



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
PUBLIC HEARING/REGULAR MEETING
TUESDAY, DECEMBER 15, 2020 – 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, December 15, 2020 at 5:00 p.m. 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; Police Chief Jeremy Dixon; Assistant Town Manager Christy Ferguson; and Inspections Director Tim Evans. The meeting was streamed on the Town’s Facebook page and an opportunity for public comments was provided prior to the meeting due to the restrictions in place for COVID-19.

PUBLIC HEARING – TOWN OF HOLDEN BEACH LAND USE PLAN

Wes MacLeod from the Cape Fear Council of Governments provided background on the process. Inspections Director Evans added there was a committee of individuals and staff that worked very hard on this. He thanked Mr. MacLeod for his assistance in the process. Assistant Town Manager Ferguson read comments from Vicki Myers (hereby incorporated into the minutes).

Motion to call the public hearing to an end by Commissioner Tyner at 5:07 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

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

APPROVAL OF MINUTES

Motion by Commissioner Tyner to approve the minutes as presented (Regular Meeting of November 17, 2020); second by Mayor Pro Tem Brown; approved by unanimous vote.

PUBLIC COMMENTS ON AGENDA/GENERAL ITEMS

Assistant Town Manager Ferguson read the comments from Dennis Hetzel (hereby incorporated into the minutes).

DISCUSSION AND POSSIBLE ACTION ON LAND USE PLAN

Mr. MacLeod explained the plan has been worked on for four years. It has been recommended by the Land Use Plan Committee and the Planning & Zoning Board. There has been discussion with this board as well. There has been a public hearing that was advertised and held this evening. If the Board wishes to proceed, the next action would be to formally adopt the plan. It would then be sent to the Division of Coastal Management to be certified. At that time, it will become the Town's official CAMA Land Use Plan and the Town's Comprehensive Plan. Inspections Director Evans agreed everything is in order for the Board's consideration.

The Board would like to consider the adoption of the plan in January.

POLICE REPORT – CHIEF DIXON

Chief Dixon encouraged everyone to not drink and drive, wear their seatbelts and to not be in a hurry. There is a lot of traffic on the roadways and we don't want to see a fatality. Statistically the United States averages 119 fatalities a day over the holidays. He wished everyone a merry Christmas.

Mayor Holden offered his congratulations on Chief Dixon's achievements. He said the Board is proud of Chief Dixon and his department.

DISCUSSION AND POSSIBLE APPROVAL OF 2021 BOARD OF COMMISSIONERS' MEETING SCHEDULE

Town Clerk Finnell explained the proposed schedule reflects the third Tuesday of each month at 5:00 p.m.

Motion by Commissioner Kwiatkowski to accept the schedule as presented; second by Commissioner Tyner.

Town Clerk Finnell explained if the Board decides to go back to 7:00 p.m., the schedule will just need to be amended.

The motion passed by unanimous vote.

DISCUSSION AND POSSIBLE ACTION ON MAYOR PRO TEM POSITION

Motion by Commissioner Sullivan to have Commissioner Brown remain as the mayor pro tem; second by Commissioner Tyner; approved by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 20-16, AN ORDINANCE AMENDING ORDINANCE 20-10, THE REVENUES AND APPROPRIATIONS ORDINANCE FOR FISCAL YEAR 2020 – 2021 (AMENDMENT NO. 5)

Town Manager Hewett explained the proposed amendment provides for a midyear adjustment to the BPART Fund based on the performance of the accommodations tax to-date and the successful procurement of a Division of Water Resources' grant. The proposed amendment replaces previously appropriated fund balance in the amount of \$671,400 in our current year operations budget with occupancy tax collections and revenues from the NC Division of Water Resources Coastal Storm Damage Mitigation grant while providing for the required transfer of occupancy taxes to Brunswick County, in the amount of \$196,880, in addition to appropriating funds for a year's worth of federal advocacy in the amount of \$119,700, anticipated Parks and Recreation Master Plan update expenses of \$12,288 and offshore sand search funding in the amount of \$305,000.

Commissioner Tyner asked if the amount for the sand search funding is an estimate. Town Manager Hewett replied that it is the estimated cost. Those services are part of our engineering agreement with ATM.

Motion by Commissioner Tyner to accept the budget amendment as proposed; second by Mayor Pro Tem Brown; approved by unanimous vote.

CONSIDERATION AND POSSIBLE ACTION TO APPROVE NC DIVISION OF WATER RESOURCES COASTAL STORM MITIGATION \$106,000 GRANT

Assistant Town Manager Ferguson said last year the Town submitted a grant application to the Division of Water Resources to request \$106,000 to assist us with a dune building project. We received the funding. In order to take care of the paperwork that the state requires, the Board would need to approve Resolution 20-14 and the Conflict-of-Interest Policy. Once they receive these items, they will send us a contract.

Motion by Commissioner Kwiatkowski that we adopt Resolution 20-14, the required Conflict-of-Interest Policy and authorize the town manager to execute the administrative tasks; second by Commissioner Tyner; approved by unanimous vote.

DISCUSSION AND POSSIBLE ACTION ON ENGAGEMENT LETTER BETWEEN THE TOWN AND WARD AND SMITH, P.A.

Assistant Town Manager Ferguson explained Mr. McIntyre who was previously working with Poyner Spruill is now engaged with Ward and Smith. In order to continue the services, the Board would need to approve the attached engagement letter. The budget amendment Town Manager Hewett mentioned covered the financing.

Motion by Commissioner Kwiatkowski to proceed to engage Ward and Smith for governmental matters for the upcoming year; second by Mayor Pro Tem Brown; approved by unanimous vote.

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

Inspections Director Evans explained this is a text amendment to Section 94.03. His memo talks about items that would benefit from this section. He showed a diagram with the CAMA designated frontal dune and the Town's designated frontal dune. In 2006 the section of the ordinance that pertains to what you can do beyond the frontal dune says any structure more than four foot wide had to go away. When the frontal dune is backed all the way back to the houses, there is not enough room for accessory structures. It forces pools to be under the houses or in front of them. This exception would only apply when the Town's frontal dune and CAMA's frontal dune are not the same. He said they would like to add an exception that would allow you to go 50 feet beyond the seaward toe of the Town's frontal dune and have a swimming pool. The exception will also keep staff from having to debate where the line is at.

Inspections Director Evans explained he would like the word exception to be removed from the sentence that says: Exception: Town owned CAMA accessways may utilize a 6-foot walkway. He reviewed his proposed language.

Mayor Holden asked how it will be measured. Inspections Director Evans said it would be from the toe of the dune on the ocean side, you will have 50 feet from there. Mayor Holden asked about the covenants in Holden Beach West. Commissioner Kwiatkowski replied she doesn't think this would cause trouble. If anything, it would be a clarification and would be useful. Commissioner Sullivan asked for clarification on Inspection Director Evans' proposal on the current exception. Inspections Director Evans responded he just wants to take the word exception out. This item does not need to go to the Planning & Zoning Board for review.

Motion by Commissioner Tyner that we set a public hearing for the proposed changes to Ordinance 20-17, time and date to be established at next month's meeting at 5:00 p.m.; second by Mayor Pro Tem Brown; approved by unanimous vote.

DISCUSSION AND POSSIBLE ACTION ON ORDINANCE 20-18, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, SECTION 157.006: DEFINITIONS (HEIGHT MEASURING POINT)

Inspections Director Evans explained the intention was to add an exemption, but the Board can't act on this until we have a consistency statement from the Planning & Zoning Board (P&Z). It can be discussed; it just can't be voted on. Town Manager Hewett said that this issue has risen on a repeated basis as a matter of importance. It needs to be addressed by P&Z. Administratively speaking, it will take a couple of different parties working together to have this staffed appropriately and brought back to the Board. His recommendation is to send it to P&Z for their review/consistency statement. It would also require the mayor, acting as the emergency management director, to amend the state of emergency proclamation to allow P&Z to meet for this particular purpose.

Mayor Holden said with the items recommended, the Board will proceed towards action with a March date. In the meantime, we are addressing it and in the process of correcting it. Inspections Director Evans agreed. Mayor Holden asked Town Clerk Finnell to wordsmith the amendment unless someone had an objection.

Commissioner Sullivan asked why the last ordinance that the Board discussed does not need the same discussion and a consistency statement. He said the statute says any zoning matter needs to have a consistency statement pertaining to the Land Use Plan. He suggested that if we are going to have a special meeting, P&Z also look at the first ordinance and make a consistency statement on both ordinances. Commissioner Sullivan read from the general statutes about adopting zoning changes. Inspections Director Evans said part of the ordinances is zoning and the other part is regulatory, there is a separation. He did not ask Attorney Fox about the first ordinance. Commissioner Sullivan suggested forwarding both to P&Z pending an advisory opinion from Attorney Fox. If she says it is not necessary, we withdraw one and they don't look at it. If she says they are both necessary, we will have both. Inspections Director Evans said he will run it by Attorney Fox.

Mayor Holden asked if the Board is all in agreement for moving ahead to try to correct this. Inspections Director Evans suggested that if the Board is going to send it to P&Z, they put a time limit on it. Commissioner Sullivan said they have 30 days. The statute allows you to move forward if you don't get a statement within 30 days. Mayor Holden reminded the Board that P&Z is there to recommend and the Board makes the decisions.

The consensus is to send both forward with the 30-day limitation. Mayor Holden will amend the emergency proclamation.

TOWN MANAGER'S REPORT

- Have received information from the Corps outlining what they foresee as the plan for the Lockwood Folly Inlet maintenance efforts for the upcoming year. The plan outlines the cost and times to perform the maintenance to full project depth, taken down to eight feet, \$660,000, proposed at five events a year for a total of approximately \$1 million. In using the MOA burden share ratios that we have previously used, it breaks down to an annual cost to Holden Beach of about \$60,000. That is just for the sidcaster. There are lots of moving parts. We don't have the other stakeholders' funding commitments. The Merritt is scheduled to begin December 27th for 21 days. The Corps has the money in hand to perform that work.
- Hurricane Isaias – we have completed our work in the federal portal system for all of the categories that we believe we will qualify for reimbursement. Those submittals are under review by the federal program manager.
- Internal Control Report – Referred to the Gantt chart he provided (hereby incorporated into the minutes). Now that we have the annual audit back and it was approved by the LGC, he is circling back to a few items on the RSM report. We've implemented changes or addressed the risk to four of these items. We have documented and amended our journal entry policy, the way we conduct our vendor payment mailings, the way we review our payroll earnings register and the way we perform direct deposits for our employees.
- Streets Petition Status – Affirmative responses to date: Seagull (20), Deal (5) and Canal (2). The yeses have not been certified by the clerk. We sent two letters and an email blast. We had some telecons with the property owners, but they haven't been finished yet. Intent is to complete those and come back to the Board in January with the status. It seems like it would be a shame if we did not take advantage of low fuel prices and the fact that DOT is not paving anything. With the development that we are seeing on those streets, we do not believe it will be a realistic service level expectation to maintain the road.

- Sewer Lift Station 3 – Wrapping up punch list items. Final inspection is scheduled.
- System Development Fees Study Analysis – Per discussion with the project manager this week the hard part is over. They have the preliminary fees. They are under inhouse review by Raftelis. Anticipate follow on discussion with the Town on January 4th. On schedule to bring it to the Board in January.
- Arts & Humanities Award – Race for the Arts Mural Project in Bridgeview Park has been selected for an award by the NC Recreation and Parks Association.
- Parks & Recreation Master Plan Update – Assistant Town Manager Ferguson has been doing the initial review on the six submissions. Anticipate a recommendation for a contractor will be made at the January meeting.
- New Thai Chi class started outdoors last week.
- We reopened the Canal Subdivision Grant from the NC Division of Water Resources. After review, we thought there might be an opportunity to recoup an additional \$12,000. We submitted it and were approved. There has been continuing maintenance of the Scotch Bonnet site. It has become dry enough to plant so we filled it with rye grass.
- Chief Dixon – Graduated from the NC Criminal Justice Leadership Academy last week. In addition, he received and is the first of only four law enforcement personnel in NC to have obtained the Criminal Justice Leadership Certificate.
- Holiday Schedule Reminder – Town Hall will be closed December 24th, 25th and 28th, in addition to New Year's Day.

MAYOR'S COMMENTS

- Thanked staff for doing a great job with working with Santa and the Grinch, with all of the nice decorations the maintenance department was successful putting up. Had several comments on the lights. Regret the limitations that we are all working under. Lives are becoming more difficult daily to work within the confines of all of the recommendations being handed down. Is sure by now everyone has known someone who has passed away. It is a real situation. We all need to be mindful of taking care of ourselves and our families. Praying for everyone who is suffering in many ways. The Town has come through 2020 exceptionally well. His rental company's rentals exceeded expectations. Understands others have done very well also. Construction activities continue to be wide open. Sales activity have been a landmark year. Overall, for the Town it has been a good year. We had a few bumps in the road, but overall we have been blessed.
- Chapel has a special Christmas event on Christmas Eve at 7:00 p.m. Seating is limited, but the public is welcome. Remember the reason for the season.

BOARD OF COMMISSIONERS' COMMENTS

Mayor Pro Tem Brown

- Before the meeting, a gentleman asked about the money appropriated for the consulting group. Town Manager Hewett explained that is what the Board approved the engagement for tonight. The budget amendment appropriated the funds to do that. We are still working with Mr. McIntyre; he is just with another company.
- Had several people approach him throughout the year. Ocean Boulevard needs asphalt. Not sure if we can have a meeting set up with DOT. Seems to him it is a pretty valuable strip of highway. He would like the Town to start doing a little follow-up with that.

- Would like to move forward with parking. It will be beneficial for the Town.
- It's the Christmas season. Have a very merry Christmas. As you are traveling slow down and be safe. Let's not forget the reason for the season. Stay safe. Remember COVID is still here. Masks are not fun, but they are saving lives. Wished staff a merry Christmas and thanked them for what they do.

Commissioner Tyner

- Hope you have a great Christmas and a happy New Year. Keep in mind the reason for the season.

Commissioner Murdock

- The main thing is for everyone to have a safe and happy holiday. To all the residents and property owners, be safe and let's hope we can get this year out of here. Hopefully, next year will be a lot better.
- To the owners on the streets, he sees the affirmative responses, but he doesn't see the negatives. Doesn't know how many responded. This could be your one and only shot. We don't have the time or funds to maintain the road. Fighting a losing battle on some of those streets.
- A big thing coming up that will affect everyone is the parking issue. Wants to hear from the residents and property owners as to what you think we should do with the parking situation. It will only get worse. Options are running thin. This past Saturday there were 14 trucks and trailers parked on the streets surrounding the boat ramp. At least two of the trucks and trailers belonged to people on the island. If we don't do something those options are going to go away. There is property available. For all boat owners, it is going to affect every one of you. Want to find some more parking spaces, mark them and make them available. We want everyone to be able to enjoy the beach. We have experienced some tremendous growth. It's good for a lot of reasons, but for parking it is bad and is only going to get worse. Wants to hear from everyone. He doesn't want to hear after the fact, he wants to try to get it right.
- Merry Christmas, happy New Year.

Commissioner Sullivan

- Thanked staff, wished everyone a happy holiday, merry Christmas and a happy and healthy New Year. Thanked staff because there has been a number of illnesses, staff has been able to carry on. Thinks everyone should recognize we have a hardworking group of people who are dedicated to making this town what it is.
- Thanked staff for being able to bring an extra \$118,000 into the Town. Always a good thing to hear that we have grants coming in and we are recouping money.
- Thanked the HB Beautification Club. They do a great job every year. If you look at Padgett Park it is beautiful. It's one of the things that makes Holden Beach attractive and a beautiful place to live. Thanked those people for being out in the cold weather, volunteering their time.
- Merry Christmas and happy New Year. Have a safe healthy New Year.

Commissioner Kwiatkowski

- To everybody on the other side of airwaves that have stayed engaged during this time, thanks. Continue to listen in.
- We would really like to hear from you on some of these issues we will be addressing. We would like your ideas on what to do.

- Happy holidays, merry Christmas. Thanked staff and fellow commissioners. We are all eager to see the end of this year and a happier 2021.

ADJOURNMENT

Motion by Mayor Pro Tem Brown to adjourn at 6:10 p.m.; second by Commissioner Murdock; approved by unanimous vote.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk