



Topsail Island
Shoreline Protection Commission



REGULAR MEETING MINUTES

Thursday October 26, 2023, 2:00 PM
Surf City Town Hall

Commission Members Present

Steve Smith, Chair
Mike Benson, Vice Chair
Teresa Batts
Ed Broadhurst
Larry Combs
Fred Fontana
Mark Price
Larry Strother
David Ward (virtual)
Hiram Williams

Guests

John Gunter, TB Commissioner
John Gardner, NTB BISAC
John Koloski, SC Councilman

Associates/Presenters

Carla Citarelli, Surf City Town Clerk
Rochelle Jagst, Topsail Beach, Clerk
Kathy Zagzebski, Karen Beasley Turtle Hospital
Dr. Laura Moore, UNC
Owen Mulvey-McFerron, NC DMF

Virtual

Mike McIntyre, TISPC Federal Advocate
Connie Wilson, TISPC State Advocate
Kathleen Riely, NCBIWA
Stephanie Missert, Ferguson Group
Chris Griffin, Ferguson Group
Tammy Proctor, Pender Tourism

I. [Call to Order & Greetings](#)

Chairman Smith called the meeting at order at 2:00 p.m. Chairman Smith welcomed the commission members, associates, and guests in the audience and online.

II. [Public Comments](#)

None were made.

III. [Approval of Agenda](#)

Ed Broadhurst made a motion to approve the agenda. Mayor Batts seconded the motion, and it was carried unanimously.

IV. [Approval of Minutes for June 2023](#)

Ed Broadhurst made a motion to approve both sets of minutes. Larry Strother seconded the motion, and it was carried unanimously.

V. Presentations:

a. North Topsail Beach – Wet Land Ordinance – Mike Benson

The State Legislature amended the Wetlands definition with NC Session Law 2023-63. So North Topsail Beach amended our definition to “WETLANDS are waters defined to be Wetlands as determined by the North Carolina Department of Environmental Quality and/or the United States Army Corps of Engineers. Wetlands shall also include all waters defined as Wetlands by NC Session Law 2023-63/NC Senate Bill 582, as may be amended from time to time.” We also added that silt fencing is required to protect the wetland along with wetland protection items to make it clear that the property owner is responsible for protecting the wetlands. Restoration should be initiated within 7 days of notification and a new penalty of \$10,000 dollars for damaging the wetlands was added.

Questions: Henry Murray, Topsail Beach, is ‘damage’ that caused by property owner (construction) and not “storm damage.” Answer: Yes.

Chairman Smith: Did you have to change your CAMA LUP? Answer: We may have to but haven’t yet.

Hiram Williams: I can’t get anyone to come to a job site for restoration within a week. Answer: We are thinking contractor will still be on-site and could initiate restoration.

Who is responsible for issuing permit and does every lot in NTB have to get a wetlands delineation. Answer: Permit is considered by the Army Corps of Engineers and CAMA. If subject to Army Corps, then CAMA rules are exempt.

Dave Ward: Army Corps delineates wetlands then surveyor can come mark building site but it takes Corps 6-12 weeks to complete their delineation.

Teresa Batts: How many fines have been levied? Answer: None so far.

Buddy Fowler: NTB might consider a ‘good faith effort’ in the process to restore wetlands.

b. Dr. Laura Moore, UNC professor – Forecasting Resilience Projects Results.

Update on status of project. Sea Grant Fund grant was approved but funds are not in house yet. Topsail Island through TISPC and your three communities are participants along with Outer Banks (Cape Hatteras) communities in the grant. The project will look at resiliency planning on a 30-to-50-year time scale and how decisions on mitigation now might affect outcomes over that time frame. Collaborators include scientists in Louisiana, NC State University, Duke University, as well as UNCW. We will need to identify collaborators from Topsail Island as we move forward once funds are in house.

c. Owen Mulvey-McFerron NC Division of Marine Fisheries - Shellfish Lease and Aquaculture Program Coordinator.



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Owen described the history of shellfish leases in North Carolina going all the way back to the 1890's. In 2019, the Shellfish Aquaculture Bill was passed to allow policy and rule making by the Division. There are over 500 shellfish leases in the state and many new applications come in each year. The "Public Trust Doctrine" is an important component in that the public has use of public waters. However, aquaculture operations are an exception, but operations must be compatible with public use. Wild harvest of oysters has been declining dramatically as aquaculture shellfish has increased and now meets the demand for oysters. Most leases are "bottom leases" but "water column leases" and "private property leases" are also permitted. Lease holders must be residents of NC. Leases are ½ to 10 acres. No wild shellfish areas are permitted. The rule making process is fairly ridged as governed by legislation. Water column lease area must be well marked for boaters to avoid. Leased areas have a 250' setback from developed shorelines. New permit applicants must attend training sessions. Leases are subject to Army Corps regulations and conditions. Permit holders pay rent and must prove that the leased site is producing a minimum harvest.

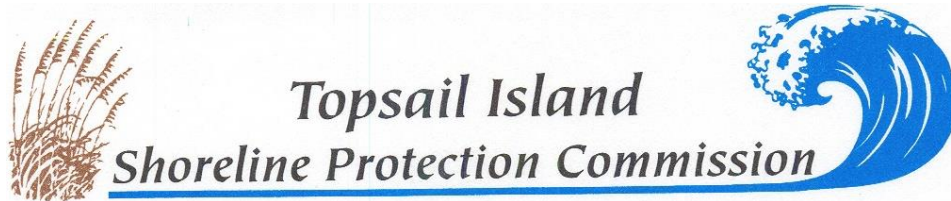
Owen then went through the application process that must be completed by applicants and how the permittee will accommodate both the public use and manage the aquaculture enterprise. He mentioned the "Shellfish Aquaculture Tool" as a guideline for applicants. The Division makes an on-site visit to the proposed lease area to make a biological assessment. Internal reviewers look over the application for any questions that might arise. Public hearings are held over a 30-day period. Owen pointed out benefits of shellfish aquaculture to meet oyster demand; indirect benefits to employment and ecosystems services also benefit aquaculture. He then asked for questions.

Questions.

Stan Grettis, Surf City, asked why permit holders don't have insurance? (Owen: There is not a bonding requirement, but there can be state recovery effort to recover gear.) Stan then asked why the towns don't get involved requiring debris recovery? He also complained that the 25' setback for undeveloped shoreline limits access to boats for sport fishing. (Owen: If a riparian landowner changes the shoreline by bulkhead or filing then a regulatory process has to be completed for this use.)

Ed Broadhurst, tisp, asked if floating structures are permitted? (Owen: not permitted in leased area).

Hugh Canaday, Surf City, what is considered navigable waters? (Owen: not permitted navigation channels) What local authority do the towns or counties have in regs? (Owen: Broadly estuarine waters fall under state jurisdiction.)



Teresa Batts, tispc, how many leases in Surf City and Topsail Beach? (Owen: unsure. Audience: 600% increase but Teresa adds that New Hanover and Brunswick counties have no leases.).

Henry Murray, Topsail Beach, listed several concerns with aquaculture program and noted the 600% increase in leases for Topsail Island area. He was concerned that Topsail Island area can get expedited leases. He suggests a moratorium for our area. He is concerned about sub-aquatic vegetation that is present in leased areas. He is concerned about liability insurance. He is concerned about derelict gear that is not being removed. He is concerned about who is responsible if a boater's boat is damaged due to poor marking of leased area.

Ray Britton, Surf City charter boat captain, is concerned about increased numbers of leases in our area when other areas should be 'sharing' the leasable areas of the state. (Owen: Marine Fishes Commission looked at issue and declined to move forward but did give rule making language like 250' setback and cumulative leases in an area which limits leases in high density areas.). Ray feels these rules limit fishing grounds for shore hugging species.

VI. Consultant & Partners Reviews

- a. Federal Legislation Activities – Congressman Mike McIntyre talked about the federal budget continuing resolution that continues flood insurance program. Several rules have been clarified for Clean Water Act (section 401) thus a state has the right to review the permit for waters of the United States if being adversely affected. He noted \$100 million dollars for climate resiliency projects. He noted the House Natural Resources Committee on Fish and Wildlife and the presentation by Alderman Tom Leonard pointing out the error of CBRA Map Unit L06 and supporting the HB that Representative Greg Murphy has sponsored. He mentioned the sand borrowing issue where an exemption for sand borrowing from CBRA areas to non-CBRA area and the bill supported by Rep. Rouzer. He is optimistic that FEMA will have improvements to the individual assistance program. He mentioned that the Federal Project for Surf City was progressing although slowly and again optimistic that it will meet authorization requirements. (see full reports on the September and October TISPC website at <https://tispc.org/minutes/advocate-reports/>)
- b. NC State Legislation Activities - Connie Wilson Consulting – Connie Wilson announced her retirement from TISPC advocacy duties. She said that it was amazing how over her past 16-year tenure how TISPC and Topsail Island has been the voice for the coast in legislative matters. Budget was finally settled a few weeks ago and several towns on Topsail Island benefited through state support. Senators Jackson and Lazarra as well as Rep. Carson Smith were very helpful to Topsail Island. She



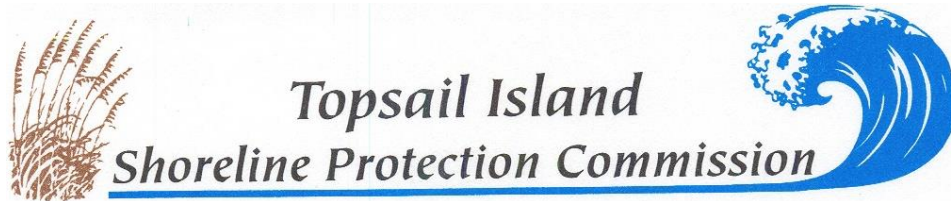
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announced that there was \$20 million dollars for Surf City water infrastructure, \$2 million for the Coastal Storm Damage Mitigation Fund bringing it up to \$20 million for 2 years, \$10 million for Resilient Coastal Communities Program for 20 coastal counties, \$5 million for Stormwater Retrofit Pilot Cost-Share Program administered by the Coastal Federation. DEQ Express Permitting Revisions, \$500,000 non-recurring Coastal Federation debris and vessel removal, \$2 million non-recurring Coastal Federation Living Shorelines North Topsail \$34,000 thousand non-recurring for drone, all-terrain vehicle and related equipment, Surf City \$200,000 non-recurring for capital improvements and related equipment at the police department, Topsail Beach \$8,000,000 non-recurring for capital costs and related equipment associated with a new public safety building, and Topsail Beach \$55,000 non-recurring for police department equipment. Connie mentioned that a large chunk of her time was spent working on H600 Regulatory Reform Act 2023 to clarify that only municipalities may apply for Shallow Draft Funds and that the Army Corps of Engineers should not be exempt. She expects a new Shallow Draft Fund rule to be released this year. Passage of Senate Bill 671 now requires that appointments to the Coastal Resources Commission be transferred from the Governor's Office to the General Assembly. Senator Paul Johnson filled a bill to modify Beach Plan Policy limits that will increase the maximum amount of insurance issued by the Association for habitational properties from \$750,000 to \$1,000,000. The bill is still active. Connie noted that H192: 2023 Wildlife Resources Changes-AB is now law and the section appropriating \$400K annually from the Shallow Draft Fund was removed. Finally, the bill to allow a special license plate for Topsail Beach is still in the works. The Short Session starts in April 2024. Chairman Smith added that H600 has several sections that apply to Topsail Island like a state-wide requirement for encapsulated polystyrene in dock floats and other floating structures.

- c. North Carolina Coastal Federation – Kerri Allen
No report this month as Kerri was out of the office this week.
- d. North Carolina Beach, Inlet and Waterway Association – Kathleen Riely
A couple of things to report - Fall Conference coming up. Good agenda. Good pre-registration so far. Also RISE act – NCBIWA supports overall, but there needs to be an established fund in NC in which the revenues go to so that it benefits the coast and not just the state budget in general. After talking with officials at state and federal level, we feel that the DEQ Coastal Storm Damage Mitigation Fund might be the most appropriate.

Steve Smith mentioned that he talked with both Rep. Rouzer and Rep Murphy's office who are in favor of act but hasn't received a response Senator Budd yet. Representatives want funds to go coastal communities. Mike Benson asked if our municipalities should be deciding our position and send a letter to our



representatives? Kathleen responded that a draft letter with that coastal support language is available. She also mentioned that other states' associations have the same concerns.

e. Turtle Hospital – Kathy Zagzebski

Ms. Zagzebski thanked all the Towns for support through the turtle walkers, coordinators, public safety officers, and others who volunteered their time to the turtles of Topsail especially for the three turtle releases across the island. The last hatch was two weeks ago. We wound up with 108 nests with 63 in North Topsail Beach, 25 in Surf City and 20 in Topsail Beach. Hydrophones are now used to help in predicting expected nest hatch. Our 25th Anniversary Annual Lighting Campaign was successful with 25 houses swapping out beach porch lights for turtle friendly lights. The hospital is gearing up for expected cold-stunned turtles this winter and we already have 10 patients. Our last hospital weekly tours are winding up, but we be open over Thanksgiving as well as two days in December for public access to the gift shop. We cared for 147 sea turtles this year (our second highest year), and we were able to release 117 turtles.

f. US Army Corp – no report

VII. Old Business & Updates

a. CRC September Meeting Review – Mayor Teresa Batts
We had a short meeting with one variance to consider.

b. Beach Clean Update –

Chairman Smith noted that we need to continue to get the BEach Clean posters out to retail businesses. With glass bottle sales popular at the beach and the three towns banning glass on the beach we need to get the word out to educate our guests.

c. Derelict Vessel Legislation

As Connie Smith reported, this legislation is now law. Chairman Smith will be coordinating with the three towns and two counties to develop a unified ban for Topsail Island and associated waterways. There may be some state funding for removal.

d. House Bill 600 we have already talked about.

e. Vitex update for Island.

Asked for town update and question of state funding to support our effort.

VIII. New Items

a. Retirement of Connie Wilson

Connie has announced her retirement, the three towns have been notified, and we are looking for a possible replacement.

b. RISEE Act

We already have covered this with Kathleen Riely (see above)

c. 2023 Results and 2024 Goals

Chairman Smith has asked both of our advocates what they felt were our major results this past year. Each town and each commission member should also think about this and come prepared in December to finalize as well as to set goals for 2024.

d. Selection of 2024 Chair & Vice Chair

We will need to elect our chair and vice chair in January.

IX. Town's Local Projects/Direction

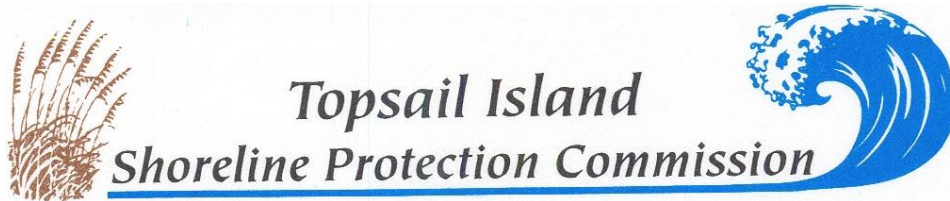
a. North Topsail Beach – Alice Derian

Mike Benson reported that we are preparing for our beach projects to resume for the season. We have a permit modification pending to allow us to start November 1st to finish the remainder of the Phase 1 work that left off near the Topsail Reef and will continue south to the St. Regis. The Phase 5 FEMA project to restore the beach in the south of Town will resume where we left off last season and finish the two remaining sections one to the Surf City line by February 2024. We are excited that our Coastal Storm Damage Mitigation Fund grant will also start next February to extend the Phase 5 project north for about 2.3 miles covering our Phase 4 section which is to about Town Hall.

Last month Congressman Greg Murphy invited Alderman Tom Leonard to testify on Capitol Hill before the House Sub-Committee on Wildlife and Fisheries. This was in support of Congressman Murphy's HR2437 that would remove the developed areas of North Topsail Beach from CBRA. It was a very successful presentation. We are finally getting much closer to righting that wrong created back in 1983.

b. Surf City -- Kyle Breuer

Carla Citarelli reported that the Army Corps project moves forward with the town acquiring about 80% of the required easements. The re-evaluation report is still in progress waiting for the Assistant Secretary for Civil Works to sign off on it. Then the



project moves into investigations for final approval. Storm water runoff project is ongoing with work on the South Shore Drive storm water infiltration chambers being done by NCDOT.

c. Topsail Beach – Doug Shipley

Chairman Smith reported that Topsail Beach is working on Rocky Mount Street stormwater and flooding issues that may end costing \$800,000. We lost our FEMA arbitration petition that disputed the ‘depth-of-closure’ so we ended up with \$1.2 million rather than the \$5.6 million we felt should have been allowed.

A contract is in place with Norfolk Dredging for a \$23 million dollar project that should start November 16 and move 1.6 million cubic yards of sand to our beach berm. Funding is from the Shallow Draft Fund, the FEMA arbitration, and town funds.

X. Meetings & Conference

- a. NCBIWA – November 16-17, 2023 – The Aloft, Wilmington, NC
- b. CRC Meeting – November 8 & 9, 2023– Beaufort Hotel, Beaufort, NC
- c. CRC Meeting – February 21 & 22, 2024 – The Aloft, Wilmington, NC

XI. Public/Commission Comments

None made

XII. Next Meeting – Thursday, December 7, 2023 – Surf City Town Hall

XIII. Adjournment

Mr. Broadhurst made a motion to adjourn. Mr. Combs seconded the motion, and it was carried.