

Shore Protection Manager

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## CARTERET COUNTY BEACH COMMISSION MEETING

Minutes

Pine Knoll Shores Town Hall

April 30, 2007, 2 pm

### **Acronyms:**

AB – Atlantic Beach

CBOC – Carteret County Board of Commissioners

EI – Emerald Isle

PKS – Pine Knoll Shores

USACE – U.S. Army Corps of Engineers

### **Attendance.**

Commission Chair Buck Fugate, Vice-Chair William Donnelly, Commission Members Pete Allen, Jack Goldstein, Tom Hoover, Joan Lamson, Ted Lindblad, Jim Willis, secretary Greg Rudolph, and the general public. Members Eddie Dawkins, Stewart Pickett, and Jim Stephenson and were absent.

- (1) **Call to Order.** – Chairman Fugate called the meeting to order.
- (2) **Approval of Minutes (Regular Beach Commission Meeting – March 26, 2007).** – 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 Lindblad 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 commented the fiscal year (FY) to date occupancy tax collection total for 2006-07 has been hovering between the plus 2% to 3% mark compared to this same point in time in the previous fiscal year (FY 2005-06). Attached to the Commission’s agenda are the occupancy tax collections for February and March 2007, which collectively total a plus ~\$1,600 increase compared to the totals reported for February and March 2006. However as previously mentioned, the last three months of the fiscal year (April, May, and June) contribute a large percentage to the overall yearly collection. The secretary continued that the hotel/motel input continues to drop compared to last year, while the condo/cottage sector continues to climb at a rate that offsets the downturn in hotels/motels and then some. Overall, the “Beach Fund” reserve is currently estimated to be at \$3.1 million and represents the balance available at the beginning of the fiscal year plus the occupancy tax revenue gained this year minus the expenditures incurred to date.

Member Goldstein mentioned that he recently and informally canvassed eight different real estate companies concerning this year’s rental bookings and general visitation trend. The results were mixed and member Allen subsequently asked if the rental agencies were increasing their

rates. Member Goldstein replied there were a few increases but they were very small. Member Donnelly asked if the new condominiums that have been recently constructed were selling. Member Goldstein responded that sales have been slow and there are opportunities for last minute rentals of these types of facilities, similar to how the motel sector operates.

Secretary Rudolph closed the discussion by mentioning there is movement afoot to modify the occupancy tax enacting legislation that would prolong the ability for the CBOC to levy an additional 1% tax for 4 years for the sole purpose to construct a convention center. As it stands now, in 2010 the "Beach Fund" will begin to receive 2% rather 2.5% of the occupancy tax proceeds with the remaining 3% attributed to the County's Tourism Development Authority (5% total tax). If the additional 1% tax is levied for the 4-year window extending from 2010 - 2014, then the total County occupancy tax will be 6% rather than 5%, of which, 3% will be for the Tourism Development Authority, 2.5% for the "Beach Fund", and 0.5% for the convention center. After the four year window, then the distribution ratio is 3%, 2%, and 1%, respectively until the convention center amasses a total of \$10 million. At this point the occupancy tax rate is reverted back to 5% with a 3% Tourism Development Authority, 2% "Beach Fund" split. Ultimately, the "Beach Fund" could see four extra years of receiving 2.5% of the occupancy tax, rather than 2%, during the 2010-2014 window. Member Goldstein mentioned there was some opposition to the proposed legislation by members of the Tourism Development Authority because they would receive less ("Beach Fund" receives more) during the 2010-2014 window. Secretary Rudolph disclosed the Shore Protection Office has not issued a position on the Beach Commission's behalf regarding this legislation because it truly concerns the convention center and the "Beach Fund" is essentially an innocent by-stander. Chairman Fugate and the secretary also shared that the \$15 million cap stipulated in the occupancy tax legislation could become problematic if the Commission is ever faced with fully funding a nourishment project considering mobilization costs are \$3 million and the unit cost for a cubic yard of sand is roughly \$10. A one million cubic yard nourishment project would essentially deplete the very maximum the "Beach Fund" is permitted to accrue. However, approaching any changes to this portion of the occupancy tax law would be difficult in this current session of the N.C. General Assembly.

- (4) **Summary – Bogue Banks Shore Protection Project Feasibility Report Status.** – Secretary Rudolph reviewed that the Federal FY 2007 budget deliberation process came to a close in March 2007, despite the fact that the fiscal year started on October 1, 2006. Regardless, Congress provided \$100,000 to the Bogue Banks Shore Protection Project Feasibility Study (Study) and when coupled with funding the USACE had in hand, \$222,000 was recently infused to the Study. The cost share applied to Feasibility Studies and the recent \$222,000 monetary request is 50% Federal, 25% State, and 25% local. The Feasibility Agreement was executed in 2001 as a four-year study totaling \$3.3 million. We are now in year seven of the Study with a total of roughly \$3.7 million appropriated to the Study to date. With the new monetary request and subsequent to a meeting with the USACE's project manager for the Study, Glenn McIntosh, we articulated our concerns regarding the tardiness of the Study, the cost over-run, and requested a Study completion timetable. We also disclosed that no additional funding would be forthcoming from the County until a completion schedule was submitted. In the USACE's defense, Federal funding has been received intermittently causing the Study to "stop and go", and it has been difficult for the USACE to reconcile the pre-project beach conditions with all the nourishment projects that have been constructed along Bogue Banks since 2001. The secretary added all the interim locally- and Federally-funded nourishment projects have been completed and we now have legal counsel for

Morehead City Harbor sand management issues, and therefore are beginning to re-focus on the long-term. The Shore Protection Project, in part or whole, may very well be the long-term nourishment plan for Bogue Banks, and therefore is taking a greater importance. Also in 2005, the County articulated their general desires for the Shore Protection Project, basically asking for AB to be nourished under the guise of least-cost, the remainder of the island heading west would be nourished utilizing outer harbor material, and western EI would utilize dredged material from Bogue Inlet to compliment navigation.

In terms of the Study, it is almost completed and the USACE has subdivided the municipal portions of the island into 20 reaches – each must meet a benefit to cost ratio of 1:1 to qualify for Federal participation. To date, a reach near the Circle in AB and the westernmost reach in EI are falling just under the benefit to cost threshold. However, there could be ways to look at future development and adjacent reach benefits to help compensate for these shortcomings. The relationship to the Commission's legal approach for Morehead City Harbor lies in the thinking that the Federal government will likely not fund the Shore Protection Project for purely altruistic reasons and therefore, administrative initiatives under legal counsel may enable the Federal government to fund the Shore Protection Project without facing legal ramifications. Thus it becomes very important for the USACE to complete the Study regardless if the project is funded under normal circumstances or is legally-guided. In addition, it would be beneficial to have the environmental clearances for a model project that can be utilized in the future – regardless of the funding mechanism.

Secretary Rudolph added the USACE's access/parking stipulations are also important ones to consider. Access is required every 0.5 mile with 10 associated parking spaces located with 0.25 mile of each particular access. Plus the total parking in each municipality must meet the lesser of peak demand or beach capacity. We asked for variances to the access regulations for the one-time Section 933 Project by trying to blend regional parking facilities vs. the programmatic 0.5-mile standard and have been repeatedly denied by the USACE. Therefore, future variance requests will likely have the same fate. With this in mind, we will likely need to abide by the USACE's access/parking standards regardless of the funding mechanism, and anything the Commission can do to help facilitate the acquisition of more access and parking would be beneficial.

Member Lamson asked how the USACE measured beach capacity? The secretary replied that the number of 10 parking spaces per access, peak demand, and beach capacity are all speculative. Member Lamson added that the pressure on local communities to supply additional parking is going to be tremendous regardless how the USACE determines peak demand or beach capacity. Member Allen prefaced with all due respect, that the USACE's parking and access regulations make absolutely no sense. There may be two days the entire year accesses are full and there is no balance between regional accessed with lavatories, volleyball courts, etc. compared to local accesses with a simple walkway. Member Donnelly added that it is an accepted rule of law that an administrative regulation will not be enforced in the courts if it is irrational (arbitrary and capricious), and this may be another approach that communities could consider.

(5) **Public Comment.** – None.

- (6) **Other Business.** – Member Donnelly shared an article from *Seapower* magazine announcing an America's Marine Highway Program proposed by U.S. Maritime Commission to help alleviate road traffic by moving cargo via ships on the Atlantic Intracoastal Waterway.
- (7) **June 2007 Meeting Date (June 25, 2007 – proposed).** – Because the fourth Monday of the month in May falls on Memorial Day, the Commission agreed to postpone the May meeting until June 25<sup>th</sup>, 2:00 pm, PKS Town Hall.
- (8) **Adjourn.** – Chairman Fugate asked for any additional comments and with no additional comments forthcoming, the meeting was adjourned.