

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

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Public Hearing/Regular Meeting on Tuesday, August 17, 2021 at 5:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem Gerald Brown; Commissioners Brian Murdock, Mike Sullivan, Pat Kwiatkowski and Rick Smith; Town Manager David W. Hewett; Town Clerk Heather Finnell; Assistant Town Manager Christy Ferguson, Inspections Director Tim Evans; Public Works Director Chris Clemmons; Police Chief Jeremy Dixon; and Town Attorney Katie Madon.

PUBLIC HEARING: ORDINANCE 21-24, AN ORDINANCE AMENDING HOLDEN BEACH CODE OF ORDINANCES CHAPTER 157: ZONING CODE (POOLS)

Mayor Holden called the public hearing to order. Inspections Director Evans said this is the public hearing on a possible amendment to the location of swimming pools. He provided background on the proposed change. The amendment would keep pools out of the front yard setbacks.

No comments were made. Mayor Holden closed the public hearing at 5:02 p.m.

REGULAR MEETING:

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

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

Motion by Commissioner Smith to approve the agenda as written; second by Mayor Pro Tem Brown.

Town Manager Hewett requested that Consult with the Attorney be added to Executive Session.

Commissioner Smith, with Mayor Pro Tem Brown in agreement amended his motion to approve the agenda with the revisions. The motion was approved by unanimous vote.

APPROVAL OF MINUTES

Motion by Commissioner Smith to approve the minutes from the Special Meeting on July 8^{th} , the Special Meeting on July 20^{th} and the Regular Meeting on July 20^{th} ; second by Commissioner Murdock.

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Commissioner Sullivan asked that the vote for Suzannah Tucker in the last sentence on page 12 in the next to last paragraph where it is talking about the selection of the Parks & Recreation Board be changed to Commissioner Sullivan instead of Smith. Commissioner Sullivan and Commissioner Smith both thought they voted for Suzannah Tucker. Town Clerk Finnell said she would look at the vote.

The vote on approving the minutes as corrected was 4-1 with Mayor Pro Tem Brown and Commissioners Murdock, Sullivan and Kwiatkowski voting for the motion and Commissioner Smith voting in the negative.

Note: Ballots show the vote for Suzannah Tucker were made by Mayor Pro Tem Brown and Commissioners Murdock, Kwiatkowski and Smith and the vote for Rosemarie Rovito was Commissioner Sullivan.

PUBLIC COMMENTS ON AGENDA ITEMS

No comments were made.

POLICE REPORT - CHIEF DIXON

- We had a few more incidents than normal. We had some bicycles walk off and some tools removed from jobsites. Looking into those matters. We had 83 parking calls and issued 70 parking citations. We had six fireworks calls and issued five citations. We had 94 traffic stops, resulting in 49 state citations and 62 charges (15 child restraint, 16 for moving violations, 23 for registration/drivers' license/window tint and six marijuana).
- Been looking at doing a bicycle style program, not a fulltime program, but to have them for festivals, 5ks and events. Reached out to the Charlotte Police Department and they donated two bicycles. Still working on policies and procedures.
- Labor Day is September 6th. Expecting big crowds. Expect to see the left turn lane closed. So far that has been a big success.
- There is a Booze it or Lose it Campaign August 30th September 12th.
- Worked with the Highway Patrol on some low-speed vehicle enforcement and education. They have had a heavier presence in our area. Have been diligently working with them.
- September 20th 26th there is a child passenger safety week. It is one of the Governor's Safety Programs that we will participate in.
- We are in peak hurricane season. Hopes everyone has their plans ready. Hopes we will not be impacted or need to do an evacuation, but have your stickers and plans together.

Chief Dixon believes a majority of the missing bikes are from under houses. They have been reported by the rental companies. Bikes are usually located a couple of weeks after being reported stolen.

DISCUSSION AND POSSIBLE ACTION ON ORDINANCE 21-24, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 157: ZONING CODE (POOLS)

Inspections Director Evans said we had the public hearing and the proposed change has been through the Planning & Zoning Board (P&Z). The consistency statement is before the Board. P&Z was unanimous

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in sending it forward for the Board to review. Staff feels it will be a benefit to public safety if we can get pools removed from the front yard setbacks. Staff feels it was an unintended exemption that allowed them in the setback.

Motion by Commissioner Kwiatkowski that we accept the modifications to part 157 as represented in Ordinance 21-24, which adds the specification that pools are prohibited within the front yard setbacks; second by Commissioner Sullivan.

Inspections Director Evans confirmed that with the proposed change a pool could be located in the front yard if it meets the setback requirements. The Board discussed the proposed change. Discussion included parking requirements, potential safety issues of pools being located in the front yard, when to make the ordinance effective in order to accommodate people who intended to install a pool in the setback and the permitting process.

Town Clerk Finnell read the motion.

Commissioner Kwiatkowski would like to add the wording "to be effective March 1, 2022" to her motion. Commissioner Sullivan did not agree to the amendment to the motion.

The Board discussed the proposed effective date and the number of pools in the front yard setback currently.

Commissioner Smith seconded the amended motion. The amended motion passed by a 4-1 vote, with Mayor Pro Tem Brown and Commissioners Murdock, Kwiatkowski and Smith voting for the motion and Commissioner Sullivan voting in the negative.

DISCUSSION AND POSSIBLE APPROVAL OF ORDINANCE 21-25, AN ORDINANCE AMENDING ORDINANCE 20-10, THE REVENUES AND APPOPRIATIONS ORDINANCE FOR FISCAL YEAR 2020 -2021 (AMENDMENT NO. 21)

Town Manager Hewett explained in his memo in the reference line it should read Fund 30 Debt Service Amendment. On the amendment, the Account Number for Debt Service – Capital Outlay should read 30.0810.7404. This is the budget amendment to reclassify the down payment on the vactor truck to a more appropriate line as requested by the auditor. It is no new money, no new expenses.

Motion by Commissioner Sullivan that we accept Ordinance 21-25; second by Mayor Pro Tem Brown; approved by unanimous vote.

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 advised the Board that last month he reported that the Local Government Commission (LGC) had approved the loan with PNC for almost \$27.7 million. The proposed ordinance amendment establishes the sinking fund budget lines necessary to accept and disperse money from the sinking fund.

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Motion by Commissioner Smith that we approve amending Ordinance 21-26; second by Mayor Pro Tem Brown; approved by unanimous vote.

DISCUSSION AND POSSIBLE APPROVAL OF MARTIN STARNES ENGAGEMENT LETTTER ADDENDUM AND RELATED BUDGET ADJUSTMENT

Town Manager Hewett explained that we have an addendum to the original engagement letter with Martin Starnes. The letter is to acquire supplemental funds related to the services to be offered outside of the scope of the audit for the fiscal year ending June 30, 2021. Per the auditor, the LGC said this should be an addendum to their agreement, rather than a contract amendment since it is not directly related to the audit and is outside the scope of the audit contract. The budget adjustment provides the funding for the additional services in the amount of \$2,000 from within existing resources. It realigns funds from the Boards' Available to Appropriate Funds line to the Professional Services line. This is for the auditor to out brief to the Audit Committee.

Motion by Commissioner Smith that we accept the additional charges and pay to have them come in and brief our Audit Committee; second by Commissioner Murdock.

Town Manager Hewett said this is the function of having an Audit Committee. It is not part of the standard LGC contract. Last year the Audit Committee didn't meet because of COVID. Prior to that it was a different auditor and there was not a charge for the service.

The motion passed by unanimous vote.

DISCUSSION AND POSSIBLE ACTION ON REVISED SYSTEM DEVELOPMENT FEES (SDF)

Town Manager Hewett explained that the SDF report that was prepared by Raftleis and approved by the Board has an effective date of October 1, 2021. Based on that, the chart in the packets has been developed and shows the current and proposed fees. Currently the water fee is \$100 per bedroom and the sewer fee is \$2,700. The maximum amounts that can be charged for water is \$960 per bedroom and \$2,240 for sewer. The proposed rates for water are \$460 per bedroom and \$2,240 per bedroom for sewer. In the existing fee schedule, there is a protocol for crediting people who paid previous sewer share fees. This proposal would follow that protocol. The intent was not to adopt the fees tonight, but to introduce it for public consumption so the fee schedule could be revised accordingly for consideration at the September meeting.

Commissioner Kwiatkowski asked the rationale for \$460 for water. She said if you haven't bought in prior, the new fees reflect a decrease in the fee structure compared to what was charged before. Town Manager Hewett explained how he came up with the proposed fees. Commissioner Sullivan said looking at the maximum proposal, the proposed numbers are less than fifty percent of what could actually be charged. That is a huge break if you are building a five- or six-bedroom house. Commissioner Kwiatkowski said from the research she had done in the past, it seems 60% of the maximums was a number that was being picked. She didn't think there would be a reduction in the added up fees for properties that didn't already buy into the sewer. She said a neutral number would be \$2,800, which would add \$100 to the water. That was her starting point. Commissioner Murdock explained there was

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a lot of push back on this topic last time, a lot of people who were affected spoke up. He thinks this is fair. Commissioner Kwiatkowski said the development fees are there for a reason for future savings.

DISCUSSION AND POSSIBLE ACTION ON STAFF'S RANKING OF PARKING FIRMS

Town Manager Hewett explained at the last meeting, the Board directed staff to evaluate and rank the parking firms that had submitted proposals. We received four responses, Lanier, Otto, Premium and Pivot. We prepared a decision selection matrix. He went over the process and scoring. We ended up with Otto Connect having a total score of 245, Premium was 242, Lanier at 215, with Pivot at 112. Since Otto and Premium are close, the Board may want to consider having Otto come in to speak with the Board like Premium did. After discussion, the Board came to a consensus to have staff make a recommendation to the Board at the next meeting.

PARKING COMMITTEE STATUS AND POSSIBLE ACTION

Commissioner Kwiatkowski stated that in June the Board unanimously approved the remit to the Parking Committee. She provided background and suggested that the report for the Board to help make a decision that is outlined in the tasker could be handed to staff. She asked if staff would have resources to put a report together. Town Manager Hewett said staff could put something together. The Board reviewed the directive and how to move forward. Commissioner Kwiatkowski suggested having an Eversion of a map that can be maintained. She asked if staff could create part 1 by October. Commissioner Smith added that once that is finished and a vendor is chosen, the committee can look at the rest. Commissioner Kwiatkowski said we would need the provider for part 2. Town Manager Hewett said staff can come up with a map and parking spaces. He said staff can make some assumptions that would be subject for debate on the other items.

Motion by Commissioner Kwiatkowski that we ask the town manager to have staff prepare the map and the formal numbers of what currently exists, what the Town owns that they can convert and then add what is expected to come out of the pier property and potentially Block Q because that is everything that has been on the table as she understands it; second by Commissioner Murdock; approved by unanimous vote.

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 proposed the Board ask Chief Dixon to add to his monthly report the number of golf cart citations that are given. Chief Dixon provided information on the difficulties associated with producing that information. After discussion, the Board would like Chief Dixon to provide the requested information to the Board.

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

Attorney Madon explained before COVID and when they dictated all of the remote meeting requirements and what it means, the statutes were pretty silent when it came to remote meetings. It

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said towns had the broad authority to determine their meetings, but when it came to remote meetings, there is nothing black or white in the book. She thinks because of the gray areas that were created during COVID that the legislature will hand down some better direction. Assuming we are going back to pre-COVID, you can participate in remote meetings; it becomes hairy when the presence of the person participating remotely would be necessary to constitute a quorum or if you give the person the ability to vote remotely and they are the deciding vote. She thinks the best way to move forward without any further direction is to allow remote participation and to not allow that person to vote or count towards a physical quorum. Commissioner Kwiatkowski said if she remembers the Board's Rules of Procedures, we do not allow them to vote or count towards the quorum so when we get out of the emergency, we can go back to our Rules of Procedure. Attorney Madon agreed she thinks those are the best practices. She added the amount of people who are allowed to call in should be limited.

Commissioner Kwiatkowski said the second part of this is to go back to broadcasting meetings until the state of emergency is over.

Motion by Commissioner Kwiatkowski that we go back to broadcasting the meetings.

Commissioner Kwiatkowski said with COVID things are constantly fluid. She thinks there is a chance that any member could test positive and need to quarantine. The only way they could participate in cases like that is if the Town is broadcasting meetings. She added more people might be uncomfortable in crowds if the numbers keep going up. She said when the emergency is done, we can stop doing it. She stated a number of citizens have asked to go back to broadcasting.

Motion by Commissioner Kwiatkowski that we start broadcasting meetings again until the emergency is officially over.

Attorney Madon said the Board can broadcast, but when it comes to participating remotely, they are adding more requirements to what broadcasting means. She thinks it would be a best practice to be able to see who is speaking or have a procedure to identify yourself before speaking. She suggested it may be worth looking into some additional considerations other than just audio stream. Commissioner Kwiatkowski said at the moment it would just be going back to what we were doing to meet the minimum standard. She said the Board could focus on identifying themselves.

The motion was seconded by Commissioner Sullivan.

Town Clerk Finnell said it is possible to post on Facebook again, but it is also posted on YouTube a day or two later. Commissioner Kwiatkowski said if we don't broadcast, the Board can't participate remotely during the emergency. Attorney Madon said the Board can also amend a meeting notice to change the meeting to a remote meeting with the six-hour regulation.

The motion passed by unanimous vote.

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DISCUSSION AND POSSIBLE APPROVAL OF RESOLUTION 21-12, RESOLUTION AUTHORIZING THE NEGOTIATION OF ONE OR MORE INSTALLMENT FINANCING CONTRACTS AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERERO

Assistant Town Manager Ferguson said the resolution was prepared by our bond attorney firm, Parker Poe Adams and Bernstein. It is a necessary component for the installment financing application to the LGC and to negotiate one or more installment financing contracts to pay the costs of remodeling and improvements of lift statins for the Town's sewer utility system and to pay the cost of purchasing the pier properties located at 441 Ocean Boulevard. It anticipates applying for amounts up to \$5.2 million for the two lift station upgrades and up to \$3.3 million 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 Board/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 lift station 3 as approved by the Board as well as estimated costs for lift station 2 currently under design and anticipated to be ready for bid review/consideration at the September meeting.

Motion by Commissioner Smith to approve authorizing you (Assistant Town Manager Ferguson) for the finance contract negotiations; second by Mayor Pro Tem Brown.

Commissioner Kwiatkowski questioned the whereas on page 40 that starts with the Town does not anticipate an increase in taxes to pay for the installment payments. She said this is written for both of them and she does not see how we do not anticipate an increase in taxes for the lift station work. She views an assessment as an increase in tax. Town Manager Hewett explained the lift station is in the enterprise fund and is not tax supported. You can't raise taxes to pay for the Water/Sewer Fund. He said assessments are specific legislation that's authorized by the General Assembly, it's not qualified as a tax. Commissioner Kwiatkowski stated when the Board talked about reimbursing all of the lift station 3 costs, we didn't have other things like the pier property and bike lanes in front of the Board. She is uncomfortable with everything wrapping together and she thinks the Board needs to have a discussion when it comes to defining the real number. Town Manager Hewett said the \$5.2 million amount is an up to amount and it will be subject to what the proposals come back with. It would be easier to come down with an approval from the LGC with the amount borrowed.

The motion passed by unanimous vote.

HOLDEN BEACH PROMOTIONAL VIDEO

Assistant Town Manager Ferguson introduced the video.

PUBLIC COMMENTS ON GENERAL ITEMS

No comments were made.

TOWN MANAGER'S REPORT

• Tide Gauge – we have a local tide gauge out at the dock. That is in partnership with the University of Hawaii, University of Chicago, Sea Grant and the National Science Foundation. It allows us to

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gather real time data that is uploaded to the cloud every six minutes. In addition to identifying long-term trends and assisting in emergency management decisions, it will also be useful in our disaster recovery efforts.

- Merritt has been on station since last week. Dredge Operations relays to us that the project is going very well. They should be able to start working through all tides within the next couple of days which will improve productivity. They anticipate working through the end of August to reach the project depth, which is eight feet. There is a progress survey scheduled for tomorrow. The cost to have the Merritt perform annual maintenance is \$1 million.
- Federal Cost Share Agreement Status received the Atlanta Region Corps' approval to execute and are in the process of arranging a signing ceremony with the Wilmington District commander and the mayor.
- Status of East End Shore Protection Project the bid documents are scoping about 100,000 cubic yards to be taken from the bend widener due to federal budget constraints. We have been advised of a potential opportunity that may allow us to piggyback another 100,000 cubic yards onto that contract.
- Seagull Street surveys have been obtained. The engineer design is in the works.
- State Demographer New Population Count we are up to about 675, from our previous 575. That does reflect in the state distributed revenues that are made on the per capita basis.
- The Brunswick County Wholesale Water Agreement has been signed by the county.
- The summer is racing by. There are only three concerts left and Tide Dye is over.
- Hurricane Preparations we are in the process of reviewing our operations manual and procedures.
 Our goal is to ensure optimum readiness posture. Encouraged everyone to get their decals and to do an inventory on your evacuation bag. Take into consideration the changes that you may need to make in the context of sheltering needs in mass location because of COVID (masks, sanitizer, etc.).

MAYOR'S COMMENTS

- Between the chief and town manager, hurricanes have been mentioned a lot tonight, but we will have the necessary meetings with staff and involved parties in plenty of time to be prepared.
- Been fortunate with attendance for the concerts. Assistant Town Manager Ferguson and staff has done a great job. Seems this year has received the most compliments for the way the Town operates the function. Seems like this year we have had more children on the dance floor having a good time with the parents. It is the family beach.
- Town Manager Hewett mentioned the Merritt expenses of \$1 million a year. Not too long ago,
 Holden Beach made a decision not to continue with the efforts for a terminal groin. Since then, we
 continue to see the taxpayers spend more money down there in the Lockwood Folly Inlet for
 maintenance. Prices continue to rise. Somewhere along the way we will need to look somewhere
 else. He just can't see the money as an endless supply. We will have to revisit and look at financial
 sources.
- From the west end of Yacht Watch to the marker just east of LuLu's is a no wake zone. Sees the jet skis daily going wide open in the area. There is a lot of boat traffic. Somebody is going to get hurt. Nobody appears to be enforcing the no wake zone. Mentioned it to state, federal and other officials. Unless the commissioners tell him otherwise, he is going to start making a little more noise about it. Even sees enforcement people get passed by jet skis and other boats.

The sunken shrimp boat is gone.

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- Captain Pete's is for sale. The property around the bridge is officially on the open market. Doesn't know how long it will be there.
- Looking at the end of summer. Hasn't been a bad summer but wouldn't mind if it cooled off.

BOARD OF COMMISSIONERS' COMMENTS

Mayor Pro Tem Brown

• Mayor gave a good report, will pass it on to the next person.

Commissioner Smith

- Thanked staff for taking time to review the proposals for parking. Knows that took a long time. To come back with pretty much what we had thought was the best is commendable. If we can do as well deciding between the two that would be great.
- Thanked Assistant Town Manager Ferguson for her hard work on the Parks & Recreation programs this summer (Tide Dye, Tai Chi, yoga, concerts). There are smiles on people's faces and the sheer numbers from what he has seen in the past to the numbers now is a testament to her hard work.
- Thanked the Police Department for the right turn only on Saturdays. Absolutely amazed on how it works. Wished there was a permanent solution for year-round, but most of the time, the stop sign works.
- Would like to see golf cart enforcement. We all talk about safety. Once people see it is being enforced, thinks it will curtail most of the bad habits.
- As a whole, feels the Town is running smoothly and everyone is as calm as he has heard in some time. Thanked staff and fellow commissioners for their hard work.

Commissioner Murdock

- If anything could have gotten anybody killed it is the shrimp boat. It is awesome to see it gone. That property is under contract so maybe something good will become of the whole piece of property.
- Thanked the Board and staff for always a job well done.
- The concerts are awesome. There are a lot of people there that really enjoy it, some good bands too.
- Thanked everyone for attempting to stay awake. Encouraged people to come. Welcomes everyone's input. Send an email or call.

Commissioner Sullivan

- Thanked everybody for coming and anyone who listens to the audio. There are a lot of important issues that we need to discuss and make decisions on. Try to encourage people to give their input and positions on the issues being discussed. The decisions we make today are going to affect people well into the future. Thinks we all realize that and want as much assistance from the community as we can get.
- Have a great rest of the summer. See you in September.

Commissioner Kwiatkowski

• Thanked Public Works Director Clemmons. Is a biker. There has been a couple of times in the past month that she came across a significant divot in the road. She sends those messages to Town Clerk

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Finnell who sends them along to Public Works Director Clemmons and within a few days they are taken care of. Thinks drivers appreciate that because some of them were getting pretty deep.

- Echoed what Commissioner Sullivan said, we have some big decisions coming up in the next couple of months. We really want to hear from people. Silence is consent. It is appreciated to get everyone's perspective to understand what you are expecting from us as we move forward. Thinks it is important that everybody has their say. Send it to the commissioners and Town Clerk Finnell so it can be part of the public record.
- Thanks for coming. Hope to see you in September.

EXECUTIVE SESSION PURSUANT TO NORTH CAROLINA GENERAL STATUTE 143-318.11(A)(5), TO INSTRUCT THE STAFF OF AGENT CONCERNING THE NEGOTIATION OF THE PRICE AND TERMS OF CONTRACTS CONCERNING THE ACQUISITION OF REAL PROPERTY AND TO NORTH CAROLINA GENERAL STATUTE 143-318.11(A)(3), TO CONSULT WITH THE ATTORNEY

Town Clerk Finnell read the reason for Executive Session.

Motion by Commissioner Sullivan to go into Executive Session at 7:32 p.m.; second by Commissioner Murdock; approved by unanimous vote.

OPEN SESSION

Motion by Mayor Pro Tem Brown to come out of Executive Session at 8:50 p.m.; second by Commissioner Smith; approved by unanimous vote.

Motion by Mayor Pro Tem Brown to add Consideration of Ordinance 21-27 to the agenda; second by Commissioner Smith; approved by unanimous vote.

Town Manager Hewett explained that the amendment proposes to add \$25,000 in funding for an inspection of the pier properties out of the BPART Fund, in accordance with the standards from the American Society of Civil Engineers for those types of properties.

Motion by Commissioner Sullivan that we pass Ordinance 21-27; second by Commissioner Murdock.

Commissioner Kwiatkowski asked if the Board would like to include money for the building. Town Manager Hewett confirmed the amount was for the property, not the building.

Commissioner Sullivan said he thinks the \$25,000 should be allocated for the inspection of the pier as stated, and the building. Commissioner Murdock agreed.

The motion passed by unanimous vote.

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ADJOURNMET

Motion by Mayor Pro Tem Brown to adj by unanimous vote.	ourn at 8:53 p.m.; second by Commissioner Murdock; approved
ATTEST:	J. Alan Holden, Mayor
Heather Finnell, Town Clerk	

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