



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

Tuesday, April 20, 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, APRIL 20, 2021 - 5:00 P.M.**

PUBLIC HEARING: Resolution 21-04, Preliminary Assessment Resolution to Improve the Existing Soil Roadway of Seagull Drive

REGULAR MEETING:

1. Invocation
2. Call to Order/ Welcome
3. Pledge of Allegiance
4. Agenda Approval
5. Approval of Minutes
 - a. Minutes of the Regular Meeting of March 16, 2021 (Pages 1 – 9)
 - b. Minutes of the Special Meeting of April 2, 2021 (Pages 10 – 11)
 - c. Minutes of the Special Meeting of April 5, 2021 (Recessed from April 2nd) (Pages 12 – 13)
6. Public Comments on Agenda/General Items
7. Presentation and Possible Action on Holden Beach Coastal Storm Risk Management Study Federal Cost Share Agreement (FCSA) – Bob Keistler, Corps (Assistant Town Manager Ferguson) (Pages 14 -40)
 - a. Ordinance 21-09, An Ordinance Amending Ordinance 20-10, The Revenues and Appropriations Ordinance for Fiscal Year 2020 – 2021 (Amendment No. 11)
8. Police Report – Lieutenant Dilworth (Page 41)
9. Discussion and Possible Action on Emergency Restrictions Pertaining to Town Hall/Board of Commissioners' Meetings – Commissioners Sullivan & Kwiatkowski (Pages 42 – 43)
10. Report on Parking Committee Finds on Paid Parking – Commissioner Murdock (Page 44, Separate Packets)
11. Discussion and Possible Action on Recruiting a Member to Fill Commissioner Tyner's Position on the Parking Committee – Commissioner Murdock (Page 45)

12. Discussion and Possible Action on Resolution 21-06, Assessment Resolution to Improve the Existing Soil Roadway of Seagull Drive (Cannot Adopt until 24 hours after Public Hearing) – Town Clerk Finnell (Pages 46 – 50)
13. Final Agreement and Action on Proposed Ordinance 21-04, An Ordinance Amending the Holden Beach Code of Ordinances, Chapter 50: Solid Waste – Commissioner Kwiatkowski (Pages 51 – 55)
14. Discussion and Possible Approval of Budget Amendments – Town Manager Hewett (Pages 56 – 64)
 - a. Ordinance 21-05, An Ordinance Amending Ordinance 20-10, The Revenues and Appropriations Ordinance for Fiscal Year 2020 – 2021 (Amendment No. 7, Capital Projects)
 - b. Ordinance 21-06, An Ordinance Amending Ordinance 20-10, The Revenues and Appropriations Ordinance for Fiscal Year 2020 – 2021 (Amendment No. 8, Isaias)
 - c. Ordinance 21-07, An Ordinance Amending Ordinance 20-10, The Revenues and Appropriations Ordinance for Fiscal Year 2020 – 2021 (Amendment No. 9, Inspections Department)
 - d. Ordinance 21-08, An Ordinance Amending Ordinance 20-10, The Revenues and Appropriations Ordinance for Fiscal Year 2020 – 2021 (Amendment No. 10, Recycling)
15. Discussion and Possible Action on Resolution 21-07, A Resolution for Brunswick County to Mitigate Proposed Water Rate Increases - Commissioner Kwiatkowski (Pages 65 – 67)
16. Discussion and Possible Scheduling of a Date to Hold a Public Hearing on the Draft System Development Fees Report – Town Clerk Finnell (Page 68)
17. Discussion and Possible Action on Approving Mayor's Issuance of a Proclamation in Opposition to the Proposed Zoning Bill (SB 349/HB 401) – Commissioner Sullivan (Pages 69 – 70)
18. Town Manager's Report
19. Mayor's Comments
20. Board of Commissioners' Comments
21. Executive Session Pursuant to North Carolina General Statute 143-318.11(A)(5), To Instruct the Staff or Agent Concerning the Negotiation of the Price and Terms of a Contract Concerning the Acquisition of Real Property
22. 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 listen to the livestream. Public comments can be submitted to heather@hbtownhall.com or deposited in the Town's drop box at Town Hall prior to 3:00 p.m. on April 20, 2021. Comments for the public hearing will be accepted until April 21, 2021 at 5:00 p.m. If you would like the comments to be heard at the public hearing, they must be submitted by April 20, 2021 at 3:00 p.m.**



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
REGULAR MEETING
TUESDAY, MARCH 16, 2021 – 5:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, March 16, 2021 at 5:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem Gerald Brown; Commissioners 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; Public Works Director Chris Clemmons; Police Chief Jeremy Dixon; and Attorney Noel Fox.

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

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

Motion by Commissioner Kwiatkowski that the Board add Discussion and Possible Action Regarding the County's Proposed Water Rate Increase as item 6a; second by Commissioner Sullivan; approved by unanimous vote.

Motion by Mayor Pro Tem Brown to approve the agenda as amended; second by Commissioner Murdock; approved by unanimous vote.

APPROVAL OF MINUTES

Commissioner Kwiatkowski said on page 4 it reads irritation rates. It should be irrigation.

Motion by Commissioner Kwiatkowski to approve the minutes with the correction (Minutes of the Public Hearing/Regular Meeting of February 16, 2021 and the Special Meeting of February 23, 2021); second by Commissioner Murdock; approved by unanimous vote.

PUBLIC COMMENTS ON AGENDA/GENERAL ITEMS

Town Clerk Finnell explained there were over 50 comments. A majority of them were on the proposed ordinance. They are before the Board and online for the public's review. Commissioner Kwiatkowski suggested reading the ones not related to trash. Commissioner Sullivan said since the comments on

trash are not going to be read, all comments should be posted online.

The consensus of the Board is to post the comments online. Town Clerk Finnell said they are posted under the Town Government tab and the Commissioners' tab.

DISCUSSION AND POSSIBLE ACTION REGARDING THE COUNTY'S PROPOSED WATER RATE INCREASE

Commissioner Kwiatkowski reviewed the information she provided to the Board. The proposed sheet (hereby incorporated into the minutes) lays out what the rate increase is going to be, us compared to a county resident. The Town purchases wholesale water, which is a different rate than what will be charged in the county. She explained her worksheet. She said she would foresee with the projected increase, the property owners who rent their houses will see higher water in 2022. She said there is additional costs to the Town as the Town also purchases water for the restrooms, splashpad, water fountains, etc. It is highly likely with such a significant increase to water costs we will need to have a rate study done to make sure our revenues and expenses will balance as required for a revenue fund. Commissioner Kwiatkowski stated wholesale and retail rates are quite different. Rate equity for residents and municipalities paying wholesale versus county residents must be thoroughly and transparently considered before final rate setting. She said the county should aggressively seek state and federal funding to help defray some of the costs of the reverse osmosis system necessitated by industrial pollution. The county should look to every possible cost reduction and customer reimbursement possibility to help phase in the full magnitude of the needed increase. She suggested that a meeting between the county and the impacted municipal leadership and staff to brainstorm viable solutions could be a good first step.

Commissioner Kwiatkowski would like the Board to authorize the town manager and her to communicate any and all issues to the county, including working with neighboring communities as necessary; potentially create a resolution for the April meeting regarding the Town's position and suggestions about the water rate increase; and to apprise the public what is happening and ask them to express their reservations to the county as necessary.

Commissioner Sullivan went over the numbers on Commissioner Kwiatkowski's sheet. He asked if Town Manager Hewett thinks the Town will be able to keep the rate at the current level or if it is more likely that the rate will need to be raised. Town Manager Hewett explained he would project that the Town would need to pass on any wholesale increases.

The Board came to a consensus for Commissioner Kwiatkowski and Town Manager Hewett to move forward with Commissioner Kwiatkowski's request.

DISCUSSION AND POSSIBLE AWARD OF CONTRACT ON ROADWAY WORK

Town Manager Hewett explained we secured three bids for the second phase of Brunswick Avenue resurfacing. The apparent low bidder is Highland Paving at \$123,000. That exceeds the program construction budget by \$10,656. If the Board wants to proceed with award of the work, we need to adjust the budget accordingly. It is anticipated the work would be completed between Easter and Memorial Day. We did use Highland last year. He is not aware of any complaints.

Motion by Commissioner Kwiatkowski that we grant the second half of the Brunswick Avenue Paving to Highland; second by Commissioner Murdock.

Commissioner Murdock inquired if the section of the road that was cut out could be fixed. Public Works Director Clemmons said he would work with Shane Lippard (Right Angle Engineering) and the contractor to see if it could get patched.

Town Manager Hewett asked that subject to the realignment of funds be added to the motion.

Commissioner Kwiatkowski, with Commissioner Murdock in agreement amended her motion to grant the contract for the second half of Brunswick Avenue paving to Highland with the necessary budget amendment; approved by unanimous vote.

DISCUSSION AND POSSIBLE ACTION ON REQUEST BY THE MAJORITY OF PROPERTY OWNERS OF SEAGULL DRIVE FOR IMPROVEMENT OF SEAGULL DRIVE

Town Clerk Finnell explained we received signatures from the majority of property owners on Seagull Drive requesting the improvement of the existing soil roadway. The next step of the process is to adopt a preliminary resolution. The Board is also required to schedule a public hearing on the resolution. There is one error in section 3 of the proposed resolution, it should read Section 218, not 217.

Motion by Commissioner Sullivan that we set the public hearing on April 20th at 5:00 p.m.; second by Mayor Pro Tem Brown; approved by unanimous vote.

Motion by Commissioner Kwiatkowski that we adopt Resolution 21-04, with the suggested change to part 3 under Now Therefore be it Resolved; second by Commissioner Murdock; approved by unanimous vote.

DISCUSSION AND POSSIBLE ACTION ON BIKE LANES ON OCEAN BOULEVARD

Town Manager Hewett went over his handout (hereby incorporated into the minutes) that provided more information on the Department of Transportation's (DOT) proposal to add bike lanes to Ocean Boulevard. His memo included information on funding and timing. If the bike lanes are not installed, the asphalt resurfacing project should occur in spring 2022 at no cost to the Town. If bike lanes are installed, asphalt resurfacing would be moved to the fall 2022 at a cost of \$680,000.

The consensus of the Board is to move ahead.

REPORT AND ACTION ON SPEED LIMIT ON OCEAN BOULEVARD

Commissioner Sullivan said this is an item that has been on the Board's radar for over a year. At the last meeting, Chief Dixon gave us a report that the DOT conducted a survey and found that the speed limit change from 35 MPH to 45 MPH from Greensboro to the western end of the island is permissible under the results of the survey.

Motion by Commissioner Sullivan that we continue with the speed limit change that occurs on October 1st - March 31st and increases the speed limit to 45 MPH west of Greensboro Street; second by Mayor Pro Tem Brown.

Commissioner Kwiatkowski asked if it has been confirmed that the DOT won't give the Town any crosswalks if the speed limit is not lowered. Inspections Director Evans responded that each location is independent and has to meet the criteria. You can have the ones that meet the criteria and are in the 35 MPH area. They will not be allowed in the 45 MPH area. Commissioner Kwiatkowski said there are two proposed that are east of the pier that would be marked. There is a third one by Starfish. She inquired if it would be feasible to shift where the 35 MPH would start west past Starfish in order to get a third crosswalk. Inspections Director Evans said you would need to move it out past the area where the six criteria fall. Commissioner Kwiatkowski would rather see the marked crosswalks and sacrifice the 45 MPH. Commissioner Sullivan said when this was brought to his attention, he was in favor of lowering it. He had the benefit of watching the traffic and is now much more concerned with the increased use of golf carts.

Mayor Pro Tem Brown called for a vote.

The motion passed by a 3 – 1 vote, with Mayor Pro Tem Brown and Commissioners Murdock and Sullivan voting for the motion and Commissioner Kwiatkowski voting in the negative.

POLICE REPORT

- Speed limit changes to 35 MPH April 1st. With that golf carts will be allowed on the roadways. If you are operating a golf cart it has to operate like a motor vehicle. Keep your eyes out for pedestrians.
- Commissioner Kwiatkowski inquired about the three motor vehicle crashes on the report. Chief Dixon did not pull the specific information on them. He would need to check.
- He will add one of the flashing signs to warn about the speed limit change.

SEASONAL LAW ENFORCEMENT COMMITTEE REPORT TO THE BOARD OF COMMISSIONERS

Commissioner Sullivan reviewed his report (hereby incorporated into the minutes). The committee looked at the cost of the seasonal officer versus a fulltime officer, how to recruit and retain them, duties they would participate in, training and fringe benefits. He provided information on the findings. He said the issue on Holden Beach is that each officer is assigned a vehicle, so there are no spare vehicles. If we were to hire a seasonal or fulltime officer we would need to supply them with a vehicle. One vehicle is approximately \$60,000. The annual cost for one additional fulltime officer (salary, benefits, vehicle, etc.) is approximately \$131,000. A seasonal officer is \$85,000. Commissioner Sullivan said right now we have appropriated money for 10 officers and that will provide for having two officers on duty at all times. He said at this time, we are fully staffed so it doesn't make sense to hire another seasonal officer, unless the Board decides to do a seasonal officer instead of beach ranger. He suggested if there is a vacancy in the future, it is worth considering hiring seasonal officers.

Chief Dixon stated he understands and respects the opinion. He has a different opinion on filling a vacancy with a seasonal officer; it comes with a lot of issues that were discussed at length.

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)

Inspections Director Evans reviewed the process to date. The Board has the consistency statement and the ordinance in front of them to consider.

Motion by Commissioner Kwiatkowski that we accept Town of Holden Beach Ordinance 21-02, An Ordinance Amending the Holden Beach Code of Ordinances, Section 157.006: Definitions (Height Measuring Point); second by Commissioner Murdock; approved by unanimous vote.

DISCUSSION AND POSSIBLE ACTION ON ORDINANCE 21-04, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 50: SOLID WASTE

Commissioner Sullivan explained at the close of the last meeting, he asked the community to respond and give input on the issues tonight. We had approximately 50 emails concerning solid waste. He said it's clear the electorate prefer that the Town not impose a strict rollout period of time and they are not in favor of fines if that is violated, but that doesn't mean some changes shouldn't be made to the ordinance. He stated when the ordinance was implemented two years ago, the Board allowed people to use a recycle bin, instead of a trash bin so they would not need to purchase an extra bin. He said that was a mistake. One of the changes he proposed to make is to look at Section 50.08, Rental Homes. He believes the other mistake made is not rolling back every can. The idea was to get the cans off the street. He suggested checking with the current vendor to see if the contract could be amended to rollback all cans. Mayor Pro Tem Brown said it seems like a lot of the concerns in the emails were about the time constraints and the fees. What Commissioner Sullivan is asking is reasonable. Commissioner Kwiatkowski said this solves the major problems. This achieves getting the bins off the street. She agreed that the replacement of a trash can for a recycle bin is not working. Commissioner Murdock stated for the past couple of weeks he has looked at the number of cans at rental houses. He knows they are short cans. He doesn't know how it is enforced but thinks that is part of the problem. He said we need to make sure every house has the proper number of cans. He agreed if we rollback every can, it would help out a lot. Commissioner Kwiatkowski said the Town did send a message out in the water bills earlier this year reminding people to be in compliance with the number of cans they should have. If that isn't working, she is eager to hear other ideas on what to do.

Motion by Commissioner Sullivan that we amend the current ordinance Section 50.08 to remove the last sentence that says In instances where three trash cans or more are required, one can may be substituted with a contractor approved recycling bin and that we instruct the town manager to see if we can amend our current contract with the vendor who rolls back the bins to go from rolling only empty bins to rolling back full bins.

After discussion, the Board would like a clean ordinance to be presented next month.

Commissioner Sullivan withdrew his motion and asked that the Board instruct the town manager to investigate if the current rollback contract can be amended.

DISCUSSION AND ACTION ON PROCEEDING WITH HIRING A TOWN ATTORNEY

The Board discussed the firms who are interested in serving.

Motion by Mayor Pro Tem Brown that Katherine be our Town attorney; second by Commissioner Murdock; approved by unanimous vote.

Mayor Holden thanked Noel Fox, the interim attorney.

DISCUSSION AND ACTION ON PROCEEDING WITH THE PROCESS OF APPOINTING A COMMISSIONER TO REPLACE WOODY TYNER, APPOINTMENT TO SERVE UNTIL DULY ELECTED COMMISSIONERS ARE SWORN IN FOLLOWING THE 2021 ELECTION

Commissioner Sullivan said former commissioner, Woody Tyner resigned. He thinks it is necessary to get the 5th person into the position. The statute says the Board needs to nominate the person, but it doesn't give a lot on the process. Commissioner Sullivan thinks the Board should ask anyone in the town who wants to apply to submit their qualifications and curriculum vitae. The Board can interview them and then vote. Commissioner Kwiatkowski agreed to the process. Mayor Pro Tem Brown said Town Clerk Finnell could get the information out. Commissioner Sullivan suggested that the Board give people two weeks to apply, then schedule a meeting so the person can be at the April meeting. The Board talked about having the person in place soon since it is time for the budget process. Town Manager Hewett reminded the Board to turn in their availability for the budget meetings.

The consensus is to have the clerk get the word out to anyone interested to submit their name and qualifications. The Board will proceed with inviting them to appear before the commissioners. The Board asked that people should turn in their information by April 1st.

TOWN MANAGER'S REPORT

- Lift Stations 3 & 2 Upgrade Status: Everything we need is in hand for station 3's completion. We were waiting for the lien waiver, but we are in receipt of that as of this evening. Can proceed with final payouts and starting station 2's process.
- Vector Truck Procurement – truck that the Board approved the lease purchase last month is on station. We are waiting on the tags.
- Last week the American Rescue Plan 2021 was passed. It will provide almost \$200,000 to the Town. We should receive the first half of that distribution in mid-June, with the second half coming a year later. It will be distributed through the state. We haven't received the specific protocol on how the funds can be used, but it appears to fit a number of purposes for the Town.
- Federal Work Plan – still on standby with the Wilmington District Corp, awaiting instructions on the Federal Project Investigations Study.
- FEMA – Hurricane Dorian has been obligated in the NC payment system and also back to the feds. The project is in with the legislative review. Expect release of the information tomorrow. Isaías

strand Damage Dimension and Description was submitted to FEMA on March 11th. Current status is that the strand losses for Cat G were routed to the NC payment system, then went back to Environmental/Historic Preservation for another review. We also received reimbursement for some of our Cat B emergency protective measures expenses that we anticipate bringing back before the Board as a budget amendment for the April meeting. The potential and likelihood that all four storms, Florence, Michael, Dorian and Isaias are going to be done as one giant project seems to be increasing, but approval of Dorian and Isaias project worksheets will be required before moving ahead with a bundled project, in addition to needing to obtain the necessary permits and necessary financing.

- Sand Fence Project Installation – Making great progress. It is complete to the vicinity of the 800 block. Supplies and CAMA cooperation may allow for extension into the 900 block.
- Parks & Recreation Master Plan Update by McGill – Well underway. There has been a series of steering committee and six focus groups meetings. Update uses a survey that is available on the website. Initial feedback appears to be really good regarding participation. In less than a week we had 218 surveys returned. There are also in person opportunities to complete the survey.
- The Town will hold an Easter Egg Drop on April 2nd.

MAYOR'S COMMENTS

- Some observations on the beach strand - The last couple of weeks the number of dogs on the strand is growing. Reminded everyone dogs are to be on leashes. Dredge is still at the inlet crossing pumping sand to the west end of Oak Island. This winter is the least number of dead birds and turtles that he can remember. That is good news. People traffic on the beach strand is picking up. Thinks it is indicative that we will have an excellent summer. Rental reservations are coming in very well. Hoping for a good season. Very optimistic for summer 2021.

BOARD OF COMMISSIONERS' COMMENTS

Mayor Pro Tem Brown

- Stay safe. Thinks we did really well tonight. We listened to our constituents and neighbors. Had people contact him about the speed limit and trash. We are working for the citizenry of the island. We are running it for you. Continue to call. If there is anything you want us to work on let us know.
- Good job Chief Dixon. Commended Public Works Director Clemmons and his people. Told Town Manager Hewett to keep up the good work.

Commissioner Sullivan

- Yard waste pickup has resumed. It is the 2nd and 4th Friday of the months of March – May.
- County has a transportation survey. Thinks it is something we should give our opinion on. The Town sent out a note on March 11th that contains the website to make the comments known.
- Reminded everyone that tomorrow is Saint Patrick's Day. Erin Go Bragh.

Commissioner Murdock

- Wished everyone a good evening. Thanks for listening.
- Commended the Board for picking up some of the cans we have been kicking for so long.

- Thanked Inspections Director Evans. In the past three or four months, we put to bed some long standing issues in the building industry on the island. It is very appreciated by the builders and residents. It will definitely benefit the island. Hats off to you for your hard work.
- Has some updates on parking, will save it to the next meeting. Heard from some paid parking vendors and had some optimistic conversation on bringing in revenue to help with the money we are having to spend. It may also address some of the parking problems. Heard what you don't want. Would like some suggestions. Paid parking is very promising where it wouldn't really cost the residents anything to implement. A lot of coastal communities have already implemented it. Spoken to some where it is working and some where it is revenue neutral. It is allowing them to afford areas to park. Had a lot of calls from people. The HB Pier is up for sale. Would love to have ideas from the public, open to suggestions on that.
- Have a good evening and a safe Saint Patrick's Day.

Commissioner Kwiatkowski

- Thanks for everyone listening in. Thanks for the public comments. They are appreciated. We need to know what you are thinking.
- Budget discussions will be starting soon, not just at the Town level, but also at the county level. Encouraged people to keep an eye on the county website. When we get our schedule together it will be published. We will be having meetings. If you have objectives for the Board, you need to let us know quickly. We will be wrapping this all up by the end of May.

Mayor Pro Tem Brown thanked Inspections Director Evans. He has been doing a lot with ordinances. He knows that takes a lot of time with the workload he has already.

Mayor Holden said most people know we have a whale visiting. In his lifetime, he has seen several, but he hasn't had the pleasure of seeing this one. It is always interesting to see the whales traveling.

EXECUTIVE SESSION PURSUANT TO NORTH CAROLINA GENERAL STATUTE 143-318.11(A)(6), TO DISCUSS QUALIFICATIONS, COMPETENCE, PERFORMANCE OF A PUBLIC EMPLOYEE, NORTH CAROLINA GENERAL STATUTE 143-318.11(A)(3), TO CONSULT WITH THE TOWN ATTORNEY AND NORTH CAROLINA GENERAL STATUTE 143-318.11(A)(1), TO APPROVE MINUTES

Town Clerk Finnell read the reason for entering into Executive Session.

Motion by Mayor Pro Tem Brown to go into Executive Session at 6:46 p.m.; second by Commissioner Murdock; approved by unanimous vote.

OPEN SESSION

The Board went back into Open Session at 7:22 p.m.

Motion by Mayor Pro Tem Brown to approve Resolution 21-05, second by Commissioner Murdock; approved by unanimous vote.

ADJOURNMENT

The Board adjourned at 7:24 p.m.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
SPECIAL MEETING
FRIDAY, APRIL 2 – 8:00 A.M.**

The Board of Commissioners of the Town of Holden Beach met for a Special Meeting on Friday, April 2, 2021 at 8:06 a.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem Gerald Brown; Commissioners Brian Murdock, Mike Sullivan and Pat Kwiatkowski; Town Manager David W. Hewett; Town Clerk Heather Finnell; and Town Attorney Katie Madon.

Mayor Holden called the meeting to order.

PUBLIC COMMENTS

No comments were received.

EXECUTIVE SESSION PURSUANT TO NORTH CAROLINA GENERAL STATUTE 143-318.11(A)(5), TO ESTABLISH, OR TO INSTRUCT THE PUBLIC BODY'S STAFF OR NEGOTIATING AGENTS CONCERNING THE POSITION TO BE TAKEN BY OR ON BEHALF OF THE PUBLIC BODY IN NEGOTIATING (I) THE PRICE AND MATERIAL TERMS OF A CONTRACT OR PROPOSED CONTRACT FOR THE ACQUISITION OF REAL PROPERTY BY PURCHASE, OPTION, EXCHANGE, OR LEASE, NORTH CAROLINA GENERAL STATUTE 143-318.11(A)(3), TO CONSULT WITH THE TOWN ATTORNEY AND NORTH CAROLINA GENERAL STATUTE 143-318.11(A)(6), TO CONSIDER THE QUALIFICATIONS, COMPETENCE OR PERFORMANCE OF A PUBLIC EMPLOYEE

Town Clerk Finnell read the reason for Executive Session.

Motion by Mayor Pro Tem Brown to go into Executive Session at 8:09 a.m.; second by Commissioner Murdock; approved by unanimous vote.

OPEN SESSION

The Board went back into Open Session at 9:54 a.m.

RECESS

Motion by Commissioner Kwiatkowski at 9:54 a.m. to recess until Monday, April 5, 2021 at 8:00 a.m.; second by Commissioner Murdock; approved by unanimous vote.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
SPECIAL MEETING
MONDAY, APRIL 5 – 8:00 A.M.**

The Board of Commissioners of the Town of Holden Beach met for a Special Meeting on Monday, April 5, 2021 at 8:00 a.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem Gerald Brown; Commissioners Brian Murdock, Mike Sullivan and Pat Kwiatkowski; Town Manager David W. Hewett; Town Clerk Heather Finnell; and Town Attorney Katie Madon.

Mayor Holden called the meeting to order.

PUBLIC COMMENTS

No comments were received.

EXECUTIVE SESSION PURSUANT TO NORTH CAROLINA GENERAL STATUTE 143-318.11(A)(5), TO ESTABLISH, OR TO INSTRUCT THE PUBLIC BODY'S STAFF OR NEGOTIATING AGENTS CONCERNING THE POSITION TO BE TAKEN BY OR ON BEHALF OF THE PUBLIC BODY IN NEGOTIATING (I) THE PRICE AND MATERIAL TERMS OF A CONTRACT OR PROPOSED CONTRACT FOR THE ACQUISITION OF REAL PROPERTY BY PURCHASE, OPTION, EXCHANGE, OR LEASE

Motion by Mayor Pro Tem Brown to go into Executive Session at 8:07 a.m.; second by Commissioner Murdock.

Town Clerk Finnell read the reason to go into Executive Session.

The motion passed by unanimous vote.

OPEN SESSION

The Board went back into Open Session at 9:57 a.m.

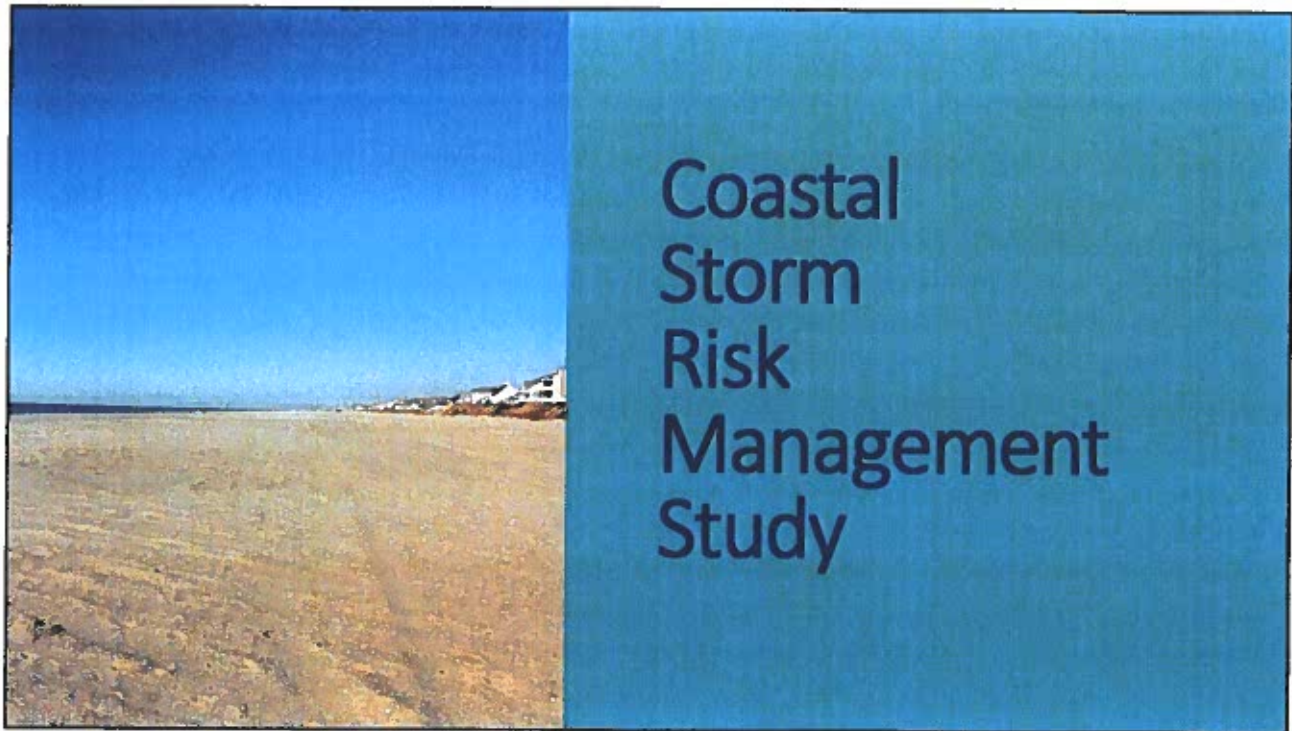
ADJOURNMENT

Motion by Mayor Pro Tem Brown to adjourn at 9:57 a.m.; second by Commissioner Sullivan; approve by unanimous vote.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk



1

Brunswick County Beaches Project History...

Part of a comprehensive plan for coastal storm damage reduction extending from the Cape Fear River down to the NC/SC border.

Ocean Isle separated from the other beaches and constructed a project in 2001.

Corps initiated a GRR in 1997 to examine the feasibility of the remaining portions but data is outdated and modeling needs to be updated.

2

Brunswick County Beaches Project History Continued

- The Town requested a study as part of supplemental funding through Florence (at no cost to the Town) but we were not funded.
- In July 2020, Congressman McIntyre presented options regarding the study to the BOC. Board authorized TM to send Letter of Intent.
- Holden Beach continuing with their portion of the project independently has been the #1 advocacy priority for this past year including the Virtual Hill visits.

3

*Study
Specifics
as
presented
by Corps*

3 years

3 levels of review

~\$3 million (\$1.5 m feds and \$1.5m Town of Holden Beach)

New study start under existing authorization

4

Cost Breakdown for Feasibility Study per Corps Agreement

Year	Total Project Cost	Percentage	Non-Fed Cash	Fed Cash
1	\$1,000,000	33.3%	\$500,000	\$500,000
2	\$1,600,000	53.3%	\$800,000	\$800,000
3	\$400,000	13.3%	\$200,000	\$200,000
Total	\$3,000,000	100%	\$1,500,000	\$1,500,000

5



Benefits of a Nourished Beach

- ❖ Protect Infrastructure & Property
- ❖ Recreational Benefits
- ❖ Tourism
- ❖ Building Habitat

6

Strategies

Rulebook

Always have to follow rulebook which includes permitting, policies, and standards.



Playbook



Different plays for winning the game



Including being shovel ready with permits

7

What's in our playbook?

Self-funding (Central Reach)

FEMA-Irene, Matthew, Florence, Michael, Dorian, Isaias

Possible Corp Beach- *requires a study*

8



9



Why consider
doing a study?

10

FEMA IS NOT AN INSURANCE POLICY

THE RULEBOOK IS CHANGING

WE HAVE TO CONSIDER RISKS

11

Tropical Storm Michael

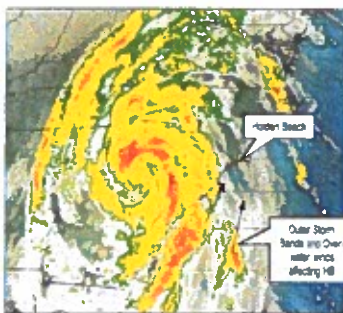


Figure 2: Radar image of Hurricane Michael

Passed near Holden Beach on October 11, 2018

534,000 cy loss to entire shoreline of Holden Beach

303,000 cy loss engineered beach

Combination of storm surge and large swells created wave run-up

Dune sand losses were approximately 58,000 cy

\$8,547,506 Cat G and \$427,376 Cat Z

Holden Beach losses for beach the reason
Brunswick County received federal
declaration!!!!

12

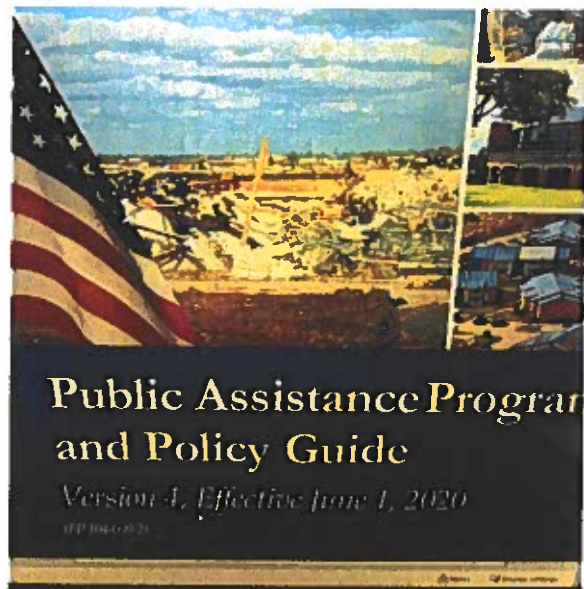
FEMA RULEBOOK CHANGES

Beach Strand losses can't be considered as part of calculating losses until threshold met

Mississippi example of area hit by storm and did not receive federal funding after this change

13

PAPPG- FEMA'S ULTIMATE RULEBOOK



14

Cat G-Parks, Recreation, Other (Beach)

“The Applicant has established and adhered to a maintenance program involving periodic renourishment with imported sand to preserve the original design or a specific engineered design that is justified and clearly stated in the maintenance program.”

Source: PAPPG 2020

15

PAPPG continued...

Placement of sand under the following circumstances does not meet this requirement:

- Emergency or “one-time” nourishment, even if to a design;
- Emergency or “as-needed” renourishments when the beach has eroded to a critical condition where all original nourishment is gone;
- Partial renourishments or “hot-spot” nourishments;
- Renourishment using material from a channel maintenance project when dredge spoils do not meet compatibility design criteria and the amount placed is dependent on the amount dredged, not the beach design.

Source: PAPPG 2020

16

Other Changes mentioned or noted:

- NC Department of Public Safety had internal conversations about the state's 25% match for FEMA storm events.
- Mitigation has increasing seat at the table for scoping meetings post storm and has extensive comments in FEMA documents.
- Repetitive losses....

17

What are we going to have in our
playbook?

18



Date: April 12, 2021

To: Mayor Holden and Board of Commissioners
Town Manager-IN TURN *DM if*

From: Christy Ferguson, Assistant Town Manager *CF*

Re: Coastal Storm Risk Management Study

This attached draft agreement for a Coastal Storm Risk Management Study (Attachment 1) between the USACE and the Town of Holden Beach represents the inclusion of the study in the Corps work plan for this federal fiscal year. The study was the Town's number one advocacy priority at the federal level as a proposed means of storm damage reduction. The Town will not know if it is economically and environmentally feasible for us to become a federal beach unless the study is conducted. The attached budget amendment (Attachment 2) in the amount of \$500,000 represents the town's commitment for the upcoming FY for the Town's share of the total non-federal (Town) study cost of \$1,500,000.

If the BOC chooses to pursue the study, a motion will need to be made to authorize the Town Manager to execute the contract document and self-certification of financial capability with the USACE and approve the attached budget amendment.

Attachment 1: Agreement

Attachment 2: Budget Amendment

AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE TOWN OF HOLDEN BEACH, BRUNSWICK COUNTY, NORTH CAROLINA
FOR THE
BRUNSWICK COUNTY BEACHES, HOLDEN BEACH PORTION, GENERAL
REEVALUATION REPORT

THIS AGREEMENT is entered into this _____ day of _____, _____, by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander for Wilmington District (hereinafter the "District Commander") and the Town of Holden Beach, Brunswick County, North Carolina (hereinafter the "Non-Federal Sponsor"), represented by the Mayor of the Town of Holden Beach.

WITNESSETH, THAT:

WHEREAS, Section 203 of the Flood Control Act of 1966, Public Law 89-789, and Section 934 of the Water Resources Development Act of 1986, Public Law 99-662, authorizes reevaluation of the hurricane-flood control protection project recommended by the Chief of Engineers in House Document Number 511, Eighty-ninth Congress, to ensure a shore protection project that provides the Holden Beach area with resilience to the impact of erosion, waves and coastal floodwaters on structures, infrastructure and life and safety; and

WHEREAS, Section 105(a) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2215(a)), specifies the cost-sharing requirements; and

WHEREAS, the Government and the Non-Federal Sponsor have the full authority and capability to perform in accordance with the terms of this Agreement.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I - DEFINITIONS

A. The term "Study" means the activities and tasks required to identify and evaluate alternatives and the preparation of a decision document that, as appropriate, recommends a coordinated and implementable solution for flood risk management at Holden Beach, Brunswick County, North Carolina.

B. The term “shared study costs” means all costs incurred by the Government and Non-Federal Sponsor after the effective date of this Agreement that are directly related to performance of the Study and cost shared in accordance with the terms of this Agreement. The term includes, but is not necessarily limited to, the Government’s costs for preparing the PMP; for plan formulation and evaluation, including costs for economic, engineering, real estate, and environmental analyses; for preparation of a floodplain management plan if undertaken as part of the Study; for preparing and processing the decision document; for supervision and administration; for Agency Technical Review and other review processes required by the Government; and for response to any required Independent External Peer Review; and the Non-Federal Sponsor’s creditable costs for in-kind contributions, if any. The term does not include any costs for dispute resolution; participation by the Government and Non-Federal Sponsor in the Study Coordination Team to discuss significant issues and actions; audits; an Independent External Peer Review panel, if required; or negotiating this Agreement.

C. The term “PMP” means the project management plan, and any modifications thereto, developed in consultation with the Non-Federal Sponsor, that specifies the scope, cost, and schedule for Study activities and tasks, including the Non-Federal Sponsor’s in-kind contributions, and that guides the performance of the Study.

D. The term “in-kind contributions” means those planning activities (including data collection and other services) that are integral to the Study and would otherwise have been undertaken by the Government for the Study and that are identified in the PMP and performed or provided by the Non-Federal Sponsor after the effective date of this Agreement and in accordance with the PMP.

E. The term “maximum Federal study cost” means the \$1,500,000 Federal cost limit for the Study, unless the Government has approved a higher amount.

F. The term “fiscal year” means one year beginning on October 1st and ending on September 30th of the following year.

ARTICLE II - OBLIGATIONS OF THE PARTIES

A. In accordance with Federal laws, regulations, and policies, the Government shall conduct the Study using funds appropriated by the Congress and funds provided by the Non-Federal Sponsor. In carrying out its obligations under this Agreement, the Non-Federal Sponsor shall comply with all the requirements of applicable Federal laws and implementing regulations.

B. The Non-Federal Sponsor shall contribute 50 percent of the shared study costs in accordance with the provisions of this paragraph and provide required funds in accordance with Article III.

1. No later than 15 calendar days after the effective date of this Agreement, the Non-Federal Sponsor shall provide funds in the amount of \$25,000, for the Government to initiate the Study, including preparation of the PMP. In the event more funds are needed to develop the PMP, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor, and no later than 15 calendar days after such notification, the Non-Federal Sponsor shall provide the full amount of such funds to the Government.

2. As soon as practicable after completion of the PMP, and after considering the estimated amount of credit for in-kind contributions, if any, that will be afforded in accordance with paragraph C. of this Article, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor to meet its share of shared study costs for the remainder of the initial fiscal year of the Study. No later than 15 calendar days after such notification, the Non-Federal Sponsor shall provide the full amount of such funds to the Government.

3. No later than August 1st prior to each subsequent fiscal year of the Study, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor during that fiscal year to meet its cost share. No later than September 1st prior to that fiscal year, the Non-Federal Sponsor shall provide the full amount of such required funds to the Government.

C. The Government shall include in shared study costs and credit towards the Non-Federal Sponsor's share of such costs, the costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurs in providing or performing in-kind contributions, including associated supervision and administration. Such costs shall be subject to audit in accordance with Article VI to determine reasonableness, allocability, and allowability, and crediting shall be in accordance with the following procedures, requirements, and limitations:

1. As in-kind contributions are completed and no later than 60 calendar day after such completion, the Non-Federal Sponsor shall provide the Government appropriate documentation, including invoices and certification of specific payments to contractors, suppliers, and the Non-Federal Sponsor's employees. Failure to provide such documentation in a timely manner may result in denial of credit. The amount of credit afforded for in-kind contributions shall not exceed the Non-Federal Sponsor's share of shared study costs less the amount of funds provided pursuant to paragraph B.1. of this Article.

2. No credit shall be afforded for interest charges, or any adjustment to reflect changes in price levels between the time the in-kind contributions are completed and credit is afforded; for the value of in-kind contributions obtained at no cost to the Non-Federal Sponsor; for any items provided or performed prior to completion of the PMP; or for costs that exceed the Government's estimate of the cost for such item if it had been performed by the Government.

D. To the extent practicable and in accordance with Federal laws, regulations, and policies, the Government shall afford the Non-Federal Sponsor the opportunity to review and comment on solicitations for contracts prior to the Government's issuance of such solicitations; proposed contract modifications, including change orders; and contract claims prior to resolution thereof. Ultimately, the contents of solicitations, award of contracts, execution of contract modifications, and resolution of contract claims shall be exclusively within the control of the Government.

E. The Non-Federal Sponsor shall not use Federal program funds to meet any of its obligations under this Agreement unless the Federal agency providing the funds verifies in writing that the funds are authorized to be used for the Study. Federal program funds are those funds provided by a Federal agency, plus any non-Federal contribution required as a matching share therefor.

F. Except as provided in paragraph C. of this Article, the Non-Federal Sponsor shall not be entitled to any credit or reimbursement for costs it incurs in performing its responsibilities under this Agreement.

G. If Independent External Peer Review (IEPR) is required for the Study, the Government shall conduct such review in accordance with Federal laws, regulations, and policies. The Government's costs for an IEPR panel shall not be included in shared study costs or the maximum Federal study cost.

H. In addition to the ongoing, regular discussions of the parties in the delivery of the Study, the Government and the Non-Federal Sponsor may establish a Study Coordination Team to discuss significant issues or actions. The Government's costs for participation on the Study Coordination Team shall not be included in shared study costs, but shall be included in calculating the maximum Federal study cost. The Non-Federal Sponsor's costs for participation on the Study Coordination Team shall not be included in shared study costs and shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

ARTICLE III - PAYMENT OF FUNDS

A. As of the effective date of this Agreement, shared study costs are projected to be \$3,000,000, with the Government's share of such costs projected to be \$1,500,000 and the Non-Federal Sponsor's share of such costs projected to be \$1,500,000. These amounts are estimates only that are subject to adjustment by the Government and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor.

B. The Government shall provide the Non-Federal Sponsor with monthly reports setting forth the estimated shared study costs and the Government's and Non-Federal Sponsor's estimated shares of such costs; costs incurred by the Government, using both Federal and Non-Federal Sponsor funds, to date; the amount of funds provided by the

Non-Federal Sponsor to date; the estimated amount of any creditable in-kind contributions; and the estimated remaining cost of the Study.

C. The Non-Federal Sponsor shall provide to the Government required funds by delivering a check payable to "FAO, USAED, Wilmington, K7" to the District Commander, or verifying to the satisfaction of the Government that the Non-Federal Sponsor has deposited such required funds in an escrow or other account acceptable to the Government, with interest accruing to the Non-Federal Sponsor, or by providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

D. The Government shall draw from the funds provided by the Non-Federal Sponsor to cover the non-Federal share of shared study costs as those costs are incurred. If the Government determines at any time that additional funds are needed from the Non-Federal Sponsor to cover the Non-Federal Sponsor's required share of shared study costs, the Government shall provide the Non-Federal Sponsor with written notice of the amount of additional funds required. Within 60 calendar days of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional funds.

E. Upon completion of the Study and resolution of all relevant claims and appeals, the Government shall conduct a final accounting and furnish the Non-Federal Sponsor with the written results of such final accounting. Should the final accounting determine that additional funds are required from the Non-Federal Sponsor, the Non-Federal Sponsor, within 60 calendar days of written notice from the Government, shall provide the Government with the full amount of such additional funds. Should the final accounting determine that the Non-Federal Sponsor has provided funds in excess of its required amount, the Government shall refund the excess amount, subject to the availability of funds. Such final accounting does not limit the Non-Federal Sponsor's responsibility to pay its share of shared study costs, including contract claims or any other liability that may become known after the final accounting.

ARTICLE IV - TERMINATION OR SUSPENSION

A. Upon 30 calendar days written notice to the other party, either party may elect at any time, without penalty, to suspend or terminate future performance of the Study. Furthermore, unless an extension is approved by the Assistant Secretary of the Army (Civil Works), the Study may be terminated if a Report of the Chief of Engineers, or, if applicable, a Report of the Director of Civil Works, is not signed for the Study within 3 years after the effective date of this Agreement.

B. In the event of termination, the parties shall conclude their activities relating to the Study. To provide for this eventuality, the Government may reserve a percentage of available funds as a contingency to pay the costs of termination, including any costs of resolution of contract claims, and resolution of contract modifications.

C. Any suspension or termination shall not relieve the parties of liability for any obligation incurred. Any delinquent payment owed by the Non-Federal Sponsor pursuant to this Agreement shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13 week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3 month period if the period of delinquency exceeds 3 months.

ARTICLE V - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to the parties. Each party shall pay an equal share of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

ARTICLE VI - MAINTENANCE OF RECORDS AND AUDIT

A. The parties shall develop procedures for the maintenance by the Non-Federal Sponsor of books, records, documents, or other evidence pertaining to costs and expenses for a minimum of three years after the final accounting. The Non-Federal Sponsor shall assure that such materials are reasonably available for examination, audit, or reproduction by the Government.

B. The Government may conduct, or arrange for the conduct of, audits of the Study. Government audits shall be conducted in accordance with applicable Government cost principles and regulations. The Government's costs of audits for the Study shall not be included in shared study costs, but shall be included in calculating the maximum Federal study cost.

C. To the extent permitted under applicable Federal laws and regulations, the Government shall allow the Non-Federal Sponsor to inspect books, records, documents, or other evidence pertaining to costs and expenses maintained by the Government, or at the request of the Non-Federal Sponsor, provide to the Non-Federal Sponsor or independent auditors any such information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The costs of non-Federal audits shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

ARTICLE VII - RELATIONSHIP OF PARTIES

In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other. Neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights a party may have to seek relief or redress against that contractor.

ARTICLE VIII - NOTICES

A. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or mailed by certified mail, with return receipt, as follows:

If to the Non-Federal Sponsor:

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

If to the Government:

Commander
U.S. Army Corps of Engineers
Wilmington District
69 Darlington Avenue
Wilmington, NC 28403

B. A party may change the recipient or address for such communications by giving written notice to the other party in the manner provided in this Article.

ARTICLE IX - CONFIDENTIALITY

To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

ARTICLE X - THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES

Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any benefits, or relieve any liability, of any kind whatsoever in any third person not a party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Commander.

DEPARTMENT OF THE ARMY

TOWN OF HOLDEN BEACH,
BRUNSWICK COUNTY, NORTH
CAROLINA

BY: _____
Benjamin A. Bennett
Colonel, U.S. Army
Wilmington District Commander

BY: _____
J. Alan Holden
Mayor

DATE: _____

DATE: _____

CERTIFICATE OF AUTHORITY

I, Katherine M. Madon, do hereby certify that I am the principal legal officer for the Town of Holden Beach, Brunswick County, North Carolina, that the Town of Holden Beach, Brunswick County, North Carolina is a legally constituted public body with full authority and legal capability to perform the terms of the Feasibility Cost Sharing Agreement between the Department of the Army and the Town of Holden Beach, Brunswick County, North Carolina in connection with the Brunswick County Beaches, Holden Beach Portion, General Reevaluation Report, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Feasibility Cost Sharing Agreement, as required by Section 221 of Public Law 91-611, as amended (42 U.S.C. 1962d-5b), and that the person who executed this Feasibility Cost Sharing Agreement on behalf of the Town of Holden Beach, Brunswick County, North Carolina acted within his statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this
_____ day of _____ 20____.

Katherine M. Madon
Attorney for the Town of Holden Beach, NC

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

J. Alan Holden
Mayor of the Town of Holden Beach,
Brunswick County, North Carolina

DATE: _____

CERTIFICATE OF LEGAL REVIEW

The Feasibility Cost Sharing Agreement between the Department of the Army and the Town of Holden Beach, Brunswick County, North Carolina for the Brunswick County Beaches, Holden Beach Portion, General Reevaluation Report, including all associated documents, has been fully reviewed by Office of Counsel, Wilmington District, and found to be legally sufficient.



Shelby Culver
Assistant District Counsel

Date: 7 April 2021

**NON-FEDERAL SPONSOR'S
SELF-CERTIFICATION OF FINANCIAL CAPABILITY
FOR AGREEMENTS**

I, David W. Hewett, do hereby certify that I am the Town Manager and Finance Director of the Town of Holden Beach, Brunswick County, North Carolina (the "Non-Federal Sponsor"); that I am aware of the financial obligations of the Non-Federal Sponsor for the Brunswick County Beaches, Holden Beach Portion, General Reevaluation Report; and that the Non-Federal Sponsor has the financial capability to satisfy the Non-Federal Sponsor's obligations under the Feasibility Cost Sharing Agreement between the Department of the Army and the Town of Holden Beach, Brunswick County, North Carolina for the Brunswick County Beaches, Holden Beach Portion, General Reevaluation Report.

IN WITNESS WHEREOF, I have made and executed this certification this _____ day of _____, _____.

BY: David W. Hewett

TITLE: Town Manager / Finance Director

DATE: _____

Holden Beach, North Carolina Feasibility Study
Federal / non-Federal Funds Allocation Table (\$000)

Year	Total Project Cost (TPC)	Percentage	Non-Fed Cash	Fed Cash
1	\$ 1,000	33.3%	\$ 500	\$ 500
2	\$ 1,600	53.3%	\$ 800	\$ 800
3	\$ 400	13.3%	\$ 200	\$ 200
Total	\$ 3,000	100.0%	\$ 1,500	\$ 1,500

Note:

Cost Share Percentages: Federal (50%) / non-Federal (50%)



8/13/20

Colonel Benjamin A. Bennett
Commander, Wilmington District
U.S. Army Corps of Engineers
69 Darlington Avenue
Wilmington, NC 28403

Dear Colonel Bennett:

The Town of Holden Beach (Town) is willing and able to participate as the Sponsor of a coastal storm damage reduction study with the U.S. Army Corps of Engineers (USACE) to investigate a possible plan of improvement that would protect our community from the forces of destructive storms and hurricanes. We are writing today to express our intent to work cooperatively with USACE to produce a new study for the Town of Holden Beach that would use current modeling and data to identify and evaluate a possible potential plan of protection that is in accordance with the authorization for the Brunswick County Beaches Project contained in the Flood Control Act of 1966.

The Town of Holden Beach understands that a study cannot be initiated unless it is selected as a new start study with associated allocation of Federal funds provided through the annual Congressional appropriations process. If selected for funding, the Town intends to sign a Feasibility Cost Sharing Agreement (FCSA) with USACE to allow the study to proceed. It is our understanding the FCSA targets completion of the study within 3 years at a total cost of no more than \$3 million, and that cost-sharing for the study is based on a 50 percent contribution by the Federal government and a 50 percent contribution by the Town, which will be provided in cash, or by a portion or all of the contribution provided through in-kind non-monetary services. We understand that after the FCSA is signed, a Project Management Plan will be developed and agreed upon by the Town and USACE. We also understand that the overall work effort would be managed and conducted by USACE.

The Town of Holden Beach recognizes that this letter constitutes an expression of intent to initiate a study partnership to address the specified water resources problems and is not a contractual obligation. We understand that work on the study cannot commence until funds are appropriated by the Congress and a FCSA that will set forth Federal and non-Federal responsibilities is executed. It is also understood that we or USACE may opt to discontinue these work efforts at any time after the FCSA is signed, but will commit to work as partners with USACE from the scoping phase, and subsequent decision points throughout the ongoing

evaluative process, on providing the necessary support to risk-informed decision making. If it is determined that additional time or funding is necessary to support decisions to be made in order to complete this study, the Town will work with USACE to determine the appropriate course of action.

We sincerely appreciate the helpful discussions we have had with Robert Keistler, Christine Brayman, and Jonathan Bingham at the Wilmington District regarding proceeding with this study. We are looking forward to working closely with USACE to produce a coastal storm damage reduction study for Holden Beach under the Brunswick County Beaches project authority. If you have any questions about this expression of intent, or require additional information, please contact me at 910-842-6488.

Sincerely,

A handwritten signature in black ink, appearing to read "D. W. Hewett", with a stylized flourish at the end.

David W. Hewett
Town Manager
Town of Holden Beach

**NON-FEDERAL SPONSOR'S
SELF-CERTIFICATION OF FINANCIAL CAPABILITY
FOR AGREEMENTS**

I, David W. Hewett, do hereby certify that I am the Town Manager and Finance Director of the Town of Holden Beach, Brunswick County, North Carolina (the "Non-Federal Sponsor"); that I am aware of the financial obligations of the Non-Federal Sponsor for the Brunswick County Beaches, Holden Beach Portion, General Reevaluation Report; and that the Non-Federal Sponsor has the financial capability to satisfy the Non-Federal Sponsor's obligations under the Feasibility Cost Sharing Agreement between the Department of the Army and the Town of Holden Beach, Brunswick County, North Carolina for the Brunswick County Beaches, Holden Beach Portion, General Reevaluation Report.

IN WITNESS WHEREOF, I have made and executed this certification this _____ day of _____, _____.

BY: David W. Hewett

TITLE: Town Manager / Finance Director

DATE: _____

TOWN OF HOLDEN BEACH

ORDINANCE NO. 21-09

AN ORDINANCE AMENDING ORDINANCE 20-10, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR 2020-2021 (AMENDMENT NO. 11)

Be it ordained by the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina, that Ordinance No. 20-10 appropriating funds for fiscal year 2020-2021 be amended as follows:

SECTION I:

The Town of Holden Beach Board of Commissioners hereby authorizes the transfer of \$500,000 from the Beach and Inlet Capital Reserve Fund to the Beach, Parks, Access, Recreation, & Tourism (BPART) Fund for the purpose of funding year one of a Coastal Storm Damage Reduction Study to be performed by the US Army Corps of Engineers.

SECTION II:

	<u>FUND</u>	<u>Account #</u>	<u>Description</u>	<u>Amount</u>	<u>Action</u>
REVENUE	BPART	50.0398.0300	Transfer from Beach Inlet CRF	500,000	Increase
			Total	<u>500,000</u>	
EXPENSE					
	BPART	50.0710.5008 (NEW)	USACE CSDR Study (NEW)	500,000	Increase
			Total	<u>500,000</u>	

This the 20th day of April, 2021.

ATTEST:

J. Alan Holden, Mayor

Heather Finnell, Town Clerk

Activity Log Event Summary (Totals)

HOLDEN BEACH POLICE DEPT.
(03/01/2021 - 03/31/2021)

Alarm Activation	13	Animal Control	6
Attempt to Locate-ATL	7	Business Check	137
Disabled Motorist	3	Disturbance/Fight	3
Domestic Disturbance	4	EMS/Medical Call	2
Fire Call	2	Incident Report	3
Keep Check	38	Lost/Found Property	3
Meet Complainant	18	Message Delivery	2
Missing Person	1	Motor Vehicle Crash	2
Open Door	3	Parking	11
Phone Call Request	17	Special Assignment	3
Suspicious Activity	7	Traffic Stop	16
Trespassers	2		

Total Number Of Events: 303

Heather Finnell

From: patricia kwiatkowski <pattykwi@gmail.com>
Sent: Thursday, April 8, 2021 11:16 AM
To: Heather Finnell
Subject: NC Gov. Cooper: Gov. Cooper Announces North Carolina Will Relax Some COVID-19 Restrictions

>

> As I read what is in place thru April 30 , the following seem potentially relevant for us when considering opening our BOC meetings to the number of individuals that can be allowed under the restrictions, taking into account our meeting room size and social distancing requirements.

And of course we will likely see changes by April 30, and restrictions will continue to be altered based on how the covid infection risk morphs.

>

> 3.6. Government Operations. Unless an exception applies, state government agencies headed by members of the Governor's Cabinet and the Governor's Office must have their on-site workers wear Face Coverings when they are indoors. In addition, unless an exception applies, these agencies must require Face Coverings for any outdoor work within six (6) feet of another person. State government agencies headed by members of the Governor's Cabinet and the Governor's Office must also follow the requirements for Retail Businesses established in this Executive Order unless necessary to complete that Office's mission. All other state and local government agencies are strongly encouraged to adopt similar policies.

>

> 3.8. Meeting Spaces, Conference Centers, and Reception Venues.

> a. This Subsection applies to "Meeting Spaces, Conference Centers, and Reception Venues," defined as private rooms or other private meeting spaces in a hotel, conference center, meeting hall, or reception venue.

> b. Face Coverings. All workers and Guests must wear Face Coverings when they are or may be within the facility. When outdoors, workers and Guests must wear Face Coverings when they are within six (6) feet of someone who does not reside in the same household.

> c. Must Be Seated. To limit the degree to which Guests at the facility may come into contact with one another and spread COVID-19, a facility covered by this Subsection is closed unless it is or becomes a seated establishment for Guests. Guests must be in seats except to enter, leave, use amenities, visit the restroom, and obtain food or drink.

> d. Capacity Restrictions. While this Executive Order is in effect, all open facilities covered by this Subsection must limit Guests in indoor and outdoor seating areas to Emergency Maximum Occupancy. Under this Executive Order, the Emergency Maximum Occupancy for a facility is the lowest number produced by applying the following tests:

> 1. Overall. The facility must limit Guests to fifty percent (50%) of the stated fire capacity for each indoor and outdoor space controlled by the facility. For rooms or spaces without a stated fire capacity, the limit on Guests is twelve (12) per one thousand (1000) square feet, rounded up.

> 2. Social Distancing Required. The facility must limit the number of Guests in the space so that groups can stay six (6) feet apart.

>

>

- > e. Hotels and other Large Facilities. For hotels or other facilities where private meeting spaces are a portion of a larger facility that is not restricted by this Section of this Executive Order, the limits stated above are measured only for the portion of the facility composed of private meeting spaces.
- > f. Additional Health and Safety Requirements. Facilities covered by this Subsection must follow the additional health and safety requirements in Appendix F of this Executive Order.
- >
- > APPENDIX F: Additional Health and Safety Requirements for Meeting
- > Spaces, Conference Centers, and Reception Venues
- 1. Mark six (6) feet of spacing in lines at point of sale and in other high-traffic areas for Guests.
- > 2. Provide alcohol-based hand sanitizer (with at least 60% alcohol) at the entrance and at other areas throughout the premises as needed. Promote frequent use of hand-washing and hand sanitizer for workers and Guests.
- > 3. Increase disinfection during peak times or high Guest density times, and disinfect all shared objects (e.g., payment terminals, tables, countertops/bars, receipt trays, condiment holders) between use.
- > 4. The facility must arrange the space so that Guests sitting at a counter or table are not within six (6) feet of any Guests sitting at another counter or table. Moreover, each group of Guests sitting at a counter should be separated from other groups by six (6) feet. Entertainers also must stay at least six (6) feet away from any Guest. People sitting at a table need not be members of the same household and do not need to stay six (6) feet apart. Moreover, this Executive Order does not require waitstaff to stay six (6) feet away from Guests.
- > 5. Follow all applicable NCDHHS guidelines.
- > 6. Follow the restrictions set out in Subsection 3.14 and Appendix I of this Executive Order for any food or beverage service.
- > 7. Follow the Core Signage, Screening and Sanitation Requirements as
- > defined in Section A to this Executive Order
- >
- > APPENDIX A: Core Signage, Screening, and Sanitation Requirements
- > The following are the "Core Signage, Screening, and Sanitation Requirements":
- > 1. Post the Emergency Maximum Occupancy in a noticeable place.
- > 2. Post signage reminding Guests and workers about social distancing (staying at least six (6) feet away from others) and requesting that people who have been symptomatic with fever and/or cough not enter.
- > 3. Immediately isolate and remove sick workers.
- > 4. Perform frequent and routine environmental cleaning and
- > disinfection of high-touch areas with an EPA-approved disinfectant
- > for SARS-CoV-2
- >
- >
- >
- > <https://governor.nc.gov/news/gov-cooper-announces-north-carolina-will-relax-some-covid-19-restrictions%E2%BB%BF>
- >
- >
- > Sent from my iPad



**TOWN OF HOLDEN BEACH
PARKING COMMITTEE
FRIDAY, MARCH 5, 2021 – 10:00 A.M.**

The Parking Committee of the Town of Holden Beach, North Carolina met on Friday, March 5, 2021 at 10:00 a.m. in the Town Hall Public Assembly. Present were Commissioner Brian Murdock; Town Manager David W. Hewett; Town Clerk Heather Finnell; Inspections Director Tim Evans; Development Services Officer Rhonda Wooten; Assistant Town Manager Christy Ferguson; Police Chief Jeremy Dixon, Lieutenant Frank Dilworth; and Public Works Director Chris Clemmons.

PUBLIC COMMENTS

Assistant Town Manager Ferguson read a public comment from Tom Myers.

PAID PARKING SOLUTIONS PRESENTATIONS

The committee listened to a presentation from Jim Varner and Emily Irons of Otto Connect. Mr. Varner answered questions from the committee. Mr. Varner said he could prepare estimates/pricing model for the committee. Inspections Director Evans said there are 219 – 226 permanent spaces. Some of those are in the DOT ROW and not on Town property. Commissioner Murdock wants to know what number of spaces makes it viable to utilize paid parking. Mr. Varner talked about required parking for receiving federal funds for beach nourishment.

The committee recessed from 11:05 a.m. – 11:13 a.m.

Tim Hoppenrath from Premium Parking presented information on his company. He answered questions after the presentation. Mr. Hoppenrath will send a proposal. He mentioned the possibility of his company contributing towards the purchase of land for parking.

REPORT ON US WILDLIFE BOAT RAMP

Chief Dixon said he spoke with a representative from Wildlife. They said the purpose of the ramp is for launching and recovery of water vessels. It has 15 spaces, one being handicap. Parking is on a first come-first serve basis.

Commissioner Murdock asked that the public provide their input.

ADJOURNMENT

The Committee adjourned at 12:44 p.m.

Recruit Member to Fill Woody Tyner's Position on Parking Committee

At the November Board of Commissioners' meeting the Board voted to form a parking committee that would be staffed by Commissioner Tyner, Commissioner Murdock and the appropriate town staff members.

As the result of Woody Tyner's resignation from his commissioner position, there is an open spot on the Parking Committee. The Board should discuss the possibility of appointing another member to the position.



Date: April 9, 2021

To: Commissioners and Mayor Holden

From: Heather Finnell, Town Clerk *HF*

Re: Seagull Drive Petition

At the March Board of Commissioners' meeting, the Board adopted a preliminary resolution (Attachment 1). The required public hearing on the resolution is scheduled for April 20th at 5:00 p.m. The public hearing was advertised and a copy of the resolution was sent to each property owner within the proposed project area (Attachment 2).

After the hearing, the Board may adopt a resolution directing the project to be undertaken. The proposed resolution is included for your review (Attachment 3). Since comments for the public hearing will be accepted through April 21st at 5:00 p.m., the Board should wait until a date/time after that to adopt the resolution. The Board can choose to recess the meeting or wait until the May meeting for adoption.

Attachments:

- 1 – Resolution 21-04, Preliminary Assessment Resolution to Improve the Existing Soil Roadway of Seagull Drive
- 2 - Certification of Mailout
- 3 – Resolution 21-06, Assessment Resolution to Improve the Existing Soil Roadway of Seagull Drive

**RESOLUTION 21-04
PRELIMINARY ASSESSMENT RESOLUTION TO IMPROVE THE EXISTING SOIL ROADWAY OF
SEAGULL DRIVE**

WHEREAS, Seagull Drive is a town maintained street within the corporate limits of the Town of Holden Beach; and

WHEREAS, Seagull Drive is currently not paved; and

WHEREAS, significant development of previously vacant lots has increased the need for street improvements to Seagull Drive; and

WHEREAS, certain owners of properties adjacent to the existing Seagull Drive right-of-way, filed with the Town Clerk a petition for improving said street by paving it; and

WHEREAS, the Town Clerk has certified to the Town of Holden Beach Board of Commissioners that said petition is sufficient in all respects, the same having been duly signed by a majority in number of the owners whose property represents a majority of all the linear feet of frontage of the lands abutting upon the street or portion of the street hereinabove described.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of the Town of Holden Beach, North Carolina:

1. That the above-mentioned petition is said to be sufficient in all respects.
2. That it is intended that the existing soil roadway of Seagull Drive be improved by paving it, under and by virtue of Chapter 160A, Article 10, of the General Statutes of North Carolina and the procedure therein established.
3. That fifty percent (50%) of the total cost of said improvement be hereafter assessed upon the properties receiving the improvement, using the frontage basis assessment in accordance with Chapter 160A, Section 218.
4. That the assessments herein provided for shall be payable in cash or if any property owner shall so elect and give notice of that fact to the Board of Commissioners in accordance with Chapter 160A, Sections 232 and 233, of the General Statutes of North Carolina, he shall have the option and privilege of paying the assessment in one annual installment, said installment to bear interest at the rate of 8% per annum after thirty (30) days following publication of the notice that the assessment roll has been confirmed.
5. That the public hearing on all matters covered by this resolution shall be held on the 20th day of April 2021 at 5:00 p.m. in the Town of Holden Beach Public Assembly. Due to restrictions in place for COVID-19, in person public attendance is prohibited. The meeting will be livestreamed on the Town's Facebook page. Visit <https://www.facebook.com/holdenbeachtownhall/> to listen to the livestream. Comments for the public hearing can be submitted to heather@hbtownhall.com or

deposited in the Town's drop box at Town Hall prior to 3:00 p.m. on April 20, 2021. Comments for the public hearing will be accepted until April 21, 2021 at 5:00 p.m. If you would like the comments to be heard at the public hearing, they must be submitted by April 20, 2021 at 3:00 p.m.

This the 16th day of March, 2021.

ATTEST:

Heather Finnell
Heather Finnell, Town Clerk



J. Alan Holden
J. Alan Holden, Mayor

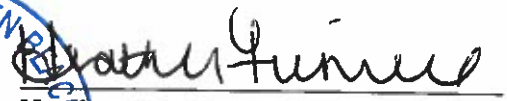
Attachment 2

**TO THE HONORABLE MAYOR HOLDEN AND BOARD OF COMMISSIONERS OF
THE TOWN OF HOLDEN BEACH:**

I, Heather Finnell, Town Clerk of the Town of Holden Beach, North Carolina, do hereby certify that copies of the preliminary assessment resolution for the improvement of Seagull Drive were mailed by first class mail on the 17th day of April, 2021, to the owners of property on Seagull Drive as shown on the tax records.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Holden Beach, North Carolina, this the 17th day of April, 2021.




Heather Finnell, Town Clerk

RESOLUTION NO. 21-06
ASSESSMENT RESOLUTION TO IMPROVE THE EXISTING SOIL ROADWAY OF SEAGULL DRIVE

WHEREAS, the Board of Commissioners of the Town of Holden Beach, North Carolina adopted a preliminary assessment resolution for the improvement of Seagull Drive on March 16, 2021; and

WHEREAS, a public hearing on the matter was duly advertised and held on April 20, 2021.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Holden Beach, North Carolina:

1. That the existing soil roadway of Seagull Drive be improved by paving it, under and by virtue of Chapter 160A, Article 10 of the General Statutes of North Carolina and the procedure therein established and that said paving be done by contract after due notice and advertisement for bids as outlined in N.C.G.S. Chapter 143;
2. That fifty percent (50%) of the total cost of said improvement be hereafter assessed upon the properties receiving the improvements, using the frontage basis assessment; and
3. That the assessment herein provided for shall be payable in cash or if any property owner shall so elect and give notice of the fact to the Board of Commissioners in accordance with Chapter 160A, Sections 232 and 233, of the General Statutes of North Carolina, he shall have the option and privilege of paying the assessment in one annual installment to bear interest at the rate of 8% per annum after thirty days following publication of the notice that the assessment roll has been confirmed.

This the _____ day of _____, 2021.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk

**TOWN OF HOLDEN BEACH
ORDINANCE 21-04**

**AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES,
CHAPTER 50: SOLID WASTE**

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, Chapter 50: Solid Waste be amended as follows:

Section One: Amend Chapter 50: Solid Waste to read as follows (changes in red):

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.

(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.

(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 either next to non-elevated, underneath elevated houses or alongside of the house except prior to collection days when they are to be placed at street side. Through a town contract for island wide rollback, ~~empty all~~ trash and recycling containers will be rolled back to the street side of the house, under the house or to a corral if available. ~~Full containers will stay curbside until emptied by the next pickup.~~

(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 homes 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.~~

(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. Any person who violates any provision of the chapter shall be subject to a \$50 per day civil fine in accordance with §10.99(B) of this code of ordinances.

('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)

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.

ATTEST:

J. Alan Holden, Mayor

Heather Finnell, Town Clerk



Date: April 12, 2021

To: Mayor Holden and Board of Commissioners
Town Manager-IN TURN *DH*

From: Christy Ferguson, Assistant Town Manager *CF*

Re: Capital Grants Project Budget-Florence, Michael, and Dorian

The size and scope of FEMA projects: Florence, Michael, and Dorian, necessitate the establishment of a separate capital grants project budget. The projects are currently housed in the BPART fund. This budget amendment will move the expenses and revenue associated with these storms to a special capital grants project budget where it will remain open across budget years until project completion and closeout. The auditor was contacted about this process and supports town staff's opinion that this is the more ideal budget set-up for this program.

Recommend approval of the attached budget amendment, Ordinance 21-05, An Ordinance Amending Ordinance 20-10, The Revenues and Appropriations Ordinance for Fiscal Year 2020 – 2021 (Amendment No. 7).

Attachment:

Budget Amendment

TOWN OF HOLDEN BEACH

ORDINANCE NO. 21-05

AN ORDINANCE AMENDING ORDINANCE 20-10, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR 2020-2021 (AMENDMENT NO. 7)

Be it ordained by the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina, that Ordinance No. 20-10 appropriating funds for fiscal year 2020-2021 be amended as follows:

SECTION I

<u>REVENUE</u>	<u>DESCRIPTION</u>	<u>ACCOUNT NO.</u>	<u>AMOUNT</u>	<u>ACTION</u>
	FEMA Florence PW 674(0)	50.0364.0100	15,861,220	DECREASE
	FEMA Michael PW 11(0)	50.0364.0200	8,547,506	DECREASE
	FEMA Florence PW 2547(0) Cat Z	50.0364.0300	798,855	DECREASE
	FEMA Michael PW 158(0) Cat-Z	50.0364.0400	427,376	DECREASE
<u>TOTAL</u>			<u>25,634,957</u>	

<u>EXPENSE</u>				
	FEMA Florence PW 674(0)	50.0810.0119	15,861,220	DECREASE
	FEMA Michael PW 11(0)	50.0810.0120	8,547,506	DECREASE
	FEMA Florence PW 2547(0) Cat Z	50.0810.0121	798,855	DECREASE
	FEMA Michael PW 158(0) Cat-Z	50.0810.0122	427,376	DECREASE
<u>TOTAL</u>			<u>25,634,957</u>	

SECTION II

<u>REVENUE</u>				
	FEMA Florence PW 674(0)	70.0320.0000	15,861,220	INCREASE
	FEMA Michael PW 11(0)	70.0321.0000	8,547,506	INCREASE
	FEMA Florence PW 2547(0) Cat Z	70.0320.0100	798,855	INCREASE
	FEMA Michael PW 158(0) Cat-Z	70.0321.0100	427,376	INCREASE
	FEMA Dorian PW 00221(0)	70.0322.0000	15,496,802	INCREASE
	FEMA Dorian PW 494 CAT Z	70.0322.0100	775,835	INCREASE
<u>TOTAL</u>			<u>41,907,594</u>	

<u>EXPENSE</u>				
	FEMA Florence PW 674(0)	70.0320.0000	15,861,220	INCREASE
	FEMA Michael PW 11(0)	70.0321.0000	8,547,506	INCREASE
	FEMA Florence PW 2547(0) Cat Z	70.0320.0100	798,855	INCREASE
	FEMA Michael PW 158(0) Cat-Z	70.0321.0100	427,376	INCREASE
	FEMA Dorian PW 00221(0)	70.0322.0000	15,496,802	INCREASE
	FEMA Dorian PW 494 CAT Z	70.0322.0100	775,835	INCREASE
<u>TOTAL</u>			<u>41,907,594</u>	



Date: April 12, 2021

To: Mayor Holden and Board of Commissioners
Town Manager-IN TURN *DM*

From: Christy Ferguson, Assistant Town Manager *CF*

Re: FEMA Isaias Budget Amendment

The attached budget amendment recognizes previously received Cat F and Cat B Isaias reimbursements on a small project basis from FEMA. The reimbursements (totaling \$33,167) cover \$17,392 for force account labor, materials and equipment as related to reconstitution of the sewer valve pits and lift stations following the storm. It also includes \$15,775 in reimbursements for overtime and emergency protective measures including supplies. The revenues were temporarily housed in miscellaneous accounts for related funds. This amendment moves them to newly created line items in the corresponding fund.

Recommend approval of the attached budget amendment, Ordinance 21-06, An Ordinance Amending Ordinance 20-10, The Revenues and Appropriations Ordinance for Fiscal Year 2020 – 2021 (Amendment No. 8).

Attachment

Budget Amendment

TOWN OF HOLDEN BEACH

ORDINANCE NO. 21-06

**AN ORDINANCE AMENDING ORDINANCE 20-10, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR
2020-2021 (AMENDMENT NO. 8)**

Be it ordained by the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina, that Ordinance No. 20-10 appropriating funds for fiscal year 2020-2021 be amended as follows:

<u>REVENUE</u>	<u>DESCRIPTION</u>	<u>ACCOUNT NO.</u>	<u>AMOUNT</u>	<u>ACTION</u>
	ISAIAS FEMA NON CAT G/Z REIMBURSMENTS	10.0385.0000	12,944	INCREASE
	ISAIAS FEMA NON CAT G/Z REIMBURSMENTS	30.0385.0000	18,597	INCREASE
	ISAIAS FEMA NON CAT G/Z REIMBURSMENTS	50.0385.0000	1,626	INCREASE
<u>TOTAL</u>			<u>33,167</u>	
<u>EXPENSE</u>				
	SALARIES	10.0420.0200	4,295	INCREASE
	SALARIES	10.0510.0200	7,525	INCREASE
	SALARIES	10.0570.0200	830	INCREASE
	OPERATIONAL CONTINGENCIES	10.0410.3301	294	INCREASE
	SALARIES	30.0810.0200	9,971	INCREASE
	DEPT SUPPLIES & MATERIALS	30.0810.3300	5,825	INCREASE
	O&M VACUUM STATIONS	30.0810.3301	2,365	INCREASE
	EOC OPS MX AND REPAIR	30.0810.9305	436	INCREASE
	SALARIES-RECREATION	50.0610.0200	1,626	INCREASE
<u>TOTAL</u>			<u>33,167</u>	

This is the 20th day of April, 2021.

ATTEST:

J. Alan Holden, Mayor

Heather Finnell, Town Clerk

Memo to: Board of Commissioners

1 April 2021

From: Town Manager

RE: Inspections Department Budget Amendment

The construction economy has continued its upward trajectory during the third quarter of this fiscal year. The sheer number of building related permits issued and the revenues associated thereto has exceeded the total Inspections annual forecasted revenues by 18% as of this date.

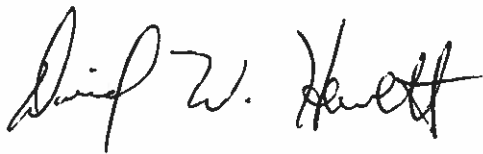
NC GS 159-33.1 was revised to require that finance officers of local governments and public authorities report revenues and expenditures of inspection fees collected under G.S. 160A-414 for municipalities. The statute restricts the expenditure of the allowed inspection fees to those expenditures incurred "for support of the administration and activities of the inspection department and for no other purpose". This information is now reported to the Local Government Commission in the AFIR (Accounting and Finance Information Report) who in turn provides it to the Department of Insurance for compliance review.

Any Inspections revenues exceeding Inspections departmental expenditures requires a specific explanation in the AFIR. Inspections related revenues exceeded Inspections department expenses for the year ending 30 June 2020 and the Holden Beach Fiscal Year 2020 AFIR submittals articulated such.

Budget Ordinance Amendment 21-07, An Ordinance Amending Ordinance 20-10, The Revenues and Appropriations Ordinance for Fiscal Year 2020 – 2021 (Amendment No. 9) "Inspections Department Appropriations" increases the Fiscal Year 2021 General Fund appropriations by \$40,689 to recognize actual revenues received to date and provides corresponding expenditures for a new Inspections department truck (\$39,689) and associated administrative homeowners recovery fee reimbursements (\$1000).

RECOMMENDATION:

BOC approve Budget Ordinance Amendment 21-07, An Ordinance Amending Ordinance 20-10, The Revenues and Appropriations Ordinance for Fiscal Year 2020 – 2021 (Amendment No. 9) "Inspections Department Appropriations".



TOWN OF HOLDEN BEACH

ORDINANCE NO. 21-07

**AN ORDINANCE AMENDING ORDINANCE 20-10, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR
2020-2021 (AMENDMENT NO. 9)**

Be it ordained by the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina, that Ordinance No. 20-10 appropriating funds for fiscal year 2020-2021 be amended as follows:

	<u>DESCRIPTION</u>	<u>ACCOUNT NO.</u>	<u>AMOUNT</u>	<u>ACTION</u>
<u>REVENUE</u>				
	HOMEOWNERS RECOVERY FUND	10.0357.0500	1,000	INCREASE
	BUILDING PERMITS	10.0356.0000	30,959	INCREASE
	CAMA PERMITS	10.0356.0000	228	INCREASE
	ZONING FEES	10.0357.0000	66	INCREASE
	ELECTRICAL INSPECTION	10.0357.0100	4,868	INCREASE
	PLUMBING INSPECTION	10.0357.0200	3,568	INCREASE
<u>TOTAL</u>			<u>40,689</u>	
<u>EXPENSE</u>				
	HOMEOWNERS RECOVERY FUND	10.0540.6900	1,000	INCREASE
	CAPITAL OUTLAY - VEHICLE	10.0540.7400	39689	INCREASE
<u>TOTAL</u>			<u>40,689</u>	

This the 20th day of April, 2021

ATTEST:

J. Alan Holden, Mayor

Heather Finnell, Town Clerk



Date: April 13, 2021
To: Commissioners and Mayor Holden
From: David W. Hewett, Town Manager
Re: Ordinance 21-08 (Recycling)

The attached amendment is needed to adjust the Blue Can Home Recycling line in order to be in accordance with GASB 159-8. The collected revenues and correlated expenses for the blue can home recycling services have exceeded the previously budgeted amount due in part to the higher-than-expected number of new homes being built. The adjustment brings the line total to a the newly projected year end amount based off the Town's fee schedule.

Staff recommends Board approval of Ordinance 21-09, An Ordinance Amending Ordinance 20-10, The Revenues and Appropriations Ordinance for Fiscal Year 2020 – 2021 (Amendment No. 10)

Attachments:

1 – Ordinance 21-08, An Ordinance Amending Ordinance 20-10, The Revenues and Appropriations Ordinance for Fiscal Year 2020 – 2021 (Amendment No. 10)

TOWN OF HOLDEN BEACH

ORDINANCE NO. 21-08

**AN ORDINANCE AMENDING ORDINANCE 20-10, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR
2020-2021 (AMENDMENT NO. 10)**

Be it ordained by the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina, that Ordinance No. 20-10 appropriating funds for fiscal year 2020-2021 be amended as follows:

	<u>DESCRIPTION</u>	<u>ACCOUNT NO.</u>	<u>AMOUNT</u>	<u>ACTION</u>
<u>REVENUE</u>				
	BLUE CAN HOME RECYCLING	10.0335.0500	11,422	INCREASE
<u>TOTAL</u>			<u>11,422</u>	
<u>EXPENSE</u>				
	BLUE CAN HOME RECYCLING	10.0580.4501	10,687	INCREASE
	AVAILABLE FOR APPROPRIATION	10.0410.9200	735	INCREASE
<u>TOTAL</u>			<u>11,422</u>	

This the 20th day of April, 2021.

ATTEST:

J. Alan Holden, Mayor

Heather Finnell, Town Clerk

Resolution 21-07: A Resolution for Brunswick County to Mitigate Proposed Water Rate Increases

LET IT BE KNOWN THAT:

WHEREAS, the Town of Holden Beach, NC is a barrier island community located in Brunswick County; and

WHEREAS, the Town of Holden Beach (the Town) provides water services to its property owners, which includes operation and maintenance of on-island storage, distribution and metering systems, as well as customer services; and

WHEREAS, the Town of Holden Beach purchases its potable water from Brunswick County at a wholesale rate; and

WHEREAS, Brunswick County (the County) obtains water from the Cape Fear River and the Castle Hayne Aquifer, with water from the Cape Fear treated at the Northwest Water Treatment Plant; and

WHEREAS, the County is expanding its potable water capacity and constructing advanced treatment capability at the Northwest Treatment Plant to remove industrial pollutants known as PFAS, which are discharged into the Cape Fear upstream of the treatment facility, construction having started in June 2020; and

WHEREAS, the County is predicting completion of the expansion portion of the project in Spring 2022 with the improved treatment anticipated to come on-line in Summer/Fall or 2023; and

WHEREAS, the decisions taken to move on these two significant Capital Projects was predicated on the ability to bond both systems with a federal program that allowed "capitalization of interest for an extended period" (7years rather than 2 years) and delaying the debt service on 49% of the project cost; and

WHEREAS, the County became aware they could not take advantage of the WIFA program capitalization period and instead issued revenue bonds for all capital projects in two different series, thereby necessitating full debt service for the two projects beginning in fiscal year 2023; and

WHEREAS, due to the cost of the combined projects, when compared to fiscal year 2020, debt service for the water system in fiscal year 2023 is anticipated to increase by \$9.7million (\$8.3 million attributed to the Northwest Plant projects) and increased O&M expenses of \$2.6 million while water revenue will drop by an estimated \$3 million and possibly more due to loss of some long-term wholesale and industrial customers by 2022; and

WHEREAS, the Town of Holden Beach receives some of its potable water from the Northwest Treatment Plant.

FURTHERMORE, LET IT BE KNOWN THAT:

WHEREAS, the County has recommended to change its cost of services methodology from annual practice of PPI to the AWWA-M-1 Manual cash needs to "more equitably allocate" costs to the different customer classes; and

WHEREAS, the cost of water purchased from Brunswick County by the Town in fiscal year 2021 is \$2.89/1000 gallons; and

WHEREAS, the proposed wholesale cost of water for the Town will rise to \$5.25/1000 gallons under the proposed change in methodology beginning January 1, 2022, the proposed increase having been communicated to the Town in January of 2021; and

WHEREAS, the proposed rate increase of 81.7% translates to approximately \$400,000 in additional costs to the Town, all of which will have to be absorbed by the Holden Beach property owners; and

WHEREAS, the impact of the proposed rate increase has undergone a preliminary examination by the Town; and

WHEREAS, while all property owners will be financially impacted by the proposed rate increase, the impact becomes greater as water volume use increases; and

WHEREAS, the Town of Holden Beach relies on attracting and retaining owners willing to invest in short term rental properties and commercial efforts which accommodate vacationers, tourism being the main economic driver for the Town; and

WHEREAS, water use at rental properties and businesses is particularly subject to high volume use for many months each year; and

WHEREAS, other island municipalities in Brunswick County are similarly circumstanced; and

WHEREAS, the proposed Brunswick County action will negatively impact residents and investors throughout the County due to both the immediacy and magnitude of the proposed rate increases.

NOW THEREFORE BE IT RESOLVED that the Board of Commissioners of the Town of Holden Beach requests the County Commissioners mitigate the dramatic impact on all rate payers of Brunswick County, as was originally envisioned by the County by seeking means to delay approximately 50% of the debt service for an additional 5 years.

BE IT FURTHER RESOLVED that in particular, the County should apply some portion of the \$28 million that it will receive under the recently passed **American Recovery Act** that permits using such funds for "...water, sewer, and broadband infrastructure projects", money that remains available for use through December 2024, and

BE IT ALSO RESOLVED that before any decision is taken by Brunswick County on the proposed water rate increases, meetings between County and municipal leaders and staff and parties representing county residents should be held to attempt to arrive at viable solutions to help phase in any proposed rate increase and ensure fairness across all customers vs residents receiving water directly or indirectly from Brunswick County.

This the 20th day of April, 2021.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk



Date: April 9, 2021

To: Commissioners and Mayor Holden

From: Heather Finnell, Town Clerk HF

Re: Draft System Development Fees Report Public Hearing

The draft System Development Fees Report has been published for comments for a period of 45 days as required by law. Input was solicited via the Town's Electronic Newsletter on February 23rd and March 23rd. Prior to considering the adoption the report, the Board must hold a public hearing.

Staff suggests the Board schedule a public hearing on May 18th at 5:00 p.m. (next Regular Board of Commissioners' meeting). Mihaela Coopersmith from Raftelis is available to attend the hearing if it is schedule for May 18th.

Heather Finnell

From: Alan Holden <holden@alanholdenvacations.com>
Sent: Tuesday, April 13, 2021 11:39 AM
To: Heather Finnell
Subject: Fwd: zoning bill

Good morning!

Alan has asked me to forward this email to you...he is asking for you to please give to David and the Commissioners.

Thanks!
Stacy

J. Alan Holden

Mayor of Holden Beach

REALTOR® Emeritus, ABR, CLHMS, CRB, CRS, e-PRO, GRI, RRS, SFR, SRS, NCAR HALL OF FAME, RE/MAX HALL OF FAME, RE/MAX Lifetime Achievement, BIC, OWNER - RE/MAX at the Beach, Alan Holden Vacations, Sea Castles Inc.

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Important information for buyers and sellers:
<http://www.ncrec.state.nc.us/publications-bulletins/WorkingWith.html>

From: Walt Eccard <wdeccard@gmail.com>
Sent: 4/12/21 1:54 PM
To: Mayor Allen <mayorallen@townofbelville.com>, Eulis Willis <mayor@townofnavassa.org>, Alan Holden <holden@holden-beach.com>, Ella Marston <townhall.bolivia@atmc.net>, Joyce Dunn <tozbeach@hotmail.com>, Debbie Smith <debbie@sloanerealty.com>, James Knox <jamesknox31@gmail.com>, Fishing Family <donnalong2020mayor@gmail.com>, Joe Hatem <joseph_hatem@southportnc.org>, Andy Sayre <jsayre@villagebhi.org>, Jean Toner <jtoner@stjames.town>, "Mayor Deborah G. Ahlers - Caswell Beach (BC) - Delegate" <mayorahlers@caswellbeach.org>, Craig Caster <mayorcaster@cityofbsl.org>, David Shannon Phillips <shannonphillips2019@gmail.com>, Glenn Marshall <townofsandycreek1988@outlook.com>, BILLY KIRBY <kekra@atmc.net>, Ken Thomas <MayorKenThomas@ci.oak-island.nc.us>, Brenda Bozeman <bbozeman@townofleland.com>
Subject: zoning bill

All,

It has come to my attention that some of you did not receive the explanation of the impact of the zoning bill. Set forth below is the League prepared summary of this bill

SB 349/HB 401 Increase Housing Opportunities Edition 1 Explainer When taken together, all the provisions that are explained below severely reduce or eliminate the tradition of community-wide decisions regarding development. In SB 349, elected local governing boards see their decision-making authority hamstrung. And community members face new, large hurdles to use legal tools that currently give them a voice. So, by sidelining community members and their elected boards, SB 349 would allow development to proceed with little regard for a community's preferences.

How does this bill eliminate local zoning authority? . Section 1.1 preempts local zoning authority by putting in place a statewide zoning scheme that would allow duplexes, triplexes, quadplexes, and townhomes in every zone that also has single family zoning.

Section 1.3 mandates that every single-family zone in the state also accommodate an accessory dwelling unit on each lot, subject to the local government's setback rules. This section also preempts a local government's ability to set parking standards for these additional homes

. . Section 2.2 locks in place all zoning codes, and it only allows future changes that would increase the density of development or allow a more-intense land use. An exception for public health, safety, or welfare is likely to happen only rarely. Proposed 160D-702(d). . Section 2.2 also appears to eliminate all zoning except for industrial zoning and adult establishments. Proposed 160D-702(e) and (f).

. Section 2.3 severely restricts conditional zoning, thereby taking away a tool that gives developers and local governments flexibility to tailor development. What other devices are in this bill that hamper a local governing board's ability to make development decisions that benefit the community at large?

. Section 2.2 appears to prevent a local government from enforcing any prior-enacted zoning changes that shifted the uses in that zone from higher-intensity to lower-intensity. Therefore, this provision invalidates countless past zoning decisions. Proposed 160D-702(d).

. Section 2.4 gives automatic attorney's fees to successful legal challengers, paid by local taxpayers. However, the bill does not offer a reciprocal automatic attorney's fees award if the local government prevails in any lawsuit. The threat of having to automatically pay attorney's fees will result in overly cautious decision-making by local governing boards who wish to avoid lawsuits.

. Section 2.5 disallows a governing board from adopting language into its zoning code that would clarify conflicts within the code, if-as it resolved the conflict-the governing board wanted to choose a more restrictive rule. Proposed 160D-706(c). April 2, 2021 In what ways does this bill obstruct the ability of community members and neighbors to have a say in how nearby development should occur?

. Section 2.6 places hurdles on community members and neighbors who want to intervene in legal disputes involving development, thereby making it difficult for them to participate and protect their property interests. Examples of these hurdles include: o Shortening the amount of time in which they may ask a court to grant them intervenor status. Proposed 160D-1402(g). o Eliminating their ability to appeal an unwanted local government development decision, if the developer starts work before they can appeal that decision to the courts. Proposed 160D-1402(l1). o Requiring them to post a bond. Proposed 160D-1402(o). How would this bill affect mixed-used developments that are becoming increasingly popular in downtowns and urban areas?

. Section 2.3 severely restricts conditional zoning, and for many mixed-use developments, this provision would curb flexibility for developers and harm their ability to address the concerns of nearby residents and property owners.

Would this bill ensure that housing that is built would be affordable? . No. There is no language in the bill that would require any housing to be affordable to people with lower incomes

Walt