



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

**Tuesday, August 17, 2021  
5:00 PM**

**Holden Beach Town Hall  
Public Assembly**



**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS' PUBLIC HEARING/REGULAR MEETING  
HOLDEN BEACH TOWN HALL – PUBLIC ASSEMBLY  
TUESDAY, AUGUST 17, 2021 - 5:00 P.M.**

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**PUBLIC HEARING:** Ordinance 21-24, An Ordinance Amending Holden Beach Code of Ordinances, Chapter 157: Zoning Code (Pools)

**REGULAR MEETING:**

1. Invocation
2. Call to Order/ Welcome
3. Pledge of Allegiance
4. Agenda Approval
5. Approval of Minutes
  - a. Minutes of the Special Meeting of July 8, 2021 (Pages 1 – 5)
  - b. Minutes of the Special Meeting of July 20, 2021 (Page 6)
  - c. Minutes of the Regular Meeting of June 20, 2021 (Pages 7 – 17)
6. Public Comments on Agenda Items
7. Police Report – Chief Dixon (Page 18)
8. Discussion and Possible Action on Ordinance 21-24, An Ordinance Amending Holden Beach Code of Ordinances, Chapter 157: Zoning Code (Pools) – Inspections Director Evans (Pages 19 – 23)
9. Discussion and Possible Approval of Ordinance 21-25, An Ordinance Amending Ordinance 20-10, The Revenues and Appropriations Ordinance for Fiscal Year 2020 – 2021 (Amendment No. 21) – Town Manager Hewett (Pages 24 – 25)
10. Discussion and Possible Approval of Ordinance 21-26, An Ordinance Amending Ordinance 21-13, The Revenues and Appropriations Ordinance for Fiscal Year 2021 – 2022 (Amendment No. 2) – Town Manager Hewett (Pages 26 – 27)
11. Discussion and Possible Approval of Martin Starnes Engagement Letter Addendum and Related Budget Adjustment – Town Manager Hewett (Pages 28 – 30)

12. Discussion and Possible Action on Revised System Development Fees – Town Manager Hewett  
(Page 31)
13. Discussion and Possible Action on Staff's Ranking of Parking Firms – Town Manager Hewett  
(Page 32)
14. Parking Committee Status & Possible Action – Commissioner Kwiatkowski (Pages 33 – 34)
15. Discussion and Possible Action on Proposed Directive to Have the Police Chief Provide a Monthly Report on the Amount of Golf Cart Tickets Issued – Commissioner Smith  
(Page 35)
16. Legal Opinion on School of Government Blog Related to Remote Meeting Participation Post-Covid Emergency and Discussion and Action on Streaming Meetings until the State of Emergency is Officially Closed – Commissioner Kwiatkowski  
(Pages 36 – 37)
17. Discussion and Possible Approval of Resolution 21-12, Resolution Authoring the Negotiation of One or More Installment Financing Contracts and Providing for Certain Other Related Matters Thereto – Assistant Town Manager Ferguson  
(Pages 38 – 41)
18. Holden Beach Promotional Video – Assistant Town Manager Ferguson
19. Executive Session Pursuant to North Carolina General Statute 143-318.11(A)(5), To Instruct the Staff or Agent Concerning the Negotiation of the Price and Terms of Contracts Concerning the Acquisition of Real Property – Commissioners Murdock, Sullivan, Kwiatkowski and Smith
20. Public Comments on General Items
21. Town Manager's Report
22. Mayor's Comments
23. Board of Commissioners' Comments
24. Adjournment



**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS  
SPECIAL MEETING/PUBLIC HEARING  
THURSDAY, JULY 8, 2021 – 7:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Special Meeting/Public Hearing on Thursday, July 8, 2021 at 7:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem Gerald Brown; Commissioners Brian Murdock, Mike Sullivan, Pat Kwiatkowski and Rick Smith; Town Manager David W. Hewett; Town Clerk Heather Finnell; Assistant Town Manager Christy Ferguson; Inspections Director Tim Evans; and Town Attorneys Rick Green and Katie Madon.

Mayor Holden called the meeting to order and explained the purpose of the meeting. Contract details are on a sheet in the back of the room.

**PUBLIC HEARING – CONTRACT TO PURCHASE REAL PROPERTY LOCATED AT 441 OCEAN BOULEVARD (PARCELS 246DB001 & 246DB002)**

Tom Myers, President of the Holden Beach Property Owners Association summarized responses they received in response to their solicitation. He talked about different options for the building and providing incentives/tax breaks without purchasing the property. He talked about options for parking and beach access. He said he thinks it is fair to say everyone would like to keep the pier; the question is at what cost. Mr. Myers talked about the current budget and said you would need to either reduce the current budget to cover amounts for the pier, increase taxes or take money out of savings. He asked the Board to not jump blindly into this without knowing what the costs will be. Mr. Myers said he summarized comments received, but he was not speaking on behalf of the HBPOA.

Haskell Cowan said he wants to make sure the beach remains accessible for residents, homeowners and tourists. We have benefited for many years by the generosity of the Bass family allowing public access through their property. The access also serves as an emergency vehicle access which helps with emergency access, beach patrol and nourishment projects. He believes it would be in the best interest of the Town to purchase the access.

Steve McManimen said he feels strongly that this Holden Beach icon needs to remain for future generations to enjoy. He talked about some of the pier's history. He said it is time for the Town to get permanent Town-owned access. Eliminating the access will create a 0.9-mile gap for beach access for

some of the canals. Mr. McManimen said the Town will hurt these homeowners' ability to rent these houses and the Town will lose rental taxes. He is for the purchase of the property as proposed.

Lyn Holden stated Mr. Bass has been an asset to the Town. He is concerned as a taxpayer that it is not the best long-term thing to do. He talked about expenses that could be associated with ownership of the pier and pavilion. He thinks private enterprise could do better than the Town.

Keith Smith talked about the importance of growing up near/visiting a pier. The location of the pier influenced his family's decision on purchasing his house. He suggested looking at public and private partnerships for the property.

John Pierce said he believes the family beach environment is the reason many people purchased at Holden Beach. This is one of the few places that you enjoy a family environment. He supports making the purchase depending how the analysis comes out.

Terri Watson talked about her experiences with the pier. She thinks it is an important part of the history of Holden Beach. She supports the Town doing what it needs to do to support the memory and keep it for future generations.

Johnny Craig said this is a critical opportunity to purchase, obtain and preserve such a treasure. He referred to the Land Use Plan. It says CAMA considers public access facilities to be one of the key components of a coastal community's infrastructure. The plan also talks about maximizing and maintaining accesses and the need for public parking.

Anita Hegarty said they are for it. This gives landlocked homes the opportunity to go on the pier and fish.

Larry Blume provided some money raising options. He suggested selling family plan cards and yearly fishing licenses.

Elaine Jordan is concerned with the cost. She thinks there are other alternatives to explore first. She thinks private enterprises should be held privately, not by towns. She objects to purchasing the property.

Tony Marwitz said he trusts the Board to work out the money. The Town has a chance to get beach access; we need to take advantage of it while we can. He thinks it is a good move for the Town to acquire it. He is concerned with who will buy it if the Town doesn't.

Mike Oats said from Raleigh Street to the firehouse there are no beach accesses. This would give beaches access to people in the area. He talked about prices for purchasing oceanfront property. He stated he is for purchasing the property.

Ken Rogers stated he wants us to respect the past and plan for the future. He wants the Town to protect the family beach. He thinks it is a good move, but only a first step. He talked about the need for other

services, including a first-class restaurant, parking and services that will attract families. He suggested pursuing grant money, generating revenues for services and involving the property owners on the island. He talked about purchasing the whole strip.

Regina Martin talked about the history of the beach. She believes if you are going to have a family beach, you need a pier. Our neighbors have piers, one was just redone with grant money. We have been successful in securing grant money. Mrs. Martin would like to move forward with the purchase.

Shannon Itzaina talked about her family's history with the beach. She thinks the Town needs to be financially responsible. She said she is a real estate agent and talked about commercial contracts. She is not against the purchase; she is against rushing into it.

Dave Keech loves the island and wants it to be a family beach, but he is a commercial realtor and thinks the purchase needs to be fiscally sound. He doesn't want to see taxes go up.

Sylvia Pate talked about her history with Holden Beach. She thinks the Town should purchase the property, but should do more investigation to make sure we are not getting into a hole. She suggested purchasing all of the property, not just the two properties.

Beverly Compton said she is a member/director of the HBPOA and what Tom Myers reported is what the organization received as comments. During the last land use process two people wanted the pier, other people wanted other projects. She supports the pier, but doesn't know the details on how the Board is proceeding. She suggested having an investment group take it over, with the Town controlling it.

Zach Current said he is looking for the process of how we got to where we are. He wants to know the plan and what's going on with the parcels. He wants to know it's in the best interest for the Town.

Aimee Archer is for purchase of pier, but she believes the Town should buy the whole property. She said don't miss out on the opportunity. It is part of the Town and we need to keep it.

Karen Dodd asked how the purchase will benefit property owners. She also asked how the debt service will be handled without raising taxes. She would like more information on what the Town would be doing with the property. Ms. Dodd said we have infrastructure problems (GenX, road maintenance) that need to be addressed.

Tony Jordan said they are not making any more land or oceanfront. The pier is part of being a family island. He talked about his family's history and the benefits of being on the pier. He encouraged that the Town buy the pier, but he agreed with several people who have concerns on how we will pay for it. Mr. Jordan thinks there would be more support if people have more information.

Brian Derrico talked about purchasing his home. He said this a great deal for the Town and he is in favor of purchasing it.



Steve Kwiatkowski said what he is hearing is that he thinks people want to see numbers and how the Town would pay for it. If that was presented most people would have a better understanding of what is going on.

Stan Dodd has a background in real estate business. He is concerned about the three months in the contract. He appreciates the emotion, but asked the Board to be fiscally responsible. He talked about Town-owned properties and asked what is being done with them. There are ways to do it but take your time.

The Board allowed another three minutes per person to people who wanted to speak again.

Steve McManimen said for those on the canals, you are talking about almost a mile stretch with almost no beach access. The beach access is of utmost importance. He talked about the hardships associated with no access.

Lyn Holden stated Gil Bass is giving the Town an excellent bargain. He asked people to look at what they are getting for their county taxes. He thinks the county should pay a big portion of this because a majority of the people would be coming from the mainland. Mr. Holden thinks the Town needs to pursue getting the county to do something for Holden Beach.

Keith Smith said he is all for fiscally responsible. He does think the timeline is aggressive. He talked about the benefits of the pier.

Shannon Itzaina asked the Board to take their time. She is not against it. She sees a lot of potential but wants the Town to take its time. She would have liked to have the information sheet before. She would like more transparency. She suggested a question-and-answer forum.

Brad Chaney said he understands the emotion, but he wants the Town to make the right financial decision on this. He said the Town needs a plan first.

John McEntire stated if the Town deems it to be a sound investment of taxpayer money, they should buy it. If there is a question, they shouldn't. There are other options for the pier. He said there are a lot of sound reasons to keep the pier, emotionally and culturally, but if you are not convinced it is a good enough deal to invest your own money, then it is odd you want to invest mine. He asked if it is worth spending your own money for.

Brian Derrico said if the Town doesn't buy this, they will lose taxpayer money. If access goes away for the canal properties, people won't rent them or will rent them at a reduced rate. You will get less taxes. If the Town doesn't buy it and beach access is limited, he asked that his property be reassessed.

Jody Westfall said purchasing the pier would be a great idea, but it depends on what the Town decides to do with it. He said it needs to be planned out where it is fiscally responsible. He said if he had the money, he would buy the whole thing and create a boardwalk with a restaurant.

Mayor Holden closed the public hearing at 8:22 p.m.

**EXECUTIVE SESSION PURSUANT TO NORTH CAROLINA GENERAL STATUTE 143-318.11(A)(5), TO INSTRUCT THE STAFF OR AGENT CONCERNING THE NEGOTIATION OF THE PRICE AND TERMS OF A CONTRACT CONCERNING THE ACQUISITION OF REAL PROPERTY**

*Motion by Mayor Pro Tem Brown to go into Executive Session at 8:23 p.m.; second by Commissioner Murdock.*

Town Clerk Finnell read the reason for Executive Session.

*The motion passed by unanimous vote.*

**OPEN SESSION**

The Board went back into Open Session at 9:37 p.m.

**DISCUSSION AND POSSIBLE CONSIDERATION OF CONTRACT TO PURCHASE REAL PROEPRTY LOCATED AT 441 OCEAN BOULEVARD (PARCELS 246DB001 & 246DB02)**

*Motion by Commissioner Murdock that we present the offer to purchase & contract for 441 Ocean Boulevard West; second by Mayor Pro Tem Brown.*

Commissioner Sullivan said he wanted to make it clear that in moving forward with the contract it doesn't bind the Town to buy the property. It is the first step in the purchase of the property. He believes as many people stated that we should look at this and only do it if it makes fiscal sense. Commissioner Kwiatkowski agreed.

*The motion passed by unanimous vote.*

**ADJOURNMENT**

*Motion to adjourn at 9:40 p.m. by Mayor Pro Tem Brown; second by Commissioner Murdock; approved by unanimous vote.*

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J. Alan Holden, Mayor

ATTEST:

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Heather Finnell, Town Clerk





**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS  
SPECIAL MEETING  
TUESDAY, JULY 20, 2021 – 4:45 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Special Meeting on Tuesday, July 20, 2021 at 4:45 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem Gerald Brown; Commissioners Brian Murdock, Mike Sullivan, Pat Kwiatkowski and Rick Smith; Town Manager David W. Hewett; Town Clerk Heather Finnell; Assistant Town Manager Christy Ferguson; and Inspections Director Tim Evans.

Mayor Holden called the meeting to order.

**PUBLIC COMMENT**

No Comments were made.

**INTERVIEWS FOR VACANCIES ON TOWN BOARDS**

The Board interviewed Grace Bannerman, Melanie Champion, Mike Pearson, John Cain, Wade Coleman, Richard Roberts, Rosemarie Rovito, Aldo Roviton and Sylvia Pate for vacancies on the Board of Adjustment, Planning & Zoning Board and the Parks & Recreation Advisory Board.

**ADJOURNMENT**

*Motion to adjourn by Mayor Pro Tem Brown at 5:11 p.m.; second by Commissioner Smith; approved by unanimous vote.*

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J. Alan Holden, Mayor

ATTEST:

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Heather Finnell, Town Clerk



**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
TUESDAY, JULY 20, 2021 – 5:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, July 20, 2021 at 5:13 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem Gerald Brown; Commissioners Brian Murdock, Mike Sullivan, Pat Kwiatkowski and Rick Smith; Town Manager David W. Hewett; Town Clerk Heather Finnell; Assistant Town Manager Christy Ferguson; Inspections Director Tim Evans; Police Chief Jeremy Dixon; and Town Attorney Rick Green.

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

**PLEDGE OF ALLEGIANCE**

**AGENDA APPROVAL**

Town Manager Hewett requested that the Board move the Water Agreement with Brunswick County to item 7a and delete item 22, FEMA Gated Community Debris Pickup Update, to be taken up at a later date.

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

**APPROVAL OF MINUTES**

*Motion by Commissioner Smith to approve minutes from those four meetings (Public Hearing/Special Meeting of June 4, 2021, Public Hearing/Regular Meeting of June 15, 2021, Special Meeting of June 28, 2021 and Special Meeting of June 30, 2021); second by Commissioner Kwiatkowski; approved by unanimous vote.*

**PUBLIC COMMENTS ON AGENDA ITEMS**

No comments were made.

## **PRESENTATION OF MUNICIPAL ADMINISTRATION CERTIFICATE TO ASSISTANT TOWN MANAGER FERGUSON**

Town Manager Hewett presented the certificate to Assistant Town Manager Ferguson.

## **DISCUSSION AND POSSIBLE ACTION ON WATER AGREEMENT WITH BRUNSWICK COUNTY**

Town Manager Hewett introduced John Nichols from Brunswick County and provided background on the proposed agreement. Mr. Nichols explained this is a critical point. They are expanding their Northwest Water Treatment Plant. There is a lot going on with the utility system and there is a lot of growth in the county.

Commissioner Kwiatkowski inquired what the county is doing regarding water quality. Mr. Nichols replied that is one of their primary concerns. One of the initiatives with the Northwest Water Treatment Plant is to provide advanced treatment through low pressure reverse osmosis. That is one of the best ways to remove a lot of the pollutants, not just the ones seen in the media, but a wide array of pollutants. They are working hard to ensure the treatment process is the best that we can have in the county. They also look at how to improve the water shed and in what ways they can work with DEQ to make sure that industrial pollutants are not put into the river. There is a lawsuit the county has with the primary industry responsible for the pollutants in the water. Mr. Nichols said if the courts look favorable on that case, they will try to utilize those funds to reimburse in some manner the costs associated with the advanced treatment. The overall project should be complete by the end of 2023.

*Motion by Commissioner Smith that we approve the wholesale water agreement with Brunswick County; second by Mayor Pro Tem Brown; approved by unanimous vote.*

## **POLICE REPORT**

- May 1<sup>st</sup> to June 30<sup>th</sup> – conducted 77 traffic stops, issued 41 state citations. The 41 state citations had 57 total charges on them. They did nine written warnings and 27 verbal warnings. They issued 59 ordinance violation tickets, all being parking related. They made five arrests.
- Over July 4<sup>th</sup> weekend – conducted 22 traffic stops, with 12 state citations written, with a total of 18 charges. There was one written warning and nine verbal warnings. They issued 35 ordinance related tickets; five tickets were fireworks related and 30 parking violations. Fireworks were down tremendously this year. Participated in the Booze It and Lose It campaign. We did a trial run of closing the left turn lane over the 4<sup>th</sup>. Tried it again this past weekend. Intend to close the left turn lane on the bridge every Saturday until at least Labor Day. Talked about a conversation with a homeowner regarding the traffic and the change. Most of the congestion is before you get to the stoplight.

Commissioner Kwiatkowski thanked Chief Dixon, Mayor Holden and Town Manager Hewett for the no left turn off of the bridge on Saturdays. She thinks it was a great decision. Commissioner Smith agreed.

**DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 21-18, AN ORDINANCE AMENDING ORDINANCE 20-10, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR 2020 – 2021 (AMENDMENT NO. 18)**

Assistant Town Manager Ferguson explained this is the last part of our funding for the FEMA projects. It is Cat Z for Isaias. This makes us whole on the storms we plan to bundle together for our fall project.

*Motion by Commissioner Smith that we approve budget amendment 21-18; second by Mayor Pro Tem Brown; approved by unanimous vote.*

**DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 21-19, AN ORDINANCE AMENDING ORDINANCE 20-10, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR 2020 – 2021 (AMENDMENT NO. 19)**

Town Manager Hewett stated this is one of a couple of end-of-year housekeeping budget amendments. We had excess collections, approximately 35% over last year's collections due to the influx of renters associated with Covid-19 and the reopening of the state. Fiscal Operations Supervisor Lancaster has been real busy making sure tax collections are correct. The amendment is to increase the accommodations tax by \$362,648 to reflect actual collections as of the end of June.

*Motion by Commissioner Smith to approve Ordinance 21-19, Amending Ordinance 20-10, the Revenues and Appropriations Ordinance for Fiscal Year 2020 – 2021; second by Mayor Pro Tem Brown.*

Commissioner Kwiatkowski inquired about the beach vegetation and sand fence increases. Town Manager Hewett responded those are placeholder accounts. The money won't be obligated, it will fall back into fund balance. Commissioner Kwiatkowski said this would be another opportunity to put money back into the sand reserve fund. Town Manager Hewett explained he considered that when he made his recommendation. In an attempt to make sure things are simple and the audit is clean, he recommended that it be housed in Fund 50. It would be more appropriate for the Board to make that type of decision once they see the audit.

*The motion passed by unanimous vote.*

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

Town Manager Hewett stated this is another housekeeping item. GASB 87 requires that whenever you execute a lease purchase agreement that the entire asset be booked on the revenue and expense sides. This case is for the vector truck. We made the down payment and procured the asset. This is enabling us to be able to book the asset to our capital listing.

*Motion by Commissioner Kwiatkowski to approve Ordinance 21-20; second by Commissioner Smith; approved by unanimous vote.*

**DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 21-21, AN ORDINANCE AMENDING ORDINANCE 21-13, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR 2021 – 2022 (AMENDMENT NO. 1)**

Town Manager Hewett explained this is required should the pier property offer be accepted by Mr. Bass. We need to be able to preaudit that for the earnest and due diligence money. It proposes to fund the property acquisition at \$3.25 million, with proceeds being provided by a loan of \$3 million and a fund balance appropriation of \$259,000. The \$50,000 is the earnest money and the due diligence, \$9,000 is the amount for the appraisal and the other \$200,000 from fund balance is in effect paid over from the reserves.

*Motion by Commissioner Smith to approve Ordinance 21-21, Amending Ordinance 21-13; second by Commissioner Murdock.*

Commissioner Sullivan said we determined we need an inspection of the pier and he doesn't see money allocated for that. Town Manager Hewett replied it wasn't clear to him what type of inspection, or how much it would cost. He has not provided for that in this amendment. Commissioner Sullivan asked what approximately the debt service would be on the \$3 million. Town Manager Hewett responded when they calculated that before for \$3.2 million at a low interest rate it was at about \$250,000. If you take \$200,000 off of that it would be less, but he has not done that math. Commissioner Kwiatkowski inquired if the Board should discuss what type of inspection is needed so the money could be allocated. She would like to get the ball rolling. She said as she understands it, it needs both above water and underwater examination of the pilings and possibly an inspection that gives the idea of how deep the pilings are driven. Commissioner Sullivan agreed, he thinks the Board should allocate funds as soon as possible. The Board discussed how to move forward. Mayor Holden said if the Board wants to set money aside for potential expenses, he wouldn't label it for a specific item. If anyone is bidding on the job and knows what is in the bucket, the price would probably be on the high side to get that full amount. He suggested the Board allocate funds to be put aside for costs in general in regards to the potential purchase, rather than a specific part of it. Commissioner Murdock stated he would wait until there is a signed contract before worrying about other funds.

Mayor Holden asked for a point of order. Mayor Pro Tem Brown called for the vote.

*The motion passed by a 3 – 2 vote, with Mayor Pro Tem Brown and Commissioners Murdock and Smith voting for the motion and Commissioners Sullivan and Kwiatkowski voting in the negative.*

**DISCUSSION AND POSSIBLE ACTION TO SELECT THE PRIORITY BOARD OF COMMISSIONERS' OBJECTIVES FOR THE UPCOMING YEAR**

Commissioner Kwiatkowski explained how she organized the list.

*Motion by Commissioner Kwiatkowski that the Board of Commissioners accepts the priority list as the BOC objectives for fiscal year 2021 - 2022; second by Commissioner Sullivan.*

Commissioner Kwiatkowski said she doesn't understand exactly what's behind asking the county for help on the second water tower. Town Manager Hewett stated he was going to concentrate on the

tangible item of completing the needs assessment and bringing that back to the Board. From the manager's perspective he is okay with leaving it as is. Commissioner Kwiatkowski asked if the request to the county to establish off-island parking and a trolley/bus service is still a priority for this year. Town Manager Hewett responded that when we integrate our efforts with the Grand Strand Transportation Committee and communicate with the county, that type of guidance from the Board affords him the backing he needs when he engages with them to evolve opportunities. There is a county site off the island that perhaps a partnership could be formed. We are working that at the GSATS level. It serves to facilitate our transportation needs.

*The motion passed by unanimous vote.*

#### **DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 21-22, AN ORDINANCE AMENDING HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 35: INLET AND BEACH PROTECTION BOARD (IBPB)**

Town Clerk Finnell explained Ordinance 21-22 deletes the IBPB per the Board's direction at the last meeting.

*Motion by Commissioner Smith to delete Chapter 35, the Inlet & Beach Protection Board completely from the Holden Beach Code of Ordinances; second by Mayor Pro Tem Brown; approved by unanimous vote.*

#### **DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 21-23, AN ORDINANCE AMENDING HOLDEN BEACH CODE OF ORDINANCE, CHAPTER 34: PARKS & RECREATION ADVISORY BOARD (PRAB)**

Town Clerk Finnell explained the ordinance takes part of the duties from the IBPB and brings it over to the PRAB as directed at the last meeting

*Motion by Mayor Pro Tem Brown to approve Ordinance 21-23; second by Commissioner Murdock; approved by unanimous vote.*

#### **AUDIT COMMITTEE DEBRIEF TO THE BOARD**

Commissioner Kwiatkowski reported that they have started Audit Committee meetings again. At the first meeting they agreed to pick up some business that was in progress. One of the pieces is working on some financial pulls from data that the committee thought might be a useful reporting tool. One of the members was working with the town manager on that. The idea is to present data in a more user-friendly way without causing the Town any more work. She said they also agreed to proceed with amending/modifying the Audit Committee ordinance. Lastly, they started getting prepared for the annual audit.

#### **DISCUSSION AND POSSIBLE ACTION ON PARKING MANAGEMENT SERVICES PROPOSALS**

Town Clerk Finnell explained we received four proposals in response to the Request for Proposals. Mayor Holden asked if any of the companies have anything to do with the recent reports by the news. Town Clerk Finnell responded that Pivot is who was on the news. Commissioner Murdock said he read



all of these, but thinks it should be a staff decision as to who would be the best fit if the Town moves forward with it. Commissioner Kwiatkowski inquired if any should be eliminated up front.

*The Board agreed to have Town Manager Hewett and his staff review the proposals and come back with a recommendation to the Board.*

## **DISCUSSION AND POSSIBLE ACTION ON GOLF CART VIOLATION REPORTING TASKER**

Commissioner Kwiatkowski explained the background of her and Commissioner Smith's tasker. She said unless the Board sees details specific to golf carts, they don't really know if there has been a significant impact. She would like the Board to get violations reported monthly at the meetings so they can have measurements that show things are going in the right direction or they need more work. Chief Dixon stated he understands what they are going for. The problem is they do not data track for types of vehicles. When they make a traffic stop, the violation is documented, but the type of vehicle is not. They need to enforce the law for every vehicle, not just golf carts. Commissioner Smith provided information on golf cart violations he has seen from his yard. Chief Dixon doesn't think the data tracking will solve anything. If grown adults choose not to wear a seatbelt, that is their decision. They will continue to write tickets for it, but it is their decision. They are also seeing children not properly in seats. They will continue to enforce the rules, but he doesn't agree the tasker will help.

## **DISCUSSION AND POSSIBLE SELECTION OF MEMBERS TO SERVE ON BOARDS**

Mayor Holden announced the following:

Board of Adjustment - Jack Lohman was selected as a Regular Member and Aldo Rovito and Richard Roberts were selected as Alternate Members. Votes were Regular Member: Jack Lohman – Commissioners Sullivan, Kwiatkowski and Smith, Aldo Rovito – Mayor Pro Tem Brown and Richard Roberts – Commissioner Murdock, Alternate Members: Aldo Rovito – Commissioners Murdock, Sullivan, Kwiatkowski and Smith, Richard Roberts – Commissioners Sullivan, Kwiatkowski and Smith and Jack Lohman – Commissioner Murdock.

Parks & Recreation Advisory Board - Grace Bannerman, Melanie Champion and Mike Pearson were selected. Votes were Grace Bannerman – Mayor Pro Tem Brown and Commissioners Murdock, Sullivan, Kwiatkowski and Smith, Melanie Champion – Mayor Pro Tem Gerald and Commissioners Murdock, Sullivan and Smith, Mike Pearson – Commissioners Murdock, Sullivan, Kwiatkowski and Smith, Suzannah Tucker – Commissioners Murdock, Sullivan and Kwiatkowski, Rosemarie Rovito – Mayor Pro Tem Brown, and Commissioners Kwiatkowski and Smith and Mark Francis – Mayor Pro Tem Brown. The Board voted between Suzannah Tucker and Rosemarie Rovito for the last position. Suzannah Tucker was selected to serve. The votes were Suzannah Tucker Mayor Pro Tem Brown and Commissioners Murdock, Kwiatkowski and Smith and Rosemarie Rovito – Commissioner Smith.

Planning & Zoning Board – Regular Members selected were Wade Coleman, Sylvia Pate and Pete Pallas. Votes were Wade Coleman – Mayor Pro Tem Brown and Commissioners Murdock, Sullivan and Smith, Sylvia Pate – Mayor Pro Tem Brown and Commissioners Murdock, Kwiatkowski and Smith, Pete Pallas – Commissioners Murdock, Sullivan and Kwiatkowski, Tracey Thomas – Commissioners Sullivan and Kwiatkowski, John Cain – Commissioner Smith and Mark Francis – Mayor Pro Tem Brown. Mark Francis



was selected as the Alternate. Votes were Mark Francis – Mayor Pro Tem Brown and Commissioner Kwiatkowski, Sylvia Pate – Mayor Pro Tem Brown and Commissioner Sullivan, Anne Freeman – Commissioner Smith, John Cain – Commissioner Kwiatkowski, Richard Roberts – Commissioner Smith, Wade Coleman – Commissioner Sullivan and Shannon Ward – Commissioner Kwiatkowski. The Board voted between John Cain, Anne Freeman and Shannon Ward for the last Alternate Member position. John Cain was selected. Votes were John Cain – Commissioners Sullivan, Kwiatkowski and Smith and Anne Freeman – Mayor Pro Tem Brown and Commissioner Murdock.

#### **DISCUSSION AND POSSIBLE ACTION ON GOLF CART REQUEST TO TOWN ATTORNEY**

Attorney Green said Commissioner Smith asked if it would be legal to require that golf cart rental companies purchase a yearly permit, require that they complete a safety compliance inspection and have a rules and regulations form for the renters to sign off on. Attorney Green reviewed NCGS 160a-300.6. If the Town develops an ordinance to regulate golf carts and it is within the purview of the state's statute you are good to go. He said it is getting worse, you see infants sitting in the front, with no car seats. A properly designed Town regulation, coupled with the requirement that the carts be registered can be done within statutes.

The Board allowed Kevin Peak to speak. He is a retired lieutenant with the Division of Motor Vehicles, License and Theft Bureau. They were the agency that regulated manufacturing of low-speed vehicles. Mr. Peak agreed with the statute that was mentioned, but said there is a low speed vehicle statute in North Carolina. He said you are operating under that which requires those vehicles to be licensed, registered, insured and North Carolina State inspections to be performed each year. He also manages a local rental company. They do have contracts in place. They have weekly turnovers. Their contract requires you to be 21 or above. He said violations are personal choices that are made, it has nothing to do with the rental company. He said there is a clear-cut difference between golf carts and low speed vehicles. He offered to work with the attorney or Police Department to come up with a plan to help the situation.

Town Manager Hewett stated he would be interested in following up on how property taxes are collected on those vehicles. Commissioner Sullivan said it seems there are enough regulations on the books. If we enforced the ones we have, we would be successful. He stated if the Police Department gives strict attention to golf carts, it will go a big way to solve the problem.

#### **DISCUSSION AND POSSIBLE ACTION ON TEXT AMENDMENT FOR SWIMMING POOL LOCATIONS**

Inspections Director Evans would like the Board to decide if they would like to accept the proposed text amendment. It would prohibit pools in the front yard setbacks. He provided history on the amendment. The text amendment was generated by staff and supported by Commissioner Sullivan and Planning & Zoning Board (P&Z) chair Vicki Myers. P&Z agreed with it and wrote a consistency statement. This amendment would remove the ability to allow pools in the front yard. Staff believes that the proposed amendment would help ensure a healthy, safe environment for the Town. Staff believes that the Town never intended to provide for exemptions for pools in the front yard. Staff has concluded that the ordinance allowing for the use was meant to keep clear front yard setbacks to secure best-case scenarios for impervious runoff. He explained it is also imperative that the Town recognize the benefits of keeping as much open space as possible for occupants to use for parking.

Inspections Director Evans added that staff believes there is a danger in swimming pools being located so close to the street rights-of-way. He provided information on what you could do with combined lots, variances and setbacks.

*Motion by Commissioner Sullivan that we accept the amended text of section 157.060(D)(7) and 157.061(D)(6) and set a public hearing for the August meeting; second by Commissioner Kwiatkowski. The motion passed by a 4 – 1 vote with Mayor Pro Tem Brown and Commissioners Murdock, Sullivan and Kwiatkowski voting for the motion and Commissioner Smith voting in the negative.*

## **PUBLIC COMMENTS ON GENERAL ITEMS**

No comments were made.

## **TOWN MANAGER'S REPORT**

- FEMA Capital Storm Damage Repair Project - The Local Government Commission approved special obligation bonds in the amount of \$27.7 million last Tuesday. We closed on the financing as of Friday. The Notice of Award was issued to Weeks Dredging earlier today. It looks like we will have a project beginning on or about November 15<sup>th</sup>.
- Seagull Street Paving – issued the Notice to Proceed to Right Angle Engineering to move forward with the necessary surveying for the design work earlier this month.
- Mr. Green requested a progress meeting next week. He is close to being ready to advertise for the lift station 2 upgrade.

## **MAYOR'S COMMENTS**

- Has a bone to pick with Assistant Town Manager Ferguson. She did not do the no rain dance this past Sunday. We were expecting a tremendous crowd. The Tams are our biggest drawing band. There are a lot of disappointed people.
- Overall, the summer is going extremely well. Never seen as many people here. Never seen so many new boats, umbrellas and Shibumis. Police Department and Public Works - sees everyone working hard. After going through last year and all the problems, we have come so far this year. All the renters and day trippers seem to be in a much better mood this year. Appreciates what everyone is doing.
- Goes up the strand a lot. It is very noticeable how the number of smokers has reduced. You hardly see cigarette butts on the beach. The number of dogs on the strand violating our ordinance have come down. The compliance of our overall strand ordinances is much better. It is amazing how people seem to appreciate Holden Beach over our neighboring beaches. Proud of this place.

## **BOARD OF COMMISSIONERS' COMMENTS**

Mayor Pro Tem Brown

- Congrats to all the new board members. Remember you are working for your town, your home. You always want to do what's best for that.

- Listened real close about golf carts. Woke up one morning about a week ago and the first thing he ran into was a golf cart. Went a little further and two bicycles went in front of him. Then he pulled on Ocean Boulevard and there's the garbage truck. We are in the heat of it. This is summertime. Everyone is coming to the beach. We need to keep that in mind. Has heard it both ways on the golf carts. Staying clear on that one. Hoping when we get Ocean Boulevard paved, it will help. Golf carts are nothing that can't be worked out. We just need to realize it is the heat of summer, slow down a bit. Everybody stay safe, watch out for your neighbors.
- It's good to have a good turnout here. Have a good summer.

#### Commissioner Smith

- Thanked staff, especially for all of the time spent in all the special meetings we had in the past month. Knows their time is important, but appreciates them putting up with all the meetings and they seem to support them.
- Thanked all the citizens that showed up for the public hearing on the pier. It was nice to see that number of people show up to voice their concerns and appreciated the positive comments.
- Thanked everyone here this evening. We have a lot of smart people here. It is good to have them come and want to work on our committees and boards. Makes him proud of this community.
- Thanked Mayor Holden and Assistant Town Manager Ferguson for their quick response on Sunday. Was geared up for some good music, but we all saw the storm coming. They made a good call quickly, that allowed people to make other plans.
- Thanked staff, commissioners and the police chief for doing all they can to keep the golf carts safe. He has seen what can happen.
- The 4<sup>th</sup> of July traffic moved as well as you could expect it. The Police Department have been doing a great job, thanks.

#### Commissioner Murdock

- Thanked everyone for showing up. Greatly appreciates the input of the public. Wants to say a few words about the property available on Holden Beach. The pier is included in that. The whole time he has been coming here since he was a kid, this has been a family beach. He is a contractor, but he thinks we have an obligation to preserve something we can get our hands on to keep some open space available for the public and residents to use. He would be glad to put a house on every lot, but in his heart of hearts, the pier won't go on his watch. There is other property that is valuable, anything we can look at purchasing, making it available to the residents, the vacationers and to everyone in North Carolina and far reaches. We all deserve to use this place. If we put a house on every lot, he doesn't know what will be left to use. No matter what comes of the pier, pilings or shape of the building, is in favor of preserving it as it is for as long as we can for everyone to come and enjoy. It is weighing on him that we would let this slip from under us. When all the lots are built, doesn't know where people will go. Hopefully, he represents most of the town as a whole.
- Thanks for coming out.
- Thanks for volunteering on boards. It is a big help to have everyone's opinion.
- Appreciates staff for all the hard work. This is a time-consuming job for everyone. It doesn't go unnoticed.
- Appreciates the Board, they do the best that they can do together and he appreciates it.

#### Commissioner Sullivan

- Pointed out that when Town Manager Hewett gave his presentation, he skimmed over the fact that we will be able to do the renourishment for the Central Reach Project for \$27 million. In the past four years since the Central Reach Project was done, the federal government, FEMA estimated and authorized us to spend almost \$46 million on the damages. The reason we won't need to spend that \$46 million and can save almost \$20 million is because of work that Town Manager Hewett, Assistant Town Manager Ferguson and staff do. They were able to consolidate the four storms into one mobilization package. The work it takes to get that accomplished is astronomical. Wants everyone to understand we are very fortunate, the staff does a hell of a job for us. It is hard to thank them enough. A simple way to look at it is we are getting the job for \$20 million less than it was authorized for; where do you get that kind of return or reduction in cost.
- We have an obligation to do what's best for the people who voted for us and live here and we can do as good as we can for the rest of the people. We should try to preserve Holden Beach, but Holden Beach isn't the same beach that everyone who has been coming here for 50 years is familiar with. Everything changes. We don't have an obligation to make it available to people from far and wide. We can try and as long as it is feasible and viable, he is all for it. We have to use common sense and be fiscally responsible in that evaluation.

#### Commissioner Kwiatkowski

- Pier purchase: everyone has heard the basic terms now. You know the debt service estimate, you know we are up for a period of due diligence that will tell us the state it is in. You have heard it is not the Board's intent to increase taxes to pay for the pier. You have heard about grants possibly being available. We have heard from about 50 of you formally through public comment either written or at the meeting. The majority do seem to support the purchase, but a lot of people have conditions, reservations about potential costs, want the property to support itself and expressed concern that they haven't been shown a plan. At this point she can't say with certainty that the assumptions that she and Commissioner Sullivan listed in their paper are still going to be the plan. You have heard some commissioners say even if the building and pier are in bad condition, we still should purchase the property. Teardowns don't bring in lease income, so we don't have that revenue neutral for a number of years. The rationale for the purchase has been based on land value, but its land value is if the property is shovel ready to build on and that's not what that property is. It is not the intent to raise property taxes to pay, but that doesn't mean we will have the money on hand to fund whatever fixes due diligence turns up. We won't know until we get those assessments. Even paying debt service from the BPART revenue flow, if we don't have leasable property and parking income it isn't going to work. Our BPART is healthy, but it is paying for central reach beach nourishment, which is about \$1.3 million, which is almost half of what we get in occupancy tax revenue. It also has to cover our annual tourism related program and service expenses, beach and dune maintenance and administrative and personnel costs. That pretty much takes up the rest of the revenue from occupancy tax. This year we used half a million dollars from BPART Fund reserves to start the first payment for the Corps' study, which we all agreed was necessary. Next year the cost will be \$800,000 and year three will be \$200,000. We are going to be borrowing later this year for bike lanes. There is discussion about purchasing property for paid parking. She is not implying the Town is not managing our money well, we are. Does see that we are taking on a lot of debt at once. Thinks we need to look at everything together and not just one transaction after another. When we discuss the budget, has four categories in mind. Debt service

obligations are top priority. Then you need to keep Town services and operations going. You have to maintain infrastructure, which includes the beach. Then there is the rest. Has categories for the rest, must have, should have, nice to have. Beach accesses are a must have if a significant stretch of our engineered beach isn't served adequately. Bike lanes are a should have. They have received strong support from our public. From her perspective the pier property is a nice to have. Understands having open space, but there are so many unknowns and probable expenses that must be précised before purchase. If our property owners support the pier purchase, understanding the uncertainties and the risk benefits, then she will do everything she can to make it happen in a fiscally responsible manner. Would like to hear from more of our owners, not through the HBPOA. She needs to hear from individuals. Would like to hear do you support the purchase no matter what, support the purchase as long as it will pay for itself, do you support the purchase if you see a fiscally responsible plan or do you not support the purchase. Has heard a lot of criticism that the Board has been debating without telling anybody anything. Please remember we have been discussing a potential purchase in Executive Session. They are not going to say anything that could negatively affect the Town's ability to negotiate. Now that we are moving into a new phase, there is still going to be confidential matters. Please respect the fact that we are operating under government rules for executive session, under contract, under law. We will tell you what we can when it is appropriate.

- Thanks for coming today. Hopes to see everyone in August.

## ADJOURNMENT

*Motion to adjourn by Mayor Pro Tem Brown at 7:11 p.m.; second by Commissioner Smith; approved by unanimous vote.*

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

ATTEST:

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

# Activity Log Event Summary (Totals)

HOLDEN BEACH POLICE DEPT.

(07/01/2021 - 07/31/2021)

911 Hang Up/Open Line	2	Alarm Activation	15
Animal Carcass	3	Animal Control	8
Attempt to Locate-ATL	36	B&E in Progress	1
Business Check	155	Court	1
Disabled Motorist	2	Disturbance/Fight	8
Domestic Disturbance	2	EMS/Medical Call	24
Fire Call	8	Fireworks	6
Incident Report	10	Keep Check	32
Lockout Request	1	Lost/Found Property	16
Meet Complainant	75	Message Delivery	2
Missing Person	2	Motor Vehicle Crash	8
Parking	83	Phone Call Request	42
Public Works/Water Leak	3	Special Assignment	27
Suspicious Activity	8	Traffic Stop	94
Trespassers	1	Welfare Check	5

**Total Number Of Events: 680**





Memo:

Subject: Text Amendment Swimming Pool Locations

To: Board of Commissioners, Mayor, Town Manager

This text amendment was generated by staff and supported by Commissioner Sullivan, Planning Board Chair, Vicki Myers.

157.060(D)(7) Lot coverage.

(a) Lot coverage of main structure shall not exceed 30% of the platted lot. All impervious structures outside of main structure shall not exceed 30% of buildable land less area of the main structure. All Health Department and CAMA requirements must also be met. Open decks are not considered in the 30% lot coverage of the main structure, but they must meet all setback requirements. Gravel, sand and grassed areas are considered pervious. An approved pervious product shall be allowed to cover 30% of the platted lot in addition to the allowable impervious area. (See definition of APPROVED PERVIOUS PRODUCT.)

(b) Driveways, parking lots, parking spaces, parking areas, patios and other similar areas and surfaces located in the front yard setback, rear yard setback and side yard setbacks adjacent to a street right-of-way shall be gravel, grass or of an approved pervious product.

(c) pools are prohibited within the front yard setback

157.061(D)(6) Lot coverage.

(a) Lot coverage of main structure shall not exceed 30% of the platted lot. All impervious structures outside of main structure shall not exceed 30% of buildable land less area of the main structure. All Health Department and CAMA requirements must also be met. Open decks are not considered in the 30% lot coverage of the main structure, but they must meet all setback requirements. Gravel, sand and grassed areas are considered pervious. An approved pervious product shall be allowed to cover 30% of the platted lot in addition to the allowable impervious area. (See definition of APPROVED PERVIOUS PRODUCT.)

(b) Driveways, parking lots, parking spaces, parking areas, patios and other similar areas and surfaces located in the front yard setback, rear yard setback and side



yard setbacks adjacent to a street right-of-way shall be gravel, grass or of an approved pervious product.

(c) Pools are prohibited in front yard setbacks

Staff has reviewed and recommends consideration by the Board of Commissioners the amendments to sections 157.061(D)(6)(c) and 157.060(D)(7)(c).

Staff believes that the above mentioned text amendments will help insure a healthy safe environment for the town of Holden Beach. While pools have become a staple in the rental business, most lots without exception will not accommodate pools, and it's the staff's beliefs that the town never intended to provide exceptions for pools in the front yard. As a matter of record staff has concluded that the ordinance allowing for such use was meant to keep clear those front yard setbacks of any such amenities to secure best case scenarios for impervious runoff. The Town of Holden Beach has recognized in the past and it is true currently that overflow parking is a must at most rental locations. The state of North Carolina makes it extremely hard to control the number of people located in a dwelling. The town does have a mandatory parking requirement. It is imperative that the town recognize the benefits of keeping as much space open for occupants to use for parking.

Staff believes that there is a real danger in swimming pools located so close to the street rights-of-way as many are in the 25-foot setback area, providing direct access for an amenity that has been declared and identified as an attractive nuisance. Pools are considered so dangerous that the North Carolina Building Code has specific Safety requirements and an independent code section just for pools.

Sections 157.061(D)(6) and 157.060(D)(7),  
that allows for the unintended exception can be corrected with the above-mentioned text amendment.



Timothy D. Evans



## Town of Holden Beach Planning & Zoning Board Statement of Consistency and Zoning Recommendation

The Town of Holden Beach Planning & Zoning Board has reviewed and hereby recommends approval of amendments to Chapter 157.060(D)(7)(c) and 157.061(D)(6)(c) of the Zoning Ordinance regarding pools placed in the front setback.

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

- **Safety:** Pools adjacent to public roadways increase the risk of an accident becoming more serious should the vehicle leave the roadway. *Chapter 4: Analysis of Community Facilities* of the adopted plan discusses the Annual Average Daily Traffic (AADT) and notes that accounting for seasonal increases in population and traffic the counts may exceed capacity of roads. This could lead to additional collisions.
- **Aesthetics:** *Chapter 1: Introduction* of the adopted Plan references that one of the community's highest ranked desires is to "Retain and enhance community appearance" regarding the character of development on Holden Beach. Policy 5.1.C. states that the Town will ensure that development is consistent with existing aesthetic and architectural characteristics.
- It will promote public health, safety, and general welfare within our community by reducing the risk of a dangerous accident where the risk was not present prior to the pool installation and will maintain the community's current aesthetics.

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

The statement and motion were adopted by a 4-0 vote this 22<sup>nd</sup> day of June, 2021.

*Vicki Y. Myers*

\_\_\_\_\_  
Vicki Y. Myers, Chair

**ORDINANCE 21-24**  
**AN ORDINANCE AMENDING HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 157: ZONING CODE**

**BE IT ORDAINED BY** the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina, that Chapter 157: Zoning Code be amended as follows.

**Section One:** Amend § 157.060(D)(7) and §157.061(D)(6) to read as follows (change in red).

**§157.060(D)(7)      Lot coverage.**

(a)      Lot coverage of main structure shall not exceed 30% of the platted lot. All impervious structures outside of main structure shall not exceed 30% of buildable land less area of the main structure. All Health Department and CAMA requirements must also be met. Open decks are not considered in the 30% lot coverage of the main structure, but they must meet all setback requirements. Gravel, sand and grassed areas are considered pervious. An approved pervious product shall be allowed to cover 30% of the platted lot in addition to the allowable impervious area. (See definition of APPROVED PERVIOUS PRODUCT.)

(b)      Driveways, parking lots, parking spaces, parking areas, patios and other similar areas and surfaces located in the front yard setback, rear yard setback and side yard setbacks adjacent to a street right-of-way shall be gravel, grass or of an approved pervious product.

(c) Pools are prohibited within the front yard setbacks.

**§157.061(D)(6)      Lot coverage.**

(a)      Lot coverage of main structure shall not exceed 30% of the platted lot. All impervious structures outside of main structure shall not exceed 30% of buildable land less area of the main structure. All Health Department and CAMA requirements must also be met. Open decks are not considered in the 30% lot coverage of the main structure, but they must meet all setback requirements. Gravel, sand and grassed areas are considered pervious. An approved pervious product shall be allowed to cover 30% of the platted lot in addition to the allowable impervious area. (See definition of APPROVED PERVIOUS PRODUCT.)

(b)      Driveways, parking lots, parking spaces, parking areas, patios and other similar areas and surfaces located in the front yard setback, rear yard setback and side yard setbacks adjacent to a street right-of-way shall be gravel, grass or of an approved pervious product.

(c) Pools are prohibited within the front yard setbacks.

**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 18<sup>th</sup> day of August, 2021.

This the 17<sup>th</sup> day of August, 2021.

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J. Alan Holden, Mayor

ATTEST:

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Heather Finnell, Town Clerk



Date: August 10, 2021  
To: Commissioners and Mayor Holden  
From: David W. Hewett, Town Manager *DH*  
Re: Ordinance 21-25 – Fund 20 Debt Service Amendment

This amendment is to reclassify the down payment of the Vac truck and is purely a housekeeping entry that has no effect on the balance of the budget.

The recommended motion is to approve Ordinance 21-25.

Attachment:  
Ordinance 21-25

# **TOWN OF HOLDEN BEACH**

## **ORDINANCE NO. 21-25**

### **AN ORDINANCE AMENDING ORDINANCE 20-10, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR 2020-2021 (AMENDMENT NO. 21)**

Be it ordained by the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina, that Ordinance No. 20-10 appropriating funds for fiscal year 2020-2021 be amended as of June 30, 2021:

	<u>DESCRIPTION</u>	<u>ACCOUNT NO.</u>	<u>AMOUNT</u>	<u>ACTION</u>
<u>EXPENSE</u>				
	DEBT SERVICE-CAPITAL OUTLAY	30.0810.8000	45,325.78	INCREASE
	CAPITAL OUTLAY - VEHICLES	30.0810.7403	45,325.78	DECREASE
<u>TOTAL</u>			<u>                    </u> <u>                    </u> <u>                    </u>	

This is the 17th day of August, 2021.

ATTEST:

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

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



Date: August 10, 2021  
To: Commissioners and Mayor Holden  
From: David W. Hewett, Town Manager *DH*  
Re: Ordinance 21-26 – Fund 70 Lease Proceeds Amendment

This amendment is to add lines to the budget to properly account for money flowing in and out from the sinking fund loan for the beach renourishment project.

The recommended motion is to approve Ordinance 21-26.

Attachment:  
Ordinance 21-26



# TOWN OF HOLDEN BEACH

## ORDINANCE NO. 21-26

### AN ORDINANCE AMENDING ORDINANCE 21-13, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR 2021-2022 (AMENDMENT NO. 2)

Be it ordained by the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina, that Ordinance No. 21-13 appropriating funds for fiscal year 2021-2022 be amended as follows:

#### REVENUE

LOAN PROCEEDS	70.0331.0100	<u>27,700,000.00</u> INCREASE
<u>TOTAL</u>		<u><u>27,700,000.00</u></u>

#### EXPENSE

DEBT SERVICE	70.0400.7401	<u>27,700,000.00</u> INCREASE
<u>TOTAL</u>		<u><u>27,700,000.00</u></u>

The Town Manager acting in his capacity as Budget Officer or Finance Officer as may be appropriate is hereby authorized to effect such administrative actions as necessary to ensure compliance with the Local Government Fiscal Control Act and Governmental Accounting Standards Board .

This is the 17th day of August, 2021.

ATTEST:

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

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

Memo To: BOC

11 August 2021

RE: Audit Contract Addendum

From: Town Manager 

The engagement letter addendum with Martin Starnes at atch 1 regarding supplemental fees for the auditor's presentation and attendance at the audit committee's review meeting prior to formal presentation of the Year Ending 30 June 2021 audit to the BOC is presented for BOC consideration. Per the auditor - the LGC said this should go in an addendum rather than as a contract amendment since it is not directly related to the audit and is outside the scope of the audit contract. The Budget Adjustment at Atch 2 provides funding for these additional services in the amount of \$2,000 from within existing resources i.e., realigns the Board's "available to appropriate" funds to the "Professional Services" line.

If the Board desires an auditor attended review and brief of the audit to the Audit Committee it needs to approve the contract addendum and it's related Budget Adjustment in the amount of \$2,000.

2 Atchs

1. Contract Addendum
2. Budget Adjustment

# MARTIN ♦ STARNES

## & ASSOCIATES, CPAs, P.A.

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

August 11, 2021

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

This letter constitutes an addendum to our original engagement letter dated February 8, 2021 for the Town of Holden Beach. The purpose of this letter is to inform you of supplemental fees related to services to be offered outside the scope of our audit for the fiscal year ended June 30, 2021.

The additional service to be provided is attendance at the audit committee presentation. Additional fees will be billed in a supplemental invoice and are estimated to be \$2,000, including travel and mileage expenses. Our invoice for these fees will be rendered after the presentation and is payable upon presentation.

All the remaining terms of our original engagement letter still apply. This addendum will become effective as soon as you sign a copy of this letter and return it to us.

Respectfully,

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

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

### RESPONSE:

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

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

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

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

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

# **TOWN OF HOLDEN BEACH**

## **BUDGET ADJUSTMENT**

### **AMENDING ORDINANCE 21-13, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR 2021-2022 (ADJUSTMENT NO. 817)**

Be it ordained by the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina, that Ordinance No. 21-13 appropriating funds for fiscal year 2021-2022 be adjusted as follows:

#### EXPENSE

PROFESSIONAL SERVICES	10.0410.0400	2,000.00 INCREASE
AVAILABLE TO APPROPRIATE	10.0410.9200	2,000.00 DECREASE

<u>TOTAL</u>		<u>0.00</u>
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The Town Manager acting in his capacity as Budget Officer or Finance Officer as may be appropriate is hereby authorized to effect such administrative actions as necessary to ensure compliance with the Local Government Fiscal Control Act and Governmental Accounting Standards Board .

This is the 17th day of August, 2021

ATTEST:

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

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

Memo to: Holden Beach Board of Commissioners

9 Aug 2021

RE: Proposed Water and Sewer System Development Fees Revisions

From: Town Manager



The System Development Fee Report prepared by Raftelis was approved by the Board of Commissioners at their 15 June 2021 meeting with a 1 October 2021 effective date. The chart below shows the current and proposed fees accordingly.

System Development Fee	Current	Proposed	Maximum
Water	\$100 per bedroom	\$460 per bedroom	\$960 per bedroom
Sewer	\$2700 per bedroom	\$2240 per bedroom	\$2240 per bedroom

It is proposed to continue credit for previously remitted sewer share fees in accordance with the existing fee schedule but at the reduced proposed \$2240 per bedroom rate.

Memo To: Holden Beach Board of Commissioners

9 August 2021

RE: Evaluation/Ranking of Parking Firms

FROM: Town Manager *JH*

The BOC tasked staff with developing a ranking of the firms that submitted responses to the RFP for Parking Management Services. The four firms submitting responses (which have been provided under separate cover previously) are Lanier, Otto, Pivot and Premium.

A decision selection matrix has been compiled with the resultant scoring assembled in the Table below.

The process to evaluate and rank the firms' responses consisted of a scoring from 0-4 being made for each of the ten criteria contained in the RFP for each firm. The ten criteria were equally rated. Nine staff members individually and anonymously graded each proposal by each category with totals being compiled accordingly.

CRITERIA	Lanier Parking	Otto Connect	Premium Parking	Pivot Parking
Compensation/Budget	9	28	24	2
Experience	31	23	27	6
Office Management/Personnel	26	22	22	17
Approach to Providing Services	21	25	28	11
Customer Education/Signage	20	23	26	17
Equipment Maintenance	11	28	20	7
Revenue Collection	24	25	22	16
Parking Enforcement/Citation Management	28	27	25	14
Complaint Resolution	18	18	20	7
Parking Reports/Analysis	27	26	28	15
<b>TOTAL</b>	<b>215</b>	<b>245</b>	<b>242</b>	<b>112</b>

### **Parking Committee Status and Possible Action**

The BOCM remit to the parking committee that was unanimously approved has an October deadline. The 2 meetings since have been cancelled. There may be actions needed to ensure fulfillment of the remit in time for BOC review and decision on implementation of a paid parking program for 2022.



## **Town of Holden Beach Board Advisory Board/Committee Recommendation**

### **From the BOC to the Parking Committee**

**Date of BOC Meeting When Directive was Made:** June 15, 2021

#### **Agenda Item #:**

**Issue and Action Requested:** In order for paid parking to be successfully rolled out in Spring pf 2022, there are a number of decisions that will need to be made by the BOC before the end of 2021. The Parking Committee is asked to develop a paid parking plan with financials covering the years 2022-2025 in line with the charge questions below.

**Background and Potential Implications:** With the continuing popularity and growth of Holden Beach and Brunswick County, parking on the island during many months of the year is increasingly problematic for both visitors and property owners. Additionally, increasing numbers of off island beach goers translate to increasing costs for the Town in terms of trash pickup, facilities maintenance, beach patrol and traffic control.

In order to better organize visitor parking and help defray seasonal costs, the decision has been made to implement a paid parking program starting in Spring 2022. It is important to have a clear description of the parking facilities and cost plus a communication plan for rollout of the paid parking program to avoid miscommunication and confusion.

#### **Charge Questions:**

1. **Parking Lots (suggest the committee shows lots and spaces on a town map, color code for a, b, c)**
  - a. What town owned lots currently exist and how many spaces are available for paid parking?
  - b. What town owned property is suitable for conversion to paid parking before next Spring and what is the estimated cost for conversion?
  - c. What properties (if any) are proposed for purchase and how many spaces will be available for paid parking? What is the estimated cost to purchase, assumed timeframe for establishing the parking lot and cost for conversion?
2. **Financials**
  - a. Rate proposal and date range for paid parking
  - b. Estimated gross profit associated with 1a, 1b and 1c for 2022, 2023 and 2024
  - c. Estimated initial costs for signage and equipment (show where on map)
  - d. Estimated expenses associated with 1a, 1b and 1c for 2022, 2023 and 2024 (including personnel)
  - e. Estimated net profit for 1a, 1b and 1c for 2022, 2023 and 2024
3. **Public Communication and Engagement Plan**  
Who, when, where

**Proposed Deadline:** no later than the October BOCM.

## **Town of Holden Beach Board of Commissioner Directives for Town Manager/Attorney Action**

- 1. Date of BOC Meeting - August 17th 2021**
- 2. Agenda Item # 14**
- 3. Issue: Golf Carts**
- 4. Request to: David Hewett / Jeremey Dixon**
- 5. Motion:**
- 6. Action Requested: Ask the Police Chief to give the board a monthly report of the number of golf cart tickets issued as part of his BOC police report.**
- 7. Vote Tally:**
- 8. Proposed Deadline:**

## Coates' Canons Blog: Public Meetings After the Lifting of the State-Level State of Emergency

By Frayda Bluestein

Article: <https://canons.sog.unc.edu/public-meetings-after-the-lifting-of-the-state-level-state-of-emergency/>

This entry was posted on July 06, 2021 and is filed under Board Member Powers & Authority, Board Structure & Procedures, Open Government, Open Meetings, Quasi-Judicial Decisions

In May of 2020, early in the pandemic, the legislature enacted a new law setting out provisions for remote meetings during a state-level state of emergency. See my blog post here, to see a review the statute, and my blog post here, to see a summary of the recent clarifying amendments to the new law – I'll call it the "SOE law." The Governor's state of emergency is still in effect, and so is the SOE law, but it's not too soon to think about the conduct of meetings after the state of emergency ends. For example, before the SOE law, there were no specific rules about board members participating remotely. The SOE law set out specific rules for remote participation, and the use of remote meetings has become a regular practice during the pandemic. Remote public access to meetings in many places has increased. But those SOE law rules expire when the state of emergency ends.

Once the state of emergency ends what will the rules be? They will be what they were before the adoption of the SOE law. For a summary of the law on remote participation before the SOE law see my bulletin and blog post here. This blog post sets out the things that local government boards can continue to do after the SOE law expires and the things that boards can't continue do without obtaining legislative authority.

Here are things that I think boards *can* continue to do:

- **Streaming meetings:** Many local government boards were streaming meetings before the pandemic. The open meetings law allows recording meetings and allows a recording to serve as minutes. See GS 143-318.143(a), 143-318.10(c). The requirement under the SOE law to stream meetings if one or more members are participating remotely will no longer apply, but streaming, while not required, will still be permitted. Notice of the meeting should state that the meeting will be streamed and should set out how the public can access the meeting remotely, as required under GS 143-318.13.
- **Public Comments/Public Hearings:** Under existing statutes boards have the authority to allow people to provide comments remotely or in writing, before or after the hearing. I don't think boards can require that people put forward their comments remotely or in writing. Boards must return to allowing in-person comments during public comment periods, unless there is a reason that in-person comments are not possible.

Here are some things that I think that boards *won't* have authority to do when the SOE law is no longer in effect:

- **Ban the public from attending meetings when the board is meeting in person:** Boards will have no authority to ban the public from attending meetings when the board is meeting in person. The SOE law didn't address this issue, but the statutory authority was found under local state of emergency powers exercised by cities and counties. Under local emergency declarations the unit has the power to restrict or prohibit "the movement of persons" within emergency areas, as well as the "operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate." G.S. 166A-19.31(b). Cases have held that the public's right to attend meetings isn't absolute. Where there is a reasonable basis, a board may ban the public from a meeting. See Trey Allen's discussion about the limited authority to restrict in-person access to meetings. The pandemic provided such a reasonable basis, but with the end of the state of emergency, that basis will no longer apply. Members of the public must be permitted to attend meetings after the local state of emergency expires.
- **Remote participation:** The SOE law specifically allows remote board member participation in meetings and provides that elected city and county board members who are participating remotely count toward the establishment of a quorum and may vote and have their votes counted, as long as they are connected. Although the open meetings law recognizes electronic meetings as official meetings, before the SOE law there was no clear statutory authority for elected board members to participate remotely. In the bulletin available here I explained why

a court might find that there is no authorization for local government boards to meet electronically. The city council and county commissioners voting and quorum statutes make reference to members having to be "present" and "physically present." That fact suggests that remote participation is not authorized. Further, there is the fact that the SOE law specifically provides that board members participating remote count toward a quorum and when voting. There would be no need for these provisions if these boards already had that authority under the existing law. **Taking all of this into consideration, it seems to me that after the SOE law expires, city and county governing boards will have no clear authority to participate in remote meetings at all.** For appointed and other boards there might still be an argument that they have authority for remote meetings under the electronic meetings provision in the open meetings law.

- **Quasi-judicial hearings:** The requirements in the SOE law will no longer apply to quasi-judicial hearings. The provisions in 160D-406 will apply for land development matters. See Adam Lovelady's blog summarizing the case law that would apply to other types of quasi-judicial hearings.
- **Last Minute Notice Changes:** The SOE law was amended to make it easier for one or more members to participate remotely and give notice that the meeting will be therefore streamed. This will no longer apply. Under the open meetings law, for electronic meetings, the notice must specify a location and means whereby member of the public may listen to the meeting. See, *GS 143-318.13*. It seems to me that if a board has authority to meet remotely (not a certainty for elected boards, as set out above), the board must provide the required information about the remote meeting in the notice, and not any later than that.

Have I left anything out? Feel free to post a comment!

## Links

- [www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_166a/GS\\_166a-19.31.html](http://www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_166a/GS_166a-19.31.html)
- [www.sog.unc.edu/sites/www.sog.unc.edu/files/reports/lglb133.pdf](http://www.sog.unc.edu/sites/www.sog.unc.edu/files/reports/lglb133.pdf)



Date: August 11, 2021

To: Mayor Holden and Board of Commissioners

*YH*

Town Manager-IN TURN

From: Christy Ferguson, Assistant Town Manager

*(14)*

Re: Resolution to Authorize the Negotiation of One or More Installment Financing Contracts

The attached resolution (Attachment 1), prepared by our bond attorney firm, Parker Poe Adams & Bernstein, LLP, is a necessary component for the installment financing application to the Local Government Commission (LGC) and to negotiate one or more installment financing contracts to pay the costs of remodeling and improvement of lift stations for the Town's sewer utility systems and to pay the cost of purchasing the pier properties located at 441 Ocean Boulevard. The resolution anticipates applying for amounts up to \$5,200,000 for the two Lift Station upgrades and up to \$3,300,000 for the pier properties. Actual amounts procured via installment financing contracts will be subject to bank RFPs, construction contracting response to the sewer lift station 2 bid solicitation, and BOC/LGC approvals. The amount proposed to be financed for the lift station upgrades includes the repayment to the water/sewer fund of costs previously incurred with the lift station 3 project as approved by the BOC reimbursement resolution dated Oct 2020 as well as estimated project costs for lift station 2 currently under design and anticipated to be ready for bid review/consideration at the September BOC meeting.

Attachment 1: Resolution 21-12

Suggested Motion: Approval of Resolution #21-12

## RESOLUTION 21-12

### RESOLUTION OF THE TOWN OF HOLDEN BEACH, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF ONE OR MORE INSTALLMENT FINANCING CONTRACTS AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO

**WHEREAS**, the Town of Holden Beach, North Carolina (the "*Town*") is a municipal corporation duly created and validly existing under the Constitution, statutes and laws of the State (the "*State*");

**WHEREAS**, the Town has the power, pursuant to the General Statutes of North Carolina to (1) enter into installment contracts in order to purchase, or finance or refinance the purchase of, real or personal property and to finance or refinance the construction or repair of fixtures or improvements on real property and (2) create a security interest in some or all of the property financed or refinanced to secure repayment of the purchase price;

**WHEREAS**, the Board of Commissioners (the "*Board*") of the Town hereby determines that it is in the best interest of the Town to (1) enter into an installment financing contract with a financial institution to be determined in order to pay the costs of the remodeling and improvement of lift stations for the Town's utilities systems (the "*Utilities Project*") and (2) in order to provide security for the Town's obligations under such installment financing contract, grant to the lender a security interest under a deed of trust, security agreement and fixture filing on all or some of the sites of the Utilities Project as the lender may require;

**WHEREAS**, the Board hereby determines that it is in the best interest of the Town to (1) enter into an installment financing contract with a financial institution to be determined in order to pay the costs of purchasing property located at 441 Ocean Boulevard W., including the pier (the "*Pier Property*"), and (2) in order to provide security for the Town's obligations under such installment financing contract, grant to the lender a security interest under a deed of trust, security agreement and fixture filing on all or some of the sites of the Pier Property to be acquired as the lender may require;

**WHEREAS**, the Board will consider entering into either separate installment financing contracts or a single installment financing contract (individually or together referred to herein as the "*Contract*") with a single lender or separate lenders (individually or together referred to herein as the "*Lender*") as the Board determines to be in the best interest of the Town to finance the Utilities Project and the acquisition of the Pier Property (collectively referred to as the "*Projects*");

**WHEREAS**, the Town staff has retained (1) Parker Poe Adams & Bernstein LLP, as special counsel ("*Special Counsel*") and (2) DEC Associates Inc., as financial advisor, in connection with the proposed installment financings;

**WHEREAS**, the Board hereby determines that the Projects are essential to the Town's proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the Projects will provide an essential use and will permit the Town to carry out public functions that it is authorized by law to perform; and that entering into the Contract is necessary and expedient for the Town by virtue of the findings presented herein;

**WHEREAS**, the Board hereby determines that such cost of the Projects exceeds the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and non-voted bonds that could be issued by the Town in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State;

**WHEREAS**, although the cost of financing the Projects pursuant to the Contract is expected to exceed the cost of financing the Projects pursuant to a bond financing for the same undertaking, the Town hereby determines that the cost of financing the Projects pursuant to the Contract and the obligations of the Town thereunder are preferable to a general obligation bond financing or revenue bond financing for several reasons, including but not limited to the following: (1) the cost of a special election necessary to approve a general obligation bond financing, as required by the laws of the State, would result in the expenditure of significant funds; (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the benefits of the Projects; and (3) insufficient revenues are produced by the Projects so as to permit a revenue bond financing;

**WHEREAS**, the Board hereby determines that the estimated cost of financing the Projects pursuant to the Contract allows the Town to finance the Projects at a favorable interest rate currently available in the financial marketplace and on terms advantageous to the Town and reasonably compares with an estimate of similar costs under a bond financing for the same undertaking as a result of the findings delineated in the above preambles;

**WHEREAS**, the Town does not anticipate an increase in taxes to pay the installment payments under the Contract, but the increase in taxes, if any, necessary to service the installment payments falling due under the Contract will not be excessive;

**WHEREAS**, no deficiency judgment may be rendered against the Town in any action for its breach of the Contract, and the taxing power of the Town is not and may not be pledged in any way directly or indirectly or contingently to secure any money due under the Contract;

**WHEREAS**, the Town is not in default under any of its debt service obligations;

**WHEREAS**, the Town's budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the Town has conformed with generally accepted accounting principles as applied to governmental units in preparing its Annual Budget Ordinance;

**WHEREAS**, past audit reports of the Town indicate that its debt management and contract obligation payment policies have been carried out in strict compliance with the law, and the Town has not been censured by the Local Government Commission of North Carolina (the "LGC"), external auditors or any other regulatory agencies in connection with such debt management and contract obligation payment policies;

**WHEREAS**, a public hearing on the Contract, after publication of a notice with respect to such public hearing, must be held and approval of the LGC with respect to entering the Contract must be received; and

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF HOLDEN BEACH, NORTH CAROLINA, AS FOLLOWS:**

**Section 1.** That the Mayor and the Town Manager, and their designees, with advice from the Town Attorney, Special Counsel and the Town's financial advisor, are hereby authorized and directed to negotiate on behalf of the Town (1) the financing of the Utilities Project for a principal amount of approximately \$5,200,000 and the financing of the acquisition of the Pier Property for a principal amount of approximately \$3,300,000, each under the Contract to be entered into in accordance with the provisions of Section 160A-20 of the General Statutes of North Carolina, as amended, and (2) the provision of a security interest under one or more a deed of trust, security agreement and fixture filing in the Town's fee

simple interest in all or some of the sites of the Projects, together with all improvements and fixtures located thereon, as may be required by the Lender providing the funds to the Town under the Contract to secure the Town's obligations thereunder.

**Section 2.** The Town Manager or his designee is hereby directed to file with the LGC an application for its approval of the Contract and all relevant transactions contemplated thereby on a form prescribed by the LGC and to state in such application such facts and to attach thereto such exhibits regarding the Town and its financial condition as may be required by the LGC.

**Section 3.** Parker Poe Adams & Bernstein LLP has been retained by the Town to serve as special counsel and DEC Associates Inc. been retained to serve as financial advisor. The Town Manager, with advice from the Town Attorney, is hereby authorized to retain the assistance of other professionals as they deem necessary and desirable to carry out the intention of this Resolution.

**Section 4.** A public hearing or public hearings shall be conducted by the City Council on September 21, 2021 (the "*Public Hearing*") concerning the approval of the execution and delivery of the Contract for the financing of the Projects. The Town Clerk is hereby directed to cause a notice of the Public Hearing to be published at least once in a qualified newspaper of general circulation within the Town no fewer than 10 days prior to the Public Hearing.

**Section 5.** All actions of the Town and its officials, whether previously or hereafter taken in effectuating the proposed financing as described herein, are hereby ratified, authorized and approved.

**Section 6.** All motions, orders, resolutions and parts thereof in conflict herewith are hereby repealed.

**Section 7.** This Resolution is effective on the date of its adoption.

This the 17<sup>th</sup> day of August, 2021.

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J. Alan Holden, Mayor

ATTEST:

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Heather Finnell, Town Clerk