



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

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

**Holden Beach Town Hall
Public Assembly**



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

1. Invocation
2. Call to Order/ Welcome
3. Pledge of Allegiance
4. Agenda Approval
5. Approval of Minutes
 - a. Minutes of the Public Hearing/Regular Meeting of February 16, 2021 (Pages 1 – 12)
 - b. Minutes of the Special Meeting of February 23, 2021 (Page 13)
6. Public Comments on Agenda/General Items
7. Discussion and Possible Award of Contract on Roadway Work – Shane Lippard, Right Angle Engineering (Town Manager Hewett) (Page 14)
8. Discussion and Possible Action on Request by the Majority of Property Owners of Seagull Drive for Improvement of Seagull Drive – Town Clerk Finnell (Pages 15 – 18)
 - a. Scheduling of a Date to Hold a Public Hearing
 - b. Resolution 21-04, Preliminary Assessment Resolution to Improve the Existing Soil Roadway of Seagull Drive
9. Discussion and Possible Action on Bike Lanes on Ocean Boulevard - Town Manager Hewett (Page 19 – 21)
10. Report and Possible Action on Speed Limit on Ocean Boulevard– Commissioner Sullivan (Page 22)
11. Police Report – Chief Dixon (Page 23)
12. Seasonal Law Enforcement Committee Report to the Board of Commissioners – Commissioner Sullivan (Pages 24 – 32)

13. Discussion and Possible Action on Ordinance 21-02 (Formerly Ordinance 20-18), An Ordinance Amending the Holden Beach Code of Ordinances, Section 157.006: Definitions (Height Measuring Point) – Inspections Director Evans (Pages 33 – 35)
14. Discussion and Possible Action on Ordinance 21-05, An Ordinance Amending the Holden Beach Code of Ordinances, Chapter 50: Solid Waste – Commissioners Sullivan and Kwiatkowski (Pages 36 – 41)
15. Discussion and Action on Proceeding with Hiring a Town Attorney – Commissioner Sullivan (Pages 42 – 54)
16. 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 (Pages 55 – 56)
17. Town Manager's Report
18. Mayor's Comments
19. Board of Commissioners' Comments
20. Executive Session Pursuant to North Carolina General Statute 143-318.11(a)(6), To Discuss Qualifications, Competence, Performance of a Public Employee (Commissioner Kwiatkowski), 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)
21. 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 March 16, 2021.**



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

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Public Hearing/Regular Meeting on Tuesday, February 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 Woody Tyner, Brian Murdock, Mike Sullivan and Pat Kwiatkowski; Town Manager David W. Hewett; Town Clerk Heather Finnell; Assistant Town Manager Christy Ferguson; Inspections Director Tim Evans; Public Works Director Chris Clemmons; Police Chief Jeremy Dixon; and Attorney Noel Fox.

PUBLIC HEARING: ORDINANCE 21-02, (FORMERLY ORDINANCE 20-18), AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, SECTION 157.006: DEFINITIONS (HEIGHT MEASURING POINT)

Inspections Director Evans provided background on the ordinance. No public comments were received.

Motion by Mayor Pro Tem Brown to close the public hearing at 5:04 p.m.; second by Commissioner Murdock; approved by unanimous vote.

REGULAR MEETING:

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

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

Commissioner Tyner said he and Commissioner Murdock would like to delete item 22, Discussion and Possible Action on Parking Recommendations from the agenda. Mayor Pro Tem Brown would like to not take any action on item 8, Discussion and Possible Action on System Development Fees Report. He would like to get more input. Town Manager Hewett explained we have a guest speaker who will present tonight. She will lay out the entire process. There is no action for the Board to consider tonight, other than receiving the report as an introduction to the process.

Motion by Commissioner Sullivan to approve the agenda, withdrawing #22; second by Commissioner Murdock; approved by unanimous vote.

APPROVAL OF MINUTES

Motion by Commissioner Tyner to approve the minutes from January 19th as presented; second by Mayor Pro Tem Brown; approved by unanimous vote.

PUBLIC COMMENTS

Town Clerk Finnell explained there are over 200 comments. All of the comments, except three pertain to parking, which was removed from the agenda. All of the comments have been provided to the Board and are posted on the website. The Board agreed to not read the comments regarding parking. Assistant Town Manager Ferguson read comments from Elaine Jordan, Tom Myers and Tracey Thomas (hereby incorporated into the minutes).

REPORT ON BIKE LANE POTENTIAL AND ASSOCIATED OCEAN BOULEVARD STATUS – CAITLIN MARKS & CHAD KIMES, NC DEPARTMENT OF TRANSPORTATION

Mr. Kimes explained the Department of Transportation's financial status is looking good. He went over the resurfacing area map which shows what they plan on paving over the next year. The contract for Ocean Boulevard will be let in December 2021.

Bike lanes are getting ready to get started in Ocean Isle Beach. If you request bike lanes, DOT doesn't pay to widen the lanes. They look to the community to pay that. He provided estimates for the east and west side. The Town would do the widening and drainage and the DOT pays for the resurfacing of entire thing. For the east side it would be \$403,000 and for the west side an additional \$1.2 million would be needed. Mr. Kimes said if the Town needs time to look for funding, they can adjust the let date. The goal is to put five feet on each side. It could shift based on existing utilities. He believes Sunset paid 100% of their bike lane project, Ocean Isle received additional funding from GSATS.

Mayor Pro Tem Brown asked if anything is going to be done where the heavy water is. Mr. Kimes said they could look at an infiltration system.

Mr. Kimes said they would like feedback in the next 30 – 60 days. Town Manager Hewett asked when the funding for a bike path would be required. Mr. Kimes replied the funds need to be ready when the contract is signed. Within the 60 days, he needs feedback on if the Town is going to proceed with the bike lanes. It wouldn't delay the project if the Town could come up with the money. The more time they have, the better. The resurfacing project will stay on the schedule unless the Board and DOT come to an agreement on the bike paths.

DISCUSSION AND POSSIBLE ACTION ON SYSTEM DEVELOPMENT FEES REPORT – MIHAELA COOPERSMITH, RAFTELIS

Town Manager Hewett said Mihaela Coopersmith is going to introduce the Board and public to the draft System Development Fees Report. This is the introduction of the draft report so we can begin the education process on how the calculation works. Ms. Coopersmith said all that is being asked of the Board today is that they hear how they calculated the fees and that that they allow the Town to publish the report for the required 45-day comment period. At the end of the 45 days the Town and Raftelis

will review any comments, take them into consideration and make any needed revisions. At that point fees will be presented to the Board for adoption.

System development fees (SDF) are one-time charges assessed against new development as a way to pay for facilities needed to support growth or to recoup costs for existing facilities. She provided background on why the study is being done and reviewed the process. The law allows for the fees to be calculated under three methodologies, the buy-in approach, the incremental/marginal cost approach and the combined approach. To calculate the fees, they first need to determine the methodology to be used for each system. Then they have to identify the cost of the facilities. Those form the system value. They consider/make any adjustments as necessary. Those are credits. They then derive a system development fee per unit and then scale that up based on units of demand. Ms. Coopersmith explained they are using the combined method for the water system and the buy-in for the sewer system.

Ms. Coopersmith explained how they calculated the total cost of the facilities. For the water system, they calculated the total replacement cost, new less depreciation of \$4.3 million. For the sewer system they calculated a total replacement cost, new less depreciation of \$31.5 million. Next, they look at fee adjustments or credit. On the water system they are adding the \$1.7 million water tower project. That calculates a total system value of \$6 million. In order to account for the fact that new users will be paying for some of the debt service for the water tank, they calculated a deduction of \$1.3 million on the system value. That results in a system value of \$4.7 million for the water system. For the sewer side they took the net plant value of \$31 million and deducted the outstanding debt principal of \$7.4 million. That leaves a net system value of \$24 million. They calculated the cost per gallon per day at \$7.92 for the water system. The cost per gallon per day for the wastewater system was calculated at \$24.10. The Town currently charges SDF per bedroom. The Town sends water for treatment at the county plant. The Town owns 1MGD capacity in the plant. Ms. Coopersmith said they took the county's ERU calculations and applied the same ones to the Town in order to scale up the fees. She explained ERU (equivalent residential unit).

The total calculated SDF per bedroom is \$960 for water and \$2,240 per bedroom for wastewater. The combined fees for one bedroom would be \$2,800, it would scale up to \$11,200 for four bedrooms. She explained how it would be scaled for commercial customers. It would be assessed on an individual basis.

Mayor Holden inquired about calculating fees for residential areas versus more commercial areas. Ms. Coopersmith explained it depends. Most of the time it is looked at based upon what the commercial company generates. Mayor Holden asked if our homeowner with two bedrooms would pay the same as a store per gallon. Ms. Coopersmith answered they would probably pay less because the store would be a three-bedroom equivalent as the minimum. It depends on the size of the store. You would need to talk to the engineers that assess the commercial customer. It is not something they would advise on. They would say to look at the demand and use the three-bedroom ERU as the starting point. Town Manager Hewett said he believes commercial users do their calculations based on the type of fixture or use. Inspections Director Evans agreed it is on both, it's based on the number of fixtures and its use. There is a formula.

Ms. Coopersmith explained they used two different methodologies because the water system had growth related capital improvement projects. There were not any on the sewer system to use, which is why the buy-in was used for the sewer system. Commissioner Sullivan asked if the methodology used to make the calculation increases the cost to the consumer or reduces it. Ms. Coopersmith replied it increases it, but not very much. She will verify the numbers and send them for review. They are set up to calculate under all methodologies. Commissioner Murdock said he is assuming this will only be charged on future construction on the island. Town Manager Hewett stated this is a calculation of a fee. This is just to introduce how the fees are calculated. There is no ordinance before the Board to consider now. Ms. Coopersmith added the maximum allowable under the law is calculated. You are allowed to adopt less than the maximum. Commissioner Sullivan asked if someone from the firm would be here for questions after this is published for comments. Ms. Coopersmith agreed she could be here.

DISCUSSION AND POSSIBLE ACTION ON BRUNSWICK COUNTY PROPOSED WHOLESALE WATER RATES

Town Manager Hewett explained we have been advised by the county manager that the county is considering the increase of its wholesale water rate to the towns in an amount that is quite surprising. He believes the proposed increase is \$2.35 per 1,000 gallons. He provided a handout where he took a county water customer and showed what the county's proposed rate will do for them and the retail rate on Holden Beach (hereby incorporated into the minutes). The justification on increasing those rates is that the county has several capital projects.

Mayor Holden asked if there is any methodology available where an average can be applied (yearly consumption versus monthly consumption). He asked who sets those rates. Town Manager Hewett confirmed that the Town sets the rates. He did not speak to irrigation rates. He wanted to let people know about this. He was not aware this was coming forward. He has spoken to several other managers and they did not see it coming. Mayor Holden asked why an island property owner is paying more than the guy in the county. Town Manager Hewett said it is a smaller system with a higher level of service. Commissioner Sullivan said if this would go through it would cost someone living on the island almost \$16 a month more if based on 6,742 gallons, which is 48% increase. Commissioner Kwiatkowski asked if it is correct that if you do the calculation for irrigation, the irrigation bill would go up more than the indoor water because you pay for every gallon. Town Manager Hewett responded that he didn't do that calculation so he does not know. Commissioner Kwiatkowski said at one point Town Manager Hewett had an estimate that there would be a \$350,000 increase in water costs for the island based on the change. She inquired if that is still accurate. Town Manager Hewett responded he would need to look at it again to reconfirm. He confirmed that the Town can't run in a deficit.

Town Manager Hewett said he has put this on the agenda to see if the Board has any specific direction for him in communicating with the county. He has been communicating with others, but he wanted to make sure the Town didn't miss an opportunity to articulate our position if the Board desires to do so. Commissioner Kwiatkowski asked if there has been a sit down with other municipalities. Town Manager Hewett said based on his discussions they are not warm to this and question the validity of it. Mayor Holden stated he was talking to a resident about the growth of the county. They were wondering if the growth has anything to do with why we have to pay more for water or do the towns with the development get charged in a different way. Town Manager Hewett said our wholesale contract with the county expired last year. That was probably one of the last remaining ones. The answer he received to a question he posed that was similar to that was the wholesale customers have not been providing

capital fees to the county, like a residential customer in the county has on their base rate. He is not sure if the Town is getting consideration for all of the years that the Town was providing quantity consumption that was helping offset the operation of the plants. Commissioner Kwiatkowski said there is a sentiment that we are double charged.

POLICE REPORT – CHIEF DIXON

- Fortunately, there is not a lot to discuss for the January report. Call volume is pretty consistent, with typical numbers.
- The new officer was sworn in last month. He is progressing well through the training program. We have one more vacancy that we are working on filling.

REPORT AND POSSIBLE ACTION ON SPEED LIMIT ON OCEAN BOULEVARD

Chief Dixon reviewed the DOT study. They found that 45 MPH is safe and reasonable for the offseason. That is in the ordinance as it is written. He explained why he contacted DOT for the study.

Commissioner Sullivan asked if the Board wanted to continue with what the Town is doing or if they want to keep it at 35 MPH year-round. Attorney Fox agreed if the Board doesn't want to take action, the ordinance that is in existence will continue to be in existence. Commissioner Sullivan said he introduced this a year ago. When he did, he was in favor of lowering it to 35 MPH. Since it took a year to get here, he was much more cognizant of traffic. It is his opinion that the danger is greater if we allow more golf carts, which is what happens when you lower the speed limit to 35 MPH. He explained why.

Motion by Commissioner Sullivan that we do not change the current ordinance and we leave it as it is.

Inspections Director Evans said his understanding was the commissioners wanted crosswalks. Commissioner Sullivan said during the discussion we found out we could have four crosswalks. Inspections Director Evans said four have been designated and approved by DOT. Part of the approval is that the speed limit has to be 35 MPH. Commissioner Sullivan said that is why he wants to have a motion so everyone can state how they stand on this issue. He doesn't think the four crosswalks correlate with being safer. He thinks we are safer without the crosswalks and golf carts than we are with both of them.

The motion was seconded by Mayor Pro Tem Brown.

Commissioner Kwiatkowski said her position was going to be to wait until we get paving, but we now have a plan in front of us for paving. She asked where the crosswalks are supposed to be. Inspections Director Evans replied Jordan, Neptune, Starfish and the 900 block. Commissioner Kwiatkowski said we talked before about negotiating more crosswalks if we end up with more higher density areas. Inspections Director Evans said you had to meet certain densities to get crosswalks. That is why the four proposed are where they are at. Commissioner Kwiatkowski stated she does think we need crosswalks for safety's sake. She thinks it is worth lowering the speed limit, then relying on Police presence to start cracking down on illegal golf carts. Commissioner Tyner said if the Board is going to

change it, the Board needs to put it on the next meeting's agenda for the public's input. Commissioner Sullivan said he is trying to settle something that the Board has been kicking around for a year.

Commissioner Sullivan withdrew the motion, with Mayor Pro Tem Brown in agreement. Commissioner Sullivan asked that the item be placed on next month's agenda.

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

Inspections Director Evans provided background on the proposed text amendment.

Motion by Commissioner Kwiatkowski to adopt Town of Holden Beach Ordinance 21-01, An Ordinance Amending the Holden Beach Code of Ordinances, Section 94.03: Frontal Dune Policy and Regulations as presented; second by Commissioner Murdock; approved by unanimous vote.

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 said the Board held the public hearing. The Board can discuss it and take into consideration the consistency statement, but the ordinance cannot be adopted tonight. This is the ordinance that grants an exemption in X zones to measure the same as they do in A and B zones. He explained the proposed change.

The Board would like the ordinance to be placed on the next meeting agenda.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 21-01, RESOLUTION ADOPTING THE NC REGIONAL HAZARD MITIGATION PLAN

Inspections Director Evans explained this is the update to our Regional Hazard Mitigation Plan. The plan allows the Town to be part of the regional plan, while maintaining our autonomy within. The only significant changes are those associated with our commitment to stricter NFIP and resiliency improvements to our sewer lift stations. He explained the process for the update and how it will affect the Town. Our consultants have said we have met our public notice requirements and the Town can adopt it by resolution tonight.

Commissioner Kwiatkowski said in Appendix E in two places, it states no new generators were acquired during the implementation period. Inspections Director Evans replied that the plan was completed before the generator was purchased. The plan gets updated on a yearly basis. It will be updated to show the generator and the new lift station. Commissioner Kwiatkowski said page 66 refers to a beach management plan. She said the Town did have a new board that put together a beach management plan. Inspections Director Evans said the Town will be able to update this once FEMA approves it.

Motion by Commissioner Kwiatkowski to adopt Resolution 21-01, for the Southeastern NC Regional Hazard Mitigation Plan adoption; second by Commissioner Sullivan; approved by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 21-02, RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE TOWN OF HOLDEN BEACH, NORTH CAROLINA, ADOPTING THE 2019 TOWN OF HOLDEN BEACH LAND USE PLAN

Town Clerk Finnell explained the Board approved the Land Use Plan at the last meeting. The Division of Coastal Management has asked that the Board pass a resolution verifying the action.

Motion by Mayor Pro Tem Brown to approve Resolution 21-02, second by Commissioner Murdock; approved by unanimous vote.

DISCUSSION AND POSSIBLE ACTION ON REVISED WASTE TRASH ORDINANCE (HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 50: SOLID WASTE)

Commissioner Kwiatkowski explained in the proposed ordinance the focus is on getting the bins off the road, particularly during the summer season. There are specifications made about where racks could be based on how Emerald Isle handles it. There are times for the cans to be pushed out and rolled back. They also took out the allowance for substituting one waste can for a recycle can if you are a six-bedroom house or bigger. She has several things that need to be discussed if the Board wants to go forward. Commissioner Kwiatkowski said if the Board all agrees that the ordinance is a good starting place, they would put it out to the public to discuss at the next meeting.

Inspections Director Evans asked about the 30', our setbacks are 25'. Commissioner Kwiatkowski said she mirrored them on what Emerald Isle does. She said that is negotiable. She thinks the point is they don't want them in the setback area or too close to the street or sidewalk. Commissioner Sullivan agreed to put this on next month's agenda. He said with all of the parking comments the Board received, the people expressed their concerns for increased trash, public safety and property values. He thinks they should use the same analysis when they look at the ordinance. The idea of the ordinance is not to make life more difficult for somebody, it is to make life better for everybody. It is to reduce trash and to increase public safety and property values. He wants everybody's feedback, but he wants people to be consistent when considering this.

The Board will have this on the agenda next month where the Board can take into account public comments and the Board can have discussion. It was in this month's packet and it will be in next month's packet.

REVIEW AND DISCUSSION OF BOARD OF COMMISSIONERS' OBJECTIVES SET FOR THIS BUDGET YEAR WITH CONSIDERATION OF PRIORITIES FOR THE SECOND HALF OF THIS BUDGET CYCLE

Commissioner Kwiatkowski stated she felt it was a good time to remind the commissioners of the objectives they set. She said if there are some that have not been conducted and they want to get them done during the budget year, now is the time to speak. A lot of them are done. There are a couple that haven't been addressed yet. One of them is the study for the second water tower. She also suggested the Board look at this to see how it may form a basis for next year.

Commissioner Kwiatkowski asked about getting something started for bids for lift station 2, now that 3 is done. Town Manager Hewett replied the Board should talk about the production of the engineer's deliverable for our as built for lift station 3 before moving towards administrative action of advertising for the upfit of lift station 2. Commissioner Kwiatkowski said she was hoping there would be a couple of items that the Board would want to get started on, if that is not the case they will need to take it to a budget discussion as soon as possible.

DISCUSSION AND POSSIBLE ACTION ON SETTING A BUDGET CALENDAR

Town Manager Hewett said we need to get the budget season kicked into gear. In order to do that, if the Board could provide him with numbers, types and kinds of workshops, calendars through the end of year, along with objectives, he will attempt to get a calendar together.

Town Clerk Finnell will send an email to the Board asking for their availability. Town Manager Hewett said he will try for dates when the entire Board is available.

DISCUSSION AND POSSIBLE APPROVAL OF CONTRACT BETWEEN THE TOWN AND MARTIN STARNES AND ASSOCIATES FOR AUDIT SERVICES FOR FISCAL YEAR 2020 - 2021

Town Manager Hewett said the proposed audit contract with Martin Starnes is in the packets for consideration. It is a standard Local Government Commission contract. It is in keeping with the year two price in their original proposal. The proposed contract was provided to the members of Audit Committee for their individual review. No concerns were set forth by the four members that responded as of the preparation of the memo on February 10th. He didn't hear from the 5th one.

Motion by Commissioner Tyner that we accept the contract from Martin Starnes for audit services for this year; second by Mayor Pro Tem Brown; approved by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 21-03, AN ORDINANCE AMENDING 20-10, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR 2020 -2021 (AMENDMENT NO. 6)

Town Manager Hewett said our budget forecast for the 2021 budget year for occupancy tax was established with extreme uncertainty regarding collection, acknowledging the many variables related to COVID-19 impacts. We have actually had one of the best years for collection of occupancy tax in recent history. In order to remain in compliance with the Fiscal Control Act, we need to recognize what staff is forecasting for the remainder of the year for occupancy tax revenue collections and the related expenses that coincide with those revenues. The amendment forecasts a \$337,204 increase in accommodation tax for the remainder of the fiscal year. It recognizes the required transfer of Brunswick County Tourism Development Authority funding. We had provided funds for the construction cost of the 800 block and 764 Ocean Boulevard West. He will come back to that. The amendment includes the legal fees for easement acquisition, a Lockwood Folly Inlet May dredging event, one walkway rebuild and one repair at public accesses secondary to increased wear and tear, replacement of funds expended with additional COVID cleaning requirements for public restroom facilities, port-a-john rentals, court and dock maintenance at Bridgeview Park and repairs and upgrades to improve the handicap access. Town Manager Hewett reviewed the amounts in the budget

amendment. Many of the expenses are due to increased customer load. He asked the Board what they want him to do with the \$107,338 that was programmed to go to the construction of the parking lots. He proposed the Board either keep it in the BPART Fund as available to appropriate or they could transfer it to the Capital Reserve Fund.

Commissioner Sullivan asked about the \$22,995 for Halstead. Town Manager Hewett explained it is for handicap improvements that need to take place and electrical work. Commissioner Sullivan inquired how much the Board allocated already for the public restrooms, that the \$35,000 will be added to. Town Manager Hewett said \$20,000 is for additional COVID cleaning and the other \$15,000 is for additional port-a-johns that are needed to be put in the existing locations. Assistant Town Manager Ferguson said the appropriation was \$70,000 in the beginning. \$50,000 was for renovation to the restroom, which hasn't occurred yet. In prior years we normally use \$20,000 for regular cleaning purposes. When we had to clean the bathrooms three times a day at the beginning of COVID, that was a \$15,000 contract that was split between that facility and the park. There is only \$3,000 that is unencumbered which won't take us through the cleaning for the season or the port-a-john rentals. Town Manager Hewett said the total amount allocated this year is \$105,000. It is all occupancy money.

Commissioner Kwiatkowski said her preference would be to put \$107,388 into the sand fund. She asked if it would be best to rewrite the ordinance and approve it on February 23rd at the special meeting. Town Manager Hewett responded that we are already overspent in the accommodations contribution to Brunswick County. He needs to write another check tomorrow and needs to get the books balanced.

Motion by Commissioner Kwiatkowski that we adopt Budget Ordinance 21-03, with the understanding for access and rec \$107,338 is removed from that line item and instead put into the capital reserve sand fund; second by Commissioner Sullivan; approved by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF LEASE AGREEMENT FOR VACTOR TRUCK

Public Works Director Clemmons said the budget includes funding in the amount of \$73,281 for the yearly installment of the purchase of a new vactor truck. Quotes were obtained through the North Carolina Sheriff's Association Procurement Program. The total purchase price of the vacuum truck is \$332,687. After the down payment of \$35,000 is applied, the Town would finance \$297,687. The first of five annual installments of \$64,773 will be due in December 2021.

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

TOWN MANAGER'S REPORT

- Federal Work Plan - Last month reported there was \$500,000 for an investigation and feasibility study for a Holden Beach Coastal Storm Damage Mitigation Project. We have been contacted by the Wilmington District of the Corps and have been advised to standby. They will be forthcoming with instructions.
- FEMA – We are in the public notice period for Isaias. The period for Dorian just wrapped up. There is the potential that we can do all four storms (Florence, Michael, Dorian and Isaias) as one large project,

but approval of the Dorian and Isaias Project Worksheets will be required before moving ahead with them all. All inquiries specific to the public notice should be directed to FEMA.

- Sand fence project installation is about halfway done. They are almost to the pier. How far west the installation occurs will depend on CAMA permissions. Intent is to go as far as we can. The vegetation planting will follow that. We are under contract to replace about half a million plants impacted by Isaias. We performed an inspection last week of the vendor's greenhouses. It will probably be about eight weeks before they are ready to go into the ground. As soon as it warms up, we will put them out. They are sea oats, a hot weather plant. Commissioner Kwiatkowski asked if any of the plantings will be put in the bare areas from the NC State presentation. She asked if there were funds to have the soil checked to see if that is a problem area. Assistant Town Manager Ferguson replied we don't have money in the budget for the soil testing. The bids that were turned in were received before we heard the presentation.
- Coastal Resources Commission has a virtual meeting on Thursday, February 18th. There is an agenda that is full of items that are relevant to the Town (Inlet Hazard Areas, technical standards for beach fill projects, beach mats and the Beach and Inlet and Management Plan update). Encouraged others to listen.
- Kicked off the Parks & Recreation Master Plan update last Friday.

Commissioner Sullivan asked for clarification that the \$500,000 for the federal project hasn't been allocated yet. Town Manager Hewett confirmed that the Board still needs to vote on the federal project. He added we have not received the information on what is required yet. Mayor Pro Tem Brown said we need to make sure to keep up with the DOT project. Mayor Holden said he hopes it is on the next agenda.

MAYOR'S COMMENTS

- Thanked everyone for the prayers, cards and emails. COVID is real and he is glad to be back. Feels better every day. Thanks to everyone for carrying on during his absence. Has twenty years serving the Town and he doesn't think he missed three or four meetings. Mayor Pro Tem Brown did a great job.

BOARD OF COMMISSIONERS

Mayor Pro Tem Brown

- Glad to see Mayor Holden back in his chair. He does a really good job for the Town.
- Keep the folks who suffered from the tornado in our thoughts and prayers. Heard there was a lot of damage.
- Parking – thinks everything got off on the wrong foot. In the bulk of the emails, the comment that kept coming is that it should be paid parking. There is lot of interest in the HB Fishing Pier, as far as selling it. We will lose a lot of spaces when that sells. It was never anyone's idea to be detrimental to the island. We are trying to look ahead here. We need to plan and be willing to look forward. Thinks as a town, we can come together and start working on this parking. Remembers coming here as a kid when his grandfather brought him over and how fun it was. If a little kid comes from Fayetteville and can't get on the beach because there is nowhere to park; this is what keeps him moving forward. Thinks it needs to get on the forefront and stay there. We need to move forward. We have tons of talent on this island. Let's do something that is good for everyone. This beach belongs to everyone

and everybody should be able to enjoy it. Thankful for his home. Blessed to have it. Hopes we can work something out.

Commissioner Tyner

- Glad Mayor Holden is back and is over COVID. Thinks he did a great job on the email he sent out. It was a good update on what is going on in the Town. Appreciates him mentioning the chapel.
- Thanked everyone who sent the emails for feedback on parking. Thinks we learned a lot about people's opinions on parking. Would like to suggest to the Board that they have some conversations on revisiting what they would like the Parking Committee to do. Have a meeting coming up March 5th. Invited two vendors to come to the meeting to present their solutions to paid parking. They are educational sessions so we can learn possible solutions if we want to implement paid parking.

Commissioner Murdock

- Welcomed Mayor Holden back.
- Thoughts and prayers go out to the people affected by the storm to our south.
- Parking – main concern is the hindsight will hit us when the properties that are being parked on that are not Town properties are eventually developed. Can't get them back when they are gone. The email that was circulated was a little bit out of context. Although some of it was correct, doesn't think it touched on enough detail. Paid parking was always part of the agenda. These properties were brought to us as Town-owned properties by staff. Two of which that were purchased for the purpose of parking years ago. We didn't see the harm in putting them up for consideration. Now we know where you stand. Is a little concerned how the public is going to take those emails. It is a little harsh. Wants to make it clear that he wants everybody to be able to come and enjoy this beach. It is not ours to block you from doing that. Thinks there is some really good talent on the island. We need some alternatives if we are going to pursue this. No use of having a committee if the consensus is no parking. Hopes that is not the case. Thanks to everyone who commented.

Commissioner Sullivan

- Glad to have Mayor Holden back.
- Keep Grissettown in our thoughts and prayers.
- Would say the parking question overrode everything else on the agenda tonight. There are three items that will be on the agenda next month that should garner some comment from the public. Would appreciate if people would use the same order and give opinions on the speed limit, developmental fees and the trash ordinance. Try to be consistent and honest. If we are worried about trash and safety when it comes to parking, we should worry about trash and safety and property values when it comes to trash.
- Thinks what happened here is that the cart was put before the horse concerning parking. When the committee was established, he asked that the public be part of it. That wasn't done. Now we have the feedback. We had a parking committee that came out with a lot of information that he thinks should be the basis of where we go. The first thing that should be done is to determine if paid parking is viable. We need a business plan that shows that paid parking is economically feasible and viable for the Town. Believes that everyone has a right to get to the beach, but it is not our duty to guarantee that they do it. If there are only a certain number of spaces, people need to get here early. Our Land Use Plan (LUP) makes some assumptions about day trippers. If you look at the parking plan the Parking Committee gave two years ago, we have 226 marked parking places, 200 on-street, adjacent to the

marsh and 315 in the right-of-way. That is 726 parking spaces. The LUP suggests that four people will come in each car and that half of those cars will be turned over. If you take those figures, it allows for 4,356 people to come visit the beach on a daily basis. That's more than seven times the number of people who live on the island. We are very accommodating; we just can't guarantee. If those people are building their RV park, they are the ones that should make a way for their clients to get to this beach.

Commissioner Kwiatkowski

- Happy to have Mayor Holden back. Mayor Pro Tem Brown did a great job.
- Appreciated the fact that we received so many comments. When you do a comment during this COVID period, make sure your name and address is noted. There was a dozen or so emails that seemed to imply that we were trying to hurry some things along. During COVID, thinks this Board has been very careful to slow things down, to put things on the agenda several months in a row to allow people to have time to comment so the Board could further discuss things. In no way, shape or form does this Board want to do anything precipitously because the public can't be here. Rest assured we will continue to work at a slower pace, but we do have to do business.
- Thanked everyone who listened to this long meeting. Looks forward to having you around next month.

The Board took a recess from 7:32 p.m. – 7:38 p.m.

EXECUTIVE SESSION PURSUANT TO N.C.G.S. 143-318.11(A)(3), TO CONSULT WITH THE ATTORNEY AND N.C.G.S. 143-318.11(A)(6) TO DISCUSS PERSONNEL MATTERS

The Board went into Executive Session at 7:39 p.m.

OPEN SESSION

No action was taken.

ADJOURNMENT

Motion by Commissioner Kwiatkowski to adjourn at 8:13 p.m.; second by Commissioner Tyner; approved by unanimous vote.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk



The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Special Meeting on Tuesday, February 23, 2021 at 1:11 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Commissioners Woody Tyner, Mike Sullivan and Pat Kwiatkowski; Town Manager David W. Hewett; and Town Clerk Heather Finnell. Mayor Pro Tem Gerald Brown was unable to attend the meeting.

Mayor Holden called the meeting to order at 1:11 p.m.

PUBLIC COMMENTS

No comments were made.

INTERVIEWS OF FIRMS INTERESTED IN PROVIDING LEGAL SERVICES TO THE TOWN

The Board interviewed Katie Madon from the Law Firm of Richard F. Green. Mr. Green was unable to attend due to a scheduling conflict.

Recess from 1:26 p.m. – 2:00 p.m.

The Board interviewed Sydnee Moore from Moore Law by teleconference.

Recess from 2:15 p.m. – 3:00 p.m.

The Board interviewed Stephen Coble from Coble Law Firm.

ADJOURNMENT

Motion by Commissioner Murdock to adjourn at 3:55 p.m.; second by Commissioner Sullivan; approved by unanimous vote.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk



Date: March 10, 2021

To: Commissioners and Mayor Holden

From: Heather Finnell, Town Clerk *HF*

Re: Discussion and Possible Award of Contract on Roadway Work

Right Angle Engineering is currently soliciting bids for Phase 2 of the Brunswick Avenue Paving Project. Bids are due on March 11th. Once Shane Lippard, the engineer, reviews the bids that are submitted he will provide his recommendation to the Town. We will send out a supplement with his information.

Mr. Lippard will be in attendance at the meeting to present the information.



Date: March 9, 2021

To: Commissioners and Mayor Holden

From: Heather Finnell, Town Clerk HF

Re: Seagull Drive Petition

The Town has received signatures from the majority of property owners on Seagull Drive, requesting the improvement of the existing soil roadway of Seagull Drive. A copy of the certificate as to the sufficiency of the petition is in your packets (Attachment 1).

The next step of the assessment process is for the Board to adopt a preliminary resolution (Attachment 2). The Board is required to schedule a public hearing on the preliminary resolution. Staff is recommending the hearing be scheduled for April 20th at 5:00 p.m. Once the public hearing is scheduled, notice will be sent to the property owners in the project area and will be published in the newspaper.

If the Board desires to proceed with the improvement project, the suggested motion is to set a public hearing on the preliminary resolution for April 20, 2021 at 5:00 p.m. and adopt Resolution 21-04.

Attachments:

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

**CERTIFICATE AS TO THE SUFFICIENCY OF THE PETITION FOR THE IMPROVEMENT OF
SEAGULL DRIVE**

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

I, Heather Finnell, Town Clerk for the Town of Holden Beach, North Carolina, do hereby certify that I received a petition of property owners for the improvement of the existing soil roadway of Seagull Drive; that I have investigated the sufficiency of the said petition; and that the result of my investigation is as follows:

The total number of owners of the land abutting upon the street proposed by the said petition to be improved is 44. The number of said owners who signed the petition is 24, a majority.

The total number of linear feet of frontage of said lands upon the street proposed by the said petition to be lodged is 2,250. The number of said linear feet of frontage represented by the property of the said owners who signed the petition is 1,350, a majority.

I find that the said petition is in all respects sufficient and in conformity with all requirements of Chapter 160A, Article 10 of the General Statutes of North Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Holden Beach, North Carolina, this the 2nd day of March, 2021.



A handwritten signature in blue ink, appearing to read "Heather Finnell", is written over a horizontal line.

Heather Finnell, Town Clerk

Attachment 1

**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 217.
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

Attachment 2

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:

J. Alan Holden, Mayor

Heather Finnell, Town Clerk



Date: March 10, 2021

To: Commissioners and Mayor Holden

From: David W. Hewett, Town Manager *DW*

Re: Discussion and Possible Action on Bike Lanes on Ocean Boulevard

The possibility of adding bike lanes on Ocean Boulevard was presented by the NC Department of Transportation at the February Board of Commissioners' meeting. I am in the process of gathering information and will hopefully have something worthwhile for discussion to present at the upcoming meeting.

**NC Department of Transportation
Engineer's Estimate**

Date:	04/14/2020
Contract #:	DC00XXX
TIP #:	
WBS Element #:	2021CPT.03.XX.20101
Division #:	3
County:	BRUNSWICK
Description:	PROPOSED BIKE LANES - SR 1116 (OCEAN BLVD. EAST) 1.15 MI. HOLDEN BEACH

Line #	Item #	Section #	Item Description	Quantity	Units	Unit Price	Bid Amount
1	0000400000-N	801	CONSTRUCTION SURVEYING	1.00	LS	\$5,000.00	\$5,000.00
2	0106000000-E	230	BORROW EXCAVATION	561.00	CY	\$30.00	\$16,830.00
3	0372000000-E	310	18" RCP CULVERTS, CL. III	928.00	LF	\$55.00	\$51,040.00
4	1220000000-E	545	INCIDENTAL STONE BASE	184.00	TON	\$70.00	\$12,880.00
5	1491000000-E	610	BASE COURSE, B25.0C	1,923.00	TON	\$85.00	\$163,455.00
6	1575000000-E	620	ASPHALT BINDER FOR PLANT MIX	87.00	TON	\$505.00	\$43,935.00
7	1880000000-E	SP	WEDGING COURSE S9.5B (GENERIC)	370.00	TON	\$55.00	\$20,350.00
8	2253000000-E	840	PIPE COLLARS	3.12	CY	\$600.00	\$1,872.00
9	2286000000-N	840	MASONRY DRAINAGE STRUCTURES	20.00	EA	\$2,000.00	\$40,000.00
10	2364000000-N	840	FRAME WITH TWO GRATES, STD 840.16	18.00	EA	\$750.00	\$13,500.00
11	2473000000-N	SP	CONVERT EXISTING DI FOR BIKE GRATE (GENERIC)	5.00	EA	\$1,800.00	\$9,000.00
12	2473000000-N	SP	BICYCLE SAFE STEEL GRATE AND FRAME (GENERIC)	3.00	EA	\$2,000.00	\$6,000.00
13	2612000000-E	848	6" CONCRETE DRIVEWAY	23.00	SY	\$65.00	\$1,495.00
14	2738000000-E	SP	INCIDENTAL CONC (GENERIC)	18.00	SY	\$175.00	\$3,150.00
15	2759000000-N	SP	REMOVE & REPLACE CURB RAMPS (GENERIC)	1.00	EA	\$2,750.00	\$2,750.00
16	2815000000-N	858	ADJUSTMENT OF DROP INLET	3.00	EA	\$600.00	\$1,800.00
17	2845000000-N	858	ADJUSTMENT OF METER OR VALVE BOX	5.00	EA	\$500.00	\$2,500.00
18	4072000000-E	903	SUPPORTS, 3-LB STEEL U-CHANNEL	60.00	LF	\$8.00	\$480.00
19	4102000000-N	904	SIGN ERECTION, TYPE E	4.00	EA	\$100.00	\$400.00
20	4366000000-E	SP	STATE FURNISHED TYPE E SIGN (GENERIC)	39.00	SF	\$18.00	\$702.00
21	4695000000-E	1205	THERMOPLASTIC PAVEMENT MARKING LINES (8", 90 MILS)	84.00	LF	\$2.00	\$168.00
22	4726100000-E	1205	HEATED-IN-PLACE THERMOPLASTIC PAVEMENT MARKING CHARACTER	4.00	EA	\$125.00	\$500.00
23	4726110000-E	1205	HEATED-IN-PLACE THERMOPLASTIC PAVEMENT MARKING SYMBOL	21.00	EA	\$225.00	\$4,725.00
24	4891000000-E	1205	THERMOPLASTIC PAVEMENT MARKING LINES (24", 90 MILS) GENERIC	120.00	LF	\$12.00	\$1,440.00

CONTRACT COSTS FOR SR 1116 (OCEAN BLVD. EAST)

TOWN OF HOLDEN BEACH: \$403,972

(NCDOT COST: \$802,981)

CONTINGENCY: THE COST OF STORM DRAINAGE RELOCATION IN AREAS OF WIDENING FOR BIKE LANES WILL BE THE RESPONSIBILITY OF THE TOWN OF HOLDEN BEACH.

FA Items:	\$ -
Contract Items:	\$ 403,972.00
Subtotal:	\$ 403,972.00
Engineering:	\$ -
Total Estimate:	\$ 403,972.00

**NC Department of Transportation
Engineer's Estimate**

Date:	04/14/2020
Contract #:	DC00XXX
TIP #:	
WBS Element #:	2021CPT.03.XX.20101
Division #:	3
County:	BRUNSWICK
Description:	PROPOSED BIKE LANES - SR 1116 (OCEAN BLVD. WEST) 5.00 MI. HOLDEN BEACH

Line #	Item #	Section #	Item Description	Quantity	Units	Unit Price	Bid Amount
1	0000400000-N	801	CONSTRUCTION SURVEYING	1.00	LS	\$10,000.00	\$10,000.00
2	0372000000-E	310	18" RCP CULVERTS, CL. III	16.00	LF	\$55.00	\$880.00
3	1220000000-E	545	INCIDENTAL STONE BASE	1,845.00	TON	\$70.00	\$129,150.00
4	1491000000-E	610	BASE COURSE, B25.0C	8,360.00	TON	\$85.00	\$710,600.00
5	1575000000-E	620	ASPHALT BINDER FOR PLANT MIX	376.00	TON	\$505.00	\$189,880.00
6	1880000000-E	SP	WEDGING COURSE S9.5B (GENERIC)	1,623.00	TON	\$55.00	\$89,265.00
7	2253000000-E	840	PIPE COLLARS	0.89	CY	\$600.00	\$534.00
8	2286000000-N	840	MASONRY DRAINAGE STRUCTURES	2.00	EA	\$2,000.00	\$4,000.00
9	2473000000-N	SP	BICYCLE SAFE STEEL GRATE AND FRAME (GENERIC)	11.00	EA	\$2,000.00	\$22,000.00
10	2612000000-E	848	6" CONCRETE DRIVEWAY	75.00	SY	\$65.00	\$4,875.00
11	2647000000-E	852	5" MONOLITHIC CONCRETE ISLANDS (SURFACE MOUNTED)	116.00	SY	\$75.00	\$8,700.00
12	2759000000-N	SP	REMOVE & REPLACE CURB RAMPS (GENERIC)	3.00	EA	\$2,750.00	\$8,250.00
13	2815000000-N	858	ADJUSTMENT OF DROP INLET	11.00	EA	\$600.00	\$6,600.00
14	2845000000-N	858	ADJUSTMENT OF METER OR VALVE BOX	2.00	EA	\$500.00	\$1,000.00
15	4072000000-E	903	SUPPORTS, 3-LB STEEL U-CHANNEL	60.00	LF	\$8.00	\$480.00
16	4102000000-N	904	SIGN ERECTION, TYPE E	4.00	EA	\$100.00	\$400.00
17	4366000000-E	SP	STATE FURNISHED TYPE E SIGN (GENERIC)	39.00	SF	\$18.00	\$702.00
18	4695000000-E	1205	THERMOPLASTIC PAVEMENT MARKING LINES (8", 90 MILS)	190.00	LF	\$2.00	\$380.00
19	4726100000-E	1205	HEATED-IN-PLACE THERMOPLASTIC PAVEMENT MARKING CHARACTER	4.00	EA	\$125.00	\$500.00
20	4726110000-E	1205	HEATED-IN-PLACE THERMOPLASTIC PAVEMENT MARKING SYMBOL	81.00	EA	\$225.00	\$18,225.00
21	4891000000-E	1205	THERMOPLASTIC PAVEMENT MARKING LINES (24", 90 MILS) GENERIC	210.00	LF	\$12.00	\$2,520.00

CONTRACT COSTS FOR SR 1116 [OCEAN BLVD. WEST]

TOWN OF HOLDEN BEACH: \$1,208,941

(NCDOT COST: \$1,586,971)

CONTINGENCY: THE COST OF STORM DRAINAGE RELOCATION IN AREAS OF WIDENING
FOR BIKE LANES WILL BE THE RESPONSIBILITY OF THE TOWN OF HOLDEN BEACH

FA Items: \$ -

Contract Items: \$ 1,208,941.00

Subtotal: \$ 1,208,941.00

Engineering:

Total Estimate: \$ 1,208,941.00

Holden Beach Code of Ordinances

SCHEDULE I. SPEED LIMITS.

(A) The streets or parts of streets described in this traffic schedule shall have the speed limits designated in the following table.

('85 Code, § 7-5) (Ord. 3-86, passed - - ; Am. Ord. 14-09, passed 8-12-14)

(B) In accordance with division (A) of this traffic schedule, the following speed limits shall be established for the following streets or parts of streets:

Name of Street	Speed Limit (mph)	Seasonal Limitations
S.R. 1116 (Ocean Boulevard, East and West), from its western terminus to its eastern terminus	35	April 1 - September 30 (inclusive)
S.R. 1116 from a point 1.76 miles west of NC 130 (Greensboro Street) to a point 5.01 miles west of NC 130 (west end of road).	45	October 1 - March 31 (inclusive each year)
Delanne Street	15	—
Dunescape Drive	15	—
Serenity Lane	15	—
Windswept Way	15	—
All other streets	25	—
And all other streets within the Holden Beach West Subdivision	25	No seasonal limitations

('85 Code, Ch. VII, Sched. III) (Ord. 3-86, passed - - ; Am. Ord. 91-14, passed 8-5-91; Am. Ord. 93-01, passed 1-4-93; Am. Ord. 96-03, passed 5-20-96; Am. Ord. 99-06, passed 5-10-99; Am. Ord. 99-15, passed 7-26-99; Am. Ord. 99-23, passed 12-13-99; Am. Ord. 02-05, passed 4-8-02; Am. Ord. 14-09, passed 8-12-14) Penalty, see § 70.99

Activity Log Event Summary (Totals)

HOLDEN BEACH POLICE DEPT.

(02/01/2021 - 02/28/2021)

<No Event Type Specified>	1	Alarm Activation	19
Animal Control	10	Attempt to Locate-ATL	11
Business Check	226	Disturbance/Fight	1
Domestic Disturbance	2	EMS/Medical Call	8
Escort/Relay	1	Fire Call	2
Incident Report	3	Keep Check	29
Lost/Found Property	7	Meet Complainant	5
Message Delivery	1	Motor Vehicle Crash	3
Open Door	3	Parking	17
Phone Call Request	11	Prowler	3
Public Works/Water Leak	3	Special Assignment	2
Suspicious Activity	3	Traffic Stop	7
Trespassers	1	Welfare Check	3

Total Number Of Events: 382

DRAFT

DRAFT

DRAFT

Report to the Holden Beach Board Commissioners

Seasonal Police Officer

Issue:

Can Seasonal Police Officers Efficiently and Economically Provide Adequate Patrol Services to Protect the Persons and Property of the Residents, Property Owners and Visitors to Holden Beach.

Discussion:

Holden Beach is a low crime coastal community of approximately 650 full time residents. However, during the summer months the population can grow to 17,000 (see attachment 1, Town of Holden Beach 2019 Land Use Plan, pages 2-2, 2-5, 2-6). The budget for Fiscal Year (FY) 2019-2020 provided for eight (8) police officers with an expense of \$729,219. During budget planning workshops for FY 2020-2021, it was proposed that three (3) police officers be added to the town department and a budget of 1,297,705 be appropriated (see attachment #2, Budget Workshop, May 28, 2020, Police Expenses), approximately \$200,000 of which was attributable to procurement of additional vehicles and replacement of existing vehicles. During the budget discussion, it was suggested, that based on the tremendous differences of population and calls for police services between the seasons, the use of seasonal police officers rather than hiring full- time police officers may be a more efficient and economical way to provide the necessary police services to Holden Beach.

A committee to explore the feasibility of employing seasonal rather than full time police officers was authorized by the Board of Commissioners (BOC) at the June 2020 BOC meeting. Commissioners, Kwiatkowski and Sullivan along with Town Manager Hewett and Police Chief Dixon, comprised the committee. Assistant Town Manager Christy Ferguson and Inspections Director Evans were present at all meetings and provided support and issue specific data.

The Committee met monthly to discuss the multiple issues associated with the hiring of seasonal police officers and how each needed to be addressed by the town.

These following issues were identified by the committee:

Recruitment and retention of seasonal officers.

Duties of the seasonal officer, regular patrol v. beach patrol.

Cost of a seasonal officer v. a fulltime officer, salary, fringe benefits, medical benefits, uniform and equipment.

Training, what type of training is required, cost, duration.

Transportation.

In addition to the experience and knowledge of the committee members and support staff related to these issues, the committee sought input from the Police Chiefs of nearby communities that currently employ seasonal officers to take advantage of their knowledge and experiences. Chief Ken Bellamy, Ocean Isle Beach, attended the November 2020 committee meeting and Chiefs Ken Klamar, Sunset Beach and Tony Reese, Emerald Isle, spoke with Commissioner Sullivan via telephone. Their input was a valuable asset in evaluating the overall benefits and drawbacks in the use of seasonal officers. The committee is extremely grateful for their assistance.

Analysis:

Recruitment and Retention:

Seasonal officers can be recruited in various ways. Most common among them are, newly graduated officers from the Basic Law Enforcement Training class (BLET), current active officers looking for part time employment and retired officers. The BLET graduate can and does frequently accept part time employment in order to maintain his/her certification. However, it is common for a recent BELT graduate to leave a part time position as soon as they are offered a full-time position with another department. Retention is, therefore, a concern. Chiefs' Bellamy, Klamar and Reese all spoke of some difficulty in retention and yearly turnover of their seasonal officer group.

Duties of the Seasonal Officer, Regular Patrol versus Beach Patrol:

The impetus for considering the utilization of seasonal officers instead of full-time officers was the disparity in population and calls for service volume between the seasons. It was suggested that seasonal officers could provide the necessary level of service at a lower cost to taxpayers. In order to do that, a seasonal officer would have to perform the same duties as a full-time officer, that is perform regular patrol duties on the island proper as well as the occasional call for service on the strand, rather than exclusively performing beach patrol on the strand in lieu of the current Beach Ranger program. The use of police officers in place of beach rangers was discussed thoroughly. The perceived benefits are the expected heightened compliance with beach related ordinances, i.e., unleashed dogs, deep holes dug and left in the strand, litter and trespassing in the dunes, etc.. The negatives are the same as those related to hiring for patrol duties absent additional transportation cost.

The committee was unable to find a local municipality that utilized seasonal officers in a patrol function. Emerald Isle, Ocean Isle, and Sunset Beach each utilize officers solely on their beachfront/strand. A seasonal officer may be called upon to fill an unexpected open shift on rare occasions, but they do not perform routine patrol on a regular basis or as their primary duty. Because no local municipality chooses to utilize seasonal police officers in a patrol function shouldn't, in and of itself, prevent Holden Beach from doing so.

Another item touched upon during committee discussions is the question of the Holden Beach Police Department's at times unstaffed telephones and the resulting delay in response to nonemergency calls for service. At all times the Brunswick County Communications Center, 911, is available to receive calls and dispatch required emergency police, fire and Ems services. At times, however, nonemergency calls are made directly to the Holden Beach Police Department, when the telephone is unstaffed these calls can go unanswered for an appreciable time. Chief Dixon and Commissioner Kwiatkowski are in favor of increased clerical staffing to address this concern.

Cost of a Seasonal Officer v. a Fulltime Officer:

Police Chief Dixon provided a chart containing his estimation of the annual cost for 1 additional fulltime police officer, \$131,317, 1 seasonal police officer, \$85,220 and 3 seasonal police officers, \$128,370 (see attachment 3, Holden Beach Police Department-Comparison (Rough Estimate)). The difference in annual cost between a fulltime and seasonal police officer is \$46,097. It would be \$110,097 if the town could provide a vehicle from current inventory, but it cannot as the town has no extra or spare police vehicles at its disposal. The difference in cost is obvious and should be considered whenever the question of hiring additional police personnel arises.

Training, Equipment, Fair Labor Standards Act (FLSA):

All police officers, either fulltime or seasonal require, at a minimum, BLET certification. Chief Dixon requires an additional 36 hours of in-service training. The cost of BLET training is approximately \$1,600 and is either paid by the candidate or the municipality that sponsors or hires the candidate. Similarly, all police officers require equipment and their work schedules must adhere to FLSA guidelines. Equipping seasonal officers was mentioned by the Chiefs we spoke with. In their experience, it occasionally became necessary to purchase multiple pieces of equipment or uniforms because of turnover and retention difficulties.

Transportation:

The largest initial cost associated with the hiring of a police officer, full-time or seasonal, is the cost of a vehicle. The town, as noted earlier, has a vehicle for each full-time officer currently on the payroll, but no police vehicles for use by seasonal officers. The cost of a police vehicle is currently approximately \$64,000. The committee discussed other means of transportation, bicycles, golf carts, foot patrol, and found them insufficient to the task. If the seasonal officer was utilized exclusively for beach patrol, the cost of transportation would be reduced to approximately \$8000, and that cost would not arise until the replacement of the current vehicles used by the beach patrol becomes necessary. However, utilization in this manner will not provide the, initially sought, increased patrol function.

Conclusion:

Most items to be evaluated when hiring either a full-time or seasonal police officer are similar in both cases. Retention and initial transportation costs are two items with the largest differences and can be the determining factors.

During the 2020-2021 budget planning process, the BOC authorized the hiring of two (2) additional permanent full-time police officers. The addition of two (2) police vehicles is necessarily a component of these additional hires. Each full-time officer increases the police budget by approximately \$131,000 for the first year and \$67,000 every year thereafter (see attachment 3). The seasonal officer would increase the police budget by \$85,000 the first year and \$21,000 every year thereafter. The difference in costs is approximately \$46,000 per year per officer (see attachment 3). I believe this potential cost savings outweighs any minor logistical difficulties the hiring of seasonal police officers may present.

Since Holden Beach hired two full-time police officers over the last year, the department is fully staffed and in no need of seasonal police officers unless they are used exclusively for beach patrol. This option increases the cost of services rather than achieving the stated goal of finding an economic and efficient alternative to full-time patrol officers, but merits consideration.

Although there is no current vacancy, making the question of full-time or seasonal officers moot at this time, should a current police officer decide to leave the department, the economics dictate considering replacing that officer with a seasonal officer.

Mike Sullivan, Commissioner

POPULATION CHARACTERISTICS AND TRENDS

PERMANENT/YEAR-ROUND POPULATION

Coastal municipalities have fluctuating populations throughout a given year. Determining the impacts of the seasonal population can be difficult due to the range of factors that must be considered in estimating the peak population. In addition, year-round population figures established by the NC state demographer and the US Census Bureau do not account for the seasonal population, thus requiring such figures to be estimated based upon best available data. NOTE: The terms year-round population and permanent population are used interchangeably throughout the chapter.

In Holden Beach, the permanent population has fluctuated since 2000 (See Table 2.1). The population increased from 626 to 787 from 1990 to 2000 and decreased from 787 to 575 from 2000 to 2010. Since 2010, the permanent population has increased to 633 according to the state demographer. However, since 1980 the overall population has increased around 162%. Since 2010, there has been an increase in the permanent population of Holden Beach. Both the Holden Beach and Brunswick County populations are expected to continue to increase as more people are attracted to the area and its unique coastal resources.

Table 2.1: Population Growth/Decline: 1980 – 2016

Source: NC OSBM

Year	Holden Beach	Absolute Increase/Decrease	Holden Beach	Brunswick County	Absolute Increase/Decrease	Brunswick County
1980	241		%	35,777		%
1990	642	385	159.75%	50,985	15,208	42.51%
2000	787	161	25.72%	73,143	22,158	43.46%
2010	575	(212)	-26.94%	107,431	34,288	46.88%
2016	633	58	10.09%	119,167	11,736	10.92%
1980-2016		392	162.66%		83,390	233.08%

Over the past 25 years, the overall year-round population throughout North Carolina's coastal municipalities has nearly doubled (See Table 2.2). While some municipalities vary from this trend, others have seen significant growth during this period. For example, Sunset Beach experienced significant growth largely due to additional residents gained through annexation. Overall, the population in Holden Beach has remained stable over the past 25 years. However, permanent population figures for coastal municipalities do not accurately convey development pressures as the majority of housing units and subsequent development is built for seasonal, not year-round, use.

CURRENT SEASONAL POPULATION ESTIMATES

When planning for infrastructure, housing, commerce, and recreation, it is important to consider the impact of vacationers, visitors, and temporary residents visiting the community on a seasonal basis. Typically, the seasonal population has the greatest impact on services and resources from Memorial Day to Labor Day.

Persons who reside in the Town limits for the majority of the year, or refer to it as their primary residence, make up the permanent population. Whereas, persons who temporarily vacation or visit for at least one night in the Town during the peak season comprise the seasonal population. The permanent population plus the seasonal population (including day-trippers) make up the peak population. The seasonal overnight population accounts for only the permanent and seasonal population and not day-trip visitors. Seasonal population estimates are difficult to calculate with any precision and require making assumptions based upon experience and an understanding of the underlying population demographics, seasonal tourism industry, and the habits of beach goers. While there is no standard method for tabulating seasonal population for a given jurisdiction, there are few methods that can be used to estimate the population.

SEASONAL ESTIMATE BY HOUSING & VACATION UNIT

According to American Community Survey data, there were 1,588 vacant units categorized as seasonal use in the year 2016. To establish the seasonal overnight population, average household size or persons per unit must be incorporated. One common technique calculates the seasonal overnight estimate on the number of housing units by determining what a typical occupancy rate might be and how many people occupy a housing unit on average. For the purposes of this analysis, vacant housing is treated similarly to seasonal and recreational housing in terms of the assumptions made about the number of persons per unit. The peak seasonal overnight estimate is derived by assuming 95% occupancy of the vacant housing units. Again, this estimate should not be viewed as exact. Calculating seasonal population figures is an imperfect science at best. The peak overnight seasonal population is more likely to be experienced on peak season holidays such as Memorial Day, July 4th, and Labor Day.

Table 2.4: 2016 Peak Seasonal Overnight Population – Holden Beach

Source: US Census Bureau 2016 American Community Survey and Holden Beach Planning/Inspections Department

2016 Peak Seasonal Overnight Population Estimate*		
Housing Units	Persons per Unit	Total
Permanently Occupied Housing (494)	1.28 + 2 guest per Unit	1,620**
Seasonal or Recreational Housing (1,588)	8	12,069
Other Vacant Housing (409)	8	3,108
Total		16,797

*For the estimate, the following assumptions were used to calculate the total number of persons: 2 guests per permanent housing unit on average; 95 percent occupancy rate for seasonal recreational housing; and 95 percent occupancy for vacant housing.

**The permanent population and seasonal increase is based upon the NCS8M population of 633 + 1 additional person per housing unit.

It is estimated that during the summer season, the peak seasonal overnight population in the Town of Holden Beach can reach 16,797 people. This is 28 times higher than the permanent population of the Town. This number reflects popular holiday weekends such as Memorial Day, July 4th, as well as Labor Day. On weekdays as well as weekends with less visitors, the seasonal overnight population is likely to

be closer to 75% of the peak estimate. Based on this assumption, the seasonal overnight population be closer to 12,598 more frequently. These estimates are important for the analysis to gauge the greatest potential impacts on Town services. This information can be used to plan for situations that may exceed the capacity for various Town services such as water, waste collections, sewer, law enforcement, or general Town services. In addition, it is important to account for day-trip visitors as well which will be discussed in the following sections.

DAY-TRIP VISITORS

Another consideration when gauging seasonal population impact on community infrastructure is the effect of day-trippers. Unlike estimates of overnight visitors, day-trippers travel for brief stays in the community, typically for recreation. Day-trippers impact parking availability, traffic congestion, community services, and local businesses. While there is no standard method for calculating day-trippers, one of the best indicators for the number of day-trip visitors is the number of parking spaces available. It is assumed, on a typical peak day during the summer, the majority of vehicles visiting the Town for day-trip purposes are mostly full, at four persons per vehicle. Using data from the Town, the number of day-trippers is estimated as follows:

[1.5 shifts of parking x 226 permanent public parking spaces x 4 persons per vehicle = 1,356 day trip visitors per day]

One issue with estimating the peak number of visitors is the risk of double counting people as many daily visitors have possibly been accounted for in the assumptions used to estimate the seasonal population estimate. However, we do know that visitors will need a place to park. There are 226 public parking spaces on Holden Beach. Assuming there is an average of four people per car and there is an average of 1.5 cars occupying each parking space over the course of a day, it is estimated that an additional 1,356 daily visitors that travel by automobile may visit on any given summer weekend or peak season holiday (See Table 2.5).

Table 2.5: Day Trip Visitors – Holden Beach

Source: Holden Beach Planning/Inspections Department

Parking Spaces	Persons Per/Vehicle	Shifts of Parking	Total
226	4	1.5	1,356

PEAK SEASONAL OVERNIGHT POPULATION AND DAY-TRIP VISITORS

It is estimated that an additional 1,000 to 2,000 day-trip visitors may be on the island during a peak day. These visitors utilize other available non-permanent parking spaces such as the right-of-way. Based on these figures, it is estimated that approximately 20,000 people visit, reside, or stay overnight within the town limits on a peak summer day.

POPULATION PROJECTIONS

Much like seasonal and peak population estimates, population projections can vary widely due to intervening factors such as the strength of the economy, availability of jobs, and housing prices. Population projections identify potential challenges and needs that may confront the community in the near future. Holden Beach is located in Brunswick County, which is the fastest growing county in North

POLICE EXPENSE:

10.0510.0000	FY 18-19 A/O 6.30.19	FY19-20 BUDGET	FY19-20 A/O 4.24.20	FY20-21 BUDGET
SALARIES	383.574	357.012	303.982	528.396
SALARIES - OVERTIME	76.579.00	46.288	33.491.31	68.509
FICA	41,555.00	28,635	25176.39	45.663
GROUP INSURANCE	95,151.85	102,748	76,125.71	149.545
RETIREMENT	41,028.75	39.120	34.553.24	64.704
PD EMPLOYER'S 401K CONTRIBUTION	21.358.14	20.058	14.044.41	29.845
COMMUNICATIONS	27,474.00	27,500	25,022.34	49.900
TRAVEL & TRAINING	5,368.64	7,000	5883.91	11.500
COMMUNITY WATCH	332.83	500		500
M & R - EQUIPMENT	1.381.91	2.500	1,903.53	5.000
M & R - VEHICLES	5,926.00	5,900	3,929.83	8.000
GAS, OIL & TIRES	20,454.00	22,000	20,073.51	37,950
DEPT SUPPLIES & MATERIALS	3.435.00	5.000	4144.71	6.875
UNIFORMS	2.015.00	3.958	212.95	23.365
POLICE INOCULATIONS	125.00	500	245.00	3.300
EQUIPMENT	27,168.00	5,000	2,160.41	13.510
CAP OUTLAY-VEHICLES&EQUIP	30.673.00	53.500	50.455.66	249.142
PD CARS-ACCIDENT REPAIRS	375.23	2.000	943.01	2.000
Total	817,791.35	729,219.10	602,347.75	1,297,705

Attachment 2

Holden Beach Police Department - Comparison (Rough Estimate)

	Full-Time (2184)	Part-Time (472)	Part-Time (x3)
Salary	\$37,627	\$8,132	\$24,396
FICA	\$2,880	\$623	\$1,869
Insurance	\$6,500	\$0	\$0
Retirement	\$4,100	\$885	\$2,655
Vehicle & Equip.	\$64,000	\$64,000	\$64,000
Duty Gear	\$8,500	\$8,500	\$25,500
Miscellaneous	\$7,710	\$3,080	\$9,950
I.S. Training	32 Hours	32 Hours	96 Hours
Total Cost	\$131,317	\$85,220	\$128,370

12 hour shift for 120 days of summer = 1,440 Hours

Part-time employees must work < 60 hours per pay period (5 days bi-weekly)

120 days = 8 bi-weekly pay periods of 59 hours max = 472 hours max

1,440 hours / 472 hours per part-time = 3 part-time employees

Misc. - Gas / Oil / Tires / Drug Screening / Medical Exam / Fluid IT / CJIS / DCI (Comm Fees)/ etc

Part-time employee's could share 1 vehicle and associated equipment, but would need to be fitted individually for uniforms, ballistic vests, duty belts, etc. There is also an unknown retention rate with part-time employees, therefore creating the potential for reoccurring uniform costs. Part-time employees would also be required to attend and maintain the minimum training standards of 24 hours. This standard is set by the State and is not dependant on part-time/full-time status. Any officer who is sworn under oath with any law enforcement agency must maintain these hours regardless of hours worked. HBPD officers are required to exceed the minimum standard and attend roughly 32 hours of in-service training annually.

Training: Bloodborne Pathogens; HAZ-MAT; Firearms; Legal Updates; Instructor Updates; Sensitivity Training; Suicide Prevention; Career Survival; Communication Strategies; Armed and Unarmed Company Police; LE Threat Assessment; Phazzer Update; Stopstick Update; CPR [Additional Training (not included in in-service) - RADAR Operator, Intox Operator, SFST]. None of this training includes Field Training for the Holden Beach environment and local ordinances.

Attachment 3



Memo:

Subject: Ordinance 21-02, Formerly Ordinance 20-18 Amending section 157 of the Towns Code of Ordinances

To: Commissioners, Mayor, Town Manager. *T.D.E*

From: Planning and Inspections Director

The above-mentioned amendment was presented at the last meeting for consideration. The Board of Commissioners will need to consider the consistency statement during its this regular meeting and vote on the amendment.



Town of Holden Beach Planning Staff Consistency Statement

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

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

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

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

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

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

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

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

157.006

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

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

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

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

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

Section Three: This ordinance shall be effective the 17th day of March, 2021.

Adopted this the 16th day of March, 2021.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk

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

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

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

Proposed for Discussion:

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

**TOWN OF HOLDEN BEACH
ORDINANCE 21-05**

**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. **They will be provided to a property in addition to, not in replacement of, the required number of garbage containers.**

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

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

(B) Commercial requirements.

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

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

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

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

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

§ 50.03 BURNING OR BURYING OF GARBAGE REGULATED.

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

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

§ 50.04 ACCUMULATION AND COLLECTION.

(A) All garbage and household refuse shall be kept in proper containers as required by this chapter and it shall be unlawful for any person to permit garbage to accumulate or remain on any premises longer than is reasonably necessary for its removal. It is the intent of the town that all containers be secured in such a manner either next to non-elevated or underneath elevated houses or in solid waste racks located at least 30 feet from the public right-of-way, except on collection days when they are to be placed at street side so that the town street right-of-way remains clear of empty containers and so that the containers are not damaged or overturned by high winds or other occurrences. Containers will be located at street side no earlier than 6:00 p.m. the evening before designated collection days during the summer rental season. For the rest of the year containers will be located street side no more than 48 hours before the designated collection. All containers should be returned to the normal storage location by 3:00 p.m. the day of collection during the summer rental season and 6:00 p.m. the day of collection for the rest of the year. ~~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 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.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk



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Response to the Town of Holden Beach's Request for Proposals for Legal Services

Submitted By: Stephen E. Coble
Coble Law Firm, PC
3333-E Wrightsville Avenue
Wilmington, NC 28403
Telephone: (910) 791-0016
Fax: (910) 791-0046
Email: scoble@coblelawfirm.com

January 4, 2021

Via E-Mail to: Heather Finnell

Heather Finnell
Town Clerk
Town of Holden Beach
110 Rothschild Street
Holden Beach, N.C. 28462
E-Mail: heather@hbtownhall.com

RE: Response to Request for Proposals (RFP) For Legal Services

Dear Ms. Finnell:

Pursuant to the submittal instructions contained in the Town of Holden Beach's Request for Proposals for Legal Services, please allow this to serve as my letter of interest and statement of qualifications to provide legal services to the Town of Holden Beach. As described below, I have extensive governmental experience including my past experience as an Assistant Manager in the Town of Biltmore Forest and further as the District Counsel for more than a decade for the North Brunswick Sanitary District H2GO. I further have an extensive educational background including a Bachelor's Degree in Public Administration from Elon College; a Master's Degree in Public Administration with a concentration in Town and County Management from Appalachian State University; and a Law Degree from the University of Dayton where I concentrated my studies in the areas of Property and Land Use Law. As such, I welcome the opportunity to partner with the Town of Holden Beach as its appointed Town Attorney.

Qualifications and Resources – Coble Law Firm, PC

My firm was established in 2008 and has been serving eastern North Carolina since that time. Even though I have had many Associates, Paralegals, and Legal Assistants over the years, Covid has limited my present firm to (1) Attorney and (1) Legal Assistant. My small Wilmington law firm allows me to operate at a fixed cost and which translates to reasonable rates for our clients. Even though my law firm is small, sixteen years of networking has provided me with an abundance of resources and relationships to tackle almost any issue that your Town might encounter. I have unlimited access to online legal research and have the ability to access additional resources through a longstanding relationship with several of the largest firms in North Carolina. Unlike most transactional attorneys, as a litigator, I am able to analyze and file lawsuits for the Town when necessary. However, unlike medium and larger firms, I have the ability to know when we need to seek the assistance of a specialist or expert in a particular area of the law. Through Coble Law Firm and our network, you will have access to any resource that we could ever need. By hiring

us, you get the small firm value, with access to the big firm resources. Like most firms, I utilize modern technology for online electronic document sharing, storage, and security. I also freely provide my municipal clients with my mobile phone number and pride myself on being available when needed. We provide our clients with competent and effective legal representation at a reasonable cost.

Qualifications – Stephen E. Coble,

I have been practicing law for more than (16) sixteen years. I started as an Insurance Defense Attorney for my first five (5) years. During this period, I litigated everything from workers' compensations cases to construction defect. My primary practice is in the courtroom and related to litigation. I am not a transactional attorney, but I have a strong working relationship with many that fulfill that need. As my practice grew, I focused more on general civil litigation and represented many local residents, property owners, and businesses in a wide range of lawsuits.

For the past twelve (12) years, I have managed Coble Law Firm, PC in addition to acting as the firm's primary litigator. During the past 16 years, I have employed and trained many legal assistant, paralegals, and associates. I litigate primarily in State Court. I represent Plaintiffs and Defendants in general civil court cases. A comprehensive list of my primary practice areas can be found on my website at coblelawfirm.com.

During the past ten (10) years, I have represented the North Brunswick Regional Water and Sewer H2GO. I was an Assistant Town Administrator from 1997 through the summer of 2000. As the Assistant Town Administrator, I supervised accounts payable, cash collections, water accounts, and tax collections; advised the Public Works Director and Police Chief in general operations and policy; prepared biweekly payroll; and facilitated town projects at the direction of the Board of Commissioners.

Please also see my detailed resume and website for more specific cases and achievements, which includes my Masters in Public Administration that I received with a concentration in Town and County Management from Appalachian State University.

Municipal Experience

I have served as the District Counsel for the North Carolina Sanitary District H2GO for more than ten (10) years. I was also an Assistant Town Administrator for nearly four years, where I served as a primary administrator in the daily operations of a Town. In my capacity as the District Attorney, I have experience in all aspects of government operations. This includes (but is not limited to) the following:

- **Board Meetings**
 - Have attended hundreds of Council/Board meetings, including specially called meetings, workshops and retreats.
 - Regularly assist in preparation of agendas as needed.
 - Regularly assist the Executive Director with presentation of agenda items.
 - Assist / advise elected officials on legal implications of agenda items.

- Provide written legal opinions with respect to agenda items.
 - Provide advice with respect to quorums, conflicts of interest, recusal, and parliamentary procedure.
 - Provide real time guidance and advice to Executive Director and elected officials during meetings when irregularities or unexpected issues arise during the meeting.
 - Provide advice and guidance regarding minute requirements and general account requirements of both open and closed sessions.
 - Attend special meetings, including budget workshops, as needed/requested.
 - Attend emergency meetings.
 - Assisting Clerk with redaction and publication of closed session minutes.
- **Other Board Meetings**
 - I have attended numerous Board of Adjustment meetings and assisted the Board with variance applications, hearings, and orders.
 - I have assisted the Board of Adjustment with appeals from administrative/staff decisions.
 - I have attended and facilitated Planning Board meetings including joint meetings with the elected officials.
- **Government Contracts – Service Agreements**
 - Have negotiated / drafted / reviewed Executive Director contracts.
 - Have negotiated / drafted / reviewed / assisted in administering capital improvement contracts including contracts for a multimillion-dollar wastewater treatment plant, reverse osmosis water plant, water towers, pumping stations and necessary systems.
 - Have negotiated / drafted / reviewed vendor contracts and service agreements.
 - Have negotiated / drafted Development Agreements.
 - Have negotiated / drafted / provided advice on Interlocal Government Agreements and Mutual Aid Agreements.
 - Have assisted in drafting RFQs and RFPs.
 - Have assisted in reviewing Responses to RFQs and RFPs.
 - Have litigated construction contracts and vendor contracts.
 - Have assisted in drafting grant applications and contracts.
- **Government Property Disposition and Acquisition**
 - Have obtained hundreds of easements (utility and beach nourishment).
 - Assisted in negotiated offer - sale and acquisition of property.
 - Have negotiated sale of government property.
- **Ordinances / Resolutions / Policies**
 - Have drafted numerous Ordinances.
 - Have assisted in development and drafting of personnel policies and various other municipal policies including SOPs for a police department.

- Frequently advise both elected officials and staff on legal implications of ordinances and policies.
 - Frequently assist in updating ordinances due to recent developments in legislations and case law.
- **Public Records Retention / Public Records Requests**
 - Have assisted staff in responding to public records requests to ensure compliance with North Carolina General Statutes and case law.
 - Have provided legal opinions and advice to elected officials with respect to public records including emails from private addresses, text messages, and phone records of private mobile phones.
 - Have assisted Clerk with complying with records retention schedules.
- **Employment Law**
 - Have assisted in employment related issues.
 - Have assisted Director in hiring and termination/separation of employees.
- **Finance**
 - Provide annual opinions to municipal auditors.
 - Have worked with Local Government Commission ("LGC") on various projects and other municipal finance issues.
 - Have assisted Finance Officer and Department Heads with drafting budgets and budget amendments.
- **Legislation**
 - Have provided advice and guidance with respect to proposed and recently passed legislation.
 - Have worked closely with Lobbyists with regard to drafting legislation.
- **Litigation**
 - I have successfully litigated numerous cases involving municipal government issues such as; land use issues, public utility issues (water and sewer), police liability, employment liability, government contracts, U.S. and North Carolina constitutional claims (e.g. First Amendment claims, Takings claims, Due process claims, Equal Protection claims, Civil Rights claims), Coastal Area Management Act ("CAMA"), condemnation; inverse condemnation, and sewer backups.
- **Other Government Involvement**
 - Frequently consult with professors at the North Carolina School of Government ("SOG").
 - Regularly provide guidance and advice to elected officials concerning parliamentary procedure and best practices.
 - Regularly follow municipal legislation and other developments in municipal law and update municipal clients regarding same.

My Interest in Representing the Town of Holden Beach

I have little or no ties to the Town of Holden Beach. This will enable me to provide sound representation without the interference of relationships or pressures from individuals within the community. I would represent your entity as directed by your Board. Throughout my career as a litigator, I have represented many clients in Brunswick County and the surrounding area. Since I am only a litigator and a sole practitioner, I have built strong relationships with other firms in our region. These relationships allow me to assist in directing the Town's needs to the best representative. As a practitioner, I take pride in providing my clients with the very best representation, even if that is not me. I was notified of your RFP by two of my colleagues which each suggested I apply. The first was your former Town Attorney, Noel Fox, who I have known as a friend and legal adversary since the very beginning. The other was Attorney Brian Edes, who represents many communities in the area and regularly refers cases to my firm.

Proposed Fee / Terms of Appointment

I propose an hourly rate of \$200 per hour. My standard practice is to bill in minimum increments of 1/10 of an hour (i.e. 6 minutes). My practice is to invoice monthly. If desired, I am willing to negotiate an alternative compensation agreement such as a monthly retainer or a hybrid arrangement if that would better serve the Town's needs.

As a sole practitioner, who has run a Law Firm for more than a decade, I can control my case load and can have flexibility to provide as many hours as is necessary to effectively represent the Town. As an experienced governmental attorney, I realize that often times elected officials and/or Town staff will have questions or otherwise need guidance after normal business hours, on holidays and on weekends. I have always made myself available to meet these needs.

Please do not hesitate to contact me should you need any additional information. Likewise, I'll be happy to answer any questions you, other town staff or the Board may have. I thank you for your consideration of this Response. I have attached a list of professional references.

Sincerely,



Stephen E. Coble

Professional References¹

Bob Walker
Executive Director
North Brunswick Regional Water and Sewer H2GO
516 Village Road NE
Leland, NC 28451
(910) 371-9949

Ron Jenkins
Current Chairman of the Board of Commissioners
North Brunswick Regional Water and Sewer H2GO
516 Village Road NE
Leland, NC 28451
(910) 371-9949

Barry Laub
Current Member of the Board of Commissioners
North Brunswick Regional Water and Sewer H2GO

Poe Butler
Former Chairman of the Board of Commissioners
North Brunswick Regional Water and Sewer H2GO
(910) 231-2708

Brian Edes
Attorney, Crossley McIntosh Collier Hanley & Edes
Town Attorney for the Town of Leland, the Town of Wrightsville Beach, the Town of Oak Island, and the Town of Surf City.
(910) 762-9711

Noel Fox
Attorney, Craig and Fox, PLLC
Town Attorney for the Town of Carolina Beach
(910) 815-0085

¹ Additional references available upon request.

Katherine M. Madon

The Law Office of Richard F. Green
 2998 Holden Beach Rd. SW
 Holden Beach NC 28462
 910.842.1857
 kmadon@atmc.net

Practical Experience:

Richard F. Green Attorney at Law PLLC. Holden Beach, North Carolina (2014-Present)

Associate Attorney

Enjoys general practice ranging from real estate transactional work to criminal defense. Represents both plaintiffs and defendants regarding varied civil disputes. Serves as the defense attorney for the Brunswick County Treatment Courts.

Brunswick County Superior Court. Bolivia, North Carolina (2012-2014)

Brunswick County Trial Court Coordinator

Administered the mediation settlement conference program for all civil superior court matters. Assisted in the drafting and submittal of numerous federal grants. Scheduled all superior court matters including trial calendars, judge assignments, and grand jury presentations.

Virginia Supreme Court. Abington, Virginia (2011)

Legal Clerk to The Honorable Elizabeth McClanahan

Researched issues and prepared briefs for en banc and merit panel hearings centered upon all areas of the law ranging from criminal work to administrative law appeals.

Education:

Appalachian School of Law. Grundy Virginia (2009-2012)

J.D. 2012

Natural Resource Law Journal 2010-2012, *Managing Editor* 2011-2012; Energy and Mineral Law Society 2009-2012, *President* 2011-2012; P.A.C.E. Moot Court Team 2010-2012; Research Assistant 2010-2012; Appellate Advocacy Teaching Assistant 2011-2012; Peer Tutor 2011-2012.

University of Kentucky. Lexington, Kentucky (2004-2008)

2009 Bachelor of Arts in Political Science and Communications

Activities:

Professional Associations:

North Carolina Bar Association; Brunswick County Bar Association; 13th Judicial Bar Association; Coastal Women Attorneys; Young Lawyers Association

Charitable Activities:

North Carolina Lawyers for Literacy Campaign; Brunswick County Bar Association Scholarship Committee; North Carolina Pro-Bono Attorney;

MOORE LAW, PLLC

Representation with Purpose

9 January 2021

Heather Finnell, Town Clerk
Town of Holden Beach
110 Rothschild Street
Holden Beach, NC 28462

RE: Town of Holden Beach Request for Proposals- Legal Services

Dear Holden Beach Commissioners, Mayor Holden, and Ms. Finnell,

Moore Law, PLLC is a solo firm that focuses on Business, Corporate, Intellectual Property, and Non-Profit law. Before founding Moore Law, PLLC, I worked extensively with non-profit organizations, ranging the Brunswick Arts Council to the University of Louisville, advising, drafting, negotiating, and implementing everything from Bylaws and Policies and Procedures manuals to vendor contracts and license agreements. Generally, I work with and advise corporations and small businesses from start-ups to established businesses; nonetheless, I have a working knowledge and understanding of land use law and legal issues affecting local governments and public agencies in North Carolina. I regularly draft tailored contracts for clients and implement a "plain language" approach to all of my drafting. This approach affords most people a complete and true understanding of all terms included in my contracts without an attorney present to translate "legalese" into something resembling the English language.

I moved to Holden Beach in 2016 and intend to remain here for many years to come; forever if this lifetime allows. My interest in serving my community and preserving its magic for all who are fortunate enough experience it is paramount. I currently serve on the Board of Directors for Brunswick Arts Council as General Counsel, a position that has provided much insight to the challenges faced by not only Holden Beach, but the County as a whole since joining the Board in 2017. I realize how important and far-reaching the decisions of our local government are and intend to advise towards methodical and straightforward management of Town matters.



Moore Law, PLLC is a solo firm, but can promise timely responses and service. This firm can dedicate as many hours as the Town of Holden Beach deems necessary to complete Town business; weekly hours dedicated to Town business could range from two (2) to thirty (30) without cause for alarm. At this moment in time, there are no conflicts of interest that would prevent or impede this firm's ability to handle any and all Town business.

I would seek an hourly fee of \$150.00 for all work performed, including attendance of meetings. I reside on Holden Beach, and post-pandemic, I can attend any in-person meetings without issue. However, at this time, and until Covid-19 is under control, I am limiting in-person meetings to those that can accommodate social distancing. I am always available via ZOOM or go-to meeting if video is requested and distancing protocols cannot be followed.

I truly appreciate your time and consideration of this proposal for Town Attorney and encourage you to reach out with any questions or concerns via telephone or e-mail.

Best Regards,



Sydnee E. Moore



THE LAW FIRM OF RICHARD F. GREEN, PLLC

2998 Holden Beach Road, SW
Holden Beach, North Carolina 28462

(910) 842.1857 (Telephone)

(910) 842-1859 (Facsimile)

Richard F. Green

Katherine M. Madon

January 11, 2021

Town Clerk Heather Finnell
Mayor J. Alan Holden
Mayor Pro Term Gerald Brown
Commissioner Woody Tyner
Commissioner Mike Sullivan
Commissioner Brian Murdock
Commissioner Pat Kwiatkowski

Ms. Finnell, Mayor Holden and Holden Beach Commissioners:

Please see the information below in response to the request for proposals for legal services to the town of Holden Beach. We appreciate your consideration and look forward to hearing from you.

1. Statement of Qualifications and resources of the firm/individual, including governmental experience to include description of areas of expertise or relevant experience that may benefit the Town:

The Law Office of Richard F. Green has been in existence and served the Brunswick County community, specifically Holden Beach, since 2004. The firm consists of two attorneys, Katherine M. Madon and Richard F. Green. Combined, they have over 47 years experience. We employ two paralegals and a receptionist that have over 43 years combined experience. Our primary practice is real estate transactional work, but we are a general practice firm with experience in civil litigation, special proceedings, criminal law and estates. The longstanding real estate practice ranges from basic buying and selling, to boundary disputes, condemnation, partition actions, foreclosures and more. We have appeared on behalf of our clients before the Town of Holden Beach and other municipalities. We also litigate cases in both the district and superior courts. Our general practice affords us the privilege to work closely with our various town officials, members of the Brunswick County Sherriff's Office, Register of Deeds, Department of Social Services, Brunswick County Commissioners, Brunswick County Board of Education, District Attorney's Office, District and Superior Court Judges and other Brunswick County officials in diverse capacities. Due to our small size we are a hands-on firm and are grateful for our ability to provide services to the citizens of Holden Beach and Brunswick County.

Mr. Green has previously served as the attorney for the Town of Holden Beach, and since 2011 has served as the attorney for the Brunswick County School Board. Mr. Green's comprehensive knowledge of governmental procedure and experience in a board setting is unmatched in Brunswick County. He is a former U.S. Department of Justice prosecutor, and he prosecuted criminal cases for the State of Maryland and the State of North Carolina.

Ms. Madon joined the firm in 2014 and assists with School Board matters while enjoying real estate and general practice. She also serves as counsel for the Brunswick County Treatment Courts. Prior to joining the firm she served as the Brunswick County Superior Court Coordinator where she worked closely with Judges throughout the State.

2. Statement of Interest in providing service to the Town:

Everyone in our office is a resident of Brunswick County, and Mr. Green has been a resident of Holden Beach since 1992. We take pride in the area in which we live and work and have a vital interest in insuring the smooth and orderly operation of Town matters. We have first hand knowledge of the challenges facing our community and know how essential it is to protect the legal interests of the Town of Holden Beach. We have represented a range of Holden Beach citizens throughout our practice from indigent criminal defendants to multi-state corporations.

3. Indication of ability to provide timely and efficient service to the Town, including a specification of how many hours per week could be devoted solely to Town business:

With two attorneys and a local office we can devote up to twenty (20) per hours week devoted solely to town business. Our office is open Monday through Friday and is fully staffed from 9:00AM-5:00PM. Other than court appearances and board of education meetings, both attorneys are present in the office and available. Our office is located five minutes from Town Hall.

4. Suggested contractual terms to include hourly rates:

We would seek billing of two hundred and fifty dollars (\$250.00) per hour to be invoiced on or about the first of each month.


Ms. Madon will be the primary contact and will attend the regular and special meetings. Mr. Green will attend any regular or special meeting when Ms. Madon is unavailable.

5. Other factors or information thought to be important to the Town in considering this proposal:

- Our local presence along with our vast practice areas allows us to efficiently perform the diverse roles that are required of a town attorney.

Again, we thank you for considering this proposal.

Sincerely,



Richard F. Green



Katherine M. Madon

§ 30.11 TERMS OF OFFICE; FILLING OF VACANCIES.

(A) The term of office of the Mayor shall be two years. The term of Commissioner shall be four years, on a staggered basis as set out in Section (A)(1). Terms begin on the day of first regular meeting in December following their election, except in case either is elected to serve an unexpired term, in which case the newly elected officers shall qualify and commence serving immediately upon the declaration of the result of the election by the Town BOC.

(1) At the regular municipal election to be held on November 5, 2019, the three commissioner candidates who receive the highest number of votes shall be elected for four-year terms, while the two commissioner candidates who receive the next highest number of votes shall be elected for two-year terms. At the regular municipal election to be held in 2021, and every four years thereafter, two commissioners on the Board of Commissioners shall be elected to serve for four-year terms. At the regular municipal election to be held in 2023, and every four years thereafter, three commissioners of the Board of Commissioners shall be elected to four-year terms.

(B) Vacancies shall be filled as provided for in G.S. § 160A-63.

§ 160A-63. Vacancies.

A vacancy that occurs in an elective office of a city shall be filled by appointment of the city council. If the term of the office expires immediately following the next regular city election, or if the next regular city election will be held within 90 days after the vacancy occurs, the person appointed to fill the vacancy shall serve the remainder of the unexpired term. Otherwise, a successor shall be elected at the next regularly scheduled city election that is held more than 90 days after the vacancy occurs, and the person appointed to fill the vacancy shall serve only until the elected successor takes office. The elected successor shall then serve the remainder of the unexpired term. If the number of vacancies on the council is such that a quorum of the council cannot be obtained, the mayor shall appoint enough members to make up a quorum, and the council shall then proceed to fill the remaining vacancies. If the number of vacancies on the council is such that a quorum of the council cannot be obtained and the office of mayor is vacant, the Governor may fill the vacancies upon the request of any remaining member of the council, or upon the petition of any five registered voters of the city. Vacancies in appointive offices shall be filled by the same authority that makes the initial appointment. This section shall not apply to vacancies in cities that have not held a city election, levied any taxes, or engaged in any municipal functions for a period of five years or more.

In cities whose elections are conducted on a partisan basis, a person appointed to fill a vacancy in an elective office shall be a member of the same political party as the person whom he replaces if that person was elected as the nominee of a political party. (R.C., c. 111, ss. 9, 10; Code, ss. 3793, 3794; Rev., ss. 2921, 2931; C.S., ss. 2629, 2631; 1971, c. 698, s. 1; 1973, c. 426, s. 11; c. 827, s. 1; 1983, c. 827, s. 1.)