

Shore Protection Manager

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## **CARTERET COUNTY BEACH COMMISSION MEETING**

Minutes

Pine Knoll Shores Town Hall

February 8, 2010, 2 pm

### **Attendance.**

Commission chair Buck Fugate, vice-chair William Donnelly, Commission Members A.B. "Trace" Cooper, Doug Fleming, Jack Goldstein, Tom Hoover, Richard Hunt, Ken Jones, Ted Lindblad, Dr. Antonio Rodriguez, Art Schools, secretary Greg Rudolph, and the general public. All members of the Beach Commission were present.

- (1) **Call to Order.** –Chairman Fugate called the meeting to order and asked the Commission to add a brief closed session to the agenda to discuss personnel. The amendment to the agenda was approved by consensus.
- (2) **Approval of Minutes - Regular Beach Commission Meeting (December 14, 2009).** – Chairman Fugate asked the Commission if there were any corrections, additions, or comments regarding the December 14<sup>th</sup> regular session minutes presented in the agenda packet. Member Schools subsequently motioned the minutes be approved as presented, which was seconded by member Donnelly and unanimously approved.
- (3) **2010 Beach Commission Officer Elections (chair and vice-chair).** – Prior to opening the floor for nominations of the Beach Commission chair and vice-chair positions for 2010, chairman Fugate welcomed new Commission members Fleming, Hunt, and Jones. The chairman also took a moment to thank "Capt." Jim Willis, III for his service to the Beach Commission and recognized his work in Carteret County, which extends for decades. The chairman also thanked Joan Lamson and Pete Allen for their service to the Beach Commission and regarding the subject of beach preservation as whole over their lives of public service. The chairman subsequently opened the floor for nominations. Member Goldstein made a motion to re-elect Buck Fugate as chairman for the year. This motion was seconded by member Hoover and unanimously approved. Member Goldstein followed by making a motion to re-elect Bill Donnelly as vice-chair, which was seconded by member Lindblad and unanimously approved as well. Members Fugate and Donnelly thanked the Commission for their continued votes of confidence.
- (4) **Occupancy Tax and "Beach Fund" Update.** – For the new members of the Beach Commission, Secretary Rudolph particularly summarized that the agenda packet usually contains the monthly raw occupancy tax reports, which are consequently tallied and compared to the previous fiscal year. Consistent with this approach, the November and December 2009 tax reports are included in the agenda packet and collectively represent a 7% decrease compared to the November/December 2008 combined total. However, because the winter month totals are considerably lower than the summer months, decreases of this order of magnitude in the winter are

not as concerning as they are in the summer. The secretary continued that the agenda also includes a breakdown of the receipts by sector, i.e., comparing collections from hotels/motels to those reported for condos/cottages. Lately, the individual sectors have been consistent with the overall collection; meaning that both sectors are “up” when the overall occupancy revenue is up for the month, and vice versa. Commissioner Hunt asked if this trend has been consistent in the past. Members Schools and Fleming replied that some of the hotel/motels have been sold in the past several years, and likely these visitors have transitioned to the condos/cottages. Member Cooper asked how many hotel/motel rooms have been lost in the past several years. Member Fleming replied that 400 to 500 rooms appears to be the minimum number of rooms lost. The secretary concluded the briefing by noting the “beach fund” reserve was at roughly \$9 million at the conclusion of December.

- (5) **Shore Protection Office Budget for FY 2010–11.** – The secretary outlined the proposed FY 2010-11 budget using computer visual aids by reviewing the revenues first, which includes two important components; (1) a legislatively mandated (SL 2007-112) decrease of the portion of the occupancy tax that is distributed for the purpose of beach nourishment. Beginning on July 1<sup>st</sup>, rather than receiving 50% of the collection (5% occupancy tax rate), the beaches will receive 40% - or 2% occupancy tax rate compared to 2.5%. This equates to a 20% reduction of revenue from the current fiscal year (FY 2009-10) to FY 2010-11, i.e., 2.5% - 2.0% (0.5%) divided by 2.5%. (2) a 2% projected decrease in overall revenue attributed to the National economic recession, which is coupled with an actual ~7.5% decrease reported in FY 2008-09 and predicted 2% decrease for our current fiscal year (FY 2009-10). These two factors (legislative change and decline in overall tax revenue) equate to a forecasted revenue of \$2.16 million for FY 2009-10 compared to \$1.69 million predicted in FY 2010-11.

Reviewing the occupancy tax from a historical perspective (1993 – 2009), and correcting the tax from the past 3% rate to the current 5% rate, the collection total is 101% more in 2009 compared to 1993. The average annual increase over the past 17 years is 4.6%. Graphically, we can see that the dip in occupancy tax seen in 1996 is attributable to hurricane *Bertha* that impacted the area in July, followed by a big spike in 2005, 06, and 07 timeframe that is credited with extending the school recess break, and finally the last two years are in decline compliments of the economic recession.

In terms of expenditures, the County allocates spending into personnel, operations, and contracted services. For personnel, there are no recommended changes. Operations total \$328,145; however over 90% (\$300,000) is attributed to the Shore Protection Project Feasibility Study, which is matched only if appropriated by the Federal government. Moreover, the State traditionally contributes 50% of the cost-share, or \$150,000 in this case. We (County) show the State contribution as a revenue, and then subsequently submit the entire dollar amount (\$300,000). Thus, it is quite possible the Federal government will never appropriate the funding and the \$300,000 budgeted for FY 2010-11 will never be spent. For contracted services, the total of over \$800,000 are dedicated for the costs that have previously been articulated and approved in contracts, e.g., beach monitoring including a \$65,000 storm contingency event, Marlowe & Co., attorney fees, etc. The proposed budget for FY 2010-11 also includes \$500,000 for the Master Nourishment Plan, which is essentially a new expenditure and accounts for roughly 60% of the entire contracted services line item. Accordingly our proposed budget for FY 2010-11 is \$1.26 million compared to \$972,000 for our current fiscal year (FY 2009-10). The increase is directly

proportional to the cost of the Master Nourishment Plan - \$200,000 is budgeted for the Master Plan in FY 2009-10, compared to \$500,000 proposed for FY 2010-11.

Secretary Rudolph transitioned to a long-range (5-year) projected budget included in the agenda packet, and reviewed some of the assumptions. Without any construction funding, the reserve balance will be in excess of ~\$16 million by FY 2015-16. As the Commission is well aware, the occupancy tax legislation includes a \$15 million ceiling before the excess funds are funneled to the Tourism Development Authority. Consequently it might be a good time to revisit this matter. Member Lindblad asked what the procedure is for raising the reserve ceiling. Member Fleming, Schools, and chairman Fugate responded that we would have to ask the County Board of Commissioners to approve the changes and request our State legislators to make the change to the law. The only hesitancy is that once the bill is opened up, others (perhaps not even associated with beach nourishment) may also try to change the bill. The secretary concluded the budget presentation by reviewing some of the major accomplishments that have occurred over the past year as detailed in the agenda packet. These included securing Federal appropriations for studies and dredging & beach nourishment associated with the Morehead City Harbor, negotiating the sand placement with the U.S. Army Corps of Engineers to ensure Atlantic Beach is adequately protected, development of the solicitation/selection materials for the new Master Nourishment Plan, engage the U.S. Fish & Wildlife Service regarding the Coastal Barrier Resources Act Pilot Study, static line exception reports, continuation of our monitoring program, and the Dredged Material Management Plan were some of the highlights. Member Hunt, noting that beach monitoring was one of the accomplishments, asked how the contingency storm survey is enacted. The secretary responded that if a storm impacts the area and it is believed that a Federal disaster designation will be provided, then the survey is triggered. Hence any storm or multiple storms that are not declared a Federal disaster are not surveyed *per se*. Chairman Fugate asked the Commission to wait until after closed session to approve the budget.

*Note:* Following a closed session, the Beach Commission included a 3% increase for the Shore Protection Manager's salary equal to \$80,000/year, and unanimously approved the budget.

- (6) **Discussion – Financial Plan Summary for Municipal Static Line Exception Plans.** – The secretary introduced the topic by noting that the communities of Atlantic Beach, Pine Knoll Shores, Indian Beach/Salter Path, and Emerald Isle will be submitting their respective static line exception requests for the Coastal Resources Commission's (CRC's) consideration in March. The purpose of preparing this agenda topic is to help demystify the State's oceanfront setback policy, static lines, and the static line exception rule. Moreover, the static line exception request has to include the identification of sand and monetary resources for a 25-year nourishment plan. Considering all the communities will be targeting the portion of the occupancy tax designated for beach nourishment as a key funding source, it was imperative that we develop a single plan for the occupancy tax that could be used for all the communities. The second half of the presentation (PowerPoint) will address this latter point. And finally, this dovetails nicely with our planning efforts for the new Master Nourishment Plan, and it has been beneficial to do this type of legwork to accommodate this need as well.

Using graphic aids (computer), the secretary reviewed that most of Bogue Banks has a 60-foot setback from the first line of stable, natural vegetation. If the first line of stable vegetation erodes landward and the structure is now within that 60 feet setback from the vegetation; then the

structure is considered as non-conforming (i.e., cannot be rebuilt if destroyed by over 50% by fire or storm). Likewise, a vacant lot where a structure can't be built because of the setback is also considered as non-conforming.

Over the past decade however, many communities have constructed nourishment projects and the first lone of stable vegetation has migrated seaward. However, the State's rules dictate that the vegetation line immediately prior to nourishment shall always be the setback determinant, in perpetuity; or what is commonly referred to as the "static line". Thus if a structure is non-conforming before nourishment, then it shall always be non-conforming regardless of where the vegetation exists. The secretary continued that subsequent to discussions initiated by coastal municipalities and a multiple-year rule-making process, the CRC can now consider static line exception requests, where if granted, allows communities/property owners to take advantage of the existing vegetation line – with some construction guidelines as well.

The CRC's philosophy regarding the static line exception is one that credits communities that have a nourishment program that keeps the vegetation line closer to the ocean, rather than allowing one-time projects to occur where the vegetation line begins retreating landward after a few years. Accordingly, the CRC votes on four items to grant communities a static line exception in a quasi-judicial proceeding; (1) a summary of the beach fill project(s), (2) presentation of the 25-year nourishment plan, (3) identification of compatible sand resources to accommodate the nourishment plan, and (4) the identification of the financial resources necessary to fund the nourishment plan.

Secretary Rudolph subsequently provided a graphic of the nourishment projects that have taken place all along Bogue Banks and discussed the offshore dump sites utilized by the U.S. Army Corps of Engineers that contain more than enough sand by itself to accommodate nourishment. The nourishment plan was developed by first looking at the background volume erosion rates along Bogue Banks and then forecasting when the volumetric erosion would reach critical thresholds. In summary, the area including Pine Knoll Shores, Indian Beach/Salter Path, and Emerald Isle will need over 10 million cubic yards over the next 30 years; ideally placed at a rate of 3.6 million cubic yards every decade (over the course of three years). That 30 year total cost is ~\$187 million.

In terms of the financial plan, we conceptualized that including Federal funding was not a realistic option to present to the CRC. No State funding is also an unacceptable option, therefore the financial structure was structured as a ratio of County, State, and local funding. To leverage the maximum amount of occupancy tax (County) funding, we assumed the occupancy tax revenue would grow at a 4% rate with 2% interest, and included administrative costs. The nourishment reserve would stay solvent funding exactly 50% of the total nourishment cost. We subsequently developed three funding scenarios with this 50% County cost share in each one; (1) best case scenario is 45% State / 5% local, (2) most likely scenario is 40% / 10% local, and (3) worst case is 25% State / 25% State. The 40% and 45% State cost shares were developed utilizing some of the discussions concerning the State's Beach Inlet & Management Plan – the 25% is close to the 26.25% cost share the State has traditionally provided for projects when there is a Federal cost share component.

The local costs presented are for all the communities. To develop the envisioned 30-year cost for each community; we re-examined the volumetric erosion rates. So for instance, if Emerald

Isle accounts for 46% of the volumetric erosion, then their cost is 46% of the entire "local cost". They (Emerald Isle) can accommodate this cost by levying a 0.5 cent, 1 cent, or a 3 cent ocean/1 cent non-oceanfront property tax for the best case, likely case, and worse-case, respectively. This approach is indeed what Emerald Isle has proposed and adopted, and likely all the other communities will as well. For Atlantic Beach, our philosophy is that the U.S. Army Corps of Engineers' least cost policy created the static line and therefore will maintain the beach in the future. There were some additional costs proposed to cover possible delta costs if there is a need to extend the beachfill beyond where the least-cost policy dictates, which is also included in the overall nourishment cost presented in the financial plan.

Commissioner Hunt asked if the stable vegetation line can be planted. Secretary Rudolph replied yes it can, but at the end of the day; it must meet the State's rules regarding stable vegetation (i.e., continuous rhizomes, etc.). Member Rodriguez asked if the financial plan included FEMA reimbursement, which would be a Federal cost. The secretary responded no because it is too speculative to determine whether or not we may not get a Federal declared disaster, and/or if FEMA reimbursement will still be a solvent program a decade or two down the road. Member Hoover continued by asking how much sand can we seek reimbursement for. The secretary responded that we can only apply for reimbursement for the sand we lost due to that Federal declared disaster, which furthermore is why we always survey the beaches just before hurricane season – that's our "pre-storm" survey.

- (7) **Public Comment.** – None.
- (8) **Closed Session pursuant to G.S. 143-318.11 for the permitted purpose of discussing personnel.** – Please see the results of this closed session as described in the last sentence in topic number 5 above.
- (9) **Other Business.** – The chairman, vice-chair, and secretary summarized a recent trip to Washington, DC that was aimed particularly at a visit with the U.S. Fish & Wildlife Service regarding the Coastal Barrier Resources Act Pilot Study. The trip was very eventful, and the secretary thanked the Commission and particularly the chair and vice-chair for attending these types of trips to DC – they take a lot of time, money, and other investments; but are worth it.
- (10) **March 2010 Meeting Date (March 22, 2010 – proposed).** – It was agreed upon that the next Beach Commission meeting would be held on March 22, 2010 at 2:00 pm, Pine Knoll Shores Town Hall.
- (11) **Adjourn.** – Chairman Fugate asked for any additional comments and with no additional comments forthcoming, the meeting was adjourned.