

820 S. Anderson Blvd.  
Topsail Beach, North Carolina 28445  
Telephone (910) 328-5841  
Fax (910) 328-1560

Dear Topsail Beach Resident/Owner,

Feb. 5, 2010

Having served this town for over 25 years and most recently retiring as your Police Chief, I was honored that the new board of commissioners asked me to serve as the Interim Town Manager. I accepted to serve as an unpaid volunteer for at least 6 months. One of the very first actions this new board took was to direct me to investigate how to improve communications with our residents and out of town owners. I am hopeful that by summer a web based communication system will be implemented whereby all of the Town's meetings will be broadcasted. In the meantime I will be sending you written updates periodically; please find attached an update concerning recent developments and initiatives from our new Board of Commissioners. If you have any questions or input, please don't hesitate to call or email me anytime.

Best Regards,

Rickey Smith  
Interim Town Manager  
[townmanager@topsailbeach.org](mailto:townmanager@topsailbeach.org)

## **Beach Nourishment Update:**

The new Board of Commissioners has decided to take a greater role and responsibility in managing the Town's beach nourishment efforts. During the past election, beach nourishment became the central dividing issue and two of the three elected commissioners ran on a platform to perform a comprehensive review of our beach nourishment efforts. This does not mean that the new board is against beach nourishment. We have strong opinions from both sides of this issue and this Board is attempting to bring this community together through a series of roundtable discussions facilitated by the UNC School of Government. Through this process we hope that a general consensus for moving forward will be the outcome. Our interim project's permit is good for 5 years, we have time to think strategically and develop sound plans.

## **Shoreline Protection Committee**

The Board of Commissioners disbanded the Shoreline Protection Committee in its December 9<sup>th</sup> meeting and assumed all responsibilities of the Shoreline Protection Committee. The new board thanked the Shoreline Protection Committee for its efforts in acquiring an Interim Emergency Erosion Control permit and decided from this point on that direct accountability by the elected board of commissioners for the expenditure of 7 times the Town's annual budget was necessary. Further the Board of Commissioners believed that direct unfiltered involvement by the Board of Commissioners in the decision making process was necessary to assure the development of comprehensive integrated beach nourishment plans.

## **Beach Bulldozing**

The Town of Topsail Beach has a valid permit to bulldoze beach sand to help protect endangered homes. As of February 4<sup>th</sup> four homes have qualified for emergency bulldozing and the Board of Commissioners authorized the Town Manager to push sand in front of these homes if certain agreements with the property owner were enacted. To qualify for emergency bulldozing, CAMA (Coastal Area Management Authority) requires that the foundation be 20 feet or less from the mean high tide line. If you feel your home is threatened, please contact the Town Manager. As incorrectly reported by our previous Town Manager our beach bulldozing permit has not expired and is valid through December 31<sup>st</sup> of this year. CAMA also informed the Town that it can request a renewal of our Permit #145-98 December 1<sup>st</sup> 2010 which should give us plenty time to assure that we can continue to beach bulldoze without interruption.

## **Interim Emergency Erosion Control Project**

The Town of Topsail Beach approached the Wilmington District Army Corp of Engineers and the North Carolina Division of Coastal Management in 2006 regarding a desire to place sand on its beach as quickly as possible due to continued oceanfront erosion. The project was scoped to provide a one-time nourishment event that intended to protect oceanfront homes and Town infrastructure until the 50 year Federal Hurricane Protection Project is constructed. The project was granted a permit June 15, 2009 to place 975,000 cubic yards of sand along approximately 25,000 feet of shoreline. This permit is valid for 5 years. The Town has received bids and disappointingly has decided that it cannot afford to place the maximum amount of sand authorized on our shoreline. The Town believes it can afford to place 90 % of our permitted quantity of sand (877,500 cubic yards or 41.7 cubic yards per linear foot) for a total program cost of about \$14.0 million. Placing 41.7 cubic yards per linear foot will only yield a widening of the beach by 30 feet (after wave induced settling). As originally proposed 4 years ago this project was to

widen our beach by 75 feet (after wave induced settling) and only cost \$10.0 million. That is less than half the sand promised for 1.4 times the expense. Some of the issues going forward that must be communicated fully and addressed are presented below:

Issues going forward:

- CAMA regulations require that a static vegetation line be set in the year nourishment occurs. The static vegetation line will only impact oceanfront owners. All development (with a few exceptions) must be 60 feet landward of this static vegetation. If your home is ever damaged by more than 50% of its value, you will not be allowed to rebuild in the same location. You will have to move your location behind this 60 foot setback. If you have a vacant lot you too will have a static vegetation line set this year and all development will have to be 60 feet landward of this static vegetation line. If you rebuild or remodel your home and that remodeling is greater than 50% of your home's value, you will have to abide by the 60 foot setback. This interim project is projected to last minimally 5 years before it is completely eroded away; however your Static Vegetation line remains forever.
- According to CAMA all other development exempted from the 60 foot setback must be behind the static vegetation line. What does this mean? Currently most homes have no vegetation down the seaward slope of their dune, yet most homes have walkways and stairs terminating on the dry beach. If you lose your steps, CAMA regulations only authorize replacement to the static vegetation line. The Town has received conflicting advice from CAMA and is expected to receive an answer by Feb. 22<sup>nd</sup>, 2010 in writing from the Director of CAMA Mr. Jim Gregson.
- Littoral Rights, Easements, Eminent Domain are issues that come with any beach nourishment project that involves public funding. Most oceanfront property owners own to the Mean High Water Line (MHW) and enjoy Littoral Rights. Littoral Rights basically are rights to any land that accretes in front of their MHW line or beach, meaning that if nature were to deposit sand on the beach and it resulted in building the beach wider and moving the MHW line further oceanward, all this new land belongs to the owner. This is significant because if a homeowner is diligent and vegetates their dune and property, the owner can move their vegetation line seaward. Remember CAMA determines all setbacks for development on the location of this first line of vegetation. All dredged sand deposited oceanward of the MHW line belongs to the State of North Carolina. The oceanfront owner loses all littoral right because the State now owns the new dredged land seaward of the old MHW line. For any nourishment project to proceed, the Town of Topsail Beach is required to get permission from each oceanfront owner to trespass on their property to perform the work required to nourish the beach. The past board decided that they would ask for a permanent easement to perform other maintenance of the dunes along with the nourishment project. Many of our owners question that requirement since the Interim Emergency Erosion Control Project supposedly will only last 5 or 6 years (if we do not experience any unusual storm events) and they are hesitant to grant permanent permission for other maintenance of the dunes. The new Board will be seeking input in the Roundtable discussions concerning this decision. Finally, the Town will have a very serious question to answer that pits neighbor against neighbor. If any oceanfront owner denies granting an easement for the Interim Emergency Erosion Control Project and it is the decision of this Town to proceed with this project, the Town will be forced to take by eminent domain the right to trespass on the oceanfront owner's property. Some may view this as insignificant and are unconcerned, but the Supreme Court of the United States is currently deliberating this very question and this Board of Commissioners takes this issue very seriously.

- The Local Government Commission (LGC) must approve our current financial plans for funding this project. The Dept. of Treasurer Guidelines on Debt Issuance advises that the Town's General Fund Debt Service to General Fund Expenditures should not exceed 15%. Reviewing our Town's 2009 financial report, this guideline means that our Town can afford about \$270,000 per year in loan payments (15% x \$1.8 million). Currently we have committed about \$172,000 per year of loan payments from prior capital improvement projects. This leaves about \$98,000 per year available for additional debt service per year. Our desire to borrow \$4.8 million for eight years would require a repayment of \$708,820 per year (given an estimate of a 4.25% interest rate by the LGC). In a February 4<sup>th</sup> meeting with the LGC, we were advised that we would not be approved for this heavy debt load.
- Given the above constraints of \$98,000 per year of available debt funding (which would maximize our 15% debt ratio), and an interest rate of 4.25% for an 8 year term, we should be able to borrow about \$663,800 towards the Interim Beach Nourishment Project.
- Our Town has given *in writing* guarantees and assurances to the Army Corp of Engineers that it is committed to the 50 year Federal Hurricane Protection Project and has committed to pay \$3.8 million (2008 figures) once the project is funded by the Federal Government. Estimates vary, but we must be prepared to take advantage of this project when it becomes available (2012-2016). To be prepared, our Town will have to reserve some funds that are currently being planned to be expended on the Interim Emergency Erosion Control Project. This amount yet needs to be determined, but we believe it will be around \$1.4 million in today's dollars.
- Given the above and concerning the funding of the Interim Emergency Erosion Control Project, the previously proposed assessments will have to go up significantly. As stated earlier, our Town can only borrow about \$0.7 million and reserving \$1.4 million for the Federal Project, we will have to increase the assessments by \$4.5 million for a total assessment of \$6.3 million. That is an increase of 3.5 times what has been previously communicated to you.
- The Interim Project is an engineered beach nourishment project which may allow us to qualify as a FEMA beach. FEMA requires that we have a monitoring and maintenance program. Monitoring requires that we survey the beach to determine how much sand is remaining on our beach each year. FEMA uses this survey as its baseline for quantifying the possible amount of sand to be replaced from a named storm erosion event. FEMA only replaces the sand to the quantity of sand present from the most recent survey. They will not replace the sand to our original beach fill (unless the named storm happens in the first year). If we follow a maintenance program similar to Emerald Isle's approved FEMA beach, we would nourish our beach at a 50% erosion trigger. FEMA requires that we can demonstrate that we have an approved source of sand and in-place funding capability. Currently the past Board and Town Manager have not placed any efforts to qualify our Interim Project as a FEMA beach. We need to begin direct discussions with FEMA to qualify as a FEMA beach before construction begins.

### **50 Year Federal Hurricane Protection Project**

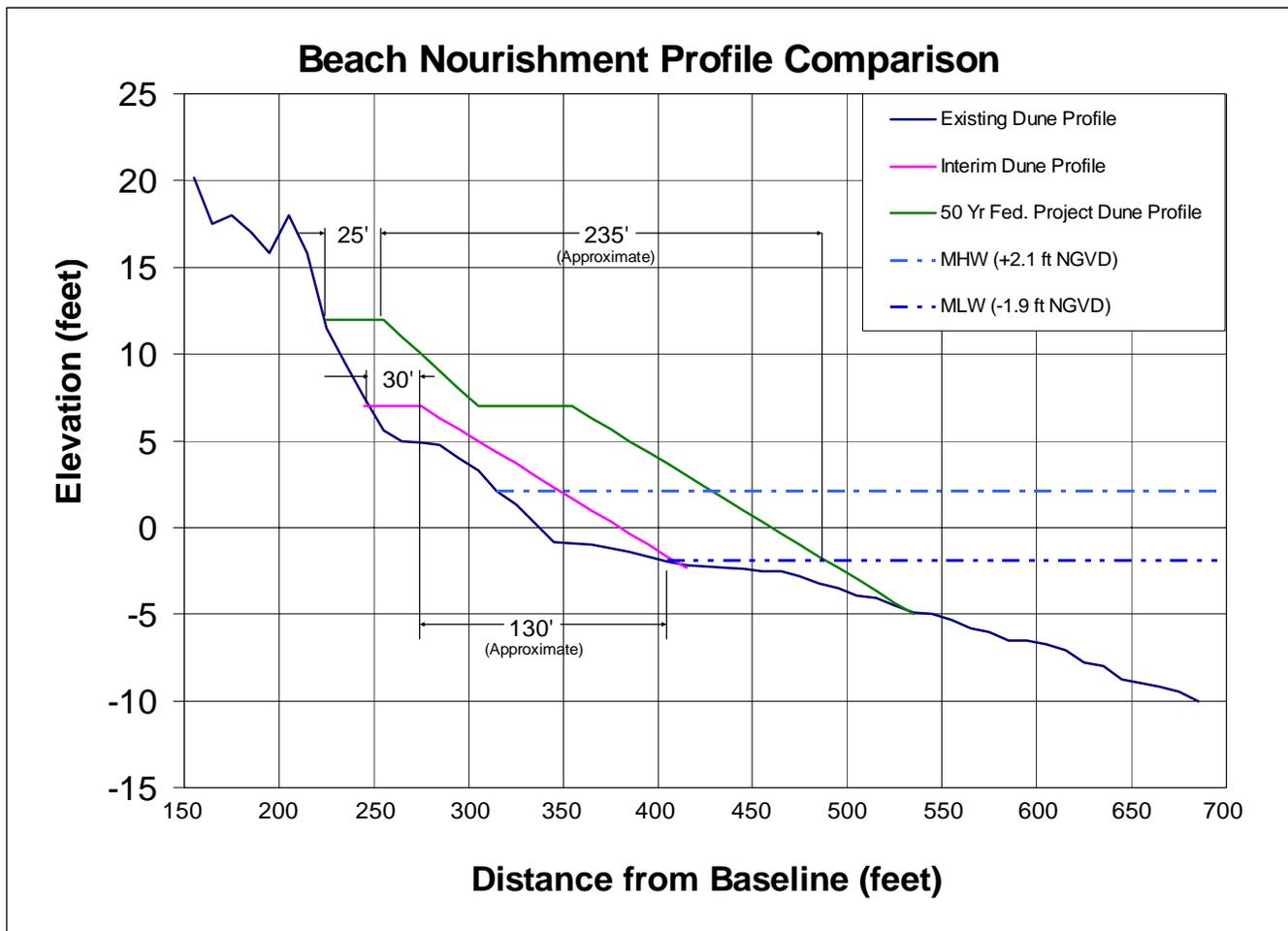
The 50 year Federal Hurricane Protection Project consists of constructing a 25 foot wide sand dune to an elevation of 12 feet transitioning another 50 feet to a 50 foot wide berm constructed to an elevation of 7 feet and finally transitioning another 100 feet to the ocean. The initial in-place volume of sand will be 2,387,000 cubic yards. That is approximately 2.7 times the amount of sand to be placed on the beach by the Interim Emergency Erosion Control Project (877,500 cubic yards). Additionally, the Federal Project will place 690,000 cubic yards of sand every 4 years to maintain the project's hurricane protection design. The really great news is that the 50 year Federal Hurricane Protection Project has made it out of the US

Army Corp of Engineers (USACE) with a favorable recommendation. This report now goes to the Assistant Secretary of the Army for Civil Works for his approval and briefing to the OMB (Office of Management and Budgets). Then the report goes to Congress for construction authorization and funding. Recently the USACE Project Manager presented a timeline where the Town and the USACE are projected to execute the Project Partnership Agreement in the 2<sup>nd</sup> or 3<sup>rd</sup> quarter of 2011. Depending on the Town's ability to acquire the necessary public accesses and easements and Congressional funding, this project could start anytime from end of 2012 to 2016.

The benefit for Topsail Beach to implement the Federal Hurricane Protection Project is great.

- We pay only 8.75% of the initial costs for the construction of a 12 foot high dune with a 50 foot wide berm in front of the dune (we pay \$3,775,750)
- The Federal Project will be nourished every 4 years (we pay \$2,373,000 or \$593,250 per year)
- Our current tax revenue sources can pay for and maintain the Federal Hurricane Protection Project. No Assessments are needed, no tax increases are needed. (we collect approximately \$700,000 per year from various beach nourishment revenue sources which will cover the \$593,250 per year mentioned above)
- The Federal Hurricane Protection Project is estimated to reduce our hurricane damages by 84%.

Below is a graphic depicting the Interim Erosion Control Project vs. the 50 Year Federal Project.



## **Alternative Beach Nourishment Efforts**

The Board of Commissioners is actively working hard to investigate alternative less expensive ways to nourish the beach. We have approved additional core sampling of areas along the Intracoastal Waterway and some of the spoil islands. Some ideas that we have discussed are dredging Howard's Channel and maintenance dredging along the Intracoastal that the USACE has permits but is underfunded. We have had encouraging discussions with CAMA in this regard and our next step is to meet with the US Army Corp of Engineers to further investigate possible less expensive interim erosion control projects.

## **Surf City Synergies Committee**

The Board of Commissioners approved the creation of this committee comprising of two elected commissioners and one or two townspeople to investigate possible areas where the Town of Topsail Beach and Surf City and possibly North Topsail Beach can agree to cooperate to reduce costs, provide services more efficiently and/or investigate other areas of possible cooperation. Interested individuals who would like to volunteer should contact the Town Manager.

## **Town of Topsail Beach Communication**

The new board is very concerned with providing greater information and transparency to the governing of our Town. Many have complained that dissemination of information is too difficult and arduous. Given today's available technologies the Board is committed and has passed a directive to investigate the filming and posting of our Town's meetings through the web. We are gathering information and quotes to accomplish this hopefully in the near future.

## **Bush Marina and the Town Center**

The previous Board of Commissioners put into place a plan to build a Gazebo across from the Town Hall. The new Board recognized that this plan did not take into account the parking needs of the Marina during the tourist season that has traditionally utilized this vacant lot. Our Marina relies on revenue created by boaters using our facility. Parking is very limited within the compound of our Marina. The new Board will be holding a public hearing to discuss all of the Town's needs with the goal to integrate and account for Bush Marina's needs and the creation of a Town Center and Town Hall parking needs.

## **Town Charter-Subpart A-Section 8 Quorum**

The Board of Commissioners adopted a resolution to affirm that our Town's Charter must be respected and followed as written in Subpart A – Section 8 Quorum. This section deals with how the Town's elected officials are to adopt any ordinances, resolutions, orders or votes. In the recent past this section of the Town's Charter has been ignored and important resolutions and motions have been enacted improperly. Our Town's Charter simply states that a majority of the elected Board of Commissioners (present) must vote in the affirmative to adopt any ordinances, resolutions, orders or votes. If for instance one of the Commissioners is not present and a vote of 2-2 occurs, the resolution, ordinance, motion etc is not adopted. This does not mean that the resolution, ordinance or motion cannot be voted on again in a special meeting or future Board of Commissioner's meeting. The Mayor is not afforded the ability to break this tie vote by our town's Charter. The Mayor however is afforded a tie-breaking vote by the State for adoptions of anything dealing with the Budget or Project Ordinances. For those interested further information may be found on the Town's website in the Ordinance section.