

Attachment B:

Public Comments: Holden Beach Agenda Item

-----Original Message-----

From: Michael Felmly <felmly@gmail.com>

Sent: Tuesday, February 22, 2022 10:38 AM

To: SLGFD <SLGFD@nctreasurer.com>

Cc: Mike Felmly <felmly@gmail.com>

Subject: Letter sent to Brunswick Beacon ICO Holden Beach Pier Purchase

Letter to Brunswick Beacon IRT Commissioner Smith Opinion to Editor in 17 FEB Beacon

Sir/Madame,

The essay posted by a Mr. Smith on your Opinion page dated 17 FEB supporting the purchase of the Holden Beach pier is sophomoric at best. Mr Smith applauds The Town of Holden Beach purchase of a pier and associated land from a private citizen. He provides absolutely no reason by which the purchase would benefit the residents other than "...the pier is both iconic and useful, historical, and modern, simple yet transcendent." What does that mean? Every reason given for the purchase is just plain fluff. Further, there is no plan for its use other than fishing. He pontificates about how "the value of the pier purchase could be partially measured by the financials..." But, not once does he document how the town will pay for the pier and property, or what it will do with the current restaurant, store or pitiful trailer park. Yet, without a financial program or community strategy, he proposes "... together to build a fiscally responsible project that pays dividends to the citizens...". Too whom? Finally, he never mentions how the town will repay the \$3 million loan to effect the purchase. As of Sunday morning 60% of residents polled trends not supporting the pier purchase. Mr. Smiths [Change.org](https://www.change.org) pole is, at best of questionable utility.

Thank you. As a citizen of Holden Beach request you print this response in its whole. Current survey is trending 60% citizen disapproval of the Town purchase of pier and associated land. Again, Mike Felmly

137 Carolina AVE
Holden Beach, NC 28462

401-862-0595

-----Original Message-----

From: tmmyers@atmc.net <tmmyers@atmc.net>

Sent: Monday, February 21, 2022 4:50 PM

To: Joe Futima <Joe.Futima@nctreasurer.com>

Cc: SLGFD <SLGFD@nctreasurer.com>; Heather Finnell <heather@hbtownhall.com>

Subject: Holden Beach Pier Loan Application

Dear Mr. Futima,

I am the President of the Holden Beach Property Owners Association (HBPOA). The HBPOA is a nonprofit corporation organized in 1973 to represent the interests of Holden Beach property owners, the majority of whom are not residents and cannot vote in local elections. As Town of Holden Beach taxpayers, their interests are often quite different from those who do not own property on the island, recognizing that many people living nearby, off the island, still consider themselves to live at Holden Beach and like to provide input regarding the Town's spending decisions even though they don't pay Town taxes.

The HBPOA's primary function is to communicate with property owners regarding current activities on the island that affect their common interests. In rare situations we take stronger actions to represent property owner positions on issues that our membership deems to be very important. We are currently faced with two such interrelated issues: 1) purchase of the pier and 2) implementation of paid parking.

We would like to be informed of developments in the pier loan application process going forward and effectively participate in the LGC hearing if the Town renews its application for the March or a later meeting. Please include us in future updates regarding the status of the Town's application.

After the Town entered into a contract in August 2021 to purchase the pier, and then aborted a Public Hearing in September at the last minute after a quorum of Commissioners did not show up, our members began to express significant concerns about the Town's process and its lack of transparency. We took a property owner poll in September and over 80% of the respondents did not support the Town moving forward with the pier purchase until there was a plan in place telling the public what the Town intended to do with the property and how the debt service and necessary repair costs would be covered.

In December 2021, the Town for the first time issued and approved a plan for the pier property. The plan was to spend an additional \$1,000,000 to fix safety issues with the pier and building, lease the building to unnamed operators, and convert the parking lot to paid parking.

In January, after the HBPOA notified the Town about errors in the plan, a revised plan was approved to correct some of the errors regarding paid parking revenues and add a new revenue source from operating a four-space RV park. In February, the Town made additional changes to the paid parking plan that dramatically reduced revenues available to cover debt service but did not update the pier plan to reflect these reduced revenue amounts.

The HBPOA's analysis of the revised plan identified several items of concern:

- Serious errors in the paid parking revenue projections
- Unrealistic and groundless assumptions about both revenues and expenses
- The use of premium residential property market comparisons in the appraisal to value the pier property
- No underwater inspection
- Risks associated with insurance coverage, or lack thereof
- Risks associated with environmental issues
- The Town's very weak negotiating position when dealing with the seller

The HBPOA has never taken the position that the pier purchase needs to be self-supporting or even cover the debt service. Rather, we have attempted to inform property owners and taxpayers about realistic costs and revenues associated with the purchase. We believe the Town's revised plan is still misleading, unrealistic, and incomplete in many regards.

Our interest is not to prevent the purchase of the Pier Property or to promote any particular public use for that property. Our concern is that whatever is done is conducted through a transparent process that ensures a reasonable level of public understanding and support. We believe the process to-date has not met that standard.

We are currently conducting a property owner referendum to measure support for the Town's revised plan, recognizing its deficiencies. We are using the independent Election Runner platform to ensure only Holden Beach property owners can vote and only one vote can be cast per household. Our preliminary results indicate the majority of property owners (about 60%) do not support the plan. This finding is consistent with our earlier informal surveys. Our final results will not be available for a couple of weeks since many property owners will be voting via a mail-in ballot. We are pleased the LGC has decided to slow the process down, since that will allow us time to collect a more complete picture of property owner sentiments.

Please feel free to contact me by phone or email if you have questions or would like additional information. The HBPOA analysis is available on our website at HoldenBeachPOA.com. We are anxious to participate in the LGC process in any way that can be helpful in reflecting the level of property owner and taxpayer support for the pier purchase.

Respectfully,

Thomas M. Myers, CPA
President, Holden Beach Property Owners Association
301 Ocean Blvd W.
Holden Beach, NC 28462
704-905-6208
tmmyers@atmc.net

-----Original Message-----

From: Brian DeWyer <badewyer@gmail.com>
Sent: Thursday, February 17, 2022 5:44 PM
To: SLGFD <SLGFD@nctreasurer.com>
Cc: Unknown <HBPOA@hotmail.com>; Joe Futima <Joe.Futima@nctreasurer.com>
Subject: Re: Holden Beach Pier Purchase

There is an updated financial analysis that reflects the updated Town financial plan for the Pier.

<https://holdenbeachpoa.com/wp-content/uploads/2022/02/HBPOA-Analysis-of-Towns-Revised-Plan-02-16-22-final.pdf>

KEY FINDINGS

1. The plan uses an interest rate of 1.75% instead of the actual rate from the bank Truist of 2.75%.
2. The plan does not include all the property being purchased. The emergency access lot has been excluded, even though it is being purchased and financed together with the pier in a single transaction.
3. The plan does not amortize the \$1,000,000 in repair costs and does not include the cost of building restrooms.
4. Paid parking revenue is significantly overstated.
5. Net revenue from four RV spots is not feasible since it doesn't include any operating expenses.
6. Net revenue of \$50,000 from leasing the pier building is unrealistic based on appraised value and market comparisons.
7. The plan fails to address risks associated with insurance and replacement, environmental issues, and operating a restaurant.
8. HBPOA estimates net revenues will cover less than 20% debt service costs, not including repair cost coverage.
9. Parking revenue calculations were based on \$4/hour and \$20/day. The Town has voted to charge \$3/hour and \$15/day and to absorb the transaction fees.

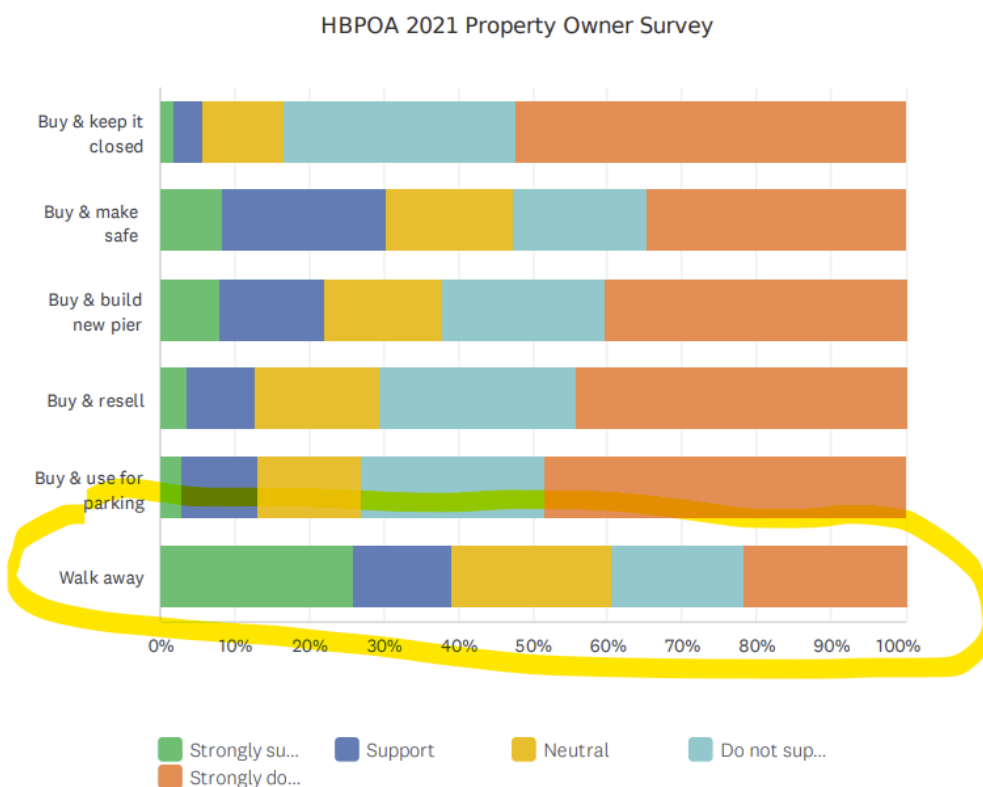
CONCLUSIONS

1. Purchasing the pier will be much more costly than planned and will likely require the use of significant BPART resources.
2. The cost will likely exceed net revenues by about \$300,000 per year – representing approximately 11% of total property tax revenues.
3. The plan to leave the pier and building “as-is” with no improvements might not be attractive to homeowners and renters.
4. An underwater inspection has still not been completed so repair costs have not been determined.

Hello, a note to emphasize the perceptions in the body of Joe Futima's 1/19 email response to Holden Beach town manager David Hewitt regarding the LGC meeting agenda item to discuss the proposed purchase of the pier by the town of Holden Beach.

Unfortunately these perceptions are reality - It's a bad deal given the financial risks of pier upfit and lack of operating income, lack of loan payback alternatives (beyond increasing paid parking to clog the town side streets), and future property owner tax liabilities.

The Property Owners Association has taken surveys on the this question and the highest support is to **walk away**



But this week the Board of Commissioners, in executive session, with no public attendance, unanimously voted to extend additional earnest money to the seller.

That action indicates the Board of Commissioners minimally values property owner sentiment or your feedback concerns.

A detailed analysis of the financial plan:

<https://holdenbeachpoa.com/wp-content/uploads/2022/01/BOC-Plan-Summary-and-Critique-01-17-22.pdf>

More background on this saga:

<https://holdenbeachpoa.com/pier-purchase/>

Thank you for providing sound and prudent financial oversight for the state of NC

Brian DeWyer
Holden Beach Property Owner

-----Original Message-----

From: Tucker Kelly <tuckerkelly1@gmail.com>
Sent: Thursday, February 17, 2022 9:39 AM
To: Joe Futima <Joe.Futima@nctreasurer.com>
Subject: SAVE THE HOLDEN BEACH PIER!!!!

My family and I live at 105 Burlington Street - across the street from the pier. I'd like to go on record that I'm FOR the town buying the Holden Beach Pier! Please help us keep it!!!!!!!

KEEP THE HOLDEN BEACH PIER PURCHASE ALIVE!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!

Thank you,
Tucker Kelly

-----Original Message-----

From: Angela F Buckley <abuckley9@icloud.com>
Sent: Tuesday, February 15, 2022 3:51 PM
To: Heather Finnell <heather@hbtownhall.com>; hbpoa@hotmail.com
Cc: Joe Futima <Joe.Futima@nctreasurer.com>
Subject: Paid parking and pier property purchase

Please see the following to be entered into the public record for the BOC meeting February 15, 2022.

UPCOMING HB BOC MEETING:

Town of Holden Beach Board of Commissioners Regular Meeting Tuesday, February 15, 2022 5:00 PM
Holden Beach Town Hall Public Assembly

The HB BOC stated they were going to talk to the parking vendor and request their **lowest paid parking fee(s)**. It appears the HB BOC publicly stated this, but also stated they "thought" their fees were \$3 per hour, \$15 per day, \$60 per week. The Otto parking vendor shows a RATE PROPOSAL with **Recommend Low-end: \$2-3/hour** (Oak Island – not implemented, Surf City) with a High-end: \$8/hour (Myrtle Beach) Duration. The Mid-Point in rates to be competitive: Average is \$4-5/hour (Wrightsville - \$5, North Topsail - \$5, Wilmington – several). Also the Otto parking vendor states: "Town's Right to Dismiss Fees and Fines The Town has the unilateral right to dismiss any individual parking ticket or other citation and/or direct the Company to reimburse any fines or fees."

- How come HB BOC already knew what the supposed "lowest" \$ per hour, day, week paid parking fee would be accepted, when the Otto Paid parking vendor plain as day states "LOW END: \$2"????

Per one of the commissioners: the need to have organization for parking, all the trash, debris, etc. because as the island grows people are coming no matter what. If we have designated parking, which is what we are trying to do, we are trying to make it more organized. With paid parking we can get the trash picked up. Don't look at it as just buying the pier. There is oceanfront property. If we don't buy it, it is gone and will have "**condos**" on it. **Look at the property, the building, the possibility of having a restaurant that the residents can enjoy. **PLEASE NOTE this appears to be nothing more than the continued SCARE TACTICS that keep getting used.**

- How does the commissioners know the property would be bought and converted to condos????
- Do they have some sort of inside information??
- Plain as day stating to look at the property, the building, the possibility of having a "RESTAURANT THAT THE RESIDENTS CAN ENJOY", at the cost of the mainland locals/day trippers!!!!

How come all of a sudden possibilities for development and use of the property located at 796 Ocean Blvd. W. ("The Property").

- Community Recreational resource,
- Bathhouse with showers,
- Classroom,
- Meeting space with kitchen,
- Parking improvement,
- ADA compliance improvement
 - simply opening the existing facility to the public;
 - imagining an optimized structure with modification to the existing facility;
 - demolition of current structure and replacement with new construction;
 - demolition only, with little or no replacement thus making it available for parking; and
 - selling The Property.
- What's the cost for this and where's the funds coming from to pay for this??

The PRAB did not consider continued rental as an option as the **Town neither desires to be a landlord** nor does this address any of the goals of the BOC tasker or Master Plan. YET, HB BOC IS TRYING TO PURCHASE THE PIER PROPERTY WHICH NEEDS EXTENSIVE REPAIRS OR REPLACEMENT AND PLAN TO GET RIGHT BACK INTO THE RENTAL BUSINESS WITH RENTING THE COMMERCIAL BUILDING.

- If HB BOC doesn't want to be landlords, then why are they wanting the pier property to "rent" out????

Robert Barresi asked about due diligence and if there is a reason **why the Board is proposing the purchase of the pier without having all the facts.** The Board attempted to get the due diligence done. **It the engineer's report says the pier can't be salvaged, as they said in the report the Board will need to figure it out.** Commissioner Murdock said this is not a purchase of the pier. The pier is on the property the Town is buying. The Town will need to make it safe. As soon as the Town has a full report, they will make the best decision to move forward.

- If this is the case, then why not get a complete inspection 1st and inform the community about it and taking the time to actually have a plan in place instead of flying by the seat of your pants???

Jim Bauer asked if the **Board would sign a document that would say that after the purchase of the pier there would be no other function for that.** Mayor Holden said the state has statutes and **the Board cannot do that.**

Mayor Pro Tem Smith: **Assured everyone that the pier property will be paid for by the people using the parking lot and the public that will use the beach.** Worked with Town Manager Hewett and he is working with some of the transportation people in the county about some sort of transfer system so people don't need to bring their cars

- Why keep stating that the day trippers/mainland locals are responsible for paying for the pier property purchase??
- With all the repeated comments about how much time have been invested into the paid parking plan, why has it taken so long to propose options??

Commissioner Brown: We don't want to tear the Town apart with the issues like the pier and paid parking. **Thinks the people who come to visit should help pay a little bit. Right now, the taxpayers of the island pay it all.** People enjoy the beach, why not at least pay enough that we can pick the trash up. Will get the parking right.

- What are HB island property owners taxes paying for that deals with the public beach???
- What is the paid parking fees going towards that the day trippers/mainland locals paying???

PROPOSED THAT HB PROPERTY OWNERS GET THE FOLLOWING: the same type of technology being used for paid parking would also make it possible for owners to register 2 owner vehicles by license

plate number with the Town police department to enable parking in the ROW adjacent to their property. While it is unlikely there is time to work through the logistics of such a program in time for the 2022 season, it seems possible to get something workable in place for 2023 if our Town Attorney agrees the solution is acceptable from a legal perspective.

- Therefore, island property owners will be able to park for "**FREE**" and take up the needed parking spots which further leads to congestion. Isn't this why the whole "**PAID PARKING**" was proposal in the 1st place???
- Supposedly the paid parking is because the overpopulation from all the day trippers/mainland locals and it's HIGHLY needed to make the day trippers/mainland locals pay their fair share. This is what's been stated. Isn't this correct or is it like the pier property purchase with its ever changing plans???
- What about permanent sanitized public restrooms being installed/built at the public beach access areas??
- How much of the trash, parking, etc is because of the vacation rental(s) properties on HB island??

There is a question, based on North Carolina statute, whether paid parking can be used for debt service payments. The Town will, as necessary, seek an exception to the statute, but an exception is not guaranteed.

- Why if the pier property can stand on it's own????

The facts are;

1. The mainland locals/day trippers must pay to park so the money can go to the pier property purchase and everything it will require, which is why the town will seek an exception for the parking funds!!!
2. No permanent sanitary public restrooms included in this plan!!!
3. Whats the plan for trash pickup and will the town be hiring employees to pickup all this trash???
4. HB Island plan as day makes statements that they pay for "EVERYTHING", yet the mainland locals already pay taxes that go towards:
 - paving roads on HB island,
 - paying for the bridge,
 - parking for a bike lane in which they can't even use unless they load their bike into a vehicle, cross the bridge and PAY for a parking spot just to ride their bike on that federally funded bike lane,
 - paying for beach renourishment,
 - Etc

-----Original Message-----

From: cory hess <cory.hess@waxcenter.com>
Sent: Tuesday, February 15, 2022 10:50 AM
To: Joe Futima <Joe.Futima@nctreasurer.com>
Subject: Holden Pier

Mr. Futima,

As a homeowner at Holden Beach (123 Charlotte St.), I would like to express my support of the town's acquisition of the local pier and surrounding land. I appreciate your consideration.

CORY HESS
FRANCHISEE
[505.239.8787](tel:505.239.8787) mobile

-----Original Message-----

From: Save the Pier holdenbeach.life <savethepier@holdenbeach.life>

Sent: Tuesday, February 15, 2022 10:07 AM

To: Joe Futima <Joe.Futima@nctreasurer.com>

Subject: Town of Holden Beach - Petition(s) Supporting the Purchase of the Holden Beach Fishing Pier

Good morning Mr. Futima,

I have attached the updated online petition results as of yesterday, 2/14/2022. We are continuing to receive signatures each day so the signatures will continue to rise as we move forward. I have also included the handwritten petition signed on location in the town. Each of these petitions are receiving additional signatures each day. At this point, we have included almost 700 signatures in favor of the pier purchase with the following intent:

"We respectfully request that you approve the lending request by the Town of Holden Beach for the Holden Beach Pier purchase, located in Holden Beach, North Carolina. We fully support the purchase and preservation of the Holden Beach Pier by the Town of Holden Beach."

Petition to support the purchase of the Holden Beach Fishing Pier by the Town of Holden Beach otherwise known as the "Save the Pier" petition.

To request additional information, send email request to savethepier@holdenbeach.life

The undersigned residences of Brunswick County and/or Holden Beach, North Carolina wish to **support the purchase of the Holden Beach Fishing Pier (Pier) by the Town of Holden Beach (Town)**. Be it known that the person(s) whose signature(s) are listed below are in favor of the "Pier" purchase for the purpose of preservation and/or restoration. Those who have signed below wish for the "Town" to act in a fiscally responsible manner and in the best interest of the citizens of Holden Beach, North Carolina, whom they represent.

Signatures are part of the petition to support the purchase the Holden Beach Fishing Pier by the Town of Holden Beach

Name	Street Address	Town/State	Email Address	Phone

With regard to the other items listed in your letter to the BOC received in January, 2022, I have confirmed with the Mayor, Alan Holden, as well as the pier owner, Gil Bass, that the mayor stepped away from representing the pier owner when the town approached Mr. Bass directly. Mr. Bass accepted the offer from the Town and obtained an attorney to represent him during the negotiations and due diligence period. In full disclosure, the pier owner informed me yesterday that any and all agreements that he had with Alan Holden Realty has expired. It is my understanding that Mr. Alan Holden never represented the pier owner when the Town entered into a contract for the purchase of the Pier. I understand that Ocean Isle is currently having ethical issues but it appears there is no cross-over to the Town of Holden Beach. I was able to find this information with two phone calls in about ten minutes. I am concerned that this information is being circulated without any evidence or information to support the claims being made.

With regard to the underwater inspection of the actual pier structure, it is my understanding that the Board of Commissioners are not placing any value on the actual pier when considering the purchase of the property. The average ocean front lot price is currently \$632,000 (last purchase being 735,000 indicated this number is rapidly rising) and the land represents 6 ocean front lots. The value of the land has a market value of at least \$3,792,000 and the current contract is for \$3,300,000.00. Therefore the underwater inspection of the pier is not necessary to support the value of the property. It would cost approximately 150,000 to 250,000 to dismantle the pier structure (worse case scenario). Even with this costs, the property is still being purchased under market value. The appraised value of 3,500,000 would still allow for the removal of the pier structure if needed. I anticipate that the BOC will seek and procure federal and state grants to rebuild the pier structure but rebuilding would not be necessary to substantiate

the value of the property. I anticipate that the BOC will proceed in a similar manner as that of the Town of Oak Island, which used grants when they renovated their recently purchased pier. In either case, an underwater inspection is not necessary to support the value of the land.

The parking plan should be approved soon and the town should have a better understanding of the actual revenues that can be used with regards to the pier property liabilities such as loan payments, insurance, etc. While it appears that the BOC has anticipated using a portion of the parking revenue to support the pier purchase, the town has an annual occupancy tax income that exceeds three million each year. The fishing pier is considered to be a vital part of the allure that brings people to this family beach, thereby contributing to the occupancy tax income. It appears to me, after interviews with the town manager, that the occupancy tax alone could most likely support the expenses incurred as a result of the pier property purchase. Coupled with the self supporting revenue generated at the pier through either parking, pier operations, fishing fees, grants, etc., the income will exceed the financial obligations resulting from the purchase of the pier property.

I respectfully request that the loan application for the Town of Holden Beach be placed on the March agenda. I would be happy to attend the committee meeting and offer any information that would be helpful in helping the committee in making an informed decision. Based on my research at this time, it appears the Town of Holden Beach is in a fiscally stable position and should suffer no ill from obtaining the loan to procure the Holden Beach Fishing Pier property.

Keith Smith
Holden Beach, North Carolina
keithsmith@holdenbeach.life
270-401-3278

-----Original Message-----

From: Janet Carter <janet.carter85@gmail.com>
Sent: Monday, February 14, 2022, 11:21 AM
To: Save the Pier holdenbeach.life; keithsmith
Subject: Re: Durham Street Owners Re:Holden Beach Fishing Pier

I live at 123 Durham St. I would like to Save the Pier.

thanks, Janet Carter

-----Original Message-----

From: melissa deal <mdeal5@yahoo.com>
Sent: Saturday, February 12, 2022, 6:01 PM
To: Save the Pier holdenbeach.life
Subject: Saving The Holden Beach Pier

To whom it may concern I would like to say to the Town of Holden Beach or to the state for that matter that "what is a beach without a pier. The pier is like the anchor of a beach. I know and do understand some of the property owners do not want to have to pay higher taxes if the town purchases the pier. I would hope that some one has taken the time to look at other beaches and the piers at these beaches to see how they are owned , maintained and operated. I am mainly speaking of the Yaupon Beach pier here in North Carolina and actually just down the street from Holden Beach. It would be nice if the same thing could happen at Holden. I know that it really comes down to what the town can do but we have so many very fond memories that have been made and can still be made I just hate to see something that has been a part of so many lives be gone. Please listen to the people and do what needs to be done and that is save the pier.

Thank you
Melissa Deal

-----Original Message-----

From: Emily (McFarlane) Geisen <emcfarlane@gmail.com>
Sent: Sunday, February 13, 2022 7:38 AM
To: Joe Futima <Joe.Futima@nctreasurer.com>
Subject: I support the Holden Beach Pier Purchase

Mr. Futima,

I am a Holden Beach homeowner. I'm writing to let you know that I support the Holden Beach Pier Purchase as they have described in the January 18 town meeting.

Please understand that there is very little beach front property available for the town to use to provide public beach access to home owners and others who come to visit Holden Beach from nearby towns.

Without beach access available to the public by the pier, people living and staying at the canal homes will have to walk .5 mile further for beach access. It is also the largest public parking lot on the island with 80 spaces. If those are gone, it will be that much harder for people off the island to visit. Brunswick county residents are already having to face paying for parking. If the pier lot is developed, it will also be harder to find a spot.

While we do not rent our house, removal of the beach access will make it harder for others to rent their canal homes. As you likely know, rental tax is one of Holden beach's key revenue source. Therefore if this purchase does not go through, we lose beach access and simultaneously make it harder to generate enough revenue to buy some other property in the future.

In addition, we support the pier and the renovation of the pier and associated building.

I understand your initial concerns as a lot of the details were not clear at first to homeowners, but I encourage you to better understand home owners' views now that the town has released their plan. I believe you will find there is a lot of support for the pier.

I appreciate that you have read and taken seriously the community's opinions on this purchase.

Respectfully,
Emily

-----Original Message-----

From: Peter Gmail <petercorbett.atlanta@gmail.com>
Sent: Saturday, February 12, 2022 6:52 PM
To: Joe Futima <Joe.Futima@nctreasurer.com>
Subject: I support the pier purchase at holden beach

We own a house on Holden Beach. The address is 1103 Ocean Blvd West. My wife and I have owned it for over twenty years. We strongly support the pier purchase. We are dismayed that the loan application was taken off the February agenda. There has been much misinformation circulated.

There are many many people supporting the purchase.

Sincerely

Peter and Elizabeth Corbett
1103 Ocean Blvd West
Holden Beach NC 28462

-----Original Message-----

From: Tim Thronson <thronson@bellsouth.net>
Sent: Friday, February 11, 2022 8:06 PM
To: Joe Futima <Joe.Futima@nctreasurer.com>
Subject: Fwd: Holden Beach Pier Purchase

>> My wife and I own a house at 110 Durham Street in Holden beach, less than one block from the pier. We strongly OPPOSE the purchase of the pier by the city. The plan to pay for the purchase is EXTREMELY weak. Nearly all of the business surrounding the purchase of the pier has been behind closed doors in executive session. No why in the world would the city do that? THAT was the first clue that something is amiss.

>>

>> Tim Thronson
>> 7437 Capstone Drive
>> Raleigh, NC 27615
>>
>> 110 Durham Street
>> Holden Beach, No 28462

-----Original Message-----

From: [Retha Morris](#)
Sent: Tuesday, February 8, 2022 10:55 PM
To: [Save the Pier holdenbeach.life](#)
Subject: Re: Durham Street Owners Re:Holden Beach Fishing Pier

Hi Keith,
we're in favor of the town buying the pier.

thanks,
Retha and Jamie Morris

130 Durham Street, Holden Beach, NC

-----Original Message-----

From: linda forman <lindaforman1124@gmail.com>
Sent: Saturday, February 5, 2022, 10:40 AM
To: Save the Pier holdenbeach.life
Subject: Buy the pier, save the pier

As a homeowner living at 372 Ocean Blvd West on Holden Beach, NC I am in full support of the town purchasing the pier property, from the owner Mr. Bass. I support this purchase provided the pier is maintained and kept available to be used by all persons at an affordable price.

The pier is the heartbeat of this island.A gathering place for everyone to admire our beautiful natural surroundings.

Thank you,
Linda forman

-----Original Message-----

From: Martin O'sullivan <mosnymets@gmail.com>
Sent: Saturday, February 5, 2022, 1:15 PM
To: Save the Pier holdenbeach.life
Subject: Save the pier

I am in full support of the town of Holden beach purchasing the pier property from Mr Bass and keeping the pier open for all
I own property at 372 Obw Holden beach
Martin O'Sullivan

-----Original Message-----

From: Tammy Black <tdblack9@icloud.com>
Sent: Monday, February 7, 2022, 9:24 PM
To: Save the Pier holdenbeach.life
Subject:

I am in full support of the Town of Holden Beach's proposal to purchase the Holden Beach fishing pier located in Holden Beach, NC.

Signed
Tammy Black
285 Ocean Blvd W

-----Original Message-----

From: Daniel Grounard <dgrounard@yahoo.com>
Sent: Tuesday, February 8, 2022 7:48 AM
To: Joe Futima <Joe.Futima@nctreasurer.com>
Subject: Please save Holden Beach Pier

Hi Mr. Futima,
I live over at Lockwood Folly and I wanted to reach out to you for saving the Holden Beach Pier. I have been going there since 2006 and have been a member since 2012. It is a safe pier despite what people are saying but does need some work. There are grants out there that can help in the upgrading of the pier that do not require a local match. There are so many great people that come out there and we often help the young kids fishing enjoy the experience. I really do not want to have to travel to Oak Island to fish off their pier. Please help us if you can. Thanks Danny Grounard

-----Original Message-----

From: morris isaacs <mjacki54@yahoo.com>
Sent: Monday, February 7, 2022 10:29 PM
To: Joe Futima <Joe.Futima@nctreasurer.com>
Subject: Holden Beach Pier

Please save our pier by allowing the town to purchase it. I fish there over 200 days a year and it's one of the only places handicapped people have access to get to the ocean to fish. Lots of people bring their kids out there to catch their first fish and I love teaching them to fish and seeing their smiling faces. If the

pier is gone there will be a lot more people surf fishing and will make it more dangerous for swimmers to get tangled up in fishing line. Oak Island bought a pier and got a grant to completely build a new pier. I'm sure Holden Beach could do the same thing. Also if there is no pier during the prime fishing seasons people will go to beaches that have piers and Holden Beach will lose money from lost revenue from tourists.

-----Original Message-----

From: Marshall Hester <marshall.hester@rocketmail.com>

Sent: Monday, February 7, 2022 2:21 PM

To: Joe Futima <Joe.Futima@nctreasurer.com>

Subject: Holden Beach

Mr. Futima,

I'm a retired businessman living in Cornelius NC and owner of investment property at Holden Beach NC.

I am writing today in reference to a loan application by the Town of Holden Beach for purposes of purchasing the derelict pier property there.

A copy of an email dated January 19, 2022, that you sent to town manager David Hewett was forwarded by the Holden Beach Property Owners Association (HBPOA) to its membership, I being one among them. The final sentence of the first paragraph in your email to Mr. Hewett causes me concern because it reflects what I consider as a thinly veiled attempt by some in the HBPOA to impugn the motives and ethics of Holden Beach Mayor Alan Holden.

I have had numerous business dealings with Alan Holden over the past 21 years and in each and every case have found him to be completely honest, totally above board and generous to a fault. I'd also wager that Alan Holden personally and via his businesses, is among the largest taxpayers and commercial revenue generators in Brunswick County.

The voters of Holden Beach duly elected Alan Holden as mayor. The seller of the pier property chose the area's top real estate firm, owned by Alan Holden, to represent his (the seller's) interests. These two facts are coincidental, not collaborative.

In closing, I'd ask you in the future to omit language in your official correspondence that in any way shape or form could be construed as a pejorative against Alan Holden's ethics.

Respectfully,

Jerry Marshall Hester
Cornelius NC

-----Original Message-----

From: Amanda Lagle <alagle@yadtel.net>
Sent: Sunday, February 6, 2022 6:16 PM
To: Joe Futima <Joe.Futima@nctreasurer.com>
Cc: lagle@yadtel.net
Subject: Holden Beach Pier Purchase

Good evening -

Bradley and I wanted to let you know that as property owners on the island of Holden Beach, we both support the Town's purchase of the Pier Property.

Please do not hesitate to reach out if you have any questions.

Thank you for your time,

Bradley and Amanda Lagle
106 Burlington Street
Holden Beach, NC. 28462
336-940-3762

-----Original Message-----

From: Dianne Fulbright <ddfulbright@gmail.com>
Sent: Friday, February 4, 2022 11:32 AM
To: Joe Futima <Joe.Futima@nctreasurer.com>
Subject: Holden Beach NC Pier Purchase

Mr. Futima,

I am writing to inform you that I approve of the purchase of the Holden Beach pier by the Town of Holden Beach. My family has been on Holden Beach since my parents purchased their first beach house 827 Ocean Blvd W. Over time my parents purchased 2 more houses on Holden Beach, NC – 779 Ocean Blvd W , 817 Ocean Blvd W. The pier is an icon on the beach and should be kept that way.

Thank you,

Dianne D. Fulbright
PO Box 927
Newton, NC 28658
Cell 828-639-0030
Email ddfulbright@gmail.com

-----Original Message-----

From: Sylvia Kelly <skelly0708@gmail.com>
Sent: Thursday, February 3, 2022 6:33 AM
To: Joe Futima <Joe.Futima@nctreasurer.com>
Subject: Save the Holden Beach pier!!

Good morning, Mr. Futima,

Oh, Mr. Fatima, please help us save the Holden Beach pier!

This purchase is about so much more than saving the wooden structure sticking out in the ocean. We live (permanently) across the street from the pier and my family - as well as ALL our neighbors - love the pier and all it brings to our community! It would be sad to be a beach town without a pier!

If the town is not allowed to buy the pier we lose MUCH NEEDED parking.

From what I understand, we would also lose our beach renourishment funding which would be a terrible loss for Holden Beach.

As far as cost, the monies our town leaders are proposing to spend IS a lot. However, we're talking about a 7-lot parcel for that amount. The 2 adjacent lots to the pier just sold for just about half of that amount!! What an awesome deal our town would be getting!!! Just owning that piece of oceanfront property would be great for the town.

Thank you for your time. Thank you for your consideration of saving our Holden Beach Pier. Thank you for all you do for the state of North Carolina.

Sincerely,
Sylvia Kelly
105 Burlington Street
Holden Beach, NC

-----Original Message-----

From: Laura Sutton <laura.b.sutton@gmail.com>
Sent: Sunday, January 30, 2022 7:05 PM
To: Joe Futima <Joe.Futima@nctreasurer.com>
Subject: Fwd: Holden Beach Pier property purchase

Mr. Futima, my name is Laura Sutton and I am a residential property owner at "128 Burlington Street Holden Beach NC 28462" on Holden Beach NC. I'm calling to voice my support for the proposed Pier Property Purchase by the Town of Holden Beach. The Pier Property Purchase preserves the Town & Beach culture, public access to the beach & designated public parking for this section of the Beach. I would appreciate you noting my support for the Pier Property Purchase as presented by Town of Holden Beach.

>> Thank you!

>> Laura Sutton

-----Original Message-----

From: Billy Sutton <billy.f.sutton@gmail.com>
Sent: Sunday, January 30, 2022 7:00 PM
To: Joe Futima <Joe.Futima@nctreasurer.com>
Subject: Holden Beach Pier property purchase

Mr. Futima, my name is Billy Sutton and I am a residential property owner at "128 Burlington Street Holden Beach NC 28462" on Holden Beach NC. I'm calling to voice my support for the proposed Pier Property Purchase by the Town of Holden Beach. The Pier Property Purchase preserves the Town & Beach culture, public access to the beach & designated public parking for this section of the Beach. I would appreciate you noting my support for the Pier Property Purchase as presented by Town of Holden Beach.

Thank you!

-----Original Message-----

From: linda forman <lindaforman1124@gmail.com>
Sent: Tuesday, January 18, 2022 9:11 PM
To: Heather Finnell <heather@hbtownhall.com>
Subject: Save the Pier

We are residents on holden beach at 372 OBW. The pier is a beautiful gathering location. It is not the wood but the people you meet. It is the heartbeat of the island to us. The views of nature surrounding the pier are incredible. The pier is in all our photos sunrise, sunset and most magical is to walk over there at night and see the moon rise over the pier, sparkling on the ocean with all the stars in the sky.

Save the pier please.

Linda forman

-----Original Message-----

From: Lyn Spooner <lynsatmoms@yahoo.com>
Sent: Friday, January 28, 2022, 5:13 PM
To: Save the Pier holdenbeach.life
Subject: Pier

To whom it may concern;

There's relatively not enough piers in SENC as it is and I hear there's a chance you will not try to save the Holden Beach Pier.

I'm sure you're aware the majority of tourists would likely double if you'd update and grow your pier. To think you'd consider not doing that blows my mind!

I am in full support of the Town of Holden Beach's proposal to purchase the Holden Beach Fishing Pier located in Holden Beach, North Carolina.

Save the Holden Beach Pier!!!

Sincerely,
Lyn Spooner

P.S. I watched Wilmington Beach be swallowed up by Carolina Beach once the Crystal Pier went down. Do you really want this to occur in Holden Beach?

-----Original Message-----

From: lee Sealey <acrepairinc@yahoo.com>
Sent: Friday, January 28, 2022 7:46 PM
To: Joe Futima <Joe.Futima@nctreasurer.com>
Subject: Holden Beach Pier Purchase

Mr. Futima,
This is Lee Sealey, I'm a property owner at 126 Burlington Street on Holden Beach in NC.
I want to voice my support for the proposed Pier Purchase by the Town of Holden Beach and would appreciate your making note of my recommendation.
I am in total support of the purchase and the renovations which will be required.
I have reviewed the purchase plan details and feel it is reasonable.
I believe the pier is part of the heritage and the culture of Holden Beach and another way families can enjoy quality time together.
Also, for the residents on the canal streets next to the pier, we will not have beach access at least for a very long walk if the pier is not purchased.

Thank you for your time!
R. Lee Sealey

-----Original Message-----

From: Michael Kelly <mikescust@gmail.com>
Sent: Friday, January 28, 2022 7:22 PM
To: Joe Futima <Joe.Futima@nctreasurer.com>
Subject: Holden Beach

Thank you for your time Mr Futima. I live on Holden Beach permanently right across the street from the pier. I do hope the town will be able to purchase the pier property. I'm sure you know the details so I don't need to repeat them. We do feel it it benefit the town and those across the bridge. If you have any questions for me please feel free to contact me.

-----Original Message-----

From: RODNEY LEE SEALEY <noremat@bellsouth.net>
Sent: Friday, January 28, 2022 5:06 PM
To: Joe Futima <Joe.Futima@nctreasurer.com>
Subject: Pier Purchase at Holden Beach, NC

Mr. Futima,
This is Kim Sealey, I'm a property owner at 126 Burlington Street on Holden Beach in NC.
I want to voice my support for the proposed Pier Purchase by the Town of Holden Beach and would appreciate your making note of my recommendation.
I am in total support of the purchase and the renovations which will be required.
I have reviewed the purchase plan details and feel it is reasonable.
I believe the pier is part of the heritage and the culture of Holden Beach and another way families can enjoy quality time together.
Also, for the residents on the canal streets next to the pier, we will not have beach access at least for a very long walk if the pier is not purchased.

Thank you for your time!
Kim Sealey

-----Original Message-----

From: Rene Miller <bigrednecksnj@yahoo.com>
Sent: Friday, January 28, 2022 2:23 PM
To: Joe Futima <Joe.Futima@nctreasurer.com>
Subject: Pier property purchase

Good Afternoon Mr Futima,

My name is Jim Miller and I am a year round resident of Holden Beach. I would like it noted that I am in favor of Holden Beach purchasing the Pier. I believe that it is part of Holden Beach's history and an important part of the island.

Thank you,

Jim Miller
125 Burlington St W
Holden Beach, NC 28462

-----Original Message-----

From: Rene Miller <rmiller1169@gmail.com>
Sent: Friday, January 28, 2022 1:48 PM
To: Joe Futima <Joe.Futima@nctreasurer.com>
Subject: Holden Beach Pier

Mr Futima,

My name is Rene Miller and I am a property owner at 125 Burlington St W in Holden Beach. I am emailing today to voice my support for the proposed Pier Property purchase. We were blessed to be able to relocate last year during the pandemic to Holden Beach. We bought a fixer upper home and plan to make it our forever home (we live here year round). Our love of the beach, the pier, and the community are some of the many reasons we chose to move to Holden Beach.

If you could please make note of my recommendation for the Pier property purchase, I would greatly appreciate it.

Thank you very much.

Rene' Miller
125 Burlington St W
Holden Beach, NC 28462

-----Original Message-----

From: John RC <RayCoke@protonmail.com>

Sent: Friday, January 28, 2022 9:23 AM

To: Joe Futima <Joe.Futima@nctreasurer.com>

Subject: Holden Beach Pier Property Purchase Support

Joe,

I'm emailing just to follow-up on the voicemail I just left you regarding my total support for the Town of HB's proposal to purchase the Pier and Pier Property. I've reviewed both the financial and intangible sides of the plan and cannot imagine the island without the pier and all that it brings to the historical preservation - and future development - of HB culture.

Please contact me with any questions and thank you for your time.

*John RC Pearce
123 Burlington St. W
260-579-7161*

From: Angela F Buckley <abuckley9@icloud.com>
Sent: Tuesday, February 8, 2022 2:50 PM
To: Joe Futima <Joe.Futima@nctreasurer.com>
Subject: Unethical Holden Beach pier purchase

So, I'll tell u about us: I owned and operated a small business which had several employees and I did market research & analysis, statistics, market research, historical trends, projected income, net operating income and expenses and return on investment (ROI), etc for 20+ years, my husband also made close to a 6 figure salary. We had a nice home, nice cars, trucks, motorcycles, boat(s), etc. We both were brought up to help people that are less fortunate than we are and also believe we all have to do our part. We both are truly thankful for being able to also help others.

[In the interest of privacy and brevity, I omitted 3 pages describing the writer's husband's recent medical history. Cindy Aiken, LGC Legal Counsel]

Now, truly we would enjoy a nice pier to walk out on and watch everyone enjoying fishing and the simple things in life. The fact is, we visit all the beaches because each and everyone one of them are beautiful and filled with such beautiful. We enjoy the overall entire area.

Now, if you look back you would notice I don't really say much at all. Well, that is, until around 2 weeks ago, when I noticed all of this paid parking fees and Holden Beach pier purchase stuff started being talked about and noted lots of retirees saying they couldn't afford to no longer go to the beach after they have been coming here and moved here after they retired. We don't have the funds to pay for everyone, but I can assure you that if we did, we would. Now, after all we've been through and the fact that I understand about market research, analysis, mathematical equations and analysis, etc, felt that someone has to standup for what's right!!!

After reviewing all the documents, parking fees from both North and South Carolina beaches, etc, the sheer fact that there's only 1 parking vendor quote, etc, it appeared to me that it all has to do with the pier property purchase, the funds that it's going to require and everything else it's going to require.

Well, I have stated over and over, I see it both ways. It's doesn't truly affect us because there are 3 other beautiful beaches close. The fact is we don't ever have to take another step on Holden Beach, because the beauty is all around us. But others don't have the option to visit the other local beaches and someone has to stand with them and for them.

FACTS:

**I've NEVER said that the town shouldn't buy the pier or anything about no paid parking.

** There are people that have had homes here their whole lives, they worked hard and have retired here, moved here to get away from larger places, etc and now are expected to pay such outrageously expensive paid parking fees per hour, day, week.

** I've never heard of a business that would allow funds that cost over a certain amount NOT require at least 3 quotes.

** The last posted HB BOC plan is NOT a well put together plan, it shows that the paid parking fee(s) for ANY AND ALL paid parking lot(s) are for the pier property purchase and any and all that it involves, nor

does it show anything more than sinking tons of funds into something that will be exactly like it is right now, just repaired.

** US Inflation Rate Likely Topped 7% & US Inflation Rate Highest since 1982

** No new additional sanitary public restroom(s) in their plan.

** No proposed trash pickup team(s) to deal with the “increased” trash thrown down.

** The proposed expensive paid parking fee(s) DOES NOT appear supported & the fact is paid parking fees FROM ANY AND ALL paid parking lot(s) ARE going to and for the pier property purchase and everything it includes and involves!!!!

** Mainland locals can't afford this kinds of prices and the HB BOC is expecting the mainland locals to pay to these outrageous paid parking fees with no additional permanent sanitary public restrooms and all the profits from the proposed paid parking fees going to the pier property purchase and everything it is and will require with NO true plan for the property.

** The HB BOC has lots near the causeway bridge that they were already supposed to be clearing for parking before the pier property purchase was made.

** The fact that HB island mayor is the listing agent for the pier property, also the broker on charge of the real estate company & the town mayor which oversees the town funds appears Unethical, even if he's not getting a commission. The fee or no fee has no bearing on what's ethical or not.

** Per the HBPOA, a lot of this was done behind closed doors and therefore is unethical.

Thank you for your time.

Thank you,
The Buckley's
Mainland residents

HBPOA

Authorized BOC Plan for Holden Beach Pier Property

SUMMARY and CRITIQUE

January 15, 2022

OBJECTIVE. The Board of Commissioner's authorized Plan for the Purchase and financing of the Holden Beach Pier ("BOC Plan") states a **limited objective**, to restore the Pier Property to what it was 10 years ago. The BOC Plan describes a Community Project with four elements:

- *Restored Fishing Pier.* A safe and functioning 510' (in water) fishing Pier that is safe to use and has a 15-year useful life;
- *Restored Building.* Ground-level, 1-story, 2,000 to 4,000 sq ft with functioning restaurant.
- *Parking Lot.* 80-space paid parking; and
- *Emergency Access.* 50' wide parcel with 20' access way for fire and EMT.
- IT DOES NOT include a board walk, restrooms, food truck space, a white tablecloth restaurant, event venue or other added amenities that have been discussed from time to time.

INITIAL COST. IT IS estimated that restoration will initially cost the Town about \$4.3 million.

PROJECT CAPITAL COSTS		NOTES
Purchase Pier Property	\$3,250,000	[1]
Extension of Due Diligence Period	\$50,000	[2]
Due Diligence Expense	\$25,000	[3]
Engineering Study Expense	\$50,000	[4]
Parking Lot Renovation	\$0	[5]
Estimated Pier Repair	\$900,000	[6]
Estimated Building Repair - Town	\$50,000	[7]
Proposed Board Walk Construction (200' x 30')	\$0	[8]
Proposed Restroom Construction - Plumbed	\$0	[9]
Propose Food Truck Spaces (4)	\$0	[10]
Mini- Campground	\$0	[11]
Total Capital Cost	\$4,300,000	

The BOC Plan appears allocate this Capital Cost to the four project elements, as follows:

<i>Restored Fishing Pier</i>	\$ 900,000	Cost of repair
<i>Restored Building</i>	\$ 150,000	Tax appraisal cost of repair
<i>Parking Lot</i>	\$2,785,000	300' width of parcel divided by 350' total property width
<i>Emergency Access</i>	\$ 465,000	50' width of parcel divided by 350' total property width
Total	\$4,300,000	

FINANCING. Under the BOC Plan, this \$4.3 million Capital Cost is financed, as follows:

- **\$3,300,000** --- financed with 15-year public debt, subject to Local Government Commission ("LGC") approval. *NOTE. The BOC Plan fails to STATE that LGC approval is AN EXPRESS contingency in the Purchase Contract. The Town can terminate the purchase if LGC does not approve the debt; and*
- **\$1,000,000** --- paid from BPART (occupancy tax) balances.

BOC PLAN: AMORTIZATION OF DEBT; ANNUAL DEBT SERVICE.

Although the BOC Plan assumes that the Town will finance the \$3.25 Million purchase price for the Pier Property with LGC approved debt, but it excludes \$465,000 cost that the plan allocates to the Emergency Access element for purposes of reaching its conclusion that project revenues cover debt service on that debt. In other words, *the plan compares projected revenue from the Pier Property to debt service for only 85% of the debt secured by that property. The BOC Plan offers no logical reason for this exclusion and comparison.* Moreover, the BOC Plan uses a very odd formulation of debt service on the \$3.25 million purchase money debt. Ordinarily accountants use accrual accounting to spread debt service evenly over the term -in this case the 15-year expected life of the project using level principal and interest payments (like a home mortgage). The BOC Plan does not follow this convention.

The following table shows the impact of these accounting tricks on the plan's debt coverage conclusio

TERMS OF LGC DEBT:		NOTE
Beginning Principal Amount	\$3,300,000	[12]
Term in Years	15	[13]
Ending Principal Amount	\$0	[14]
Fixed Interest Rate	1.75%	[15]
Level Pmt (P&I)	\$248,227	[16]
Emergency Access Portion	86%	[17]
Implied FMV of Emergency Access	\$464,286	[18]

COMPARISON OF BOC PLAN & LEVEL PAYMENT DEBT SERVICE			1/2 YR FY 22/23	2 FY 23/24	3 FY 24/25	4 FY 25/26	5 FY 26/27
		NOTE					
BOC PLAN DEBT SERVICE							
Beginning Principal Balance		[19]	\$3,300,000	\$3,143,438	\$2,938,448	\$2,739,870	\$2,547,818
Accrued Interest Payment		[20]	\$28,438	\$55,010	\$51,423	\$47,948	\$44,587
Debt Service Payment		[21]	\$135,000	\$260,000	\$250,000	\$240,000	\$230,000
Principal Balance Reduction		[22]	\$106,563	\$204,990	\$198,577	\$192,052	\$185,413
Adjusted for Emergency Access (86%)		[23]	\$115,714	\$222,857	\$214,286	\$205,714	\$197,143
TYPICAL 15 YR DEBT SERVICE							
Beginning Principal Balance		[24]	\$3,300,000	\$3,154,324	\$2,961,298	\$2,764,895	\$2,565,054
Accrued Interest Payment		[25]	\$28,438	\$55,201	\$51,823	\$48,386	\$44,888
Debt Service Payment		[26]	\$124,113	\$248,227	\$248,227	\$248,227	\$248,227
Principal Balance Reduction		[27]	\$95,676	\$193,026	\$196,404	\$199,841	\$203,338
Adjusted for Emergency Access (86%)		[28]	\$106,383	\$212,766	\$212,766	\$212,766	\$212,766

The BOC Plan also ignores the impact of changes in market interest rates on forecasted debt service costs. In fact, the BOC Plan, the primary conclusion of which is focused on debt service, does not even state an assumed interest rate for the LGC-authorized debt. This critique has used the 1.75% fixed rate cited when the BOC originally authorized \$3,250,000 of debt in late-September. It is not known if Truist Bank is still expected to be the lender, but it is known that rates have increased since September. The usual way to projected rates for this type of debt is to compare it with the comparable U.S. Treasury rate. On September 28, 2021, the mid-term U.S. Treasury rate was 1.55% so the rate for the Town's debt was about 113% of that rate. Current mid-term Treasury rates are higher, about 1.70%. Therefore, it should be expected that the Town's new rate will be about 1.92% (113% x 1.70%). That rate change translates to a increase of about \$3,000 per year in debt service.

BOC PLAN DOES NOT ADDRESS AMORTIZATION OF BART FINANCED CAPITAL COST.

Good financial analysis practice for a development project of this type would address the level amortization of both the debt financed and cash financed components of total Capital Cost. Ordinarily, an analyst wants to illustrate for a decision maker what a public development project will cost (before any net revenue offset) over the projected life of the project. In other words, where the project is designed to provide a benefit or service to the public, it makes sense to ask the question, what will this benefit or service cost taxpayers each year on a level payment basis. This makes it possible to compare the cost of alternative projects on an apples-to-apples basis. The BOC Plan does not ask, much less answer this fundamental question because it addresses only debt service. This creates the misleading impression that a project is more or less costly depending on the extent to which the Capital Cost is debt financed.

The following table shows the annual amortization of the total expected capital cost of the Pier Project (separated between the debt financed and BPART financed components). This is the true annual cost that the BOC Plan should have presented.

Amortization of BPART Financed Capital Cost		NOTE					
BPART Capital Cost	\$1,000,000	[31]					
Amortization Period	15	[32]					
Level Amortization Rate	1.75%	[33]					
Annual Cost Amortization	\$82,106	[34]	1/2 YR	2	3	4	5
Appx. No. of Households	2,300	[35]	FY 22/23	FY 23/24	FY 24/25	FY 25/26	FY 26/27

Beginning Balance		[36]	\$1,000,000	\$966,353	\$949,506	\$914,542	\$848,441
Interest		[37]	\$9,406	\$18,259	\$17,141	\$16,004	\$14,848
Annual Cost Amortization		[38]	\$41,053	\$82,106	\$82,106	\$82,106	\$82,106
Ending Balance		[39]	\$31,647	\$63,847	\$64,964	\$66,101	\$67,258
Annual Debt Service		[40]	\$123,159	\$246,317	\$246,317	\$246,317	\$246,317
Annual Cost of Capital		[41]	\$164,211	\$328,423	\$328,423	\$328,423	\$328,423
Per Household		[42]	\$71	\$143	\$143	\$143	\$143

BOC PLAN REVENUE FORECAST.

The BOC Plan's revenue forecast presents only three revenue sources: (i) 80-paid parking spaces located on the Pier Property; (ii) 40-paid parking spaces located elsewhere in Town; and (iii) leasing the 4,000 sq ft currently derelict building on the Pier Property. Ironically, the plan does not expect any lease revenue from the Pier itself.

THE FOLLOWING IS THE BOC PLAN'S CORRECTED REVENUE FORECAST AFTER HBPOA POINTED OUT THAT THE PARKING REVENUE FORECAST WAS BASED ON AN ABSURD ASSUMPTION OF 70% AVERAGE OCCUPANCY DURING THE FULL APRIL THRU SEPTEMBER 6-MONTH SEASON. THE TOWN'S PARKING CONSULTANT (OTTO CONNECT) HAD BASED ITS REPORT ON AVERAGE OCCUPANCY OF ABOUT 30%. THIS CORRECTION HAD A VERY LARGE IMPACT. THE ORIGINAL PLAN FORECASTED TOTAL PARKING NET REVENUE OF ABOUT \$215,000 PER YEAR FOR FY 24/25 AND AFTER – MORE THAN DOUBLE ITS REVISED FORECAST.

REVENUE SOURCES & OPERATING EXPENSES	NOTE	1/2 YR FY 22/23	2 FY 23/24	3 FY 24/25	4 FY 25/26	5 FY 26/27
Pier Parking Lot	[43]	\$11,729	\$35,583	\$59,438	\$59,438	\$59,438
Other Parking Lot	[44]	\$7,331	\$22,240	\$37,149	\$37,149	\$37,149
Building Lease(s)	[45]	\$0	\$50,000	\$50,000	\$50,000	\$50,000
Insurance - Yearly	[46]	(\$2,500)	(\$5,000)	(\$5,000)	(\$5,000)	(\$5,000)
Maintenance - Yearly	[47]	(\$2,500)	(\$5,000)	(\$5,000)	(\$5,000)	(\$5,000)
Periodic Pier Inspection	[48]	\$0	\$0	\$0	\$0	(\$10,000)
NET REVENUE	[49]	\$14,059	\$97,823	\$136,587	\$136,587	\$126,587

The Revised BOC Plan's revenue forecasts are based upon the following key assumptions.

- The Assumptions that (i) the 4,000 sq ft Pier Building can be put into leasable condition at the modest cost to the Town of \$50,000, (ii) it can be leased as restaurant and retail space for \$50,000 net (\$12.50 per sq ft), and (iii) the tenant(s) will pay for all necessary leasehold improvements without requiring the Pier Building to be brought up to current code requirements, which would likely be cost prohibitive. Since the Pier Building tax valuation is about \$100,000 the 50% of value building code rule effectively caps such leasehold improvements to \$50,000. **The sole basis for this assumption is the undocumented opinions of Commissioner Murdock and Town Manager Hewitt apparently expressed at executive sessions of the BOC for which no minutes have been released.**

The BOC Plan provides no independent basis for this opinion/guess. There is no indication that these opinions take into account the fact that tenants will be very limited in their ability to renovate the Building to suit their requirement.

- The Assumption that the Town's ability to lease the Pier and Building will not be adversely impacted by customer parking consideration for the tenant businesses. Ordinarily restaurants project a need for one parking space per 5 seats. This means that a 1,500 square foot restaurant (similar to, for example Provision Co.) would require at least 25-30 customer parking spaces. There are similar standard metrics for retail stores (based on sq. ft.) and fishing piers (based on length). It is fair to note that the three businesses the Town hopes to rents to will together require at least 40 of the Pier Lot's 80 spaces to accommodate their customers. **If those customers are going to have to pay for that parking as assumed in the BOC Plan that is going to make the restaurant, retail and pier all less attractive to customers, which will certainly impact what they are willing to pay in rent. There is no indication that this is accounted for in the BOC Plan.**
- Assignment to the Pier Property of the net revenue from 40 so-called "off-road paid parking spaces" (i.e. spaces in Town owned lots rather than in the street right-of-way ("ROW")). **The BOC Plan offers no explanation of why it makes sense to assign this paid parking revenue from lots that are not part of the Pier Purchase and would operate whether or not the Pier Property is purchase to as supposed analysis of the net cost of that purchase. The Town can, of course, have paid parking at lots elsewhere on the island even if it does not buy the Pier Property.**
- The Assumption that both the 80 paid sparking spaces on the Pier Property and the other 40 spaces will achieve 70% utilization during the 183-day parking season by FY 24/25. **Although the authorized BOC Plan implies this assumption on the report by the Town's paid parking consultant ("Otto Report") the Otto Report projects less than one-half that that occupancy rate. The BOC now acknowledges this and has "revised" the BOC Plan to significantly reduce its forecast of paid parking revenue from both the 80-space Pier Lot and the 40-space Other Lots.**
- The revised BOC Plan suggests a new source of revenue from renting six camper spaces on the Pier Property. However, the BOC Plan does not explain how it would be feasible to operate such a small campground on a revenue-positive basis or what this would do to the aesthetics of the project. Moreover, this micro-campground appears to be in violation of existing Town Ordinance Section 157.120, which establishes a much larger minimum size for campgrounds.

FORECAST OF PROJECTED LEASE NET REVENUE – REAL WORLD.

In the real world, financial analysts do not base projections of net revenues from leases based up on the undocumented opinions of interested parties, as the BOC Plan does. Absent actual lease commitments planners ordinarily look at average industry average capitalization rates (Cap Rate) based on the appraise fair market value (FMV)of the leased building to forecast net lease revenue.

Typical rental CAP Rates for restaurant and retail businesses are currently in the range of 7% - 8%. Therefore, the BOC Plan's projected rent of \$50,000 per year implies a FMV for the building (after the \$50,000 estimated expenditure by the Town) of \$625,000 to \$715,000. This is not a surprising FMV for well appointed, 4,000 sq ft restaurant/retail building up to modern building code located ocean front with adequate parking. However, that is not this building. The tax appraisal is \$100,000 and the Town will spend \$50,000 just to prevent it from being condemned. It cannot be significantly upgraded without running afoul of the building code 50% test. **Although the BOC Plan references no appraisal of the building as repaired, it is difficult to imagine a FMV that is more than double the tax value plus repair costs - \$300,000 which would imply a market in the \$20,000 to \$25,000 range.**

BOC PLAN FAILS TO ADDRESS ANY RISK ASSOCIATED WITH TOWN OWNERSHIP.

Ownership of real estate, particularly oceanfront real estate is not without risks, but the BOC Plan offers no real analysis of those risks.

- *Restaurant Business Risk.* Although the BOC Plan does not propose for the Town to operate a restaurant business, about one-third of the net revenue it projects depends up on the ability of an unnamed restaurant business to continue to pay what appears to be a very premium rent on the building. It is cliché to note that restaurant businesses have a very high failure rate, particularly in the first three years on operation in a new location. There is a very real risk that even if the Town is able to put the building into leasable condition and rent it as forecast, that business may

fail and the Town will be left owning a non-income producing building with less than \$100,000 of leasehold improvements. It will certainly be more difficult to rent the second time-around.

- **Insurance and Replacement - Building.** The BOC Plan assumes that the Building can be insured for both fire and flood risks for about \$5,000 per year. The Plan does not specify the replacement value in the policies, but it would certainly not exceed \$200,000 – 150% of the appraised value plus \$50,000 repair. What the Plan does not note is that under the LGC authorized loan documents the Town would be obligated to rebuild the Building if it were destroyed by fire or flood. As discussed above that rebuild would be subject to current code and certainly would cost far more than replacement value insurance proceeds. Moreover, even if the Town could avoid the rebuild obligation, it would then give-up the \$50,000 lease revenue it forecasts.
- **Insurance and Replacement – Pier.** As the BOC Plan notes, the Pier cannot be insured for flood/ major storm damage, but it does not note re-build obligation under the LGC authorized loan documents. There is no estimate in the Plan of what it would cost to re-build the Pier, but the Plan proposes to spend \$900,000 over the next few years just to make it safe. The Plan suggests that in the event of such a disaster, the Town might be eligible for FEMA grant relief.
- **Environment Abatement Risk.** Although the BOC Plan does not mention it, the current owner has disclosed that there is an unlined pit on the Pier Property that was used for many years to dispose of grease generated by the restaurant. Grease disposal is a significant issue for restaurant operators and simply pouring the large amounts of grease into a hole in the ground has violated environmental rules for many years. Restaurants in North Carolina, like most states, are required to use a licensed service to collect and properly dispose of grease. It has been suggested that Town personnel have “looked into this” and that no clean-up will be required. The Purchase Contract provides for environmental indemnities, and since no EPA assessment appears to have been done it is hard to credit the basis for this “no worries” assessment. Such clean-ups, if required are often very expensive.

BOC PLAN DEBT SERVICE and CAPITAL COST COVERAGE FORECAST.

The key conclusion of the BOC Plan is that Town revenues from the Pier Property – primarily paid parking and rent from leasing the pier and building – will more than cover debt service on the \$3.25 Million once everything is operational. **HOWEVER, ONCE THE BOC PLAN IS CORRECTED FOR ITS ACKNOWLEDGED MISTAKE OF USING AN ABSURD 70% OCCUPANCY ASSUMPTION FOR PAID PARKING, THIS PRIMARY CONCLUSION IS NO LONGER TRUE.**

Moreover, as the following table illustrates, **absent** the accounting tricks designed to increase projected net revenue and decrease debt service, projected net revenue from the Pier Property, do not come close to “covering debt service” on the proposed \$3.25 million LGC authorized debt; much less cover amortization of the additional BPART financed \$1 million Capital Cost.

DEBT SERVICE and CAPITAL COST COVERAGE	NOTE	1/2 YR FY 22/23	2 FY 23/24	3 FY 24/25	4 FY 25/26	5 FY 26/27
REVISED BOC PLAN						
BOC Plan Forecasted Debt Service	[50]	\$115,714	\$222,857	\$214,286	\$205,714	\$197,143
Amortization of BPART Financed Capital Cost	[51]	\$48,497	\$105,566	\$114,137	\$122,709	\$131,280
Revised BOC Plan Net Revenue	[52]	\$14,059	\$97,823	\$136,587	\$136,587	\$126,587
Revised BOC Plan Debt Service Coverage	[53]	12.15%	43.90%	63.74%	66.40%	64.21%
Revised BOC Plan Capital Cost Coverage	[54]	8.56%	29.79%	41.59%	41.59%	38.54%
CORRECTED DEBT SERVICE						
Add Back Service on Excluded Debt	[55]	\$19,286	\$37,143	\$35,714	\$34,286	\$32,857
Compute Debt Service as Level Pmt	[56]	(\$11,841)	(\$13,683)	(\$3,683)	\$6,317	\$16,317
Corrected Debt Service	[57]	\$123,159	\$246,317	\$246,317	\$246,317	\$246,317
Corrected Capital Cost	[58]	\$171,656	\$351,883	\$360,454	\$369,026	\$377,597
CORRECTED REVENUE						
Eliminate 40-non- Pier Spaces	[59]	(\$7,331)	(\$22,240)	(\$37,149)	(\$37,149)	(\$37,149)
Reduce rent to Cap Rate Basis	[60]	\$0	(\$25,000)	(\$25,000)	(\$25,000)	(\$25,000)
Corrected Net Revenue	[61]	\$6,729	\$50,583	\$74,438	\$74,438	\$64,438
CORRECTED COVERAGE RATIOS						
Debt Service	[62]	5.46%	20.54%	30.22%	30.22%	26.16%
Capital Cost	[63]	3.92%	14.38%	20.65%	20.17%	17.07%
CORRECTED ANNUAL CASH SHORTFALL	[64]	\$164,927	\$301,300	\$286,016	\$294,588	\$313,159
Per Holden Beach Household	[65]	\$72	\$131	\$124	\$128	\$136

CONCLUSION.

The central conclusion of both the Original and Revised BOC Plans - *that reasonable projected net revenue from the Pier Property will cover the debt service on the money borrowed to purchase the Pier Property* - **is clearly incorrect**. It does not even come close. The BOC Plan appears to be a pseudo financial analysis designed to make the purchase seem cheaper and more attractive. This does not mean that purchasing the Pier Property so that it can be returned to what it was 10-years ago is not a good idea or a bad idea. It means, however, that it will be much more costly than its proponents claim.

There are two big take-aways from this Summary and Critique:

- The Pier Project envisioned by the BOC Plan is very limited and may not be attractive to many homeowners and renters. Basically, the Plan is to merely restore the derelict building and the derelict Pier to a safe operating condition without any significant upgrade or additions, more-or-less as the Pier Property was 10 years ago.
- This restoration will cost the Town about \$300,000 per year in excess of reasonably projected net revenues from the parking lot, Building and Pier. That represents an annual cost of about \$130 per household per year, which is expected to be borne out of other paid parking and BPART funds. This cost is not likely to put the Town at financial risk, but it begs the question of what other uses that money could be put to that homeowner might prefer.

Holden Beach Property Owners Association, Inc.
HOLDEN BEACH, NORTH CAROLINA
AMERICAS BEST FAMILY BEACH

28 September 2021

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Board of Commissioners and Mayor

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Attn: Heather Finnell, Town Clerk

CERTIFIED MAIL; RETURN RECEIPT REQUESTED
Courtesy Copy by E-Mail: heather@hbtownhall.com

**SUBJECT: Opposition to Public Debt Financing for Purchase of
Property at 441 Ocean Blvd West Including Wooden Fishing Pier**

**Dear Honorable Commissioners Brown, Kwiatkowski, Murdock, Smith
and Sullivan, and Honorable Mayor Holden:**

The purpose of this letter is to notify the Town of Holden Beach ("Town"), its Officials, including the Town Manager, Clerk and Town Attorney and its elected officials, including the members of its Board of Commissioners and Mayor ("BOC") of certain serious deficiencies in the proposal and adoption of bond resolution at the Regular Meeting of the BOC relating to the authorization of the issuance by the Town of \$8.8 million of bonds ("Public Debt") for the stated purposes of funding:

- (i) \$3.3 million purchase price for property located at 441 Ocean Blvd. West, Holden Beach NC ("Bass Property" and "Bass Property Purchase," respectively) pursuant to the Purchase Contract ("Purchase Contract") that was previously authorized by the BOC; and
- (ii) \$5.5 million related to re-building of two of the Town's sewer lift stations – one completed and one to be completed ("Sewer Project").

As discussed below, these deficiencies render the BOC's authorization of both the Bass Property and Sewer Project Public Debt null and void. The purpose of this letter is not to

present a legal brief or outline a complaint for judicial relief. Down that path lies costly litigation that benefits no one.

As discussed at the Regular Meeting, the Town is in a timing box. If the Public Debt cannot be placed on the October LGC Agenda for approval, the Town will not be able to pursue its LGC application until the audit for the Town's 2020-2021 financial statement is completed sometime in 2022. This delay would cause the Town to breach the Purchase Agreement and could result in the Bass Property being sold to another purchaser likely frustrating any hope of preserving the Pier. A dispute challenging the validity of the authorization of the Public Debt and/or concerted taxpayer objections to the Public Debt at the Local Government Commission ("LGC") hearing would likely prevent the issuance or scare off the Bank.

Neither the HBPOA nor its taxpayer household members have expressed opposition to the concept of some publicly supported improvement of the Bass Property, including, if feasible, the preservation and restoration of the Pier. Therefore, preventing such an improvement, even if that requires public expenditure or incurring public debt is not our objective in pointing out these deficiencies. As discussed below, our objective is to find a peaceful resolution that respects transparency, financial prudence and participation in any planning process by the Taxpayer Households that HBPOA represents.

A. LEGAL and FAIRNESS DEFICIENCIES in the BOC APPROVAL PROCESS

In view of this objective, the deficiencies that we have identified in consultation with legal counsel are summarized below. We are, of course happy to discuss the basis for and consequences of these deficiencies in more legal detail with the Town Attorney, Bond Counsel or other legal counsel, but we believe that a practical discussion would be more fruitful.

- 1. OPEN MEETING: Some, If Not Most, of the Deliberations by the BOC Were Conducted in Violation of the Open Meeting Law. As a Result, the Actual Purpose of the Purchase of the Bass Property was Not Disclosed to the Public Until After the BOC Purportedly Authorized the Public Debt at the Regular Meeting.**

Everyone agrees that virtually all of the deliberations about the proposed purchase of the Bass Property and issuance of the Public Debt to pay for it has occurred in secret behind the veil of so-called executive sessions of the BOC. Moreover, virtually no communications, minutes, plans, inspection reports financial models or other documents have been released to the public under that same veil of official secrecy.

That secrecy has come to quite a shock to many people who have been told for years that the central purpose of the North Carolina Open Meeting Law was to ensure that public business was done out in the open – no more backroom deals in smoke-filled rooms. Only two years ago the Town Manager and the Mayor told members of the Board

of Commissioners that no more than two of them could attend public meetings of the HBPOA lest they secretly deliberate while sitting in their folding chairs nibbling on cookies and sipping bad coffee. Later, after consulting with the Town Attorney, this injunction was relaxed somewhat. Three or more Commissioners could attend so long as they didn't speak.

For months now all five Commissioners have been meeting in complete secrecy, together with the Town Manager, Town Attorney, and other Town employees and (amazingly enough) the real estate agent for the seller Gil Bass. As it happens, Mr. Bass' real estate agent is also the Mayor of Holden Beach. In other words, these meetings are secret from every member of the public and every taxpayer, all of the documents reviewed or produced in those meeting are guarded like state secrets, individual Commissioners are cautioned to keep it all secret from everyone except Mr. Bass who is allowed to have his own personal representative sitting in on these meeting and reviewing these documents. Not to worry, however, we are assured that this is all perfectly legal. Really?

Under North Carolina G.S. § 143-318.11, the BOC is only permitted to hold a closed session if the topic of that closed session is strictly limited to one or more of the purposes enumerated in subsection (a) of § 143-318.11, and pursuant to motion duly made and adopted that cites that purpose or purposes. It appears that in each case in which the BOC held a closed session relating to the general topic of the Bass Property, the motion based that closed session on G.S. § 143-318.11(a)(5). Indeed, no other listed purpose would conceivably be applicable. Section 143-318.11 provides in relevant part, as follows:

§ 143-318.11. *Closed sessions.* (a) *Permitted Purposes.* – It is the policy of this State that closed sessions shall be held only when required to permit a public body to act in the public interest as permitted in this section. A public body may hold a closed session and exclude the public only when a closed session is required:

(5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or ... [employment contract] ...

(b) *Repealed.*

(c) *Calling a Closed Session.* – A public body may hold a closed session only upon a motion duly made and adopted at an open meeting. Every motion to close a meeting shall cite one or more of the permissible purposes listed in subsection (a) of this section.

It appears that the Town Attorney may have attended one or more of these closed sessions. However, meeting with nor the Town Attorney is not a sufficient purpose to hold a closed session, even if he or she rendered general legal advice or comment about the proposed Bass Property Purchase. Obviously, the Town Attorney regularly attends Regular Meetings of the BOC and renders legal advice or comment about the business being conducted. Section 143-318.11(a)(3), which sets forth the purpose for holding a closed session with respect to legal advice, makes it clear that the purpose is only applicable where there is a risk of breaching the attorney client privilege of the BOC. It states in relevant part:

“(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant.”

That subsection goes on to make clear that this applies almost exclusively to communications related to on-going litigation or threats of litigation involving the Town as a party. In fact, subsection (c) goes on to provide that “A motion based on subdivision (a)(3) of this section shall identify the parties in each existing lawsuit concerning which the public body expects to receive advice during the closed session.” In short, the fact that the Town Attorney was present does not provide any legal justification for holding a closed session related to the Bass Property Purchase; certainly, no litigation or threats of litigation were involved, and no such assertion was made in the motion calling for any of these closed sessions.

Therefore, if the closed sessions relating to the Bass Property Purchase were legally justified the only permitted topics of discussion, deliberation, review or vote were “(i) the price and other material terms of a contract or proposed contract for the acquisition of ... [the Bass Property] ... Although we do not know every topic of discussion, deliberation, review or vote in these closed sessions, it is obvious from comments made by Commissions in open session that those topics were, by no means limited (or even primarily devoted to) instructing the Town’s “negotiating agents” with respect to “price and other material terms.” In fact, it is not clear whether in these sessions members of the BOC were not directly negotiating these terms with the seller’s agent, who also happens to be the Mayor and a de jure member of the BOC.

Two points are, however, clear.

First, it is apparent that there was extensive discussion and deliberation about business, development, operating and financial plans and forecasts for the Town’s ownership of the Bass Property and its Pier, Restaurant/Retail and Parking components. This was, of course, precisely the information that members of the public had been seeking in order to meaningfully participate in the Public Hearing. It is also apparent that there was extensive discussion and deliberation about the physical condition, code violation status, health and environmental conditions, prospects for renovation and restoration of the Pier and Restaurant/Retail facilities. It can also be assumed that there was discussion and consideration of public support or the lack thereof for the proposed Bass Property Purchase and the planned use, development, operation and/or disposition of the Bass Property. None of this falls within the subsection (a)(5) purpose, and, therefore, (i) at least to the extent of these discussions, deliberations, reviews or votes, these closed sessions violated the North Carolina Open Meeting Law, and (ii) any minutes, recordings, notes and reviewed documents or other materials related to these topics are Public Records available for review and copying pursuant to a public records request and should immediately be made available pursuant to the Town’s meeting protocols.

Second, since the Town has now entered into the Bass Property Purchase Contract there are no longer any price or other material terms to be discussed. It appears that the closed sessions held or to be held since the contract was signed seem to have dealt with: (i) financing of the purchase through public debt to be issued by the Town and purchased by Truist Bank; (ii) inspections and reports relating to contingencies or conditions in the contract; (iii) as discussed above, business, development, operating and financial plans and forecasts; and (iv) dealing with public opinion and public opposition to the Purchase and/or Financing. None of this fall within subsection (a)(5) and any conceivable basis for arguing that it does ended when the Contract was signed.

Unfortunately, the BOC's failure to understand and properly comply with the Open Meeting Law and the statutory closed session exceptions have created a perfect Catch-22. To satisfy the requirements for non-voted Public Debt, the BOC must give great deference to public support for incurring that Debt and the purpose of the expenditure. However, by keeping most information secret, conducting deliberation in secret and failing to articulate any business or financial plan for the Bass Property, the BOC made it virtually impossible for Taxpayer Households to express either meaningful support or opposition to the Purchase or Financing. HBPOA and others have been left to withhold support because they have no meaningful information. The Public is, in effect, asked to simply trust the decision of the 3:2 majority of the BOC arrived at in secret deliberation, despite sham Public Hearings and bait-and-switch tactics.

Like the conflicts of interest and ethics issues, this apparent violation of the Open Meeting Law may be for another time and different forum. However, what is critically important for the here and now is that everything that was held secret must now be disclosed so that the Taxpayer Households who had a right to be heard at the purported Public Hearing and who will have a right to be heard by the LGC can make informed comment. This game of "if you only knew what we know, you would agree with us" must stop.

SUMMARY. Any possible justification for secrecy is now over. The Purchase Contract is signed and the BOC has approved the Public Debt. The exception is now moot, and the Open Meeting law requires disclosure. By a separate letter to the Town Clerk, HBPOA is requesting that all of the records related to the Bass Property Purchase be made public and available for inspection or copying. The Town cannot move on to any LGC hearing until this information has been given to the public.

2. CONFLICTS OF INTEREST and ETHICS: Both the Authorization of the Purchase Contract for the Bass Property and the \$3.3 Million of Public Debt to Fund that Purchase are Tainted by the Public Perception of Conflicts of Interest and Ethical Impropriety.

The most important consideration is not whether any illegality has occurred. State and local ethics and conflict of interest laws for elected officials are notoriously confusing and difficult to apply in the real world. Cynics argue that elected officials designed them that way on purpose. However, in this circumstance there is an obvious appearance of impropriety. Otherwise, so many people wouldn't have to go to such great lengths to explain to the public why it is not a conflict of interest for the Mayor to act as the agent for Mr. Bass who is selling a multimillion dollar property to the Town, especially where the

sale is far from universally supported by the Taxpayer Households that will be obligated for the Debt.

Legal or not, this appearance of impropriety could easily have been avoided. The Mayor could have simply recused himself from all deliberations concerning the purchase and Debt. He could have handed over his gavel, sat down and said nothing. He need not have attended any executive session or unofficially discussed the matter with any Commissioner. By the same token, a majority of the BOC could have told the Mayor to recuse himself. Why that obvious solution did not happen is, perhaps, an issue for another day and a different forum.

What is clear is that this blatant appearance of impropriety, combined with this perplexing failure to take simple steps to avoid it and the veil of secrecy and lack of public disclosure surrounding this transaction have irreparably tainted it. Public trust is near zero. Any attempt to discuss the pros and cons of benefits, costs, risks and business plans almost inevitably devolves to questions of who is benefitting; to such an extent that the Mayor was recently forced to proclaim at the HBPOA meeting that he wasn't making any money on this deal, which simply raised more question about what exactly his statement meant and what escape hatches were built into it.

SUMMARY. This embarrassing problem could have been so easily avoided. It was not, and now it will inevitably impact the LGC review of issues, including particularly the critical issue of public support for a non-voted Public Debt issue.

3. PRETEXTUAL PURPOSE: The Town Does Not Have the Authority to Issue Public Debt to Purchase the Bass Property for the Actual Purpose of that Purchase.

For months, both before and after the Purchase Contract, the Taxpayer Households of Holden Beach have been led to believe that: (i) the primary purpose for the purchase of the Bass Property was to preserve and restore the historic wooden Fishing Pier beloved by many residents, vacation homeowners and visitors; and (ii) the secondary purposes were paid public parking and emergency beach access. Discussion focused almost exclusively on the benefits, costs, risks and feasibility of these purposes.

Only after this public debate, the aborted public hearing sponsored by Commissioner Kwiatkowski, the vote at the HBPOA meeting on September 2, the extensive on-line poll by HBPOA, the purported Public Hearing on the Debt, and the BOC vote to approve the Debt, was it finally disclosed to the public that these stated purposes were, in fact, mere pretext to justify the Town's purchase of the Bass Property.

In fact, as Commissioner Murdock candidly acknowledged (with the acquiesce of Commissioners Brown and Smith) after they had forced a 3:2 vote on a materially altered Public Debt authorization, the Actual Purpose is simply for the Town to acquire seven well-located ocean front building lots to be available for whatever purpose the Town later decides, including the re-sale of the building lots for a profit. Commissioner Murdock made clear (again with the acquiesce of Commissioners Brown and Smith) that the historic Pier and Restaurant Building may not be salvageable and that the Town may end up doing something entirely different with the Bass Property; essentially, the property was "just too good a deal to pass-up," regardless of what ultimate use the Town decided upon.

Whatever the wisdom of this shrewd strategy and regardless of what purpose the Town and the BOC ultimately settle on for the Bass Property, this was not the “deal” that has been “pitched” to the Taxpayer Households of Holden Beach. In not a single public forum did any individual stand-up and say “I remember when my Grandpa took me fishing on the Pier and I want to be able to show my grandchildren the condos, beach houses, event pavilions or trendy restaurants where the Pier used to be.”

It is now clear that the Taxpayer Households of Holden Beach who will be obligated for the \$3.3 million purchase price (the Public Debt) have been sold a pretext not a pier. The “Actual Purpose” to which the Bass Property will be put by the Town is officially “Unknown” or “Speculative.”

SUMMARY. Such a Pretextual Purpose does not satisfy the requirements of North Carolina law.

4. INADEQUATE NOTICE: The Notices for the Public Hearing and Regular Meeting Are Inadequate Because They Misrepresent the Actual Purpose of that Purchase.

Since the purpose presented for the \$3.3 million component of the Public Debt is false or pretextual, it necessarily follows that the Notice of the Public Hearing was inadequate.

Taxpayer Households were invited by the BOC to comment as witnesses as at a Public Hearing; the Notice of the meeting was the invitation that was supposed to establish the subject matter and explain the ground rules.

The Notice the BOC published was, in fact, a bait and switch designed to comply in form, but not in substance, with the requirements and self-evident purpose of North Carolina law. The Notice got the starting time and location correct; but not much else. FIRST, as discussed above, the Notice did not actually tell the public the actual purpose of the Bass Property Purchase component of the Debt; in presented instead a pretext. Had the Notice described the Actual Purpose, witnesses could have been prepared to address the fact that the actual purpose was not within the authority of the BOC. SECOND, the Notice did not tell the public that it had put itself in an extreme “timing box,” that it would default on the Bass Purchase Contract and forfeit its deposit if it did not approve the Public Debt and rush it onto the LGC October agenda. If it had, witnesses could have been prepared to testify in that context. THIRD, the Notice did not tell the public that the amount of the Public Debt was subject to material modification at authorization. In fact, the Town knew or should have known about the bid issue and could foresee that the Sewer component might be reduced. This deprived witnesses the opportunity to testify about this material aspect – the Sewer component went from being the significantly larger to the significantly smaller component of the Public Debt. The BOC seemed to forget that the Public Hearing was about the Town incurring up to \$8.8 million of Public Debt; not whether the Pier should be preserved and restored, or whether the Town needed a 70-space ocean-front parking lot. FINALLY, the Notice did not tell potential witnesses that (i) they would be limited to only 3 minutes regardless of how many witnesses signed up or how large a group those witnesses ended up being, or (ii) that the BOC had no interest in receiving written material and no facility to display or share such materials. Nothing in North Carolina municipal law, the Town’s ordinances or the BOC’s Procedural Rules

contemplates such arbitrary and capricious limits for a Public Hearing. As noted, it appears that the Clerk and Mayor failed to distinguish between the conduct of a Public Hearing and the conduct of the “public comment” agenda item at a Regular Meeting of the BOC. They are, in fact, two different requirements under North Carolina law.

In short, the Notice did not tell potential witnesses that the Public Hearing was a sham. If it had, it is unlikely that anyone would have shown up or bothered to prepare evidence and testimony.

SUMMARY. Such an “all-for-show Notice” of a required Public Hearing falls far short of satisfying North Carolina law much less the dictates of common sense and fair play.

5. IMPROPER PUBLIC HEARING: As a Result of Arbitrary and Capricious Limits Imposed on Witnesses by the Clerk and Mayor (and acquiesced to by the BOC) Purported Public Hearing Did Not Satisfy the Legal Requirement for a Non-Voted Issue of Public Debt.

Not to belabor the point, the Clerk and Mayor placed a strict 3-minute time limit on each witness, regardless of whether that witness was speaking only for his or her household or was representing 1,400 Taxpayer Households. Such an extreme and arbitrary time limit is neither required nor permitted by North Carolina municipal law, Town ordinances or BOC procedural rules (as noted, the BOC’s public comment rules do not and cannot apply to a Public Hearing. This restriction is so far at odds with the purpose of a Public Hearing and common practice as to be laughable, if it were not so sad an indictment of the BOC’s respect for the residents and taxpayers of Holden Beach. Unfortunately, the disrespect did not end with this arbitrary and capricious time limit.

FIRST, during his or her allotted three minutes, each witness was treated to at least two Commissioners who persistently chatted, joked and laughed between themselves.

SECOND, as previously noted, no provision was made for the BOC to view or even receive written materials, which at least the HBPOA witness had prepared, and offers to deliver such materials to members after the hearing and meeting were brushed aside.

FINALLY, no Commissioner asked any witness a single question about his or her testimony. Why should they? They were all in on the joke – the Public Hearing was a sham designed to check a box, not evaluate public support. The witnesses were merely the chumps, the straight men who had to be endured for 12 whole minutes, before the BOC could get on to its important business.

Ironically, a significant part of that “important business” was a proposal by Commissioners Murdock and Brown to put a two-and-one-half hour timer on all BOC meetings. Apparently, taxpayers and residents do not appreciate how tiresome conducting the Town’s business can be; particularly when one is forced to listen to the ramblings, suggestions and complaints of the people who actually pay for everything. This idea died aborning when the Town Attorney pointed out that the BOC was free to recess any time their weary ears, brains or bottoms, empty stomachs or full bladders demanded and resume a few minutes or a few days later. Crisis averted, but it is worth noting that the

discussion and resolution of this agenda item took longer than the entire time allotted to the Public Hearing and Taxpayer Household comments on \$8.8 million of Public Debt.

6. MATERIAL ALTERATION of PROPOSED BOND AMOUNT: The Purported Adoption of the Bond Order by the BOC was Fatally Flawed Because of Material Alterations to the Purpose, Terms and Amount of the Public Debt. There Must be a New Public Hearing with an Opportunity for the Public to Object.

The Public Debt Resolution that was ultimately approved by a 3:2 vote of the BOC was materially different from the anticipated Resolution because the maximum amount of the approved Public Debt was reduced by \$2.5 million or about 28% of the anticipated amount. This modification was the result of issues, including increased costs, with the bid for work on one of the lift stations.

The alteration is instructive because it demonstrates the misleading way the Board has addressed the Public Debt approval for the Bass Property Purchase, an approval that clearly lacks public support at this time. Rather than vote separately on Public Debt for the Bass Property Purchase (\$3.3 million) and Sewer Project (\$5.5 million) the two very different borrowings were combined. Whatever the intent, this had the effect of forcing Commissioners to vote not to approve the Sewer in order to vote not to approve the Bass Property.

To avoid this dilemma, Commissioner Kwiatkowski asked to separate the Bass Property and Sewer for purposes of voting for Debt approval. Bond Counsel acknowledged that the separate votes would be legal. By a 3:2 vote Commissioners Murdock, Brown and Smith denied this request. Their stated reason was that the lender, Truist Bank, might back out if the Debt was only \$5.5 million if the Sewer was approved but not the Bass Property.

While this is technically true, as the Financial Advisor confirmed, the argument was disingenuous. At that point it was obvious that there were 3 votes for Bass Property and 5 votes for the Sewer; both components of the \$8.8 million Public Debt were going to be approved. The majority was simply scoring cheap political points. Ironically, a few minutes later, that same majority quickly agreed to cut the Debt for the Sewer by \$2.5 million when it was reported that bids came in unexpectedly high. In other words, the Debt amount ended up at \$6.3 million rather than the proposed \$8.8 million. Truist Bank would have to approve a modification after all, but somehow none of the majority Commissioners seemed at all concerned this time around.

What all of this demonstrates is that the Public Hearing and the solicitation of input from taxpayer homeowners was a sham. The approval process was orchestrated to use the non-controversial Sewer as a shield for the very controversial Bass Property Purchase. It was implied to taxpayer homeowners that objecting to Public Debt for the Bass Property might jeopardize the Public Debt for the Sewer. If that were true, it was a dilemma of the Town's own making, but as events played out, it clearly wasn't true; it was another pretext to ram the Bass Property Purchase through at all costs.

Ironically, the majority Commissioners who professed such great concern that Truist Bank might back out if there was a material alteration in the aggregate amount of the Public Debt and did not question the Bank's absolute right to do so, did not think that the Taxpayer Households should have any right at all to a second look when the proposed deal was cut by \$2.5 million at the very last minute after the 15 minute Public Hearing was in the rearview mirror.

SUMMARY. This material alteration in the Public Debt amount is just one more way in which the BOC approval process was fatally flawed. If the legal requirement for meaningful public support is to be respected, there must be a do over.

B. COMPLETE LACK of PUBLIC SUPPORT for PROPOSED \$3.3 MILLION OF PUBLIC DEBT and BOC's PLAN to BUY BASS PROPERTY WITHOUT ANY BUSINESS PLAN or PLAN to PRESERVE and RESTORE the WOODEN PIER.

Because the proposed Public Debt to fund the purchase of the Bass Property will not be subject to approval by the voters of Holden Beach, the Town will be required to demonstrate substantial public support to the LGC. The purported Public Hearing conducted by the BOC immediately before it voted to approve the Public Debt was supposed to be an important component of demonstrating that public support. In fact, in the 15-minutes allotted by the BOC to this important consideration, exactly the opposite was demonstrated. All four witnesses opposed the Public Debt funding as it related to the Bass Property Purchase.

In the brief 3-minutes allotted to the HBPOA, our witness testified that:

- According to public records there are about 2,400 Taxpayer Households in Holden Beach.
- HBPOA is a nonprofit membership organization that supports and represents all Taxpayer Households in Holden Beach.
- About 1,400 or 60% of Holden Beach taxpayers are listed on our membership rolls.
- At its September 2 Meeting HBPOA adopted a Resolution advising the BOC that it could not support incurring Public Debt for the Bass Property Purchase unless and until the BOC has presented a feasible business and plan for the restoration, development, operation and disposition of the Bass Property. This Resolution was adopted by a near unanimous vote of the members presently.
- Subsequently, HBPOA contacted each of the approximately 925 members for whom it has current email addresses and gave them the chance to vote for or against the same Resolution using a third-party voting application. There was not time to contact other members so that they could vote by mail.
- As shown below, the response was over-whelming. In just three days before the Public Hearing, about 35% of the members contacted by e-mail voted 82% to support the HBPOA Resolution.
- Seemingly, three of the Commissioners were uninterested.

9/25/2021

Election Runner | Election | Results

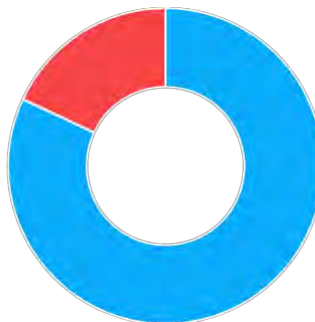
HBPOA - \$3.3 Million Public Debt to Purchase Pie...

Completed

Results

SUPPORT/DON'T HBPOA Resolution re Town Incurring \$3.3 Million Public Debt to Purchase Pier Property

Option	Votes	
■ YES - SUPPORT HBPOA RESOLUTION TO BOC	82%	(268)
■ NO - OPPOSE HBPOA RESOLUTION TO BOC	18%	(59)



Despite HBPOA inhospitable reception at the BOC's purported Public Hearing, we are in the process of gathering additional evidence of public opposition and support for the proposed Public Debt to present to the LGC at its hearing, assuming the Town is able to get on the October agenda.

Since the Commissioners who supported the Public Debt have now made it clear that none of the frequently mentions preservation of the pier, 70-space parking lots and leased restaurant/retail plans are actually necessary components of the plan for the Bass Property, it may be possible for the HBPOA to expand the scope of its membership polling.

C. OFFER TO WORK TOGETHER TO ACHIEVE A SHARED COMMUNITY GOAL FOR THE PIER AREA

It should be obvious that trying to cram the Bass Property Purchase that was developed in secret with any meaningful input from these Taxpayer Households is doomed to failure, despite the vote on Tuesday. Even assuming that (A) Truist Bank: (i) is not discouraged by the \$2.5 million reduction, (ii) is not scared-off by media attention and public controversy, including ethics and conflict of interest issues; or (iii) is not blocked by legal action (apparently a taxpayer group has already formed to pursue injunctive relief); and (B) the Town is actually able to "beat the clock" and get the Debt Approval Package on the agenda for the October LGC meeting, the LGC will be inundated with evidence of public opposition. The LGC hearing is not a sham; there will not be a "three-minute clock" and offers of written materials will not be shunted to one side. HBPOA owes it to its membership to supplement its e-vote with a mail-in opportunity and HBPOA is already preparing to supplement its Fall newsletter with information about the Public Hearing and Commissioner statements about the real prospects for restoring the Pier. We all know that the chances that the LGC will not either reject or defer approval for the Public Debt are somewhere between slim and none.

It is time for everyone on Holden Beach to climb down from their separate sandcastles, take a collective deep breath and make a realistic plan. Most Taxpayer Households either want or, at least, would not object to some community-oriented development of the ocean front area around the old pier, whether that includes restoration of the pier, paid parking and facilities for off-island visitors, restaurants or retail space, a pavilion, board walk, etc. However, there is something that should be discussed with primary input from the people who will ultimately pay for it.

Let us stop shouting at each other and come up with a plan that works for, if not everyone, at least most of the stakeholders on the Island. Commissioner Murdock worries that if we take the time to do this right, we may lose the chance to buy the Bass Property at a favorable price. That is a fair point, but it is the reason that “purchase options” were invented. The Town has already given Gil Bass a \$25,000 deposit that it will lose if the Town does not close by the end of October. What if the Town offered to pay for an option for say six-months to take the time pressure off and get its audit done so we aren’t playing beat the clock with the LGC. By all accounts, Mr. Bass is a friend of Holden Beach and wants to see Holden Beach control the Pier area. Moreover, the property has already been for sale for a long time. Surely, a creative solution can be found.

It should be clear, that it is time to end the secrecy surrounding the deal. The Taxpayer Households who are going to end up being obligated deserve to know the facts. If the Pier is too old and structurally unsound to restore, tell us; we are adults we can take bad news. If paid parking, fishing passes and a hypothetical restaurant lease will only cover a fraction of the Public Debt service, insurance and maintenance costs, which seems likely, just tell us; we are not stupid; we can add and subtract and will figure it out anyway.

In that same vein, perhaps it is time to “send in a new quarter back.” Despite the best of intentions, the Mayor’s obvious conflicting loyalties, deep love for Holden Beach’s past and close friendship with Gil Bass make him exactly the wrong person to orchestrate a creative solution. It should go without saying, that despite their collective skills, including the considerable real estate experience and expertise of Commissioners Murdock and Brown, the old adage about “too many cooks and spoiled stew” applies equally to boards and real estate deals. Perhaps it is time for the Mayor to concentrate on representing his client, Mr. Bass. The Town should have its own, independent real estate advisor to work out a purchase option arrangement that will slow things down and give the rest of us a chance to catch-up.

On Tuesday, HBPOA came to the purported Public Hearing in good faith to tell the BOC what our members – 60% of the Taxpayer Households on the Island (and a similar percent of register voters) – told us in a poll. Overwhelmingly (by 82% to 18%) they said they wanted to BOC to slow down and make a real plan before they obligated taxpayers for a \$3.3 million down payment on a new public facility that might or might not include the restoration of an historic wooden pier, the restoration (or more likely replacement) of a currently unusable restaurant building, perhaps 70 paid and/or unpaid parking spaces for off-island visitors and retaining use of an emergency beach access easement. We were made to feel as welcome as the proverbial “skunk at a garden party.” That is “OK;” we are adults. We learned a lot that night and have already gotten over the inhospitable welcome.

D. CONCLUSION

HBPOA stands ready to work with the Town, the BOC and the Town's professionals. We are all on the same team or should be. HBPOA has a lot of business, legal, community development and other resources it could bring to bear; not the least of which is the ability to mobilize and assess the opinions and support of our 1,400 Taxpayer Household members. We would much prefer to use these resources in a positive way in support of a shared community goal, rather than in a negative way to block what our members view as a "cram down."

Please feel free to contact any one of the following HBPOA Board Members who have made themselves available to work on this matter. We recognize that time is of the essence.

Respectfully submitted,

Holden Beach Property Owners Association, Inc.

By [Thomas Myers](#)

Thomas Myers, President

By [John P Witten](#)

John Witten, Vice President

By [Peter Freer](#)

Peter Freer, Board Member

By [Beverly Compton](#)

Beverly Compton, Board Member

By [Tracy Thomas](#)

Tracy Thomas, Board Member

By [Annette Smith](#)

Annette Smith, Board Member

By [Pamela Whitfield](#)

Pamela Whitfield, Board Member

By [Rick Paarfus](#)

Rick Paarfus, Board Member

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