

NC COASTAL RESOURCES COMMISSION (CRC)

March 27-28, 2008

Clarion Oceanfront

Kill Devil Hills, NC

Present CRC Members

Bob Emory, Chairman

Doug Langford, Vice Chair

James Leutze

Chuck Bissette

Renee Cahoon

Charles Elam

Joseph Gore

Jerry Old

Wayland Sermons

Melvin Shepard

Joan Weld

Bob Wilson

Lee Wynns

Present Coastal Resources Advisory Council Members (CRAC)

Dara Royal, Chair

Penny Tysinger, Co-Chair

Deborah Anderson

Bert Banks

Randy Cahoon

Carlton Davenport

Eddy Davis

Anne Deaton

William Gardner

Renee Gledhill-Earley

Judy Hills

Al Hodge

Joe Lassiter

Travis Marshall

Gary McGee

Christine Mele

Wayne Mobley (Alan Saunders)

J. Michael Moore

William Morrison

Lee Padrick

W. Burch Perry

Spencer Rogers

Frank Rush

Robert Shupe

Harry Simmons

Lester Simpson

Ray Sturza

Tim Tabak

Joy Wayman

Beans Weatherly

David Weaver

William Wescott

Rhett White

Traci White

Present Attorney General's Office Members

Francis Crawley

Allen Jernigan

Christine Goebel

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. Bill Peele was absent. Renee Cahoon stated that she has one conflict. Based upon this roll call, Chairman Emory declared a Quorum.

MINUTES

Jim Leutze made a motion to approve the January 2008 CRC meeting minutes. Joseph Gore seconded the motion. The motion passed unanimously (Shepard, Bissette, Leutze, Wynns, Langford, Gore, Sermons, Cahoon, Weld, Elam) (Wilson abstained) (Old absent for vote).

EXECUTIVE SECRETARY'S REPORT

Jim Gregson, DCM Director, gave the following report.

Sandbag update

We are rapidly approaching the May 1 deadline for removal of a number of sandbag structures on our coast. Beginning in late April or early May, DCM staff will begin to inventory sandbag structures, compare them with our database to see when they were installed, and begin to determine which ones will need to be removed. As a reminder, structures that are covered with sand and stable, natural vegetation will be allowed to remain in place until the sandbags are uncovered by a future storm event. Once staff determines which sandbags are subject to removal, we will begin to prioritize them based on how long they have been in place, condition of the bags, and whether they are an impediment to the public's use of the beach. We will use this prioritization to begin notifying property owners that their sandbags must be removed.

Rule updates

Hopefully you noticed the rule updates in your packets for this meeting. This is something we plan to include for you at every meeting, so each of you will have a summary of where we are with regard to rule changes.

CICEET grant

DCM and the North Carolina National Estuarine Research Reserve (NCNERR) in partnership with the NOAA Center for Coastal Fisheries and Habitat Research, UNC Institute of Marine Sciences, and UNC – Wilmington have recently been awarded a grant from the Cooperative Institute for Coastal and Estuarine Environmental Technology to further study estuarine shoreline stabilization and their consequences. The objectives of this project are to 1) conduct research to quantify ecosystem service tradeoffs as a consequence of habitat alteration, 2) design and install demonstration projects utilizing alternative shoreline stabilization approaches for research and education purposes, 3) develop an approach for evaluating ecological and socioeconomic costs and benefits of shoreline erosion and protection alternatives and 4) develop effective communication methods for exchanging information between scientists, regulatory

agencies, the business community, politicians and other relevant stakeholders in regard to short-term and long-term cost-benefits of shoreline stabilization plans. The project is planned to begin fall/winter 2008.

Walter B. Jones awards

Four North Carolinians were honored this year as recipients of the 2008 Walter B. Jones Awards and NOAA Awards for Excellence in Coastal and Ocean Management. These biennial awards recognize coastal stewards, graduate students, state and local government, and non-governmental organizations for their outstanding efforts in coastal and ocean management. The award is named for U.S. Rep. Walter B. Jones Sr. As chairman of the House Merchant Marine and Fisheries Committee; Rep. Jones supported the National Marine Fisheries Service and coastal zone management.

The winners from North Carolina are:

Walter B. Jones Awards:

- *Excellence in Local Government: Gregory "Rudi" Rudolph, Carteret County, N.C., Shore Protection Office* -- Under Rudi's leadership since 2001, the office has provided many services to constituents in Carteret County, and through its demonstration of innovative programs, the agency has been a resource for North Carolina and the nation. The county's beach fill projects are undertaken in a positive and professional manner, using environmentally sensitive methods. It is through the close coordination among all levels of government and Rudi's invaluable knowledge of coastal processes that so much has been accomplished in this county.
- *Excellence in Coastal and Marine Graduate Study: Anirudh Ullal, North Carolina State University.* -- Now a post-doctoral associate at Duke University, Ullal was nominated by Ed Noga of NC State for groundbreaking research into antibiotic properties in channel catfish. The findings suggest this hemoglobin antibiotic defense might be widespread in all vertebrates — from fish to mammals. Although this research is not traditionally associated with environmental based studies, these types of molecular approaches are important to the scientific community.
- *Heather Ward, East Carolina University* -- In the ECU Coastal Resource Management Program, Heather's studies include interpreting hurricane graffiti, emergency communication and risk perceptions, and media coverage of climate change research. She is researching how the public, scientists and policy-makers talk about the coast and its various challenges and opportunities. She is especially concerned with making sure that the views of those who live and work at the coast are heard by coastal managers and scientists.

NOAA Excellence Awards:

- *Excellence in Business Leadership: J&B Aquafood, North Carolina* -- Jim and Bonnie Swartzenberg of Onslow County were honored for their leadership in the aquaculture industry, as well as in research and conservation efforts, including founding the N.C. Shellfish Growers Association. Jim and Bonnie's innovative approach to their company is a great example of how a profitable business can be coupled with stewardship of important coastal resources.

A ceremony to honor the award winners was held Feb. 27 in Washington, D.C.

New CRAC member

Gary McGee is the new CRAC representative from Currituck County, replacing Ernie Bowden.

Staff news

Frank Crawley will fill in for Jill Hickey as CRC counsel for this meeting. Frank serves as counsel for the Marine Fisheries and Environmental Management Commissions.

Donna LeBlanc is the new Administrative Assistant for the Division in our Wilmington office. Previously, Donna was employed with Brunswick County's planning department.

Following a reorganization of the coastal reserve staff, Education Specialist Amy Sauls has left the Rachel Carson Coastal Reserve office in Beaufort.

Two new babies have been born to Raleigh office staff:

Coastal and Ocean Policy Analyst Scott Geis and wife Gina welcomed their son Aidan on March 4.

Coastal Hazards Specialist Jeff Warren and his wife Missy welcomed daughter Margaret Evelyn on March 12.

CHAIRMAN'S COMMENTS

Chairman Emory stated that there would be some guests arriving later in the morning from Indonesia. They are part of a program in Indonesia that is similar to the NC Sea Grant Program. They are in the United States looking at coastal programs and they wanted to come to the coast of North Carolina and observe how the Coastal Resources Commission operates.

Chairman Emory further stated that he attended the Coastal Resources Advisory Council meeting yesterday. At the last CRC meeting the Commissioners decided to delegate a number of things to the CRAC prior to them coming to the Commission. That process began yesterday and it was a lively meeting. He encouraged Commissioners that can arrive on Wednesday afternoon to attend the CRAC meeting, as this is where the initial discussion on a lot of issues will take place. The CRC room arrangement is also different for this meeting. One of the suggestions of the meeting format subcommittee was to place the CRAC members where they are in a better position to participate in discussions. Later in the meeting we will hear the recommendations from the meeting structure subcommittee, this will include the deactivation of the two standing committees. The CRAC will have a full voice on agenda items and discussions other than the variances and contested cases. The votes will be Commission's votes, but the CRAC has the opportunity to participate and this is different than what we have done in the past.

This will be the year of the sandbag. Jim Gregson described the step-wise approach that the Division of Coastal Management is taking on enforcement actions on sandbags.

CRAC Report

Dara Royal, CRAC Chair, gave the Coastal Resources Advisory Council Report. (See attached minutes).

The CRC took the following action:

Doug Langford made a motion to approve certification of the Hyde County Land Use Plan. Joseph Gore seconded the motion. The motion passed unanimously (Shepard, Bissette, Leutze, Wynns, Langford, Gore, Wilson, Sermons, Cahoon, Weld, Elam, Old).

Renee Cahoon made a motion directing staff to develop rule language for the CRAC to review in May for the purpose of preserving public access through rules or permit conditions. Joan Weld seconded the motion. The motion passed unanimously (Shepard, Bissette, Leutze, Wynns, Langford, Gore, Wilson, Sermons, Cahoon, Weld, Elam, Old).

Jim Leutze made a motion directing staff to develop rule language amending the pier house rules to allow for vertical expansion for the CRC to review. Charles Elam seconded the motion. The motion passed unanimously (Shepard, Bissette, Leutze, Wynns, Langford, Gore, Wilson, Sermons, Cahoon, Weld, Elam, Old).

PRESENTATIONS

Coastal Stormwater Rules Update – Tom Reeder, DWQ

Tom Reeder gave an update of the EMC revision of the coastal stormwater rules. Mr. Reeder stated that the revisions were adopted by the EMC on January 10, 2008. These amendments went to Rules Review Commission on February 21. The RRC issued three minor objections dealing with ambiguity and terminology. The EMC adopted revisions to their adoptions and the rules went back to RRC on March 20 and were approved. These rules will now go forward for legislative review in the short session of 2008. There is nothing now that can deter these rules from being reviewed by the Legislature.

Mr. Reeder stated that G.S. §143-214.7 should be looked at if looking at this rule. This is a General Statute that the General Assembly adopted a number of years ago and basically regulates the EMC's stormwater programs. This Statute says that the EMC is supposed to continually monitor water quality and revise the stormwater rules as necessary to protect the water quality in North Carolina. In the next paragraph of the Statute they actually establish a priority order for protection of the waters of North Carolina. The number one priority waters in N.C. are classified shellfishing waters.

Mr. Reeder highlighted this rule change. If you are within a half of a mile of shellfishing waters, the low-density threshold would be lowered to twelve percent. This means if you go above twelve percent impervious surface density on your lot, you would have to implement structural stormwater controls on the lot. These are the same requirements that are already in place in three counties in N.C. (Brunswick, New Hanover and Onslow) as a result of Phase II requirements that went into place last July. If you are outside of the half of a mile of shellfishing waters, the low-density threshold is lowered to twenty-four percent and you have to treat and control the first inch and a half of rain. About ninety percent of the coast is outside a half of a mile of

shellfishing waters. A vast majority of the twenty CAMA counties would be under the low-density requirements.

The most controversial aspect of this rulemaking has been a proposal to expand the setback from thirty to fifty feet, the prohibition of wetlands from future impervious surface calculations, and lowering the threshold for a permit to 10,000 square feet. The compromise the EMC came up with on the setback issue was to leave the thirty-foot setback in place for redevelopment. If it is new development, the setback from surface waters will be expanded to fifty feet. Unless you are residential development of greater than an acre or non-residential development of greater than 10,000 square feet, this setback does not come into play. When the rules went out to public notice, the EMC proposed to lower the threshold for coverage from one acre to 10,000 square feet for all development in the twenty CAMA counties. The EMC lowered the threshold for coverage for a stormwater permit down to 10,000 square feet for non-residential development, but would leave the threshold at an acre for residential development. The EMC still wanted residential projects that disturb more than 10,000 square feet, but less than an acre to do something to try to control and treat their stormwater runoff on site. For these residential projects you do not have to get a stormwater permit, but you will be required to implement one of the following measures: (1) rain cisterns (collects rooftop runoff for reuse) and permeable pavement for patios; (2) construct a rain garden (direct rooftop runoff into the rain garden) and use permeable pavement; or (3) any other BMP (like on-site infiltration).

The fifty-foot buffer is not a “no touch” buffer. Nothing in these amendments limit what can be built. The low-density threshold is not a development cap. Rain cisterns are not mandatory; they are just an option to consider. NCDOT is not exempted from stormwater controls. There are thirteen full-time staff at DWQ that scrutinize and permit NCDOT activities. These amendments will not make lots unbuildable. Lots less than 10,000 square feet will not be affected. Lots in subdivisions with a permit will not be affected. Three vesting provisions cover all rules that are adopted by the EMC. (1) DWQ stormwater redevelopment provision that allows a home that is destroyed by a fire or hurricane to be rebuilt as it was previously. (2) Statutory vested rights and (3) “commons law” vested rights apply to everything that the EMC adopts. EMC does not go past these vesting provisions because the General Assembly has told the EMC they do not have the statutory authority to put exceptions and exclusions into their rules. Mr. Reeder stated that he fully expects a large number of exclusions, exemptions and vesting provisions to be added to these rules by the General Assembly. If local governments want to take over the stormwater program, they always have that option under the universal stormwater management program. A local government can adopt this program and take over the program that will allow them to not be affected by this rule change.

All information about this rule change is available at <http://h2o.enr.state.nc.us/su/coastal.htm>

Coastal Reserve Update (CRC 08-13)

Rebecca Ellin, Manager of the NC Coastal Reserve Program and NCNERR, stated this is one of the three sections within the Division of Coastal Management. The NC Coastal Reserve was formally established by the Legislature in 1989 in an effort to form a comprehensive Coastal Management program within North Carolina. Within the program there are 10 coastal reserves. Four of these components comprise the North Carolina Estuarine Research Reserve (NCNERR). This is one of 27 reserves within the system of protected areas located around the country. This program is set up as a state and federal partnership between NOAA and a state agency (DCM).

Ms. Ellin discussed the mission and objectives of the Reserve. She discussed staffing, organizational chart, and operating budget of the Coastal Reserve Program.

Ms. Ellin highlighted accomplishments of 2007. The system-wide monitoring program entered its thirteenth year. This is a water quality monitoring program that is implemented at our Zeke's and Masonboro Island Reserves in the South. We measure water quality parameters to make sure we can assess short-term variability and long-term change in the systems there. We recently completed mapping habitats at the four NCNERR components. With support from the Albemarle/Pamlico Natural Estuarine Program we were able to install a first in a series of tide gates at our Buckridge Coastal Reserve. The tide gates help restore the hydrologic function to the Reserve and help prevent salt water intrusion. We have recently submitted a grant to the Clean Water Management Trust Fund to get additional support to put nine more of these in. Another project we implemented this past year in conjunction with the University of North Carolina at Wilmington is a visitor use survey. We also celebrated the completion of the construction of the boardwalk at the Rachel Carson Reserve. We are hoping to showcase this to the CRC on one of the field trips we have planned. It is a green boardwalk which means that it incorporates composite materials in the decking and the railings. This was one of the opportunities to we are able to promote good environmental stewardship by using recycled materials. Ms. Ellin further stated that the education programs reached over 3,500 teachers, students, coastal decision makers, and general public members last year. The Reserve has also engaged in a variety of activities to support the CHPP. SAV was mapped at the Rachel Carson site. Mapping was attempted at Masonboro, but none was located. There are a lot of CHPP principles and habitats into our education programs and a variety of CHPP related workshops have been conducted.

In 2008 we are going to continue a lot of the activities we accomplished in 2007, but we are also going to embark on new activities. Development and implementation of a visitor education plan is one of the first things we are going to do. This is underway and will entail increasing awareness of the Reserve (why the sites are protected and what the appropriate uses are). This will be done through a series of brochures, signage on the sites and presentations to the community. Also in 2008, research on estuarine shoreline stabilization. Comparative research will also be done between natural and restored salt marshes to determine the efficacy of restoration techniques and monitor the impacts of sea level rise. We will be offering new educational programming including redesigned teacher workshops, a junior naturalist program for middle school children and offer some pre-school and elementary school activities. We are excited about formalizing and expanding our volunteer program. The Reserve relies heavily on volunteers. A newly redesigned website as well as wide circulation of our newsletter "The Tidal Flat" will be used to raise the awareness of the Reserve. Finally, one of the remaining projects being worked on in 2008 will be acquiring a parcel at Masonboro Island.

At future Commission meetings, the Reserve Program Coordinators will be on the agenda to provide a more in depth look at our research, education and stewardship programs. Additionally, we will focus on specific projects that are relevant to the issues the CRC is discussing. The CRC and CRAC are an avenue to raise the visibility of the Reserve.

Recommendations from Variance Procedures Subcommittee (CRC 08-15)

Lee Wynns stated the Rules Review Commission had an objection to 07J .0701(Variance Petitions). This objection stated that this rule quotes the NC General Statutes concerning quasi-

judicial meetings. This rule now comes back to the CRC to re-start the rulemaking process. The subcommittee recommends the CRC remove the reference in the rule.

The Rules Review Commission approved 07J .0702 (Staff Review of Variance Petitions). However, more than ten members of the public wrote letters of objection to the RRC. We do not know what the objections are. Since these letters have been received, this rule must go through the legislative review process. The subcommittee recommends awaiting the outcome of the legislature's session in May.

The Rules Review Commission objected to 07J .0703 (Procedures for Deciding Variance Petitions). This objection stated that this rule also quotes the General Statutes. This rule also received ten letters of objection from the public. Staff requested the rule be returned to the CRC for further discussion. The subcommittee recommends deleting the language objected to by the RRC.

Mr. Wynns stated the subcommittee also discussed the proposal of when Staff and Petitioner agree on all four statutory criteria no oral presentation would be made. The subcommittee determined that there should not be anything to preclude oral presentations at the meeting. In the event Staff and Petitioner agree on all four criteria and agree to not make oral presentations, the CRC could vote on the variance if there were no questions.

Wayland Sermons made a motion to move forward with rulemaking on 7J .0701 and 7J .0703 adopting the recommendation of the Rules Review Commission to delete (g). Renee Cahoon seconded the motion. The motion passed unanimously (Shepard, Bisette, Leutze, Wynns, Langford, Gore, Wilson, Sermons, Cahoon, Weld, Elam, Old).

Lee Wynns further stated the subcommittee was also asked to look at contested case proceedings. The subcommittee recommends (1) lessening the time allowed for presentations to ten minutes for the petitioner and for staff, (2) lessen the amount of time allowed for responses, (3) guide the Commissioners to be as succinct and direct as possible in their questions and comments and to consider limiting the number and length of comments from each Commissioner, (4) give the Commission a refresher on the typical components in a contested case file along with guidance on the most efficient ways to prepare for a contested case hearing and provide an index for easy reference, and (5) provide findings of fact and other summary documents in hard copy but all remaining documents electronically.

Bob Wilson asked about taking action on receiving the contested cases by CD or electronically. Chairman Emory stated that this would be discussed (paper versus electronic) more in depth later in the meeting. Bob Emory stated that the refresher course on contested cases would be at a future meeting as an agenda item.

Recommendations from Meetings Structure Subcommittee (CRC 08-16)

Jim Leutze stated the subcommittee was asked to look at changes to several procedures and some of these changes have been implemented at this meeting. Alternative meeting agendas, how to effectively incorporate the CRAC in the deliberations of the Commission, identify a process for developing CRC agendas, and explore the possibility of reducing the number of meetings per year.

A decision was made not to abolish the standing committees, however to keep them in case we need to go the committee structure we could do that. A problem arose as to what the other committee would do if only one committee was meeting. The option will be retained to use the committees when needed.

CRC agendas were discussed. At the January meeting there was recommendation to develop a process for adding future items to the agendas utilizing a set of criteria as well as a consensus of the Commission. The recommendation is the Executive Committee should meet at the conclusion of the CRC meeting to plan the next agenda. CRC members wishing to add items to future agendas should bring them to the Executive Committee meeting for their consideration.

We wanted to encourage and improve our ability to take advantage of the knowledge of the CRAC. The suggestion from the January planning session including having the CRAC screen issues before they come before the CRC and to have the CRAC hear the Land Use Plan reviews and make a recommendation regarding certification. The subcommittee's recommendation is to incorporate suggestions to have new issues initially run through CRAC. The Land Use Plans should be presented to the Advisory Council and the CRAC report will include a recommendation on certification. The layout of the CRC meeting room should be changed so the CRAC is seated at tables, jury-box style.

The subcommittee also discussed meeting frequency. As discussed in January, the amount of time spent on variances and contested cases was seen as impeding discussion on other substantive issues, however, it was recognized that the financial burden to the Division and workload placed on staff by meeting six times per year was too burdensome. Given the cost of CRC meetings and the amount of time needed to carry out the business of the Commission, there was not much difference between the costs associated with a one-day meeting and the usual 1 ½ days meetings. The recommendation of the subcommittee is to increase the efficiency by holding variance proceedings on Wednesday afternoon from 3:00 p.m. – 6:00 p.m. The CRAC can meet from 1:00 p.m. to 3:00 p.m. as to not be precluded from attending the variance hearings. It is recommended to decrease the number of CRC meetings to five per year by eliminating the January meeting. The option of a January meeting could be retained should a “called” meeting by the Chair be deemed necessary.

Wayland Sermons made a comment that the CRAC should screen issues prior to them coming to the CRC, however, as in the pier rules earlier in the meeting it seemed like the discussion had been done and the CRC was just asked to vote on having staff develop a presentation or rulemaking. The CRC will need to have discussion and presentations. The screening process will be done not to create the policy, but to decide whether it is important enough to bring before the CRC. After discussion, it was decided to try this format and see how it works for the Commission.

Renee Cahoon expressed concerns about having variances heard on Wednesday afternoons. She stated that her Board meets on Wednesday nights and she would not be able to be in attendance for Wednesday variances.

Doug Langford made a motion to accept the recommendations of the meeting structure subcommittee. Charles Elam seconded this motion. The motion passed unanimously (Shepard, Bissette, Leutze, Wynns, Langford, Gore, Wilson, Sermons, Cahoon, Weld, Elam, Old).

Oceanfront Setbacks (CRC 08-06)

Jeff Warren stated 7H .0306 was approved for a second round of public hearings at the January 2008 meeting. This was stalled by Staff to correct a clerical error [removal of a sentence in .0306 (A)(6)] and let the CRC review this change. Other minor revisions have been made to this rule as a result of continued work with stakeholders.

In 7H .0306 (a)(1) minor changes were made to clarify total square footage. The intent of this is that anything that is heated or parking structures that are elevated, they would be considered total floor area. If you have anything that is load-bearing that could be enclosed for total floor area, it will also be included.

The next change Staff recommends is in 7H .0306(2)(K). When you apply a setback greater than 60 times the erosion rate for larger buildings (condos and hotels) there is a different management strategy on looking at beach-fill beaches (large-scale, long-term) versus non-beach-fill beaches. This promotes Town's to take on beach fill projects because soft shore protection does mitigate storm damage. It also provides an incentive for redevelopment in replacing 1950's and 1960's circa cottages and buildings with current materials and current building code which is in the spirit of CAMA. Lastly, it embraces the local-state partnership which makes CAMA so powerful. It tells the local government or community that if they are willing to reduce their risk by doing a beach fill project long-term, large-scale then we are willing to be more lenient on what you can do. If the Town's are not going to do beach fill then there would be ruling in place that allows us to mitigate the coastal hazards by moving the structures back. If a Town commits to beach-fill they can continue to use 60 times the erosion rate as their setback maximum. This would mean 60 times the erosion rate for any structure greater than 5,000 square feet.

The CRC received a letter from the Science panel and also received a letter from Spencer Rogers. The science panel endorses what DCM has done with this rule. They like basing setback on size and not use and they like the increased setback for larger structures. They do feel there should be an increased setback for smaller structures (less than 5,000 square feet). Staff did present a proposal for graduated setback for structures between 2,500 and 5,000 square feet. But it was visible early on that this was an unviable situation and that it would have far reaching ramifications on the coast. DCM Staff looked at the management objectives and determined that the small structures are o.k. A smaller structure is relatively easy to move (or disassemble) or in the event it is destroyed it is a limited amount of debris. The letter from Spencer Rogers focused on setting back the smaller homes also.

Spencer Rogers stated that as a member of the CRAC it is his responsibility to give the CRC the best advice that he can. The information provided in his letter had been received by the CRC on more than one occasion. He stated that he did not wish to add anything further than what was in the letter.

Jeff Warren stated that lastly there was a minor changed being made to (K). There was concern that (K) would be in conflict with other pieces in this section. Additions were added for clarity.

Jim Leutze made a motion to send 7H .0306 to public hearing to include the amendments presented by Staff. Charles Elam seconded the motion. The motion passed unanimously (Shepard, Bisette, Leutze, Wynns, Langford, Wilson, Sermons, Cahoon, Weld, Elam) (Gore, Old absent for vote).

Jeff Warren stated that 7J .1200 had already been approved by the CRC for public hearing, but it has been on hold because it needs to go in tandem with 7H.0306 (because they reference each other). These rules are the procedures to receive a static line exception. DCM Staff would like to make a change to 7J .1203(a)(2) to add written or oral comments. This same change would be made to 7J.1203(a)(3).

Dara Royal made the comment that in 7J .1204(d)(3) the same change should be made for consistency (insert “written or oral” to first sentence in front of comments; insert “oral” in front of comments in second sentence). This was agreed upon for consistency.

Bob Wilson made the comment that a typo be corrected to change (d) to (c) in 7J .1203.

Wayland Sermons made a motion to send 7J .1200 to public hearing. Bob Wilson seconded the motion. The motion passed unanimously (Shepard, Bisette, Leutze, Wynns, Langford, Wilson, Sermons, Cahoon, Weld, Elam) (Gore, Old absent for vote).

Jeff Warren stated this is the first time the proposed changes to 7H .0309 have been seen by the Commission. This rule has been referred to as the “single family exception rule”. The proposed changes are to make this rule consistent with the policies just sent for public hearing. There is a provision in the CRC’s rules currently that says if the lot was platted before June 1, 1979 and you cannot meet the setback based on the erosion rate, you can put a structure on the lot that is at least sixty-feet landward of the vegetation line and as far back as feasible as long as the footprint of that structure is not greater than 1,000 square feet or ten percent of the area of the lot whichever is greater. DCM Staff was concerned that if you have 1,000 square foot footprint and a local ordinance can limit it to one-story, another Town can limit it to two-stories and another Town can limit to three-stories. In some cases the total floor area would be 1,000 square feet and in another case it could be 3,000 square foot floor area. Because we have provided for a total floor area limit in the static line exception (7H .0306), DCM Staff thought it was appropriate to control the total size of the structure and provide a maximum total floor area of 2,500 square feet (consistent with 7H .0306). In addition DCM Staff suggests that this not be tied in as a ratio of the lot size. A 1,250 square foot footprint is the limit for a one-story structure. A provision was also put into 4(C) that would ensure that no cantilevering is ever used.

After discussion, it was decided to discuss this rule at the next meeting.

PETITION FOR RULEMAKING

Landmark Hotel Group (CRC 08-14)

Renee Cahoon recused herself from this issue as she has given advice on this issue and helped with suggested verbiage in the Petition. Chairman Emory allowed 15 minutes per party for presentation.

Ted Sampson, environmental consultant with Sampson and Company, represented Petitioner Landmark Hotel Group. Mr. Sampson stated that Michele Pharr, vice-president for regional operations for Landmark Hotel Group, is also in attendance. Landmark Hotel Group requests a change to soft-erosion control structures (sandbags). Mr. Sampson stated that he had received a copy of Staff’s response to the Petition and Staff opposed it on every count. Staff was being

responsive to guidance previously received from the Coastal Resources Commission. Mr. Sampson stated there was an alternative approach to time limits on sandbags. There were two points that were brought up on the Staff response that bare making a specific response to. The first is Staff oppose this Petition because we were treating commercial structures differently from non-commercial structures. Mr. Sampson pointed out to the Commission that the Petitioners are owners of commercial property and while they feel there are justifiable reasons why commercial properties could be treated differently than non-commercial properties. Some of the Petitioner's justification for this is that commercial properties have a greater economic input to the local area and region. More of the money that goes into this commercial structure is plowed back into it in the way of maintenance, salaries, and staff than to an out of state owner of a single family dwelling. Petitioners also feel that the owner of a commercial property has a vested interest in maintaining a sandbag alignment and will do a better job of maintaining it ensuring that it is aesthetically pleasing, well maintained and not a liability. Should the CRC feel they want to deal with both commercial and non-commercial owners in identical fashions, the Petitioner feels they can live with what has been provided in the Petition for both commercial and non-commercial entities. The second point to address from Staff's comments is they oppose the Petition because the Petitioner seeks indefinite maintenance of sandbag structures. This is simply a mischaracterization of what the Petition seeks. While it is true the Petitioners seek relief from a drop-dead, time-certain date where after sandbags would not be allowed to protect existing, viable structures they in great detail have provided a means whereby a structure shall no longer be protected tied to whether it is viable or not. That viability has been put forth in great detail, but it is not seeking an indefinite use of sandbags for the protection of these structures. In May, threatened oceanfront property owners must choose whether to comply with an order to remove their sandbags and watch their property rapidly be made non-viable by continuing erosion, or they must make a decision to defy that order in an effort to protect their private property and then face very expensive court battles. Neither of these options are pleasant options. If the stance of the CRC is to leave unchanged the current rules and let these time limits on sandbags expire, the CRC will be withdrawing the only erosion control protection measure that is offered by the State of North Carolina to property owners. Property owners have already made a compromise with the State by abiding by the State's decision that no hardened structures shall be used to protect property. Mr. Sampson requested that if the CRC cannot enact a new rule that gives some relief to property owners that they at least extend the deadline for the sandbags until the point the CRC could undertake a rulemaking that can provide for the relief that is needed for owners to protect their property.

Mike Lopazanski, Division of Coastal Management, stated the Staff's response to this Petition is a response to the overall strategy through CAMA and the CRC's rules for managing oceanfront development. The Division is opposed to this request because many of the provisions requested are redundant. There are several provisions that the CRC currently has no statutory authority. If the Petition were enacted it would place an additional administrative burden on the Division. It would also in the indefinite maintenance of sandbag structures. It is also contrary to the guidance the CRC has given Staff over the past two years. Over the past eight years, the CRC has allowed sandbag structures to remain, primarily to accommodate the local efforts to secure beach nourishment projects which is the Commission's primary priority response to chronic erosion along the oceanfront. Staff has also received guidance from the CRC on the general management of sandbag structures. Clarification has been provided on the structure's alignment and orientation and how the height is to be measured. After considering all of the various extensions, variance requests, and clarification given to the Staff over the past eight years the CRC decided in the fall of 2007 not make any changes to the rule, but to simply have DCM

enforce the existing provisions. Erosion control structures are permitted under 7H .0308(a)(2). This rule permits sandbags to imminently threatened structures. The Petitioner is requesting that the CRC create a distinction between commercial and non-commercial properties which would eliminate the time restriction for commercial properties provided they meet certain criteria (maintaining sandbags in the permitted alignment, the principal structure retains a certificate of occupancy, that the property owner signs an agreement for maintenance, and the property owner posts a performance bond for the eventual removal of sandbags if they do not meet these conditions). The Petitioner is also requesting that the current sandbag alignment be relaxed to allow the protection of pools, decks and gazebos. DCM is opposed to these provisions, as they are redundant, reflect existing permit conditions and agreements already required of property owners before they get their sandbags. The recent CRC discussions have centered on whether to consider the use of the structure or simply its size in determining the setback. We have policy direction in place and rules are being sent to public hearing where the CRC has found that the use of the structures are irrelevant to its position along the shoreline in terms of protection from the hazards of being on the oceanfront. Creating a distinction between commercial and non-commercial structures is contrary to this policy. The indefinite maintenance of sandbag structures for commercial structures is as much of an interference with the public's right to use the public beach as it would be for non-commercial structures. 7H .0306(k) requires a condition on all oceanfront development permits that an imminently threatened structure be moved or dismantled within two years of its designation. This is acknowledged by the applicant when he receives his permit and it clearly indicates that the CRC had anticipated that the oceanfront structures might need to be moved or demolished. The thirty-year setback the CRC has in place is also an indication that structures could eventually be claimed by the ocean. The use of the sandbags came out of the 1985 ban on hardened structures. Sandbags were an effort to give property owners a means of protecting their properties while they found a solution to their chronic erosion problem. There has never been an indication that the sandbags would be a long-term solution. Sandbag permit holders acknowledge this by signing an agreement when the sandbags are to be removed. They also acknowledge that they are responsible for the maintenance of the sandbags permitted alignment as well as for any misaligned or derelict bags that may find their way out onto the public beach. The Petitioner requests that a performance bond be put into place to ensure the removal of sandbag structures should they not stay in compliance with their permit conditions. The CRC currently has no statutory authority to require such a performance bond. The Petitioner would also use the certificate of occupancy as a justification for maintaining a sandbag structure indefinitely. The management strategy for the oceanfront differs from the estuarine shoreline in that the primary focus of this management strategy is on life and property. The strategy is centered on oceanfront development adapting to changes in shoreline configurations by conforming to concurrent CRC rules. The use of a certificate of occupancy as a determining factor in the continued presence of the sandbag structure is inconsistent with this management objective as well as the objective of preventing encroachment of structures on the public beach areas as stated in 7H .0303(b). As to the Petitioner's citing of the contribution of commercial properties to the Outer Banks economy, we don't dispute that the commercial structures on the oceanfront are contributing 10-20% of the total occupancy revenues. However, the CRC should note that cottages, bed and breakfasts, and campgrounds are contributing the remaining percentage. The study the Petitioners reference comes from the Outer Banks Visitor's Bureau survey 2006 study. It should also be noted that this same study cites the areas beautiful beaches as the primary area attribute which motivates trips to the Outer Banks. This data reinforces the fact that access to the State's beaches is important. The time limits the CRC has in place on sandbags are an essential component of the CRC's overall management objective to achieve a balance in the safety and financial and social

factors that are involved with hazard area development. The Petition also alludes to an ineffective management strategy for erosion control structures on the oceanfront. The perception of this ineffectiveness is a primary result of the CRC's attempt to balance the right of oceanfront property owners with its obligation to protect common-law and statutory public rights of access to, and use of, the lands and waters of the coastal area. The Division remains opposed to the use of sandbags for erosion control. If the CRC believes that other changes are warranted in the management of temporary erosion control structures, Staff recommends a thorough discussion of the rule and its consequences at a future Commission meeting.

After discussion, **Melvin Shepard made a motion to deny the Petition for Rulemaking submitted by the Landmark Hotel Group. Joseph Gore seconded the motion. The motion passed with 10 votes (Shepard, Leutze, Wynns, Langford, Gore, Wilson, Sermons, Weld, Elam, Old) and one opposed (Bissette).**

PRESENTATIONS

Town of Kitty Hawk 2005 LUP Implementation & Status Report (CRC 08-11)

Joe Heard, Planning Director for the Town of Kitty Hawk, introduced Steven Smith, CAMA LPO officer for the Town of Kitty Hawk, and Holly White, planner. Mr. Heard summarized the accomplishments that Kitty Hawk has achieved in the year since the updated plan was completed. Mr. Heard discussed seven new beach access locations, new beach access parking areas, Phase I of Sandy Run Park, adoption of flood damage prevention ordinance/land disturbance permit, educational plans, and the Kitty Hawk Bay marsh restoration project which was partially funded by a DCM grant.

Melvin Shepard made a motion to accept the Town of Kitty Hawk Land Use Plan Implementation and Status Report. Doug Langford seconded the motion. The motion passed unanimously (Shepard, Wynns, Langford, Gore, Wilson, Sermons, Cahoon, Elam, Old) (Bissette, Leutze, Weld absent for vote).

Camden County 2005 LUP Implementation & Status Report (CRC 08-12)

Dan Porter, Planning Director for Camden County, stated that Camden County is a small county in the northeastern part of the state. Mr. Porter stated it is the second smallest county in the state with a population of under 10,000 people. There are no municipalities within the county, but there are three townships. Mr. Porter summarized the accomplishments of Camden County to include funding and building a school, funding and building a sewer system, initiate economic development activity, looking at drainage issues in the county, writing the first capital improvement plan, increasing the water capacity at the water treatment plant, established a community park expansion and the first county parks and recreation department, and beginning to look at the issues in the land use plan to determine what the growth and standards for development can be.

Melvin Shepard made a motion to accept the Camden County Land Use Plan Implementation and Status Report. Chuck Bissette seconded the motion. The motion passed unanimously (Shepard, Bissette, Leutze, Wynns, Langford, Gore, Wilson, Sermons, Renee, Weld, Elam, Old).

Draft Marsh Alteration Rule Language (CRC 08-07)

Terry Moore, Division of Coastal Management, stated DCM is still interested in taking 7H .0205 to public hearing for rulemaking. Mr. Moore said the problem of marsh alteration has not grown but has intensified. It is not the interest of DCM to stop all mowing or cutting of coastal wetland vegetation. DCM also recognizes that burning the marsh is a tool for managing the marsh as well as other wetlands. However, the coastal wetlands are being manipulated intensely and then the Division is being asked to delineate the areas.

Renee Cahoon asked about property owners who did not want to shade the marsh by building a pier or walkway. She requested that a pathway be allowed for these property owners. Mr. Moore responded by saying that language was inserted which says that you can cut the marsh to a height of two feet as many times as you want. He further stated this would not alter the marsh or the State or Federal's ability to delineate such. After discussion, a provision will be added to allow mowing to a six-inch height with a restriction of the width to four feet for a pathway.

Chairman Emory stated that at this time there is no restriction or limitation on marsh cutting, mowing or burning. The intent of these rules is not to stop moderate, reasonable mowing. It is to target the limited number of individuals who are engaging in the activity of intentionally and repeatedly cutting the marsh to a very short height, planting grass seed, or fertilizing it to get a wetland delineation that expands their high-ground.

Jim Leutze asked why the CRC should allow any marsh alteration? Joseph Gore stated the grasses need to be there for juvenile fish and crustacean habitat. Harm is being done to this habitat. Melvin Shepard stated that he had not heard any convincing evidence that would convince him that coastal wetland alteration is not damaging.

Mr. Moore stated DCM has requested comment from the Wildlife Resources Commission and the Division of Marine Fisheries. The comments we received indicated that marsh cutting or burning does not hurt the resource. On the contrary, a prescribed program of burning on the marsh rejuvenates the marsh and isn't a bad thing. Marsh has not been lost from this activity.

Wayland Sermons stated language should be inserted as 2(G) which allows for a pathway of not more than four feet wide and not less than six inches in height if there is no pier access.

Joan Weld made a motion to send 7H .0205 to public hearing with the inclusion of language that permits a walking path with specific height and width for property that does not have a pier over the wetlands. Chuck Bissette seconded the motion. After the substitute motion failed (), this motion passed with eight votes in favor (Bissette, Wynns, Langford, Wilson, Sermons, Cahoon, Weld, Old) and four opposed (Shepard, Leutze, Gore, Elam).**

****Charles Elam made a substitute motion that there should not be any cutting allowed of marsh grasses. Jim Leutze seconded the motion. The motion failed with four votes in favor (Shepard, Leutze, Gore, Elam) and eight votes against (Bissette, Wynns, Langford, Wilson, Sermons, Cahoon, Weld, Old).**

Pier Rules Update (CRC 08-09)

David Moye, Division of Coastal Management, reviewed the history of the proposed changes to 7H .1200 and 7H .0208(b)(6). In January 2006, the CRC was asked for a declaratory ruling on floating docks. This ruling was denied, but the CRC did ask Staff to come back and provide information on floating drive-on jetdocks but also how to permit them within our current

permitting structure. In March 2006, Staff made a presentation of floating, drive-on docks and showed the different types of structures that were available. Staff also presented the idea of allowing development on the water and the shaded impact based upon the length of shoreline of the property. The CRC then asked Staff to come back at the next meeting with proposed language. In November 2006, Staff came back to the CRC with a presentation on pier and mooring facilities that was more in depth along with proposed rule language. A suggestion was made to change the six-foot pier width in the rule to four-foot width. At this point, after discussion, the CRC advised Staff to take the measurement for the access pier out. In January 2007, Staff returned with proposed rule language with the four-foot limitation on the pier and the 8-square feet per linear foot of shoreline for the shaded impact excluding the access pier. A series of contractor's workshops were held in February 2007. A lot of input was received from the contractors on the proposed rule language. Most of the input centered on their unhappiness with the four-foot pier width. In April 2007, rule language was presented to the CRC again with some changes. The issue of four-foot pier width was still a problem for the CRC, the Commission then directed Staff to go back and return with language that would allow piers up to six-feet wide, but continue with the idea of the impact and balance it out. (Allow a pier wider than four-feet but lose something in the end to balance out the shading impact). In May 2007, Staff presented rule language to the CRC that had graduated pier widths of 4, 5, and 6-feet. As the pier widths increased, the shaded impact would also be reduced by what is allowed. In July 2007, the CRC passed this rule language, however, this rule was not to go to public hearing until the Commission was satisfied with the definition of submerged aquatic vegetation (SAV). At that time, SAV was being redefined by the Marine Fisheries Commission and it tied in with our rules. In September 2007, a Committee request was given that asked Staff to come back with wording that would allow or promote shared piers under the General Permit. In November 2007, Staff came to the CRC with wording on shared piers to be added to what had already been approved for public hearing. This was still pending the approval of the SAV definition. Staff from Coastal Management, Marine Fisheries, Water Quality, Wildlife Resources Commission and the CHPP Coordinator have worked on the issue of SAV. Anne Deaton with the Marine Fisheries Commission, who now sits on the CRAC, has been in the forefront of working on this document.

Doug Langford suggested the rules we currently have work and have worked for a long time. Mr. Langford stated that three-feet above the wetland substrate is sufficient and adding the multiplier of the shoreline available. Mr. Langford also recommended deleting the varying pier widths and the heights that go with them. He stated this should be kept simple for permitting and for the public.

Charles Elam made a motion the send 7H .0208 and 7H .1200 to public hearing with the changes recommended by Doug Langford, subject to the CRC's approval of the SAV definition. Chuck Bisette seconded the motion. The motion passed unanimously (Shepard, Bisette, Leutze, Wynns, Langford, Gore, Wilson, Sermons, Cahoon, Weld, Elam, Old).

Marine Fisheries Commission SAV Definition Update

Jimmy Johnson, Eastern Regional Field Officer for DENR, stated his primary responsibility is to coordinate the implementation of the CHPP. There is a new revised definition of SAV. A lot of new species have been added to the definition of SAV. The old definition of SAV beds primarily included just a few of the high salinity grasses. There was not a hard copy of the document available for the Commission's review. Mr. Johnson highlighted some of the changes.

Mr. Johnson stated that some of the wording that was objected to by the CRC (historical) has been removed. There has been an attempt to define in this document what “adjacent to” means as well as “conditions suitable for growth”. This technical document is primarily for field staff, therefore in the back of the technical document there are various scenarios of proposed activity and the action that should be taken in the permitting process considering impact. The rule as it is written now, as agreed upon by the interagency work group, has been sent before the Rules Review Commission for a preliminary first look. The RRC responded with nothing substantive with regards to the wording. Mr. Johnson stated that it is up to the CRC’s comfort level as to where we proceed. There is some question coming out of the Secretary’s office as to how specific we need to be in rule with some of the definitions (adjacent to, conditions suitable for growth). Mr. Johnson stated the next step was to await correspondence from the Secretary’s Office. The Marine Fisheries Commission is on hold waiting on the CRC to approve this technical document.

Concerns were raised by Deborah Anderson regarding the possible impacts and costs related to D.O.T. projects. Concerns were raised from the Commission that a hard copy document was not available for their review. Ted Tyndall, DCM Asst. Director, stated that following the final input from the Secretary’s office the document would be provided to the Commission.

Anne Deaton, Division of Marine Fisheries, stated she has an article entitled “A Global Crisis for Seagrass Ecosystems” published in 2006. She stated one of the reasons the CHPP is doing this is it has been documented that we are losing SAV habitat worldwide. We are hearing of reports of SAV in areas of North Carolina but there is no mapping or monitoring to say if we are increasing this habitat. The studies that have been done indicate that the major losses of SAV are from dredging, hydrological alteration, and shading on a small scale. On the larger scale from eutrophication, sediment deposition and sea level rise. Ms. Deaton stated that just because the definition is being expanded to be more accurate biologically does not mean that we are prohibiting activities.

Charles Elam questioned why the pier rules were held up as a result of the SAV definition. Chairman Emory stated that the SAV definition would play a rule in the permit process. Jimmy Johnson stated this definition helps the field staff. Ted Tyndall concurred that the flow charts are helpful to determine when to consult with DMF. Jim Gregson stated that three years ago DCM was writing General Permits without regard to SAV, one year ago DCM was looking for beds of SAV and were consulting with DMF if we saw that the dock would be right on top of it, now DCM is a lot more cautious to the idea that there may be SAV in the area was are consulting with DMF. This document would specify at what point we should have consultation with DMF. Charles Elam stated that the CRC should not be holding up rules waiting on this definition when DCM is already enforcing the definition in the field.

Charles Elam stated that CAMA, Marine Fisheries, and a number of other groups had all agreed upon an internal memo of understanding as how they would look at SAV. Ted Tyndall stated that Anne Deaton was the chair of the committee for drafting the proposed SAC technical document. The CRC had concerns several months ago about all encompassing it was and the committee took that under advisement. Mr. Tyndall further stated that he gave a presentation to the CRC about the need for this definition to run parallel with our resource agencies and that we did not need for there to be an issue with a permit and DCM determine SAV to be one thing and the resource agencies determined it to be something else. If this happens and the permit gets appealed and we end up in court, we have agencies fighting over the definition. MFC placed the

definition on hold while the agencies worked on it and made DCM feel more comfortable that it could accomplish the goal of DMF and is something that will not stop development from taking place.

Charles Elam stated that the CRC wanted to study this new interpretation of SAV prior to it being put into a rule definition, but in the meantime (for the past six months) we are enforcing something that has never been adopted as a rule change definition and administering it as if it was. We are holding the dock and pier rules waiting on SAV interpretation.

Anne Deaton stated that when the committee starting meeting there was a different definition and through this process we have modified the definition based on input from DCM, DWQ, Wildlife Resources and the Department. We wanted to make sure the definition was biologically correct but wouldn't be problematic for the DCM rules.

Charles Elam asked Ms. Deaton if she would have a problem sending the proposed SAV definition to the CRC's science panel for their review. Ms. Deaton stated that this is a Division of Marine Fisheries definition based on our expertise with marine habitats and fishes.

Wayland Sermons asked if DMF has approved this definition. Ms. Deaton stated the MFC approved a different definition than this to go to public hearing. She stated that this rule is not going forward until this is worked out. Mr. Sermons asked Ms. Deaton if the CRC is giving the DMF and WRC carte blanche to approve piers? Ted Tyndall responded by saying if there was a disagreement with DMF over SAV, a General Permit request would be elevated to the Major Permit process. Mr. Sermons also stated that he would like a copy of the agreed upon language and the document that we have been referring to that we don't seem to be able to get a copy of. Chairman Emory stated that the entire Commission should have a copy of it. Chairman Emory asked if it was still the wish of the Commission to hold off on the pier rules. It was agreed upon to hold off.

Bob Wilson stated that our Agency chose to approve the CHPP, but our approval was somewhat guarded. We approved the CHPP as a guideline only for future policies. It seems that we are now looking at the CHPP as some sort of mandate for our rules and I don't think it was the original intent of this body that it be that way. My problem with SAV is and probably always will be a very unreliable barometer to make any concrete decision on. I don't feel we have gotten transparency from the Division of Marine Fisheries. I am led to believe that there have been considerable flyovers of eastern North Carolina to map this SAV. That has not been explained to us. There is a question as to what that means to future development or the lack of future development that Marine Fisheries would be able to block. I am not speaking for developers or contractors, I am speaking for the people of the State of North Carolina that pay property taxes to this State so they can enjoy the resources of this State. It is very important that the Coastal Resources Commission feels comfortable with these rules because we are charged with permitting docks. It is obvious that we are not comfortable. It has been obvious to our staff for months that we have been wrestling with this elusive thing called submerged aquatic vegetation and we are not comfortable as a board or we would have passed our rules. There has been a lot going on behind the scenes that we have not been privileged to. There is a document that we haven't seen.

Anne Deaton stated she apologies the document was not in the packet, but it was because of the late date that the final changes were made. We were waiting for a final approval from DENR so

we could tell you with confidence that all of these Divisions including the Department were alright with this definition. DMF has been transparent. Four of the CRC's staff are on the committee for this definition.

Lee Wynns stated that he supports the position of the rest of the Commission who have addressed their concerns. Jim Leutze stated that the CRC needs to be better informed, but he hopes this will not destroy the concept of coordination of all the agencies. Chairman Emory stated his perspective is things have not been done a great deal differently than it was two years ago. He further stated that he has no significant reservations about the two agencies working together and that he has no less confidence in our staff today than he did prior to today.

Draft Amendments to Shoreline Stabilization Rules (CRC 08-08)

Bonnie Bendell, Division of Coastal Management, stated we discussed this issue in November 2005. DCM recognizes that this is a controversial and complicated topic. We have run into some complications with the Division of Water Quality and the bulkhead placement. We are still working through those with DWQ and will be going before the CHPP steering committee on April 11, 2008. We will be asking the other Divisions to discuss it with us and ask for recommendations. DCM would like to come back to the CRC in May with those recommendations. In the meantime, DCM has done a lot of work that can still move forward. Over the past two years there are three other rules we have worked on that we would like to go to public hearing. These rules are the proposed changes for the general permit for groins (7H .1400), marsh enhancement breakwaters (7H .2100) and the general permit for riprap for wetland protection (7H .2400).

7H .1400 is the general permit for groin placement we have changed the spacing on how to place the groins. Spacing changes would be changed to two times the groin design length to a maximum of fifty feet apart. It will allow more flexibility in the rule; allow more flexibility in placement and more property owners would be allowed to apply for this permit. Clarifications were made on how to measure distances and lengths and to correct any ambiguous language.

7H .2100 is the general permit for marsh enhancement breakwaters we would like to do some terminology changes. Changes would entail changing "marsh enhancement breakwater" to "sheetpile sill". This was done at the request of the CRC to create a separate general permit for breakwaters without marsh enhancement. Ambiguous language was also corrected in this rule.

7H .2400 is the general permit for placement of riprap for wetland protection (riprap waterward of any marsh). The term "riprap" has been changed to "riprap revetment". A maximum distance waterward allowed has been added. This change allows extension to six feet because there are also slope requirements.

Chuck Bisette commented that the six-foot waterward requirement for riprap revetment is difficult to keep exact. The stone is substantial in size and you just physically cannot quite stack it perfectly. Ted Tyndall stated this is for lower wetland areas. The 7H .1200 general permit still allows the riprap protection to go out ten feet along non-wetland shorelines.

Renee Cahoon stated that after the CHPP steering committee meeting, she would like Staff to bring the proposed changes to bulkhead general permit and the comments received from the other agencies.

Doug Langford made a motion to accept the changes to the shoreline stabilization rules (7H .1400, 7H .2100, 7H .2400) and send them to public hearing. Joan Weld seconded the motion. The motion passed unanimously (Shepard, Bissette, Leutze, Wynns, Langford, Gore, Wilson, Sermons, Cahoon, Weld, Elam, Old).

Rule Interpretation – 15A NCAC 7H .0308(a)(2) Temporary Erosion Control Structures (CRC 08-17)

Jim Gregson, Director for Division of Coastal Management, stated that recently he has become more uncomfortable in the way DCM is authorizing some of the sandbag structures based on the rule. 7H .0308(a)(2)(B) requires that temporary erosion control structures be used to protect only imminently threatened road and associated right-of-ways, buildings or septic systems. A structure will be considered to be imminently threatened when its foundation, septic system or right-of-way in the case of roads is less than twenty feet away from the erosion scarp. Buildings and roads located more than twenty feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when site conditions such as a flat beach profile or accelerated erosion tend to increase the risk of imminent damage to the structure. 15A NCAC 07H .0308(a)(E) states that the landward side of sandbags shall not be located more than twenty feet seaward of the structure to be protected. More and more frequently, DCM is allowing sandbags to be placed along the seaward side of the erosion scarp when structures are determined to be imminently threatened due to accelerated erosion, even when the scarp is located more than twenty feet from the structure. In some cases, the landward side of the sandbags have been placed forty feet or more from the structure. (Photos were shown to illustrate these instances). In DCM's opinion, the rule is very clear but in all of the illustrated cases these structures are considered threatened but it is eroding so quickly we would not be able to get sandbags in. We could issue permits to put sandbags within twenty feet of the house, but in some cases it would mean placing the sandbags in the swimming pool, taking a pool out, or in the case of the east end of Ocean Isle Beach the sandbags may be going between the road right-of-way and a house.

Wayland Sermons stated that the exception to the 20-feet based on flat beach profile or accelerated erosion is the correct interpretation and it can be more than 20-feet away if the Division determines these conditions exist. If it is imminently threatened, the Director can determine where the bags go even if it is more than 20-feet away. Continue the practice DCM is exercising. It is a common sense approach.

Melvin Shepard asked if the rule needed to be amended to allow for a permanent change. He stated that he fears the Commission will make a fatal step that in the legalities that are coming due to sandbags will put DCM in a bad position.

Frank Crawley, CRC Counsel, stated that buried in the APA under the definition of a rule there is an exception called an interpretive ruling. An interpretive ruling is different from engaging in rulemaking. This is what has been done. The DCM Director has asked for an interpretive ruling with respect to how to interpret this section in 7H .0308 and the CRC has accomplished this by voting for the motion.

Wayland Sermons made a motion to allow the current practice being exercised in the implementation of 7H .0308 to allow sandbags more than twenty feet away within the Director's interpretation based upon the imminently threatened language already in the rule. Renee Cahoon seconded the motion. The motion passed with eleven votes (Shepard,

Bissette, Wynns, Langford, Gore, Wilson, Sermons, Cahoon, Weld, Elam, Old) and one opposed (Leutze).

Jim Leutze stated that we have very conflicting rules as far as these issues are concerned. We need to let the General Assembly know about this. He stated that he is convinced that by trying to be cooperative and working with people and giving sandbag extensions, we are setting ourselves up for a series of lawsuits. We have not in many instances, short of beach renourishment, managed to make sandbags a solution. The sandbags are going to be there for two or five years and then they are going to sue us. We either should allow terminal groins in inlets so the beaches do not erode or we should find a permanent way to have beach renourishment of the beaches that are threatened. Otherwise, we are using temporary solutions we know are temporary and are going to make people mad when they have to remove them.

Bob Wilson stated that we need to have a definition of temporary. He stated that he agrees with Commissioner Leutze. Chairman Emory stated that we have not failed to define temporary, but we have failed to enforce it.

Renee Cahoon stated that we have our hands tied behind our back by the General Assembly. A lot of municipalities and counties are getting ready to petition the State, this body should express its frustration to the State of North Carolina. Chairman Emory suggested putting together a subcommittee to prepare a position for the CRC to consider at the May meeting. Doug Langford requested that it be put on the May agenda to find the best way to approach the State of North Carolina on this issue.

PUBLIC HEARINGS

There were no public hearings scheduled for this meeting.

VARIANCES

Midgett (CRC-VR-07-11) Dare County, Oceanfront Setback

Amanda Little of the Attorney General's Office, representing staff, stated that this variance was filed by Carroll and Donna Midgett and they are represented by Christopher Seawell. The property is located on Highway 12, north of Southgate Drive in Rodanthe, Dare County. Petitioners propose to construct an 8 bedroom, single-family residence with a pool. All of the proposed development is waterward of the applicable ocean erosion setback. The Petitioners seek a variance from the CRC's oceanfront setback rule 15A NCAC 7H .0306(a).

Ms. Little reviewed the stipulated facts for this variance and stated that Staff's position in this case is a variance is not warranted. Staff and Petitioners agree on the issue of hardship in this case, however, Petitioners have not met the remaining three criteria for granting the variance.

Chris Seawell, Attorney from Manteo spoke on behalf of Petitioners, Mr. Seawell reviewed the three criteria which he contends supports the granting of the variance. Mr. Seawell stated that this is the only lot which is not built upon and the structures could not be moved landward. Mr. Seawell further stated that this was an unbuildable lot when the land was purchased.

Doug Langford recused himself from this variance request. He stated there was no actual conflict, but stated there could be an appearance of conflict.

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. Jim Leutze seconded the motion. The motion passed unanimously (Shepard, Bissette, Leutze, Wynns, Gore, Wilson, Sermons, Cahoon, Weld, Elam, Old).

Melvin Shepard made a motion to support Staff's position that hardships do not result from conditions peculiar to the petitioner's property. Joan Weld seconded the motion. The motion passed unanimously (Shepard, Bissette, Leutze, Wynns, Gore, Wilson, Sermons, Cahoon, Weld, Elam, Old).

Melvin Shepard made a motion to support Staff's position that hardships result from actions taken by the petitioner. Jim Leutze seconded the motion. The motion passed unanimously (Shepard, Bissette, Leutze, Wynns, Gore, Wilson, Sermons, Cahoon, Weld, Elam, Old).

Melvin Shepard made a motion to support Staff's position that the variance request will not be consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission; will not secure public safety and welfare; and will not preserve substantial justice. Joseph Gore seconded the motion. The motion passed unanimously (Shepard, Bissette, Leutze, Wynns, Gore, Wilson, Sermons, Cahoon, Weld, Elam, Old).

The variance was denied.

Emerald Isle et al. (CRC-VR-08-02 thru 08-07) Sandbag Time Extension

Chairman Emory allowed both Staff's Attorney and Petitioner's attorney ten minutes each for oral argument for these variance requests.

Christine Goebel of the Attorney General's Office, representing staff, stated one correction on the Staff Recommendation issued to the CRC. A correction sheet was provided for the official record. Ms. Goebel stated Attorney Glenn Dunn was present and would represent this group of petitioners. This variance request was filed on behalf of the Town of Emerald Isle and five adjacent property owners on the western tip of Emerald Isle (The Point) in Carteret County. Petitioners are requesting to keep the sandbag revetment in place for two additional years which is protecting the Town's right-of-way and five individual houses adjacent to Bogue Inlet. Petitioners seek a variance from 15A NCAC 7H .0308(a)(2)(F) as well as from the CRC's earlier variance orders which require the sandbags be removed at this time.

Ms. Goebel reviewed the stipulated facts of this variance and stated that Staff and Petitioners agree on all four statutory criteria necessary to grant the variance. She stated an inlet relocation project was completed on April 22, 2005. The project was designed and expected to result in significant, natural accretion in the area over a period of four to six years. The Town has acquired the accreted area in the past and has made it available for public access and remains committed to doing so in the future.

H. Glenn Dunn, attorney representing petitioners, reviewed the stipulated facts he contends support the granting of this variance. He further stated the petitioners are simply requesting an extension of time in order to allow the inlet relocation project to work. Mr. Dunn stated that this project is only halfway through the period that the engineers said would be necessary for the project to work.

Doug Langford 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 with eleven votes (Shepard, Bisette, Leutze, Wynns, Langford, Gore, Wilson, Sermons, Cahoon, Elam, Old) and one opposed (Weld).

Doug Langford made a motion to support Staff's position that hardships result from conditions peculiar to the property. Jim Leutze seconded the motion. The motion passed with eleven votes (Shepard, Bisette, Leutze, Wynns, Langford, Gore, Wilson, Sermons, Cahoon, Elam, Old) and one opposed (Weld).

Doug Langford made a motion to support Staff's position that hardships do not result from actions taken by the petitioner. Jim Leutze seconded the motion. The motion passed with nine votes (Shepard, Bisette, Leutze, Langford, Gore, Wilson, Cahoon, Elam, Old) and three opposed (Wynns, Sermons, Weld).

Jim Leutze made a motion to support Staff's position that the variance request will 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. Charles Elam seconded the motion. The motion passed with ten votes (Shepard, Bisette, Leutze, Langford, Gore, Wilson, Sermons, Cahoon, Elam, Old) and two opposed (Wynns, Weld).

The variance was granted.

CONTESTED CASES

Ward v. DCM and Carolina Marina 07 HER 0406

Christine Goebel of the Attorney General's Office, representing Staff, stated Mr. David Ward is present and will speak on behalf of Petitioners. At trial he and his mother, Mrs. Violet Ward, were represented by Bill Raney of Wessell and Raney. However, this morning Mr. Ward will speak on their own behalf. Matt Nichols of Shanklin & Nichols representing the Intervenor-Respondent (the permittee) is also present.

David Ward, Petitioner, stated his attorney Bill Raney has submitted exceptions to the decision of the Administrative Law Judge. Mr. Ward reviewed the exceptions submitted to the finding of fact and further stated that Petitioners do not disagree with the findings of fact, however feel they are incomplete. Mr. Ward stated that he feels DCM erred as a matter of law in not denying the permit issued to Carolina Marina and Yacht Club, LLC. Mr. Ward reviewed the reasons he contends DCM erred in issuing the permit. Mr. Ward stated that if the CRC feels that DCM erred on the issues regarding square footage of the structures or channels in primary nursery areas, the appropriate action would be to deny the permit. Mr. Ward further stated he and his mother have owned this property since 1994, next door to the permitted dock, and since they

have owned this property it has been undeveloped. Violet Ward, Petitioner, stated she agrees with the arguments made by her son, David Ward.

Christine Goebel reviewed the background of this case. David and Violet Ward are the Petitioners and own the property adjacent to the site of the proposed development. Carolina Marina and Yacht Club, LLC are the Intervenor-Respondents in this case and the primary member-manager is Tim Ward. The property is located on the intercoastal waterway just north of the Carolina Beach Inlet. The property has been used for a number of years as different variations of a marina and boat storage based on an old special use permit the County had handled. This case focuses on the CAMA permit issued in 2007 and whether it was properly issued or not. Petitioners noted the exceptions they filed are not exceptions as such, Petitioners characterize them as adding pertinent information to the findings of fact. Ms. Goebel reviewed the exceptions submitted by Petitioners and requested that the CRC not accept Petitioner's exceptions and changes as they are irrelevant, mischaracterizations of the testimony, or misinterpretations of law. The ALJ ruled in Staff's favor and found that DCM properly issued CAMA Major Permit #02-07. Ms. Goebel requested that the CRC uphold and adopt the ALJ's decision.

Matt Nichols concurred with the points Ms. Goebel had made. Mr. Nichols stated this was a three-day long hearing with extensive testimony and attorneys represented all parties. The ALJ issued an extensive twenty-plus page opinion which included ninety-one findings of fact. Mr. Nichols stated he would respectfully contend that substantial and significant testimony and exhibits in the record support these facts. The ALJ's decision should be upheld.

Wayland Sermons made a motion to adopt the Administrative Law Judge's decision. Lee Wynns seconded the motion. The motion passed unanimously (Shepard, Bissette, Leutze, Wynns, Langford, Gore, Wilson, Sermons, Cahoon, Weld, Elam, Old).

PUBLIC COMMENT AND INPUT

Willo Kelly, Government Affairs Director for the Outer Banks Home Builders Association/Outer Banks Association of Realtors, stated she has recently had several meetings on the coastal stormwater rules. I am speaking to the CRC in response to Tom Reeder's comments yesterday regarding the proposed coastal stormwater rules. I am concerned about several comments that were made and his response to certain questions. When Mr. Reeder was asked about why counties have hired a lobbyist to fight against these rules his response was "we expected counties to lobby against these rules regardless of what we do". Those comments are of great concern to me, I have worked very hard to educate myself on these rules as others in Dare County. Those comments just perpetuate the misconception that those that oppose the rules would oppose any rule changes. This is not so. His comments also give way to if you support the rules than you support the environment or if you don't support the rules then you don't care about the environment. Unfortunately, this portrayal of the building community has taken place over the last several years and the stormwater rules are being used to lead that charge that developers are bad. I found his presentation misleading in several aspects. First of all, in looking at what is the actual goal of the rules? If have been issuing subdivision permits for over twenty years and there is a problem with those permits, why are we trying to impose more restrictive rules on new development? There has been no monitoring or enforcement of those permits, is that not a problem? When Mr. Reeder said that based on lowering the high-density threshold excluding wetlands from built upon area calculation increasing the buffer to fifty-feet, he didn't say that all

post development stormwater would be required to be controlled and treated on site. When meeting the technical aspects of the rules, this would certainly restrict development and is that the overall purpose of these rules? These rules are actually more restrictive than Federal Phase II rules, Phase II rules are a model of stormwater management regulations based on urban development that is imposed on communities with small municipal separate storm sewer systems (MS4's). The buffer is less and you can include wetlands in your built upon area calculations under Federal Phase II. Three counties are currently designated Phase II, the more restrictive provisions will now be applied to twenty coastal counties. Why is an urban model for stormwater management being applied to all twenty coastal counties? The requirements also refer to provisions if you are disturbing over 10,000 square feet but less than an acre you do not need a stormwater permit. Why are we looking to adopt rules where there will no monitoring and enforcement of those provisions and if it falls on the local counties and municipalities this is actually an unfunded mandate. I questioned Mr. Reeder on several of these issues and in an e-mail (copy of e-mail provided) and he stated in it that I was correct and that this would have to be something that would have to be clarified during legislative review. These rules are flawed. They present the same problem that exists with the current rules. We need something better.

Doug Naismith, resident of Suffolk Virginia and property owner in South Nags Head for twenty years, stated he is the typical oceanfront homeowner. I had a beautiful high dune that obstructed my view of the ocean when I bought the house. I now have sandbags running under the house protecting my septic tank. If I am forced to remove the sandbags, that will doom my house and very shortly thereafter the house that sits immediately behind mine (50 feet to the West) will soon be threatened as well. This situation is not unique to me. It occurs up and down the coast of South Nags Head. I realize that the CRC's concerns much be for the broader policy issues and not for the individual homeowners who are going to suffer financially from this decision to remove the sandbags. Let me suggest three broader policy issues. The first is what we are dealing with here is a natural disaster. These are not homeowners who have willingly, intentionally violated the law. Usually in cases of natural disaster we look to our government for help. We are not asking for a handout, we are willing to pay. We just want to have the time for solutions to be found to address the problem in a long-term fashion and not a temporary fashion. (2) Times have changed. We are now dealing with a planet that is warmer, sea levels are rising, there is new technology that did not exist forty or fifty years ago when some of the rules you are trying to enforce now were formulated, and the houses that are placed on the beach now are really part of a development process that has been encouraged by the local communities not discouraged over the last forty or fifty years. (3) Impact on the local economy of this decision. Most of the homes that I am familiar with are really rental properties, they are economic generators, little businesses. Take those away and take away the affect of the renters on the local economy (the restaurants, gas stations, etc) and you have a tremendous economic impact.

Roc Sansotta, owns houses in South Nags Head, stated he was looking at some of the pictures earlier. Third Street in Emerald Isle looks a lot like Sea Gull Drive. Sea Gull Drive did not have to look like that because before the road was torn out at the end of it, I offered to put the bags in at my expense. These oceanfront homeowners and property owners have asked as Mr. Naismith said, for no handouts whatsoever. I have gone on everything that I bought, the first house in 1988. Yes it was misrepresented to me, it was built only five years before and it had some bags in it but they said it was there for added protection. The reason I bought the house next door was because they were going to tear it out. To tear it out would leave me completely unprotected. Then a couple of other ones on Sea Gull Drive I had to pick up because is that house was gone, the road is cut off, if the road is cut off you can't get to your house and it could be condemned.

So Sea Gull Drive could have stayed in a circular manner. Of course if my houses go on Sea Gull Drive, the road first and then the houses behind that will go. It is bad economic times now. The Town right now doesn't have to pay anything to keep these houses up, but they will have to pay for clean-up and the road to try to get another road in. I really believe the terminal groin is a wonderful way to go. I am not asking for a total extension, but let's get a groin in. Everyday you see down in the inlet the dredge is out there pumping all the sand that has just pushed itself right off of South Nags Head and into the inlet. If we could all agree on that, you said yesterday let's go for something else. A groin will buy us time to start some beach nourishment.

Richard Murphy, property owner in Nags Head and resident of Raleigh, stated he is more concerned about the beaches for the entire state. In 1974 this Commission was given the main objective of protecting our beaches. Our beaches are disappearing. Eventually we won't have beaches to protect. You guys are not in an envious position because there have been talks for the past two days about lawsuits. As an engineer, I always go back to the thing that when you are up to your tail in alligators and they are biting you, it is hard to remember that your original objective was to drain the swamp. I am elated at what I have heard in the last two days from the Commission. I think the Commission is actually recognizing the fact that you are hamstrung by rules and laws that are dictating that you carry things out that do not necessarily need to be carried out. If rules and laws are set and we are governed by those, but they are no longer functioning it is time to have them changed. Establishing a committee to make a presentation to the State Legislators to get some changes done is obviously the correct way to go about it. Renee has been given a copy of the Old Dominion University Report on beach renourishment in Virginia Beach. If I can share a few number because we were talking about alternatives yesterday. There are offshore fishing licenses that bring in millions of dollars for funding, lodging taxes, we can pay for it. The alternatives may be a combination of things: renourishment, groins, and even offshore reefs formed as breakwaters. Virginia Beach's renourishment project started back in 1994. It is economically feasible for Virginia Beach to actually foot the whole bill. Right now it is being split 65% by the federal government, 5% by the state and 30% by Virginia Beach. The state of Virginia is actually spending about a half of a million dollars, but their gain is 24 million dollars per year. Our main objective has got to be to protect our beaches and regain our beaches. I encourage the Commission to step forward with the Legislature.

Carol Alley, Resident of Moyock and homeowner in South Nags Head, stated she finds herself almost on the verge of tears because she was never told by anyone in the entire process that her sandbags that are under her house and protecting her house would ever have to be removed. I was quite shocked when I received the letter a few months ago. When I spoke with someone from your office they basically told me that I had a lawsuit. I don't want a lawsuit I want my home. I am very encouraged by the things I heard here today. I implore you to please take this on a case-by-case basis. If you are letting people put more sandbags in, it makes no sense for me or anyone else to have to take theirs out. I am pretty sure I meet the twenty-foot situation. I haven't been out there measuring; I am fully unprepared for any of this, even being here today. Just retiring from twenty-four years in law enforcement I do want to obey the laws and the rules and I do want to be a good property owner. I just want my property to be there for me to continue to own it.

Charles Baldwin, Attorney for the Village of Bald Head Island, stated he has enjoyed being here for two days. I told the Director that I would not offer any comments and was not planning to, but did want to by way of experience share a few things that might be relevant to the

subcommittee on sandbags that is being formed. Bald Head Island has two sandbag structures that have been critical to protecting key public infrastructure and many homes. One of those is a 16-geotextile tube groin field and the other is a sandbag wall protecting South Bald Head Road, which is one of the main roads and key routes from the island. The sandbags are completely covered due to beach renourishment, but Bald Head is affected by both the Corp's shipping channel and by hurricanes. I can envision circumstances in which those structures will be very important in the future to manage things on a temporary basis, which I think is consistent with the Commission's intent. By way of what might be a temporary use of such structure, I wanted to also suggest that if you have a Corps authorized dredging project and the funds are not readily available, as happened to Bald Head in 2004 where funding was delayed a year, these structures were very important. I would like to echo the comments of Mayor Harry Simmons that where you have an inlet area such as the Cape Fear entrance you have a shipping channel that some sort of environmental structure might be helpful to prevent these rapid swings in erosion and also to prevent the huge public expense of funds for these continual renourishment projects. In Bald Head it is approximately 15 million dollars per project. The last project in addition to Corps funding required 3.5 million dollars from the Division of Water Resources and 1.5 million dollars from the Village. It will certainly be a continual challenge to our island as well as to the communities up and down the coast.

Malcolm Fearing, native of Roanoke Island in Dare County, stated he was not before the Commission to talk about beach nourishment. I grew up on Roanoke Island and as many boys I swam in Shallow Back Bay. I learned to swim there, I fish there, and I shrimp there as many of the local people do. Why am I coming before you? I am coming before you with a compassionate plea of help. I am asking for your help for Shallow Back Bay. Shallow Back Bay has been classified as SC waters since 1961. Sewage has been pumped in that Bay since then. If I would have known that then I would not have swam in it. Knowing it now, I don't eat soft-crab out of it and I am going to give my shrimp net up. I am not trying to fault anybody for dumping the sewage in Shallow Back Bay but I want to bring this awareness to you, as you are the protectors of our coast. The operator of the wastewater treatment plant since June 6, 2007 has had 124 violations of dumping contaminants in the Bay. Some have been fecal chloroform bacteria, some have been chlorine. I am not a scientist but I don't think it is good. I especially don't think it is good for my daughter who has been teaching a sailing course for the past three years to put children in this water and to teach them how to ride a sailboat and how to put on a lifejacket and swim. I am going to leave for the record what SC water means, but quickly what I am going to tell you it is, what my layman's term is that you are not supposed to be in it. There is a triathlon scheduled for it next month. I doubt that the athlete's know that they are not supposed to be in it. This is not a political issue, for no one in Manteo is running for political office this time, but I am pleading for you as you protect the birds, the crustaceans, and the beaches, I plead with you to form a study commission to protect the small children and the adults that consume the seafood out of that Bay from this event that is occurring. This is not a Roanoke Island issue as those waters go from Roanoke Island Sound over to the beaches from Kill Devil Hills to Colington maybe to Hatteras Island. What I plead with you to do for the health and safety of humans, to look at this issue seriously as it has not been since 1961.

ACTION ITEMS

Chairman Emory stated that a draft letter to Senator Dole was provided to each Commissioner to review. Steve Underwood stated that Dr. Stan Riggs had requested that this letter be presented to the CRC. This is a letter of support from the CRC for a proposal developed in part by ECU.

This is to assess the economic implications of climate change, sea level rise, and storms for both North and South Carolina.

Renee Cahoon commented on a section of the letter that gives an example about proposed deliverables. This specifically mentions Oregon Inlet Bridge and Highway 12. She stated she takes great exception in that this could be used to circumvent the process of building the new bridge given Dr. Riggs' position. Steve Underwood stated that we could strike out the reference to the bridge and Highway 12. Doug Langford requested that all universities in the University School System be copied on the letter. This was agreed to by all in attendance (Shepard, Bissette, Leutze, Wynns, Langford, Gore, Wilson, Sermons, Cahoon, Weld, Elam, Old).

OLD/NEW BUSINESS

Steve Underwood stated that the inlet hazard areas have been defined, but the rules have not been looked at in great detail yet. It is being scheduled to look at the rule language for the inlet hazard areas. Jim Leutze stated that he is aware that the map that has been drawn at Bald Head Island is having a significant financial impact on that island and the ability to sell property. Once these maps come out, there are rumors that some maps are not correct. We are going to have to move quickly and be careful when we put these maps out, that they will not have unintended consequences. Jim Gregson stated that DCM recognized that the uniqueness of Bald Head Island was going to be a problem. We have been to the Village and talked to them about the maps. In the old inlet hazard boundaries there was specific rule language put into place for Bald Head Island and Staff will certainly be presenting that type of thing when we get the rule language worked out.

Wayland Sermons stated it is obvious based on our discussions and the public's reaction to them that we are getting ready to go into a phase of increased variance filings, contested case matters and other things. Enforcement actions are necessary. Unfortunately due to the Division's appropriation for legal fees and allocation of attorneys, we are facing a shortage. We are facing a shortage of personnel because of State budget or internal budget. I would like to propose a resolution to be sent to Governor Easley and the General Assembly requesting that in this short session coming up in May, that the General Assembly allocate additional funds for legal services for Coastal Management issues. This will get our legal needs met and handled in the professional manner as they have always been done. This should be drafted for the Chairman's signature.

Wayland Sermons made a motion that a resolution to be sent to Governor Easley and the General Assembly requesting allocation of additional funds for legal services for Coastal Management issues. Bob Wilson seconded the motion. The motion passed unanimously (Shepard, Leutze, Wynns, Langford, Gore, Wilson, Sermons, Cahoon, Weld, Elam, Old) (Bissette absent for vote).

Members of the Comprehensive Beach Management Task Force Subcommittee will be as follows: Bob Emory, Jim Leutze, Wayland Sermons, Renee Cahoon, Harry Simmons, Spencer Rogers, Deborah Anderson, and William Morrison.

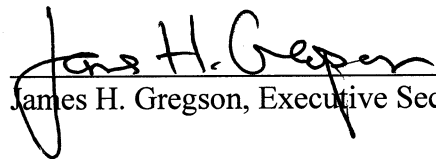
Jim Gregson stated that the Department has requested that the Division cut down on the amount of paper and postage being used for CRC meetings. CRC members were reminded of the public

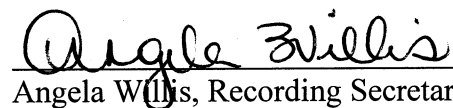
comments that were sent to each Commissioner for the setback rules. These comments took six boxes of paper. Mr. Gregson stated that he would mandate that paper use be cut back dramatically. The only way to do this is to go electronic. One suggestion would be the potential of sending a flash drive to each Commissioner. The Division will purchase the flash drives and at the end of the meeting we will gather them up and get them ready for the next meeting. The amount of money we spend on paper, we could buy one laptop per year. With the amount of postage we use, we could probably buy three or four laptops. It is incredible the amount of paper that is left of the Commission's table at the end of every meeting. Chairman Emory told the Commission if there is anyway they can, please try to cooperate with the request.

Joan Weld read a letter from Courtney Hackney, former CRC Chairman, to the Commission.

With no further business, the CRC adjourned.

Respectfully submitted,


James H. Gregson, Executive Secretary


Angela Willis, Recording Secretary