the form attached hereto as Exhibit B.
- (e) During the term of this Agreement, the Equipment will be used by Lessee only for the purpose of performing one or more essential governmental or proprietary functions of Lessee consistent with the permissible scope of Lessee's authority and will not be used in a trade or business of any person or entity other than the Lessee.
- (f) During the period this Agreement is in force, Lessee will annually provide Lessor with such current financial statements, budgets, proof of appropriation for ensuing fiscal year or such other financial information relating to the decision of Lessee to continue this Agreement as may be reasonably requested by Lessor or its assignee.
- (g) The Equipment will have a useful life in the hands of the Lessee that is substantially in excess of the Original Term and all Renewal Terms.
- (h) The Equipment is, and during the period this Agreement is in force will remain, personal property and when subjected to use by the Lessee under this Agreement, will not be or become fixtures.
- (i) Lessee shall not voluntarily or involuntarily create, incur, assume or suffer to exist any lien, security interest or other encumbrance or attachment of any kind whatsoever on, affecting or with respect to the Equipment.
- (j) Lessee shall not give up possession or control of the Equipment.
- (k) Lessee shall not change the location of the Equipment without giving prior written notice of the proposed new location to the Lessor and provided that Lessee shall obtain and deliver to Lessor any landlord waivers reasonably requested by Lessor so as to protect Lessor's right, title and interest in and to the Equipment and Lessor's ability to exercise its remedies with regard to the Equipment. The Equipment shall not be used outside of the United States without Lessor's prior written consent.
- (l) Lessee shall not alter or modify the Equipment in any manner which would reduce the value or the marketability thereof.
- (m) Lessee will take no action that will cause the interest portion of any Rental Payment to become includable in gross income of the recipient for purposes of federal income taxation under the Code, and Lessee will take, and will cause its officers, employees and agents to take, all affirmative action legally within its power to prevent such interest from being includable in gross income for purposes of federal income taxation under Section 103(a) of the United States Internal Revenue Code of 1986 as amended (the "Code"). Lessee represents and warrants that the Lease is to be treated as an obligation of a political subdivision of a state within the meaning of Section 103(c)(1) of the Code.
- (n) Lessee is and shall remain in compliance with all laws, rules, regulations and orders applicable to Lessee, including U.S. economic and trade sanctions, and anti-corruption, anti-bribery, anti-money laundering and anti-terrorism laws.

## ARTICLE III LEASE OF EQUIPMENT

Section 3.01 Lessor hereby demises, leases and lets to Lessee, and Lessee rents, leases and hires from Lessor, the Equipment, in accordance with the provisions of this Agreement, to have and to hold for the Lease Term.

## ARTICLE IV LEASE TERM

Section 4.01. Commencement of Lease Term. The Original Term of this Agreement shall commence on the Commencement Date and shall terminate on the last day of Lessee's fiscal year then in effect. Lessee may renew this Agreement beyond the expiration of the Original Term, or beyond the expiration of any Renewal Term then in effect, up to the number of additional fiscal years provided in Exhibit E of this Agreement by appropriating sufficient funds to make scheduled Rental Payments for the ensuing fiscal year (each a "Renewal Term"). Terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Original Term, except that the Rental Payments shall be as provided in Exhibit E of this Agreement.

Section 4.02. Termination of Lease Term. The Lease Term will terminate upon the earliest of any of the following events:

- (a) The expiration of the Original Term or any Renewal Term of this Agreement and the non-renewal of this Agreement in the event of non-appropriation of funds pursuant to Section 6.07.
- (b) The exercise by Lessee of the option to purchase the Equipment before expiration of this Agreement granted under the provisions of Articles IX or XI of this Agreement;
- (c) A default by Lessee and Lessor's election to terminate this Agreement under Article XIII; or
- (d) Payment by Lessee of all Rental Payments authorized or required to be paid by Lessee hereunder through the full lease term.

**Section 4.03. Return of Equipment on Termination.** Upon expiration or earlier termination of the Original Term or any Renewal Term under any provision of this Agreement at a time when Lessee does not exercise its option to purchase the Equipment granted under the provisions of Articles IX or XI of this Agreement, Lessee hereby agrees to deliver the Equipment to Lessor packaged or otherwise prepared in a manner suitable for shipment by truck or rail common carrier to a location specified by Lessor. All expenses resulting from the return of Equipment on termination will be borne by Lessee.

#### ARTICLE V ENJOYMENT OF EQUIPMENT

**Section 5.01.** Provided that no default or event of default shall have occurred hereunder, Lessor hereby covenants that during the Lease Term Lessor will not interfere with Lessee's quiet use and enjoyment of the Equipment.

Lessor shall have the right at all reasonable times during business hours to enter into and upon the property of Lessee for the purpose of inspecting the Equipment.

#### ARTICLE VI RENTAL PAYMENTS

**Section 6.01. Rental Payments to Constitute a Current Expense of Lessee.** Lessor and Lessee understand and intend that the obligation of Lessee to pay Rental Payments hereunder shall constitute a current expense of Lessee and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by Lessee.

**Section 6.02. Payment of Rental Payments.** During the Original Term and during each Renewal Term elected by Lessee, Lessee shall pay Rental Payments, exclusively from any and all legally available funds, in lawful money of the United States of America, exclusively to Lessor or, in the event of assignment by Lessor, to its assignee, in the amounts and on the dates set forth in Exhibit E hereto. Rental Payments shall be in consideration for Lessee's use of the Equipment during the applicable year in which such payments are due. The Rental Payment amounts set forth in Exhibit E are based on the Equipment Cost to be paid by Lessor being the amount set forth in Exhibit E. Lessor shall have no obligation to pay or disburse any amount greater than the amount set forth as the Equipment Cost. Lessee shall not amend any purchase contract, purchase order, or any other agreement that would have the effect of increasing the cost of the Equipment above set forth in Exhibit E as the Equipment Cost without the prior written consent of Lessor. In the event that the actual cost of the Equipment is greater than the amount set forth in Exhibit E, Lessee shall be solely responsible for and hereby agrees to promptly pay such excess to the vendor(s) provided that Lessee may request that Lessor finance such excess, which Lessor may, in its sole discretion elect to do or decline to do. Lessee shall indemnify and hold Lessor harmless from and against any loss, damages, costs and expenses resulting from or relating to any increase in the Equipment Cost. If Lessor, in its sole discretion, elects to finance such excess the amount of each installment of rent will be increased to provide the same yield to Lessor as would have been obtained if the actual cost had been the same as the stated Equipment Cost. In such event, Lessee shall at the request of Lessor execute and deliver an amendment reflecting the increase in the Equipment Cost and the Rental Payments.

**Section 6.03. Interest and Principal Components.** A portion of each Rental Payment is paid as, and represents payment of, interest, and the balance of each Rental Payment is paid as, and represents payment of principal. Exhibit E hereto sets forth the interest component and the principal component of each Rental Payment during the Lease Term.

**Section 6.04. Additional Interest in the Event the Interest is Taxable.** Lessee acknowledges that Lessor's yield with respect to this Agreement is dependent upon the full amount of each Rental Payment being excluded from Lessor's income pursuant to the Code. Accordingly, if at any time, as a result of a determination that Lessee has breached a representation or covenant contained herein, or as a result of any change in the Code, any payment of either the interest component or the principal component of any Rental Payment is, in the opinion of counsel for the Lessor, subject to or affected by any income, preference, excess profits, minimum or other federal tax, Lessee shall pay, as additional interest, an amount which is necessary to provide to Lessor the same net income as Lessor would have received but for such event. Lessor's calculations of such additional interest shall be binding upon Lessee in the absence of manifest error.

**Section 6.05. Rental Payments to be Unconditional.** During the Original Term and during each Renewal Term elected by Lessee, the obligations of Lessee to make payment of the Rental Payments required under this Article VI and other sections hereof and to perform and observe the covenants and agreements contained herein shall be absolute and unconditional in all events, except as expressly provided under this Agreement. Notwithstanding any dispute between Lessee and Lessor, any Vendor or any other person, Lessee agrees to pay all Rental Payments when due and shall not withhold any Rental Payments pending final resolution of such dispute, nor shall Lessee assert any right of set-off or counterclaim against its obligation to make such payments when required under this Agreement. Lessee's obligation to make Rental Payments during the Original Term or the then current Renewal Term elected by Lessee shall not be abated through accident or unforeseen circumstances.

**Section 6.06. Continuation of Lease Term by Lessee.** Lessee intends, subject to the provisions of Section 6.07, to continue the Lease Term through the Original Term and all the Renewal Terms hereunder. Lessee reasonably believes that legally available funds in an amount sufficient to make all Rental Payments during the Original Term and each of the Renewal Terms can be obtained. The officer of Lessee responsible for budget preparation shall do all things lawfully within his/her power to obtain and maintain funds from which the Rental Payments may be made, including making provision for such payments to the extent necessary in each annual budget submitted and adopted in accordance with applicable provisions of State law, to have such portion of the budget approved, and to exhaust all available reviews and appeals in the event such portion of the budget is not approved. Notwithstanding the foregoing, the decision whether or not to budget and appropriate funds is within the discretion of Lessee's governing body.

**Section 6.07. Termination by Nonappropriation.** In the event Lessee does not appropriate sufficient funds for the payment of the Rental Payments scheduled to be paid in the next occurring Renewal Term, then Lessee may terminate this Agreement at the end of the then current Original Term or Renewal Term, and Lessee shall not be obligated to make payment of the Rental Payments provided for in this Agreement beyond the end of the then current Original or Renewal Term. Lessee agrees to deliver notice to Lessor of such termination at least 90 days prior to the end of the then current Original or Renewal Term.

**Section 6.08. Late Charges.** If any Rental Payment is not paid in full to Lessor within fifteen (15) days after the payment first became due and payable, Lessee shall immediately pay to Lessor an additional one time late charge equal to five (5%) percent or, if less the maximum rate permitted by law, of each such amount past due along with the Rental Payment. If any Rental Payment remains unpaid beyond 45 days after it first became due and payable, or if Lessor has elected to exercise any remedies following an event or default, interest shall accrue on past due amounts at the rate of 1% per month or the highest rate allowed by law, whichever is less. Partial payments by Lessee shall be applied first to the accrued interest component of past due Rental Payments and the balance to the remaining principal component of past due Rental Payments.

**Section 6.09. Prepayment.** Lessee shall have the right to prepay principal components of Rental Payments in whole on any date set forth in Exhibit E by paying the then applicable Purchase Price set forth in Exhibit E on such date.

#### ARTICLE VII TITLE TO EQUIPMENT

**Section 7.01. Title to the Equipment.** During the term of this Agreement, title to the Equipment and any and all additions, repairs, replacements or modifications shall vest in Lessee, subject to the rights of Lessor under this Agreement. In the event of default as set forth in Section 13.01 or nonappropriation as set forth in Section 6.07, title to Equipment, shall immediately vest in Lessor, and Lessee will immediately surrender possession of the Equipment to Lessor.

**Section 7.02. Security Interest.** To secure the payment of all Lessee's obligations under this agreement, Lessee grants to Lessor a security interest constituting a first lien on the Equipment and on all additions, attachments, accessions and substitutions thereto, and on any proceeds therefrom. Lessee hereby authorizes Lessor to prepare and file such financing statements, any amendments thereto and other such documents to establish and maintain Lessor's valid first lien and perfected security interest. Lessee hereby acknowledges the receipt of copies of the financing statements prepared by Lessor and hereby confirms the accuracy of the information contained therein. Lessee further agrees to execute such additional documents, including affidavits, notices and similar instruments, in form satisfactory to Lessor, which Lessor deems necessary or appropriate to establish and maintain its security interest, and upon assignment, the security interest of any assignee of Lessor, in the Equipment.

#### ARTICLE VIII MAINTENANCE; MODIFICATION; TAXES; INSURANCE AND OTHER CHARGES

**Section 8.01. Maintenance of Equipment by Lessee.** Lessee agrees that at all times during the Lease Term Lessee will, at Lessee's own cost and expense, maintain, preserve and keep the Equipment in good repair, working order and condition, and that Lessee will from time to time make or cause to be made all necessary and proper repairs, replacements and renewals. Lessor shall have no responsibility in any of these matters, or for the making of improvements or additions to the Equipment.

**Section 8.02. Taxes, Other Governmental Charges and Utility Charges.** In the event that the use, possession or acquisition of the Equipment is found to be subject to taxation in any form (except for income taxes of Lessor), Lessee will pay during the Lease Term, as the same respectively come due, all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Equipment and any equipment or other property acquired by Lessee in substitution for, as a renewal or replacement of, or a modification, improvement or addition to the Equipment, as well as all gas, water, steam, electricity, heat, power, telephone, utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Equipment; provided that, with respect to any governmental charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as have accrued during the time this Agreement is in effect.

**Section 8.03. Provisions Regarding Insurance.** At its own expense, Lessee shall cause casualty, public liability and property damage insurance to be carried and maintained, or shall demonstrate to the satisfaction of Lessor that adequate self-insurance is provided with respect to the Equipment, sufficient to protect the Full Insurable Value (as that term is hereinafter defined) of the Equipment, and to protect Lessor from liability in all events. All insurance proceeds from casualty losses shall be payable as hereinafter provided in this Agreement. Lessee shall furnish to Lessor certificates evidencing such coverage throughout the Lease Term. Alternatively, Lessee may insure the Equipment under a blanket insurance policy or policies which cover not only the Equipment but other properties. If Lessee insures similar properties by self-insurance and upon approval by Lessor, Lessee may insure the Equipment by means of an adequate insurance fund.

The term "Full Insurable Value" as used herein shall mean the full replacement value of the Equipment.

Any insurance policy pursuant to this Section 8.03 shall be so written or endorsed as to make losses, if any, payable to Lessee and Lessor as their respective interests may appear. The Net Proceeds (as defined in Section 9.01) of the insurance required in this Section 8.03 shall be applied as provided in Article IX hereof. Each insurance policy provided for in this Section 8.03 shall contain a provision to the effect that the insurance company shall not cancel the policy or modify it materially and adversely to the interest of Lessor without first giving written notice thereof to Lessor at least 30 days in advance of such cancellation.

**Section 8.04. Advances.** In the event Lessee shall fail to perform any of its obligations hereunder Lessor may (but shall be under no obligation to) take such action as may be necessary to cure such failure, including, without limitation, the advancement of money; and all amounts so advanced by Lessor shall become additional rent for the then current Original Term or Renewal Term, which amounts, together with interest thereon at the rate of 12% per annum, or if less the maximum rate permitted by law, Lessee agrees to pay.

#### **ARTICLE IX DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS**

**Section 9.01. Damage, Destruction and Condemnation.** If prior to the termination of the Lease Term (a) the Equipment or any portion thereof is destroyed (in whole or in part) or is damaged by fire or other casualty or (b) title to, or the temporary use of the Equipment or any part thereof or the estate of Lessee or Lessor in the Equipment or any part thereof shall be taken under the exercise of the power eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, Lessee and Lessor will cause the Net Proceeds of any insurance claim or condemnation award to be applied to the prompt replacement, repair, restoration, modification or improvement of the Equipment. Any balance of the Net Proceeds remaining after such work has been completed shall be paid to Lessee.

For purposes of Section 8.03 and this Article IX, the term "Net Proceeds" shall mean the amount remaining from the gross proceeds of any insurance claim or condemnation award after deducting all expenses (including attorney's fees) incurred in the collection of such claims or award.

**Section 9.02. Insufficiency of Net Proceeds.** If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in Section 9.01 hereof, Lessee shall either (a) complete the work and pay any cost in excess of the amount of Net Proceeds, and Lessee agrees that if by reason of any such insufficiency of the Net Proceeds, Lessee shall make any payments pursuant to the provisions of this Section 9.02, Lessee shall not be entitled to any reimbursement therefrom from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Article VI hereof or (b) if Lessee is not in default hereunder, Lessee shall pay to Lessor the amount of the then applicable Purchase Price, and, upon such payment, the Lease Term shall terminate and Lessor's interest in the Equipment shall terminate as provided in Article XI of this Agreement. The amount of the Net Proceeds in excess of the then applicable Purchase Price, if any, may be retained by Lessee.

#### **ARTICLE X DISCLAIMER OF WARRANTIES; VENDOR'S WARRANTIES; USE OF EQUIPMENT**

**Section 10.01. Disclaimer of Warranties.** LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF THE EQUIPMENT, OR WARRANTY WITH RESPECT THERETO. In no event shall Lessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Agreement or the existence, furnishing, functioning or Lessee's use of any item of Equipment.

**Section 10.02. Vendor's Warranties.** Lessor hereby irrevocably appoints Lessee its agent and attorney-in-fact during the Lease Term, so long as Lessee shall not be in default hereunder, to assert from time to time whatever claims and rights, including warranties of the Equipment, if any which Lessor may have against the Vendor of the Equipment. Lessee's sole remedy for the breach of such warranty, indemnification or representation shall be against the Vendor of the Equipment, and not against the Lessor, nor shall such matter have any effect whatsoever on the rights of Lessor with respect to this Agreement, including the right to receive full and timely payments hereunder. Lessee expressly acknowledges that Lessor makes, and has made, no representation or warranties whatsoever as to the existence or availability of such warranties of the Vendor of the Equipment.

**Section 10.03. Use of the Equipment.** Lessee will not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Agreement. Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of the Equipment. In addition, Lessee agrees to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each item of the Equipment) with all laws of the jurisdictions in which its operations involving any item of Equipment may extend and any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the items of the Equipment; provided, however, that Lessee may contest in good faith the validity or application of any such law or rule in any reasonable manner which does not, in the reasonable opinion of the Lessor, adversely affect the estate of Lessor in and to any of the items of the Equipment or its interest or rights under this Agreement.

#### **ARTICLE XI OPTION TO PURCHASE**

**Section 11.01** At the request of Lessee, Lessor's interest in the Equipment and additional Rental Payments will be terminated and this Agreement shall terminate:

- (a) At the end of the final Renewal Term, upon payment by Lessee of all Rental Payments scheduled as set forth in Exhibit E to this Agreement; or
- (b) if the Lease Term is terminated pursuant to Article IX of this Agreement in the event of total damage, destruction or condemnation of the Equipment; or
- (c) any time when Lessee is not on such date in default under this Agreement, upon payment by Lessee of the then applicable Purchase Price to Lessor.

Upon the occurrence of any of such events, Lessor shall, if requested by Lessee, deliver a Bill of Sale of its remaining interest in the Equipment to Lessee "AS IS - WHERE IS" without additional cost or payment by Lessee.

#### **ARTICLE XII ASSIGNMENT, SUBLEASING, INDEMNIFICATION MORTGAGING AND SELLING**

**Section 12.01. Assignment by Lessor.** This Agreement, and the rights of Lessor hereunder, may be assigned and reassigned in whole or in part to one or more assignees and subassignees by Lessor at any time subsequent to its execution, without the necessity of obtaining the consent of Lessee; provided, however, that no such assignment or reassignment shall be effective unless and until (i) Lessee shall have received notice of the assignment or reassignment disclosing the name and address of the assignee or subassignee, and (ii) in the event that such assignment is made to a bank or trust company as trustee for holders of certificates representing interests in this Agreement, such bank or trust company agrees to maintain, or cause to be maintained, a book-entry system by which a record of names and addresses of such holders as of any particular time is kept and agrees, upon request of the Lessee, to furnish such information to Lessee. Upon receipt of notice of assignment, Lessee agrees to keep a written record thereof, and to make all payments to the assignee designated in the notice of assignment, notwithstanding any claim, defense, setoff or counterclaim whatsoever (whether arising from a breach of this Agreement or otherwise) that Lessee may from time to time have against Lessor, or the assignee. Lessee agrees to execute all documents which may be reasonably requested by Lessor or its assignee to protect their interests in this Agreement.

**Section 12.02. No Sale, Assignment or Subleasing by Lessee.** This Agreement and the interest of Lessee in the Equipment may not be sold, assigned or encumbered by Lessee without the prior written consent of Lessor.

**Section 12.03. Lessee Negligence.** To the extent permitted by the laws and Constitution of the State, Lessee shall protect and hold harmless Lessor from and against any and all liability, obligations, losses, claims and damages whatsoever, regardless of cause thereof, and expenses in connection therewith, including, without limitation, counsel fees and expenses, penalties and interest arising out of or as the result of the entering into this Agreement, the ownership of any item of the Equipment, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any item of the Equipment or any accident in connection with the operation, use, condition, possession, storage or return of any item of the Equipment resulting in damage to property or injury to or death of any person, to the extent that such liability, obligation, loss, claim or damage arises out of or is proximately caused by the negligent conduct of Lessee, its officers, employees or agents. The obligation of Lessee arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all other obligations under this Agreement or the termination of the Lease Term for any reason.

#### **ARTICLE XIII EVENTS OF DEFAULT AND REMEDIES**

**Section 13.01. Events of Default Defined.** The following shall be "events of default" under this Agreement and the terms "event of default" and "default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

- (a) Failure by Lessee to pay any Rental Payment or other payment required to be paid hereunder at the time specified herein; and
- (b) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in Section 13.01 (a), for a period of 30 days after written notice, specifying such failure and requesting that it be remedied as given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to the expiration, provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected.
- (c) The filing by Lessee of a voluntary petition in bankruptcy, or failure by Lessee promptly to lift any execution, garnishment, or attachment of such consequence as would impair the ability of Lessee to carry on its governmental function or adjudication of Lessee as a bankrupt or assignment by Lessee for the benefit of creditors, or the entry by Lessee into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to Lessee in any proceedings instituted under the provisions of the Federal Bankruptcy Statute, as amended, or under any similar acts which may hereafter be enacted.

The foregoing provisions of this Section 13.01 are subject to (i) the provisions of Section 6.07 hereof with respect to nonappropriation; and (ii) if by reason of force majeure Lessee is unable in whole or in part to carry out its agreement on its part herein contained, other than the obligations on the part of Lessee contained in Article VI hereof, Lessee shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall mean, without limitation, the following: acts of God; strikes, lockouts or other employee relations disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or the state wherein Lessee is located or any of their departments, agencies or officials; or any civil or military authority, insurrections, riots, landslides; earthquakes; fires; storms; droughts; floods; or explosions.

**Section 13.02. Remedies on Default.** Whenever any event of default referred to in Section 13.01 hereof shall have happened and be continuing, Lessor shall have the right at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

- (a) Declare all Rental Payments due or to become due during the Original Term or Renewal Term then in effect to be immediately due and payable, whereupon such Rental Payments shall be immediately due and payable;
- (b) With or without terminating this Agreement, retake possession of the Equipment and sell, lease or sublease the Equipment for the account of Lessee, and apply the proceeds of such sale, lease or sublease to pay the following items in the following order: (i) all cost and expenses of Lessor relating to the implementation of remedies under this Agreement as further provided herein; (ii) the applicable Purchase Price of the Equipment and (iii) the Rental Payments due during the Original Term or Renewal Term then in effect; and
- (c) Take whatever action under the Uniform Commercial Code or under other law or in equity as may appear necessary or desirable to enforce its rights as the owner or secured creditor of the Equipment.

Lessee further agrees that Lessee shall pay to Lessor such further amounts as may be sufficient to reimburse Lessor fully for its costs and expenses as incurred as a result of Lessee's default including, without limitation, Lessor's costs and expenses in enforcing, or endeavoring to enforce, its rights and remedies under the Agreement or incident thereto, including without limitation and to the extent not prohibited by applicable law, the Lessor's reasonable attorney's fees and expenses for enforcing Lessee's obligations hereunder.

**Section 13.03. No Remedy Exclusive.** No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy give under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver hereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

#### ARTICLE XIV MISCELLANEOUS

**Section 14.01. Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, to the parties at their respective places of business.

**Section 14.02. Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

**Section 14.03. Severability.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 14.04. Amendments.** The terms of the Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written instrument signed by the Lessor and the Lessee.

**Section 14.05. Execution in Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 14.06. Delayed Closing.** In the event of a delayed closing, Lessor shall receive as additional compensation any amount that accrues between the Commencement Date and the Closing Date.

**Section 14.07. Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina.

**Section 14.08. Captions.** The captions or headings in this Agreement are for convenience only and do not define, limit or describe the scope or intent of any provisions of sections of this Agreement.

**Section 14.09. Entire Agreement.** This Agreement and the executed Exhibits attached hereto constitute the entire agreement between Lessor and Lessee. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing signed by both parties, and then such waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, representations or warranties, express or implied, not specified herein, regarding this Agreement or the equipment leased hereunder.

**Section 14.10. Execution of Facsimile.** In the interest of time, each party agrees that execution of signature pages of this Agreement by such party followed by transmission of such pages by facsimile/Telecopier will be legally binding upon such party. After each party has executed and transmitted such signature pages, each party agrees to execute hard copies of this Agreement and to promptly forward originals to the other party hereto.

**Section 14.11. Correction of Documents.** Lessee agrees to execute and deliver, or provide, as required by Lessor, any documents and information, from time to time, that may be necessary for the purpose of correcting any errors or omissions in this Lease or to reflect the true intent of Lessor in this transaction. All such documents and information must be satisfactory to Lessor.

**Section 14.12 WAIVER OF JURY TRIAL.** Lessee and Lessor hereby irrevocably waive any right to a jury trial with respect to any matter arising under or in connection with this Lease and agree that any dispute shall be determined by a court sitting without a jury.

**Section 14.13. Performance Bonds.** If requested by Lessor to facilitate payments to vendors in advance of delivery and acceptance, Lessee agrees to require the Equipment manufacturer, and all other contractors and/or subcontractors (collectively, "Contractors") with whom Lessee has contracted for the acquisition of the Equipment, to provide performance bond satisfactory to Lessor conditioned upon the construction of the Equipment as expeditiously as reasonably possible from the date of execution of such Lease and also conditioned upon delivery of possession of the Equipment to the Lessee free and clear of all liens and encumbrances, except the security interest granted to Lessor under the Lease-Purchase Agreement. Each such bond shall be in a form and with a surety acceptable to Lessor and shall name Lessor as a dual obligee. The Lessee shall proceed promptly to pursue diligently any remedies available against a Contractor that is in default under any agreement relating to the acquisition and construction of the Equipment and/or against each surety on any bond securing the performance of such Contractor's obligations with respect to the acquisition and construction of the Equipment. The Lessee and Lessor shall cause the net proceeds recovered by way of the foregoing to be applied, at Lessor's option, to (i) the completion of the Equipment, or (ii) the payment of all rent payments then due plus the then applicable Termination Balance. Any balance of net proceeds remaining after completion of Equipment construction or payment of the outstanding balance owed under the applicable Lease shall be paid promptly to Lessee.

**Section 14.14. Time is of the Essence.** Lessor and Lessee agree that time is of the essence of all provisions of each Lease entered into under this Agreement.

Any terms and conditions of any purchase order or other document submitted by Lessee in connection with this Agreement which are in addition to or inconsistent with the terms and conditions of this Agreement will not be binding on Lessor and will not apply to this Agreement. Lessee by the signature below of its authorized representative acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF, Lessor has executed this Agreement in its corporate name and by its duly authorized officer, and Lessee has caused this Agreement to be executed in its corporate name and by its duly authorized officer. All of the above occurred as of the date first written below; this Agreement shall be binding on Lessee beginning on the date it is accepted and executed by Lessor.

**LESSOR: Leasing 2, Inc.**

Execute:

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**LESSEE: Town of Holden Beach, North Carolina**

Execute:

By: \_\_\_\_\_

David W. Hewett

Title: \_\_\_\_\_

Town Manager

Date: \_\_\_\_\_

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**EXHIBIT A**  
**RESOLUTION OF GOVERNING BODY**  
**EXTRACT OF MINUTES**

**LESSEE:**      **Town of Holden Beach, North Carolina**

At a duly called meeting of the governing body of Lessee held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the following resolution was introduced and adopted.

**WHEREAS**, the governing body of Lessee has determined that a true and very real need exists for the acquisition of the Equipment described in the Lease-Purchase Agreement by and between Lessee and **Leasing 2, Inc.**; and has further determined that the Equipment will be used solely for essential governmental functions and not for private business use.

**WHEREAS**, Lessee has taken the necessary steps, including, without limitation to compliance with legal bidding requirements, under applicable law to arrange for the acquisition of such Equipment.

**BE IT RESOLVED**, by the governing body of Lessee that the terms of said Lease-Purchase Agreement and Escrow Agreement are in the best interest of Lessee for the acquisition of such Equipment, and the governing body of Lessee designates and confirms the following person to execute and deliver, the Lease-Purchase Agreement and Escrow Agreement and any related documents necessary to the consummation of the transactions contemplated by the Lease-Purchase Agreement and Escrow Agreement.

\_\_\_\_\_  
(Signature of Party to Execute  
Lease-Purchase Agreement and Escrow Agreement)

\_\_\_\_\_  
David W. Hewett, Town Manager  
(Print Name and Title)

The undersigned further certifies that the above resolution has not been repealed or amended and remains in full force and effect and further certifies that the above and foregoing Lease-Purchase Agreement and Escrow Agreement is the same as presented at said meeting of the governing body of Lessee.

\_\_\_\_\_  
Secretary/Clerk

\_\_\_\_\_  
Date

---

**{LETTERHEAD OF LESSEE'S COUNSEL}**

**EXHIBIT B**

**OPINION OF LESSEE'S COUNSEL**

**LESSEE:**           **Town of Holden Beach, North Carolina**

**DATE OF AGREEMENT:**           **January 20, 2021**

**Leasing 2, Inc.  
1720 West Cass Street  
Tampa, FL 33606-1230**

Ladies/Gentlemen:

As counsel for **Town of Holden Beach, North Carolina** ("Lessee"), I have examined duly executed originals of the Lease-Purchase Agreement and Escrow Agreement, if applicable (the "Agreement"), between Lessee and Leasing 2, Inc. ("Lessor"), dated as of **January 20, 2021** and the proceedings taken by Lessee to authorize and execute the Agreement. Based upon such examination and upon such other examination as I have deemed necessary or appropriate, I am of the opinion that:

1. Lessee is a public body corporate and politic, legally existing under the laws of the State of **North Carolina**.
2. The Agreement has been duly authorized, executed and delivered by Lessee, pursuant to Constitutional, statutory and/or home rule provisions which authorize this transaction and Resolution No. \_\_\_\_\_, attached as Exhibit A to the Agreement.
3. The Agreement is a legal, valid and binding obligation of Lessee, enforceable in accordance with its terms. In the event the Lessor obtains a judgment against Lessee in money damages, as a result of an event of default under the Agreement, Lessee will be obligated to pay such judgment.
4. Applicable public bidding requirements have been complied with.
5. To the best of my knowledge, no litigation is pending or threatened in any court or other tribunal, state or federal, which questions or affects the validity of the Agreement.
6. The signature of the officer of Lessee which appears on the Agreement is true and genuine; I know said officer and know him/her to hold the office set forth below his/her names.
7. The Equipment leased pursuant to the Agreement constitutes personal property and when subjected to use by Lessee will not be or become fixtures under applicable law.
8. The leasing of the Equipment pursuant to the Agreement is exempt from all sales and use taxes against either the Lessor or the Lessee during the term of the Lease and the Equipment will be exempt from any state and local personal property or other ad valorem taxes during the term of the Lease.

This opinion may be relied upon by the addressee hereof and its successors and assignees of interests in the Lease, but only with regard to matters specifically set forth herein.

Sincerely,

---

## EXHIBIT C

## CERTIFICATE AS TO ARBITRAGE

I, **David W. Hewett**, hereby certify that I am duly qualified and acting **Town Manager**, of **Town of Holden Beach, North Carolina** (the "Lessee"), and that in my official capacity as such officer, I am responsible for executing and delivering, on behalf of the Lessee, the Lease-Purchase Agreement dated **January 20, 2021** (the "Agreement"), by and between Leasing 2, Inc. ("Lessor") and the Lessee. This Certificate is being issued pursuant to Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and the Treasury Regulations promulgated thereunder (the "Regulations"). The following facts, estimates and circumstances are in existence on the date of this Certificate or are reasonably expected to occur hereafter.

1. The Agreement provides for the acquisition and financing of certain equipment described therein (the "Equipment") Pursuant to the Agreement, the Lessor is required to lease the Equipment to the Lessee and the Lessee is required to make rental payments with respect thereto, comprising principal and interest, on the dates and in the amounts set forth therein (the "Rental Payments").

2. On the date hereof, Lessor will deposit into escrow to be held for the benefit of Lessee the amount of **\$297,687.00**, which, together with interest earned thereon until disbursed if necessary, will be used to pay the costs of the Equipment in the amount of **\$297,687.00**. In the event any interest income remains in escrow after payment of such Equipment cost, such amount shall be retained by Lessor as additional fee income.

3. The Lessee has entered into or will within six (6) months of the date hereof enter into contracts for the acquisition of the Equipment, which contracts will obligate the payment of all amounts held in escrow.

4. The Equipment will be acquired with due diligence and will be fully acquired on or before \_\_\_\_\_.

5. In any event, all of the spendable proceeds of the Agreement, including amounts held in escrow, will be expended on the Equipment within three (3) years from the date of execution of the Agreement. No proceeds of the Agreement will be used to reimburse the Lessee for expenditures made prior to the date of the issuance of the Agreement, unless Lessee shall have complied with the requirements of Section 1.150-2 of the Regulations. If applicable, a copy of Lessee's official intent with respect to such reimbursement is attached hereto as attachment 1.

6. The original proceeds of the Agreement, and the interest to be earned thereon, do not exceed the amount necessary for the governmental purpose for which the Agreement is issued.

7. The interest of the Lessee in the Equipment has not been, and is not expected during the term of the Agreement, to be sold or otherwise disposed of by the Lessee.

8. No sinking fund will be maintained by the Lessee with respect to the Rental Payments.

9. The Agreement is not a "hedge bond" within the meaning of Section 149(g) of the Code. The Lessee expects to spend not less than 85% of the spendable proceeds of the Agreement within three years after the date hereof and less than 50% of the proceeds of the Agreement is invested in Nonpurpose investments having a substantially guaranteed yield for four years or more.

10. In the Agreement the Lessee has covenanted to take all actions necessary to ensure that the interest paid under the Agreement remains excludable from gross income under the Code. Such covenant includes, without limitation, the requirement to comply with the requirements of the Code relating to the rebate of arbitrage profit to the United States Government.

11. To the best of the knowledge and belief of the undersigned, the expectations of the Lessee as set forth above, are reasonable; and there are no present facts, estimates and circumstances which would damage the foregoing expectations.

LESSEE: **Town of Holden Beach, North Carolina**

By: \_\_\_\_\_  
David W. Hewett

Title: **Town Manager**

Date: \_\_\_\_\_

---

**EXHIBIT D**  
**DESCRIPTION OF EQUIPMENT**

The Equipment which is the subject of the attached Lease-Purchase Agreement is as follows:

**Vac-Con Vacuum Truck VPD4211HEN/1300 LHA, VIN:** \_\_\_\_\_

together with all additions, accessions and replacements thereto.

Lessee hereby certifies that the description of the personal property set forth above constitutes an accurate description of the "Equipment", as defined in the attached Lease-Purchase Agreement.

LOCATION OF THE EQUIPMENT:

\_\_\_\_\_  
110 Rothschild Street

\_\_\_\_\_  
Holden Beach, NC 28462

After Lessee signs this Agreement, Lessee authorizes Lessor to insert any missing information or change any inaccurate information (such as the model year of the Equipment or its serial number or VIN) into the Description of Equipment.

**LESSEE:      Town of Holden Beach, North Carolina**

By: \_\_\_\_\_  
David W. Hewett

Title: \_\_\_\_\_  
Town Manager

Date: \_\_\_\_\_

**EXHIBIT E**  
**PAYMENT SCHEDULE**

<b>LESSEE:</b>	Town of Holden Beach, North Carolina
<b>EQUIPMENT COST:</b>	\$297,687.00
<b>COMMENCEMENT DATE:</b>	1/20/2021
<b>INTEREST RATE:</b>	2.95%

<b>PAYMENT</b>					<b>PURCHASE</b>
<u>NO.</u>	<u>DATE</u>	<u>PAYMENT</u>	<u>INTEREST</u>	<u>PRINCIPAL</u>	<u>PRICE*</u>
1	12/20/2021	\$64,770.39	\$8,141.67	\$56,628.72	\$248,551.27
2	12/20/2022	\$64,770.39	\$7,106.11	\$57,664.28	\$188,327.90
3	12/20/2023	\$64,770.39	\$5,406.24	\$59,364.15	\$126,845.86
4	12/20/2024	\$64,770.39	\$3,656.25	\$61,114.14	\$64,078.84
5	12/20/2025	\$64,770.39	\$1,854.68	\$62,915.71	\$0.00
<b>Grand Totals</b>		<b>\$323,851.95</b>	<b>\$26,164.95</b>	<b>\$297,687.00</b>	

LESSEE: Town of Holden Beach, North Carolina

By: David W. Hewett

Title: Town Manager

Date: \_\_\_\_\_

\* After payment of Rental Payment due on such date.

## EXHIBIT F

### ACCEPTANCE CERTIFICATE

The undersigned, as Lessee under the Lease-Purchase Agreement (the "Agreement") dated January 20, 2021, with Leasing 2, Inc. ("Lessor"), hereby acknowledges:

1. Equipment delivered and accepted: Lessee has received in good condition all of the Equipment described in the Agreement and in Exhibit D thereto and accepts the Equipment for all purposes this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.
2. Equipment delivery has not yet taken place: The Equipment described in the Agreement and in Exhibit D thereto, has not been delivered, but is scheduled to be delivered within 18 months. Lessor has agreed to deposit into an escrow account an amount sufficient to pay the total cost of the Equipment identified in Exhibit D of the Agreement. Exhibit E accurately reflects the Lease Amount. Lessee agrees to execute an Acceptance Certificate and Payment Request Form authorizing payment of the cost of the Equipment, or a portion thereof, for each withdrawal of funds from the Escrow Account. Lessee's obligation to commence Rental Payments as set forth in Exhibit E-Payment Schedule is absolute and unconditional as of the Commencement Date, subject to the terms and conditions of the Agreement. Lessee further acknowledges that the Agreement is not subject to the successful delivery of the Equipment, and that in the event of non-performance by the Vendor, Lessee will retain all responsibility for performance under the Agreement.
3. Vendor will be paid in full prior to delivery of equipment: A 100% pre-funding will be made by Lessor to Vendor of the lease amount identified as "Equipment Cost" on the Exhibit E – Payment Schedule of the Agreement. Lessee agrees to indemnify and hold Lessor harmless from and against any and all claims, costs and expenses incurred (including Lessor's attorneys' fees). Lessee further acknowledges that the Agreement is not subject to the successful delivery of the Equipment, and that in the event of non-performance by the Vendor, Lessee will retain all responsibility for performance under the Agreement.

Lessee certifies that Lessee has fully and satisfactorily performed all of its covenants and obligations required under the Agreement, and confirms that the Agreement will commence as defined by "Commencement Date" in the attached Agreement, and it will commence payments in accordance with Article VI of the Agreement.

The undersigned officer of the Lessee hereby reaffirms on behalf of the Lessee in all respects the covenants of the Lessee set forth in Article II of the Agreement and represents that, to the best of his or her knowledge, information and belief, the expectations therein expressed were reasonable as of the Commencement Date, and that there were, and are as of the date on which they were made, and are reasonable as of the Commencement Date, no facts, estimates or circumstances other than those expressed therein that would materially affect the expectations expressed therein.

LESSEE: **Town of Holden Beach, North Carolina**

By: \_\_\_\_\_  
David W. Hewett

Title: \_\_\_\_\_  
Town Manager

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**EXHIBIT G**  
**ESSENTIAL USE/SOURCE OF FUNDS LETTER**

**TO:     Leasing 2, Inc.**

**RE:     Lease-Purchase Agreement Dated January 20, 2021.**

Gentlemen:

Reference is made to certain Lease-Purchase Agreement dated **January 20, 2021**, between **Leasing 2, Inc.** and **Town of Holden Beach, North Carolina**, leasing the personal property described in Exhibit D to such Lease. This confirms and affirms that such equipment is essential to the functions of the undersigned or to the service we provide to our citizens.

Further, we have an immediate need for, and expect to make immediate use of, substantially all the Equipment, which need is not temporary or expected to diminish in the foreseeable future. The Equipment will be used by us only for the purpose of performing one or more of our governmental or proprietary functions consistent with the permissible scope of our authority. **Specifically, the Equipment was selected by us to be used as follows:**

Please describe USE of equipment:

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Sincerely,

---

David W. Hewett, Town Manager

---

Date

**EXHIBIT I****NOTICE AND ACKNOWLEDGMENT OF ASSIGNMENT**

**Leasing 2, Inc.** ("Lessor") hereby gives notice to the **Town of Holden Beach, North Carolina** ("Lessee") that Lessor has assigned all rights to payments under the Lease-Purchase Agreement, dated as of **January 20, 2021**, between **Leasing 2, Inc.** ("Lessor") and **Town of Holden Beach, North Carolina** ("Lessee"). **Leasing 2, Inc.** ("Lessor") hereby requests, gives notice and instructs **Town of Holden Beach, North Carolina** ("Lessee") that payments that hereafter come due pursuant to the Lease-Purchase Agreement be paid to **Santander Bank, N.A.** or its Assignee.

**Santander Bank, N.A.**  
**P.O. Box 14833**  
**Reading, PA 19612**

**LESSEE:      Town of Holden Beach, North Carolina**

**By:** \_\_\_\_\_  
David W. Hewett

**Title:** \_\_\_\_\_  
Town Manager

**Date:** \_\_\_\_\_

## INSURANCE COVERAGE REQUIREMENT

TO: **Leasing 2, Inc. and/or its Assigns**  
**1720 West Cass Street**  
**Tampa, FL 33606-1230**

FROM: **Town of Holden Beach, North Carolina**  
**110 Rothschild Street**  
**Holden Beach, NC 28462**

RE: **INSURANCE COVERAGE REQUIREMENTS (Check one):**

\_\_\_\_ 1. In accordance with Section 8.03 of the Agreement, we have instructed the insurance agent named below (please fill in name, address and telephone number)

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY/ ST/ ZIP: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

to issue:

a. All Risk Physical Damage Insurance on the leased equipment evidenced by a Certificate of Insurance and Long Form Loss Payable Clause naming **Leasing 2, Inc. and/or its Assigns** as Loss Payee.

Coverage Required: Full Replacement Value

b. Public Liability Insurance evidenced by a Certificate of Insurance naming **Leasing 2, Inc. and/or its Assigns** as an Additional Insured.

Minimum Coverage Required:

\$500,000.00 per person

\$1,000,000.00 aggregate bodily injury liability

\$1,000,000.00 property damage liability

\_\_\_\_ 2. Pursuant to Section 8.03 of the Agreement, we are self-insured for all risk, physical damage, and public liability and will provide proof of such self-insurance in letterform together with a copy of the statute authorizing this form of insurance.

By: \_\_\_\_\_  
 David W. Hewett

Title: \_\_\_\_\_  
 Town Manager

Date: \_\_\_\_\_

**BILLING INFORMATION**

Please indicate below how you would like us to bill you for the lease payments due under this Agreement, including a contact name, if applicable:

Contact Name: \_\_\_\_\_

Company: \_\_\_\_\_

Street Address or Box #: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

County: \_\_\_\_\_

Telephone: \_\_\_\_\_ (       ) \_\_\_\_\_

Fax: \_\_\_\_\_ (       ) \_\_\_\_\_

Email Address: \_\_\_\_\_

Invoice Reference: \_\_\_\_\_ Vac-Con Vacuum Truck VPD4211HEN/1300 LHA \_\_\_\_\_

## CUSTOMER IDENTIFICATION PROGRAM ORGANIZED ENTITY

Notice: To help the government fight the funding of terrorism and money laundering activities, U.S. Federal law requires financial institutions to obtain, verify and record information that identifies each person (individuals or businesses) who opens an account.

**What this means for you:** When you open an account or add any additional service, we will ask you for your name, address, federal employer identification number and other information that will allow us to identify you. We may also ask to see other identifying documents.

CUSTOMER NAME: Town of Holden Beach, North Carolina

### **CUSTOMER IDENTIFICATION**

Taxpayer ID Number: 56-944997

Business Structure (check one): City Government: \_\_\_\_\_ County Government: \_\_\_\_\_ Tax District: \_\_\_\_\_ Corporation: \_\_\_\_\_

Other, description: \_\_\_\_\_

We may request certified copies of your organizational documents as part of the identification procedure.

### **PRIMARY ADDRESS AND REGISTRATION**

Address: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip Code: \_\_\_\_\_

State of Registration/Organization: \_\_\_\_\_

### **MAILING ADDRESS (if different from above)**

Address: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip Code: \_\_\_\_\_

Acknowledgment: The information contained herein is true and correct.

**Town of Holden Beach, North Carolina**

By: \_\_\_\_\_  
David W. Hewett

Its: Town Manager

## Internal Escrow Letter

**January 20, 2021**

Santander Bank, N.A.  
P.O. Box 14833  
Reading, PA 19612

Re: Lease Purchase Agreement dated **January 20, 2021** (the "Lease") by and between: **Town of Holden Beach, North Carolina** ("Lessee") and Leasing 2, Inc. ("Lessor"), concurrently assigned to Santander Bank, N.A. ("Assignee").

Ladies and Gentlemen:

We have entered into the above referenced Lease for the purpose of financing a **Vac-Con Vacuum Truck VPD4211HEN/1300 LHA** (the "Equipment") in the amount of **\$297,687.00** (the "Financed Amount"). Lessee hereby requests that Assignee retain **\$297,687.00** (the "Retained Amount"). Lessee further requests that Assignee hold the Retained Amount in an internal escrow pending Assignee's receipt of confirmation from Lessee that the Equipment has been delivered, inspected and accepted for all purposes by the Lessee and that payment can be remitted to the vendor of such Equipment. There will be no separate escrow fee charged Lessee for internally escrowing the Retained Amount.

Lessee understands and agrees that interest shall accrue on the entire Financed Amount as of the date hereof, and further understands and agrees that any interest earned on the Retained Amount shall be paid to Assignee in consideration of managing the internal escrow account.

Lessee acknowledges that Assignee may commingle the Retained Amount held by Assignee for the benefit of Lessee with other funds held by Assignee for its own account, so long as Assignee maintains segregation of such amounts on the books and records of Assignee.

Sincerely,

**LESSEE: Town of Holden Beach, North Carolina**

By: \_\_\_\_\_  
David W. Hewett

Title: \_\_\_\_\_  
Town Manager

Date: \_\_\_\_\_



UNC  
SCHOOL OF GOVERNMENT

THE UNIVERSITY  
of NORTH CAROLINA  
at CHAPEL HILL

KNAPP-SANDERS BUILDING  
CAMPUS BOX 3440  
CHAPEL HILL, NC 27522-3440

T 919.960.5381  
F 919.962.5644  
www.sog.unc.edu

August 27, 2015

To: North Carolina units of local government and other interested parties

From: Norma R. Houston, *Lecturer in Public Law and Government*

Re: North Carolina Sheriffs' Association Vehicle Procurement Program

The UNC School of Government has been asked to render an opinion about the legality of purchasing law enforcement vehicles directly through the North Carolina Sheriffs' Association Vehicle Procurement Program ("the NCSA Program") under the group purchasing program exception to competitive bidding requirements under North Carolina General Statute 143-129(e)(3). The following opinion is not a recommendation for or endorsement of the products or services offered through the NCSA Program.

Under North Carolina law, when a local government subject to Article 8, Chapter 143 of the North Carolina General Statutes decides to purchase apparatus, supplies, materials, or equipment involving the expenditure of \$30,000 or more, that local government must follow certain statutory bidding procedures unless an exception applies. G.S. 143-129 contains several exceptions to these bidding requirements. One of these exceptions, found in G.S. 143-129(e)(3), allows local governments to purchase apparatus, supplies, materials, or equipment through a "competitive bidding group purchasing program" instead of following the bidding requirements of Article 8. G.S. 143-129(e)(3) defines a "competitive bidding group purchasing program" as "a formally organized program that offers competitively obtained purchasing services at discount prices to two or more public agencies." In my opinion, the NCSA Program qualifies as a competitive bidding group purchasing program under G.S. 143-129(e)(3).

Accordingly, local governments subject to Article 8, Chapter 143 of the North Carolina General Statutes have the legal authority to purchase vehicles directly from vendors under contract through the NCSA Program under the group purchasing program exception in G.S. 143-129(e)(3), unless such purchases are inconsistent with local policies or procedures. An analysis of the NCSA Program under the group purchasing program exception follows.

#### ***Formally Organized Program***

In order to qualify as a group purchasing program under G.S. 143-129(e)(3), the entity offering products and services must be "formally organized." While the statute does not define this term, it suggests some level of organization beyond an ad hoc group that decides

NC Sheriffs' Association Opinion Memorandum  
August 27, 2015  
Page 2

to enter into contracts jointly. The North Carolina Sheriffs' Association is a nonprofit organization formed in 1922. According to the NCSA website ([www.ncsheriffs.org](http://www.ncsheriffs.org)), the organization is governed by a board of directors, has an office, contact information, and staff. As such, the NCSA meets the requirement of being formally organized.

#### ***Competitively Obtained Purchasing Services***

Under the group purchasing exception, the items and services offered must be "competitively obtained," meaning the organization's contracts were procured through a competitive process. While this process does not have to mirror in every respect the competitive bidding requirements of G.S. 143-129 for purchase contracts in the formal bidding range, it must ensure a reasonable opportunity for interested vendors to be notified of and submit bids with fair evaluation of those bids leading to a contract award. The vehicle contracts available through the NCSA Program are entered into by the NCSA after broadly disseminated advertising (including through the North Carolina Bid Network), a pre-bid conference, and receipt of sealed bids by an advertised bid deadline. Bids were evaluated and awarded based on the lowest, responsive, responsible bidder standard of award. In my opinion, this process meets the statutory requirement that the contracts be obtained competitively. (See NCSA website for specific bid-related documents).

#### ***Discount Prices***

A third element of the group purchasing program exception is that the prices offered by vendors must be discounted. Typically such discounts take the form of a price less than list price, although this is not specifically required under the group purchasing program exception. The competitive bid prices received by the NCSA and the contracts awarded contain competitive discount pricing, thus satisfying this requirement of the statute.

#### ***Two or More Public Agencies***

The final requirement under the group purchasing program exception is that the items offered through the program are available to at least two public agencies (this requirement does not exclude the opportunity for private entities to purchase items from the program). According to its website, the NCSA offers the opportunity to purchase through the NCSA Program to all 100 sheriffs' offices in North Carolina, thus making the program available to at least two public agencies.

For these reasons, it is my opinion that local governments in North Carolina may purchase vehicles directly (i.e., without having to comply with the competitive bidding requirements of Article 8) from vendors through the NCSA Program under the group purchasing program exception of G.S. 143-129(e)(3).

**Resolution 21-03  
Resolution of Governing Body  
Extract of Minutes**

**LESSEE:**      **Town of Holden Beach, North Carolina**

At a duly called meeting of the governing body of Lessee held on the 16<sup>th</sup> day of February, 2021 the following resolution was introduced and adopted.

**WHEREAS**, the governing body of Lessee has determined that a true and vey real need exists for the acquisition of the Equipment described in the Lease-Purchase Agreement by and between the Lessee and Leasing 2, Inc.: and has further determined that the Equipment will be used solely for essential government functions and not for private business use.

**WHEREAS**, Lessee has taken the necessary steps, including, without limitation to compliance with legal bidding requirements, under applicable law to arrange for the acquisition of such Equipment.

**BE IT RESOLVED**, by the governing body of Lessee that the terms of said Lease-Purchase Agreement and Escrow Agreement are in the best interest of the Lessee for the acquisition of such Equipment and the governing body of Lessee designates and confirms the following person to execute and deliver the Lease-Purchase Agreement and the Escrow Agreement and any related documents necessary to the consummation of transactions contemplated by the Lease-Purchase Agreement and Escrow Agreement.

\_\_\_\_\_  
Signature of Party to Execute Lease-Purchase  
Agreement and Escrow Agreement

David W. Hewett, Town Manager  
Print Name and Title

The undersigned further certifies that the above resolution has not been repealed or amended and remains in full force and effect and further certifies that the above and foregoing Lease-Purchase Agreement and Escrow Agreement is the same as presented at said meeting of the governing body of Lessee.

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

\_\_\_\_\_  
Dare

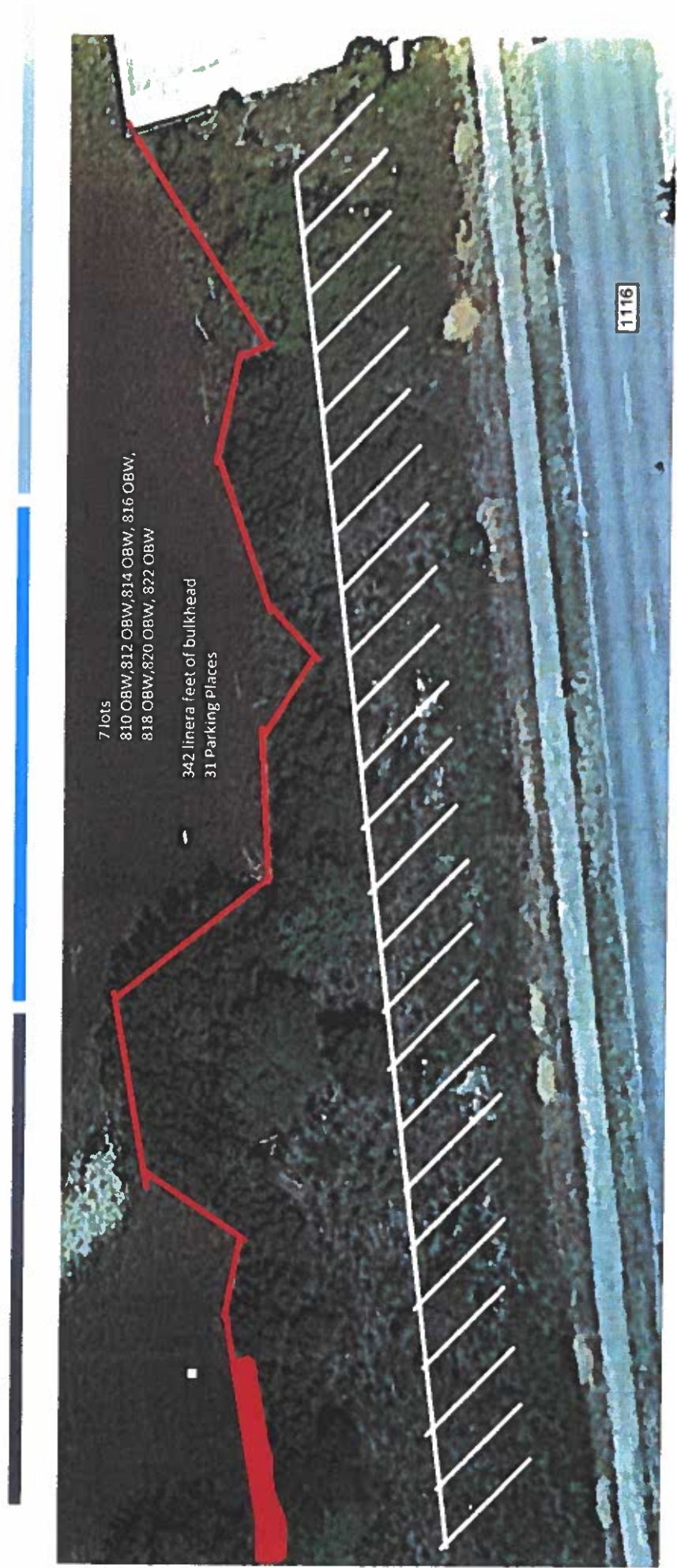
The Parking Committee established by the Board of Commissioners met on Friday, February 5, 2021. Planning Director Tim Evans reviewed his findings for the four assignments planned for completion at the January 8, 2021 meeting:

- Develop the cost and work estimates and estimate the number of potential parking spaces that would result from building a knee-high bulkhead across the Town-owned properties in the 800 block of Ocean Boulevard West (OBW) to create new parking lots.
- Develop the cost and work estimates and estimate the number of potential parking spaces possible by utilizing the two cross-through rights-of-ways between OBW and Brunswick Avenue West.
- Develop the cost and work estimates and estimate the number of potential parking spaces by creating angled parking spots on Avenue A.
- Investigate the potential of using the space previously known as Hillside Drive where Ocean Boulevard East ends and McCray Street begins on the ocean side for potential parking spots. If the use of the space is feasible, develop the cost and work estimates and estimate the number of potential parking spaces.

**Commissioners Murdock and Tyner are recommending to the BOC that the Town appropriate funding to build parking lots on Town-owned properties in the 800 block and 764 OBW.**

- Lots 810-822 OBW Cost Estimates: Bulkhead \$30,780, Commercial Base of Slate \$32,000. Total cost: \$62,780. 31 parking spaces.
- 764 OBW Cost Estimates: Bulkhead \$15,300, Commercial Base of Slate \$10,000. Total Cost: \$25,300. 12 parking spaces.
- Landscaping \$10,000 and contingency (10%) \$9808
- Total Cost of \$107,888, 43 parking spaces.

These properties were originally purchased many years ago for the purpose of providing parking to access the beach.

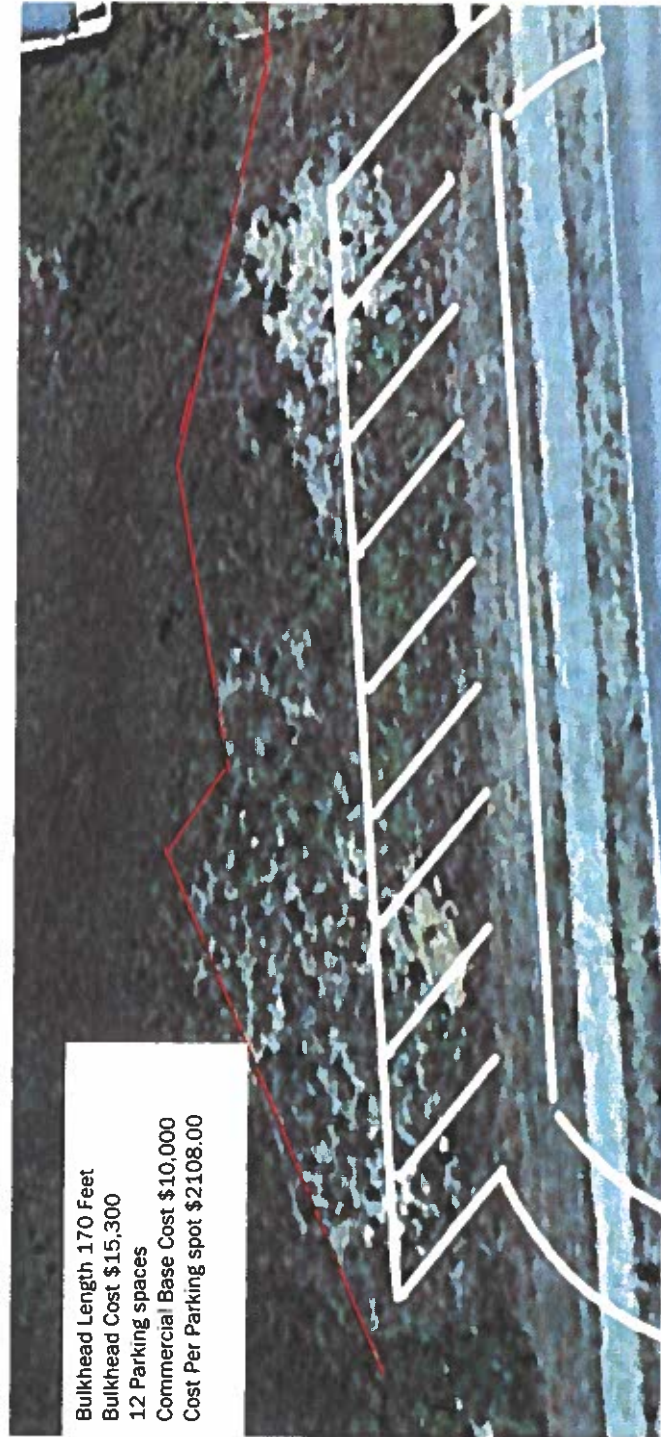


Lots 810-822 Cost estimates Bulkhead \$30,780

31 Parking spaces

Cost For Commercial Base 6 Inches of Slate \$32,000

Cost per Parking Space \$2,000



764 OBW,