

NC COASTAL RESOURCES COMMISSION (CRC)
July 23-25, 2008
Holiday Inn Brownstone
Raleigh, NC

Present CRC Members

Bob Emory, Chairman

James Leutze
Charles Elam
Bill Peele
Wayland Sermons
Melvin Shepard
Joan Weld

Bob Wilson
Lee Wynns
Renee Cahoon (absent 7/23/08)
David Webster (absent 7/23/08)
Jerry Old (absent 7/23/08)

Present Coastal Resources Advisory Council Members (CRAC)

Dara Royal, Chair
Penny Tysinger, Co-Chair

Bob Shupe
Tim Tabak
Randy Cahoon
Dave Weaver
Christine Mele
Bill Morrison
Lester Simpson
Carlton Davenport
Webb Fuller
William Gardner, Jr.
J. Michael Moore
Frank Rush
Phil Harris
David Stanley (for Don Yousey)

Harry Simmons
Rhett White
Bert Banks
Judy Hills
Kevin Richards (for Eddy Davis)
Spencer Rogers
Joe Lassiter
Joy Wayman
Maximillian Merrill
Lee Padrick
Anne Deaton
Al Hodge
Travis Marshall (and Deborah Anderson)

Present Attorney General's Office Members

Jennie Hauser
Allen Jernigan
Amanda Little
Jill Weiss

CALL TO ORDER/ROLL CALL

Chairman Emory called the meeting to order and reminded Commissioners of the need to state any conflicts due to Executive Order Number One and also the State Government Ethics Act.

Angela Willis called the roll. There were no reported conflicts. Based upon this roll call, Chairman Emory declared a Quorum.

VARIANCE REQUEST

Thompson (CRC-VR-08-43) Frisco, Excavation in SAV

Amanda Little of the Attorney General's Office represented Staff. Ms. Little stated the Petitioners are represented by David Dixon. Ms. Little stated the Petitioners applied for a CAMA Major Permit to perform maintenance dredging and excavate a new channel within the Pamlico Sound, adjacent to Sunset Village in the Town of Frisco, Dare County, NC. The proposed excavation is through extensive beds of SAV. The Petitioner seeks relief from strict application of the Commission's Public Trust Areas and Estuarine Waters Areas of Environmental Concern rule regarding the specific use standards 15A NCAC 07H .0208(b)(1).

Ms. Little reviewed the stipulated facts of this variance request. Staff and Petitioner agree on all four variance criteria which must be met in order to grant the variance. Ms. Little stated the proposed dredging requested will negatively impact 2,482 square feet of SAV, however to mitigate the impact the Petitioner has proposed to transplant the 2,482 square feet of SAV from the proposed channel alignment into sections of the existing channel and the existing channel will be abandoned. Neither the Division of Marine Fisheries nor the Wildlife Resources Commission objected to the project.

David Dixon, Attorney for Petitioner, stated the Petitioner requested this variance to see that the management objectives, specifically to protect SAV, are met. Mr. Dixon reviewed the stipulated facts that he contends supports the granting of this variance. Mr. Dixon reviewed the mitigation plan proposed by the Petitioner.

Jim Leutze made a motion that mitigation be made a condition of the variance. Charles Elam seconded the motion. This motion was withdrawn.

Melvin Shepard made a motion to support Staff's position that strict application of the applicable development rules, standards, or orders issued by the Commission cause the Petitioner unnecessary hardships. Charles Elam seconded the motion. The motion passed unanimously (Leutze, Wilson, Weld, Elam, Peele, Shepard, Wynns, Sermons).

Jim Leutze made a motion to support Staff's position that hardships result from conditions peculiar to the petitioner's property. Wayland Sermons seconded the motion. The motion passed unanimously (Leutze, Wilson, Weld, Elam, Peele, Shepard, Wynns, Sermons).

Melvin Shepard made a motion to support Staff's position that the hardships do not result from actions taken by the Petitioner. Lee Wynns seconded the motion. The motion passed unanimously (Leutze, Wilson, Weld, Elam, Peele, Shepard, Wynns, Sermons).

Wayland Sermons made a motion to support Staff's position that the variance would be consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission; secure public safety and welfare; and preserve substantial justice. Commissioner Sermons added that a condition be added which requires the Petitioner to comply with all mitigation plans submitted, including but not limited to the Division of Marine Fisheries letter dated August 8, 2007; the Wildlife Resources Commission letter dated October 16, 2006; and the Petitioner to the best of his ability would provide notification to the public of the abandonment and no further use of the old channel. Jim Leutze seconded the motion. The motion passed with seven votes (Leutze, Weld, Elam, Peele, Shepard, Wynns, Sermons) and one against (Wilson).

This variance was granted.

Vodra (CRC-VR-08-44) Carteret County, Pier in excess of 400'

Amanda Little of the Attorney General's Office represented Staff. Ms. Little stated Jeff Gray represents the Petitioner. Ms. Little stated the Petitioner applied for a CAMA Major Permit to remove an existing pier and 12 slips and construct a new pier with platform, a jet ski lift and 9 sunfish racks that extend 572 feet into the Bogue Sound in Carteret County. The proposed development is longer than 400 feet and does not give access to deeper water at a rate of at least one foot each additional 100 foot increment of pier length over 400 feet. Petitioner seeks relief from strict application of the Commission's guidelines for Estuarine Waters Area of Environmental Concern and Public Trust Areas AEC in 15A NCAC 07H .0208(b)(6)(K).

Ms. Little reviewed the stipulated facts for this variance request. Staff and Petitioner agree on all four statutory criteria required to be satisfied in order to grant the variance.

Jeff Gray, Attorney for Petitioners, reviewed the stipulated facts which he contends support the granting of this variance. Mr. Gray stated he feels this variance meets all four statutory criteria.

Charles Elam made a motion to support Staff's position that strict application of the applicable development rules, standards, or orders issued by the Commission cause the Petitioner unnecessary hardships. Jim Leutze seconded the motion. The motion passed unanimously (Leutze, Wilson, Weld, Elam, Peele, Shepard, Wynns, Sermons).

Jim Leutze made a motion to support Staff's position that hardships result from conditions peculiar to the petitioner's property. Bob Wilson seconded the motion. The motion passed unanimously (Leutze, Wilson, Weld, Elam, Peele, Shepard, Wynns, Sermons).

Wayland Sermons made a motion to support Staff's positions that hardships do not result from actions taken by the Petitioner. Lee Wynns seconded the motion. The motion passed unanimously (Leutze, Wilson, Weld, Elam, Peele, Shepard, Wynns, Sermons).

Melvin Shepard made a motion to support Staff's position that the variance will be consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission; will secure the public safety and welfare; and preserve substantial justice. Commissioner Shepard conditioned the permit to incorporate the language consistent with US Army Corps of Engineers recommendations. Wayland Sermons seconded the motion.

The motion passed unanimously (Leutze, Wilson, Weld, Elam, Peele, Shepard, Wynns, Sermons).

This variance was granted.

CONTESTED CASES

Kenneth and Mary Anne Sutton v. DENR, DCM 07 EHR 1316

Elizabeth Jill Weiss of the Attorney General's Office represented the Division of Coastal Management. DCM did not request oral argument. The Sutton's were not present. Ms. Weiss stated the ALJ ruled in favor of the Division. Ms. Weiss requested that the Commission affirm the ALJ's decision in this case.

Wayland Sermons made a motion that the Coastal Resources Commission adopt the Administrative Law Judge's decision and issue a final agency decision affirming the respondent's decision to grant CAMA Minor Permit #07-133. Joan Weld seconded the motion. The motion passed unanimously (Leutze, Wilson, Weld, Elam, Peele, Shepard, Wynns, Sermons).

At this time, Wayland Sermons gave the Vice Chair Nominating Committee Report. Wayland Sermons stated the Committee of Renee Cahoon, Melvin Shepard and Wayland Sermons met extensively and have brought the nomination of Joan Weld before the Commission for Vice Chairman of the Coastal Resources Commission.

Jim Leutze made a motion to close the nominations, agree with the recommendation of the nominating committee, and elect the nominee by acclamation. Lee Wynns seconded the motion. The motion passed unanimously (Leutze, Wilson, Elam, Peele, Shepard, Wynns, Sermons) and one abstention (Weld).

MINUTES

Melvin Shepard made a motion to approve the minutes of the May 2008 Coastal Resources Commission meeting. Wayland Sermons seconded the motion. The motion passed unanimously (Leutze, Webster, Sermons, Shepard, Wilson).

EXECUTIVE SECRETARY'S REPORT

Jim Gregson, DCM Director, gave the following report.

Legislative Update

Senate Bill 599 which, if ratified, would have authorized the CRC to permit a terminal groin pilot project at a North Carolina inlet, did not come up for a vote in the House before the Legislature adjourned last Friday.

The General Assembly directed the University of North Carolina to study the feasibility of building wind turbines in Pamlico and Albemarle sounds.

The legislature passed a bill to begin studying the possible financial effects of a major hurricane on North Carolina's Beach Plan, a state-created coastal insurance plan for those who can't get standard coverage. Insurance companies say a major hurricane could result in billions of dollars in charges to their industry that could be passed along to homeowners throughout the state because the Beach Plan is under-funded.

A compromise coastal stormwater rule was also passed. Senate Bill 1967 disapproves the rules adopted by the EMC on January 10, 2008 and supersedes the existing rules that became effective on September 1, 1995. Some key changes under the legislation are as follows:

- Under the new rules, nonresidential developments that will add more than 10,000 sq. ft of built upon area, or require a Sedimentation and Erosion Control Plan or a CAMA Major Development Permit and all residential development that requires a Sedimentation and Erosion Control Plan or a CAMA Major Permit will be required to manage stormwater runoff as specified in the ratified bill.
- Development within 575 feet of Outstanding Resource Waters shall be permitted if it has a built upon area of 12% or less under the low-density option. The development must contain a 50-foot-wide vegetative buffer for new development and a 30-foot-wide vegetated buffer for redevelopment activities. The buffer is measured from the MHW line of tidal waters and from the bank of non-tidal streams and rivers. Under the High density option development shall be permitted if it has a built upon area of between 12% and 25%, has no direct stormwater outlet pipes or channels to Class SA Waters and utilizes stormwater control systems that are any combination of infiltration systems, bioretention systems, cisterns, rain gardens or alternative low impact development systems that will treat the stormwater runoff from one and one-half inches of rainfall or the difference in the stormwater runoff from the predevelopment and post development conditions for a one-year, 24 hour storm event, whichever is greater. The same buffer conditions as in the low-density option apply.
- Development within one-half mile and draining to Class SA but not ORW Waters would have to meet the same requirements for ORW Waters with the exception of the 25% limit for the high density option. The new rules would also allow the use of wet detention ponds to control and treat the runoff near SA Waters if used in series with other best management practices. Stormwater controls and best management practices, with the exception of wet detention ponds may be located within the buffer area.
- In non-SA or ORW areas, development would be limited to 24% or less under the low-density option and greater than 24% for the high-density option. Under the high-density option control systems would be designed to store, control, and treat the runoff from all surfaces generated by one and one-half inches of rainfall. Same buffer requirements in ORW and SA areas would apply.
- Coastal Wetlands, as defined in CRC rules and located above MHW could not be included in the overall project area for the purposes of density calculation. Non-coastal wetlands could be used.
- Limited Residential Development with the 20 coastal counties that is located within one-half mile and draining to Class SA Waters, has a built upon area greater than 12% and would not otherwise require a Stormwater Management permit, i.e. less than one acre of disturbance or no CAMA Major Permit would be required to obtain a one time non-renewable stormwater permit if it will add more than 10,000 sq. ft. of built upon area.

The permit will require recorded deed restrictions or protective covenants requiring the installation of best management practices to control stormwater runoff.

- The rules contain six exclusions from the stormwater permitting requirements. (Certain DOT activities, prior permitted projects, redevelopment with no net increase in built upon area, already accepted applications, minor modifications to existing permits, municipalities with Phase 2 NPDES Permits.)
- The rules contain four activities that are exempt from the vegetative buffer requirements. (urban waterfronts, new urban waterfronts, CRC buffer exceptions, and development of upland marinas.)
- Rules will become effective on October 1, 2008.

Oceanfront Setback Public Hearings

The CRC and DCM held a series of public hearings over the past few weeks for changes to 7H .0306 General Use Standards for Ocean Hazard Areas, which governs oceanfront setbacks and also gives the requirements for static line exceptions; and 15A NCAC 07J .1200 Procedures for Processing Static Line Exceptions. All of the public hearings began with a presentation and question and answer session, followed by a public comment period. Our final public hearing for these rules will be held July 24 at 5 p.m.

Evans Road Fire

The Emily and Richardson Preyer Buckridge Coastal Reserve site is currently closed to the public due to its proximity to the Evans Road wildfire. Because the site is remote and has no public facilities, it does not usually have a large number of visitors during the summer months. The reserve will be reopened to visitors once the fire danger has passed.

We are also sending DCM staff, including Buckridge manager Woody Webster, and Accounts payable clerk Melissa Sebastian, and David Moye to serve on the DENR Buying Team, who are assisting the Division of Forest Resources with purchasing and acquisition needs.

Town of Holly Ridge Enforcement Plan

On July 10, the Town of Holly Ridge submitted their letter of intent to adopt a local implementation and enforcement plan, which will allow the Town to administer the CAMA minor development permit program. The Town plans to hold a public hearing regarding the plan at the Sept. 9 meeting of the Town Council, and will present their proposed plan to the Commission for review at the September meeting.

Masonboro Island Purchase

At the end of this month, we will close on a deal to acquire a 23-acre tract of Masonboro Island. It is the largest privately held parcel left on the island, and is located at the southern tip.

Staff News

James Barry Guthrie will join the Morehead City office as a field representative on Aug. 1. James has been a NOAA Fisheries Specialist on Piver's Island for the past four years. Policy Manager Mike Lopazanski is moving from the Raleigh office to the Morehead City Office. DCM's attorney, Christy Goebel and husband Jeff welcomed their son Thomas Jeffrey on May 30. Wilmington Field Representative Jon Giles and wife Angela have a new baby girl, Eden

Clementine, born June 20. Coastal Engineer Bonnie Bendell and her husband Jay welcomed twins Jake and Lily on June 20. Coastal Reserve Research Coordinator John Fear and his wife Holly welcomed twins Leigh and William on July 16.

CHAIRMAN'S COMMENTS

Bob Emory introduced the most recent member to the Commission, Dr. David Webster. Dr. Webster fills the seat formerly occupied by Dr. Courtney Hackney. Chairman Emory read a card received from Dr. Joseph Gore in response to the flowers and card sent from the CRC to him following the May meeting. Chuck Bissette is absent from this meeting due to upcoming surgery.

Chairman Emory stated the CRAC meeting was interesting. There was a very good presentation on wind energy facilities. This is a timely topic. A wind energy facility could not currently be permitted based upon our rules. We have had ongoing discussions on shoreline stabilization. We have worked on rules that were not consistent with our sister-agency rules and the CHPP Steering Committee has discussed this. There is a subcommittee of the CHPP Steering Committee that will meet July 29 to start the shoreline stabilization discussion to see if we can make some progress. One of the CHPP goals is to create and encourage alternatives to vertical structures. At the last meeting there was a report of the BIMP subcommittee. This subcommittee made a series of recommendations to the Commission and there are several we have acted on. The discussion on innovative funding for beach nourishment is on the agenda for this meeting and is one of the things the BIMP subcommittee recommended.

Chairman Emory advised the Commission that if they have not had a chance to attend the Ethics Training, they need to do so as soon as they can. He further stated he had attended a remote training and it is very informative. As Commissioners, we are obligated to get this training and then repeat it every two years.

At this time Robin Smith stated the Governor's Drought Legislation also passed at the end of the Legislative Session. The centerpiece of this is the requirement that water systems (both local government and large investor-owned) have in place a water shortage response plan that involves tiered levels of response to drought or other water shortage. This also gives the Department some additional authority to ensure that these plans are being implemented. There are a number of pieces in this Bill that provide financial incentives for water systems to be more efficient in water use. There is an additional study of how water supply is done to see what the obstacles are to permitting new water supply sources. A few additional positions were received within the Division of Water Resources. Ms. Smith agreed with Chairman Emory that the wind energy issue is a very timely topic. The EMC has had an adhoc committee on renewable energy resources. They spent their May meeting looking at wind energy. In July, they looked at biomass (wood waste, poultry litter) and are working their way through the renewable energy sources and what the need may be for additional environmental standards.

CRAC Report

See attached for CRAC report.

The CRC took the following actions:

Melvin Shepard made a motion to certify the Edenton/Chowan County joint land use plan. Joan Weld seconded the motion. The motion passed unanimously (Leutze, Wilson, Weld, Elam, Peele, Shepard, Old, Webster, Wynns, Sermons).

Jerry Old made a motion to certify the Town of Atlantic Beach land use plan. Jim Leutze seconded the motion. The motion passed unanimously (Leutze, Wilson, Weld, Elam, Peele, Shepard, Old, Webster, Wynns, Sermons).

Jim Leutze made a motion to certify the Oak Island land use plan amendment. Jerry Old seconded the motion. The motion passed unanimously (Leutze, Wilson, Weld, Elam, Peele, Shepard, Old, Webster, Wynns, Sermons).

PRESENTATIONS

Overview of Emily & Richardson Preyer Buckridge Coastal Reserve (CRC-08-26)

Woody Webster

Woody Webster stated this is one of the ten coastal reserves in the state. This is the only inland site and this site straddles the Tyrrell and Hyde County line. This site has a long history of being timbered. Most of the historic timber is centered around the harvesting of Atlantic white cedar which is still a rare, high valued timber. In 1994, the Governor's coastal futures committee recommended a certain number of habitats be added to State acquisition priority. Discussions between the Division and the Nature Conservancy led us to find the Buckridge property. The initial purchase was bought with Clean Water Management Trust Fund money, US Fish and Wildlife Services funds and Natural Heritage Trust Fund grants in 1999. This purchase was in Tyrrell county and was about 18,000 acres. In 2000, it was dedicated as Emily and Richardson Preyer Buckridge Coastal Reserve. Roper Island in Hyde County was also added in late 2002. Currently we have 26,862 acres and have been committed to restoring it from the impacts of long-term timber harvest. There are about 39 miles of canals and 30 miles of unimproved roads on the site. This site protects 40 miles of estuarine shoreline. Almost all of the soil is organic, peat soils. This site connects to the larger conservation landscape in the Albemarle/Pamlico peninsula. It connects several different fish and wildlife refuges and state holdings. This site serves the larger goals of the coastal reserve by setting aside land for research, education, and compatible, traditional uses. This site also helps to maintain the outstanding resource waters of the Alligator River and habitat for various species. A few of the ongoing projects at the reserve include involvement with the Tyrrell County eco-tourism initiative that promotes sustainable economic development in sensitive areas, long-term restoration planning, invasive species control, and ongoing atmospheric deposition sampling. The challenges that face the site are the invasive species, the ongoing restoration funding, hunting, wildlife (bears tear up the equipment), and educating the public on appropriate levels of visitor use. A few partners the site works with are the Tyrrell County eco-tourism committee, Wildlife Resources Commission, US Fish and Wildlife Service, NC Division of Marine Fisheries, Partnership for the Sounds, and the Albemarle Pamlico Conservation and Communities Collaborative.

**Draft Amendments to 15A NCAC 07H .0304 & .0310 Inlet Hazard Areas
(CRC 08-27)
Jeff Warren**

Jeff Warren reviewed progress made on proposed draft rules for the inlet hazard areas. In September inlet hazard boundary revisions were reviewed with the Commission. This was focused on the 12 developed inlets of the State. The initial inlet hazard areas were drawn from a 1978 study. In 1988, the statistical effectiveness of those inlet hazard area boundaries expired. In the 1990's the science panel began discussing potential ways of drawing new boundaries. In 2004, a methodology was being developed. The new boundaries were presented in September 2007 and recommended to put adoption of these boundaries on hold because those boundaries were referenced in a report in CRC rule 07H .0304. We also wanted to look at the use standards within these boundaries. It was not prudent to approve the boundaries with the existing policies because there were conflicts. Staff requested time to look at the use standards within the boundaries found in CRC rule 07H .0310.

Staff has put proposed policy revisions in draft rule language, however, Staff is not recommending adoption. Staff would take the language out to stakeholders and then come back with a more firm set of rules that could be considered for public hearing. There are two rules to review.

7H .0310 (use standards within in the inlet hazard areas). In the current development standards there is no commercial or multi-family development greater than 5,000 square feet allowed inside the inlet hazard areas. There are some exceptions located in .0309. Single-family residences have no restriction on size in the inlet hazard area. There is a current development density limitation not to exceed one unit per 15,000 square feet. The oceanfront setback in the inlet hazard area is based on the erosion rate in the adjacent ocean erodible area and you currently cannot use what is referred to as "the single family exception" which was part of what was revised in .0309. Staff feels the size limitation is very effective. But to be consistent with how the CRC has headed in the proposed setback rules, the 5,000 square feet should not be tied to a certain use. All development within the inlet hazard area should be limited to 5,000 square feet. The big challenge with density restrictions is there is already a grandfather provision. Another grandfather provision would have to be provided. A lot of these inlet hazard areas are starting to grab areas that were not in an inlet hazard zone. Staff feels you can adequately address density by limiting size. Staff proposes the single-family exception be allowed. There are lots that were not in an inlet hazard area that currently can use the single-family exception and by putting them into the inlet hazard area, they lose an opportunity to use it. This exception is only for lots platted prior to June 1979.

Proposed development standards would not allow development greater than 5,000 square feet. Any structures or buildings associated with public beach access or public water access would be allowed. The oceanfront setback would be based on the calculated 1998 erosion rate. Oceanfront development, in addition to meeting the setback, has to be as far back on the lot as feasible and cannot be further oceanward than the landward most adjacent structure. There is an exception for linear infrastructure besides roads to allow for footprints greater than 5,000 square feet. Staff would recommend to allow the single-family exception as it has been revised in .0309. 7H .0309 would have to be modified removing the sentence which states you cannot use

the single-family exception in inlet hazard areas. Staff would recommend that swimming pools not be allowed inside the oceanfront setback in the inlet hazard area.

There is a small change in 7H .0304 that deals with the ocean erodible area. The current ocean erodible area is defined as 60-times the erosion rate plus the 100-year storm recession rate. If the maximum setback increases to 90, you wouldn't have to meet the setback. Staff suggests the ocean erodible area change to 90-times the erosion rate plus the 100-year storm recession rate.

After discussion, the Commission requested that the Science Panel look at erosion rates and the vegetation line in determining setbacks in the inlets. At the November meeting if the Science Panel has not concluded with this, they should report to the Commission how much longer it would take. Chairman Emory stated if the Science Panel and Staff cannot come to a consensus, a report can be given by Staff as well.

Draft Amendments to 15A NCAC 07H .0308(a)(2) Temporary Erosion Control Structures (CRC-08-28)

Jim Gregson

Jim Gregson stated Staff is proposing to address three items to this rule. (1) Address an interpretive ruling (2) Take some items out of the Petition for Rulemaking and (3) Clean-up the sandbag rules based upon language that is no longer needed in the rule.

In March 2008, Staff came to the Commission and requested an interpretive ruling regarding the sighting of sandbag structures. The twenty-foot distance from the structure that is imminently threatened requirement was not working when the structure was imminently threatened due to accelerated erosion. Staff was concerned that we were allowing sandbags to go too far away from the structure because that is where the erosion escarpment was located. The Commission said that this was correct in allowing sandbags to be more than twenty feet from the structure in cases of accelerated erosion.

In May 2008, a Petition for Rulemaking was addressed and although the Petition was denied Staff felt there were some things in the Petition that had some merit and we have tried to incorporate some of these changes into the rules. One was an allowance for a sandbag structure to remain longer if it is in area that is actively seeking beach nourishment or in an inlet hazard area in a community seeking an inlet relocation project. The proposal from Staff is to allow sandbags to remain in place for eight years if the community is actively seeking an inlet relocation project. In areas where communities are actively seeking beach nourishment, the current rules state the sandbags can remain in place for up to five years or until May 2008 whichever is later. Staff proposes to delete the language which references May 2008, since this date has past, but keep the language referencing the five-year period for communities that are actively seeking beach nourishment. Staff is also proposing changes to when sandbags have to be removed. Currently, if you get a sandbag permit there is no requirement that the bags be removed until the end of their time period (either 2 or 5 years). The proposed rule language changes this and requires sandbags to be removed when the structure is no longer threatened, when the structure is removed or relocated, or upon completion of an inlet relocation or beach nourishment project. Based on the fact that inlets move back and forth, it is necessary to change the rule to allow structures to be protected more than one time in an inlet area.

Additional language was added, as directed by the Commission, to the criteria by which a Town would be considered pursuing a beach nourishment or inlet relocation project. An additional change was made in (G)(i) which now reads “has an active CAMA permit, where necessary, approving such project; or”. This makes it clear that it must be an active permit.

Wayland Sermons made a motion to delete “large-scale” and send the amendments to 15A NCAC 07H .0308 to public hearing. Jim Leutze seconded the motion. The motion passed unanimously (Leutze, Cahoon, Wilson, Weld, Elam, Peele, Shepard, Old, Webster, Wynns, Sermons).

Overview of Bird Island Coastal Reserve

(CRC-08-30)

Hope Sutton

Hope Sutton stated she oversees the stewardship aspect of the Coastal Reserve Program and is directly responsible for the five southern sites which include Bird Island, Bald Head Woods, Masonboro Island, Zeke’s Island, and Permuda Island. Bird Island is not actually an island, it is connected to Sunset Beach. The island was in private ownership from 1770 until the 1950’s. In the 50’s it was purchased by the Price Family and was intended to be a family resort. In the 1970’s progression was halted. In the 1990’s the family requested to resume construction, but the local community was concerned about the island staying in its natural state. The Bird Island Preservation Society was formed and they actively worked with the State to try to get this land into preservation. In the late 1990’s the CRC decided not to approve the permits for the Price family’s bridge and causeway, and the family sold the property. In 2002 the acquisition and dedication were completed. This property is about 1,200 acres, but only about 136 acres are uplands.

Ms. Sutton discussed the habitats of Bird Island. Bird Island has the typical community types of a barrier island represented to include upper beaches, a dune system, extensive maritime grassland, maritime shrub, extended salt shrub, and an extensive salt marsh. The animals that make use of the site include birds, loggerhead sea turtles, and diamondback terrapins. In addition to the recreation aspect of the reserve, there are also traditional uses such as fishing. As the southern most site, it is a front line for invasive species coming from the south.

As with all reserve sites, there are polices of use. At Bird Island the Bird Island Preservation Society has stewards that patrol the site on a daily basis. There is a reputation on Bird Island that naturalists are welcomed. This is a management problem. Other challenges involve visitor education and how to use the reserve appropriately. Current projects at Bird Island include cross-training with the Bird Island Preservation Society. The Audubon Society has started teaching them bird identification, signage is being updated, weekly walks open to the public have been implemented, bird nesting and turtle nesting areas are protected, and bird population surveys are ongoing. Future projects include putting a trail into the salt shrub area to expand on education; the tidal creek system should be more accessible to the public, a restoration project to pull the old bridge system out, and ongoing crab pot removal and oyster restoration.

Use of Geotextile Tubes as Substitute for Multiple Sandbags

Spencer Rogers

Spencer Rogers stated this presentation was given to the planning committee a few meetings ago and while it is not a panacea for the sandbag problems it is a potential alternative. The top three sandbag problems heard the most are (1) the potential impact on the adjacent beach and neighboring shorelines (2) debris and litter problem and (3) staff's trouble in enforcing sandbags that they cannot see. The use of sandbags in North Carolina is the biggest market in the United States if not the World. Property owners would put in sandbags, if that was not helping they would build a bulkhead and if that did not work they would move the house. As bulkheads were restricted, more and more sandbag structures came into use. The primary concern is the impact on adjacent beaches. While most of the early structures were small it is possible to harden the shoreline with a sandbag structure just as if you use sheet piles or wood. Property owners used cheaper fabrics for sandbags which resulted in bag failures. This will result in continuing volumes of debris. After the sandbag regulations came into place in North Carolina, there has been an evolution in materials and fabrics. The geotextile containers have been made in much longer lengths and are using much better fabrics. The fabrics used in the geotubes are three times the strength of sandbag materials. There have been a couple of applications for the use of geotubes in North Carolina and all have been treated as variances through the CRC. The tubes come in lengths up to 300 feet and can be ordered in a wide variety of diameters. These are bigger single structures which must be put in with heavier equipment. There are a number of engineering techniques for both sandbags and geotubes. To compare the size of sandbags versus geotubes, a typical sandbag revetment would be six feet high and twenty feet wide while a geotube would be six feet tall but only 10.8 feet wide. This would narrow the width of the structure by almost half. This would cause less impact on the beaches in front of it and adjacent to it. There is about 2/3 less fabric involved in a single tube than there is in the typical sandbag structure which causes less debris. Since the technology and materials have evolved, the geotube structure would be less expensive than with a comparable level of sandbags.

Jerry Old requested that the Attorney General's office look into this issue as it is unclear how these structures and the State law prohibiting erosion control structures other than sandbags would interact. Jennie Hauser stated the legal opinion should come from an attorney that supports the Division of Coastal Management.

Marine Fisheries Commission SAV Definition Update Anne Deaton

Anne Deaton presented the update on the SAV definition since the last meeting. A draft definition was presented to the CRC in May. Following this meeting, a conference call was held with the DENR workgroup and during this conference call the concerns of the CRC were discussed. There was one small change made to the definition. The sediment criteria was removed from the definition because there is not enough information from North Carolina about what the sediment grain sizes are in North Carolina. Other than this change, the language is the same as was presented in May. In June the MFC met and were presented the proposed definition. The MFC approved sending the rule to public hearing. There will be three public hearings. The first is October 13 in Manteo, October 14 in New Bern, and October 15 in Wilmington at 7:00 p.m.

Joan Weld made a motion that the CRC support the SAV definition. David Webster seconded the motion. After discussion, the motion was withdrawn.

Pier Rules Update

David Moye

David Moye stated at the March meeting, the CRC requested changes be made to the proposed pier rules. There were two changes requested (1) platform square footage allotment and (2) width to height over wetlands allowed. In March these were changed to a set number of 8 square feet per linear foot of shoreline on the platform allowed and the gradient height to width option was changed to a single six-foot wide maximum width and three foot high off of the substrate of coastal wetland. This wording was approved for public hearing pending the satisfaction of the CRC on the SAV definition. The SAV definition has been sent for public hearing by the MFC. The use of the General Permit by the field representatives would go hand in hand with the flow charts. The flow charts have been updated to make them easier for the field rep to use as to what can and cannot be allowed by the General Permit. We are not trying to elevate the majority of the pier permits into Major Permits. Changes are proposed today to address the concerns of the CRC which reads as follows:

Piers and docking facilities located over shellfish beds or submerged aquatic vegetation as defined by the Marine Fisheries Commission may be constructed without prior consultation from the Division of Marine Fisheries or the Wildlife Resources Commission, whichever is applicable, if the following two conditions are met. 1. Water depth at the docking facility location is equal to or greater than 2 feet of water at normal low water level or normal water level whichever is applicable. 2. The pier and docking facility is located to minimize the area of submerged aquatic vegetation or shellfish beds under the structure.

Melvin Shepard made a motion to accept the changes and send the dock and pier general permit rules 15A NCAC 07H .1200 to public hearing. Charles Elam seconded the motion. After the amended motion failed, this motion passed with nine votes (Leutze, Cahoon, Weld, Elam, Shepard, Old, Webster, Wynns, Sermons) and two against (Wilson, Peele).

Bob Wilson made a motion to amend the original motion changing the wording and intent to state the location of docks and piers will be located to minimize the adverse impact to SAV and any reference to the prohibition of the placement of a dock or pier because of the presence or suspected presence of submerged aquatic vegetation be deleted from the rule language. Bill Peele seconded the motion. This motion failed with five votes (Wilson, Elam, Peele, Old, Wynns) and six opposed (Leutze, Cahoon, Weld, Shepard, Webster, Sermons).

Innovative Beach Nourishment Funding Strategies

(CRC-08-34)

Peter Ravella

Peter Ravella, President PARC LLC, stated this discussion would be focused on how to finance a beach project. He stated he would explain why this is a hard thing to do and why these projects fail on the financing side. Beach financing is tricky because of the efficacy of beach nourishment in general. Does it work? Does it make sense to put sand on the shoreline? Is it going to effectively respond to the problem? Limited public access is a problem in financial planning. If the public does not feel the beach is a place they can get to and enjoy, putting together a financing plan becomes more complex. Blended benefits for blended contributors – what benefits do healthy beaches produce and how does that affect the financial planning

process? State funding is the cornerstone of beach project financing. It is because beaches are public spaces and public assets. In North Carolina if there is a federal project, the State financing system is geared to those projects and will pay up to 75% of the non-federal share. What happens if there is not a federal project? In a non-federal project situation the State will participate on a level similar to if it was a federal project but at a lesser amount. The burden gets shifted to the local community. Beaches are the number one economic asset in these communities, but beaches are free. It is extremely difficult to find a way to fairly bring visitors into the picture for funding. In North Carolina there is an accommodation tax, sales tax revenues can be applied to beach restoration programs, and visitor user fees are difficult to get. Property owners living near the shore have greater property values because of the beach. These owners have a direct stake in the health, width and quality of the beach. Inland property owners are not as willing to invest great deals of money into beachfront communities because of the ideas of assumed risks and assumed benefits. Property owners on and near the beach are a special class and have a special responsibility when it comes to financial planning. They are an important part of the puzzle. To sum it up, a financial plan has to address the public and private nature of the beach. A financial plan should reflect the public and private character of the beach. Public investment is required because of the public character. State and local government must be represented in a financing plan. Private beach owners should be major contributors. Commercial enterprises along the shoreline (hotels, restaurants and attractions) have an odd role to play, but it is good to capture them in the financial plan.

If you can get a federal project it is fantastic. The federal commitment is a fifty-year plan and can pay up to 50 percent of the project costs. On the State side, there is an annual legislative exercise which means it is subject to political influence and is hard to plan for. At the local level, there are a couple of tools (1) the local government general revenue (2) accommodation tax (3) municipal services district and (4) sales taxes and user fees.

Examples were given of two recent Florida projects. One in Destin and one in Okaloosa Island. In the city of Destin there is very little state money. On Okaloosa Island there is a 50% state share. There are no federal monies in either project. The county guideline was to use the accommodation tax revenues and they wanted a beneficiary based principal. A one-cent addition was added to the accommodation tax and dedicated to the beach. A property owner assessment was done, this would require legislation in North Carolina but is a great tool. How do you get landowners to support funding? The landowners are not going to voluntarily do it. Having support from landowners is critical. A benefit based assessment strategy works well. You have to talk to landowners about the benefits they receive from wide and healthy beaches as well as the recreational benefits. The business class should also be included. If a business is beachfront, these businesses will pay a premium for a beach project since the beach drives people to their businesses.

What are the secrets to the success? It is only politics. When you put together a financing plan, the way decisions are made within communities on financing this through the political process (either elected officials or votes by the community). One thing to keep in mind is that people who support beach nourishment are never the ones who show up at the meetings, it is always the people who don't like what you are doing. It is very difficult to pass things when your supporters are quiet. Try to make an effort to encourage people that are comfortable with the idea to come to the meetings and let the elected officials know they support it. If you have more than a third of a community upset about the financing plan, it will probably fail. You have to

earn the respect of the community. You have to create a process that allows an elected official to vote yes for a tax increase. This is very difficult to do in local government politics. A financing plan that captures the dual nature of the public and private characteristics of the beach will succeed. If it fails to reconcile the community's understanding of these public and private attributes of the shoreline, it will not pass. You have to reflect the dual nature, capture the identifiable beneficiary groups, figure out how to account for them and have a sensible way of assessing it. You must pay very close attention to the boundaries if you use landowner assessments. There is always a split between beachfront owners and off-beach owners. Beachfront owners should always pay more than people who don't live on the beach. If you violate this principal, you will fail. Commercial properties must pay more than comparably situated residential properties. Hotels and condominiums are difficult to assess. There are reasonable ways to put together a funding plan, but there is no perfect plan. Do not over complicate the plan. Keep it simple.

**Governor's South Atlantic Alliance Update
(CRC-08-36)
Chris Russo, DENR**

Chris Russo gave an update on the Governor's South Atlantic Alliance. We all recognize that coastal and ocean resources are vital to economic, quality of life, security, and environmental health of our State. There is a need and an urgency to sustain these resources. Governor Easley also recognizes this and he recognized it in both the region and the State. He made a decision to support and champion a partnership. This partnership is State led and federally supported. It is composed of the Governors of the South Atlantic states (NC, SC, GA, and FL). The Alliance itself will focus on ocean and science management, specifically common priorities of importance to our State such as healthy eco-systems, clean coastal waters, working waterfronts, and disaster resilient communities. The Alliance is a true partnership based on a good working relationship, cooperation and common shared data and issues. Most importantly it is based upon the fact that the State's retain flexibility to implement programs related to their own unique programs including ecological, geographic, political and other circumstances we deem necessary for each of our states. It was recognized that regional initiatives and regional alliances and partnership have become more cost effective and more effective in outcome. In this Alliance we can expect benefits from establishing this Alliance in the area of program fund grants and technical assistance. The Alliance is practical and effective. It is a way to add value to the good work we are already doing. The best example of contributions from North Carolina as part of the Alliance in the area of coastal and ocean science is CHPP. The Alliance was endorsed by the Southeast Regional Partnership for Planning and Sustainability. This Partnership has existed for about two and a half years and consists of NC, SC, GA, FL and AL as well as the Department of Defense and other federal agencies. This Partnership allowed us to align the need for looking at the Southeast Region. Because we were able to align the leadership of the states we were able to come together over the past year to develop the construct for an Alliance for the Southeast. This was presented to Governor Easley and in discussion and conclusion Governor Easley felt that he would like to champion it. On June 24, 2008, he sent the letter to his fellow governors. Secretary Ross will be the representative in developing the concurrences with the Governors. Upon concurrence we will move forward with implementation. This is a large step-forward for North Carolina.

Jim Leutze thanked Chris Russo and Secretary Ross for their support of this project. This has not been easy to put together. My motivation was looking at CHPP and getting the various people who have an interest in environmental and coastal issues together and working on the same page. The coastal and environmental problems that we share with these states are very similar.

Sandbag Inventory and Prioritization Update (CRC-08-35)

Ted Tyndall and Ken Richardson

Ted Tyndall stated this is an update from the previous meeting regarding efforts Staff has undertaken in the prioritization of sandbag removal. Over the past two months, DCM staff have conducted a detailed inventory of sandbag structures protecting oceanfront properties in North Carolina. Staff concentrated on the sandbag permits that were in communities that were actively seeking beach nourishment as of October 1, 2001. 15A NCAC 07H .0308(a)(2)(F) was passed in May 2000 and allowed for these property owners to keep their sandbags for five years from the date of installation or until May 1, 2008, whichever was later. This deadline affects approximately 150 of the 370 total sandbag structures that exist along our coast. The May 1 deadline has now passed and Staff believes that if notices for removal are sent to all the property owners with sandbags not meeting the literal interpretation of full compliance with the CRC's rules, a high number of variances would be filed at one time; a number that Staff anticipates would be too large for the Commission to hear within its mandated timeframes in which to hear variances. Therefore, with the Commission's guidance Staff began a phased approach for enforcing the deadline, beginning with a detailed inventory of all sandbag structures. It must be emphasized that sandbags that are covered with sand and stable, natural vegetation are allowed to remain in place until such time as they become uncovered. Inventory efforts began after May 1 and included documenting existing site conditions, taking multiple photographs from different views, and locating each structure with GPS. Site-specific notes were recorded and included documentation of the degree of encroachment that the bags have into public access to the dry sand beach, the nature of the development (public or private), the integrity of the sandbags (functional, derelict, or missing), how much of the sandbags are covered with sand and how much of that sand coverage includes stable and natural vegetation. The length of time that each sandbag structure has been in place was noted. These were the primary factors that were entered into a spreadsheet along with secondary variables that include whether or not the sandbags are affiliated with a shoreline that has received beach fill, is slated to receive beach fill, is in an existing inlet hazard area, or is in a proposed inlet hazard areas. A sandbag removal index (SRI) was developed to rank the non-compliance of sandbag structures on a relative scale. The quantitative model relies on those variables described earlier, appropriately weighted based on primary or secondary nature as input. The model provides a method with the ability to quantify subjectivity making it flexible and tolerant of imprecise data. Currently, Staff is continuing to work on the model and is developing a Google basemap that shows all sandbag locations with "popup" abilities that can show individual photographs, recorded site conditions, and the site specific SRI. The basemap will be capable of showing the location of sandbags in relation to other data layers such as inlet hazard area and static vegetation lines. Currently, Staff is still massaging the master data set to fill in the holes and to address discrepancies that popup with the model. Once the database and model are proofed, run and verified, the SRI will aid staff in determining which sandbags are not subject to removal (covered with sand and stable, natural vegetation) and which bags rank as a high priority for removal. Once that process is completed,

those property owners whose sandbags rank the highest will be among the first to be notified by mail that they have 30 days from the date of notification to remove their sandbags. If compliance is not forthcoming, the Division will then proceed with issuance of the formal Notice of Violation requesting removal. If the bags are not removed after that correspondence, injunctive relief will be sought through the courts to have the sandbags removed. For this presentation, Ken Richardson will demonstrate to the Commission the capabilities of the Google basemap that he created. This tool, along with the database and model creating the rankings, will aid Staff in the final decisions for which bags will need to be removed first. It must be pointed out that all bags subject to the May 1, 2008 deadline must be removed if they are not covered with sand and stable, natural vegetation. Staff's goal is to have all the data proofed, the model verified and run, and the rankings assigned by the end of August. The Google basemap will be accessible on the Division's website for use and perusal and the first letters requiring removal will be mailed out. The SRI will break it down into segments as to which bags will be receiving the letters. (At this time Ken Richardson demonstrated the map).

PUBLIC HEARINGS

15A NCAC 07H .0306 General Use Standards for Ocean Hazard Areas

Steve Levitas of Kilpatrick Stockton, representing Moore's Inlet Limited Partnership the owner of the Holiday Inn Sunspree in Wrightsville Beach, stated in December of last year my client submitted detailed comments on the previous version of this rule which we argued among other things that the revised setback requirement should not apply to communities with well-established beach renourishment programs. We worked with DCM staff on modifications to the proposed rule which would resolve our concerns. We are grateful to the CRC for providing the additional time to work through these issues and to the staff for their constructive approach to try to address these concerns. The rule as it is currently before you today goes a long way towards resolving these concerns and we think we are within striking distance of having a rule that we can support. The solution that has been developed by staff is to maintain existing setback requirements for large structures in communities with long-term, large-scale beach renourishment projects. We think this is a sound approach. The remaining issues we have primarily involve procedural requirements for qualifying for this relief from the more stringent setback requirements which are contained in this rule and 7J .1200.

Debbie Smith, representing Ocean Isle Beach, stated she wants to commend the Commission and the Staff on how diligently everyone has worked on these rules, especially the static line exemption. I am personally very proud of what has evolved and it is something that we can all live with. It is the right thing to do. I do have one minor issue with 7H .0306(8)(f) where it says any portion of a building may not extend oceanward any further than the adjacent structure. In many of our towns we have different and varying setbacks from our landward lot-line of our oceanfront lots. Some of us have minimum setbacks, but they can go further forward. At Ocean Isle we try to keep them as far from the ocean as possible, so there is a mandatory setback that you have to start from. I would like to see some revision in this rule that would require any new construction behind the static setback be mandated to start as far landward as possible. This would be a fair thing and keep these properties further landward and away from the ocean.

Tim Owens, Town Manager for the Town of Carolina Beach, stated he is here on behalf of the Town Council. I submitted a letter as well as a PowerPoint presentation. The Town Council in the Town of Carolina Beach is concerned about the effect the proposed regulations will have on existing, proposed and future development in the Town. The concern has increased after reading the beach fill section in the proposed rules. To better understand our concerns with the proposed regulations you have to understand the history of development in the Town or the Town's vision for the future. With the assistance of Federal and State governments, the Town of Carolina Beach has been fortunate enough to provide shoreline protection since 1965 with great success. Since that time, development within the Town has seen peaks and valleys with the latest large-scale surge of development slowing in 2005-2006. Overall the type of development in Carolina Beach is more compact and larger in scale than other North Carolina beach communities. A number of items contributed to this development pattern, but overall we believe it was a direct result of small lot sizes, early provisions of sewer service in the Town, and a healthy dune system that has provided decent protection to property owners over the years. Following the latest development surge, the Town realized that it needed to review its development policies, ordinances and better define a community position with regards to the Town's central business district. The Town hired a planning consultant to create a master development plan that was recently adopted by the Town Council. The newly adopted master plan contemplates a vision of a more urban environment to include several different amenities. The plan is a long-term vision and will take many years to accomplish and for the most part most of our citizens are very excited about the plan. The main concerns for us are that we have spent millions of dollars protecting the property along our coastline establishing a quality beach dune system for residents. Currently the regulations would make it difficult for Carolina Beach to fall within the current beachfill guidelines and we have been doing it since 1965. We have two more cycles of beach nourishment.

Steve Coggins of Rountree, Losee and Baldwin representing the Town of Carolina Beach stated he would like to thank the CRC on behalf of the municipalities within the CAMA counties for conducting regional hearings. There appears to be one urban center that is industrial, residential, historical, educational, tourism that is all centered on the oceanfront. The CRC has taken a hard look at urban waterfront rules. We have a vital urban center that simply does not fit with any of the pegs of the regulatory scheme. Perhaps it would be a healthy thing to take a look at an urban oceanfront rule as opposed to applying the one size fits all. We have technical concerns about whether the Town is even eligible to apply as a beach fill community. In the rule it states that if you already have a SVL, then you are not eligible to apply for beach fill status. I see this as a technical thing that we can change. We probably need significant clarification on whether a community like this urban center, that has, since 1965, a wonderful history of working with this agency and all related agencies, is assured.

Bill Bober, private homeowner on Emerald Isle, stated he owns properties which are both conforming and non-conforming. Some of my neighbors and I are both grateful to the Committee for finally addressing this rule change. We are also concerned about the vegetation setbacks. I don't know if the existing rule that is on the website is what will be voted on, but I think some of the other comments about the one-size fits all, just like the arbitrary static line that was put down ten years ago, should have not been a one-size fits all. I know it was an emergency line, but it was an economic disaster for many people who had planned on buying beach property for retirement purposes. Thank you for addressing this issue, but perhaps instead

of a one-size fits all, I would hope you would work more individually with the Towns with their individual requirements they need for homeowners or commercial or whatever it may be.

Lewis Woodson from Burlington, NC stated he owns a home in Oak Island. I am concerned about the vegetation line being moved. We bought our house about 15 years ago. When we bought it there were 12-15 houses in front of us on the ocean. Only 3 of those are left today. The static line is back where people cannot build in front of that, but now they want to move the static line back and put houses back where those houses have already washed away. I am opposed to that.

Steve Ambrose, homeowner in Emerald Isle, stated he wanted to thank the CRC, DCM and Dr. Jeff Warren and other parties involved in this process over the last several years. We appreciate you opening the floor today for public comment. My wife and I are owners of a beach home in the section of the beach affected by this new rule. We are extremely pleased with the new proposal which allows for the possibility for lots in this section of the beach to be re-built based on changes to the setback policy. This is a very positive approach which will allow some of the older structures to be brought up to current code, and therefore make homes safer for residents and their guests. Today I'm speaking to provide some positive feedback to the CRC and DCM regarding this entire process. As a concerned citizen, I have been involved for about the last three years. The rules have been comprehensively studied, proposed, and altered based on feedback from all interested parties. The various groups involved in drafting the rules have listened very carefully to all stakeholders, and have made numerous changes as a result of the meetings and public comments. It is refreshing to see this process work effectively and I am personally very pleased with the negotiated terms set forth in the final version of rule .0306. In particular I would like to extend my thanks and appreciation to Dr. Jeff Warren and his team on the CRC staff. He has been very accessible throughout this entire process. Over the last couple of years, Dr. Warren has taken the time to answer my numerous questions leading up to rule .0306. He has been willing to explain the process and logic behind the difficult task of balancing the interests of all involved stakeholders. I appreciate the fact that Dr. Warren is able to clarify and discuss some very complicated and detailed issues in layman's terms for citizens such as myself to understand. I look forward to the adoption of this rule, because it does allow for responsible and limited rebuilding along the effected areas of our wonderful state.

Charles Stuber, homeowner on Emerald Isle, stated he and his wife have owned property on Emerald Isle since 1970. We have seen a lot of things change since then. We bought our first property in 1970. At that time there were hardly any dunes in front of us. Through the use of sand fence and fertilizing the sea oats we have built up a very good primary dune in front of our property. We have five lots. With the renourishment we had five years ago, we have much better beach and much better dunes than we had 38 years ago. I think this is evidence that the beach is changing for the positive in our area. I applaud the CRC for considering the fact that the static line may need to be considered and have exemptions for it because right now all of our lots are non-conforming and if something happened to them we would have no value there. It will increase the tax value for Emerald Isle and it will encourage people to improve their property.

15A NCAC 07J .1200 Static Line Exception Procedures

Steve Levitas, representing Moore's Inlet Limited Partnership, stated our interest in this rule arises from its relationship to the setback rules that were the subject of the prior hearing. In

order to obtain relief from the more stringent setback requirements in the .0306 rule for large structures within a local government's jurisdiction, the local government would have to satisfy the static line exception requirements in this proposed rule. We believe the purpose, spirit and intent of what the CRC and the DCM Staff are trying to do is sound. We agree there need to be well-defined procedures and there should be significant standards that have to be met in order to qualify for the static line exception and the setback exemption. We think this rule obtains some ambiguities and those provisions could be construed in a way that would undermine the purpose of this rule. I think it can be fixed relatively easily and I have had a chance to talk to Dr. Warren about this and I think he shares this view. I think there are some things that can be done in the general improvement of the language that will make the rule clearer and we are committed to work with the staff.

Frank Rush, Town Manager for the Town of Emerald Isle, stated the Town of Emerald Isle supports the static vegetation line exception and thanks the CRC and DCM Staff for a good public process. The significant stakeholder input is very much appreciated.

PUBLIC COMMENT AND INPUT

Alexandra Boncek stated she is representing the Sandspur Motel and Cottage Court in Nags Head. My grandfather purchased the motel in 1971 and except for a few years, it has been in my family ever since. My mother took possession in 1992 and with your help and consideration; I will be able to take possession once I complete my education. Our family has spent hundreds of thousands of dollars over the past 25 years trying to save the beach and the motel. We have pushed dunes, installed miles of sand fence, planted vegetation and paid to have several hundred truckloads of sand brought in and put on the beach. In 1999, my mother applied for a permit to install sandbags on the beach just in front of our oceanfront cottage on the south side of the property. After that she was granted a permit to install sandbags directly under the cottage between the pilings. In the last few years, the bags on the beach became uncovered during several of the hurricanes that ravaged the beach. While uncovered, people drove over the bags and children played on them which tore holes rendering them useless. The shreds were unsightly so my mother started cutting the bags out and we now feel that the bags are completely gone in front of the cottage. However, we still have bags under the oceanfront house. They are totally covered and the entire house has sand fencing around it. In the middle of the house the bags are within a few feet of the underside of the house, so if we have to add sand we have to lay on our stomachs and bring in sand bucket by bucket. We have made every attempt to keep the bags covered but are unable to plant vegetation since no sunshine ever reaches the bags. We are a small cottage court configuration with two rows of cottages and efficiencies running from the ocean to the beach road that face each other. We see no way to remove the bags since they are so close under the house. With the pilings and supports, you have to get on your stomach to get to the center of the house. This house is our best moneymaker. Because it is only one story, all of our older clients want to rent this house since they do not have to climb steps once they get on the deck. This house provides about 25% of our income for the whole complex and rents double the weeks that the other two-story oceanfront house rents. We have been told that we are the low man on the totem pole when it comes to being ordered to remove the bags, however, that does not give us any comfort. We have made every effort to follow all the rules and instructions from your personnel. We feel that we should not be penalized when we are unable to complete the covered and vegetated rule through no fault of our own. We ask your consideration in granting an exemption for bags that are covered, are on private property, and in no way are unsightly or

impede a public access to the beach. This property should be allowed to be passed on to a third generation family member and should include the oceanfront cottage. We appreciate any consideration you could give us. We are not trying to get around the rules. My mother is a strict advocate for following the rules in life. However, following the rules in this instance could seriously affect our income and our ability to run the family business and make a profit. We are at your mercy and thank you for any assistance you can give us.

Charles Baldwin of Rountree, Losee & Baldwin stated he represents the Village of Bald Head Island. The Village is delighted that the marina is excluded from the current proposed inlet hazard area maps. As Staff indicated, this critical structure is the only point of ingress and egress from the island for people, supplies and vehicles. The marina area is also the location of the two bed and breakfasts on the island which are critical infrastructure facilities that can simply not be relocated anywhere else. Maps were shown that indicate the swimming pool, tennis courts, part of the clubhouse, pro shop and exercise room are not excluded. The facilities are not going to move more landward. They obviously need to stay there, as they do not pose a threat to anyone. I think there is a technical fix that we can do to address this issue. A policy staff implemented was to either include a property in its entirety or exclude the property in its entirety. If that same methodology were applied to the golf club property, then you would exclude the golf course, the pool, tennis courts and all. There is also a provision in the existing rule that reads, the Cape Fear Inlet Hazard Area shall not extend northeast of the Bald Head Island Marina Channel entrance. That provision excludes the marina from the inlet hazard area. That is good policy. It is proposed to be deleted in the new rule. This language should stay in the new rule.

ACTION ITEMS

Joan Weld made a motion that the CRC extend the time for deciding contested case 06 EHR 1185 Henry Cowell/Carolyn Dressler v. NC DENR/DCM/Earl and Mary Westphal for an additional sixty days so the Commission counsel and Staff can prepare and distribute the record to the Commission members and can provide parties with adequate time to file written exceptions and comments on the ALJ's decision. Jim Leutze seconded the motion. The motion passed unanimously (Leutze, Cahoon, Wilson, Weld, Elam, Peele, Shepard, Old, Webster, Wynns, Sermons).

Joan Weld made a motion that the CRC extend the time for deciding contested case 07 EHR 0345 NC Coastal Federation v. DENR/Wind Over Waves LLC for an additional sixty days so the Commission, CRC Counsel and Staff can prepare and distribute the record to Commission members and provide parties with adequate time to file written exceptions and comments to the ALJ's decision. Melvin Shepard recused himself from this matter. Lee Wynns seconded the motion. The motion passed unanimously (Leutze, Cahoon, Wilson, Weld, Elam, Peele, Old, Webster, Wynns, Sermons).

OLD/NEW BUSINESS

Wayland Sermons requested the time for public hearings be changed. He requested public hearings not start at 5:00 p.m. for hearings that will receive a large amount of comments. He also requested that a meeting be held on Ocracoke Island at an upcoming meeting.

Wayland Sermons made a motion that the Coastal Resources Commission meetings begin at 8:30 a.m. on Thursday and Friday mornings. Melvin Shepard seconded the motion. The motion passed unanimously (Leutze, Cahoon, Wilson, Weld, Elam, Peele, Shepard, Old, Webster, Wynns, Sermons).

Chairman Emory stated a significant amount of time will be allocated towards wind energy at the September meeting. Joan Weld has requested that a panel of people who each represent a different perspective on wind energy be present at the September meeting. Peter Ravella's presentation was a result of the on-going comprehensive approach to how we manage the beaches. What is the pleasure of the Commission to a next step? Jim Leutze stated this would be a good opportunity to use the CRAC as this has a lot to do with local funding. Dr. Leutze requested several Mayors and/or County Commissioners be involved in this discussion, as it requires local funding. Renee Cahoon stated the League of Municipalities and the NC Association of County Commissioners would be good sources to get involved. The CRAC will focus its next meeting on the local government perspective on wind energy and the local government interaction on innovative funding.

Melvin Shepard made a motion that the CRC approve the sandbag removal program as outlined in the presentation on July 25, 2008, and the CRC finds this prioritization reasonable based upon the breadth of the issue and staff availability. Jim Leutze seconded the motion. The motion passed unanimously (Leutze, Cahoon, Wilson, Weld, Elam, Peele, Shepard, Old, Webster, Wynns, Sermons).

Jim Leutze requested a progress report on the comprehensive beach and inlet management plan at each meeting.

Renee Cahoon requested the CRC look at the marina rules. As marinas are approved, there should be some element of public access included. The CRAC will follow up with this request.

With no further business, the CRC adjourned.

Respectfully submitted,

James H. Gregson, Executive Secretary

Angela Willis, Recording Secretary