



**TOWN OF HOLDEN BEACH  
BOARD OF COMMISSIONERS  
SPECIAL MEETING  
THURSDAY, NOVEMBER 1, 2018 – 10:00 A.M.**

The Board of Commissioners of the Town of Holden Beach, North Carolina met for a Special Meeting on Thursday, November 1, 2018 at 10:00 a.m. in the Town Hall Public Assembly. Present were Mayor J. Alan Holden; Mayor Pro Tem Mike Sullivan; Commissioners Pat Kwiatkowski, Joe Butler, John Fletcher and Peter Freer; Town Manager David W. Hewett; Town Clerk Heather Finnell; and Assistant Town Manager Christy Ferguson.

*Motion by Mayor Pro Tem Sullivan to amend the agenda to allow for public comments before we have a discussion on the topic; second by Commissioner Kwiatkowski. The motion did not pass with a 2 – 3 vote. Mayor Pro Tem Sullivan and Commissioner Kwiatkowski voted for the motion and Commissioners Butler, Fletcher and Freer voted in the negative.*

**DISCUSSION AND POSSIBLE ACTION – AUTHORIZE ATTORNEY CLARK WRIGHT TO DRAFT AND FILE AN AMICUS BRIEF IN THE LITIGATION BETWEEN THE NATIONAL AUDUBON SOCIETY (SOUTHERN ENVIRONMENTAL LAW CENTER) AND UNITED STATES CORPS OF ENGINEERS, COLONEL ROBERT J. CLARK IN HIS OFFICIAL CAPACITY AS DISTRICT COMMANDER OF THE WILMINGTON DISTRICT V. TOWN OF OCEAN ISLE BEACH IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA EASTERN DIVISION CASE NO. 7:17-cv-0612-FL**

*Motion by Commissioner Freer to authorize Attorney Clark Wright to draft and file an Amicus Brief in the litigation between the National Audubon Society (Southern Environmental Law Center) and United States Corps of Engineers, Colonel Robert J. Clark in his official capacity as District Commander of the Wilmington District v. Town of Ocean Isle Beach in the United States District Court for the Eastern District of North Carolina Eastern Division Case No. 7:17-cv-0612-FL.; second by Commissioner Butler.*

Mayor Pro Tem Sullivan asked Commissioner Freer the reasons why he is in favor of this. Commissioner Freer said as the Board knows Attorney Clark Wright has sent two letters to the Board recently. The Board had discussion and possible action at their regular October meeting where he presented potential impacts to Holden Beach's shoreline protection due to this litigation. He also had more detailed guidance in his notes that he will refer to. Commissioner Freer stated that Mr. Wright advised the Town against moving to intervene as a party in the Ocean Isle litigation. He also said in regard to filing a friend of the court or an Amicus Brief he recommended the Board give this serious consideration. He said the filing of an Amicus Brief is a one shot action, it does not obligate the Town to take any further action. It does not make the Town a party to the lawsuit and also does not require the Town to adopt any other positions being argued by the plaintiff, the National Audubon Society or its legal counsel, the Southern Environmental Law Center. Commissioner Freer continued that Mr. Wright advised that the Town has significant, relevant factual legal interests separate and distinct from

those of existing parties to the Ocean Isle litigation. Also, as of now nothing on the record allows the court to be aware of these material circumstantial changes; those being that the Holden Beach current position has changed dramatically from when the Environmental Impact Study (EIS) was created due to the current Board repealing and replacing the ordinance that had directed the Town to go forward and build the terminal groin on the east end of Holden Beach. He said those are significant changes from this Board and from the voters on Holden Beach. Filing an Amicus Brief is the most cost effective, targeted means by which to correct this arguably material deficiency in the Record of Proceedings (ROD) in that case. The desired end result is to advocate for the Corps and the Ocean Isle lawsuit to find that the current ROD made by the Corps, along with the Corps' concurrent issuance of Federal Section 10 and Section 404 permits violate the governing provisions of the Federal Administration Act, such that the federal court should reverse the Corps' ROD permitting decisions and remand the matter back to the agency for further proceedings. Commissioner Freer said that in closing Mr. Wright says that making this consideration would be the simplest, most common sense point. It defies logic to say on the one hand the Town needs the terminal groin to trap sand for the benefit of the property owners located on the up drift side of the structure and justify the project by saying that less dredging of the associated inlet would be needed with less renourishment on the up drift side while at the same time and in the same breath assuring everyone located on the down drift side that all of these fancy surrounding mitigation measures should assure them that there will not be negative impacts for the property owners, including Holden Beach's valuable west end public beaches, property owners and wildlife resources. He continued that as North Carolina SB 151 makes clear this in the end is a grand experiment conducted at the peril of the down drift property owners and resources.

Mayor Pro Tem Sullivan asked what Commissioner Freer's goal is by filing the Amicus Brief. Commissioner Freer responded that the goal is to file the brief so that the Corps redoes the Ocean Isle EIS to have the Town's current position and along with that more robust participation from Holden Beach. Mayor Pro Tem Sullivan said so in a nutshell you want them to pull the permit from Ocean Isle. Commissioner Freer said he doesn't believe the permit has been issued, it is a ROD. Mayor Pro Tem Sullivan said a permit has been issued, they are in litigation. He asked if he wants them to stop the process and start it all over again at Ocean Isle. Commissioner Freer responded that is correct. Mayor Pro Tem Sullivan said he is clearly in opposition with this. Through no fault of our own we are currently in a contentious situation with Oak Island because it is our belief that Oak Island is encroaching on the rights of Holden Beach by taking the material from the latest planned Lockwood Folly Dredging without us having any input into the decision. Mayor Pro Tem Sullivan doesn't think it is beneficial for the Town to also get into a contentious situation with Ocean Isle. We as a community have been told many times that one of the reasons the shore communities are somewhat short changed when it comes to reimbursement of tax dollars and funding is because we are a small community and don't have much weight. We have 650 voters on the island. We should be working to have a consortium where all of the beach communities work together instead of putting our issues into the issues of another island. Mayor Pro Tem Sullivan stated that what Commissioner Freer just read has a lot to do with what we decided to do as a Board. What the Board decided was what they thought was best for Holden Beach. He said they didn't take into consideration the effect it would have on Oak Island or on Ocean Isle. He stated they looked at it and decided for this community building a groin does not make environmental or economic sense. He said if you read Mr. Wright's letter, we now are supposed to take what we believe to be right on this island and extrapolate that to Ocean Isle and tell those commissioners that they are

not right in deciding how to spend their money. Mayor Pro Tem Sullivan makes decisions on what he knows and what he thinks is best for this island. He is assuming they do the same thing for their island.

Mayor Pro Tem Sullivan stated the people who are proponents of this wanted us to stop getting involved and withdraw our application for the terminal groin the moment they were elected to the Board. The reason they gave repeatedly was they wanted to stop paying attorney fees for the groin. He asked why the Board would want to pay attorney fees for Ocean Isle's groin. He said we have a firm that does our analysis of the beach and for the movement of sand. We have consistently argued that we are entitled to the sand on the east end of the beach because the motion of the waves and the water moves the sand from the east to the west. Mayor Pro Tem Sullivan said we just authorized payment at the last meeting to have our engineers scientifically prepare a paper to support that. Now we are arguing that somehow on the west end of the beach there is going to be a total difference in the flow of the water so that the sand will be taken away from our beach or the channel is going to be full. He stated it just doesn't make sense. He said for all of those reasons he is firmly against this. Mayor Pro Tem Sullivan said he is a little confused with Mr. Wright because he is talking about the down drift. He stated the groin will stop the sand from going down, we happen to be up, we are on the other side of it. He asked how the argument about the down drift affects our island. Mayor Pro Tem Sullivan said in the final EIS they have the same protections in that study that Holden Beach had in our application to protect Oak Island. If there are damages we have a recourse to get the damages reimbursed. There will be testing. He thinks that any concern we have as an island is already addressed in the permitting process.

Commissioner Kwiatkowski stated there was no solicitation of Mr. Wright's opinion. She didn't want anyone to think anything abnormal was going on. He generously gave the Town his opinion for the Board to consider. She said the Board had no discussion at the October 23<sup>rd</sup> meeting on the initial recommendation. It was a presentation and at that time there was no commissioner that made a comment. There was no discussion. The commissioners in favor of the action today chose not to speak at the time when the public was present and could have commented. Commissioner Kwiatkowski echoes Mayor Pro Tem Sullivan's comments that the decision on our groin was made for the circumstances on Holden Beach; our understanding of the dynamics on Holden Beach and the fact that we felt and feel we have an adequate methodology that can stabilize our east end that was to the Town economically and environmentally preferable to putting in a groin and the cost of keeping the groin, as well as other nourishment activities. That is not necessarily the same situation that exists for Ocean Isle. She read from Ocean Isle's Final EIS (FEIS), Ocean Isle attempted a supplemental beach fill along the eastern end in conjunction with the 2006/ 2007 pending periodic nourishment operation for the federal project. Since it failed to provide any significant long lasting relief to the erosion threat, the town does not plan to use this approach in the future. Commissioner Kwiatkowski said this seems to be different from our opinion that we know how to stabilize our east end as long as we get our sand every couple of years to renourish the erosion. The Holden Beach Board made a decision for our circumstances. In her opinion that does not mean that the Board is here to advocate one way or another on terminal groin decisions throughout the state. Commissioner Kwiatkowski stated if there are commissioners that feel their understanding makes them an advocate for not allowing terminal groins, she thinks that is perfectly acceptable for those individuals and they as individuals could join different environmental groups or form committees or groups that would then advocate against terminal groins. The Board is here to pass judgement on the Town's circumstances, not Ocean Isle's. The Town did have the capability to comment on the Ocean Isle FEIS and did provide comments that

are reflected in the table. The Ocean Isle ROD and FEIS do address the circumstances expected on the west end of Holden Beach. She does live on the west end so of course she is going to be interested in the accuracy and the thoroughness of the assessment and the information provided on what will be done to monitor and mitigate. That is what this Board should be concerned about, the potential impact on the west end and any other part of the island. The Town made comments and has opinions. She said it would behoove the Board to understand whether our beach engineering expert did agree with the mitigation and the monitoring that was in the ROD for Ocean Isle and to ask Town Manager Hewett about the involvement of the Town in the overall discussions and process of Ocean Isle before deciding there should be some sort of action because we were not adequately represented or we could be harmed. Commissioner Kwiatkowski has reread a great deal of the Ocean Isle document and would request other commissioners do the same. Before there is a decision made, she would also request that we hear from our own Town Attorney. She will be here on Monday for another meeting. She would also like to ask the Town's engineer consultant and Town Manager Hewett for information.

Commissioner Butler said the filing of a brief does not express the Town's concerns pertaining to potential issues with the west end and the shoreline of Holden Beach when Ocean Isle constructs the terminal groin. There are a number of unknowns that really concern him. He thinks he has expressed a number of the concerns pertaining to the inlet regarding the decision the Board made about constructing a terminal groin on the east end of our island. These concerns potentially, without having sufficient data to support it, have an impact to the inlet (Shallotte Inlet, along with the west end shoreline). Commissioner Butler supports the need to express our concerns regarding these issues. We only have until November 20<sup>th</sup> to file a brief. He is looking for and he couldn't find a better assessment and evaluation pertaining to any impact to the west end. Commissioner Butler is in favor of filing the brief.

Commissioner Fletcher has read the Ocean Isle brief. He has no desire to suggest to Ocean Isle that they don't have the right to have a groin, or to anybody else. We decided that we didn't believe that the risk associated with the groin made good sense to the Town, so we withdrew it. The only thing he would like for the court to have is the Town's current views. If they don't have it in front of them, they can't consider it. The ones that went two or three years ago don't apply. This Board changed, they went from supporting the groin to not supporting the groin. Commissioner Fletcher would like them to know that we fear there is a risk to our west end depending on what happens to the inlet. He knows that every time you dredge the inlet there are consequences. You make the inlet one way it damages one side, you make it the other it damages the other. He would like the court to know what our position is now. He said there is no other intent to interfere with the process or suggest that Ocean Isle doesn't have the right to do what it wants to do with the groin. Commissioner Fletcher is in favor of filing a brief that makes our position clear today on our suggestion that there could be risk to the west end that we would like to be considered by the court.

Mayor Pro Tem Sullivan asked if Commissioner Fletcher's intent is to just inform the court or if his intent is to have the permit pulled. Commissioner Fletcher responded that his intent is to make sure the court has the information in front of them because if they don't they can't consider it. Mayor Pro Tem Sullivan asked if it is worth it to just inform the court. An Amicus Brief is a friend, you are for one party and against the other. He asked if it is worth getting into a contest with Ocean Isle if we file a brief just to inform the court of your updated thoughts, but you don't want to stop it. He stated in the future the Town might have a project that either Ocean Isle or Oak Island could say it would affect

them. He said instead of them just letting us do our business like they have in the past we now will need to deal with them in an adversarial position. He doesn't think it is worth it. Mayor Pro Tem Sullivan wants to have protection for the west end; he thinks we have that protection built into it. This exercise doesn't make economic or political sense and he doesn't think the Town should go through with it. Commissioner Kwiatkowski said she appreciates the concern for the west end and asked if Commissioner Fletcher agreed it would be beneficial to talk to the Town's coastal engineer, Fran Way and hear his opinion on how he feels the existing monitoring and mitigation plans that are built into the ROD in his mind do or do not put to rest concerns about the west end. Commissioner Fletcher said he doesn't think he needs that time; he thinks he knows what his position is. Commissioner Freer said he doesn't think Mr. Way is an expert on terminal groins so he doesn't think there is much value to that. He said this is about how the terminal groin would affect the west end and in the EIS it is unknown. Commissioner Kwiatkowski said it is about what is proposed as adequate monitoring and mitigation plans in case the monitoring indicates there is something happening that the modeling is not predicting. She said the question is if Mr. Way is comfortable with that.

Commissioner Butler stated that Mayor Pro Tem Sullivan made a comment that he thinks we have protection. That rings a bell in his ears. He doesn't know that we have protection. There are a number of unknowns. We learned about our own groin and from our own inlet that there are concerns potentially about that. Commissioner Butler would like to make it clear that he is not saying Ocean Isle don't build a groin. His concern purely is with the impact of the groin and the impact on the inlet. Commissioner Freer stated he agrees; this EIS was published in April 2016 before we did a lot of work understanding our terminal groin and the impact it would have and before we directed the Town to stop building our terminal groin. The position of our Town has changed and that affects our position on the west end. Mayor Pro Tem Sullivan said the decision we made was based on economic and environmental impact to this island. With all of study we did, he doesn't believe he read one thing or anyone said it would have a negative impact on Oak Island and that is the reason we are going to withdraw our application. The Board never discussed the negative impact on their town or that it would be detrimental to another island. The change the Board made had nothing to do with the potential damage to the west. He doesn't see a correlation with the Town withdrawing our application and any fear that there is a potential for damage to be up drift of the groin. Commissioner Freer said we never had a ROD and Oak Island was in our EIS. His understanding is there was some discussion between the Town and Oak Island that we addressed. He learned there were numerous flaws in the EIS that are also in the Corps' EIS for Ocean Isle. Commissioner Kwiatkowski asked for specific information on the flaws and how they will impact the decision on how they monitor and mitigate the west end of Holden Beach. Commissioner Freer stated it is an unknown, it is experimental and that is the problem. That is the major flaw in the EIS. There are a lot of unknowns that we should be a part of from a totally different position than what we were previously in before April 2016. Commissioner Freer said we are asking to protect the west end.

Commissioner Kwiatkowski asked Town Manager Hewett the level of involvement the Town had in discussions/ public comments during the Ocean Isle terminal groin process. Commissioner Freer said he was under the direction of a previous ordinance to build a terminal groin on the east end of the Town. Commissioner Kwiatkowski asked if he was implying that Town Manager Hewett wouldn't take care of the west end because he was under the direction to build a groin on the east end. Commissioner Freer replied he was not implying anything. Town Manager Hewett stated he attended all, if not most of the public hearings throughout the development of the EIS. In conjunction with our

consultant engineer he provided input on the mitigation and monitoring requirements. Our specific comments suggested that a technical advisory committee be established with monitoring thresholds. In the end those suggestions to form a technical advisory committee were not included and they just went right to establishing a mitigation strategy that said if there is a mitigation that needs to happen it will happen.

Mayor Holden requested that the Board allow him to comment and passed the gavel to Mayor Pro Tem Sullivan so he could provide his input.

Mayor Holden stated he was in total shock when he saw this special meeting notice. To his knowledge they never had a meeting that the commissioners discussed this possibility. He said as Mayor he has never been in a conversation or communication of any kind with the three movers of this motion concerning this item. He said he was totally in the blind of it. He stated that since this meeting was announced he has had phone calls, people stopping him on the street asking what was going on. He replied he didn't know because nobody told him. This morning, Mayor Pro Tem Sullivan tried to give an opportunity to allow input from the public on this subject and it was denied. Mayor Holden said what he is understanding is the three motion supporters have had no communications as a board with the Town Attorney and with the general public having the opportunity to speak and participate, in fact even denied that opportunity. He asked that the record please show that in the audience this morning we have the mayor of Ocean Isle and staff, representation from NC State University that owns the property on the west end of Holden Beach beyond the developed area, representation from the State of NC Environmental Board, a NC House of Representatives person, a Brunswick County Commissioner, the general public and the press. The only people who had an opportunity to discuss this in his eyes are the three motion supporters and the attorney who presented himself at the last Board meeting, offering his services at a cut rate if we would give him the job to do what you are proposing to do. Mayor Holden has heard in the last five minutes that our staff under contract with the Town to monitor and keep up with our sand on our beach strand is not capable of having an opinion worthy to be considered. On the other hand the attorney who has previously, openly admitted that he does not support terminal groins and who took the job initially saying he would represent the Town in regard to the east end terminal groin for \$10,000 and the Board ended up paying \$49,000, which is five times more than he quoted originally, is. He said the other night that he would give a reduced price for his service. He doesn't want to quote the number, but he thinks it was \$10,000 - \$15,000 so multiply that times five. Mayor Holden said once you file this thing, we are going into our neighbor's business. We already have a battle going with Oak Island. Now we are going to fire a shot over the bow to our neighbors to the west of us. Both have worked with Holden Beach for decades with common goals in conjunction with Brunswick County and the State of North Carolina, who are represented here today. Mayor Holden said we are showing that we are not a team player. We don't even have an official document/ report of any kind he knows of why we should be doing anything to prevent Ocean Isle from having an opportunity to follow through with their program. You are asking them to flush down all the dollars and time they spent. If they don't back away, you are asking the Corps to pull the permit away. He asked what right we have to do that. We don't have anything in his mind that supports any reason, other than an attorney who is wanting a job and we are now recognizing him as an authority on terminal groins because he is the only one that is supporting it. Our own engineer doesn't support it. He asked what we are going to say to the judge on why we are doing this. Mayor Holden stated he is one thousand percent against this for multiple reasons, public relations with our neighbors, lack of evidence supporting our position and he can go on and on. He said this is the biggest mistake in our sand project history.

Mayor Holden said his father was fighting for sand bag groins and got it through the governor of North Carolina as a test project. The first sand bags on the North Carolina coast were on the east end of Holden Beach and blessed by the state. That it is almost fifty years my family has been fighting this thing. He has people coming into this Town Hall, where his father was the first mayor, devoted his whole lifetime, decades and decades and he has people who have come to this Town for one, two, three years and they know everything. He said you can vote me out, because he doesn't want to be part of this embarrassing, insulting situation. He doesn't know how he can go to Raleigh and Washington and beg for money and support and to government meetings and say we need money for sand because we know everything about sand at Holden Beach. He said if you don't believe it, watch the next election. People are not going to stand for this. He asked where the money is coming from. He stated if you pay the attorney \$10,000 - \$15,000, do you think Ocean Isle is going to let hundreds of thousands of dollars wash away without retaliating. He asked where that money would come from and if they know how much it costs to fight somebody with the kind of money that personal individuals that own the east end of Ocean Isle that have unlimited funds have, plus the funds Ocean Isle has. He asked if you have a clue of what you are fighting. Mayor Holden asked how you would go to Ocean Isle and Oak Island and ask for support on any of our projects after you do this. You will get no support for sand projects, highway projects, river projects, grants. Nobody will support the Town. Mayor Holden said he has been doing this all of his life, he knows these people. He knows the Board means well, but they will put a dagger in the heart of Holden Beach with all of our relationships. He said the House of Representatives person is here this morning. He asked if you think the pressure will be on him to continue to not support us after we do what we are talking about doing to our neighbors. He begged for Holden Beach's future, please don't do this. You will not get support for Holden Beach for anything from all of our neighbors. You will not be a team player and you will prove that by doing this. You don't have evidence that says to do it; you haven't allowed the Town's people to have an opportunity to speak; you didn't have the Town Attorney speak; you don't have anyone that supports the motion except the guy who is going to get paid to do it; and you have no money set aside to do this battle with. He said you could move some money around, but that would mean it is coming from somewhere else. He asked if they are going to take it from the sand fund. That is going to make the attorney's money more important than the beach strand. You are going to take the money from the sand and put it in the attorney's pocket.

Todd Roessler, the attorney for Ocean Isle, asked the Board to reconsider taking public comment on this important decision. Commissioner Freer said it is against the Board's rules and we don't have other folks that are here to represent the other side. He said the Southern Environmental Law Center and other folks aren't here. Mr. Roessler asked the Board to delay the decision and hold this at a regular meeting when there is opportunity for the entire public to be heard. Commissioner Freer stated the Board did have a regular meeting on October 23<sup>rd</sup> where the subject was addressed and they had an opportunity to discuss it. Mayor Pro Tem Sullivan and Commissioner Kwiatkowski did not agree with that. Commissioner Kwiatkowski stated they didn't discuss it. Commissioner Freer said there was an opportunity to discuss it. Commissioner Kwiatkowski stated you did not take it; the three that have since raised the issue did not take the opportunity to at least acknowledge this needs further discussion. At that time the Board was at a meeting where the public could have commented. She said that was less than a week ago and the Board doesn't have that much more information in front of them. She said there was a presentation and no discussion. Commissioner Freer said there was an

opportunity. Mayor Pro Tem Sullivan responded you didn't take that opportunity to discuss it. Commissioner Freer said they are taking the discussion and possible action today.

*Motion by Commissioner Fletcher to take a five minute break at 10:46 a.m.; second by Commissioner Kwiatkowski.*

*Mayor Holden announced a five minute break. He reconvened the meeting at 10:52 a.m.*

*Motion by Commissioner Fletcher for the Board to consider waiving the rules of order.*

Mayor Holden said there is a motion on the floor. Commissioner Kwiatkowski asked if in the Rules of Procedure, the Board is allowed if they are unanimous to open discussion to the floor. Town Clerk Finnell said you can do that, it doesn't need to be unanimous, just a majority. Commissioner Fletcher inquired about how to proceed. After discussion, Mayor Holden suggested withdrawing the motion and then they could put it right back on the table.

*Commissioner Freer, with Commissioner Fletcher in agreement, withdrew his motion.*

*Motion by Commissioner Fletcher to approve a waiver of the Rules of Order to allow for public discussion at this meeting; second by Commissioner Kwiatkowski; approved by unanimous vote.*

Marty Cooke thanked the Board for allowing public comment and provided his background. He has been a county commissioner for 10 years and spent most of his life in the county. He said we have had a very good relationship with the different municipalities. We have 19 municipalities. Every independent entity works together as a cohesive group in this county and we have seen that in respect to the storm and how everyone came together. He said there will be a grievance in the short term or the long term where you will need the cooperation and collaboration of other municipalities. He stated if you take this action that has been discussed earlier, you will set back the relationships that have been forged through the years. It will be irreparable. He said although some individuals would be in favor of terminal groins, the initial one was in 1842 by Captain Robert E. Lee and there are two in North Carolina, four in Florida that show no adverse effects. Commissioner Cooke said they spent over 10 years studying it and working on it. He said the fact that Holden Beach doesn't want one is Holden Beach's business. He said as a commissioner, we need to keep throwing money at it; you will come to us and ask for money and we will have to keep doing it. We believe having a terminal groin will reduce that amount of money. He said if you go across the river and start interfering with an action of another municipality it at the very least would be considered none of your business. At the very worst it will be considered reprehensible. He said the Town would be married to that decision regardless if you are in favor of it. Commissioner Cooke said it is really no business of the Town what Ocean Isle does, just like it isn't Ocean Isle's business to tell the Town how to run our sand program. He said Ocean Isle spent a lot of time and money on this. He apologized if he is being blunt; he didn't have a prepared statement. He has a member in his family who passed away and he should be on the way to the funeral, but he is here because of this event. He stated he is here because he represents this Town and this district, as well as this county and he is looking for the better, cohesive and overall comprehensive prospective for this county and for this Town. Commissioner Cooke asked that the Board put this back on for a regular decision on a regular meeting night or stop this whole thing.

Representative Frank Iler thanked the Board for letting him speak and stated he isn't going to debate the value of terminal groins. He said we fought this fight for 20 – 30 years. He said both mayors sitting

here have been active in allowing municipalities to be able to protect their beaches. Representative Iler said terminal groins are an erosion control device that protects the inlet from shoaling. It controls sand erosion, you put sand in it. It's leaky, sand and water can go through it. In most cases it is a pile of rocks. It creates turtle and bird habitats. That has been proven the last couple of years on Bald Head. Representative Iler stated the first terminal groin in North Carolina was in 1842 by Captain Robert E. Lee in Fort Macon. There are a lot of articles on how that performed for over 150 years. He said we passed a law around 2013 to allow four of these. That's been amended to six. He said he asked himself who, what, where, when and why when he heard about this. He said the who in the circumstance is Ocean Isle. Third Street on Ocean Isle is now front row. What is an erosion control device, it protects the inlet and cuts down the dredging cost. He said we have a two to one match now in the dredging fund, but it still costs a lot of money to dredge. He said the where is the east end of Ocean Isle and there is no science that says it will affect the west end of Holden Beach. A phone rang and Mayor Holden asked that everyone turn their phones off. Representative Iler continued that protection is built in just in case. He said the when is when all of the lawsuits are settled. He said there is a two year delay so far. There have been other projects the Southern Environmental Law Center has delayed. He explained that increases the cost for the projects. Representative Iler asked why jump into a lawsuit. He said it might make you feel good. It might make you get an award from the Coastal Federation. It might throw away taxpayers' money. It might isolate Holden Beach from their neighbors. He said he can assure you that the credibility of a town is very important when they go to Raleigh. People in Raleigh read papers too. He said the Town will be isolating Holden Beach to some degree. Representative Iler said the citizens of Holden Beach are the citizens of Brunswick County and of North Carolina and he has an interest in all of the citizens.

Todd Roessler apologized for interrupting the meeting earlier and thanked the Board for the opportunity to speak. He is an attorney representing Ocean Isle and he formerly represented Holden Beach. He is not here today trying to change the Board's opinion on terminal groins. He said he came into this with experience. Prior to law school he went to graduate school in Marine Science. He has a Master's Degree in Coastal Geology, studying sediment transport at inlets. He is on the Coastal Resources Advisory Council. He teaches Ocean and Coastal Law at UNC Law School. Mr. Roessler said terminal groins are one tool a beach could use. They have a bad reputation from prior groins that were constructed years ago. It is different now. The law requires that the terminal groins be backfilled with sand to allow them to bypass sand. He said there have been a lot of comments today about how this groin would potentially impact Holden Beach. That has been studied in the EIS. There is an inlet management plan that requires monitoring and mitigation would be required. He said Holden Beach will be monitored. He stated if there are thresholds that are exceeded, there is no debate on what caused that exceedance, there will be mitigation. That is required. Ocean Isle will pay for that. Sand will be put on Holden Beach, but the EIS shows no impacts. Mr. Roessler said he would like the Board to seriously consider what they are doing today. He said this is a time that communities should be working together, not against each other. The communities in Brunswick County should be working together. The coastal communities along the North Carolina coast should be going to the General Assembly looking for dedicated state beach funds. If we continue disagreements between communities it will be that much harder to get that work done. Mr. Roessler said a perfect example is the Nies vs. Emerald Isle case. Every community along the coast filed an Amicus Brief in that case. He represented every community south of Catawack County, including Holden Beach, in favor of the public's right to use the dry sand beach. If we work together, we can get things done. Mr. Roessler requested that the Board

not file this Amicus Brief, instead let's meet between towns, starting with Holden Beach and Ocean Isle and extending it to the county and all come up with a plan to go to the state and seek a fund for dedicated beach nourishment.

Vicki Myers stated she didn't come with prepared remarks either because she didn't think we were going to have speakers. When she saw this come up she started reading as much as she could find on the subject. She said whether Ocean Isle has a groin or not, she agrees that is their business. She said they need to do their job just as the Board made the decision for Holden Beach. She said they should be able to make their decision as long as it doesn't impact the Town. Mrs. Myers said that is what she worries about. She wants to have in place the same protections for Holden Beach that the Town offered to Oak Island and those are not in there. Mr. Roessler asked what she is seeking. Mrs. Myers said for example we did extensive modeling of the inlet. There was already a technical advisory committee that was going to be formed that is not in Ocean Isle's document. It addressed storm concerns with the wave refracting. She said our annual beach monitoring report prepared by ATM, we can discuss if they are experts or not, talks about historical detrimental effects of the dredging of the Shallotte Inlet on the west end. Mrs. Myers said she knows we are talking about increased dredging so that does concern her. She thinks we should be starting from where we are today, not where we were in 1999, 2000 or 2005. She said what that means is where the line is right now on our west end. That should be the start of the measuring, not this theoretical line that set 300 feet back from structures. She stated that is not fair. A phone rang, Mayor Holden said that is five calls or tones from a phone this meeting.

Dolly Mitchell stated she was appalled over the fact that the public wasn't given the permission to speak initially. That really concerns her. She feels the Town should stay out of Ocean Isle's business. She is speaking as a taxpayer on the island who is an active person who has been here for 40 plus years. She appreciates what Mayor Holden had to say, the history on the island. Mrs. Mitchell said three of you are going to cut your nose off to spite your face and it will harm Holden Beach.

Anne Arnold thanked the Board for the opportunity to speak. She said she has been here for 30 years as a resident and has owned property here since 1969. She has seen the ends of the island come and go. She said she remembers very distinctly when we opened Holden Beach West II; before that there was no land to have a home. It finally started to grow. Recently we had a couple of storms and at the inlet the dunes are gone. She said how are we going to talk about the impact from something they do on Ocean Isle is beyond her because nature has already made a big statement. Ms. Arnold said the Town cannot be involved in our neighbor's business.

Debbie Smith, mayor and resident of Ocean Isle said she has been quite involved in coastal issues in her tenure as mayor and commissioner, she has over 30 years of experience in this. She said she is not an engineer, a scientist or a geologist, but she has observed the way nature reacts to our islands. She said those who have only been here a few years do not understand. Mother Nature can change the total face of our island. Mayor Smith said we as mortals and residents we do what we can to protect our property, our infrastructure, our livelihoods, the beautiful beach we all enjoy. She said she feels it is our job to try and protect that and not be detrimental to our environment. She chose to live here because of the environment; she considers herself an environmentalist. You have to sometimes take a median course. Mayor Smith said coastal communities in North Carolina over the last 20 years have worked hard to form friendships, coalitions and support each other because what Nags Head may

need today, I might need tomorrow. She said that goes the same for Holden Beach, Ocean Isle and Oak Island. She stated we worked hard to support coastal issues that impact our communities. There are organizations that cover each coastal municipality in North Carolina. We have lobbied the state for issues that we need, for funding. We are finally getting some funding for dredging. She said that didn't just happen. It took years of lobbying. If we go up there and they see us fighting amongst each other we will never get anything done. She said she has traveled to Raleigh with Mayor Holden many times to ask for many things. Working together is very important. She said the Town had our coastal specialist look at the EIS, the Town made comments on it and the EIS came back and addressed the concerns. She stated years after the fact a new board comes in and wants to change everything that has ever been done. Mayor Smith said it will be a huge impact to the coastal communities in North Carolina and Holden Beach will be the ones that caused it.

Commissioner Freer stated the Board typically doesn't have public comments at special meetings, very rarely do we. He said we don't like to be surprised with expert guests. He said they would like to hear both sides from expert guests. He stated that is the intent of the rules the Board enacted a couple of years ago. He appreciate the comments. Commissioner Freer said it is our business. He has no problem and doesn't think anyone here has a problem with a terminal groin being built on Ocean Isle, but it is our business how it affects the west end of Holden Beach. His understanding is there is not a citizens' advisory committee like in Oak Island in our EIS. There are some differences and considerations that we don't have in the EIS that were granted to Oak Island in our EIS. Commissioner Freer would be open to understanding how we could work with Ocean Isle to address them.

*Motion by Commissioner Fletcher to decline the opportunity to file an Amicus Brief with the court over the Ocean Isle Beach terminal groin matter; second by Commissioner Kwiatkowski.*

Commissioner Freer asked if there is willingness of Ocean Isle to discuss if we could have a citizens' advisory committee and understand how we could participate in the permitting process and how it affects the west end of Holden Beach. Mayor Holden said we can't go back into the audience without the Board's approval. Commissioner Kwiatkowski said she honestly believes it is a topic the Board should have a discussion on amongst themselves. She doesn't disagree that being able to review again the proposed monitoring and mitigation and perhaps update some of the perimeters, particularly the length of time since thresholds were established and to have a different baseline could be valuable. She thinks that is something the Board could have a meeting about or put into the next meeting as a topic of discussion. Commissioner Freer said he doesn't disagree with that, but there are others besides the monitoring, the citizens' advisory committee and other provisions. Commissioner Kwiatkowski stated she knows the Town Attorney will be here on Monday, it could be practical to have a talk with her to find out the appropriate steps to get the concerns you have expressed on the effects to the west end in front of the appropriate people without litigation. Mayor Pro Tem Sullivan said after all that was discussed today he thinks the majority has come around to see the agenda item is not a good idea. He suggested voting on that and straightening out the other issues that may emanate from it.

*The motion passed by unanimous vote.*

**ADJOURNMENT**

*Motion by Commissioner Kwiatkowski to adjourn at 11:20 a.m.; second by Commissioner Fletcher; approved by unanimous vote.*

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J. Alan Holden, Mayor

ATTEST:

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Heather Finnell, Town Clerk