

Shore Protection Manager

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CARTERET COUNTY BEACH COMMISSION MEETING

Minutes

Pine Knoll Shores Town Hall

October 23, 2006, 2 pm

Acronyms:

EI – Emerald Isle

IB – Indian Beach

NCDWR – N.C. Division of Water Resources

PKS – Pine Knoll Shores

USACE – U.S. Army Corps of Engineers

Attendance.

Commission Chair Buck Fugate, Vice-Chair William Donnelly, Commission Members Eddie Dawkins, Jack Goldstein, Jerry Huml, Joan Lamson, Ted Lindblad, Stewart Pickett, Jim Stephenson, Jim Willis, secretary Greg Rudolph, and the general public. Member Pat McElraft was absent.

- (1) **Call to Order.** – Chairman Fugate called the meeting to order.
- (2) **Approval of Minutes (Regular Beach Commission Meeting – September 25, 2006).** - Chairman Fugate asked the Commission if there were any corrections, additions, or comments regarding the minutes presented in the agenda packet. With no comments forthcoming from the Commission, Member Goldstein motioned the minutes be approved as presented. The motion was seconded by member Donnelly and unanimously approved.
- (3) **Occupancy Tax and “Beach Fund” Update.** – Secretary Rudolph mentioned the September receipts for the occupancy tax were up by approximately 18.5% compared to last year and could be attributed to host of factors including; a strong Labor Day weekend, no hurricanes, 5 Saturdays within the month, etc. For the year-to-date figure, the tax is up by over 3% compared to the same point in time a year ago. The secretary continued by guiding the Commission to the second page of the agenda packet, and illustrated that the hotel/motel sector collection was up compared to last year for the first time in the past three months. Last month, the Commission requested a running total of the Beach Fund reserve account to be included in the agenda packets. Based upon the reserve balance reported at the end of last fiscal year (FY 2005-06), the revenues from the occupancy tax to date, and expenditures to date; the Beach Fund reserve balance is approximately \$3.2 million. The secretary concluded by mentioning an explanation that was included in the Commission’s agenda packet pertaining to how interest payments were applied to the Beach Fund.
- (4) **Funding Request – Morehead City Harbor Section 933 Project (Phase II).** – Secretary Rudolph introduced the topic by reviewing the Section 933 Project as the non-Federal/Federal cost sharing program that covers the delta costs of placing dredged sand from the Outer Harbor reach of the Morehead City Navigation Project along the beach rather than dumping the material offshore. The

target beach for this current phase of the Section 933 project is PKS, and the Commission is well aware of the history this project has (i.e., lawsuit within the dredging industry, mud from Brandt Island, high bids, etc.). In response to the high dredging bid received last year, the Commission approached the U.S. Congress for additional Federal funding. Ultimately, there was language in the Senate budget that furnished the Section 933 project funding, yet the House and President's budget provided funding for the beneficial use of dredged materials line item but with little or no project specific language. However, the USACE and many other government agencies are operating under a continuing resolution until November 17th, which provides baseline funding to agencies yet to be funded through a congressionally-approved appropriation act.

The Wilmington District of the USACE felt confident they would have the authorization necessary with this appropriation landscape in mind to proceed with the Section 933 Project (i.e., Federal funds would be forthcoming). The District has a bid opening now scheduled for November 1st and has received the non-Federal matching dollars in respect to the Federal funds associated with this fiscal year (FY 2007). However, USACE headquarters has been unwilling to release the Federal funds for the Section 933 Project despite a stream of daily phone calls by the Wilmington District, Marlowe & Co. (County lobbyist), and Congressman Walter Jones's office. Apparently, the Office of Management & Budget is unwilling to release any Federal funds to the USACE while the continuing resolution is in effect. In response to this, NCDWR has agreed to "bankroll" the USACE with \$2.7 million to move forward with the bid opening process, anticipating these State funds will never be used because the Federal funds should be forthcoming. NCDWR is looking for a local government to furnish \$1.25 million of the \$2.7 million. A small portion of the State share was provided specifically to the Section 933 Project by the State Assembly last year and is therefore split 75% State / 25% local. However, most of the State funding is being borne from a dredging contingency fund and is split 50% State /50% local. Hence the cost share is \$1.45 million State and \$1.25 million local (\$2.7 million total). PKS has agreed to fund the local share. Secretary Rudolph continued that PKS is looking to secure \$400,000 from the "Beach Fund" (occupancy taxes designated for beach nourishment) to help offset their expenses. The number of \$400,000 was developed by taking a PKS voter-approved \$1.6 million bond referendum total, minus the cost of the project to PKS to date, minus this most recent \$1.25 million request from the State. This formula is included in the Commission's agenda packet and equates to a rounded number of \$400,000. The secretary paused and asked if there were any questions from the Commission.

Member Lamson reiterated that PKS voters authorized \$1.6 million for the Section 933 Project and the Town is roughly \$400,000 short. Member Willis made a motion to approve the use of \$400,000 from the "Beach Fund" to assist PKS with their monetary obligation for the Section 933 Project. The motion was seconded by member Goldstein. Member Dawkins subsequently asked if there was precedence for utilizing the "Beach Fund" for local projects. Member Goldstein and the secretary responded that \$69,000 was furnished to EI earlier this year for the inlet crossing work at Bogue Inlet. Member Donnelly mentioned that in reviewing the enacting occupancy tax legislation, there are no restrictions concerning what beach nourishment projects the funds can be used for, and ideally and if there was enough of a reserve, all nourishment projects would be supported by the Beach Fund. We have a Town right now through no fault of its own is in a position of not having enough money for a beach nourishment project, and therefore the request by PKS is consistent with the intent of the enacting legislation and the Beach Commission's duties. Member Picket and Goldstein agreed and if IB was in a similar position, it would be very likely that IB would approach the Commission with a similar request. Member Lamson commented that if the State

(NCDWR) did not agree to come forward with additional funding, then we would not have a Section 933 Project. PKS can't decline the State's offer and the Section 933 Project benefits the entire beach, thus the use of the Beach Fund is warranted. Member Huml also offered his support of the motion, but also reminded the Commission that this decision sets a huge precedence. Chairman Fugate reiterated his past concern regarding the long-term cost share for a court-ordered island-wide shore protection project and the potential shortfall that could arise if many small projects are funded via the Beach Fund. Member Stephenson asked if the new financing plan for the Section 933 Project impacts the parking/access plan conceptualized for the project. Member Lamson replied that PKS still intends to construct two new, larger scale oceanfront parks, which is consistent with the variance request articulated to the USACE. The motion on floor was subsequently approved by a 9 - 0 vote.

- (5) **Discussion – Proposed Addition to 1996 County Land Use Plan.** – Secretary Rudolph briefly summarized that the proposed Land Use Plan (LUP) language was drafted a few months ago after a meeting with the County and the Shore Protection Office. The Shore Protection Office subsequently developed and presented the language to the County Board of Commissioners before the language could be approved by the Beach Commission. Of course the language is aimed to codify the Commission's desires regarding sand management issues at the Morehead City Harbor Navigation Project. The proposed language was developed utilizing verbiage in the N.C. 2001 Appropriation Act, and more importantly, language that was recently adopted into Georgia's Coastal Zone Management Plan, which was approved by the National Oceanic & Atmospheric Association for Federal consistency. This Georgia language was also recommended by one of the Commission's engineering firms (Olsen Associates). Chairman Fugate added a loophole exists if State or local policies are found not to be consistent with Federal policy. The Federal policy will then be used as the deciding factor in matters of conflict, especially pertaining to dredging. The chairman also mentioned that each Bogue Banks municipality should also seek to incorporate similar language into their own LUP.

Member Donnelly asked if there were any concerns regarding the proposed LUP language. Chairman Fugate responded that the language may be too vague and inadvertently drive the cost of waterway maintenance projects upward if all sand is mandated to be placed on the beach. The secretary briefly mentioned that the County's Planning & Inspections Department and the Shore Protection Office will be meeting to discuss exactly where the proposed language should be placed in the existing County LUP. Member Willis mentioned that he initially had some concern regarding the language but has since reconsidered. Member Willis added if the proposed language was strictly adhered to, then even side-cast dredging would be jeopardy because the material would be mandated to be placed on the beach, and therefore the language should just reference Morehead City Harbor. Chairman Fugate agreed. Member Donnelly made a motion to accept the LUP language that was seconded by member Pickett. Chairman Fugate believed the Commission should make the language specific to the Morehead City Harbor Federal Navigation Project. Member Lindblad asked what the term "alternate plan" meant in the proposed language. Member Willis and the secretary replied that if a maintenance or deepening event did not place sand on the beach, then an alternative plan must be developed and approved by the County to place an equivalent amount of sand on the beach. Member Stephenson suggested defining "beach compatible" in an earlier portion of the language. Chairman Fugate asked if the Commission was comfortable passing the motion on the floor giving the secretary liberty to modify the language based upon today's recommendations. The Commission agreed to the Chairman's

notion by consensus, and subsequently passed the motion on the floor to accept the LUP language by a 9 – 0 vote.

- (6) **Public Comment.** – None.
- (7) **Other Business.** – None.
- (8) **November 2006 Meeting Date (November 27, 2006 – proposed).** – It was agreed upon that the November Commission meeting would be held on November 27th at 2:00 pm.
- (9) **Adjourn.** – Chairman Fugate asked for any additional comments and with no additional comments forthcoming, the meeting was adjourned.