



**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS  
PUBLIC HEARING/REGULAR MEETING  
TUESDAY, JULY 18, 2023 – 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, July 18, 2023 at 5:00 p.m. Present were Mayor J. Alan Holden; Mayor Pro Tem Rick Smith; Commissioners Brian Murdock and Page Dyer; 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 Rick Green. Commissioner Gerald Arnold was unable to attend the meeting.

**PUBLIC HEARING: ORDINANCE 23-12, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 157: ZONING CODE (LOT COVERAGE)**

Inspections Director Evans reviewed his slideshow. He explained other municipalities have a little more leniency when it comes to the percentage of stormwater. He has received some feedback on the proposed amendments. The current ordinance has a maximum lot coverage of 30%. We have a maximum house size of 6,000 square feet and increments in setback increases with the size of the lots; because of that we decreased the percentage of stormwater you can have on a lot, trying to keep houses from being so large. He reviewed the current regulations. Staff is proposing to increase the allowed percentage of impervious coverage, built upon area, from 30% to 40%. He explained the proposed amendment and provided information on other municipalities' regulations. The proposed increase would assist older homes with nonconformance issues when they are trying to renovate; add to the tax base and increase structural value; provide a positive economic impact; and allow stormwater management and regulations on a structure that previously did not participate. He explained stormwater must be contained onsite.

No comments were made.

Mayor Holden closed the Public Hearing at 5:16 p.m.

**REGULAR MEETING**

**PLEDGE OF ALLEGIANCE**

## **AGENDA APPROVAL**

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

## **APPROVAL OF MINUTES**

*Motion by Mayor Pro Tem Smith to approve the minutes for our Special Meeting on June 15<sup>th</sup> (2023) and the Regular Meeting on June 20<sup>th</sup> (2023); second by Commissioner Murdock; approved by unanimous vote.*

## **PUBLIC COMMENTS ON AGENDA ITEMS**

Jim Bauer talked about stormwater. He asked where the water resulting from the new bike lane is going to go and if it will be treated. Mr. Bauer asked how we are paving another quarter square mile of the island if we are going to do this and we are worried about the environment.

Rick Paarfus said he hopes it ends up that nothing else is done on the bulkhead issue. At the last Planning & Zoning Board meeting it appeared that most people didn't want a new ordinance. He shared his concerns with changing the definition of impermeable and it not meeting ASDM requirements. Mr. Paarfus asked that for the public hearing on the waterway access grant, the amount of the grant, encumbrances and requirements for accepting the grant be made public.

Town Clerk Finnell said the comments submitted online were added to the website.

## **POLICE REPORT – CHIEF DIXON**

- Went over the report. They added a category called warning compliant. He reviewed what the category means.

Mayor Pro Tem Smith said he noticed several low-speed vehicles stopped, being given warnings. In the past week, he has noticed more people wearing seatbelts since we have been talking about this. He said the Police Department's enforcement techniques are making an impression.

## **INSPECTIONS DEPARTMENT REPORT – INSPECTIONS DIRECTOR EVANS**

- Busy, went over report. Inspection numbers currently do not include dunes that are staked and code enforcement when people have complaints. The new system will track those numbers. The date for that will be in October. Will run both systems at the same time for people who are trying to transition.
- Project Report – the following projects are in progress:
  - Avenue E handicap ramp and emergency access, bathrooms with access decking to extend 6' beyond the last line of stable vegetation – The CAMA permit is on hold. The neighboring property refused to sign the notice so it is on hold until the time period expires per DCM's rules.

- 114 OBE handicap compliant parking with pervious concrete, bathroom, ramp improvement with access decking at landing to extend 5' beyond the last line of stable vegetation – we have a permit. We have the estimates to do the concrete and are working with staff to get the infrastructure put in. We are waiting for the bathroom design to be completed.
  - 801 OBW – we have a hardened surface to be applied to the emergency access to support Town vehicles, as well as emergency vehicles and access decking to extend out 6' beyond the last line of natural stable vegetation. The CAMA permit has been approved. We are waiting for estimates for that work to come in.
  - Jordan Boulevard ADA parking, specifically van accessible and one handicap spot to be brought level with the sidewalk, properly marked with common access routes – this requires concrete removal and replacement. We have a timeframe we need to wait in between pours. We are hoping to work that in the week in between so we can coordinate the projects. When we can get the infrastructure in at 114 OBE will determine when we can start.
  - Halstead is complete except for the delineation of the parking area.
  - 915 ADA walkway is supposed to start construction this week.
  - Pier Project – new portion of the pier ADA ramp and Hatteras ramp CAMA permits are imminent for issuances. A CAMA exemption for the seaward portion of the pier has been issued.
- Staff has completed the Community Rating System Reevaluation. We need to be reevaluated every year to keep the number we have which helps get a reduction in flood insurance. If we don't have it completed, the Town loses the 15% reduction.
  - Pierhead Item - the Planning & Zoning Board (P&Z) made a motion to engage and create a committee to look at the canals. That item will need to go back to them so he can explain only the Board can set a committee. The P&Z meeting was full of people. Most of them were against making any changes. Provided information on the property that started the process. If the Board would like, they could send a directive to P&Z that they no longer need to discuss the matter.

Mayor Pro Tem Smith stated CAMA has the rules. They just need to be notified if someone is in violation. He thinks the item has taken care of itself and no further action is necessary. Inspections Director Evans said if DCM enforces their rules, they do work.

### **DISCUSSION AND POSSIBLE ACTION ON ORDINANCE 23-12, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 157: ZONING CODE (LOT COVERAGE)**

Town Clerk Finnell explained the ordinance was prepared based on the information Inspections Director Evans provided. P&Z has reviewed the proposed changes and created a Statement of Consistency. The required public hearing has been held.

*Motion to approve Ordinance 23-12 and accept the Statement of Consistency; second by Commissioner Murdock; approved by unanimous vote.*

## **UPDATE ON PROPOSED CHANGES TO HOLDEN BEACH CODE OF ORDINANCES, SECTION 157.025 BULKHEADS ON LOTS**

The consensus of the Board is to not send the item back to P&Z.

## **DISCUSSION AND POSSIBLE ACTION ON HOLDEN BEACH CODE OF ORDINANCES, SECTION 157: ZONING CODE (ACCESSORY USES)**

Mayor Holden provided background. Inspections Director Evans said you can have a bulkhead, that is not an accessory structure. You cannot have a floating dock or a pier without a principal structure. He said for years, piers and docks were not identified at the state level or local level as an accessory structure. From 2018 – 2022, they were exempt. In January 2022, the Building Code Council changed the code. They are no longer exempt. Piers and docks were considered accessory structures at that time. It is allowed under commercial districts because it is listed under permitted uses. Excluding piers and docks from being considered an accessory structure was discussed. Inspections Director Evans suggested making it clear the activities that are allowed if the Board makes a change to the ordinance.

The consensus of the Board is to have Inspections Director Evans develop an ordinance for the Board's review.

## **DISCUSSION AND POSSIBLE SCHEDULING OF A DATE TO HOLD A PUBLIC HEARING FOR THE 2023 – 2024 PUBLIC BEACH AND WATERFRONT ACCESS GRANT (BLOCK Q)**

Assistant Town Manager Ferguson explained the Town has been asked to submit a final application for the Public Beach and Waterfront Access Grant Program for Block Q restroom facilities. The final application is due August 28<sup>th</sup>. Staff suggested holding the required public hearing on August 15<sup>th</sup>.

The Board came to a consensus to schedule the public hearing for 5:00 p.m. on August 15<sup>th</sup>.

## **SEWER LIFT STATION 2/EPA GRANT UPDATE**

Assistant Town Manager Ferguson said the Town engaged with a new project coordinator with the EPA and to date we have met all requirements on our end until we hear back about the NEPA review and whether it is needed for this project. Since we are working on someone else's timeline, the borrowing calendar will not mesh with the construction and federal calendars to complete the project this year. If the Town wants to continue to move toward EPA grant funding, we will need to postpone the project for one year. As an alternative, the Town could choose to fund the entire project to achieve a deliverable of construction this winter. She reviewed the calendars for moving forward. The federal money being discussed is part of the Congressionally directed spending, what was formally known as earmarks. It is administered through the EPA, which means we still must successfully apply. We have coordinated the categorical exclusions checklist with the engineer and staff. We coordinated the checklist and the required workplan with our first project manager. That one disappeared and we now have a second project manager. We have been having weekly meetings with them. We have attended several webinars. Assistant Town Manager Ferguson explained we just received final agency feedback regarding NEPA yesterday. Now the EPA will determine if a full NEPA review is needed. The Town cannot submit an application until the decision on a full NEPA review is made by EPA. The finance calendar with the

Local Government Commission (LGC) must mesh with the construction and application requirements. We are also required to send the information to the State Clearing House to see if they have an issue with the project. The EPA said that can't all be done by August because it will take too long on their end. The federal share that has been allocated to the Town if we successfully navigate our grant application is a little over \$2.6 million. Our match at a minimum is \$667,000. She said we know the project is projected to be more than that combined total, so we would be paying more. The decision point for the Board would be if they would like to take a chance on another hurricane season and the uncertainty on the costs of construction or pay for it through Town funding, borrowing and pay go. Town Manager Hewett reviewed two pay go options. They are not the only options. The first one is to replace the EPA money with cash and then borrow the other \$667,000. A second option is \$2 million in borrowing and \$1.4 million in cash. Assistant Town Manager Ferguson said if the Board is leaning towards construction this year, a decision would need to be made tonight because the first process starts August 1<sup>st</sup>. Town Manager Hewett said the current program in the approved budget does reflect the EPA grant funding and \$1 million sewer loan. Assistant Town Manager Ferguson said there are a lot of unknowns. It may seem cut and dry because you have \$2.6 million in federal funding, but if for some reason EPA comes back and said the Town would need to go through the full NEPA process, she is not sure the view would be worth the climb, how long it would take or what the construction costs would go up to.

Inspections Director Evans said the report he wrote to the CRS is based on the Hazard Mitigation Plan. The plan talks about the upfit of the lift stations. It had a timeline. Part of the upfits is tied to our resiliency and that is tied to our CRS. Last year, the report reflected we had to postpone it. The report did the same thing this year. He doesn't know how much effect continuing to postpone it has. Those are part of our critical facilities.

Public Works Director Clemmons stated his biggest fear is what the price tag will be if we wait until June of next year to put it out for bid. He said it is a risk; we have been lucky for a longtime to not get wiped out in a storm. He wishes the Town could get started as soon as possible. Mayor Holden asked if the current condition is good for another couple of years, other than the threat of a storm. Public Works Director Clemmons replied he doesn't think anything would break, unless we get flooded. Commissioner Dyer said if we go with the grant, it would be two hurricane seasons before construction.

Town Manager Hewett said the Town is in a good position with the cash on hand being right at \$3.8 million. You have the luxury of financing a portion with cash. He wouldn't recommend using all of it. He recommended the Town hold onto as much cash as we can regardless of what format we go with and borrow the residual. The funding was for the specific lift station. It can't be used for a different station. The Board discussed how long it would take and how to move forward. The Board agreed to open discussion to the audience.

Scott Bullock asked if there is an emergency process the Town could go into if the Town waited. Town Manager Hewett replied in a hurricane situation if the lift station was damaged, it would qualify to be fixed under FEMA as a Category F expense. There are accommodations for build backs that are above the previous conditions. The difference between the repair and upsizing would be paid for by the Town. If FEMA funds and grants funds could both be used was discussed.

Tom Myers said the way he understands it the Town is going to forfeit \$2.6 million because we don't want to wait. He said it is not guaranteed the repairs will make it bulletproof. The money was spent on Station 4 and it still went down in Ian. He doesn't see the urgency. Public Works Director Clemmons explained it went out of service, but it didn't wipe the station out and we had something to come back to. The scenario we are talking about is the station is gone and it would take three – four months of construction to get it back. Mayor Holden said to remember if we do not have utilities, North Carolina law doesn't allow you to come back to your house. Inspections Director Evans said if a storm comes through and wipes the station out, he cannot permit it to go back to where it is now. It is in violation now. It would need to be upfitted if it gets damaged beyond the point of repair based on the FEMA guidelines for a structure. He cannot permit it as it is now. It will need to be similar to what is planned. Public Works Director Clemmons explained it would be a lengthy process to rebuild.

Rick Paarfus stated he did water and sewer work for Wilmington. If the pump station goes out, it can be bypassed. He asked if the Public Works Director Clemmons looked into temporary structures that would buy a little freeboard around the station. Public Works Director Clemmons stated you can't bypass in a vacuum sewer system. He explained why adding walls wouldn't work. Inspections Director Evans added that is in a V-zone. A breach there will have wave action.

Jim Bauer stated he was in contracting for a long time, materials go up and down. He said you shouldn't base any decisions on material costs. He doesn't think that is viable unless you have concrete statistics.

Mayor Pro Tem Smith stated we have been talking about the grant money for quite some time. He thinks the Town needs to wait and get the grant money that was promised to us. Commissioner Murdock stated he has concerns both ways. One it would be a slap in the face to the advocacy group to push the grant back. At the same time, it would be catastrophic for the island to lose that station or any of them. He said if we decide to fund it, we will need to pull back somewhere else. We based this budget on getting the grant. He would like to roll the dice; it is a lot of money. Costs are coming down. Commissioner Murdock said we aren't guaranteed the grant; we should be ready to go the day we get it or don't get it. Commissioner Dyer stated the flooding and king high tides are getting higher and higher. It is getting worse. She talked about the strain on the Public Works Department after a storm comes through.

*Motion by Mayor Pro Tem Smith to postpone the lift station 2 project for one year.*

Public Works Director Clemmons said he needs to follow-up with Airvac because the equipment for that station has already been built and is on the floor. They delayed billing and shipping before. Once we receive it, the warranty will start ticking, whether it is in use or not. He thinks the cost is around \$200,000. Assistant Town Manager Ferguson explained the EPA would administer the grant through the drawdown method.

*The motion was seconded by Commissioner Murdock.*

Assistant Town Manager Ferguson stated if the motion was approved based on the work project plan that has been submitted to the EPA with a calendar that was prepared by the financial advisors and had a nod from the engineer, advertising for bids would start July 1, 2024; there would be a process that would include going to the LGC in September or October for our part of the funding; complete

construction would take 270 days which would end construction June 19, 2025; the system would be started on October 1, 2025; the project would be closed out November 1, 2025 and the EPA would do their certifications with the expected closeout being May 2, 2026. Commissioner Murdock said water, sewer, electricity and public safety come first. The presented timeline and the timeline for moving forward without the grant were discussed. The Board was provided with copies of the timeline. Mayor Holden asked what other major water/sewer expenses the Town can expect in the near future. Public Works Director Clemmons replied that the water tower is the big one, but it hasn't been determined yet. Water lines have been tested. The samples that were sent back came back good. Station 1 will need some work. Mayor Holden added we also have the fire station. The Board agreed to call Andrew Carter, our financial advisor.

The Board took a recess from 6:41 p.m. – 6:48 p.m.

Andrew Carter joined via conference call. Mr. Carter said moving forward now requires the Town to forego the grant. You have the threat of hurricane seasons when you work within the grant calendar. As far as moving forward without the grant, the issue of having to construct the project during the winter months creates a calendar where the Town would be going to the LGC at what he considers the worst time of the year. Mr. Carter reviewed LGC requirements. To meet the LGC requirements, it requires the Town to have bids and all major permits no later than September 12, 2023. He explained the schedule is tight. If something happens in the bid process, we don't have a lot of time to turn another bid around in order to meet the LGC schedule. He can get the money by October if we start to move forward now, but if wrinkles do pop up, it might force us out of an October approval with the LGC and we are stuck with next year's calendar, unless you want to start construction three to four months later, which he doesn't think is plausible with the specifications he has heard.

Mayor Pro Tem Smith asked what plan the Town should go before the LGC with. Town Manager Hewett suggested going with option 2 on the slides for financing, but the Board isn't limited to just the two options. Mr. Carter agreed option 2 or something similar is the better way to go. Town Manager Hewett explained payments would be determined by what the terms are. The Town cannot enter into a contract until we have the money borrowed.

Anne Arnold inquired about the timeline being discussed now. Assistant Town Manager Ferguson said August 1<sup>st</sup> for advertising for bids; bids would be received September 3<sup>rd</sup>; bids would be awarded no later than September 12<sup>th</sup>, which would require a special meeting; permits would be in hand by September 12<sup>th</sup>; we would go to the LGC for approval on October 3<sup>rd</sup>; would look to close the financing on October 11<sup>th</sup>; the notice to proceed would be issued October 12<sup>th</sup>; construction would begin October 22<sup>nd</sup>; they would end construction within 270 days.

Scott Bullock asked if it changes the timeline for approval if the bids come in higher than expected. Town Manager Hewett replied that the contract would be contingent on funding approved by the LGC. We have an engineer's estimate for costs.

Larry Blume asked if it will stop the federal funds if we start this process. Town Manager Hewett replied yes.



Rick Paarfus asked if the timeline takes into consideration the paving and bike lanes. Mayor Holden and Public Works Director Clemmons agreed it should not be an issue.

Terri Bullock suggested looking into a special assessment.

Mayor Pro Tem Smith said he originally thought the timeline would be setback one year. He is not sure holding off for three years would be economically sound. Town Clerk Finnell read the motion.

*Mayor Pro Tem Smith withdrew his motion with Commissioner Murdock in agreement.*

Public Works Director Clemmons said the station was not completely underwater in the past, but there was water to the top level of the station. If it had filled up there, you would not be able to recover that. He explained improvements are not made to run the sewer system during a hurricane, it is made to have something to come back to. Town Manager Hewett agreed.

Mr. Carter agreed Pay Go Option 2 is the more preferable option.

*Motion by Commissioner Murdock that we proceed with self-funding lift station 2 as an extremely critical asset to this island in whatever way, shape or form that we have to do it; second by Commissioner Dyer.*

Commissioner Murdock said he can't imagine the economic impact of not being able to get back over here because there was no sewer.

*Commissioner Murdock amended the motion to add similar to Pay Go Option 2.*

*Town Clerk Finnell reviewed the motion. Commissioner Murdock agreed the motion is that we proceed with self-funding lift station 2 as an extremely critical asset to the island with financing similar to Pay Go Option 2.*

Commissioner Murdock suggested looking at all aspects to pay for it. Mayor Pro Tem Smith confirmed the timeline and asked if there are any issues that could make the dates not happen. Town Manager Hewett said there are a whole lot of things that could go wrong with the schedule. It is extremely compressed.

*The motion passed unanimously.*

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

Town Clerk Finnell provided background information.

*Motion by Mayor Pro Tem Smith to approve the current eligible members of the Board of Adjustment and Parks & Recreation Advisory Board to serve another term (PRAB – Grace Bannerman, Melanie Champion, Mike Pearson and Candace Vick, BOA – Regular Members Anne Arnold, MaryLou Lahren and Phil Caldwell and Alternates Rick McInturf and Richard Roberts), second by Commissioner Dyer; approved by unanimous vote.*



*Motion by Commissioner Dyer to move Aldo Rovito to regular member and Mark Francis and Ashley Royal as alternate members; second by Mayor Pro Tem Smith; approved by unanimous vote.*

## **PROMOTIONAL VIDEO FOR DOGS ON THE BEACH**

Assistant Town Manager Ferguson introduced the new promotional video for dogs on the beach.

## **PUBLIC COMMENTS ON GENERAL ITEMS**

Rick McInturf stated he is happy where the Board ended up with lift station. He recommended reaching out to our legislators to explain why this is the direction the Town took.

## **TOWN MANAGER'S REPORT**

Town Manager Hewett reviewed his slideshow with the quarterly budget report. This is for the 4<sup>th</sup> quarter, ending June 20, 2023. We have not closed the books yet. There are still some outstanding transactions that need to take place, but it is pretty close. We have met requirements and paid all of our capital debt of \$3.69 million. All funds are in the black, except the water and sewer. Will explain that because it is not really in the black. We collected more ad valorem tax than we budgeted this year at 100.13%. We collected 103% of the sewer capital fees and 95% for canal dredging. Our sales and use tax is way up at 157%. Our utility franchise revenue is pretty much on track at 103%. Occupancy tax is the highest we have ever had at 111%, \$3.91 million. Building came in at 86%, \$291,000 and parking came in at 184%, \$548,000 for this budget year. He reviewed the budget numbers from his slides. All the transfers have been made except for the fund balance appropriations in these funds. Additionally, there are some other transactions in the Water & Sewer Fund. We have about \$260,000 of transfers in and also appropriated fund balance, which is about \$240,000 and then there is \$100,000 worth of expenses that are showing in this budget but will be rolled into the next year. With all that said, the negative \$144,000 is really a positive \$200,000 - \$250,000. In the BPART Fund we are \$539,000 ahead. For canal dredging, that is ahead by \$191,000. The monthly budget to actual is posted each month to the website.

## **MAYOR'S COMMENTS**

- Commissioner Arnold was not able to attend the meeting. He had a funeral to attend.
- You have until Friday at noon to sign up to run for a Board of Commissioners' position. He encouraged everyone to give it strong consideration. Help your neighbors help Holden Beach be a better place.
- Appreciates everyone who volunteers for the various boards and committees within the Town. Tonight was a good example of a good group of volunteers putting their name in the hat to volunteer.
- Overall the summer seems to be doing reasonably well except for the weather. Hopefully will have good weather for the Band of Oz.

## BOARD OF COMMISSIONERS' COMMENTS

Mayor Pro Tem Smith

- Thanked everyone for coming out tonight. Nice to see this many people here that take an interest in what we are trying to do. This is not an easy position. We appreciate the interest and input.
- LSVs – sees more seatbelts on than used to. Still somewhat of a nuisance.
- Boat docks and canals – think made a good decision to let CAMA take care of that. If you see a neighbor that is physically too far out, we need to make sure the CAMA representatives are notified. We need to keep an eye on it.
- ADA – Inspections Director Evans and staff are doing a great job of moving it along.
- 796 looks good; best it's looked in years. Need to put thoughts into getting it rented and getting revenue.
- Been a good start to the summer.

Commissioner Murdock

- Appreciates everyone for coming out tonight. This position was a little gut wrenching tonight, when you have things at the last minute and you have a deadline. We all hope we make the right decisions most of the time. Hopes what we did was proactive in taking the path of least resistance to chance that the island would be closed for any period of time.
- There is some of the prettiest water he has ever seen.
- Thanked staff. Knows Inspections Director Evans is exhausted. We are making a lot of progress on a lot of hard stuff. Appreciates all of his work, Public Works Director Clemmons' and Chief Dixon's also.
- Thanks for coming out. We value your opinion.

Commissioner Dyer

- Thanked everyone for coming out. It is good to have people participating and giving their opinions. You wish you could make a budget and not have any bumps in the road, but she thinks an emergency situation that could prevent the people who live here from going home and the economic impact on the island would need to be put ahead of some projects. Hopes people understand we may have to push some projects. This is an emergency we need to deal with.
- Thanked staff for working hard. There are a lot of projects going on.
- Continue to enjoy the summer.

## ADJOURNMENT

*Motion to adjourn by Commissioner Murdock at 7:39 p.m.; second by Mayor Pro Tem Smith; approved by unanimous vote.*

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J. Alan Holden, Mayor

ATTEST:

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Heather Finnell, Town Clerk