

MINUTES

MEETING: Coastal Resources Commission (CRC)

PLACE: Hilton Hotel
Wilmington, North Carolina

DATE: October 22-23, 2003

PRESENT: CRC Members

Eugene Tomlinson, Chairperson
Courtney Hackney, Vice Chairperson

Bob Barnes	Bill Peele
Renee Cahoon	Melvin Shepard
Bob Emory	Joan Weld
Peggy Griffin	Bob Wilson
Mary Price Harrison	Lee Wynnns
Jerry Old	

Coastal Resources Advisory Council (CRAC) Members

Ginger Webster, Chairperson
Bob Shupe, Vice Chairperson

Frank Alexander	Bill Morrison
Natalie Baggett	Jim Mulligan
Joe Beck	Bill Price
Carlton Davenport	Spencer Rogers
Joe Dooley	Dara Royal
John Doughty	Harry Simmons
Tom Ellis	Lester Simpson
Webb Fuller	Mike Street
Ann Holton	Ray Sturza
Renee Gledhill-Earley	Penny Tysinger
Joe Johnson	Beans Weatherly
Joe Lassiter	

Wednesday, October 22, 2003

Call to Order

Chairperson Tomlinson called the meeting to order at 8:30 a.m. Chairperson Tomlinson asked that the roll be called.

Eugene Tomlinson:	Present
Bob Barnes:	Present
Renee Cahoon:	Present
Bob Emory:	Present
Peggy Griffin:	Present
Courtney Hackney:	Present
Mary Price Harrison:	Present
Doug Langford:	Not present
Jerry Old:	Present
Bill Peele:	Present
Larry Pittman:	Not present
Melvin Shepard:	Present. No conflict.
Joan Weld:	Present
Bob Wilson:	Present. No conflict.
Lee Wynnns:	Present. No conflict.

Chairperson Tomlinson reminded CRC members that Executive Order Number One mandated that CRC members avoid conflict of interest or the appearance of conflict. Chairperson Tomlinson asked if any CRC member would like to declare at this time a conflict or appearance of conflict of interest.

Approval of July 23-24, 2003 and August 1, 2003 Meeting Minutes

Bob Barnes moved that the minutes of the July 23, 2003 meeting be approved and his motion was seconded and unanimously approved (Bob Barnes, Renee Cahoon, Bob Emory, Peggy Griffin, Courtney Hackney, Mary Price Harrison, Jerry Old, Bill Peele, Melvin Shepard, Joan Weld, Bob

Wilson, Lee Wynns).

Bob Barnes moved that the minutes of the August 1, 2003, meeting be approved and his motion was seconded and unanimously approved (Bob Barnes, Renee Cahoon, Bob Emory, Peggy Griffin, Courtney Hackney, Mary Price Harrison, Jerry Old, Bill Peele, Melvin Shepard, Joan Weld, Bob Wilson, Lee Wynns).

Executive Secretary's Report

Donna Moffitt gave the Executive Secretary's Report (SEE ATTACHMENT 1 FOR WRITTEN COPY OF REPORT).

Ms. Moffitt advised that there were several changes to the CRC's agenda. Ms. Moffitt stated that the John Bone and Myra Ladd-Bone variance request would not be heard at this meeting nor would the George Ross variance request be heard today. Ms. Moffitt reported that tomorrow morning a brief report from Spencer Rogers on Hurricane Isabel coastal building damage would be added to the CRC's agenda immediately following the Hurricane Isabel Damage Overview presentation.

Disclosure in Accordance with Executive Order Number One

Mary Price Harrison said she needed to state for the record a potential conflict. She advised that she was on the receiving end of an ex parte contact on the Kilgore et al. variance request but she did not feel it would effect her ability to participate in this variance request.

Resolution

Chairperson Tomlinson said that since becoming chair of the CRC in 1993, he had tried to fulfill the duties of this position in two ways. Chairperson Tomlinson stated that first was as a moderator and to keep the peace and the agenda moving along on time and secondly as an adjudicator during variance and other controversial items. Chairperson Tomlinson said that conditions along the coast now dictated that he become more of pro-active and aggressive leader. Chairperson Tomlinson reported that approximately ten years ago Governor Hunt appointed a Coastal Futures Committee. He said he had served on that committee of which the Honorable Richardson Pryor was chair. Chairperson Tomlinson advised that their mandate had been to determine how effective the Coastal Area Management Act (CAMA) had been. Chairperson Tomlinson reported that the committee held numerous public meetings in the coastal counties and they had received both praise and criticism. He advised this committee had made approximately 230 separate observations and recommendations to some 27 different government agencies and many of these for various reasons had not been acted upon. Chairperson Tomlinson said the very fact that these observations and recommendations went to directly to 27 different agencies indicated that there certainly was too much fragmentation in the various agency programs and as a result the CRC was losing their mandate to protect the natural resources of the coast, resources he reminded which belonged to all of the people of the State of North Carolina. Chairperson Tomlinson quoted Dr. Orin Pilkey, a coastal geologist from Duke University, who said "when man and nature meet in a contest at the coast, man always loses". Chairperson Tomlinson said that during the remainder of his tenure as chair of the CRC he wanted to try in man's favor of winning some of these contests that were inevitably going to return. Chairperson Tomlinson stated that as a first step in what he believed was the right direction he was proposing that the CRC submit a resolution to Governor Easley through Secretary Bill Ross requesting another program review of how the State of North Carolina as a whole was approaching the management of its coastal resources. The Chairperson said this review would provide an excellent opportunity to celebrate the successes, learn from the mistakes, provide a view of more effective approaches to meeting the contest and challenges of the next 30 years. Chairperson Tomlinson stated that such an in-depth review would prove to the citizens of North Carolina that the CRC, Governor Easley and the General Assembly were seriously working together to protect and preserve their coastal resources. Chairperson Tomlinson said a recent article by North Carolina Coastal Federation had given a wake-up call and this should not be looked at as criticism of the CRC or the Division of Coastal Management (DCM) staff but rather as a challenge to do much better in the efforts to accomplish the mandates of North Carolina General Statute (NCGS) 113A realizing that it is cheaper and easier to fix up front than to repair afterward. He stated the CRC and DCM staff could provide the leadership and diverse experience needed to assure that a new regime and a constructive and productive exercise. Chairperson Tomlinson provided copies of a resolution he was proposing to send to Governor Easley through Secretary Ross (SEE ATTACHMENT 2 FOR WRITTEN COPY OF RESOLUTION). He suggested that CRC members take the resolution with them to review and that action on this resolution be taken at the CRC's next meeting. Chairperson Tomlinson said in the interim period he would welcome input from the public or CRAC on ways and means they felt the CRC could do their mandated job better in protecting the coastal resources of the State of North Carolina. Chairperson Tomlinson stated that if a relatively minor storm such as Isabel could reek such widespread damage as occurred something was missing

in the CRC's efforts. Chairperson Tomlinson advised that he was going to suggest that the CRC amend this resolution to request that the General Assembly provide additional funding to provide for the necessary people and funds to carry out the mandate of this resolution.

Variance Requests

Chairperson Tomlinson stated that due to the large number of variance requests scheduled to be heard today, the individual parties in each of the variance requests had been notified that each side would have 15 minutes to present their arguments and he was going to hold everyone very close to the 15 minute time limitation.

Town of Ocean Isle Beach (CRC-VR-01-23)

Dave Heeter advised that he was with the North Carolina Attorney General's (AG's) office and he was here today representing DCM and Elva Jess was present to represent the Town of Ocean Isle Beach. Mr. Heeter stated that the Town was seeking a variance from the CRC's erosion setback requirement as well as a provision in the Town's Land Use Plan (LUP) discouraging hazardous development. He advised that the Town was seeking this variance to replace a section of East First Street that ran along the oceanfront in the Town of Ocean Isle Beach.

Mr. Heeter said approximately a year ago the CRC had made a Final Agency Decision on the Town's appeal of the denial of this permit application. He advised that the CRC had decided that the permit application had been properly denied. Mr. Heeter advised that the parties had agreed that the Findings of Fact in the CRC's Final Decision on that permit appeal could be considered by the CRC today. He said the parties had also agreed to some additional Stipulated Facts for consideration by the CRC today. Mr. Heeter then reviewed the Stipulated Facts contained in Attachment C and staff's response to the variance criteria contained in Attachment D of CRC-VR-01-23 (CRC VR 2001-23).

Elva Jess stated that the petitioner had appeared before the CRC at the beginning of 2003 in order to appeal the decision of the Administrative Law Judge (ALJ) concerning this permit application denial. Ms. Jess advised that the CRC had agreed with the ALJ's decision and the petitioner had then filed a request for Superior Court review. She said two weeks ago they had argued this in Superior Court and the Superior Court had agreed with the CRC. Ms. Jess advised that there were a couple of issues she would except to with regard to what Mr. Heeter had said. Ms. Jess stated that Mr. Heeter had mentioned he was afraid the Town would be sued. She advised that they had, in fact, already been sued a long time ago and they were in the middle of defending a Superior Court suit where it had been alleged that they had converted a front row property by inverse condemnation because the Town was denying access. Ms. Jess said, as a result, it was imperative that the Town pursue its administrative remedies and appeal the decisions that had been made. Ms. Jess said the Town understood what the basic issue was and this basic issue was that the road, when reconstructed, was going to be seaward of the first line of stable vegetation. Ms. Jess said she felt all of the CRC members had committed that to memory. Ms. Jess stated that she would hazard to guess, however, that Highway 12 that everyone was working very hard to rebuild was seaward of the first line of stable vegetation yet nobody seemed to have a dispute as to whether or not that should be reconstructed. Ms. Jess said resources would be going into that and the Town of Ocean Isle Beach was asking to utilize their money so that they could provide property owners who had front row lots with access to their property. Ms. Jess advised that the property owner who had sued the Town was in the middle of a block and was utilizing someone else's lot with their permission. She reported that the property owner did not have a recorded easement and did not have a legal document but merely had permission to do that. Ms. Jess said it was also her understanding that this property owner had sued the State of North Carolina also alleging that the State, by refusing to allow a permit for the Town to rebuild the road, was inversely condemning his lot.

Ms. Jess advised that Mr. Heeter had also indicated that with regard to the reconstruction of the road, the Town was creating a potentially dangerous situation. Ms. Jess stated that the Town was not proposing a roadway that would be concrete or asphalt, but rather were proposing a roadway that would be gravel in nature and was something that could be traversed by a vehicle.

Ms. Jess reviewed the petitioner's response to the four variance criteria contained in Attachment D of CRC-VR-01-23 (CRC VR 2001-23).

Ms. Jess and Mr. Heeter responded to questions from CRC members. **Melvin Shepard moved that the CRC deny this variance request and his motion was seconded and approved by a vote of 10 in favor of the motion (Bob Barnes, Bob Emory, Peggy Griffin, Courtney Hackney, Mary Price Harrison, Jerry Old, Bill Peele, Melvin Shepard, Joan Weld, Lee Wynns) and 2 opposed to the motion (Renee Cahoon, Bob Wilson).**

Kilgore et al. Sand Bag Time Extension - Emerald Isle (CRC-VR-03-12)

Chairperson Tomlinson advised that there was a remote possibility that he had a conflict on this and, therefore, he would abstain from participation in this variance request and would ask Vice Chairperson Hackney to preside over this variance request.

Merrie Jo Alcoke advised that she was representing DCM in this variance request for an extension of time to keep sandbags. Ms. Alcoke said the petitioners in this case were four property owners. She advised that one of the owners, Mr. and Mrs. Almond, were present today. Ms. Alcoke said the petitioners in this case were being represented by Glenn Dunn. Ms. Alcoke said the Town Manager of Emerald Isle, Frank Rush, was also present today and would like to address the CRC.

Ms. Alcoke reiterated that the petitioners were four property owners on the western tip of Emerald Isle and she showed slides of the property in question. Ms. Alcoke reviewed the Stipulated Facts contained in Attachment B and staff's response to the variance criteria contained in Attachment C of CRC-VR-03-12.

Glenn Dunn advised that he was representing the four property owners in this variance petition. Mr. Dunn said he would like to start out by emphasizing and trying to focus on how what the petitioners were asking for fit into the rule in question. Mr. Dunn advised that the petitioners were only asking that the sandbags in front of the houses be allowed to remain for enough time to see if the channel relocation project was going to work. Mr. Dunn said they believed it would reverse the erosion rate. Mr. Dunn said they were asking for 5 years or 2008 which was the same as beach renourishment. Mr. Dunn advised that he felt this was exactly the type of circumstance a variance was meant to address.

Mr. Dunn introduced Frank Rush, Town Manager of Emerald Isle, advising that Mr. Rush was going to provide an overview of the channel relocation project which was felt to be the key to this whole variance request. Mr. Rush said that the Town of Emerald Isle was actively seeking to relocate the channel between Bogue Banks and Bear Island and he explained what would be involved in this project and what the progress was on the project to date. Mr. Rush stated that the Town was very committed to this project. Mr. Rush also advised that the Town supported the petitioners' variance request.

Mr. Dunn reviewed the petitioners' response to the four variance criteria contained in Attachment C of CRC-VR-03-12.

Mary Price Harrison moved that the CRC grant this variance request with two conditions. She said the first condition was that if any sandbags became damaged and displaced on the public beach, the bags would be immediately removed from the public beach. Ms. Harrison stated that the second condition was for a 2-year extension from today with some sort of progress report on the inlet relocation and her motion was seconded. Melvin Shepard stated he would like to make a friendly amendment. Mr. Shepard said he would like for the date for the removal of the sandbags to be the same as for the sandbags for the road and Ms. Harrison accepted this friendly amendment. Bob Emory asked what the date was for removal of the sandbags for the road and Ms. Alcoke advised that date was August 16, 2005. The CRC voted unanimously in favor of the motion to grant this variance with the two conditions (Bob Barnes, Renee Cahoon, Bob Emory, Peggy Griffin, Mary Price Harrison, Jerry Old, Bill Peele, Melvin Shepard, Joan Weld, Bob Wilson, Lee Wynns).

Marsh Harbour, LLC (CRC-VR-03-22)

Merrie Jo Alcoke advised that she was representing DCM in this variance request and Amos Dawson was present to represent Marsh Harbour. Ms. Alcoke advised the petitioners were the owner and management oversight company of a 225-acre tract of land adjacent to Calabash Creek in Calabash, North Carolina, and were seeking a variance from the CRC's "substantial development".

Ms. Alcoke reviewed the Stipulated Facts contained in Attachment B and staff's response to the variance criteria contained in Attachment C of CRC-VR-03-22. Ms. Alcoke advised that staff agreed that the petitioner met the CRC's four CRC variance criteria.

Amos Dawson gave an overview of the proposed project design showing photographs of the area in question. He said, as Ms. Alcoke had explained, if these some of these structures had to moved in order to reapply for a permit which would comply with the CRC's current buffer rules, the project would have to be completely redesigned. Mr. Dawson said that because DCM staff agreed that the petitioner had met all the statutory criteria for granting this variance, he did not plan to address those criteria in any detail unless the CRC had questions. He said he would, however like to point out several significant facts about the proposed development that was currently permitted under CAMA Permit 11-97.

Mr. Dawson said this was a massive project which was very complex and required planning in

both North and South Carolina. Mr. Dawson advised that to date the petitioner had spent approximately \$4.5 million in moving the project to the point that it was at today which had not yet resulted in the construction of any structures on the site that were permitted under the CAMA permit. He advised there was a major modification to the permit issued on July 31, 2000, which basically modified the permit to include the expanded proposed hotel complex. Mr. Dawson said, however, that one of the problems faced in terms of the timing on this was that major modification was issued on July 31st but it expired 5 months later on December 31, 2000, so the petitioner only had five months on the original permit for this development and did not have the two years developers would typically have on the development that was originally permitted. Mr. Dawson advised that the modification significantly changed the scheme of the development and expanded the size of the convention center, the number of condominium and townhouse units and other parts of development. He stated that to the petitioner's knowledge, there was no facility of this size and scope currently existing in the coastal area of North Carolina. Mr. Dawson said the developer would provide North Carolina with a resort hotel and convention center capable of hosting large conferences and conventions that he felt everyone would agree would be a benefit to the State.

Mr. Dawson advised that the petitioner had been frustrated in getting this development moving forward because of four law suites they had against them. Mr. Dawson said he would not go into detail on these but would be happy to answer and questions CRC members had.

Mr. Dawson stated that DCM staff agreed that the time limitations that apply to major permit could not easily be met by a project of this size which must be constructed in phases over time and were dependent on market forces. Mr. Dawson said DCM staff also agreed that the strict application of the CRC's substantial development rules would cause the petitioner unnecessary hardships. Mr. Dawson said the topography of the site made it unique in terms of the difficulty of changing the stormwater, sewer and water system design. Mr. Dawson advised that DCM staff also agreed that the hardships that the petitioner would suffer did not result from actions taken by the petitioner. He said their position was that the petitioner was aware that the 30-foot buffer rule was coming into effect causing them to obtain a major modification of their permit before the effective date of the rule that was July 31, 2000. Mr. Dawson said the CRC's "substantial development" rule, which was the rule the petitioner was seeking a variance from today, did not become more restrictive in its current form until August 1, 2002, and, therefore, DCM staff agreed that the petitioner did not bring about hardship of now having to comply with the current buffer rule because it was reasonable for the petitioner to believe that they would continue to be able to develop under the original permit obtaining renewals as necessary. Mr. Dawson advised that DCM staff also agreed that the variance request by the petitioner would be consistent with the spirit, purpose and intent of the rules, secure public safety and welfare and preserve substantial justice.

Mr. Dawson advised that the only issue on which DCM staff and the petitioner disagreed about the variance request was on the length of the permit extension that the CRC should grant. Mr. Dawson said because of the size and complexity of the project, the petitioner was requesting a 4 year extension of the permit. He said DCM staff supported only a 2-year extension. Mr. Dawson said DCM staff had informed him that a permit renewal issued by the CRC pursuant to this variance would have to be issued effective from December 31, 2002, which was the date the permit expired. Mr. Dawson said if this was accurate, then if the CRC approved the variance and the extension began from December 31, 2002, that with a 2-year extension the petitioner would only have 14 months left on the permit extension which would expire on December 31, 2004. Mr. Dawson explained why for a project of this magnitude 14 months would be an obviously inaccurate period of time.

Mr. Dawson advised that the petitioner had filed an appeal of the denial of the permit request to the Office of Administrative Hearings (OAH) but by agreement with DCM staff they had stayed that appeal. Mr. Dawson reported that the basis of that appeal was that the petitioner had obtained vested rights under North Carolina common law to build this development under the permit that was issued. Mr. Dawson said he thought the fundamental problem here was that the CRC's "substantial development" rule was that it did not rapport with the requirement for getting vested rights under North Carolina case law. Mr. Dawson read a quote from the 1969 Supreme Court decision in the Town of Hillsborough v. Smith. Mr. Dawson said, in summary, the petitioner believed they had a vested right to develop this project under the current permit and would request the CRC to grant a variance for a 4 year extension so they would have a realistic chance of being able to develop this project.

Merrie Jo Alcoke, Jill Hickey and Doug Huggett responded to questions from CRC members.

Bob Emory moved that this variance request be granted for 4 years and his motion was seconded. Mr. Emory explained why he had made this motion. Mary Price Harrison stated she would like to propose a possible friendly amendment to Mr. Emory's motion. Ms. Harrison said her amendment concerned the petitioner trying to adhere to the CRC's buffer rules to the maximum extent feasible. Ms. Harrison stated that there might need to be some clarification on how the walkways would be constructed. Mr. Dawson responded that the petitioner would certainly be

willing to make an effort to comply by raising and slating the walkways where possible but since he was not an engineer he could not say exactly which ones those would be.

Melvin Shepard stated he would not support this. He said massive of this impervious surface was going to have one great effect on the nearby waters. Mr. Shepard advised that he could not predict what was going to happen to these SA waters but he thought it was pretty clear to everyone what had happened in the past. He said that in looking at the drawings it was very clear that the structures near the water were so numerous that stormwater runoff plans were not going to handle all of it. **Mr. Shepard said he would like to amend the motion to say that the CRC approves this variance request with the stipulation that the project adhere to the CRC's 30-foot buffer rule and his amended motion was seconded.** CRC members discussed Mr. Shepard's motion.

Chairperson Tomlinson stated this project was going to have a major impact on Brunswick County and since he had been a resident of Brunswick County for a long time he was biased regarding this project so he was going to pass the gavel to Vice Chairperson Hackney. Chairperson Tomlinson said he did not think it would be fair for him to continue especially if it came to a tie vote since he was already biased.

After additional discussion, **CRC members voted against Mr. Shepard's motion to grant the variance with the stipulation that the project adhere to the CRC's 30-foot buffer rule by a vote of 4 in favor of the motion (Renee Cahoon, Mary Price Harrison, Bill Peele, Melvin Shepard) and 7 opposed to the motion (Bob Barnes, Peggy Griffin, Jerry Old, Joan Weld, Bob Wilson, Lee Wynns).**

After additional discussion, **Mary Price Harrison clarified that her friendly amendment to Mr. Emory's original motion regarding walkways intruding into the buffer would be that walkways that intruded into the buffer shall be pervious. Mr. Emory agreed to the friendly amendments offered by Ms. Harrison and the CRC voted in favor of the original amended motion by a vote of 9 in favor of the motion (Bob Barnes, Renee Cahoon, Bob Emory, Peggy Griffin, Jerry Old, Bill Peele, Joan Weld, Bob Wilson, Lee Wynns) and 2 opposed to the motion (Mary Price Harrison, Melvin Shepard).**

Coastal Communities, Inc. (CRC-VR-03-24)

Dave Heeter advised that Coastal Communities had been issued a Major Modification to CAMA Major Development/Dredge and Fill Permit No. 5-01 to allow Coastal Communities to undertake various improvements in the Seascape at Holden Plantation development off the Atlantic Intracoastal Waterway (AIWW) in Brunswick County. He said Condition #4 limited the length of certain piers to one-fourth the width of the adjacent waterbody. Mr. Heeter advised that Coastal Communities was requesting a variance to allow 4 individual piers to extend beyond one-fourth the width of the waterbody. Mr. Heeter advise that Ken Kirkman was present representing the petitioner. Mr. Heeter reported that DCM staff supported this variance request.

Mr. Heeter reviewed the Stipulated Facts contained in Attachment B and staff's response to the variance criteria contained in Attachment C of CRC-VR-03-24 (CRC VR 2003-24).

Ken Kirkman advised he was present today representing the petitioner. Mr. Kirkman said he felt Mr. Heeter was very articulate and he supported everything he had said. Mr. Kirkman said he thought the Stipulated Facts and the conclusions drawn from those by both the petitioner and DCM staff were fairly clear. Mr. Kirkman stated he did want to expand on the substantial justice and fairness argument by simply iterating that these piers were part of an already approved master plan by the CRC. Mr. Kirkman advised that at the time the marina itself was permitted the petitioner gave up his rights to construct a substantial number of individual piers along the lots as part of the trade off of getting the marina permitted. Mr. Kirkman said there were a very limited number of piers that were authorized in that marina negotiation and permitting process. Mr. Kirkman said he thought it was contemplated by DCM staff and by the petitioner that those piers that were in fact preserved would be utilizable. Mr. Kirkman reported that when the citing of those began, certain of them were utilizable without needing a variance but due to conditions in this particular location they could not reach any water in compliance with the rule. Mr. Kirkman said granting this variance would simply allow the piers to line up the piers where most of the piers on adjoining properties had been historically. Mr. Kirkman said granting the variance would not impact navigable waters and should have no substantial impact on any resource or any other environmentally sensitive area. He stated it would allow these lots to have riparian access and substantial value. Mr. Kirkman reiterated that granting this variance was consistent with the whole permitting process that had been ongoing for several years. Mr. Kirkman asked the CRC to grant this variance. Mr. Kirkman responded to questions from CRC members.

Melvin Shepard said in the Stipulated Facts, he thought there were some serious errors. He said he thought there were serious errors in what the CRC was looking at and what they had

been presented with. He stated that Stipulated Fact #22 reads:

The primary adverse impact from the four proposed pier extensions will be coverage of approximately 750 square feet of non-navigable waters.

Mr. Shepard asked if these mud flats were never under water. Mr. Kirkman responded that he was sure that at some time and some point there was water on them but he was not sure if there was sufficient depth. Mr. Kirkman advised that the word "navigable" here when he and Mr. Heeter had worked through the facts was not probably intended in the legal sense but in the practical sense that there simply was at no time tide feasible for having a boat go back and forth along there. Mr. Shepard said the practicality was not what the CRC was dealing with. He said the CRC was dealing with Stipulated Facts and that was not a fact. Mr. Shepard advised that the State of North Carolina recognized that as navigable waters. Mr. Shepard said the statement had also been made that the piers would not be a hazard to navigation but that was not true. Mr. Shepard said any pier presented somewhat of a hazard to navigation. Jill Hickey advised that if there was something incorrect in the Stipulated Facts, then the parties could agree to revise the Stipulated Fact to make it correct. Ms. Hickey asked the parties if they would be agreeable to revising Stipulated Fact #22. Mr. Kirkman responded that he would be comfortable with revising this Fact. Mr. Heeter said that what he felt the parties had been trying to say was that as a practical matter these waters were unnavigable except probably for a very high tide. The parties along with the CRC agreed to revise Stipulated Fact #22 to read:

The primary adverse impact from the four proposed pier extensions will be coverage of approximately 750 square feet of waters, varying from mud flat to very shallow public trust waters.

Bob Emory moved that the CRC grant this variance request subject to the change to Stipulated Fact #22 and his motion was seconded. The vote on this motion resulted in a tie with 6 members of the CRC voting in favor of the motion (Bob Barnes, Renee Cahoon, Bob Emory, Peggy Griffin, Jerry Old, Lee Wynns) and 6 opposed to the motion (Courtney Hackney, Mary Price Harrison, Bill Peele, Melvin Shepard, Joan Weld, Bob Wilson). Chairperson Tomlinson voted in favor of the motion to break the tie.

Village of Bald Head Island (CRC-VR-03-25)

Merrie Jo Alcoke advised that the Village of Bald Head Island (BHI) was seeking to expand the height and width of sandbags that were already installed on South Beach along the island. Ms. Alcoke said that the petitioner was being represented today by their attorney, George House. Ms. Alcoke said Town Manager Becky King was also present along with their engineering consultant, Eric Olsen.

Ms. Alcoke reviewed the Stipulated Facts contained in Attachment B of CRC-VR-03-25 and showed slides of the current sandbag structure. Ms. Alcoke said, after careful consideration, DCM staff agreed with the petitioner on each of the variance criteria and she reviewed staff's response to the variance criteria contained in Attachment C of CRC-VR-03-25.

George House advised that he was counsel for the petitioner. Mr. House gave a brief overview, as it relates to BHI, of the U. S. Army Corps of Engineers Wilmington Harbor Deepening Project and the impacts that had resulted to the BHI shoreline at South Beach as a direct result of this project. Mr. House said that due to the accelerated erosion at South Beach from the recent deepening and widening of the adjacent federal shipping channel, a component of the COE Wilmington Harbor Deepening Project, the petitioner was requesting that the CRC grant a variance to allow the petitioner to increase the size of existing sandbags at this location. Mr. House and Mr. Olsen responded to questions from CRC members.

Jerry Old moved that the CRC grant this variance request and his motion was seconded. Joan Weld advised that she needed to recuse herself from voting on this variance request. The CRC voted unanimously in favor of Mr. Old's motion to grant this variance request (Bob Barnes, Renee Cahoon, Bob Emory, Peggy Griffin, Courtney Hackney, Mary Price Harrison, Jerry Old, Bill Peele, Larry Pittman, Melvin Shepard, Bob Wilson, Lee Wynns).

Public Input and Comments

Chairperson Tomlinson advised that nobody had signed up to address the CRC and asked if there was anyone present who would like to do so. Nobody asked to speak to the CRC.

Contested Cases

Richard Pacula (CRC-CC-03-03)

Dave Heeter advised that Richard Pacula was appealing a \$1,000.00 civil penalty. Mr. Heeter

stated that this penalty was assessed against him for undertaking major development without a permit under CAMA.

Mr. Heeter said Mr. Pacula owned a piece of property off of Highway 133 at the Oak Island Bridge on the shoreline of the AIWW in Brunswick County. Mr. Heeter said CRC members should have a photograph in their materials showing the area. Mr. Heeter advised that Mr. Pacula cleared and graded the site and some of that work was undertaken within the Estuarine Shoreline Area of Environmental Concern (AEC). Mr. Heeter said a pile of charred debris was pushed up within the 30 foot shoreline buffer and some of the charred timber and debris was transported by ties into the nearby coastal wetlands AEC.

Mr. Heeter said that the clearing and grading of the site, as an adjunct to construction, and alteration of the shoreline was development under CAMA. Mr. Heeter advised this was major development requiring a CAMA permit as well as permits from other agencies. Mr. Heeter reiterated that this work occurred in the Estuarine Shoreline AEC and also in the 30-foot buffer that ran along the shoreline. Mr. Heeter said that after the violation was discovered, Bob Stroud, District Manager of the DCM Wilmington District Office, sent Mr. Pacula a proposed \$500.00 penalty advising him that he had the opportunity to voluntarily pay the \$500.00 proposed penalty to end the matter or he could wait until a penalty was formally assessed and then he could appeal the formal assessment. Mr. Heeter advised that Mr. Pacula appealed the proposed assessment to the Office of Administrative Hearings (OAAH) and, unfortunately, the Administrative Law Judge (ALJ) did not understand what was going on and did not understand that this was not an appealable penalty. Mr. Heeter said at that point he had advised DCM Director Donna Moffitt to go ahead and formally assess a penalty since there was going to be a hearing anyway. Mr. Heeter advised that Ms. Moffitt had done that and in the process of reviewing the matter, she decided that the \$500.00 penalty that Mr. Stroud had proposed was incorrect. He said Ms. Moffitt had determined that the penalty should be \$1,000.00 under the CRC's rules because Janet Russell had sent Mr. Pacula a letter saying basically that he needed to stop work until he obtained the proper CAMA permit and after Mr. Pacula had received that letter he went ahead and graded the site and did the work mentioned earlier. Mr. Heeter reviewed the CRC's rules that were relevant to the \$1,000.00 assessment.

Mr. Heeter advised that Mr. Pacula had also appealed the second penalty and this was the one that was before the CRC today. Mr. Heeter said, after a hearing, the ALJ had agreed that Mr. Pacula had undertaken major development without a CAMA permit but he recommended that the penalty be reduced to \$500.00 because he did not think that Ms. Russell's letter was clear enough to explain the need for a permit and also because he felt Mr. Pacula had acted in good faith. Mr. Heeter said DCM staff felt the sole issue before the CRC today was really what the appropriate amount of the penalty should be. Mr. Heeter said DCM staff felt that the CRC had the authority to reduce the penalty amount to \$500.00 if they felt that was fair under the circumstances.

Mr. Heeter said the other thing he would call the CRC's attention to was that there were a number of erroneous Findings of Fact and Conclusions of Law in the ALJ's decision. Mr. Heeter said the CRC needed to straighten those erroneous Findings and Conclusions out in case this went on to Superior Court. Mr. Heeter referred the CRC to the Respondent's Exceptions to Recommended Decision that CRC members had received a copy of and he briefly reviewed these with the CRC.

Richard Pacula said he was 69 years old and had a Bachelor of Science in Physics, had a Master of Science from Purdue University in Engineering. He said he had served in the U. S. Army in the Korean War and had worked at AT&T in Manhattan managing over 1,000 people, worked at Bell Labs in an engineering effort, retired early, went into the building business and had built some houses and small subdivisions in Winston-Salem but, unfortunately, had never gotten down to the coast. Mr. Pacula said, however, the property in question today he had owned for over 25 years. Mr. Pacula advised that in 1977 he purchased the property and attempted to open a marina and various other associated facilities. Mr. Pacula said in 1979 he was in the middle of a smuggling with his family and his wife would not go near that place anymore so he shut the idea down. Mr. Pacula advised that every summer when he went to his beach house he would visit the property and consider building on the property. Mr. Pacula advised that in February of 1999 he decided the area was "hot" and he would go down there and look for his third career and try do something with this property. Mr. Pacula said the main thing he wanted to do was to build a house for himself and his wife that would be a third residence and a final home. Mr. Pacula stated it was beautiful at the west end and he was a tree lover and an environmental steward and would not get involved in anything unless either he was ignorant or was led down an unfortunate path called entrapment.

Mr. Pacula said he wanted the CRC to see if they could really believe what he had experienced could happen to a person that dealt in the arena the CRC dealt in. Mr. Pacula advised he had listened all morning and found that what the CRC dealt with was very powerful, complex stuff and he was proud of the way the CRC's system worked but when it got down to the very basics it did not work and he would show the CRC why. Mr. Pacula said he was going to overextend his 15

minutes but he did not care because he was lucky. Chairperson Tomlinson advised Mr. Pacula that there was a 15-minute rule and if he overextended the CRC might have to move on to something else. Mr. Pacula responded that he believed it and Mr. Heeter had told him just 5 minutes ago that it was going to be 20 minutes but that was OK because that's the way this system works.

Mr. Pacula said in order fully understand his plight, you must understand this contested case having a two-prong appearance. He stated that first after much effort a building permit was granted to repair a small 25 by 40 foot building on the property. Mr. Pacula advised that in the 1970s it had been a restaurant and boat provision type place and then it sat there for a long time and he decided he wanted to run a restaurant there and bring some traffic down there so that he could relieve the vandalism, the shooting and everything else that went on there. Mr. Pacula said his wife would not live at the back of the property with all that was happening and he needed to attract some traffic so he decided to open a restaurant, clean it up, make it beautiful which would bring some traffic. Mr. Pacula advised that this was his intent. Mr. Pacula then reviewed what had occurred when he began trying to do something with his property.

Mr. Pacula said that he was pleading for understanding and compassion and he cited three areas for consideration he felt should be factored into the CRC's final decision.

Melvin Shepard asked for clarification on the what the proper numbers should for the Conclusions of Law contained in Respondent's Exceptions to Recommended Decision and Ms. Hickey and Mr. Heeter clarified what these numbers should be. Mr. Shepard then asked if one motion could incorporate all of the Exceptions to the ALJ's Recommended Decision requested by Mr. Heeter and Ms. Hickey advised that one motion could include all of the Exceptions.

Melvin Shepard moved that the CRC support the \$1,000.00 assessment and that the CRC make the changes as recommended by the Respondent to number 36 on page 4, number 43 on page 5, number 44 on page 6, number 11 on page 6, number 12 on page 7, number 13 on page 8, number 14 on page 9 and the 14 on page 10 needs to become 15 and his motion was seconded. Mary Price Harrison referred the CRC to page 8 of the ALJ's Recommended Decision where there was a Conclusion of Law 15 and asked if the CRC should keep that and Ms. Hickey replied she felt the CRC should keep it. Ms. Harrison said that Conclusion of Law would then become 16 and this should also be a part of the motion. The CRC voted unanimously in favor of Mr. Shepard's motion (Bob Barnes, Renee Cahoon, Bob Emory, Peggy Griffin, Courtney Hackney, Mary Price Harrison, Jerry Old, Bill Peele, Melvin Shepard, Joan Weld, Bob Wilson, Lee Wynns).

Forest Sound Homeowners Association (CRC-CC-03-04)

Merrie Jo Alcoke said she felt it would be appropriate for the petitioner to go first and Susan McDaniel was present to represent the petitioner.

Ms. McDaniel advised that she was before the CRC today on behalf of the petitioner, Forest Sound Homeowners Association. She stated that the Association's president, Jim Hynes, was also present today. Ms. McDaniel stated that the ALJ in this case had made a Recommended Decision to uphold DCM's denial of a CAMA permit to repair an existing permitted causeway that provides the only means of access to about 88 private residential lots in this subdivision in Pender County. Ms. McDaniel said the causeway was unsafe and rapidly deteriorating. Ms. McDaniel stated that the petitioner contends that the decision of the ALJ was clearly contrary to the preponderance of the admissible evidence in the record and the CRC should not adopt that decision. Ms. McDaniel said they had filed extensive Exceptions to the Recommended Decision and in each instance they had cited reference to the record for support of their position. She advised they had also submitted a proposed Final Decision for consideration by the CRC.

Ms. McDaniel said the witnesses who had testified at this contested case hearing were well qualified witnesses and she reviewed the qualifications of these witnesses. Ms. McDaniel advised that the petitioner's evidence was presented by Jim Hynes, President of Forest Sound Homeowners Association, and she reviewed Mr. Hynes qualifications. Ms. McDaniel said in addition to Mr. Hynes Neal Andrews testified on behalf of the petitioner and she reviewed his qualifications. Ms. McDaniel stated she felt it was important to note that the credibility of the petitioner's witnesses was not challenged and was uncontroverted as far as she could tell. Ms. McDaniel stated that DCM's own witness from the Department of Transportation (DOT) gave additional credence to Mr. Hynes' and Mr. Andrews' testimony concerning their engineering concerns about the impracticality or infeasibility of the alternate design for the repair of this project that the respondent proposed.

Ms. McDaniel said the respondent denied the CAMA application for three stated reasons and she reviewed these. Ms. McDaniel then reviewed pertinent evidence from the record and the petitioner's exceptions to the ALJ's Recommended Findings and Decision. Ms. McDaniel stated that the petitioner was not challenging the regulations promulgated by the CRC or DCM's

authority to administer CAMA but were simply saying that the ALJ's Recommended Findings and Decision were contrary to the preponderance of evidence in the record. She said DCM permitted the causeway on a private road in a coastal wetland back in 1980 and it could not now take an inconsistent position that the causeway was an unacceptable land use within the coastal wetlands. Ms. McDaniel said the uncontradicted evidence was that this was an unsafe and deteriorating causeway that was the only means of access for about 88 residential lots. Ms. McDaniel said the uncontradicted evidence was that the respondent did not consider whether the public benefits outweigh the adverse impact because the respondent had already decided that it was an improper use in a coastal wetland even though it had been permitted some years before.

Ms. McDaniel said the evidence was uncontradicted that the wetlands restoration program had agreed to accept a \$30,000 payment for the wetlands impact associated with the project if the other permits could be obtained and the CRC's rules did allow for mitigation of coastal wetland impacts for projects that meet those criteria. Ms. McDaniel stated that most importantly the petitioner's evidence was uncontradicted that there was no practical alternative that would accomplish the project's purposes with less adverse impact on coastal wetlands.

Ms. McDaniel said that based upon the propondence of the evidence in the record, the petitioner respectfully requests that the CRC adopt as its Final Decision the proposed Final Decision tendered by the petitioner.

Merrie Jo Alcoke advised that she was before the CRC to argue in support of the ALJ's decision in this case. Ms. Alcoke said this case was about options and was also about minimizing impacts to coastal wetlands. Ms. Alcoke stated that the petitioner had options and had not minimized impacts to coastal wetlands. Ms. Alcoke said that DCM had correctly denied this permit and would encourage the CRC to uphold the ALJ's decision affirming DCM's denial. Ms. Alcoke advised that the petitioners' had a very sympathetic case here. She said they had inherited a road that needed rehabilitation and DCM would like to help them find a way to do this other than the permit application submitted to let them rehabilitate this road.

Ms. Alcoke said in 2000 the North Carolina General Assembly amended the Administrative Procedures Act (APA) to give more deference to ALJs. She advised that sometimes this worked in DCM's favor and sometimes it did not. Ms. Alcoke said in this case the ALJ's decision found in favor of DCM and under the General Statutes that had been in effect since that time, the CRC must adopt the ALJ's decision, including the conclusions, unless the CRC could demonstrate the decision was clearly contrary to the propondence of the admissable evidence in the record. Ms. Alcoke said she would submit to the CRC that was a very high standard for overturning the ALJ and one that was specifically adopted through revision to the General Statute in the year 2000. Ms. Alcoke said the petitioner's exceptions to the Recommended Decision that had been filed today mirror the proposed decision that the petitioner's set forth for the ALJ and which the ALJ chose not to adopt. Ms. Alcoke advised that for the CRC to adopt these exceptions would be essentially to substitute the CRC's judgment for that of the ALJ.

Ms. Alcoke advised that DCM had correctly determined that this improvement of the road did not constitute repair as that word was used in CAMA. Ms. Alcoke said what the petitioner's proposed involved 4,000 square feet of coastal wetland fill which was not repair nor was it replacement but was new development. Ms. Alcoke said the issue before the CRC was whether DCM had correctly denied this permit application and she reviewed why DCM had correctly denied this permit application. Ms. Alcoke said coastal wetlands were one of North Carolina's most important environmental resources and DCM was mandated and required to see that the impact in those resources were minimized and in this case the CRC should uphold the permit denial and the ALJ's decision.

Ms. McDaniel clarified that at the end of the hearing in this case she had submitted to the ALJ a recommended decision but that was not the document submitted to the CRC in their packet.

After a lengthy discussion and questions from CRC members regarding this contested case, **Melvin Shepard moved that the CRC uphold the Findings and Recommended Decision of the ALJ and his motion was seconded and unanimously approved (Bob Barnes, Renee Cahoon, Bob Emory, Peggy Griffin, Courtney hackney, Mary Price Harrison, Jerry Old, Bill Peele, Melvin Shepard, Joan Weld, Bob Wilson, Lee Wynns).**

Friday, October 23, 2003

Presentations

Hurricane Isabel Damage Overview

Charles Jones, Ted Tyndall, Terry Moore and Ted Sampson presented an overview of damage in the various DCM regions from Hurricane Isabel and then Mr. Jones reviewed some of the issues the CRC could potentially have facing them as a result of this hurricane in the future. Spencer

Rogers presented an overview of Hurricane Isabel coastal building damage. No action was required by the CRC on this information presentation.

Coastal Habitat Protection Plan - Water Column Habitat

Steve Underwood reviewed the Water Column Habitat element of the Coastal Habitat Protection Plan. No action was required by the CRC on this information presentation.

DENR CHPP Outreach Plan Update/Summary of Current Effort

Steve Underwood presented an update on the DENR CHPP outreach efforts. No action was required by the CRC on this information presentation.

CRAC and Committee Reports

CRAC Report

Ginger Webster presented the report from the CRAC. (SEE ATTACHMENT 3 FOR WRITTEN COPY OF MEETING MINUTES). No action was required by the CRC on this information report.

Report from P&SI Committee

Peggy Griffin presented the report from the P&SI Committee. (SEE ATTACHMENT 4 FOR WRITTEN COPY OF MEETING MINUTES). The following items required action by the CRC.

Brunswick County 1997 Land Use Plan Amendment (P&SI-03-5)

Ms. Griffin advised that the P&SI Committee had voted to recommend the CRC certify the amendment to policy 8.5.1C of the Brunswick County 1997 Land Use Plan. **Ms. Griffin moved that the CRC certify this amendment and her motion was seconded and unanimously approved (Bob Barnes, Renee Cahoon, Bob Emory, Peggy Griffin, Courtney Hackney, Jerry Old, Bill Peele, Melvin Shepard, Joan Weld, Bob Wilson).**

Report on Changes to CRC Schedule/Agenda (P&SI-03-07)

Ms. Griffin reported that the P&SI Committee had voted to support the recommendations presented by the meeting schedule subcommittee. She advised the subcommittee had recommended holding five meetings per year with four of those meetings being two and one-half days (three in coastal areas and one in Raleigh) with the CRAC meeting for one-half day before the CRC meeting and the fifth meeting being a one day meeting in Raleigh for hearing of variances/contested cases and strategizing on coastal issues. Ms. Griffin said the subcommittee further recommended that this schedule should be in effect for two years beginning after the January CRC meeting. **Ms. Griffin moved that the CRC adopt this meeting schedule and her motion was seconded.**

CRC members discussed at length this proposed meeting schedule. After this discussion, **Courtney Hackney moved that the CRC go back to their old format of the first day hearing information items followed by committee meetings in the afternoon with the hearing of the variances and contested cases the next day. He further moved that the CRC hold five meetings per year and his motion was seconded.** Ginger Webster asked for clarification of this motion. She asked if this meant that the CRAC would hold their meeting on the day before the full CRC met and Dr. Hackney responded that the CRC and CRAC would go back to the old format where the CRAC came in the day before.

Donna Moffitt said there had also been some discussion about going back to the Thursday/Friday format. Dr. Hackney said his initial thought was to keep Wednesday/Thursday but if the CRC wanted to change to Thursday/Friday he would agree to that. Bob Barnes asked if Dr. Hackney's motion would also include that DCM staff could decide where the meetings were held and Dr. Hackney responded that it would be where it was most convenient.

Dr. Hackney reiterated that his motion was to hold five CRC meetings per year going back to the old meeting format and for the CRAC to come in the day before the CRC meeting and that the meetings would be held on Wednesday and Thursday. Dr. Hackney's motion was unanimously approved (Bob Barnes, Renee Cahoon, Bob Emory, Peggy Griffin, Courtney Hackney, Mary Price Hrrison, Jerry Old, Bill Peele, Melvin Shepard, Joan Weld, Bob Wilson).

Regional Sediment Management for Morehead City Harbor and Abroad (P&SI-03-07)

Ms. Griffin advised that Buck Fugate, Mayor of Indian Beach and Carteret County Beach Commission Chairman had provided a presentation of sand deprivation along the shorelines of Bogue Banks associated with the Morehead City Harbor Navigation project and the P&SI Committee had held a lengthy discussion of this presentation and felt strongly that this was a very important issue that needed further attention and that this presentation should be provided on

Thursday to the full CRC. Ms. Griffin reported that the P&SI Committee further voted to recommend that DCM staff draft a resolution for the CRC's consideration based on the committee's discussion of this agenda item.

Buck Fugate gave his presentation on this agenda item to the full CRC.

Peggy Griffin reiterated that the P&SI Committee had passed a motion to recommend that DCM staff draft a resolution for the CRC's consideration based on the committee's discussion at yesterday's meeting. (SEE ATTACHMENT 4 FOR WRITTEN COPY OF DRAFT RESOLUTION). Ms. Griffin read the proposed draft resolution to the CRC pointing out that a few changes had been made to the written copy of the resolution CRC members had been provided this morning (Note: Changes are inserted in hard writing in Attachment 4). **Renee Cahoon moved that the CRC approve this resolution, with the revisions read by Ms. Griffin, and her motion was seconded.**

CRC members discussed this proposed resolution with several members expressing concern with the current wording of the proposed resolution. CRC members felt that, while it would be appropriate and timely to adopt a resolution supporting replacing dredged material from inlet construction and maintenance on North Carolina's beaches, a simplified version of this resolution would be more appropriate. Ms. Cahoon advised that she would be agreeable to the adoption of a simplified version of the resolution.

Courtney Hackney moved that the CRC adopt a resolution requesting that the federal government, through its agencies such as the U.S. Army COE, follow North Carolina's regulations both in statute and the CRC regulations and not remove beach quality sand from North Carolina's beaches and channels and move that sand offshore. Dr. Hackney said the CRC's rules state that beach quality sand must be placed either on the beach or in the litoral zone and the resolution would request that the federal government follow state guidelines. Dr. Hackney's motion was seconded and unanimously approved (Bob Barnes, Renee Cahoon, Bob Emory, Peggy Griffin, Courtney Hackney, Mary Price Harrison, Jerry Old, Bill Peele, Melvin Shepard, Joan Weld, Bob Wilson).

Bob Wilson said he would recommend that the P&SI Committee keep this issue alive since it was an important issue and more complicated than what had been discussed at this meeting.

Ms. Cahoon said she would support hiring a coastal engineer for the State.

Peggy Griffin requested that the P&SI Committee have something on their agenda at the next meeting that would continue this discussion.

Report from I&S Committee

Bob Emory presented the report from the I&S Committee. (SEE ATTACHMENT 5 FOR WRITTEN COPY OF REPORT). The following items required action by the full CRC.

Proposed Correction to Accessory Uses Rule (I&S-03-09)

Mr. Emory advised that the I&S Committee had voted to approve the changes as proposed to the Accessory Uses Rule and send the changes to the full CRC. **Mr. Emory moved that the CRC approve the action taken by the I&S Committee and his motion was seconded and unanimously approved (Bob Barnes, Renee Cahoon, Bob Emory, Peggy Griffin, Courtney Hackney, Mary Price Harrison, Jerry Old, Bill Peele, Melvin Shepard, Joan Weld, Bob Wilson).**

Action Items

Resolution of the North Carolina Coastal Resources Commission Requesting an Evaluation of the State of North Carolina's Approaches to Managing Coastal Resources

Chairperson Tomlinson said he was proposing that the resolution he passed out yesterday and revised this morning (SEE ATTACHMENT 6 FOR WRITTEN COPY OF REVISED RESOLUTION) be held over for action at the January meeting.

Beach Renourishment Symposium

Bob Emory said beach renourishment seemed to be an item getting a lot of attention and he knew there were a number of groups studying it and considering action and he thought it would be helpful for the CRC to prepare itself for any regulatory action the CRC may have to take in the future and become more knowledgeable on the topic. **Mr. Emory said he would request that Chairperson Tomlinson and Ms. Moffitt appoint a planning committee for a beach renourishment symposium to be held sometime in the first half of 2004 to bring together the science, the politics, the history and the prospects for beach renourishment in North Carolina. Mr. Emory advised that he would not expect any particular action to come from that symposium but that it would be a place for an opportunity for all those interests to be heard and it would be an**

opportunity for the CRC to become more knowledgeable on the topic. Mr. Emory said he was offering this as a motion and his motion was seconded and unanimously approved (Bob Barnes, Renee Cahoon, Bob Emory, Peggy Griffin, Courtney Hackney, Mary Price Harrison, Jerry Old, Bill Peele, Melvin Shepard, Joan Weld, Bob Wilson).

Harry Simmons advised that for those who wanted more information about the beach restoration issue, the North Carolina Shore and Beach Preservation Association would be holding its annual conference November 13th-14th at Carolina Beach. Mr. Simmons said this would be nothing but a day and a half of nothing but information about beach nourishment.

Other Items

Joan Weld said it would be helpful to her and possibly to others new to the CRC to have at the next meeting an overview of the Science Advisory Panel's charge, responsibilities and the composition of the panel.

Mary Price Harrison said as a member of the Coastal Federation she would like to apologize to the Science Panel for recent comments made by the Coastal Federation about the Science Panel. She said she thought the Science Panel worked hard and she wanted to thank them for their hard work.

Donna Moffitt asked CRC members if they would like to switch the location of their 2004 October and January meetings to hold the January meeting in a southern coastal location and the October meeting in a northern coastal location and CRC members responded this would be fine.

Mary Price Harrison asked that the I&S Committee again look at the swimming pool rule.

With no further business, the CRC adjourned at 12:40 p.m.

Respectfully submitted,

Donna D. Moffitt, Executive Secretary

Mary Beth Brown, Recording Secretary

MINUTES APPROVED BY
CRC 01/29/04 _____