

The Shoreline

Vol. 10, No. 20

A Shoreline Community, Pine Knoll Shores, N.C.

March 2015

PART OF A SERIES

State of the Beach, Part 3

By John Brodman

Ownership, setback requirements and paying for beach nourishment

This is the third part of the series of articles on the state of our beach. The first part, "State of the Beach 2014," appeared in November 2014 and the second part, "Bogue Banks Master Beach Nourishment Plan," appeared last month.

Who owns the beach? The beach is open to everyone, and even though we refer to it as the Pine Knoll Shores beach, the town does not own the beach in the same way that it owns roads, buildings and other infrastructure. Under NC law, and before we had a publically funded beach nourishment project, an oceanfront owner's property extended all the way to the mean high-tide line, as observed over a period of time. Areas seaward of the mean high-tide line (sometimes called the "wet sand beach," which is that part of the beach that is exposed during low tide) belonged to the state. Nevertheless, even though land areas shoreward of the mean high-tide line (referred to as the "dry sand beach") legally belonged to the private property owner, the NC General Assembly, Attorney General, and the state's courts and departments have long held the position that the public has a customary right of use to the "dry sand" portion of a privately owned beach. This dry sand part of the beach is usually defined as the area between the mean high-tide line and the dune/vegetation line. In North Carolina, and in most other states, the public is legally entitled to use this privately owned dry sand portion of the beach for recreational activities. In addition, since private development on the portion of the beach seaward of the dune/vegetation line has long been strictly limited by the Coastal Area Management Act (CAMA), and by other state and municipal laws and regulations, it is for all intents and purposes widely regarded as a public beach, regardless of legal ownership.

However, under NC law, the oceanfront property owner does not have legal title to the dry sand portion of a beach that has been subjected to a publicly financed beach nourishment project. NC law explicitly states that where land is raised above the mean high-water line, which is what happens in a beach nourishment project, title to the raised land vests in the state. CAMA regulations go even further and require that "the entire restored portion of the beach shall be in permanent public ownership." As a result, since all the beaches on Bogue Banks, including the one in Pine Knoll Shores, have been the beneficiary of several publicly financed beach nourishment projects, most of our dry sand beach areas (seaward of the dune/vegetation line) now belong to the state. While the exact location of the boundary between the state-owned and privately owned portions of the beach varies from

(Continued on page 4)



Aging in Place
Forum

See page 25

Commissioner Brodman Selected by the Governor

By Jean McDanal

The Office of Governor Pat McCrory has announced the appointment of one of our commissioners, John Brodman, to a three-year term on the state's Energy Policy Council. The 13-member council is headed by Lieutenant Governor Dan Forest.

Falling under the Department of Environment and Natural Resources, the purpose of the Energy Policy Council is to advise and make recommendations on domestic energy exploration, development and production to the governor and the General Assembly in order to promote economic growth and jobs. It identifies the state's domestic energy resources to ensure a stable supply while promoting business and industry opportunities. Also taken into account is the preservation and protection of the state's natural resources, cultural heritage and quality of life. More information about the Energy Policy Council is available at portal.ncdenr.org/web/lr/energy-policy-council.


Commissioner Brodman's expertise has followed him from his previous life when he served as the Deputy Assistant Secretary for International Energy Policy, Office of Policy and International Affairs, at the U.S. Department of Energy from 1981 to his retirement in 2006. He is well qualified for this appointment. An economist by training and an expert on US and international energy policy issues, he was responsible for monitoring and analyzing world oil and energy market developments and the political, economic and strategic factors that influence them, and for formulating and implementing energy policy decisions on a broad range of energy, economic, security, environment and trade issues. Prior to joining DOE, Mr. Brodman was a senior economist at the International Energy Agency in Paris and an economist with the Economics Department of the Organization for Economic Cooperation and Development, also in Paris.

Mr. Brodman will continue to perform his duties as a Pine Knoll Shores commissioner while serving on the Energy Policy Council. We congratulate him on this appointment and thank him for his willingness to help our state.



Commissioner John Brodman

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