

**NC COASTAL RESOURCES COMMISSION (CRC)**  
**JUNE 22-23, 2006**  
**CITY HOTEL AND BISTRO**  
**GREENVILLE, NC**

**Present CRC Members**

Courtney Hackney, Chairman  
Doug Langford, Vice Chair  
Charles Elam  
Renee Cahoon  
Bob Emory  
Jim Leutze

Joseph Gore  
Jerry Old  
Bill Peele (absent 6/23)  
Melvin Shepard  
Joan Weld  
Lee Wynns

**Present Coastal Resources Advisory Council Members (CRAC)**

Bill Morrison, Chair  
Dara Royal, Vice Chair  
Judy Hills  
Robert Shupe  
William Wescott  
J. Michael Moore  
Spencer Rogers  
Phil Harris  
Rhett White  
Ginger Webster  
Mike Street  
Penny Tysinger  
Lester Simpson  
Gary Mercer  
Eddy Davis  
Brandon Shoaf  
Frank Rackney (Harold Blizzard)

Reid Thomas (Renee Gledhill-Earley)  
Frank Alexander  
Beans Weatherly  
Joe Beck  
Carlton Davenport  
Al Hodge  
Webb Fuller  
David Stanley (Don Yousey)  
Travis Marshall  
Wayne Mobley  
Harry Simmons  
Ray Sturza  
Deborah Anderson  
Maximilian Merrill  
Steve Sizemore  
Lee Padrick

**Present Attorney General's Office Members**

Jill Hickey  
Merrie Jo Alcock  
Christine Goebel  
Rufus Allen

## **CALL TO ORDER/ROLL CALL**

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

Stephanie Bowling called the roll. Chuck Bissette and Bob Wilson were absent.

## **MINUTES**

**Doug Langford made a motion, seconded by Melvin Shepard to adopt the March 23-24, 2006 minutes with one correction. The motion passed unanimously. (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns, Old)**

## **EXECUTIVE SECRETARY'S REPORT**

Charles Jones gave a brief update on the following:

### **CRC nominations**

Seven CRC members' terms expired at the end of June: Renee Cahoon, Bob Emory, Courtney Hackney, Larry Pittman, Joan Weld, Bob Wilson, and Lee Wynns

In May 2006, the Governor's Office sent letters to local governments requesting nominations for individuals to fill these slots. The Governor reappointed Courtney Hackney, Renee Cahoon, Bob Emory, Bob Wilson, Lee Wynns and Joan Weld.

### **Hurricane season begins**

June 1 marked the beginning of the 2006 hurricane season. The National Oceanic and Atmospheric Administration predict this will be the 11th above-average Atlantic hurricane season since 1994, with 13-16 storms, with 10 of those expected to become hurricanes. North Carolina is expected to be in the strike zone this year. Last week, tropical storm Alberto caused some inland flooding, but no major coastal damage.

### **Pelican Awards**

Gene Tomlinson received a Lifetime Achievement Award from the NC Coastal Federation, honoring his 28 years of service on the CRC. Mr. Jones accepted the award on Gene's behalf at the Coastal Federation's Pelican Awards ceremony on June 1<sup>st</sup>.

### **Expansion budget**

This year's legislative budget includes funding for 4 compliance coordinator positions – one in each of the four district offices. These positions are designed to improve the Division's focus on compliance and enforcement of CAMA rules by having staff that are dedicated to these activities. The most frequent comment from the public during the CHPP development was that current rules are not adequately enforced. This perception of slow or inadequate enforcement response portrays an image that violations go unchecked, providing an incentive for noncompliance and further violations to occur. The Compliance Coordinators would also be

able to perform proactive compliance activities, such as workshops for realtors and contractors, ultimately leading to a decrease in violations.

#### Legislative News

Three bills affecting coastal issues have been filed so far during the current session of the General Assembly:

- Senate Bill 2014 would require that a permit be issued authorizing an undercurrent stabilization system along the oceanfront of North Topsail Beach.
- House Bill 2815 would increase the cap on civil penalties for CAMA permit violations. The bill would increase the maximum penalty for CAMA major permit violations from \$2,500 to \$20,000 and for minor permits from \$250 to \$2,000.
- House Bill 2597 seeks to establish a waterfront access study committee to study the loss of diversity of uses along the coastal shoreline of North Carolina and how these losses impact the public trust waters of the state.

All three bills are currently in committee.

#### LPO Training

DCM recently conducted two training workshops for local permit officers in the 20 coastal counties. Sixty-five LPOs attended the workshops in Morehead City and Kill Devil Hills.

The agenda for the two-day workshops included updates on recent changes to Coastal Resources Commission rules and training in assisting applicants in variance or third-party hearing requests. DCM staff also conducted interactive field training in staking Normal High Water and Normal Water Levels; identifying and locating the first line of stable, natural vegetation on a property; and identifying coastal wetlands.

#### CELCP Public Comments

DCM received several comments on its draft Coastal and Estuarine Land Conservation Program (CELCP) Plan, including a very favorable early impression from NOAA. DCM will incorporate the comments and expect to submit the plan to NOAA in July 06 for formal approval. NOAA has also completed its review of applications for FY07 competitive CELCP funding. NOAA recently forwarded its list of recommended projects to Congress. All three North Carolina proposals have been recommended for funding. If funding were granted in the next federal budget, the state would receive approximately \$6.4 million in federal funds for coastal land acquisition.

#### E-Live

Estuary Live at the Rachel Carson Estuarine Research Reserve was a great success this spring, highlighting topics such as conservation, invasive species, fossils, coastal geology and water quality. The event was live for three days with an estimated audience of more than 2,000 teachers and students.

#### New foal at RC

The Rachel Carson NERR has a new foal, for the first time in 3 years. Pat and Bob Rapaport, two dedicated Reserve volunteers, first spotted the foal and have named her Star. The foal is a female, about 2 weeks old, and her mother is Beth. This brings the total number of horses on the island up to 42.

#### Staff news:

Dale Schmidt joined the Morehead City office May 8 as DCM's new administrative officer.

Heather Coats has joined the Wilmington office as a field representative.

Ted Sampson, manager of the Elizabeth City office, has retired from DCM effective May 31.

Wanda Gooden, DOT field representative in Elizabeth City, has been called to active duty with the U.S. Air Force. She is currently serving with an F-15 Maintenance Group in Georgia.

Stephanie Bodine, Director's assistant in Morehead City, married Wilson Bowling Jr. on April 29.

Jeff Warren, coastal hazards specialist in the Raleigh Office, and his wife Missy, welcomed their new son, Chapman Graves on April 9. Jeff also received his Ph.D. in Geological Science in April.

Grant Caraway has joined the Rachel Carson Reserve as the site manager on a temporary basis.

Sarah McPhail is our summer intern for Currituck Banks NERR

Teri Denault, summer intern for the Rachel Carson NERR, is conducting SAV mapping as part of CHPP goals.

Michele Droszcz, northern reserve sites manager and stewardship coordinator, will be leaving at the end of July

#### **VARIANCE REQUESTS**

##### Paul King - Nags Head (CRC-VR-05-06)

This Variance Request was heard by the CRC at its March 24, 2006 meeting. The CRC requested additional information and asked that certain questions be answered through additional stipulated facts.

Merrie Jo Alcocke stated that the staff position on the variance request has not changed. She stated that although the Petitioner provided additional data demonstrating the performance of the innovative waste treatment system proposed, staff still believes that the variance should be denied for reasons discussed in the prior hearing. Ms. Alcocke stated that there is no hardship

because the Petitioner can make reasonable and significant use of the property without subdividing it. She stated that though the system proposed is designed to reduce contaminants, it is still a relatively new technology and any failure of the system would be unacceptable and would result in a failure of the State to protect the public's health and safety by allowing inappropriately sited development. Ms. Alcock stated that staff does not believe that granting the variance for one individual is worth the risk to the public health and safety of many.

**Renee Cahoon made a motion, seconded by Jerry Old to deny the variance on the first criteria based on the fact that there is no unnecessary hardship. The motion passed with a unanimous vote. (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns)**

**Bob Emory made a motion, seconded by Joseph Gore to deny the variance on the second criteria based on the fact that the plans to subdivide is what causes the hardship, not the condition of the property. The motion passed with a unanimous vote. (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns)**

**Jim Leutze made a motion, seconded by Renee Cahoon to deny the variance on the third criteria based on the fact that the hardship does come from the Petitioner's desire to subdivide the property. The motion passed with a unanimous vote. (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns)**

**Renee Cahoon made a motion, seconded by Jim Leutze to deny the variance on the fourth criteria based on the fact that the variance request is not consistent with the spirit, purpose, and intent of the rules by the Commission. The motion passed with a unanimous vote. (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns)**

**The Variance Request was denied by a unanimous vote.**

Alfred Thompson – Camden County (CRC-VR-06-15)

Christine Goebel stated that the Petitioner's property consists of lots 86, 24, 25 and 26 and the un-numbered property between 26 and 86. She stated that the existing site conditions on lot 86 and the un-numbered lot include a developed area with a single-family residence, driveway, bulkheading, riprap and an existing concrete boat ramp. Lots 24-26 currently are undeveloped. Ms. Goebel stated the adjoining lots already have bulkhead and riprap structures to protect the shoreline. She stated Petitioner applied for a CAMA Major permit to construct a proposed 190 ft. wooden bulkhead and then fill in an area below NWL behind the bulkhead approximately 30' by 180'. The project also called for filling in a 10' by 15' area below NWL near the boat ramp, add to an existing boat ramp, construct a 50' by 6' pier with a 20' by 15' platform and construct a 20' by 15' boathouse with a lift and three mooring pilings. Ms. Goebel stated DCM issued a Major permit authorizing the development of a bulkhead aligned along the existing NWL to be staked no more than 30 days prior to construction by Petitioner. She stated the permitted bulkhead could be up to an average of 2' waterward of the staked alignment with a maximum distance of 5' waterward of NWL. The permit conditions limiting the alignment to this extent were unwanted by Petitioner. Ms. Goebel stated the permit did authorize the boat ramp

extension, docking facility with pier, platform, boathouse, lift and mooring pilings as requested. However, the proposed drainage pipe was not permitted. Ms. Goebel stated Petitioner is seeking a variance from the permit conditions that set out the bulkhead alignment and average distance limitations. She stated Petitioner requests that the alignment instead be located approximately 75' from Sunset Avenue and an average of 30' waterward from the alignment permitted in the issued permit. Petitioner seeks a variance from 07H .0208(b)(7)(A&D).

**Melvin Shepard made a motion, seconded by Bill Peele to support the staff's position that strict application of the rules, standards, or orders issued by the Commission does not cause the Petitioner unnecessary hardship. The motion passed by a vote of 9 in favor (Elam, Cahoon, Emory, Gore, Langford, Peele, Old, Shepard, Weld), 2 opposed (Leutze, Wynns) and 1 abstention (Langford).**

**Jerry Old made a motion, seconded by Joseph Gore to support the staff's position that a hardship is not caused by conditions peculiar to the Petitioner's property. The motion passed by a vote of 9 in favor (Elam, Cahoon, Emory, Gore, Langford, Peele, Old, Shepard, Weld), 2 opposed (Leutze, Wynns) and 1 abstention (Langford).**

**Jerry Old made a motion, seconded by Bill Pittman to support the staff's position that the hardships do result from actions taken by the Petitioner. The motion passed by a vote of 9 in favor (Elam, Emory, Gore, Langford, Peele, Old, Shepard, Weld, Leutze), 2 opposed (Cahoon, Wynns) and 1 abstention (Langford).**

**Jerry Old made a motion, seconded by Melvin Shepard to support the staff's position that the variance request would not be consistent with the spirit, purpose, and intent of the rules, standards orders issued by the Commission; secure public safety and welfare; or preserve substantial justice. The motion passed by a vote of 10 in favor (Elam, Emory, Gore, Langford, Peele, Old, Shepard, Weld, Leutze, Cahoon), 1 opposed (Wynns) and 1 abstention (Langford).**

**The Variance Request was denied by majority vote.**

Sandra Wooten (lot 6 and lot 7) – Brunswick County (CRC-VR-06-17 and CRC-VR-06-18)

Note the Petitioner filed two permit applications and submitted two variance requests. Thus, there were two Staff Recommendations. They are the same in all respects except that Petitioner's variance request material included two different surveys, one for each lot. The motions were also voted on separately for each lot.

Ms. Alcock stated the Petitioner owns two adjacent lots with an old house located primarily on one lot that extends a few feet over onto the second lot. She stated the Petitioner proposed to tear down the existing house and construct two single-family residences, one on each lot. Ms. Alcock stated the proposed residences are each two-story, pile-supported, with a total enclosed floor area of approximately 2900 sq. ft. She stated the seaward foundation of the residences would be located near the landward toe of the frontal dune and located 2.5 feet seaward of the existing house to be torn down. The Petitioner stipulates that if granted a variance, she would

locate the foundation of the new residences no further seaward than the existing house on lot 7. Ms. Alcock stated the proposed residences are generally consistent with the size and building footprints of the new houses in the vicinity of her lot, most of which are located on the landward side of the road. She stated the proposed residences on each lot would be located approximately 29 feet from the property line on the street side. They cannot be located any farther landward due to the Petitioner's design of the septic system. Ms. Alcock stated the proposed residences would be located entirely within the 60-foot setback from the Pre-project (Section 933 Spoil Deposition Project) Vegetation Line. She also noted to the CRC that the Town Code provides a mechanism for applying for a variance from the 25-foot Town setback, but Petitioner had not applied for such a variance. Ms. Alcock stated in March 2006, the LPO along with Jim Gregson staked the then-existing vegetation line on the lot. The vegetation line was located approximately 82 feet seaward of the Pre-project Vegetation Line. Ms. Alcock noted to the CRC that if the March 2006 vegetation line were used for permit review, Petitioner would be able to construct the residences in compliance with the 60-foot minimum setback. She stated the Petitioner couldn't construct a new single-family residence on either lot under existing rules without a variance from the CRC. Petitioner seeks a variance from the use of the pre-project vegetation line as required by 7H .0305(f).

#### **Lot 6**

**Jerry Old made a motion seconded, by Joseph Gore to support the staff's position that strict application of the rules, standards, or orders issued by the Commission does not cause the Petitioner unnecessary hardship. The motion passed unanimously (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns).**

**Jerry Old made a motion, seconded by Joan Weld to support the staff's position that a hardship is not caused from conditions peculiar to the Petitioner's property. The motion passed unanimously (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns).**

**Jim Leutze made a motion, seconded by Doug Langford to support the staff's position that the hardships do result from actions taken by the Petitioner. The motion passed unanimously (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns).**

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

## **Lot 7**

**Doug Langford made a motion, seconded by Jerry Old to support the staff's position that strict application of the rules, standards, or orders issued by the Commission does not cause the Petitioner unnecessary hardship. The motion passed unanimously (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns).**

**Doug Langford made a motion, seconded by Joseph Gore to support the staff's position that a hardship is not caused from conditions peculiar to the Petitioner's property. The motion passed unanimously (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns).**

**Doug Langford made a motion, seconded by Jerry Old to support the staff's position that the hardships do result from actions taken by the Petitioner. The motion passed unanimously (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns).**

**Doug Langford made a motion, seconded by Jerry Old to support the staff's position that the variance request would not be consistent with the spirit, purpose, and intent of the rules, standards orders issued by the Commission; secure public safety and welfare; or preserve substantial justice. The motion passed unanimously (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns).**

**Both Variance Requests were denied by a unanimous vote.**

W.A. "Buddy" Martin – Brunswick County (CRC-VR-06-16)

Petitioner was aware of the meeting date, and chose not to be present or to address the CRC.

Rufus Allen, Associate AG representing DCM, stated Judy Martin is the property owner of a condo of the Boardwalk One Condominium (BOC), and Buddy Martin is her husband and acting as her agent (Petitioner). He stated that the Petitioner stated that his wife is disabled and has difficulty walking. The State of Georgia issued a "persons with disabilities" parking permit to the property owner in July 2004. Mr. Allen stated the proposed development is located within the general common area of BOC and the Petitioner has received the appropriate waivers and permissions from the BOC Home Owners' Association to request a variance for and build the proposed structure.

Mr. Allen stated the Petitioner proposed to build a 10 ft x 20 ft, 200 sq. ft. concrete pad over an existing gravel parking area. The area to be covered with concrete is within the existing footprint along the east side of the residence, approximately 30 feet from the southeast corner of the residence foundation. Mr. Allen stated because the 933 Spoil Deposition Project was completed in front of the property the first line of stable natural vegetation that existed prior to the 933 project must be used by the CRC. He stated the existing vegetation observed on June 1, 2006 is 61 feet oceanward from the southeast corner of the residence foundation and 36 feet

oceanward of the southwest corner. Mr. Allen also stated DCM staff observed a line of planted vegetation on a low manmade berm located oceanward of the actual vegetation line. A low area void of vegetation separates the berm from the frontal dune. Mr. Allen stated 8 residences of the 11 ocean facing structures nearest to the Petitioner's property have concrete parking pads similar in size and composition to the concrete pad proposed by the Petitioner. The Petitioner seeks a variance from 7H .0309(a)(3) prohibiting development seaward of the long-term erosion setback line.

**Jerry Old made a motion, seconded by Melvin Shepard to support the staff's position that strict application of the rules, standards, or orders issued by the Commission does not cause the Petitioner unnecessary hardship. The motion passed unanimously (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns).**

**Doug Langford made a motion, seconded by Jerry Old to support the staff's position that a hardship is not caused from conditions peculiar to the Petitioner's property. The motion passed unanimously (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns).**

**Doug Langford made a motion, seconded by Joseph Gore to support the staff's position that the hardships do result from actions taken by the Petitioner. The motion passed unanimously (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns).**

**Doug Langford made a motion, seconded by Jim Leutze to support the staff's position that the variance request would not be consistent with the spirit, purpose, and intent of the rules, standards orders issued by the Commission; secure public safety and welfare; or preserve substantial justice. The motion passed unanimously (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns).**

**The Variance Request was denied by a unanimous vote.**

Michael & Dolores Kirkbride – New Hanover (CRC-VR-06-20)

Ms. Goebel stated that petitioners own a vacant lot in Carolina Beach. She stated the Petitioner's lot is 50 feet wide by 125 feet in depth, with a total size of 6625 sq. ft. Approximately 60 feet of the depth of the lot is located seaward of a rock revetment. Ms. Goebel stated that the rock revetment was constructed by the USACE in the early 1970's to protect the shoreline of that area of Carolina Beach. Since 1981 Carolina Beach area has received regular renourishment from the US ACOE. Ms. Goebel stated the rock revetment represents the static vegetation line for CAMA setback purposes and is measured from the middle of the revetment and DCM has been using this line since the early 1980's. She stated that there is no primary or frontal dune between the proposed development and the ocean. At this time there is no vegetation that DCM feels meets the definition of stable, natural vegetation. Ms. Goebel stated that in September 2005 the Petitioners proposed to build a three-story piling-supported residential cottage, with a building footprint of 875 sq. ft, a total heated area of 2625 sq. ft and associated driveway. She stated the proposed cottage would be located an average of approximately 31 feet from the rock revetment,

which represents an average encroachment into the 60-foot setback of 29 feet. Ms. Goebel stated that Petitioner's proposed building footprint is located entirely within the 60-foot setback. She stated the Town of Carolina Beach Zoning Ordinance requires a 20-foot building setback from the street right of way. Ms. Goebel stated that at this time the CRC rules do not allow a residence to be built on this lot without a variance. The Petitioners seek a variance from the CRC's oceanfront setback in 7H .0306(a).

**Doug Langford made a motion, seconded by Jerry Old to support the staff's position that strict application of the rules, standards, or orders issued by the Commission does not cause the Petitioner unnecessary hardship. But also moved to disregard any information showing ownership of the adjacent lot. The motion passed unanimously (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns).**

**Jim Leutze made a motion, seconded by Jerry Old to support the staff's position that a hardship is not caused from conditions peculiar to the Petitioner's property. The motion passed unanimously (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns).**

**Jerry Old made a motion, seconded by Doug Langford to support the staff's position that the hardships do result from actions taken by the Petitioner. The motion passed unanimously (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns).**

**Melvin Shepard made a motion, seconded by Joseph Gore to support the staff's position that the variance request would not be consistent with the spirit, purpose, and intent of the rules, standards orders issued by the Commission; secure public safety and welfare; or preserve substantial justice. But also moved to disregard information regarding additional nourishment due to speculation of future nourishment. The motion passed unanimously (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Peele, Shepard, Weld, Wynns).**

**The Variance Request was denied by a unanimous vote.**

### **PUBLIC INPUT AND COMMENT**

Bill Ferris, WPF Inc., property owner in Brunswick County, addressed the Commission on problems of appraising real estate in NC. Mr. Ferris stated that there are problems in identifying facts to determine value of property. He stated that there is a problem coming up with a vegetation line to put on the tax maps. Mr. Ferris stated that there are waterfront properties that are unable to sell because they have been deemed non-buildable due to the current vegetation line. He stated that the tax office needs a vegetation line from a survey with aerial photos. Mr. Ferris stated that this needs to coincide with property lines. He suggests the CRC re-evaluate the rules regarding vegetation line.

Frank Sheffield, Ward and Smith Law Firm, addressed the CRC on behalf of the NC Floating Docks Inc. He stated that they have met with NC ACOE and presented the product of floating

docks. Mr. Sheffield requested that this issue be put on the September 2006 agenda for continued discussion.

Chris Wren, minor developer on Oak Island, addressed the CRC with a suggestion of forming a sub committee to hear variances, to possibly cover more at one meeting. He also stated that Oak Island has quite a bit of vegetation and he requests the CRC consider that when looking into possible future rule making.

### **PUBLIC HEARINGS**

15A NCAC 7H .1102, .1302, .2102, .1103, .1203, .1303, .1403, .1503, .1603, .1703, .1803, .1903, .2003, .2103, .2203, .2303, .2403, .2503, .2603, .2703.

15A NCAC 7K .0208

**No comments were received for any of the above proposed rule changes.**

### **COMMITTEE REPORTS**

#### **CRAC Report**

Bill Morrison presented the minutes from the CRAC (SEE ATTACHMENT FOR WRITTEN REPORT). The CRC did not take any action.

#### **P&SI Committee Report**

Renee Cahoon presented the minutes from the P&SI Committee meeting (SEE ATTACHMENT FOR WRITTEN REPORT). The CRC took the following actions:

**Renee Cahoon moved that the CRC approve the certification of the Surf City Land Use Plan. The motion passed with a unanimous vote. (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Shepard, Weld, Wynns).**

**Renee Cahoon moved that the CRC approve the certification of the Wilmington/Hanover Joint Land Use Plan. The motion passed with a unanimous vote. (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Shepard, Weld, Wynns).**

**Renee Cahoon moved that the CRC approve the certification of the Pender County Land Use Plan. The motion passed with a unanimous vote. (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Shepard, Weld, Wynns).**

**Renee Cahoon moved that the CRC approve certification of the Varnumtown Workbook Plan. (She stated that because the motion passed in the committee meeting she had to recommend approval but voiced that she voted against the motion during the committee meeting) Melvin Shepard offered a substitute motion, seconded by Joan Weld to send the Plan back to Varnumtown with a list of concerns that were voiced and ask them to reevaluate their**

**Plan taking the concerns into consideration. The motion to accept the substitute motion over the original motion passed with a unanimous vote. (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Shepard, Weld, Wynns). After much discussion, the CRC determined that Varnumtown did indeed meet the CRC requirements. Melvin Shepard and Joan Weld agreed to withdraw the motion to send the Plan back to Varnumtown. Jerry Old made a motion, seconded by Renee Cahoon to approve the Varnumtown Workbook Plan. The motion passed with a vote of 7 in favor (Elam, Emory, Leutze, Langford, Old, Weld, Wynns) and 3 opposed (Gore, Cahoon, Shepard).**

**Renee Cahoon moved to send the proposed amendments to the 7M-shorefront access policies to public hearing. The motion passed with a unanimous vote. (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Shepard, Weld, Wynns).**

### I&S Committee Report

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

**Bob Emory moved to direct DCM Staff to proceed as proposed on the Fresh Pond Public Water Supply AEC Boundary. The motion passed with a unanimous vote. (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Shepard, Weld, Wynns).**

**Bob Emory moved to send rules 15A NCAC 07J .0210 and 07K .0209 to public hearing for proposed amendments. The motion passed with a unanimous vote. (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Shepard, Weld, Wynns).**

**Bob Emory moved to send 15A NCAC 07H .0308 to public hearing for proposed amendments. The motion passed with a unanimous vote. (Elam, Cahoon, Emory, Leutze, Gore, Langford, Old, Shepard, Weld, Wynns).**

**Bob Emory moved that DCM Staff start measuring sandbags based on the structure itself and not based on the structure relative to any other reference point. The motion passed with a vote of 8 in favor (Elam, Cahoon, Emory, Langford, Old, Shepard, Weld, Wynns), and 1 abstention (Leutze). (Gore was absent for vote)**

## PRESENTATIONS

### Static Vegetation Line Discussion

Jeff Warren noted to the CRC that the first line of natural vegetation has been used as an oceanfront setback delimiter. He stated this currently is not the case along portions of the oceanfront that have received large-scale beach fill projects. There, he stated the building setback is measured from the vegetation line in existence prior to the project. Dr. Warren stated after reviewing multiple scenarios with respect to the current rule language of 15A NCAC 07H .0305(f) and (g), DCM staff had discussed alternative strategies that may be effective for the

future management of oceanfront setbacks in areas that have received beach fill. Dr. Warren presented the following options:

- A. Re-define what is meant by a large-scale project. Dr. Warren stated that in order to avoid a static vegetation line, municipalities have the ability to design projects with a gross sediment volume less than 200,000 yds<sup>3</sup> or, more commonly, a gross sediment distribution greater than 200,000 yds<sup>3</sup> with an average volume distribution under 50 yds<sup>3</sup>/ft. He stated that the current policy creates a disincentive for large-scale, low frequency beach fill for municipalities that want to avoid the restrictions of static vegetation lines. Dr. Warren stated staff feels a minimum volume should be established for exemptions.
- B. Frequency of beach fill projects may also be a consideration for static line applications. Dr. Warren stated that the absence of continued beach fill maintenance would facilitate accelerated short-term erosion in relatively short order. He stated small, less frequent projects have less effect on the natural system and the beach reestablishes equilibrium much sooner; although a smaller scale engineered beach can also lead to a false sense of security among property owners.
- C. Once in place, current policy sets a static vegetation line in perpetuity regardless of natural conditions on the beach. Dr. Warren stated that a static vegetation line no longer serves its intended purpose once the beach fill has been removed, either all or in part, by natural coastal processes. He stated that retirement of all or part of a static line could be considered on a case-by-case basis after a minimum amount of time has passed, natural vegetation has re-established itself, and “baseline” conditions have been re-established. Dr. Warren stated that because a static line can remain an effective tool for managing development, the retirement should not be automatic but considered only after a municipality has petitioned the CRC. If the static line were retired, the setback would be measured from the line of natural established vegetation.
- D. Dr. Warren stated if a static line is retired and proposed development meets the setback of re-established natural vegetation, it may be appropriate to limit the size and oceanward extent of said development.
- E. Portions of a natural vegetation line that move landward of a static vegetation line should be the controlling factor for setback measurement. Dr. Warren stated that because storm-affected vegetation lines are a natural and recurring factor, the correction of a static line with an AVL should be abandoned.

**Jim Leutze made a motion, seconded by Joseph Gore to refer further discussion of Static Vegetation Line to the I&S Committee. The motion passed with a unanimous vote. (Elam, Cahoon, Gore, Emory, Langford, Old, Shepard, Weld, Wynns, Leutze).**

#### Definition of Large Structures and Oceanfront Setbacks

Dr. Warren stated that single-family developments generally use a 30-year multiplier, in conjunction with the long-term, average erosion rate along the oceanfront. He stated commercial and multi-family structures considered large, more than 5,000 sq. ft, generally use a 60-year multiplier for erosion rates up to 3.5 feet per year. Residential structures always use a 30-year multiplier regardless of size. Dr. Warren stated the original CAMA setback rules were

established in 1979. He stated at that time beach fill projects were not common. Dr. Warren stated that since 1979 development has become larger and beach fill projects have become a more frequent response to address short-term impacts from sudden erosion events or longer term erosion problems many of the beach communities currently face. He stated that with the 30 year management window quickly approaching (2009), discussion of the effectiveness of existing rules and consideration of factors that could/should be addressed for the next 30 years is appropriate. Dr. Warren also suggested that it might be appropriate to consider if larger setbacks are necessary for the extremely large structures that are being proposed for portions of the NC oceanfront (e.g., condo high rises). Dr. Warren also stated that the CRC might consider whether residential structures should continue to remain exempt of the larger setback standards applied to large multi-family and commercial structures.

**Melvin Shepard made a motion, seconded by Renee Cahoon to refer further discussion of Large Structures and Oceanfront Setbacks to the I&S Committee. The motion passed with a unanimous vote. (Elam, Cahoon, Emory, Langford, Old, Shepard, Weld, Wynns, Leutze), (Gore absent for vote).**

#### Florida's Approach to Permitting Beach Nourishment Projects

Paden Woodruff, Florida Dept. of Environmental Protection, Bureau of Beaches and Coastal Systems stated that the Beach Erosion Control Program is a local government funding assistance program. He stated the States General Assembly gives them funding to partner with local government. Mr. Woodruff stated the greatest cause of beach erosion is improved inlets, followed by storm damage and construction of structures. He stated that the Legislative intent is to declare beach restoration to be in the public interest, ensure projects are cost effective, give priority to regionalized projects, make project performance an important criteria, focus on long-term solutions, and provide long-term funding. Mr. Woodruff stated that Beach and Coastal Ecosystem Management is a strategy implemented through a funding assistance program that works with local, state and federal government entities, and may fund up to 50% of non-federal project costs. He stated that the Strategic Beach Management Plan provides long-term, protective strategy for critically eroded segments based on sub-regions chosen for coastal uniqueness and continuity as the basic planning unit and provides overall direction to the state program. Mr. Woodruff stated that projects are funded in four phases; feasibility, design, construction, and monitoring. He stated the requests are from local sponsors and are ranked according to severity of erosion, economic and environmental benefit, project performance, federal funding, previous state funding, local government commitment and demonstration projects. Mr. Woodruff stated the long term funding available is \$30 million each fiscal year. He stated that the local funding sources come from tourist development taxes, special taxing districts and general revenue. Mr. Woodruff stated some permitting hurdles include identifying critical path issues, obtaining complete and accurate baseline information, properly designed projects to minimize impacts, scheduling around biological windows, and long term monitoring to document impacts. He identified some issues that need more attention, to include sediment quality assurance and control, sand color, profile equilibration time, and erosion hot spots.

## CHPP Implementation Update

Jimmy Johnson, DENR, updated the CRC on the CHPP Implementation. He stated that the Albemarle-Pamlico National Estuary Program (APNEP) Policy Board voted to reallocate several budget items into Submerged Aquatic Vegetation (SAV) Mapping. For the 2006/2007-budget year, APNEP will put about \$160,000 into having coastal NC digitally photographed. Mr. Johnson stated that the plan is for this photography to be done about once every 5 years. He stated that Division of Marine Fisheries (DMF) looked at areas between New Hanover County and up to Surf City. They found that there seems to be quite a bit more of SAV in the southern counties than anyone was really aware of. Mr. Johnson stated that DMF found some extensive areas of unrecorded SAV in some of the bays and marshes off the Atlantic InterCoastal Waterway. He stated at the last Marine Fisheries Commission (MFC) meeting they voted to petition the Environmental Management Commission (EMC) for rulemaking regarding the inadequacies of the State's Coastal Stormwater Program. Mr. Johnson stated the Chairman of the EMC responded back requesting a list of concerns. Those concerns included current program failing to protect existing uses, especially in the shellfish bottom areas where shellfish are harvested for human consumption; it appeared that the grassed swales used in low density areas actually may enhance bacterial contamination of coastal waters; many of the engineered stormwater treatment systems are not reliable, with a 40% violation rate in 2006; and the Universal Stormwater Management Plan and the Phase II proposals do not cover all the coastal counties or even all the shellfishing waters of the coast, they are primarily voluntary and they are not designed to include those areas of the coast which are currently prime targets for development. Mr. Johnson stated that recommended actions from the MFC would include the ability to hold more stormwater for a longer time period on site than is currently required, closer inspections and maintenance requirements on the engineered systems, possible impact fees, limiting impervious surfaces to no more than 12% for all new development near coastal waters, the repealing of the low density option for stormwater management within a specific distance from coastal shellfishing waters, and requiring these actions for all 20 coastal counties. Mr. Johnson stated that the Division of Water Quality sent a policy memorandum that excluded delineated coastal wetlands from the formula used to calculate allowable impervious surface areas on low-density sites. However, DWQ issued a second policy memorandum suspending the first and citing the generation of some unforeseen and unintended consequences. Mr. Johnson stated DWQ would now begin a comprehensive review of their methods for determining low density in those projects that include wetlands and then phase-in any proposed changes to their current procedures. Mr. Johnson closed his update by showing posters, with specific habitat, that were printed with money from a grant DWQ received. The hope is that these posters will be distributed primarily to teachers leading school groups at the three aquariums and the estuarium.

## North Carolina Community Conservation Assistance Program (NC CCAP)

Shelly Miller, New Hanover Soil and Water Conservation, stated the NC CCAP's goal is to reduce nonpoint source pollution from runoff in residential, suburban and urban areas throughout NC through landowner educational, technical and financial assistance provided by Soil and Water Conservation Districts. She stated that the Program was modeled after the NC Agriculture Cost Share Program and it is a voluntary program for homeowners, businesses, schools, churches, and parks. Ms. Miller stated landowners arrange actual BMP installation and the

program will provide 75% reimbursements for BMPs. She stated BMPs include, but not limited to, rain gardens, backyard wetland, stormwater wetland, riparian buffer, impervious surface removal, pervious pavement, critical area planting and retention pond restoration. Ms. Miller stated there are over \$8 million of requests statewide and cover 21 Soil & Water Conservation Districts. Ms. Miller stated some supporting agencies include Cape Fear Home Builders and New Hanover County Commissioners.

**Joan Weld made a motion, seconded by Doug Langford to draw up a resolution stating the CRC fully endorses the NC CCAP as proposed by H.B. 2129 and urge members of the NC Senate to act promptly and favorably on the legislation, the Governor to sign it into law, and the NC Soil and Water Conservation Commission to expeditiously commence the program. The motion passed with a unanimous vote. (Elam, Cahoon, Emory, Langford, Old, Shepard, Weld, Wynns, Leutze) (Gore was absent for vote)**

### **ACTION ITEMS**

**Jim Leutze made a motion, seconded by Renee Cahoon to adopt amendments to CAMA General Permit Approval Procedures in 15A NCAC 07H .1102, 07H .1302, and 07H .2102. The motion passed with a unanimous vote. (Elam, Cahoon, Emory, Langford, Old, Shepard, Weld, Wynns, Leutze) (Gore was absent for vote)**

**Melvin Shepard made a motion, seconded by Renee Cahoon to adopt General Permit Fee Increases in 15A NCAC 07H .1103, 07H .1203, 07H .1303, 07H .1403, 07H .1503, 07H .1603, 07H .1703, 07H .1803, 07H .1903, 07H .2003, 07H .2103, 07H .2203, 07H .2303, 07H .2403, 07H .2503, 07H .2603, 07H .2703. The motion passed with a unanimous vote. (Elam, Cahoon, Emory, Langford, Old, Shepard, Weld, Wynns, Leutze) (Gore was absent for vote)**

**Melvin Shepard made a motion, seconded by Doug Langford to adopt amendments to Presentation to the CRC for Certification in 15A NCAC 07B .0802. The motion passed with a unanimous vote. (Elam, Cahoon, Emory, Langford, Old, Shepard, Weld, Wynns, Leutze) (Gore was absent for vote)**

With no further business, the CRC adjourned.

Respectfully submitted,

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Charles S. Jones, Executive Secretary

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Stephanie Bowling, Recording Secretary