



Town of Holden Beach
Board of Commissioners
Regular Meeting

Tuesday, April 19, 2016
7:00 PM

Holden Beach Town Hall
Public Assembly



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS' REGULAR MEETING
HOLDEN BEACH TOWN HALL – PUBLIC ASSEMBLY
TUESDAY, APRIL 19, 2016 - 7:00 P.M.**

1. Invocation
2. Call to Order/ Welcome
3. Pledge of Allegiance
4. Agenda Approval
5. Approval of Minutes
 - a. Minutes of the Regular Meeting of March 8, 2016 (Pages 1 – 6)
 - b. Minutes of the Special Meeting of March 11, 2016 (Pages 7 – 9)
6. Public Comments on Agenda Items
7. Police Report – Chief Wally Layne (Page 10)
8. Discussion and Possible Approval of Resolution 16-05, Resolution Amending Regulations Governing Public Comment Periods, Rule 28(b) of the BOC Rules of Procedure (Pages 11 – 14)
9. Discussion and Possible Approval of Resolution 16-06, Resolution Adopting the Southeastern NC Regional Hazard Mitigation Plan – Building Official Tim Evans (Pages 15 – 17)
10. Discussion and Possible Approval of Ordinance 16-09, Ordinance Amending The Holden Beach Code of Ordinances, Chapter 92: Nuisances (Noise Ordinance) (Pages 18 – 23)
11. Town Manager's Report
12. Mayor's Comments
13. Board of Commissioners' Comments
14. Public Comments on General Items
15. Adjournment

***Please sign up for public comments beginning at 6:00 p.m. in accordance with the new Rule 28B requirements.**



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
REGULAR MEETING
TUESDAY, MARCH 8, 2016 – 7:00 P.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Regular Meeting on Tuesday, March 8, 2016 at 7:00 p.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem H. Ashley Royal; Commissioners Kim Isenhour, John Fletcher and Ken Kyser; Town Manager David W. Hewett; Town Clerk Heather Finnell; Public Works Director Chris Clemmons; Water & Sewer Superintendent Eric Long; Police Chief Wally Layne; Building Official Tim Evans; and Shoreline Protection and Recreation Manager Christy Ferguson. Commissioner Peter Freer was unable to attend the meeting due to family illness.

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

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

Commissioner Isenhour would like to move number 11, the noise ordinance, to the next meeting. The Town Attorney has some great ideas for enforceability.

Motion by Commissioner Isenhour to approve the agenda with the change; second by Mayor Pro Tem Royal; approved by unanimous vote.

APPROVAL OF MINUTES

Motion by Commissioner Kyser to approve the minutes of the Special Meeting of February 16, 2016 as written; second by Commissioner Fletcher; approved by unanimous vote.

PUBLIC COMMENTS ON AGENDA ITEMS

Commissioner Fletcher provided an overview of the new rules. Mayor Pro Tem Royal suggested having the rules at the back of the room for the next meeting.

Dolly Mitchell stated she delayed a trip in February to attend the February meeting. On her trip she read Lou's Views. Mrs. Mitchell listened to the audio of the meeting to verify the specifics were not discussed at the meeting. She would like the Board to think through the resolutions being passed. She has a concern that a commissioner will serve on the Audit Committee and that he will pick the members of the committee.

Gina Martin stated she is addressing item 14, the change to the meeting schedule. She said the Board approved a resolution before the public had an opportunity to review it. She stated key parts were left out when it was approved. Mrs. Martin stated since you can't have a comment period before the meeting, the Board needs to change the meeting time or change the resolution they just passed. She feels that moving the time and date could cause a problem.

Pete Pallas, Alternate Member on the Planning & Zoning Board (P&Z), asked the Board to consider purchasing spare parts for the sewer system. If the Town had a catastrophic event it could take three months to get some of the parts. He urged the Board to get the parts.

POLICE REPORT – CHIEF WALLY LAYNE

- The break-ins have subsided. Hopefully it will continue that way.
- Over halfway through in-service training for 2016. Every officer is required by state mandate to have 24 hours of in-service training. Trying to get it done before the season kicks off.
- Have a couple of part-time administrative assistants. Dorrie Mercer has been accepted into grad school. Is in search of her replacement. Ms. Mercer has been an asset to the department.
- Preparing for an annual audit. Will occur March 24th.
- Sheila Young asked about the difference in the keep checks as noted on the Police Report. Chief Layne responded they are still doing keep checks, it is just a paperwork change.

DISCUSSION AND POSSIBLE AWARD OF CONTRACT FOR ROADWAY WORK – SHANE LIPPARD, RIGHT ANGLE ENGINEERING

Mr. Lippard stated his company prepared a set of bid documents for the roadway work repairs as identified in the conditions assessment completed a couple of months ago. The dollar amount was that it could be bid informally. Received three bids. The lowest one was Southern Asphalt at \$105,800. They broke down each street individually. It was for Davis, Holden, By the Sea, Elizabeth and Sunshine. His company has prior experience with the low bidder. Mr. Lippard thinks they would do a good job. Mayor Pro Tem Royal asked if the bids were sealed. Mr. Lippard replied the bids were sealed to them, but it wasn't a formal process. Mayor Pro Tem Royal inquired if the reason Brunswick Avenue didn't show up was because it was a different issue. Mr. Lippard responded yes. Mayor Holden added we have the same issues with High Point. Mr. Lippard stated that those seem to be utility related complications, not regular road maintenance. Commissioner Isenhour asked if the work will be completed within 60 days if the Board approves this. Mr. Lippard stated it should be, depending on the weather. Town Manager Hewett recommends approval.

Motion by Commissioner Fletcher to approve the contract with Southern Asphalt for rehabilitation of the streets, second by Commissioner Kyser.

Town Manager Hewett stated it is funded within the current budget.

The motion passed by unanimous vote.

DISCUSSION AND POSSIBLE CONFIRMATION OF AUDIT COMMITTEE MEMBERS – COMMISSIONER FLETCHER

Commissioner Fletcher would like the Board to confirm the membership of the Audit Committee. He previously announced three of the four from the old committee, Ron Skubic, Ben Byrnside and Mark Fleischhauer are willing to serve. He now has spoken with the 4th member, Chip Haigh and he is also willing to serve. For the next year he recommends these four are the members of the Audit Committee.

Motion by Commissioner Fletcher to approve those four as the Audit Committee; second by Mayor Pro Tem Royal; approved by unanimous vote.

PRELIMINARY PROGRESS REPORT: SANITARY SEWER VULNERABILITY – PLANNING & ZONING BOARD MEMBER MIKE SULLIVAN

Planning & Zoning Board Member Mike Sullivan provided background on the committee. He explained it is clear there are other things that can damage the system. The committee would like the Board to give permission to look at all threats, not just storm surge. The committee reviewed the available information related to the severity and frequencies of storms. Public Works provided an estimate of \$700,000 for the replacement cost of the equipment at the pump stations. Some of the parts would take three months to be replaced. Each station has unique component parts. They looked at availability of replacement parts. It is hard to find compatible systems.

Oak Island and Ocean Isle Beach put the parts of their systems susceptible to flooding above the base flood level. Our retention tanks are underground and are covered by a concrete slab. There is no way to change them out. One of the committee members is an engineer. His suggestion is to put the susceptible parts above flood level. Mr. Sullivan understands money was allocated for technical consulting. They want an independent engineer to do a cost analysis for the raising of the equipment susceptible to flooding.

Mr. Sullivan answered questions from the Board.

Motion by Commissioner Kyser to expand the scope to include other high vulnerability items and then make a plan to be able to cope with those, second by Commissioner Isehour.

Mayor Pro Tem Royal would like some discussion on prioritizing. Commissioner Kyser agreed with that.

The motion passed by unanimous vote.

DISCUSSION AND POSSIBLE ACTION ON ORDINANCE 16-07, AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 30: TOWN GOVERNMENT AND OFFICIALS (SECTION 30.25 COMMISSIONS, BOARDS, AGENCIES AND AUTHORITIES ESTABLISHED BY ORDINANCE OR UNDER THE AUTHORITY OF THE BOC

Town Clerk Finnell explained this ordinance confirms a motion made at a previous meeting.

Motion by Mayor Pro Tem Royal to approve Ordinance 16-07; second by Commissioner Fletcher; approved by unanimous vote.

DISCUSSION AND POSSIBLE ACTION ON MULTI-JURISDICTIONAL DISASTER DEBRIS MANAGEMENT AND MONITORING REQUEST FOR PROPOSALS – PUBLIC WORKS DIRECTOR CLEMMONS

Public Works Director Clemmons stated this is a request for the Board to consider joining the County for solicitation of bids for storm debris cleanup. This is necessary for FEMA requirements. He stated he feels like it is a good direction to go. It would be like we are a primary holder of the agreement. We can activate the agreement without the county. This is just for the solicitation. Public Works Director Clemmons explained that our last contract expired and we received no replies on our last solicitation. Mayor Pro Tem Royal asked if it is fair to say this should be most economical rather than soliciting individual bids. Public Works Director Clemmons replied yes.

Motion by Commissioner Kyser to join the multi-jurisdictional debris disaster management and monitoring request for proposals; second by Commissioner Fletcher; approved by unanimous vote.

Town Manager Hewett stated he anticipates a contract will come back to the Board for final approval late May/ early June.

POSSIBLE AMENDMENT TO THE HOLDEN BEACH BOARD OF COMMISSIONERS' 2016 MEETING SCHEDULE – COMMISSIONER ISENHOUR

Commissioner Isenhour requested the Board consider moving the meeting to the third Tuesday of each month so the Town Attorney can attend the meetings. The proposed time is 6:30 p.m. They can have discussion if the proposed days and time do not work for people. Commissioner Isenhour thinks it will be valuable for the Town Attorney to attend the meetings. Town Clerk Finnell explained the 6:30 p.m. start time would bring the Board into compliance with the resolution that was passed regarding public comments sign-up. Commissioner Kyser will not be able to make the June 21st meeting. He is unsure if he can be at the meetings by 6:30 p.m. on other days. The Board agreed to hear the opinions of the audience.

Betty Curtis stated she couldn't come at 6:30 p.m. She thinks most people would not approve of that time.

Carol Ann Lohman said December 20th is not a good day to meet. It is Christmas week.

Gay Atkins asked if they thought about the public when the Board picked an attorney. She thinks 6:30 p.m. is too early.

The Board discussed the start time.

Motion by Mayor Pro Tem Royal to adopt the dates of the meetings, but change the start time to 7:00 p.m.; second by Commissioner Fletcher.

Commissioner Isenhour asked if the Board needed to change the public comment resolution. Town Clerk Finnell explained she could have an amended version for the Board next month. Mayor Holden stated he will try to be there. He might have conflicting meetings that have already been scheduled.

The motion passed by a 3 – 1 vote with Mayor Pro Tem Royal and Commissioners Isenhour and Fletcher voting for the motion and Commissioner Kyser voting in the negative.

TOWN MANAGER'S REPORT

- Boating Infrastructure Grant Status – the dredging is complete. Construction on the access pier is moving ahead as scheduled. Awaiting floating docks assemblies.
- SEARCH 5k – had over 1000 participants, over 500 of those were children.
- Staff probably won't be reachable by email this weekend. We are finalizing our cloud server migration. Testing has been completed. Will be flipping the switch this weekend. Will be back up Monday.
- Public Works Director Clemmons has odor controls in place at Jordan Boulevard. It is just in time for the Easter crowd.
- Valve Pit Replacements – work continues.
- Ad Valorem Tax Collection Rate – collections are coming in. We are ahead of where we were this time last year. We are at almost 98%. Fiscal Operations Clerk Lancaster is sending second notices out this week for people who have not paid.
- Corps' Update on Project Funding/ Dredge Schedule – there hasn't been any maintenance done in the Lockwood Folly Inlet Crossing this year. The last time was three seasons ago. The \$3 million federal contract for shallow draft inlets crossing maintenance is supposed to be performed in November 2016/ April 2017.
- SDI - 5 – received the biological opinion from US Fish and Wildlife. Anticipating permit issuance in the June/ July timeframe. The permit will allow local governments in North Carolina to do shallow draft inlet maintenance.

- About \$3.5 million available for award via the state/ federal memorandum of agreement to provide shallow draft inlet maintenance.
- FEMA Project Extension (Irene) - have verbal approval on the project. Waiting hard copy confirmation. Project is for the 600 block area, worth approximately \$450,000. Hopefully can work it into the Central Reach Project. There is a Special Meeting scheduled for that Friday at 10:00 a.m.
- There is a new polling place. It is at the Emergency Operations Center. The address is 1044 Sabbath Home Road.

MAYOR'S COMMENTS

- Martins are back. The first week of March is when you should put Martin houses up.
- Sales continue to improve. At a meeting, an economist said this year through the summer and early fall should be the best sales we have had in many years.
- In talking with the Building Official Evans, the Town has the most construction it has had in many years. His memory is the best year was 55. Building Official Evans stated we are going to get close to that this year.
- If you are interested in beach nourishment, please be at Special Meeting Friday. We need all the help we can get in making this major decision. The Town needs to make a decision now.

BOARD OF COMMISSIONERS' COMMENTS

Mayor Pro Tem Royal

- From his research, the Central Reach Project is one that has more obvious benefit. Looking forward to the discussion. Is already pre-dispositioned to be in favor of that. Erosion is certainly real. Need to manage it. Have precious resources that we need to prioritize. Look forward to hearing from the Sewer Committee. Want to do it right, but also in a timely manner.
- Thanked everyone for their comments.

Commissioner Isenhour

- Thanked everyone involved in putting on the race. It was an amazing event. There were so many pictures of kids having a great time. That is the face of Holden Beach.
- Thanked those who have been calling and sending emails. It is nice to hear from people. Appreciates the time people take to call.

Commissioner Fletcher

- Seconds that. Appreciates the letters and calls. The more the Board knows about people's positions, the more they can respond.
- Going forward, we have the meeting Friday. Will very soon follow up with budgeting for the next year. Will have public meetings. Try your best to be there and participate. Will have the Audit Committee watching the process. Same with the terminal groin. Learn all you can about the issue and let them know your position.

Commissioner Kyser

- Thanked everyone for coming, nice to see a large crowd.
- The meeting on Friday is very important. Talking about an extremely large financial project. Would like feedback.
- Early voting is taking place now. Election Day is March 15th.
- Thanked Shoreline Protection and Recreation Manager Ferguson for her help with the race.

Tony Marwitz attended many meetings. In that time, seen lots of comments. He has spoken probably about 50 times. Only about a third of those were planned. Something happened at the meeting that he thought made it worthwhile for him to stand up and talk. Mr. Marwitz stated most of the Board campaigned on a platform of transparency, yet they passed a rule limiting public comments. He urged the Board to remove the requirement to sign-up.

Karen Fleischhauer provided background on the recent dangerous dog case on the island. Her husband was attacked two separate times by the same dog. She is upset the new ordinance pertaining to dangerous dogs doesn't apply to the case. She and her neighbors are concerned about safety since the dog remains on the island.

ADJOURNMENT

Motion by Commissioner Fletcher to adjourn at 8:31 p.m.; second by Commissioner Isehour; approved by unanimous vote.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk



**TOWN OF HOLDEN BEACH
BOARD OF COMMISSIONERS
SPECIAL MEETING
FRIDAY, MARCH 11, 2016 – 10:00 A.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Special Meeting on Friday, March 11, 2016 at 10:00 a.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem H. Ashley Royal; Commissioners Peter Freer, Kim Isenhour, John Fletcher and Ken Kyser; Town Manager David W. Hewett; Town Clerk Heather Finnell; Shoreline Protection and Recreation Manager Christy Ferguson; Fiscal Operations Clerk Mandy Lockner; Building Official Tim Evans; Doug and Andrew Carter from DEC and Associates; and Fran Way and Mark from Applied Technology and Management.

CENTRAL REACH PROJECT BRIEFING

Town Manager Hewett introduced Doug & Andrew Carter from DEC and Associates and Fran Way and Mark from Applied Technology and Management.

Shoreline Protection and Recreation Manager Ferguson explained the Central Reach Project is for 240 Ocean Boulevard East to 781 Ocean Boulevard West. This would be a locally sponsored project. The Town has the permits in hand from the Corps, NC Department of Environmental Quality and NC Department of Water Quality. This represents the largest beach fill project to date on Holden Beach. Our sand source comes from an offshore borrow site. It is approximately 1.31 million cubic yards along 4.1 miles of shoreline. It is included in the Town's Beach Management Plan. It is projected to advance the mean high water shoreline 60 – 80 feet. The dredge window is November 30th to March 31st. We applied for and received an extension on the CAMA permit. Both the CAMA and Corps permits expire on December 31, 2017. It is estimated to be a \$15 million project. Dredge prices are highly variable. Shoreline Protection and Recreation Manager Ferguson stated that no federal money has been available and there is no indication of any future money. The sand borrow source is about two miles west of Oak Island. The first choice would be to use a hopper dredge. Once the permits expire, a permit extension would be required from both CAMA and the Corps. Shoreline Protection and Recreation Manager Ferguson explained why a decision needed to be made now.

Fran Way showed a regional map. He provided background on the beach, projects and erosion. He showed an image of the central reach borrow area. Mr. Way provided information on recent beach nourishment bid results. He reviewed the project engineering schedule. He explained they need to work on the design specifications now. They would like to release the bid packages at the end of April and work towards review and negotiations by summer. They would like to issue a notice of award in August. The project would start in November, with active pumping starting in December.

Mayor Pro Tem Royal stated the estimate here is \$15 million. He asked the price per cubic yard. Mr. Way replied it would be right around \$13 per cubic yard. He explained we could have flexibility with the bid package. You can have a few optional bids to bring costs down if they are too high. Mayor Holden stated generally when you reduce the size of a project, the price per cubic yard would be more.

Doug Carter provided background on his firm. His firm was engaged to find the most cost effective means to get the project done. North Carolina statutes provide limited means to finance projects. It often leads to partnerships between towns and the counties. Mr. (Doug) Carter explained the different financial modes available. He provided information on the preferred method, Special Obligations Bonds. Special Obligation Bonds do not require voter referendum. You must use a Municipal Service District (MSD) in order to use Special Obligation Bonds. Once a MSD is formed you are not required to levy a tax in the district. It requires a pledge of taxes and/ or fees not levied by the municipality. The Town levies its own occupancy tax so that would not be allowed to be pledged under a Special Obligation Bond approach. Currently, the level of revenues that can be pledged are not sufficient to meet the financing requirement. If the Town didn't levy its own occupancy tax, it would. The Town will need to look at a creative way to structure this type of financing if the Board elects to use it.

Andrew Carter went over the project cost and sources of funds. The estimated project is \$15 million. The Town could use about \$3 million from the BPART Fund and borrow \$12 million. He is estimating the debt service payments over a 10 year period at 3.5%. It would take 9.5 pennies to cover the project and make the payments. The pledge funds would include sales tax, franchise tax, building permits, video program, and cable franchise taxes. The total wouldn't get to the amount needed to be pledged. A county interlocal agreement would be needed for about \$1.2 million to make up the collateral package. It would only kick in if the Town is unable to pay the debt. Mr. (Andrew) Carter reviewed the costs and sources of funds for \$10 million and \$20 million projects.

Mr. (Doug) Carter said because the permit expires in December 2017, the decisions to make the financing package work would need to be made between now and June 30th. Mr. (Andrew) Carter explained a combination of pay-go and borrowed sources are the best project funding method and the most sound financial plan. County involvement will be necessary to accomplish the collateral package. Town Manager Hewett added the county wouldn't be left holding the bag if the debt service isn't paid. The Local Government Commission would step in. This type of arrangement for beach nourishment has not been done with the county. The closest thing we have to it is the arrangement on the sewer agreement.

Mr. Way clarified it is \$11.50 per cubic yards for \$15 million, not his previous figure of \$13. He explained you always permit for a little more than you want. You can't go over a limit, but it is okay to go under. Commissioner Freer asked if the county would be willing to go forward with another project if something else comes up. Ann Hardy, County Manager stated this is a new concept for the county. She said it sounds promising. They would like to help, as long as the county's interests are protected. Ultimately, the county commissioners would need to make the decision.

Town Manager Hewett explained there are three specific things that need to get done to make the project happen. We need to have the engineer involved with final designs and specs. We need to acquire easements on the properties. We need to execute an interlocal agreement before we can proceed. Simultaneously, we need to develop the budget and consider the development line. This will be blazing a new trail.

Town Manager Hewett stated the proposed resolution expresses the Board’s support for the project and directs all the aforementioned elements that have to be accomplished in order to move the project forward. Mayor Holden added if the resolution is passed, this is not the final say. This says the intention is to move forward. Town Manager Hewett explained the formal processes will all come back to the Board for approval.

Motion by Mayor Pro Tem Royal to remove climate change and approve the resolution as amended; second by Commissioner Fletcher; approved by unanimous vote.

ADJOURNMENT

Motion by Mayor Pro Tem Royal to adjourn at 11:04 a.m.; second by Commissioner Freer; approved by unanimous vote.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk

Activity Log Event Summary (Cumulative Totals)

HOLDEN BEACH POLICE DEPT.

(03/01/2016 - 03/31/2016)

| | | | |
|---------------------------|----|--|----|
| <No Event Type Specified> | 4 | 911 Hang Up/Open Line | 1 |
| Alarm Activation | 14 | Animal Complaint | 12 |
| Assist Motorist | 5 | Assist Other Agency | 25 |
| Attempt to Locate-ATL | 13 | Citation | 1 |
| Disturbance/Fight | 3 | Domestic Disturbance | 1 |
| EMS/Medical Call | 8 | Escort/Relay | 1 |
| Fire Call | 1 | Found Property | 2 |
| Incident Report | 2 | Keep Check | 1 |
| Lost Property | 3 | Maintenance/Water Leaks(HB Only) | 2 |
| Meet with Complainant | 7 | Motor Vehicle Crash (Property Damage Only) | 3 |
| Noise/Nuisance Complaint | 4 | Open Door | 4 |
| Parking | 5 | Phone Call (requested to call subject) | 3 |
| Special Assignment | 3 | Supplemental (to prior report - use original OCA) | 3 |
| Suspicious Person | 1 | Suspicious Vehicle | 1 |
| Trespassing | 3 | Welfare Check | 4 |

Total Number Of Events: 140



Date: April 12, 2016

To: Commissioners and Mayor Holden

From: Heather Finnell, Town Clerk HF

Re: Proposed Resolution 16-05

If adopted, Resolution 16-05 updates Rule 28(b) of the Board's Rules of Procedures to reflect the new Regular Meeting date of the third Tuesday of each month. It also extends the time period for public comment sign-up until 6:55 p.m. in order to accommodate the meeting start time of 7:00 p.m., instead of the start time of 6:30 p.m. which was adopted in the previous version of Rule 28(b).

Ordinance 16-08 is enclosed for the Board's consideration.

RESOLUTION 16-05
RESOLUTION AMENDING REGULATIONS GOVERNING PUBLIC COMMENT PERIODS, RULE
28(B) OF THE BOARD OF COMMISSIONERS' RULES OF PROCEDURE

WHEREAS, North Carolina General Statute §160A – 81.1 states that the council shall provide for at least one period for public comment per month at a regular meeting of the council; and

WHEREAS, North Carolina General Statute §160A – 81.1 allows council to adopt reasonable rules governing the conduct of the public comment period; and

WHEREAS, the Holden Beach Board of Commissioners adopted rules for public comment periods in accordance with North Carolina General Statute §160A – 81.1 at their February 16, 2016 meeting (under Rule 28b of their Rules of Procedure); and

WHEREAS, the Holden Beach Board of Commissioners adopted a new regular meeting schedule at their March 8, 2016 meeting, creating the need to amend the Rules of Procedure.

NOW, THEREFORE BE IT RESOLVED, by the Holden Beach Board of Commissioners that Rule 28(b) of the Board of Commissioners' Rules of Procedure be updated as follows (changes in italics and highlighted).

Subject to waiver by an express resolution of the BOC, the following regulations shall apply and be enforced with respect to any public comment period at any regular, special or emergency meeting of the BOC.

1. Time and Location: Unless posted otherwise as required by law, the BOC convenes its monthly public hearings and regular meeting on the *third* Tuesday of each month at *7:00* p.m. at Town Hall. The agenda will contain one or more items entitled "Public Comment Period."

2. Sign-up Sheet: Any member of the THB Public who wishes to address the BOC as a speaker or as a spokesperson for a group during the Public Comment Period must register on the sign-up sheet located at the Town Clerk's seat between 6:00 p.m. and *6:55* p.m. on the night of the meeting by listing his/her name, address, the name of any group for which he or she is a spokesperson, and comment topic(s), and signing to confirm that he/she is a member of the THB. Speakers or spokespersons who are not members of the THB Public who wish or who are invited by members of the BOC, the Mayor or other public officials to address the BOC on any subject matter must use the procedure provided for under Rule 5 of the BOC Rules of Procedure.

3. Time Allotted for Public Comment Period: A total time of 30 minutes will be allotted for the Public Comment Period, plus an additional 15 minutes after all speakers and spokesperson have completed their comments for response to comments from the BOC. Additional time may be allotted only by motion and majority vote of the BOC.

4. Carry Over: If the time allotted for the Public Comment Period expires before all persons who have signed up are called on to speak, the names remaining will be carried over to the next Public Comment Period and placed first on the list. Remaining speakers may also submit written comments to the Town Clerk for distribution to the BOC the following business day.

5. Speaking Order: Speakers and spokespersons will be called on in the order in which the names appear on the sign-up sheet. Each speaker or spokesperson will then proceed, one at a time in order of sign-up. Before beginning comments, each speaker or spokesperson will state his/her name and the name of any group for which he or she is the spokesperson.

6. Time Allotted for Each Speaker: Each speaker will be allotted 3 minutes to comment during the designated public comment period or periods at any meeting, unless this speaker or spokesperson time limit is extended for all speakers or spokesperson on the sign-up list by majority vote of the BOC. To allow an opportunity for others to participate, each speaker or spokesperson shall have only one opportunity to speak during any meeting. Except for such designated comment periods, persons in attendance at any meeting shall not speak or otherwise interrupt the meeting, except with the consent of the BOC by majority vote.

7. Timekeeper: The designated timekeeper will be the Town Clerk, who will begin timing the speaker or spokesperson after recording the speaker's name and address for the public record and will announce "Time" when the allotted time expires.

8. Written Comments: At the end of the allotted time, a speaker or spokesperson may also submit written comments to the Town Clerk, who will copy written comments to the mayor and all BOC members the following business day, if a sufficient number of copies is not provided by the speaker or spokesperson. A speaker's or spokesperson's comments may be summarized in the meeting minutes if a legible, written copy is not submitted to the Town Clerk, and all such written comments or materials shall be available as public records.

9. Number of Speakers on Each Topic: It is recommended that large groups or delegations select their spokesperson in advance of sign-up.

10. Topic Exclusions: Speakers or spokespersons will not comment on matters which concern: the candidacy of any person seeking public office, including the candidacy of the speaker or spokesperson; discussion of the sale or lease of fixed assets if the speaker or spokesperson's group is a party to the transaction; matters which are closed session topics, including, but not limited to, matters within the attorney-client privilege, anticipated, threatened or pending litigation, personnel, land acquisition; and all other matters which are made confidential by law.

11. Address to the BOC: Speakers will address all comments to the BOC as a whole; and will not address or question one or more BOC members, the Mayor or any town staff members, officials and employees as individuals. Speakers will address members of the BOC, the Mayor, town staff members, officials and employees and other members of the THB Public with courtesy and will not do or say anything that will interfere with the dignity and decorum of the meeting. Discussions between speakers or spokespersons and the audience will not be allowed, and no member of the BOC, the Mayor or any town staff members, official or employee will respond to the comments or questions of any speaker or spokesperson until after all speakers and spokespersons on the sign-up have completed their comments.

12. Response to Comments: At the end of all speakers' and spokespersons' comments, any member of the BOC may request that the Town Manager (or his or her designee) respond to a concern raised by the speaker.

13. Questions on Comments: At the end of all speaker's and spokesperson's comments, any member of the BOC may ask the speaker such questions as they might deem necessary and appropriate for clarification.

14. Action by Town Council: Speakers and spokespersons should not expect BOC deliberation or action on any subject matter brought up during the Public Comment Period. Topics requiring further investigation will be referred to the Town Manager (or his or her designee), and may be scheduled for consideration as an agenda item during a future regular meeting.

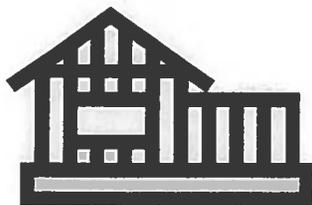
15. Monitoring and Enforcement. The Executive Secretary of the BOC shall act as the monitor for all public comment periods for the purpose of recognizing speakers and spokespersons from the sign-up list, monitoring and enforcing the time allotted to speakers or spokesperson and reply times of the Commissioners and the enforcement of these regulations. Any ruling by the Executive Secretary may be appealed to the presiding officer as a point of order, and any ruling on such point of order may be appealed as provided for in Rule 18 of the BOC Rules of Procedure.

This the 19th day of April, 2016.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk



Town of Holden Beach

PLANNING & INSPECTIONS DEPARTMENT

Director
Tim Evans
Tevans@hbtownhall.com

Assistant Inspector
Rhonda Wooten
Rwooten@hbtownhall.com

Permits Administrator
Ava Cain
planninginspections@hbtownhall.com

Tuesday, April 12, 2016

Memo: Hazard Mitigation Plan

To: Mayor, Town Commissioners and Town Manager
From: Planning Department

MANDATORY Adoption Procedures

The Southeastern NC Regional Hazard Mitigation Plan (HMP) has received preliminary approval from the Federal Emergency Management Agency (FEMA) stating that all jurisdictions should proceed with adoption. A digital copy of the draft Regional HMP can be accessed via the project website at <http://www.southeasternhmp.net/>. If you would like a hard copy of the HMP, please contact Heather.

Adoption of the Regional HMP will require the adoption of a resolution by the Board.

The planning staff and representative from numerous municipalities and counties have been working on a Regional Hazard Mitigation Plan for over 14 months. The cost of the plan was absorbed by a grant and has cost only the monies for salaries of participating entities employees.

Timothy Dale Evans

RESOLUTION 16-06

**RESOLUTION ADOPTING THE
SOUTHEASTERN NC REGIONAL HAZARD MITIGATION PLAN**

WHEREAS, the citizens and property within Brunswick County are subject to the effects of natural hazards and man-made hazard events that pose threats to lives and cause damage to property, and with the knowledge and experience that certain areas of the county are particularly vulnerable to flooding, high winds, droughts/heat waves, and severe winter weather; and

WHEREAS, the County and participating municipal jurisdictions desire to seek ways to mitigate the impact of identified hazard risks; and

WHEREAS, the Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Legislature of the State of North Carolina has in Part 6 of Article 1A of Chapter 166A of the North Carolina General Statutes, stated in Item 19.41(b)(2): "For a state of emergency declared pursuant to G.S. 166A-19.20(a) after the deadline established by the Federal Emergency Management Agency pursuant to the Disaster Mitigation Act of 2002, P.L. 106-390, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act;" and

WHEREAS, Section 322 of the Federal Disaster Mitigation Act of 2000 states that local governments must develop an All-Hazards Mitigation Plan in order to be eligible to receive future Hazard Mitigation Grant Program Funds and other disaster-related assistance funding and that said Plan must be updated and adopted within a five year cycle; and

WHEREAS, the County and its participating municipal jurisdictions have performed a comprehensive review and evaluation of each section of the previously approved Hazard Mitigation Plan and have updated the said plan as required under regulations at 44 CFR Part 201 and according to guidance issued by the Federal Emergency Management Agency and the North Carolina Division of Emergency Management.

WHEREAS, it is the intent of the County Board of Commissioners to fulfill this obligation in order that the county will be eligible for federal and state assistance in the event that a state of disaster is declared for a hazard event affecting the County; and

WHEREAS, the Town of Holden Beach actively participated in the planning process of the Southeastern NC Regional Hazard Mitigation Plan and has fulfilled all their part of the multi-jurisdictional planning elements required by FEMA;

NOW, THEREFORE, be it resolved that the Town of Holden Beach Board of Commissioners hereby:

1. Adopts the Southeastern NC Regional Hazard Mitigation Plan; and
2. Separately adopts the sections of the plan that are specific to the Town of Holden Beach; and
3. Vests the Planning and Inspections Director with the responsibility, authority, and the means to:

- (a) Inform all concerned parties of this action.
 - (b) Cooperate with Federal, State and local agencies and private firms which undertake to study, survey, map, and identify floodplain or flood-related erosion areas, and cooperate with neighboring communities with respect to management of adjoining floodplain and/or flood-related erosion areas in order to prevent aggravation of existing hazards.
4. Appoints the Planning and Inspections Director to assure that, in cooperation with Brunswick County the Hazard Mitigation Plan is reviewed annually and every five years as specified in the Plan to assure that the Plan is in compliance with all State and Federal regulations and that any needed revisions or amendments to the Plan are developed and presented to the Town of Holden Beach Board of Commissioners for consideration.
 5. Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the 2016 Southeastern NC Regional Hazard Mitigation Plan.

Adopted this ____ day of _____, 2016.

Mayor, Town of Holden Beach

ATTEST:

Town Clerk

(SEAL)

**TOWN OF HOLDEN BEACH
ORDINANCE 16-09**

**AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES,
CHAPTER 92: NUISANCES (§92.20 - §92.27)**

BE IT ORDAINED BY the Town BOC of Holden Beach, North Carolina that the Holden Beach Code of Ordinances, Chapter 92: Nuisances, be amended as follows:

Section One: Amend Section 92.20 in its entirety and add Sections 92.21 through 92.27 as follows:

§ Sec. 92.20 - Purpose

The town is recognized as a quiet, family-oriented beach community, and houses in the town are situated so that they are in close proximity. Residents and visitors come to the beach community to enjoy the relative peacefulness and serenity of the place, and excessive noise from one location can disturb the peace and become a nuisance to the public.

Furthermore, it is recognized that excessive and unnecessary noise: (i) endangers the physical and emotional health and welfare of people who reside or vacation in the residential neighborhoods and on the beach strand of the town; (ii) interferes with legitimate family and recreational activities; (iii) depresses property and rental values; (iv) contributes to potentially violent confrontations among persons occupying neighboring properties or enjoying the beach strand; and (v) requires police and public safety resources to respond to such disturbances and confrontations.

§ Sec. 92-21. - Unreasonably loud noises prohibited.

(a) It shall be unlawful for any person to create or assist in creating, permit, continue or permit the continuance of any unreasonably loud, disturbing noise in the town. Noises of such character, intensity, and duration as to be detrimental to the life or health of any individual are prohibited. Unreasonably loud and disturbing noise is limited to noise that is loud, raucous and disturbing and heard upon the public streets, in any public park, in any school or public building or upon the grounds thereof while in use, in any church or hospital or upon the grounds thereof while in use, upon any public parking lot open to members of the public as invitees or licensees, or in any occupied residential unit which is not the source of the noise or upon the grounds thereof. Factors to consider in determining whether a violation exists include, but are not limited to:

- i. The volume of the noise;
- ii. The intensity of the noise;
- iii. Whether the nature of the noise is usual or unusual;
- iv. Whether the origin of the noise is natural or unnatural;
- v. The volume and intensity of the background noise, if any;

- vi. The proximity of the noise to residential sleeping facilities;
- vii. The nature and zoning of the area within which the noise emanates;
- viii. The density of the inhabitation of the area within which the noise emanates;
- ix. The time of the day or night the noise occurs;
- x. The duration of the noise; and
- xi. Whether the noise is recurrent, intermittent, or constant.

(b) Scope. This article shall apply to all sound, vibration, and noise originating within the corporate limits of the Town. Nothing in this article shall be construed to limit or prevent the town or any person from pursuing any other legal remedies for damages or the abatement of noises in the town.

§ Sec. 92-22. – Definitions

In addition to the common meanings of words, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A).

Amplified sound means any sound or noise, including the human voice, that is increased in volume or intensity by means of electrical power.

Decibel (dB) means a unit for describing the amplitude of sound, equal to twenty (20) times the logarithm to base ten (10) of the ratio of pressure of the sound measured to the reference pressure, which is twenty (20) micronewtons per square meter.

Mobile sound vehicle means any motorized vehicle fitted with external loudspeakers or so designed or modified as to project electronically amplified sound outside of the passenger area of the vehicle.

Motorized vehicles means any vehicle as defined in G.S. 20-4.01(49), including but not limited to:

- (1) Excursion passenger vehicles as defined in G.S. 20-4.01(27) a.
- (2) Common carriers of passengers as defined in G.S. 20-4.01(27) c.
- (3) Motorcycles and mopeds as defined in G.S. 20-4.01(27) d. and d.1.
- (4) Truck tractors as defined in G.S. 20-4.01(48).
- (5) Farm tractors as defined G.S. 20-4.01(11).

Nighttime Hours means the hours between 11:00 pm and 7:00 am

Noise means any sound or combination of sounds which, because of its volume or quality, tends to disturb reasonable persons of normal sensitivity or to interfere with normal human activity.

Noise disturbance means any unreasonably loud and raucous sound or noise which:

- (1) Endangers or injures the health or safety of humans or animals; or
- (2) Endangers or injures personal or real property; or
- (3) Disturbs a reasonable person of normal sensitivity; or
- (4) Exceeds the Maximum Sound Pressure Levels as stated in Section 92-24(b).

Person means any individual, association, firm, partnership or corporation.

Person responsible means an owner, occupant, employee, agent, or any other person who is or who appears to be responsible for a premises, dwelling, or a noise-producing machine or device.

Sound means any disturbance of the air or other medium that is detectable by the unaided human ear or which produces vibrations detectable by persons of normal sensitivity.

Sound level: The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, as specified by the American National Standards Institute (ANSI) standards for sound level meters. If the frequency weighting employed is not specified, the A-weighting shall apply.

Sound level meter also decibel meter: An instrument that includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and averaging network used to measure sound level. Such instrument shall be certified to meet or exceed the current standards of the American National Standards Institute.

§ Sec. 92-23- PRESUMPTION IN PROSECUTION FOR NOISE VIOLATION.

The complaints of two (2) or more persons, at least one (1) of whom resides in a different home from the other complaining person or persons, or the complaint of one or more persons, when combined with the complaint of a duly authorized investigating person, shall be prima facie evidence that such sound is a *noise disturbance*.

§ Sec. 92-24. – Prohibited Noise.

(a) The following activities are recognized as tending to produce unreasonably loud noises and as tending to constitute a noise disturbance. No person shall engage in any of the enumerated activities during *Nighttime Hours* so as to cause a noise disturbance on neighboring premises:

- (1) Operation of radios, televisions, or sound reproduction devices;
- (2) Playing of any amplified or non-amplified musical instrument; and

(3) Keeping of any animal or bird that frequently or for long periods of time makes noises that tend to annoy or unreasonably disturb others.

(b) In addition to and not in limitation to the specific prohibitions outlined in §92-24 (a), no person shall operate or permit to be operated any noise source which generates a sound pressure level exceeding the limits set forth in the following tables when measured at or outside the property boundary of the noise source or at any point within any other property affected by the noise.

Maximum Sound Pressure Levels:

| Zoning Districts | Non-Nighttime Hours | Nighttime Hours |
|----------------------------|----------------------------|------------------------|
| Residential | 60 dB(A) | 50 dB(A) |
| All other Zoning Districts | 65 dB(A) | 60 dB(A) |

§ Sec. 92-25. - Measurement of sound level.

In determining sound levels pursuant to this article, the standards, instrumentation, personnel, measurement procedures, and reporting procedures shall be as specified herein; and all terminology not defined herein or in §92-22 shall be in conformance with the American National Standards Institute (ANSI).

- (a) Sound level measurement shall be made with a sound level meter using the A-weighting scale, set on slow response.
- (b) Sound level meters shall be serviced, calibrated and operated as recommended by the manufacturer and in accordance with regulations prescribed by the police department. Persons using the sound level meter shall be trained in sound level measurement and the operation of sound level measuring equipment.
- (c) Except as otherwise specified, sound level measurements shall be made from within the boundary line of any improved and occupied property; where this is impracticable, the measurement shall be taken at the exterior wall of the principal structure on such property. In the case of an elevated or directional sound, compliance with the prescribed limits shall be required at any elevation on the property.

- (d) Except as specified in (g) below, the sound measurement shall be averaged over a period of at least one (1) minute for purposes of determining the sound level. Sound levels may not exceed the prescribed level by more than three (3) decibels at any time during the measurement period.
- (e) During measurement, the microphone shall not be positioned so as to create any unnatural enhancement of the measured sound. A windscreen shall be used when appropriate.
- (f) Traffic noise and noise from other sources not connected with the sound being measured shall not be considered in taking measurements.
- (g) In the case of noise that is impulsive or is not continuous, the measurement shall be taken over a period of time of at least one (1) minute. Any such sound or noise that exceeds the prescribed level more than two (2) times in a minute shall be deemed to exceed the prescribed sound levels.
- (h) In the case of outdoor entertainment, including live or recorded speech, music, or other sound, sound level measurements shall be made as prescribed in this section. In no case, however, shall the decibel level of such activity exceed the levels allowed pursuant to this article when measured at a point one hundred (100) feet away from the source of the sound and beyond the property line of the premises from which the noise emanates.

§ Sec. 92-26. - Exceptions.

The following are exceptions from the application of this article:

- (1) Construction activity performed by an agency of government or equipment operated by an agency of government, provided that all equipment is operated in accordance with manufacturer's specifications and is equipped with all noise-reducing equipment in proper condition;
- (2) Sound or noise emanating from street fairs, festivals, or celebrations conducted by or with the town;
- (3) Sound or noise emanating from film and video production activities for which permits have been issued by the town, provided all equipment such as generators are properly muffled;
- (4) Sound or noise emanating from properly equipped aircraft operated in accordance with applicable federal rules and regulations;
- (6) Lawnmowers and agricultural equipment operated between the hours of 7:00 a.m. and 6:00 p.m. when operated in accordance with manufacturer's specifications and with all standard noise-reducing equipment in place and in proper condition;
- (7) Musical accompaniment to parades or military ceremonies;
- (8) Sound emanating from regularly scheduled athletic events at town parks and school athletic facilities;
- (9) Emergency vehicles in the course of performing their official duties;
- (11) Noncommercial speeches made from a fixed location; and

(12) Construction, construction preparation, and building activity between the hours of 7:00 a.m. and 6:00 p.m., and any such work certified by the building inspector or town manager to be necessary to address an emergency situation.

§ Sec. 92-27.- Owner and occupant responsibility.

Penalties for violations of this article may be assessed against persons responsible for the premises or device producing or causing the noise disturbance.

(a) A violation of any of the provisions of this article shall constitute a Class 3 misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00) or imprisonment not to exceed thirty (30) days, unless otherwise provided herein.

(b) Any person violating any provision of the sections in this Article shall be subject to a civil penalty in the amount of three hundred dollars (\$300.00) for each offense. Any subsequent violation within a 12 month period of a first violation shall subject the violator to a civil penalty of five hundred dollars (\$500.00) for each subsequent violation. For purposes of determining subsequent violations within a 12 month period the date of the first violation shall be the anniversary date from which a new 12-month period shall begin.

(c) An owner of any premises subject to this article who is not also an occupant of the premises shall be responsible for any actions by tenants, guests, or other licensees that constitute second or subsequent violations of this article; provided, that no absentee owner shall be liable unless notified of first or previous violations of the article, and further provided that such first violation or previous violation shall have occurred within the previous twelve-month period. Notice of any first or previous violations pursuant to this paragraph shall be effected by registered or certified mail. No absentee owner may be subjected to criminal liability under this section, but shall be subject to all civil penalties and equitable relief.

(d) This section shall in no way relieve any other person from responsibility for violations of this article.

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 20th day of April, 2016.

Adopted this the 19th day of April, 2016.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk