

**NC Coastal Resources Advisory Council
 Crystal Coast Civic Center
 Morehead City, NC
 January 24-25, 2007
 Meeting Summary**

Attendance

William Morrison	Y	J. Michael Moore	Y
Dara Royal	Y	Elwood Padrick	Y
Frank Alexander	Y	W. Burch Perry	
Deborah Anderson	Y	Spencer Rogers	Y
Eugene Balance		Brandon Shoaf	
Joe Beck	Y	Robert Shupe	Y
Harold Blizzard	Y	Harry Simmons	Y
Randy Cahoon	Y	Lester Simpson	Y
Carlton Davenport	Y	Steve Sizemore	Y
Eddy Davis	Y	Jimmy Spain	Y
Paul Delamar		Paul Spruill	
Webb Fuller	Y	Michael Street	Y
William Gardner, Jr.	Y	Ray Sturza	
Renee Gledhill-Earley	Y	Penny Tysinger	Y
Gary Greene	Y	Beans Weatherly	Y
Judy Hills	Y	David Weaver	Y
Al Hodge	Y	Ginger Webster	Y
Maximilian Merrill	Y	William Wescott	Y
Joe Lassiter	Y	Tracie White	
Travis Marshall (Phil Harris)	Y	Rhett White	Y
Gary Mercer	Y	Don Yousey (David Stanley)	Y
Wayne Mobley	Y		

Council Call to Order

Bill Morrison called the meeting to order with 36 members in attendance. The Council approved the November 2006 minutes without amendment.

Election of Officers

Frank Alexander, on behalf for the nominations committee, nominated Bill Morrison and Dara Royal to serve as CRAC Chair and Vice Chair, respectively, for calendar year 2007. Bill and Dara were elected by unanimous vote.

Status of the CRAC's Priority Recommendations to the CRC

Bill Morrison updated the Council on the status of the seven priority recommendations that they had submitted to the CRC in June 2006.

1. Shellfish closures, stormwater, buffers:
The CRC acted by sending a letter to the Environmental Management Commission supporting their efforts to strengthen their coastal stormwater rules.
2. General permit for local government waterway maintenance:
The CRC acted by directing staff to develop a draft GP. After considerable effort and extensive consultation with other regulatory and commenting agencies, and the Corps of Engineers, Division staff determined that a GP is not a viable option. Instead, the Division will accept local government applications through the express permitting program for expedited review.
3. Improve enforcement of existing regulations:
Through the CRC's involvement with the CHPP, DCM has received funding for four additional compliance and enforcement officers, to be hired by spring 2007.
4. Sandbags:
At the November 2007 CRAC meeting, Chairman Hackney re-emphasized for the CRAC how sandbag heights are measured and what maintenance is allowed. Bob Shupe stated that the CRC needs to adhere to its own regulatory time limits for sandbags on the beach.
5. Community Conservation Assistance Program:
The CRC acted by adopting and distributing a resolution in support of the program.
6. Public Access:
The Division did a special request for funding applications in January 2007, and is in the process of revising its Subchapter 7M policies to encourage more funding applications – particularly from economically distressed communities.
Webb Fuller asked whether there has been any progress with securing accesses associated with NCDOT bridges. Spencer Rogers noted that the Town of Wrightsville Beach had just closed an accessway adjacent to the Blockade Runner Resort. The Town had recently discovered that the land is privately owned and had returned it to the owners. Spencer said that the Town had decided not to pursue a prescriptive easement to keep the accessway open to the public. Harry Simmons made a motion that the CRAC ask the CRC to send a letter to the Town asking them to pursue a prescriptive easement. Courtney Hackney cautioned that the Council was broaching a touchy subject that is likely to keep coming up. Webb Fuller suggested that the CRAC send the letter themselves. Joan Weld indicated her support for that option, and added that there could be a joint letter from both bodies. Webb asked what should be included in the letter, noting that the CRC and CRAC had shied away from making this type of request in the past. Webb added his reservation that the Town had already made their decision, and could the CRC and CRAC provide any new information to justify asking the Town to reconsider. Al Hodge and Harry Simmons said there would be no new information, just the request from the bodies. Spencer recommended that the letter specifically request action on the Town's Public Access #33, and said that the NC Coastal Land Trust has offered to get involved if the property owners voluntarily decide to provide for public access at the site. Bob Shupe said he would not like to be party to an effort to secure an easement against the property owner's wishes. The Council asked staff to draft a letter for Discussion on Thursday.
7. Variance Procedures:
The CRC responded by changing the way in which it considers whether petitioners meet the four variance criteria. The CRC is also in the process of amending its variance rules to make them clearer and more efficient.

Harry Simmons stated he had learned that the federal government recognizes Florida and Georgia's laws regarding the beneficial use of dredged material, and asked why they do not recognize North Carolina's law. Charles Jones responded that the CRC had tried years ago to get the federal government to recognize North Carolina's law, but was unsuccessful. Harry asked if the

CRC would revisit that request and Charles replied that we can do so. Courtney asked Harry to provide documentation of the Florida and Georgia program acceptance to himself and to Charles.

Strategic Habitat Areas

Mike Street presented a summary of the Marine Fisheries Commission's SHA Advisory Commission's work as it had been presented to the MFC. Using the MARXAN model, the committee had developed a system by which the MFC could compare habitat values of different areas in order to select the best areas for SHA designation. The Division of Marine Fisheries plans to present draft rule language to the MFC in February 2007. Courtney Hackney asked whether the MFC would ask the CRC to amend its rules to prohibit development in SHAs. Mike answered that the MFC probably would not ask the CRC to prohibit development, but to provide additional protections, similar to those provided in designated primary nursery areas. Courtney asked if the additional protections might include restrictions on piers, for example. Mike answered that they might, but it may have to be decided on a site-by-site basis. Deborah Anderson asked whether ORWs would automatically become SHAs. Mike responded that ORWs would be a data layer used in combination with other layers to identify the most valuable area, but ORW designation alone is not sufficient to justify SHA designation.

Education & Outreach

Education & Outreach committee members Eddy Davis, Judy Hills and Penny Tysinger presented their ideas for a series of educational seminars on various subjects, to be offered to local governments and other interest groups in conjunction with CRAC meetings. The Council provided the committee with ideas for seminar speakers and content. The Council tasked the committee to organize a stormwater education seminar to be offered at the CRAC's March 2007 meeting in Kill Devil Hills.

Retrofitting for Stormwater Control—a Developer's Perspective

Gary Mercer recognized Whitney Jenkins and Lori Davis with the NC Coastal Reserve Education Program for getting him educated about stormwater management. Gary praised Bill Hunt's work through NC State University in getting stormwater BMPs disseminated. Gary said that Carteret County where he operates is 50 percent water, and much of the high ground is under federal control as national protected or restricted areas. Gary said that the county has a high water table that further limits areas suitable for development. Gary showed slides of areas within the county that he plans to develop using BMPs that he is now familiar with, and slides of retrofitted BMPs that he has installed in one of his existing housing developments. Gary's BMPs included vegetated buffers, infiltration rain gardens, tree plantings, grading, and retention pond maintenance. Gary said that from his perspective stormwater control is a win-win situation—residents have been pleased with the improved esthetics, which translates into higher property values, and they have been relatively inexpensive to install. Gary showed examples of existing developments that would likely have installed better stormwater controls had they been educated beforehand.

Webb Fuller commented that town regulations generally focus on stormwater quantity, whereas state agency regulations generally focus on water quality. Gary said that his main message is that he is fully supportive of the intent behind the state implementing stronger stormwater rules, but that it is wrong to put the entire burden on the development community, and on new development in particular. Al Hodge pointed out the state law allows for stormwater retrofitting controls on existing development only if an acre or more of land is disturbed and the controls are deemed "reasonable." Gary concluded by saying that wildlife is a big part of the water quality problem. Gary would like North Carolina to look at how Virginia and Maryland handle wildlife waste and pursue changes in federal regulations to allow North Carolina to do the same.

Consistency-Equivalent GP for Local Governments

Doug Huggett explained that the authorization the state gives the Corps of Engineers (USACE) for dredging and maintenance is not a permit, but a consistency determination. Non-federal operators would need permits, as consistency determinations would not apply to them and are therefore not transferable. Doug noted that USACE does not always have to adhere strictly to state regulations, but non-federal operators do. Doug explained that attempting to develop a general permit for these activities is effectively trying to force a major permit process into a general permit timeframe, and is not feasible with the required interagency coordination and review. Doug proposed to expand the Department's express permitting program to include maintenance dredging and disposal. Doug cautioned that only the relatively smaller projects would be appropriate for express permitting; larger, more complex projects would be elevated to the major permit process. Doug said that he and Ted Tyndall are committed to remain involved in each decision. The target turnaround time for express permit applications would be 30 days, similar to the typical GP turnaround time.

Webb Fuller asked what might impede local government takeover of a routine project. Doug answered that timing and state regulations could do so. USACE does not have to adhere to the same timing and regulatory requirements (e.g. sediment compatibility) that non-federal operators face. Steve Underwood interjected that the state's sediment criteria are a non-issue because in maintenance dredging the sediment is coming from navigation channels.

Spencer Rogers said that the express permit option sounds like a reasonable compromise, but a 30-day review period seems long. Doug replied that the express permit program has a mandatory 30-day public comment period that DCM cannot violate or circumvent. Doug said that, at least initially, the express permit option will be available only to municipal and state government applicants.

Wrightsville Beach Access #33

Mike Lopazanski distributed a draft of the letter that the Council wanted to send regarding the Town of Wrightsville Beach's Access #33. Harry Simmons noted that all facts in the letter would need to be confirmed before the letter was sent. Dave Weaver said that the proper distribution would be to send the letter to the town and copy the county. The town controls the access, whereas the county simply administers the tax code and has no role in the decision making unless they hold an easement. A motion was made and approved to send the letter, subject to Bill Morrison's satisfaction with the final content (see attachment). Webb Fuller asked whether the Council should, if necessary, ask DCM and the Attorney General's Office to pursue a prescriptive easement in the event the town decides not to do so. The Council decided to table further discussion until receiving a response from the town.

Buffer Vegetation

Jack Spruill of PenderWatch addressed the Council on the subject of buffer vegetation. Jack said that PenderWatch is a small, member-funded organization focused on water quality protection. Jack said that while the county planning board always requires developers to provide a written statement that they will comply with all relevant CAMA regulations, PenderWatch recently learned that CAMA does not provide for the CRC to regulate buffer vegetation. PenderWatch is concerned with the effects of replacing natural buffer vegetation with lawns, such as loss of ecological function, loss of sediment stability, and the use of fertilizers and herbicides. Jack asked for the following action by the CRAC:

1. Ask the CRC to amend its rules to provide reasonable protection for natural vegetation. PenderWatch, and hopefully other organizations, would support the necessary legislative action;
2. Ask DCM to include an educational handout with all approved permits on the value of native vegetation; and
3. Be personal advocates for preserving natural vegetation in the buffer.

Webb Fuller asked whether PenderWatch had approached the county seeking local ordinances to protect natural vegetation. Jack replied that they had, but the county defers to CAMA.

New Business/Old Business

With no further business the Council adjourned.

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