

# Town of North Topsail Beach

Joann M. McDermon, Mayor  
Mike Benson, Mayor Pro Tem

Aldermen:  
Richard Grant  
Connie Pletl



Alice Derian, ICMA-CM  
Town Manager

Melinda Mier  
Town Clerk

## Nature's Tranquil Beauty

Board of Aldermen

Regular Meeting Minutes

Wednesday, September 7, 2022, at 11:00 A.M.

North Topsail Beach Town Hall

2008 Loggerhead Court, North Topsail Beach, NC 28460

**Present:** Mayor McDermon; Mayor Pro Tem Benson; Aldermen Grant, and Pletl. Chief Younginer, Chief Soward, Town Manager Derian, Deputy Finance Director Weaver, IT Director Schwisow, Planning Director Hill, Town Clerk Mier, Town Attorney Edes.

**Via Zoom:** Coastal Engineer Way

I. CALL TO ORDER

Mayor McDermon called the meeting to order at 11:00 A.M.

II. INVOCATION

Mayor McDermon delivered the invocation.

III. PLEDGE OF ALLEGIANCE

Mayor McDermon led attendees in the Pledge of Allegiance.

IV. APPROVAL OF THE AGENDA

Mayor McDermon requests to add an item to the agenda under Public Presentations; Coastal Engineer update by Mr. Francis Way.

**Alderman Grant made a motion to approve the amended agenda. Alderman Pletl seconded the motion. The motion passed unanimously, 3-0.**

Mayor Pro Tem Benson requests to delete the Public Hearing on Dune Protection and Remediation, due to not having a full five-member board seated at this time. **Alderman Grant made a motion to keep the public hearing on the agenda and Alderman Pletl seconded the motion. Motion passed 2-1 with Mayor Pro Tem Benson opposing.**

V. MANAGER'S REPORT

Town Manager Derian presented the Sep 7, 2022, Town Manager's Report to the Board.

Phase 5 project

- August 1st – IFB issued
- August 10th - Non-mandatory Pre-Bid meeting at Gray Street access. 5 contractors were present along with Fran and I

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- August 23rd – Bid opening at Town Hall. One bid was received and was returned to the bidder
- August 24th – IFB was re-issued with new bid opening date of September 6th.
- September 6th – Bid opening at Town Hall – 2 bids received.
- Results will be covered under New Business for possible board action

#### Coastal Storm Damage Mitigation Fund Grant

- Our grant application for \$10.5 million dollars submitted on July 8th is still in the review process. During a meeting between the USACE and state on August 24th, the state announced they were reviewing and scoring grant proposals. They expect to issue notice of awards over the next month.

This grant would enable the Town to extend the Phase 5 project 2.5 miles to the north to renourish Phase 4 with matching funds.

This work was included in the Invitation for Bid as an Alternate Bid item in the Invitation for Bid issued for the Phase 5 project. Award will be contingent upon grant funds. Results will be covered under New Business for possible board action.

#### Sea Oats Planting

- Coastal Transplants has finished the Sea Oats Planting project. I have directed them to a couple of missed spots that they will be working to finish. 308,200 sprigs have been planted within the phase 5 area and 529,111 plants for the phase 2-4 area. These numbers fall closely to the proposed numbers that Coastal Transplants were contracted to install.

#### Living Shoreline Project – Richard Peters Park

- The contracts for the living shoreline project have been executed and the general permit (GP.2400) package was submitted to the Division of Coastal Management's office on August 31st for the marsh toe revetment at Richard Peters Park. We will be announcing the start of the project soon.

#### New River Environmental Impact Statement (EIS)

- On Wednesday, August 17, Mayor Pro Tem Benson and I had a conference call with Mickey Sugg, the Regulatory Chief for the Wilmington District of the USACE on the status of the New River Inlet Management Master Plan Environmental Impact Statement (EIS). Mr. Sugg acknowledged that the Corps has chapters 1 through 3 of the six chapters that make up an environmental impact study. As Fran indicated to the board, chapters 4 through 6 are still a work in progress and certain modeling parameters need to be clarified with a third-party review by the Corps ERDC (Engineer Research and Development Center) group in Mississippi. The ERDC's initial evaluation of ATM's modeling work suggests a northern position for a potential groin, while the ERDC scientists looking at the same data reported to Mr. Sugg that the modeling data suggests a 'southern position' for a groin. This modeling work decision has to be resolved because it is holding up a portion of the work on the remaining three chapters

September 7, 2022, Board of Alderman Meeting Minutes in the EIS. I received correspondence from Fran last week indicating the need for additional modeling. I have provided the proposal from CPE for the board to review in the amount of \$33,058. CPE performed the original modeling and have ownership of the modeling input files so they will perform the modeling and get us the output for processing. This was the most feasible/cost-effective option. The 4-year runs will be incredibly valuable for the terminal groin evaluations and review. This needs to be completed as soon as possible to avoid delays in the overall EIS process.

Mr. Sugg did emphasize that once the 'Notice of Intent' is published in the Federal Register, the Draft EIS would be posted to their website for public inspection and comment. The revised timeline for the Federal Register notification is November 1 and we intend to keep in close contact with Mr. Sugg to be sure this happens on time. Once the Notice of Intent is published the Corps has two years to reach a 'Record of Decision' on our EIS project. We questioned Mr. Sugg on the two-year requirement as the revised timeline given the Town in April suggests that the 'Record of Decision' will be ready in 12 months. He admitted that 12 months was probably too optimistic; thus meaning rather than in 2023 sometime in 2024.

#### Abandoned Vessel Removal Request

- I prepared a joint request on behalf of NTB and Onslow County addressed to the USACE to remove the abandon vessel, located on a sandbar in the southern side of the New River Inlet. This vessel has been on an agencies list for quite some time, and we have requested it be removed as soon as possible as it poses a safety risk to visitors who may walk out to the sand bar for a closer look or photograph. Since this request, I prepared a similar letter of request to Brigadier General Niebel requesting Marine Corps support with removal of the above water rigging. This would be a community service project completed by the Marine Corps.

#### Disaster Preparedness

- We held a community town hall meeting for residents on hurricane preparedness. Thank you to the residents who attended, the County and National Weather Service. It was a very well attended event.
- We recently updated the website to include forms for resident re-entry passes to encourage residents to get their passes in place before a pending storm. The set-up allows you up to fill out the form and submit with payment on-line through our website, which is new this year. We posted the notice to social media, website, town message board and sent a CodeRed reminding residents to sign up. I am happy to report that we received over 264 inquiries for passes by email alone, which will save time and be able to divert resources to other areas of preparation when a storm is approaching.

#### Free Little Library

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- Thank you to the Kiwanis Club of Topsail Island Area for the Free Little Library. We had a small gathering at Richard Peters Park yesterday morning in recognition of the donation.

VI. OPEN FORUM

One citizen addressed the Board. **Mr. Burgess Allison – 119 S. Permuda Wynd.**

Mr. Allison owns and resides year-round at his home on Permuda Wynd, North Topsail Beach.

Mr. Allison wrote the following to the Town Clerk:

While the reported purpose of these amendments seems like a good idea, the actual amendments \_ as written \_ have the effect of doing very bad things. I oppose these amendments for three reasons:

1. I oppose the No More Crossovers Amendment. According to the commentary, the proposal deletes exemptions in 10-49 because they're already covered elsewhere. However, the new language doesn't make any reference to any such exemptions, or where they're covered. In the writing of laws, this is called Invisible Text. And this is pretty important. Because without these exemptions, crossovers aren't allowed any more. At all. For any reason. No crossovers. Town. Community. Homeowners. No crossovers. Courts are reluctant to guess what Invisible Text is supposed to say - without at least some hints and they're very reluctant to enforce Invisible Text. In this case, the new section 10-49 says that it's unlawful to disturb any sand dune-with no exemption for approved crossovers. The commentary says that the deleted exemptions are covered in the UDO (Unified Development Ordinance) section 10.07.02. Except that: 10.07.02 only applies to some dunes in certain areas, the section is titled "Rebuilding of Damaged Dunes," and it doesn't actually spell out the exemptions. I'd hate to rely on a Court guessing what you intended when you've got a chance to be clear about it in the first place. You should be specific, be clear, and avoid this trouble by including the cross-reference.
2. I also oppose the Get Out of Jail Free Amendment for real estate and construction companies. The penalty-provisions in 10-51 and 10-52 are being changed so that the penalties only apply to persons and not to "firms or corporations." I'm guessing (or at least I'm hoping) that there's some definitions page somewhere that says that the word "person" includes firms and corporations. But this is Invisible Text again. Worse, the new language appears to be really clear: The Town is explicitly deleting the references to real estate companies and construction companies. And it explicitly calls out penalties...but just for persons. It would help if there were quotation marks, or ALL CAPS, or some sort of hint that the Court needs to look at the definitions page and not rely on the plain-language meaning of the word "person."
3. The Walking on Dunes to collect Souvenirs exemption should be repealed. This one is not caused by the new amendments-it's an existing problem with the current ordinance, and it's a problem that should be fixed now. Section 10-49 makes it

September 7, 2022, Board of Alderman Meeting Minutes unlawful to walk, stand or run on a sand dune. This is a good thing. However, Section 10-47 (titled "EXEMPTIONS") says very clearly..."The provisions of this article do not apply to the removal of sand, seashells or similar materials for souvenir value in such amounts as may be carried upon the person." Wait, what? Yes, you read that correctly. Section 10-49 (the law against walking on dunes) does not apply if you're collecting seashells or other souvenirs.

By the way, Section 10-47 uses the word "person" in a way that does *not* mean "persons, firms or corporations."

## VII. PUBLIC PRESENTATIONS AND HEARINGS

**Alderman Grant made a motion to open the Public Hearing. Motion passed unanimously 3-0.**

Planning Director Hill presented the following report, Dune Protection and Remediation: Proposed Text Amendments to UDO §10.07.02 Rebuilding of Damaged Dunes & Town Code Article 10 Sand Dune Protection:

Pursuant to NCGS § 160D-301 (b) (4), the Planning Board is assigned the power and duty to advise the Board of Aldermen concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604.

On August 11, 2022, the Planning Board reviewed UDO plat requirements for development permits; specifically, requirements for ocean front lots with respect to the dune. The Planning Board also discussed the both the Unified Development Ordinance §10.07.02 Rebuilding of Damaged Dunes and Town Code Article 10 Sand Dune Protection.

In their review of Town Code Article 10 Sand Dune Protection, the Planning Board recommends that the Town Manager (or designee) has the authority to enforce; that each day unrepaired is a separate offense; and that the exceptions pertaining to development in § 10-49 be deleted, as development is addressed in the UDO.

In their review of Unified Development Ordinance §10.07.02 Rebuilding of Damaged Dunes, the Planning Board discussed a dune buffer, non-conforming status for existing encroachments into the buffer, additions or improvements to existing structures, fines, as well as dune restoration.

RECOMMENDATION On August 11, 2022, Ms. Lisa Brown made a motion that the Planning Board recommends that the Board of Aldermen conduct a public hearing on September 7, 2022 at 11:00 a.m. to receive input on a proposed amendment to North Topsail Beach Town Code Article IV Sand Dune Protection and the North Topsail Beach Unified Development Ordinance Article 10 Enforcement § 10.07.02 Dune Protection and Remediation; and that

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the Board of Aldermen adopt the proposed text amendments to UDO §10.07.02 Rebuilding of Damaged Dunes (attachment 1) & Town Code Article 10 Sand Dune Protection (attachment 2). Mr. Fred Fontana seconded. The motion passed unanimously, 6-0.

#### ATTACHMENTS

- Ordinance to Amend Unified Development Ordinance §10.07.02 Rebuilding of Damaged Dunes
- Ordinance to Amend Town Code Article 10 Sand Dune Protection

Mayor Pro Tem Benson had several questions about the language in section 10, UDO §10.07.02. The language has been changed and he's questioning the language being used; "Ocean Hazard Area", which really consists of three different components. Mr. Benson is asking for clarification on what Director Hill is referring to when using "Ocean hazard Area", as opposed to another term because according to him, it could mean the whole width of the island from the ocean side to the marsh.

Director Hill states "Ocean hazard Area", intended to address all ocean dunes, all dunes that are adjacent to the Atlantic Ocean, the public beach, private property. Director Hill added that the Planning Board is not addressing intercoastal or the wetlands at this time so they can focus attention on dune protection first.

No changes were specifically requested by Mayor Pro Tem Benson.

Mayor Pro Tem Benson refers to the Town Code and reiterates what Director Hill mentioned earlier that this was something that was done previously in an attempt to improve public safety and protect the dunes and it didn't really go through the planning board. Mayor Pro Tem Benson states we probably need to come to an agreement as to what really needs to be in this section of the ordinance, but the main thing that concerns him in this section of Town Code is under findings of fact and item "(c) As used in this article, the phrase SAND DUNE shall mean any and all manmade or natural mound of sand, regardless of size. This includes, but is not limited to, natural dunes, man-made or constructed dunes, berms, sand formations created by a beach/dune push or scrape, individual sandbags, sandbag walls, and sandbag revetments." Mayor Pro Tem Benson believes this section should be struck from the town code because it's going to add confusion to what we're trying to do because we live on an island that is ascending the whole island is a sand dune. Director Hill recommended that Mayor Pro Tem Benson confer with the town attorney with regards to the board's desire to enforce keeping people off of the sandbags and the revetment. Mayor Pro Tem Benson responds saying he wasn't really thinking about sandbags and that sort of thing, he was thinking about the word sand dune and future construction and permitting and that sort of thing. He thinks the frontal dune, the use of the frontal dune section D is fine because we're really talking about protecting the structure of the town from the ocean via the frontal dune that's where the concern is. Director Hill understands but believes that that's why they used that language in paragraph C to where that they could enforce keeping people off of the sandbags in the revetment and recommends that he discuss this with the Town Attorney. Mayor McDermon reminds

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everyone that we do have issues as it relates to berms and being able to enforce people staying off the berms, which is a dune that doesn't have vegetation on it yet, so she has some concerns about striking that whole paragraph.

Mayor Pro Tem Benson then comments on Mr. Allison's comment on section 10.47 about removeable seashells should be stricken from the Town Code as well. He believes that's not the intent, we don't intend to have people walking across the dunes looking for seashells, we actually have a fine if you walk across the dune where it's vegetated or not, so he believes that part of the ordinance needs to be changed.

Director Hill encourages Mayor Pro Tem Benson to read under section 1049, to read that in context of section 10 and if the town attorney will bear with her and read section 10 and section 42, where it talks about the territorial applicability. This article shall apply to sand dunes within the corporate limits and boundaries of the town the exemption are the provisions of this article do not apply to you saying that seashells, things that are removed as you know just souvenirs. It's trying to take that that territory of what this ordinance applies to and say we're not concerned about the seashells that you put in your pocket it's not talking about going across the sand dune to pick up the seashells. It's also talking about when it talks about the territorial applicability of the rest of the new protection ordinance that any activity authorized or allowed by general statutes 113 a 103b. 5v5 for emergency maintenance and repair that that would not be a concern of the sand dune protection if it was an emergency activity or other otherwise authorized under general statutes 113a. Any activity conducted by federal or state agencies for beach nourishment protection. That would not be a concern of this ordinance trying to protect the dune, that would also be an exemption, so if you read the 1047 exemptions in context with the preceding paragraph for territorial applicability, I think that those three paragraphs do make sense. I would ask for Mr. Edes to weigh in on this.

Attorney Edes believes arguably if you're on a dune and cited you could say I was there attempting to pick up seashells or other souvenirs, so I agree with Ms. Hill that B and C should stay in. I think subsection A could be potentially misused or certainly invite the public to search for seashells and souvenirs. Ms. Hill does that address your question? Attorney Edes also asks Mayor Pro Tem Benson if he was only referring to taking out subsection A, correct? Mayor Pro Tem Benson affirms with correct, saying that we definitely want to restore our dunes. FEMA kind of paid to restore our dune system. Attorney Edes asks from a prosecution perspective, how are you going to prove they weren't on the dunes looking for seashells?

Director Hill reminds everyone that she's not the author of the original text. Mayor Pro Tem Benson acknowledges her but further says that if we're going to adopt changes to the ordinance then we have to adopt changes to the whole ordinance, not just the sections that you made changes to base on the planning board discussions.

Alderman Grant responds to Mayor Pro Tem Benson saying that's not true, you can change something without changing everything.

Mayor Pro Tem Benson continued with questions about section 1051 and 1052. Stating because here we're talking about fines up to a maximum or not less than \$500 depending upon whether it's 10.51 a criminal penalty or 10.52 a civil penalty, he believes this needs to

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be tied in back to the UDO where the seven days kick in for penalties could go up to \$10,000. He also believes there needs to be some coordination between these penalties.

Director Hill addresses Mayor Pro Tem Benson's last comment and that she thinks this is what continues to cause the confusion. Trying to tie it into the UDO when the part of the town code is non-development, non-permitting, non-bulldozing, non-construction disturbance of private property. They started out with intent when they did the same thing, only in reverse where they tried to pull in the development ordinance and again making the mistake of not going through the planning board or to the planning director to have them weigh in and have them help them. So if you leave this as non-development and leave the UDO as the development the permitting side, the construction side for inspections for the planning department to deal with. The enforcer of the town code sand dune protection article 10 would be starting with the Town manager or whoever she saw fit to enforce that not the building inspector in the inspections department as who was originally indicated or the original script of that.

Mayor Pro Tem Benson comments that his opposition to this change in the UDO and the Town ordinance is this. North Carolina has a division of coastal management which enforces the coastal area management act through various rules and regulations that are determined by the Coastal Resources Commission, also known often as the CRC. He feels that panel of experts who do that type of work on the CRC and the panel or the employees or experts in coastal management that work for DCM have set rules to protect our dune system and our infrastructure. He feels when a community decides that we know better than the division of coastal management and setting rules, the intent is good. He doesn't disagree with his colleagues whatsoever and understands we're all trying to protect the dune system, to protect infrastructure, houses, roads, power lines, sewer lines, water lines and doesn't refute that at all. Mayor Pro Tem Benson says more the better but I think we need to do it through the Division of Coastal Management and if we think there needs to be a change in their rules such as a five foot dune buffer that's proposed in the UDO, then we should be taking that to the Coastal Resources Commission for them to have their experts evaluate that for the whole coast not just North Topsail Beach. Mayor Pro Tem Benson states his opposition is to the proposed UDO and the five-foot dune buffer. He believes it should be something that we work with the Coastal Resources Commission to get changed if we think the CAMA rules are not stringent enough to protect structures here in North Topsail Beach.

Alderman Grant states that this reminded him of the phrase that the perfect is the enemy of the good. He speaks about Mr. Allison and that he made some great comments, however the problem is if we try to redo this whole thing, it will not happen during his four-year term. He Reminds everyone that we've heard this over and over again from the people in this town that they don't like what's going on in some of the construction stuff. The idea that we have to reform the entire code and go through every issue of that code and go to the planning board and get all this done within a time to stop this stuff, is just in my opinion ridiculous. He did enjoy the comment about let's leave it to a government agency and then he's reflecting

on what the Town Manager just said talking to the army corps of engineers and now the groin has moved another year everything we've done with other agencies. It tells us that if we leave



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our future of this Town to state or federal agencies and don't take the steps that he believes the citizens have asked us to do. That's a fundamental mistake in what we do as a Town here. He thinks we have heard from so many people including the planning board and complements that and the other thing he would point out is to compliment the planning board because they could have been distracted and they were distracted before by the board because they said okay, let's look at everything that's out there and believed everybody agreed including construction people, builders that were on the planning board about what's going on is not helping the town. It's underlying, so his feeling on a lot of this stuff is one is you don't need to go over the entire code. He would like to ask any citizen if you've got other stuff that we want to change this that's fine, but if we wait to change everything in every ordinance before we get anything done then frankly nothing will ever get done on this thing. When he looks at some of the changes and you know when you also look at the penalties that that referred to the criminal and the civil penalties, one says a maximum and one says not less than. Not less than means not less than five hundred dollars, a million dollars is not less than five nor is ten thousand dollars. One's a civil penalty one's a criminal penalty and the language is pretty specific that if you've got a not more than or less than that's a completely different standard for a fine. He thinks some of the comments in terms of just making changes in this look those are things that the planning board can consider but for us to unilaterally do it without running it back to the planning board, the same problem we've had before about not running things through the planning board because we're sitting up here making a change that they need to go back and reflect on. He trusts Ms. Hill and the planning board to go back and say okay, if we move this provision how does it affect that provision? Which is what you did in a very thoughtful way here. Again he really compliments what you've done on this and he fundamentally disagrees with postponing this again. He talks about the feedback from people and pictures and everything else. Get something done! Is it a perfect solution? Probably not but he's not sure there's a perfect solution to anything. He continues to say that if we try to change everything at one time or try to make changes in something that have gone through the planning board and have had thoughtful discussion about whether the dune starts and stops is ended right and he can tell you if you build right next to something, right next to your foundation even if he doesn't touch it's undermined that foundation. It's basic science that you know and anytime if you got if you have to build something right up against the dune then you probably shouldn't be doing it because you are undermine the dune. He expresses how he doesn't like the idea of delay, delay, delay. The Board had this thing going on for nine months or a year when it was brought up nine months ago. He says it's time to do something, if it's not perfect then we can work on it but if we do nothing making decision to do nothing is making the decision to do nothing. And he reminds everyone he got chastised by saying that the Planning Board didn't do anything when you actually had. So he apologizes again and complimented them for what they did.

Alderman Pletl responds to the proposed ordinance and changes and how they relate to staying off the dunes. She states that some of the homes that have not been permitted to

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construct crossovers, specifically pointing out the area around beach access 32, which does not seem to have done a lot of damage. Then looking at dolphin shores where they've used a walk over that has done damage. She asks does this address that at all?

Director Hill responds with a no, that's really on the state Division Coastal Management level. She believes they're going to be addressing this with CRC. That they're starting to allow for the walkway to come up and then for the stairs to immediately turn as soon as it crosses the dune to give that dune some protection. Whereas with the post and rope in some areas it may be preferable but, in some areas, it wore through like a cave. It was like a V, so when the Town got a complaint about it, we thought someone had actually cut through the dune. Until we had somebody contact us that stated on his daily walks that he had seen daily erosion of the renters walking back and forth and back and forth and it finally worked down to just a pathway. So you know one good storm surge would rip that dune like a broken zipper.

Mayor McDermon agrees with Director Hill's point, the CAMA reps have really been taking notice to the damage that the post and ropes have been causing us and everywhere. They are trying to recommend a change to that because that's not something that we as a town get to approve or deny.

Director Hill says anytime you address a problem there doesn't seem like there's ever a cookie cutter solution. Just as there may be some unintended consequences that she'll have as fast as she can to try to mediate those, but the intent is to try to preserve the dunes as much as possible. Director Hill shared there aren't individuals that coming in and saying what's the biggest, what's the tallest, what's the most that they can do. There are individuals that are coming in saying what can I do to preserve vegetation. They're coming in with these very elaborate landscape plans, they're building smaller swimming pools closer to the house which is a novel ideal. They're not taking up the entire footprint between their deck to the dune or to the toe of the dune or you know trying to squeeze in an olympic sized swimming pool. So you know at the same time that we're dealing with this onslaught of fast paced development that we're dealing with. We also have the pleasure of dealing with individuals that are moving to the area that are building their homes that are looking at trying to build their homes in a natural built environment and i look forward to learning from them in their landscapers and now they're coming up with these plans as well.

Alderman Pletl assumes there is an exemption for being on the dunes for the endangered sea turtle nests and the people that take care of them? If that's covered somewhere, has it ever been enforced? It's never been enforced but if somebody decided that they were going to enforce because there is a wire grid that is put up on the turtle over the turtle nest, four stakes and sometimes we do go up on the dune. Sometimes the nest can be up on the way top of the dune, it can be on the side of the dune, can even be at the base of the dune. When the nest gets ready to hatch there's actually a ramp that's built down after it's all done everything's taken down smooth back out the dune is restored.

Director Hill responds asking do we want to replace paragraph A with temporary protection measures for wildlife.

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Alderman Grant asked Alderman Pletl to get directly involved, especially because of her expertise with the turtle nests.

Attorney Edes believes it's a good idea to accommodate that but it can't be open-ended. It needs to be some recognized protocol or a standard for these ramps. He's sure there's a protocol that we follow as long as it's an objective standard that staff can measure by otherwise what constitutes protection.

Mayor McDermon stated that there is a standard process that's in place and ordinances get updated all the time and those modifications are brought back to us. She said it sounds to her like there are two follow-ups. First, we want the Planning Board to take a look at the seashell exemption and the other one would be the sea turtles of wildlife. The Mayor took a moment to reiterate all this discussion and what we're simply asking for is any development that's done on the landward side of the dune, it be at least five feet away from the toe of that dune and that won't be somebody guessing where that toe is because they're going to have to give you a dune survey when they submit their development package. Then pools would follow the same suit so they would still need that same dune survey to be able to do a pool installation. We are also not limiting or disallowing crossovers to be put in that would follow whatever the proper permitting process is for a crossover with CAMA. The Mayor also stated there was some conversation regarding punishments for disturbances on the ocean side on these oceanfront lots. She wants people to realize that Director Hill on a regular basis is looking at the destruction that comes along with building on the interior lots as well. If too many trees have been taken down, if a live oak has been taken down if it's more than four inches wide. Those processes and protocols are all in place today. She explains what we're doing is just a lap trying to protect the dunes in a way and allow enforcement and a fine structure that goes with that. Also allowing people in those cases to buy trees, they'd have to put stuff back and these folks would have to do the same on the ocean side. She clarifies with Director Hill about permits that have already been approved. She would assume we are not going back to them, so it would be new applications when this gets passed. Director Hill responds that's correct, it's a zoning fundamental.

Mr. Burgess Allison of 119 S. Permuda Wynd addressed the Board for a second time: Stating he agrees with Mr. Grant that we need to do something and do something soon. He does not agree that it can't be fixed in a timely basis, a revision a couple of small revisions to this these proposals could be done quickly a new notice and then voted on. He firmly understands about perfect versus good but thinks that the danger is significant. He talks about the language saying no more crossovers and yet we took that part out. Mr. Allison reminds the Board that Mayor McDermon asked for a verbal clarification from Director Hill about crossovers being covered in this other section. However the main sections have that deleted and makes no reference to those exemptions over under the other the first part. Second the language on the dunes and what dunes we're talking about it doesn't match the one section talks about ocean hazard area dunes and the other section has no reference to that at all. It says all dunes so fixing those two things instead of relying on a verbal clarification is something that we can do now. It's something that we can agree that it can

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be fixed quickly in this business of delay, delay, delay, delay. He agrees completely but what  
the danger I think is, is significant.

**Alderman Grant makes a motion to adopt the Planning Board's recommendation to amend specific language in UDO §10.07.02. Alderman Pletl seconds. Motion passes 2-1. With Mayor Pro Tem Benson opposing.**

Follow Ups: Mayor McDermon recommends the seashell language be removed and the sea turtle/wildlife language be included as an exemption to the ordinance. Unanimously all in favor.

A. COASTAL ENGINEER UPDATE

Mr. Fran Way presented a slideshow "North Topsail Beach Coastal Update September 2022" to the Board. He noted these updates:

- Phase 5 Beach Nourishment - ST Wooten hauled one hundred twenty thousand cubic yards over two months. Project will start up again November 16, 2022. One hundred eighty thousand cubic yards remain.
- Hurricane Dorian Phase 1 FEMA Category G fifteen thousand cubic yards near Topsail Reef Villas and forty-five thousand cubic yards permitted. To occur in next environmental window (Nov 16, 2022, to April 1, 2023). Bidding next step.
- New River Inlet Management Master Plan- Work is being done on the Environmental Impact Statement (EIS) plan in coordination with Dial-Cordy and Mickey Sugg with US Army Corps of Engineers (USACE).
- Working with NTB Finance Officer and DEC Associates regarding funding for upcoming FEMA and State funded projects.
- Bidding of 2nd Tranche for Phase 5.
- Sea Oat Planting
- USACE AIWW/Channel Dredging Bidding
- Permitting Coordination (all projects)
- County Beach Access
  - Coordination between DCM, CAMA, Town Staff, County, Wildlife Recourse Commission, and Town Attorney Edes
  - Two thousand, three hundred cubic yards of sand to be placed in November

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- State Grant (Phase 4)

VIII. CONSENT AGENDA

**Mayor Pro Tem Benson made a motion to accept the consent agenda. Alderman Pletl seconded. The motion passed unanimously, 3-0.**

IX. CONTINUING BUSINESS

A. BISAC Update (Mayor Pro Tem Benson)

Mayor Pro Tem Benson reminds everyone of the importance of the modeling work needed to be done for EIS. The Town is going to stay in close contact with the Army Corps lead regulatory person to ensure we get that notice of intent published by November 1<sup>st</sup>.

Mayor Pro Tem Benson encouraged participation of the BISAC committee members to attend meetings of the Topsail Island shoreline protection commission.

He also spoke about the Town's purchase of a water meter that's part of the southeast coastal communities' water level observation system. This educational tool will be installed at the Town Park along with the living shoreline. The committee is currently discussing a process to track observations to predict sound side flooding. The BISAC still has a vacancy and looking for a volunteer living in the phase three area to serve.

X. NEW BUSINESS

A. RESOLUTION NO. 2022-0007 (Town Manager Derian)

Resolution of the Town of North Topsail Beach, North Carolina, Directing the Application to the Local Government Commission for Approval of a Special Obligation Bond, Requesting Local Government Commission Approval of The Town's Special Obligation Bond and certain related matters.

**Mayor Pro Tem Benson made a motion to adopt the resolution. Alderman Pletl seconded the motion. The motion passed unanimously, 3-0.**

B. IFB Phase 5 Truck Haul Project, Tranche Two (Town Manager Derian)

Town Manager Derian introduced Robert Neal from ATM to discuss the recent phase five bid opening.

Mr. Neal reports the Town received 2 bids for the Phase 5 Truck Haul – Tranche 2 project. C.M. Mitchell Construction Company, Inc submitted the low bid at \$8,621,652.64. S.T. Wooten Corporation submitted the other bid at \$11,075,003.00. These bid prices cover the project's base or primary work, which is placement of 290,000 cubic yards along the beachfront of Reach 5.

Additional work items were included as Bid Alternates or Discretionary Items that may be awarded/approved at the sole discretion of the Town.

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The bid alternates allow for an additional placement of 399,000 cubic yards for an additional cost of \$11,878,554.13 as submitted by CM Mitchell.

ATM has reviewed the submitted bids and have found all items to be in order. Therefore, we recommend awarding the Base contract to CM Mitchell for \$8,621,652.64 for placement of 290,000 cubic yards in accordance with the contract documents.

The award is contingent on the LGC approval and permit acquisition in addition to the Town Manager and Town attorney negotiating an appropriate contract with CM Mitchell.

**Motion to accept CMM's bid as the lowest responsive bid for Phase 5 Truck Haul Project, Tranche Two and to award a contract to CMM for this project contingent upon the Town Manager's and the Town Attorney's negotiation of contract terms acceptable to the Town Attorney and further contingent upon LGC approval. Town Clerk polled the Board. The motion passed unanimously, 3-0.**

- C. IFB Phase 5 Truck Haul Project / Phase 4 Alternate / Discretionary Bid Item (Town Manager Derian)

**Alderman Grant made a motion to award a contract subject to the Town Attorney and Town Manager negotiating such terms with the contract being contingent on grant funding and permits. Mayor Pro Tem Benson seconded the motion. The motion passed unanimously, 3-0.**

- D. NCDOT Local Agreement for Debris Removal (Town Manager Derian)  
Town Manager Derian polled the Board back in August to move forward with a local agreement with NCDOT. This local agreement for debris removal would be in place prior to a natural disaster. This would ensure funds would be reimbursed and any initial work could happen without delay.

**Alderman Grant made a motion to ratify the consensus received from the BOA on approving the agreement with NCDOT for debris removal. Mayor Pro Tem Benson seconded the motion. The motion passed unanimously, 3-0.**

- E. Resolution of Appreciation - Mr. Robert Swantek (Mayor McDermon)  
Mayor McDermon presented the Resolution of Appreciation to Mr. Swantek.
- F. Resolution of Appreciation - Mrs. Debra Swantek (Mayor McDermon)  
Mayor McDermon presented the Resolution of Appreciation to Mrs. Debra Swantek (absent), in care of Mr. Swantek.

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G. Signage (Town Manager Derian)

Town Manager Derian has had several discussions and meetings surrounding signs in general which are located throughout the Town, which includes the beach and our parking lots.

Beach access numbers have been assigned to each public beach access address locations. Signage is being installed at these locations to be visible from the beach side if someone is in distress, the signage can be seen from the water side.

The parking committee and I have met with the vendor, and we will be changing the parking lot numbers to match the beach access numbers to eliminate any possible confusion. This change will take effect in December.

H. Board of Alderman Vacancy (Mayor McDermon)

Mayor McDermon informs the public that Alderman Harte has stepped down from the Board. There are now two Board vacancies and currently taking applications. The desire by the Board is to speak with all of the applicants and be able to return next month with recommendations on filling the Board vacancies.

- XI. OPEN FORUM: **Mr. Dean Haldeman from 2294 New River Inlet.** He has lived on the island for many years and would like to express that the quality of life on North Topsail has deteriorated substantially over the last eight or nine years because the City, the community has made commitments and they never fulfill them. They never completed some projects, or some that were completed haven't been maintained. We have a lot of people coming and going but we also have employees who ignore a lot of the posted rules and regulations. One item is the city employees on the four-wheel dune buggy running over the sandbags on a regular basis, which is worse than the fisherman dragging a fishing cart over it. The management of the rules and regulations that you all post and the city has established have been ignored. Listening to your program going forward, you can make all sorts of change but it's just chin music, it serves no purpose. This has been a great place for me and my family over the last 40 years, but the last eight or nine years it's been, I'll say just basic compliance has been ignored. It has made things very difficult.

Mayor McDermon responds with a suggestion to Mr. Haldeman that whenever residents have some concerns about staff or just things not being implemented or rules being ignored that you just, please give her a call and get on her calendar. If we don't know about them, we can't fix them.

XII. ATTORNEY'S REPORT

Town Attorney Edes – Nothing to report.

XIII. MAYOR'S REPORT

Mayor McDermon – Nothing to report.

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XIV. ALDERMAN'S REPORT

Alderman Pletl thanks everyone for attending the Board meeting and would like to thank Alderman Harte, Alderman Swantek and Mrs. Deborah Swantek for their service. She also gives many thanks to a large number of citizens who have applied for the Board, she is grateful there are so many people wanting to serve. She attended the Town staff luncheon and appreciates the first responders as they continue to do an excellent job. She commends Town Manager Derian for doing a phenomenal job preparing for storm events such as the hurricane prep meeting held last month. She notes she is very pleased with the strong ordinance that has been enacted regarding the dunes. She states that the dunes are so critical in so many ways from habitat to the first line of storm protection, so we need to protect them. Sea turtle nesting concluded on August 31<sup>st</sup>, but we still have the hatching season with a little over 30 nests left to hatch. The island has a total of 110 nests of those 73 are located in North Topsail Beach. She gives many thanks to Public Works and the entire Town staff for being so accommodating and helpful. And encourages visitors and residents to turn off oceanfront lights to temporarily sharing their driveway when parking is a challenge for the volunteers.

Mayor Pro Tem Benson reminds everyone that the Topsail Shoreline Protection Commission started a beach clean initiative back in February of this year. The project is slowly gaining momentum and one of the biggest things is plastic, micro plastics, styrofoam containers, and single-use plastics. The next phase of this initiative is the focus committee that will be formed to engage local businesses and commercial interests who are involved in providing services to these restaurants and grocery stores. Mayor Pro Tem Benson also mentioned his attendance at the elected officials luncheon held by Brigadier General Niebel. The General made a public commitment in regard to positive relationships with the County and Municipalities of Onslow County and asked for a report about the current status of the Towns. Mayor Pro Tem Benson spoke up and stressed the issue of the shrimp boat sitting in the inlet and asked about the Marines possibly coming out to demolish the boat.

Alderman Grant thanks everyone for attending the Board meeting and reminds the public of the two open Board vacancies. He attended a few meetings with Onslow County and believes we now have a very good relationship built with the County.

XV. CLOSED SESSION

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 (G.S. 143-381.11(a)(3)).

**Alderman Grant made a motion to go into closed session to Mayor Pro Tem Benson seconded. The motion passed unanimously, 3-0.**

The Board entered closed session at 1:10 p.m.



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**Alderman Pletl made a motion to come out of closed session. Mayor Pro Tem Benson seconded. The motion passed unanimously, 3-0.**

The Board came out of closed session at 1:21 p.m. Mayor McDermon stated that no action was taken during closed session.

XVI. ADJOURNMENT

**Alderman Pletl made a motion to adjourn. Alderman Grant seconded. The motion passed unanimously, 3-0.**

The Board of Aldermen meeting adjourned at 1:22 p.m.

APPROVED

This 5th day of October 2022

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Joann McDermon  
Mayor

CERTIFIED

This 5th day of October 2022

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Melinda Mier  
Town Clerk