

**NC COASTAL RESOURCES COMMISSION (CRC)
MARCH 23-24, 2006
RAMADA INN
KILL DEVIL HILLS, NC**

Present CRC Members

Courtney Hackney, Chairman
Doug Langford, Vice Chair
Renee Cahoon
Bob Emory
Jim Leutze
Chuck Bisette
Joseph Gore

Jerry Old
Bill Peele
Melvin Shepard
Joan Weld
Bob Wilson
Lee Wynns

Present Coastal Resources Advisory Council Members (CRAC)

Al Hodge
Spencer Rogers
Renee Gledhill-Earley
William Wescott
Dara Royal
Deborah Anderson
David Stanley (Don Yousey)
Wayne Mobley
Joseph Beck
Charles Halsall (Lee Padrick)
Harold Blizzard
Mike Street
Joe Lassiter
Robert Shupe
Carlton Davenport
Travis Marshall
Dave Weaver

Bill Morrison
Penny Tysinger
Travis Marshall
Gary Greene
Stephen Sizemore
Traci White
Harry Simmons
Frank Alexander
J. Michael Moore
Judy Hills
Beans Weatherly
Rhett White
Bill Gardner
Burch Perry
Webb Fuller
Eddy Davis
Ginger Webster

Present Attorney General's Office Members

Jill Hickey
Meredith Jo Alcoke
Christine Goebel

CALL TO ORDER/ROLL CALL

Chairman Hackney called the meeting to order and reminded Commissioners the need to state any conflicts.

Stephanie Bodine called the roll. Charles Elam and Larry Pittman were absent.

MINUTES

A motion was made by Jim Leutze to adopt the January 26-27, 2006 minutes as written. The motion passed unanimously (Cahoon, Emory, Leutze, Bissette, Gore, Langford, Old, Peele, Shepard, Weld, Wilson, Wynns)

EXECUTIVE SECRETARY'S REPORT

Charles Jones gave a brief update on the following:

Mr. Jones thanked Bob Oakes, Commissioner for the Town of Nags Head and President of Village Realty, for donating the use of his "beach bus" for the CRAC field trip on Wednesday March 22, 2006 and also thanked Dare County and the County's municipalities for the outstanding reception for the CRC, CRAC and DCM Staff.

312 Reviews

NOAA conducted its periodic review of the North Carolina Coastal Management Program during the week of Feb. 6. A team of three federal reviewers from NOAA and one reviewer from the State of Texas spent the week traveling the North Carolina coast from Wilmington to the Outer Banks.

The reviewers conducted three public meetings – in Wilmington, Beaufort and Manteo – and met with stakeholders, state and federal partners, and Division of Coastal Management staff to gain input on management and operation of the program.

At the end of the week, the team provided informal feedback on how the program is being managed. We should receive a formal report from NOAA in the next few months.

Public Meetings

There will be two public meetings to discuss regulations for managing coastal marinas in N.C. The meetings will be held March 28 at 7 p.m. in the New Hanover County Cooperative Extension Auditorium in Wilmington, and March 29 at 7 p.m. at the DENR Regional Office in Washington. The study, funded by the NC Coastal Non-point Source Program, is being facilitated by NC Sea Grant.

The meetings will be for public input on issues related to multi-slip docking facilities. This is the result of a recent two-year study to examine North Carolina's regulations for the management of coastal marinas. The initial focus of the study was modified and broadened to examine multi-slip docking facilities. The study's Advisory Committee felt that these types of facilities are having significant water quality, coastal habitat and public trust impacts to state waters in that they are not required to meet the same standards as marinas, which are regulated to a much higher degree. In an effort to develop a report and recommendations, the Advisory Committee is seeking public input on the issues related to these types of docking facilities.

Results of the study will be presented to the I&S Committee in June.

Public Access Grants

In 2005, DCM enhanced public access to public beaches and coastal waters through \$1.4 million in grants for 21 projects in 15 local communities. The grants help pay for a variety of projects to improve access to coastal beaches and waters, including walkways, dune crossovers, restrooms, parking areas and piers. We have recently gone through another round of reviews for this year's grants, and have asked local governments for final applications. The total amount available for grants is \$3.2-3.4 million.

Public Comments Needed – CELCP

DCM is seeking public comments on the North Carolina Coastal and Estuarine Land Conservation Program (CELCP) draft plan. The plan is available on DCM's web site and copies are included in your meeting packets. CELCP was established by Congress "for the purpose of protecting important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural or recreational state to other uses."

The plan identifies areas in which the State will focus its conservation efforts. Focus areas were selected in collaboration with several state and federal agencies, land trusts, and environmental organizations. Through the Program, DCM has already applied for federal grants to help acquire three parcels of land, one each in Gates, Tyrrell, and Pender Counties. If our application is successful, the state could be awarded up to \$8.4 million in FY 2007, which would be used to purchase the lands for permanent conservation. Subject to Congressional appropriations, grant funds will be available on annual basis.

Clean Marina project

In an effort to reduce marine debris in coastal waters, DCM is partnering with NC Big Sweep to install monofilament recycling containers at marinas as part of the Division Clean Marina program. In addition to providing marinas with a customized recycling bin for fishermen to dispose of their used fishing line, marinas are also provided postage paid mailing tubes to send the used line to Berkely's PureFishing division for recycling. To date, 20 marinas are participating and we hope to have 50 enrolled in the program by June.

Census Bureau

Last week the US Census Bureau released new 2005 population estimates for US counties. Four CAMA counties are in the top 15 fastest-growing counties in North Carolina, based on percent change from 2000 to 2005:

- | | |
|-----------------------------|-------------------------|
| 1. Union (31.6%) | 10. Iredell (14.9%) |
| 2. Camden (30.2%) | 11. Cabarrus (14.6%) |
| 3. Currituck (27.1%) | 12. Mecklenburg (14.5%) |
| 4. Hoke (21.9%) | 13. Harnett (13.9%) |
| 5. Brunswick (21.9%) | 14. Lee (13.2%) |
| 6. Johnston (20.1%) | 15. Dare (13.1%) |
| 7. Wake (19.3%) | |
| 8. Chatham (17.6%) | |
| 9. Franklin (15.2%) | |

Encore for Oysters

The N.C. Coastal Federation will hold regional oyster forums on Saturday, March 25, as part of their Encore for Oysters program. The forums will be held from 10 a.m. to 3 p.m. at the NC Aquarium at Fort Fisher in Kure Beach, the Duke University Marine Lab in Beaufort, and the NC Aquarium on Roanoke Island.

Joint Ocean Commission Report gives U.S. Ocean Policy Reform a D+

The Joint Ocean Commission Initiative's Feb. 6 U.S. Ocean Policy Report Card gave the nation a D+ on ocean policy reform, based on actions taken since two reports on oceans management were issued in the last two years.

A White House report aimed at guiding federal ocean policy and funding priorities is supposed to be finished by the end of this year. The report -- the U.S. Ocean Research Priorities Plan and Implementation Strategy -- is being prepared by the National Science and Technology Council's Joint Subcommittee on Ocean Science and Technology. It will focus on two areas: how ocean policy will affect other government initiatives to protect the environment, public safety and national security; and its implications for society at large.

Conference

Mr. Jones recognized Dr. Leutze for bringing together a conference on ecosystem based approaches to management in the southeast region. The conference, held in March, addressed marine science issues related to the Southeast Shelf Regional Ecosystem. The goals of the conference included identifying key technical issues and regional priorities, defining the geographic scope and scale of these priority issues, and examining ecological and socio-economic indicators to assist with ecosystem-based management.

Staff news

DCM has had several staff departures over the past few weeks:

Mark Hardeman and Bill Arrington, field representatives in the Morehead City Office, have left DCM for positions in the private sector.

Jaye Poole, DCM's budget officer, has left for a new job in DENR's budget office.

John Vine Hodge, Planner in the Raleigh Office, has left DCM for another planning position.

Doug Coker, education coordinator for the NC NERR, has left DCM to join a family business.

In happier news, Rich Weaver, Morehead City Office, and his wife Lexia, welcomed their new son, Aiden Thomas on March 6.

VARIANCE REQUESTS

King – Nags Head (CRC-VR-05-06)

Merrie Jo Alcoke reviewed the Stipulated Facts on Attachment B of CRC-VR-05-06 stating that the Petitioner proposes to construct a single-family residence on each of two lots he intends to create by subdividing an existing lot. Each lot would measure at least 20,000 sq. ft. in size. Ms. Alcoke stated that the entire lot is located within the Small Surface Water Supply Watershed AEC because of its proximity to the fresh pond

between Kill Devil Hills and Nags Head on Bodine Island. She also stated that the Fresh Pond is designated a Small Surface Water Supply Watershed and is used as a source of potable water supply for the Dare County Regional Water System. Ms. Alcoke stated the Petitioner's lot is located within 1200 feet of the Fresh Pond AEC. She stated that the current zoning regulations would allow this property to be subdivided because each lot would have a minimum area of at least 20,000 sq. ft. but the use standards for the Fresh Pond AEC limit septic tank systems to one single septic tank system serving a single-family residence not to exceed four bedrooms or its equivalent volume of sewage on a lot or tract of land not less than 40,000 sq. ft. Petitioner received approval from Dare County Health Department to install a conventional septic system on the existing lot and if Petitioner receives a variance from the Commission he intends to install a secondary treatment system on the two lots. The Health Department indicated that approval for two systems on two lots is likely. Petitioner, therefore seeks a variance from 15 NCAC 7H .0405(c)1(C).

Ms. Alcoke stated that strict application of the standards for Small Surface Water Supply Watershed to the Petitioner's project would not cause unnecessary hardship as the Petitioner has the ability to construct a single family residence on the existing lot. While subdividing the lot would obviously enhance the value, the Petitioner has not shown that the inability to install a septic system on each of the two lots creates an unnecessary hardship. Ms. Alcoke stated that the alleged hardship does not result from conditions peculiar to the property instead by Petitioner's plans to subdivide the lot so that it no longer meets the applicable standards for this AEC. She stated that the hardships result from Petitioner's actions in that the existing lot is buildable for a four-bedroom single-family residence, and that is not limited by the applicable rules. It is the Petitioner's desire to subdivide the lot into two smaller lots that has contributed to the hardship. Ms. Alcoke stated that the variance request would not be consistent with the spirit, purpose and intent of the rules. The CRC determined that 40,000 sq. ft is the minimum lot size necessary to provide adequate protection to this public drinking water resource. She stated that the Petitioner has not shown any data to support the contention that the two systems would reduce potential contamination of the public water supply. Ms. Alcoke stated that the variance would not secure public safety and welfare because the project would not provide the same protection of the local water supply as a proposed use that is allowed by the rules. She stated that the variance would not preserve substantial justice because Petitioner has not demonstrated an unnecessary hardship for which fairness and justice require some relief.

William Fenner, Jr., P.E., handed out an engineering report examining the differences between a single residential dwelling with a conventional wastewater treatment system and two residential dwellings with advanced secondary treatment systems. He stated that the report focused on the resulting contaminate loading placed on the nitrification drainfield from both types of systems. Mr. Fenner stated that the two homes with secondary treatment have less impact than one home with only primary treatment.

After hearing the engineering report Bob Wilson asked the Petitioner to address the following issues:

1). In writing that system is approved by the state and the Health Department; 2) Who performs inspection, the criteria for the inspection, frequency of inspections, what triggers maintenance, if maintenance is required what ensures the maintenance is in fact done, what happens if required maintenance is not performed; 3) How many systems have been installed in Dare County, in NC, and in the 20 CAMA counties; 4) Effect rainwater will have on the system given the doubling of the flow of water from what was originally contemplated under the CRC rules; 5) How many systems, if any, are located within a public drinking watershed.

To give time for the Petitioner to research and answer the above issues, Jim Leutze made a motion, seconded by Bob Wilson to postpone the variance request until the June CRC meeting. The variance request was postponed with a vote of 8 in favor (Emory, Leutze, Bissette, Gore, Langford, Peele, Shepard, Wilson) and 4 opposed (Cahoon, Old, Weld, Wynns).

Jane Edwards – Carteret County (CRC-VR-06-01)

Ms. Alcoke reviewed the Stipulated Facts on Attachment B of CRC-VR-06-01 stating that the Petitioner has a 10-foot wide easement across an adjacent riparian owner's property and wishes to construct a pier from that easement. She stated the Petitioner cannot meet the 15-foot setback required from the adjacent property owner's areas of riparian access, and those owners have declined to waive the setback. Ms. Alcoke stated that the two property owners adjacent to the Petitioner's easement each have piers. Of the two piers, one measures approximately 50 feet long and approximately 219 feet from proposed location of Petitioner's pier, and one measures approximately 100 feet long and approximately 84 feet from the proposed location of Petitioner's pier. In addition, Ms. Alcoke stated that one of the adjacent property owners has constructed a bulkhead that partially impeded Petitioner's easement, thereby affecting Petitioner's ability to construct a boat ramp. Ms. Alcoke stated the proposed pier would be 4 feet wide by 40 feet long, with an 8 foot by 8 foot T-head at the end. Petitioner seeks a variance from 15A NCAC 7H .1205(o), which states that piers, docks and boat houses shall not interfere with the access to any riparian property, and shall have a minimum setback of 15 feet between any part of the pier and the adjacent property lines extended into the water at the points that they intersect the shoreline.

Ms. Alcoke stated that strict application of the rules, standards, or orders do not cause the Petitioner a hardship. She stated Petitioner is not a riparian property owner and although the granted easement to her states it was for the purpose of constructing a pier or boat ramp, the right to construct is still subject to the permitting requirements of CAMA. Ms. Alcoke stated the riparian setbacks were in place when Petitioner purchased the property. She stated Petitioner still has reasonable access to the water commensurate with Petitioner's rights as an easement holder. Ms. Alcoke stated that the hardships do not result from conditions peculiar to the property. She stated that most easements provide some sort of access or right to ingress or egress, and it is quite common for an easement to be configured as a narrow strip of land such as the one in this case. Ms. Alcoke stated that any alleged hardship results from the fact that Petitioner is not a riparian property owner, and 10-foot wide easement is simply insufficient to allow for the required setbacks. This is not a condition peculiar to the property itself. Ms. Alcoke stated that the hardships do not in fact result from the Petitioner's actions. She stated the Petitioner has designed a pier structure that is only 40 feet in length with minimal platform at the end. Ms. Alcoke stated that the CRC's riparian setback rules are to protect the navigation for both the general public and the adjacent riparian property owners. The Petitioner's proposed pier would be substantially shorter than the neighboring piers and would be located along and undeveloped shoreline, with the closet pier 80 feet away. Ms. Alcoke stipulated that the proposed pier would not interfere with navigation, yet the riparian setback rules are also intended to balance riparian rights with the usurpation of public trust resources. She stated if the variance were granted it would be contrary to this additional purpose of the riparian setback rules because of the additional impact. Ms. Alcoke noted that both riparian owners in this case declined to waive their setback. She stated that staff does not believe that on the whole, the variance would be consistent with the spirit, purpose and intent of the rules, secure public safety and welfare and preserve substantial justice.

Jerry Old made a motion, seconded by Renee Cahoon to grant the variance on the condition that the T-head size be reduced to 40 square feet in order to be consistent with the general permit for docks and pier and the other conditions of 15A NCAC 7H .1205. The variance was granted with a vote of 9 in favor (Cahoon, Leutze, Gore, Langford, Old, Peele, Weld, Wilson, Wynns) and 3 opposed (Emory, Bissette, Shepard).

Town of Ocean Isle Beach – Brunswick (CRC-VR-06-02 et al)

Ms. Goebel reviewed the Stipulated Facts on Attachment B of CRC-V-06-02 et al, stating that the Petitioner, Town of Ocean Isle Beach, has applied for a variance to increase the height of the existing sandbag structure currently protecting their threatened right-of-ways. Ms. Goebel stated that the Town is also acting as agent for eleven other Petitioners in the same area who own threatened homes, which are protected by portions of the

same sandbag structure. Ms. Goebel reminded the CRC that at the January 2005 CRC meeting they granted the Town a variance to place sandbags to protect the Columbia Street Right-of-way, and at the same meeting they denied a variance to Virginia Williamson to use sandbags to protect five vacant lots in the area near Columbia Street. Ms. Goebel stated that currently there is a line of sandbags approximately 1500 linear feet long. These bags are providing temporary erosion control protection for homes and active street right-of-ways. Ms. Goebel stated that the Town is requesting the height increase for sandbags at this location up to 10' in height. She stated the Town's request is silent as to a width increase, however in staff's experience with sandbag structures at Figure Eight Island and Bald Head Island, a 10' height requires a base width of about 40 feet.

Ms. Goebel stated that staff agrees that strict application of the rules, standards or orders, regarding the size of the sandbags cause the Town unnecessary hardship. She stated that although the 6' by 20' sandbag dimensions are generally appropriate for their intended purpose of temporary protection of structures, at this location the sandbags have not prevented waves from overtopping the bags and eroding the area behind the bags on certain occasions. Ms. Goebel noted that many homeowners adjacent to inlets along the NC coast share this hardship. Ms. Goebel stated that the hardships do not result from conditions, which are peculiar to the property. She stated that inlets are notoriously volatile and known to regularly move causing both increases and decreases in erosion. Ms. Goebel stated the CRC rules acknowledge these characteristics. She stated that the movement of the channel and the resulting erosion nor the beach reestablishing itself on one side after such a shift is peculiar to the property. Ms. Goebel stated that staff agrees that the hardships of erosion do not result from actions taken by the Town. However, she stated the primary purpose of temporary erosion control devices are to allow time for homeowners to relocate their structures before destroyed, or to protect them for a short period of time until the effects of the short-term erosion event can be reversed. Ms. Goebel stated that Town's sandbags are effective to allow time to move the structures, but staff knows of no plans to do so. Ms. Goebel stated that allowing the Town to enlarge their sandbag structures is not consistent with the spirit, purpose and intent of the rules or standards. She stated that the variance would not only secure public safety and welfare, but also possibly improve it. Because of the erosion there is only a limited beach available and enlarged sandbag structures would likely prevent the Town's structures from being compromised further. Ms. Goebel stated the variance would not preserve substantial justice because it would be unfair to the numerous similarly situated property owners along the coast to allow the Town to have sandbags that greatly exceed the size allowed by the rules when the Town has not shown that the hardships are unique to the property.

Melvin Shepard made a motion seconded by ????? to deny the variance. The variance request was denied by a vote of 7 in favor (Leutze, Gore, Langford, Shepard, Weld, Wilson, Wynns) and 5 opposed (Cahoon, Emory, Bissette, Old, Peele)

Vernon Snyder (CRC-VR-06-03)

The applicant withdrew this Variance.

CONTESTED CASE

B.E.A.T v. DENR, Gore, and Tidal Ventures, LLC 05 EHR 0834

MOTION FOR NEW TRIAL

The Petitioner has filed a Renewal of Motion for a new trial, before the CRC, in light of newly discovered evidence. This Motion was considered prior to the CRC's consideration of the contested case proceedings.

The original motion was filed February 13, 2006 with OAH. The motion was made in the alternative; either for the ALJ to grant a new hearing on the new allegations or in the alternative for the CRC to remand the matter to

the ALJ for a hearing on the new allegation. On February 28, 2006 the ALJ filed a Letter Responding the Petitioner's Motion for a New Trial stating that she no longer had jurisdiction of this case.

Ms. Goebel stated that the Respondent objects to this Motion for several reasons. She stated that the APA does not specifically grant the CRC authority to order a new trial and therefore lacks jurisdiction. Ms. Goebel stated that the Petitioner asserts that new flood maps had been developed by FEMA and the new maps should be used to determine the applicable jurisdiction of DCM staff over the High Hazard Flood AEC. However, Ms. Goebel stated that the new maps have not been finalized by FEMA nor has the Town of Sunset Beach adopted them. Ms. Goebel stated that ordering a new trial would be in conflict with the rules of the CRC. She stated that the rules require DCM staff to issue permits in accordance with that standards in effect at the time of the permit decision. On the date of permit issuance, DCM determined their permit decision based on FEMA maps in effect on that date. Ms. Goebel stated that for the above reasons the CRC should deny the Petitioner's Motion for a New Trial.

Renee Cahoon made a motion, seconded by Doug Langford to deny the Petitioner's Motion for a New Trial. The motion passed with a unanimous vote. (Cahoon, Emory, Leutze, Bisette, Gore, Langford, Old, Peele, Weld, Wilson, Wynns) (Shepard recused himself from this vote)

PUBLIC INPUT

John Ratsonburger, resident of Nags Head, addressed the CRC on the permitting process on sandbags. Mr. Ratsonburger stated that sandbags should be parallel to the shore. He stated that bags on the Nags Head shore are currently diagonal. Mr. Ratsonburger stated that the bags in Sea Gull are perpendicular to the shore. He stated that in some cases the bags are over 6 feet tall. Mr. Ratsonburger stated he feels that the bags are not being used as temporary protection rather they are becoming permanent. He stated that currently there is no money in Nags Head to do a beach renourishment project and therefore the bags being used are not for a temporary matter as there is no intent to renourish the beach at this time. Mr. Ratsonburger encouraged the CRC to re-evaluate the permitting process on sandbags.

Jan DeBleu, Cape Hatteras Coast Keeper for the NC Coastal Federation, addressed the CRC regarding innovative septic systems for individual lots specifically. She stated that many lots that were formally considered unbuildable are now being developed and it is having a great impact on the wetlands and she questions the suitability of building for coastal conditions. Ms. DeBleu stated that the peat systems are being used in the Outer Banks area specifically and being put in to areas where large rental homes are being used and designed for 14-16 people. She believes that many of these rental homes are actually housing 20-24 people. Ms. DeBleu stated that the peat systems are being overloaded and it is not functioning properly until the peat dries out. Therefore she believes the system will not work properly until the rental home is closed up for the winter. She urges the CRC to look at these innovative systems to see what can be done to protect the surface waters and public health.

Heather Jacobs, Pamlico Tar River Keeper for the Pamlico Tar River Foundation, addressed the CRC on innovative systems. She stated that they are starting to see lots that are deemed severe site conditions for septic tank permits by the Health Dept and are considered unsuitable for any type of septic tank systems and now are able to get a provisionally suitable site evaluation and are putting on drip irrigation systems for individual homes. Ms. Jacobs stated that her concern is there is not an opportunity for any type of Departmental review. She stated that these are systems that are mostly used in the Piedmont mountain areas where the lands do not perk. Ms. Jacobs showed hope for other Departments to be able to review these systems in the future.

Michelle Pharr addressed the CRC with a concern she had with the DCM Washington Regional Field Office. She stated that she and her husband own property in Ocracoke with hopes to build on it. She has cut and

mowed the property for years and had a wetland delineation done with the USACE in 2005. DCM delineated the Coastal Wetlands in June 2005. After scheduled appointments being missed, files being incomplete, and misdirection from staff being given, Mrs. Pharr felt compelled to let the CRC know of the situation.

CONTESTED CASE cont.

B.E.A.T v. DENR, Gore, and Tidal Ventures, LLC 05 EHR 0834

This case was filed against DCM after Chairman Hackney granted the Petitioner's Third Party Hearing Request. The Permittee, Tidal Ventures, LLC and the landowners, Ed and Dinah Gore, are Intervenor-Respondents. The case is a Third Party permit appeal of a CAMA Major Permit issued for development of a bulkhead, road and utility line on property located in Sunset Beach, NC. Petitioners were granted the right to challenge two issues through a contested case. One issue was resolved by agreement of the parties, and so the remaining issue is whether the permit was issued contrary to 15A NCAC 07H.0602. This rule prohibits development that would have a substantial likelihood of causing pollution of waters of the state in which shellfishing is an existing use to the extent that such waters would officially be closed to the taking of shellfish.

Before the hearing, the Administrative Law Judge (ALJ) granted Respondent and Intervenor-Respondents' Motion in Limine to limit the evidence to only that related to the permitted development (bulkhead, road, & utility line) and not any possible future development. The ALJ also limited the evidence at hearing to that related to the CAMA Major Permit at issue, and not to DWQ's Stormwater permit, which is within the jurisdiction of the EMC and not the CRC.

After the hearing, the ALJ upheld DCM's decision to issue the permit and because there is not a substantial likelihood that the permitted development, consisting of the bulkhead, road and utility line, would cause pollution that would close shellfishing waters.

Jerry Old made a motion, seconded by Doug Langford to adopt the ALJ's Decision. The motion passed with a vote of 10 in favor (Cahoon, Emory, Bisette, Gore, Langford, Old, Peele, Weld, Wilson, Wynns) and 1 opposed (Leutze). (Shepard recused himself from this vote.)

ADDITIONAL PUBLIC INPUT

Jan Harris addressed the CRC regarding a 10-lot subdivision. She stated that parcel of land has been approved with a major permit as a private gated community. Ms. Harris stated that B.E.A.T has been watching this project. She stated that they were unable to comment on this project because the public notice was placed in the Wilmington Start News versus the Brunswick Beacon where every major CAMA permit for Sunset Beach has been published prior to this notice. She stated that this was the first time a major CAMA permit had been published in the Wilmington Star News. Ms. Harris stated her concern now is the public notices for Major CAMA permits are being advertised in different papers and the public does not know where to look now. She suggested that DCM post a notice in the Brunswick Beacon that they are now publishing public notices in another paper or post it on the internet so that the public has access to every major permit that is being applied for. Ms. Harris stated that Sunset Beach has been fortunate in that taxpayer dollars have not had to be spent on beach renourishment. She stated that Sunset Beach has never had a sandbag placed on it and has never required an inlet management program at taxpayer dollars. She stated it would now. She thanked the CRC for their time.

CONTESTED CASE

Moser v. DCM/Pate, Ocean Isle Beach 04 CVS 16473

This case involves the issuance of a CAMA minor permit to Carter Pate for construction of a single-family residence in Brunswick County. The Petitioners, James and Brenda Moser, challenged the permit by filing a contested case. They argued that the LPO used an incorrect vegetation line in calculating the 60-foot setback for the permit issued to Mr. Pate. The ALJ upheld the issuance of the permit and the CRC adopted the ALJ's Decision. The Petitioners appealed the matter to Superior Court. The Superior Court reversed the CRC's decision and remanded the matter to DCM for consideration and determination to the location of the pre-project vegetation line and further handling of the permitting process depending upon that determination.

Bob Emory made a motion seconded by Doug Langford for DCM to respond to the ordered remand. The motion passed unanimously. (Cahoon, Emory, Leutze, Bisette, Gore, Langford, Old, Peele, Shepard, Weld, Wilson Wynns)

PUBLIC COMMENT

15A NCAC 7H .1102, 7H .1302, 7H .2102, 7h .1103, 7H .1203, 7H .1303, 7H .1403, 7H .1503, 7H .1603, 7H .1703, 7H .1803, 7H .1903, 7H .2003, 7H .2103, 7H .2203, 7H .2303, 7H ,2404, 7H .2503, 7H .2603, 7H .2703

There were no comments on the above proposed rule changes.

COMMITTEE REPORTS

CRAC Report

Bill Morrison presented the minutes from the CRAC (SEE ATTACHMENT FOR WRITTEN REPORT)

The CRC recognized Bob Shupe as the former CRAC Chair for all of his hard and dedicated work for the CRAC.

P&SI Committee Report

Bill Peele presented the minutes from the P&SI Committee (SEE ATTACHMENT FOR WRITTEN REPORT). The CRC took the following action:

Bill Peele moved that the CRC endorse DMF's resolution of support to the NC Joint Legislative Commission on Seafood and Aquaculture. The motion passed unanimously. (Cahoon, Emory, Leutze, Bisette, Gore, Langford, Old, Peele, Shepard, Weld, Wilson Wynns)

I&S Committee Report

Bob Emory presented the minutes from the I&S Committee. (SEE ATTACHMENT FOR WRITTEN REPORT). The CRC took the following action:

Bob Emory moved that the CRC approve the Town of Duck's Implementation and Enforcement Plan. The motion passed unanimously. (Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Weld, Wilson Wynns) (Bisette and Shepard were absent during the vote)

Bob Emory moved that the CRC adopt the modified rule language for Sediment Criteria for public hearing in June. The motion passed unanimously. (Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Weld, Wilson, Wynns, Bissette, Shepard)

Renee Cahoon made a motion seconded by Jim Leutze to send the amended rule language of 7H .0312 to public hearing. The motion passed unanimously. (Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Weld, Wilson, Wynns, Bissette, Shepard)

PRESENTATIONS

Sediment Criteria White Paper

Jeff Warren gave a brief history on Sediment Criteria stating the CRC requested input from the Science Panel on sediment compatibility recommendations. Mr. Warren stated that beach fill is the practice of placing sediment on a beach to mitigate shoreline erosion. By adding sediment directly to the littoral system and altering the local or regional sediment budget, beach fill offers coastal communities a more dynamic approach to manage erosion such as breakwaters or groynes, which alter natural geomorphic and hydraulic processes in order to induce sediment deposition. Mr. Warren explained the current Technical Standards for Beach Fill Projects and noted the four main sections defining the proposed beach fill standards to be 1) Characterizing the beach receiving sediment, or recipient beach, prior to beach fill placement, 2) Characterizing the borrow sediment or sediment to be placed on the recipient beach, prior to beach fill placement, 3) determining compatibility of the borrow sediment with the recipient beach, and 4) Excavating and place borrow sediment on the recipient beach. Mr. Warren stated that the draft sediment criteria rules presented represent a vigorous integration of science and policy to define sediment compatibility in a more quantitative an objective manner.

Renee Cahoon made a motion seconded by Jim Leutze to send the amended rule language of 7H .0312 to public hearing. The motion passed unanimously. (Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Weld, Wilson, Wynns, Bissette, Shepard)

Draft Coastal Program Assessment and Enhancement Strategy 2006-11

Guy Stefanski stated that Section 309 of the Coastal Zone Management Act establishes a voluntary coastal zone enhancement grants program to encourage states to develop program changes in one of the following nine coastal zone enhancement areas:

public access, coastal hazards, ocean resources, wetlands, cumulative and secondary impacts, marine debris, special area management plans, energy and government facility siting, and aquaculture.

Mr. Stefanski stated that under this program, the Secretary of Commerce is authorized to make awards to states to develop and submit for federal approval program changes that support attainment of the objectives of one or more of enhancement areas above. He stated that every five years, states conduct a detailed program assessment of the nine enhancement areas within their respective agency and as a result of the assessment, identify high priority areas for inclusion in a five-year strategic plan.

Mr. Stefanski stated that DCM has completed its draft assessment with regard to the nine coastal zone enhancement areas and as a result has identified two high priority enhancement areas for inclusion in its next five-year strategic plan (2006-2011): **COASTAL HAZARDS and OCEAN RESOURCES**. The draft was submitted to NOAA on December 30, 2005.

According to NOAA's final FY 2006 Funding Guidance, DCM will receive \$392,000 Section 309 funds to support the first year of our five-year plan beginning July 1, 2006. These are non-matching federal funds.

Outer Banks Hydrology Study Committee

Dave Clark, Town of Nags Head, presented information on the Outer Banks Hydrology Study. He stated that the Committee started in Fall 2004 and was a result of an excess of rainfall. He stated that several sections of NCDOT, NC 12, US 158, and many streets in the communities in the Outer Banks were under water for several days. He stated many individual properties were adversely affected by storms. Mr. Clark stated that a task force was formed to address the issues with stormwater and begin to develop some solutions that could be explored at the local and state levels. He stated that it was suggested that possibly new regulations be adopted to help local communities deal with stormwater.

Mr. Clark stated that some problems were attributed to drainage systems that had been compromised. He stated that the committee attempted to reconstitute the drainage system in these areas. He stated other possible causes of stormwater problems were removal of vegetation. Mr. Clark stated that trees remove large amounts of water that in turn keeps the ground water table lower and in removing these trees it can cause higher ground water levels.

Mr. Clark stated that other problems were aged streets and roads that have been filled on the sides and creating flooding situations. One of the realities of construction on the Outer Banks is fill. Mr. Clark stated that was a very real problem identified in the report.

Mr. Clark stated that initially installed drainage systems when a subdivision was built are now inadequate. They are not designed to handle stormwater that may run off developed lots. He stated the committee looked at local ordinances to see possible solutions to stormwater concerns. Mr. Clark stated the committee addressed ocean outfalls as a concern. Ocean water can become contaminated and local residents and visitors are concerned as to whether the water is safe to swim in.

Mr. Clark stated in the final report recommendations were made to reestablish drainage, to review local ordinances, look into education components for people to understand better the problems that deal with ground water and stormwater and be more environmentally friendly, and low impact development.

Variance Process Update

Jill Hickey updated the CRC on the Variance Subcommittee Meeting that was held on February 22, 2006 in which the Committee discussed ways in which the CRC variance process might be improved. She stated that it was recommended the written materials should be prepared and sent to the CRC as currently done. There would be no overall presentation at the CRC meetings by either the Petitioner or Staff. Instead the CRC would be entitled to ask questions if they feel the need for clarifications of issues presented. The CRC would address each variance factor separately and vote on whether the petitioner has met his or her burden of proof. The Variance Committee considered but ultimately rejected the idea of delegating the variance to a committee as allowed in current rules. She stated that the committee suggested, due to volume of variances, complete variances be submitted 6-8 weeks prior to the meeting to allow for more time. The CRC could possibly require petitioners to provide proof of Notice to Third Parties that they have requested a variance for their proposed development. She stated the CRC should clarify in its rules that it is not delegating to the ALJ the authority to make an initial decision on any variance factor or on the final decision to grant or deny the variance request, but instead wants the ALJ to decide the disputed facts only.

Melvin Shepard made a motion seconded by Joan Weld to try these recommendations one time before proceeding on with rulemaking to change procedures permanently. The CRC will allow 5 minutes of oral argument and vote on each criteria separately and will not allow handouts at the time of presentation. The motion passed unanimously. (Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Weld, Wilson, Wynns, Bissette, Shepard)

Jim Leutze made a motion seconded by Joseph Gore to direct Jill Hickey to develop some language for consideration for rulemaking changes to variance decisions. The motion passed unanimously. (Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Weld, Wilson, Wynns, Bissette, Shepard)

NEW BUSINESS

Chairman Hackney requested DCM to present an update on the CHPP at the June meeting.

With no further business, the CRC adjourned.

Respectively submitted,

Charles S. Jones, Executive Secretary

Stephanie Bodine, Recording Secretary