Meeting Notes from the
Blue Ribbon Committee on Shoreline Management
October 4, 2011

The Blue Ribbon Committee (BRC) on Shoreline Management met on Tuesday, October 4, 2011, in SCDHEC's Office of Environmental Quality Control Conference Room, Charleston, SC. (Attachment 1). In accordance with the SC Freedom of Information Act (FOIA), broadcast and print media were notified of this October 4, 2011 meeting of the BRC. Additional notices were posted at Department offices and on the website.

CALL TO ORDER: The meeting was called to order by BRC Vice-Chairman Bill Otis. The following members were in attendance:

Mac Burdette
Paul Campbell
Elizabeth Hagood
Bill Herbkersman
Wes Jones
Nick Kremydas
Bill Otis
Tom Peeples
Bob Perry
Clementa Pinckney
Terry Richardson
Rob Young

Also in attendance were DHEC staff, and members of the public. (Attachment 2)

ACTION ITEM:
Approval of June 14, 2011 and July 12, 2011 meeting notes
Mayor Otis provided information on amendments that were made to the June 14 and July 12 meeting notes. The voting record provided in the June 14 notes was corrected, and a comment was added under the Special Permit discussion in the July 12 notes.

It was moved, and seconded, to approve the revised notes of the June 14 and July 12 meetings. *The meeting notes were approved.*

PUBLIC COMMENT PERIOD:
Tim Goodwin, Mayor of Folly Beach
Mayor Goodwin stated that he was representing a coalition of mayors from Charleston County beachfront communities (Isle of Palms, Sullivans Island, Folly Beach, Kiawah Island, Seabrook Island, and Edisto Beach) formed to work together on common problems. Mayor Goodwin thanked Mayor Otis for making a presentation to the group on the activities of the BRC. He read a letter from the coalition that stated they "unanimously took the action to endorse Mayor Otis' suggestion to substitute the words 'preservation and stabilization' in lieu of a word like 'retreat'" because retreat represents an impossible goal. (Attachment 3)

Additional public comments were received via the Blue Ribbon Committee e-mail address. These comments were provided to the committee members at the meeting. (Attachment 4)

BACKGROUND INFORMATION:

BRC Status and Key Issues - Presentation by Carolyn Boltin-Kelly, Deputy Commissioner DHEC-OCRM

Mrs. Boltin-Kelly provided an update on the impacts of Hurricane Irene, including the extent of erosion and the number of emergency orders that have been issued by the Department and the local governments. She also commented on permitting concerns regarding seawall construction on Folly Beach outside of the state's jurisdiction. Mrs. Boltin-Kelly then provided an overview of the BRC process and meetings to date including the work plan and topics of discussion.

Impacts of Hurricane Irene in North Carolina - Presentation by Rob Young, Western Carolina University

Dr. Young provided information on the impacts of Hurricane Irene in NC particularly along the Outer Banks. Information presented included a major breach near Pea Island National Wildlife Refuge north of Hatteras, and beach loss at Rodanthe. Dr. Young discussed the decision by the state Department of Transportation to not fill the breach, and the strategies regarding temporary and previously planned bridge construction.

COMMITTEE DISCUSSION:

Action Item 1 - Movement of the Baseline

Mrs. Boltin-Kelly reviewed the committee's discussion and subsequent motion on June 14th (Attachment 5) regarding the movement of the regulatory "baseline," and reminded the committee that the previous vote was not official due to a lack of quorum at the meeting. The Committee discussed the previous motion.

Reference was made to the public comment received from Tom Leath, City Manager of Myrtle Beach. Mr. Leath wrote that he supported eliminating "the practice of moving the baseline eastward after a nourishment project" and indicated that baseline movement should only be allowed "following a period of sustained natural accretion."

One member agreed that natural accretion needed to be considered along with protection of individual property rights. Another indicated that natural accretion is in the state's jurisdiction and not allowing seaward movement of the baseline would protect the state's property rights.

It was questioned whether continuing to allow the movement of the baseline seaward on accreted land results in unintended consequences such as allowing a new row of oceanfront homes. It was noted that some local governments have ordinances that would not allow for that scenario. It was also noted that most shorelines that have natural accretion are dynamic and are more likely to be at risk for future erosion, making building in these areas risky.

Members were reminded that the original motion before them supported the special permit provision to provide a remedy for affected property owners. The motion was made, and seconded, to adopt the following as a recommendation of the committee: *Subject to SC Code of Law 48-39-290(D), the baseline established under the SC Beachfront Management Act should not move seaward from its position on June 14, 2011.*

The motion passed with 11 members voting in favor of the motion. Members voting in favor were Burdette, Hagood, Jones, Otis, Peeples, Perry, Richardson, Campbell, Herbkersman, Pinckney, Young.

Members asked that the record reflect the previous vote recorded on June 14 from absent members which included one vote against by Kremydas and one in favor by Eagle.

Action Item 2 - Area Seaward of the Baseline

Mrs. Boltin-Kelly summarized the conditions and criteria for issuing a special permit and briefly reviewed the previous committee discussions on the topic. She submitted three questions to the committee for consideration. (Attachment 6)

The committee discussed the need to clarify the Department's authority to deny a special permit request and to enforce conditions imposed on special permits. It was stated that the Department needed language that was not subject to interpretation. One member expressed concerns that Department staff are not given sufficient discretion to deny a special permit. He indicated that satisfying minimum conditions or standards may not be enough, and other factors that impact the community may need to be considered. It was suggested that the committee confirm the staff's discretion to deny a special permit and clarify relevant regulations.

There was a question regarding whether there was any harm in issuing special permits. Mrs. Boltin-Kelly indicated that lots issued under a special permit on Daufuskie Island were currently in jeopardy and inaccessible due to erosion. Department staff originally denied the special permits but was overturned by the DHEC Board because they did not feel the Department had discretion due to the language in the law.

It was suggested that one of the criteria for evaluating a special permit should be whether the structure would be constructed on renourished beach. It was stated that although renourishment is a viable option for managing the beach, it is not a long term solution and requires funding commitments.

The committee discussed renourishment funding and the share of federal, state and local dollars associated with projects. It was explained that economic projections and a cost benefit analysis are considered by the US Army Corps of Engineers prior to awarding federal funding.

A motion was made, and seconded, to include language under the conditions that apply to special permits that states: *The habitable structure is not constructed on renourished beach*.

The motion passed with 11 members voting in favor of the motion. Members voting in favor were Burdette, Hagood, Jones, Otis, Peeples, Perry, Richardson, Campbell, Herbkersman, Pinckney, Young.

The committee discussed whether additional criteria might be needed under the special permit provision. It was suggested that conditions associated with special permits be required to be documented on the deed to the property. Members agreed that this information is important for buyers to know prior to any beachfront property purchase and should be a requirement in the future.

A motion was made, and seconded, to adopt the following as a recommendation of the committee: *Require special permit conditions be documented on the deed of conveyance.*

The motion passed with 11 members voting in favor of the motion. Members voting in favor were Burdette, Hagood, Jones, Otis, Peeples, Perry, Richardson, Campbell, Herbkersman, Pinckney, Young.

The committee considered whether to provide improved clarity for the reconstruction of habitable structures "damaged beyond repair" that were originally built under a special permit. Some members felt that structures seaward of the baseline should not be restricted when rebuilding after a storm. Other members felt this was the opportunity to implement retreat. No action was taken following this discussion.

Action Item 3 - Definition and/or Goals of Retreat

Mayor Otis provided the committee with a new proposed policy of retreat and mentioned the support he has received for this statement from other local government officials. He made a motion, which was seconded, to adopt the following as a policy of retreat: *The policy of the state of SC is the stabilization and preservation of its coastal beachfront and beach/dune system*.

The committee discussed the motion. It was stated that there seems to be a lot of conflict among local governments over how they will pay for stabilization. One member indicated that stabilization raised more questions than retreat. Another member indicated that he didn't have a problem with keeping the word "retreat" in state laws and regulations.

The motion was amended by Mayor Otis to remove the word stabilization to read: *The policy of the state of SC is the preservation of its coastal beachfront and beach/dune system*.

There was additional discussion regarding the origins of the word "retreat" as provided for in the Act. It was stated that retreat was a concept as opposed to a series of steps to accomplish within a certain time period. It was also stated that the term was controversial and left too much in question to achieve its intent. Another member interpreted it as realizing the "life" of a structure but not rebuilding in the same location after storm or erosion damage.

Deliberation continued regarding whether the state is actually retreating from the ocean. There was concern that the state hasn't practiced retreat and is not likely to do so in the future. It was stated that retreat is not a practical approach and should be eliminated.

Other members felt that the retreat policy should not be abandoned but that the state should establish a consistent set of rules for the entire state. However, local governments should maintain their authorities to tailor the rules as needed at the local level to provide additional levels of protection. It was stated that oceanfront properties in chronic erosion areas present a burden to coastal communities and tax payers, so management should focus on those problem areas. It was recommended that a policy of retreat focus on these "hot spots" within a community.

It was expressed that the state plays an important role and has a vested interest in how the beaches are managed. The condition of the beach is linked to tourism dollars, and the state invests at the local level through funding renourishment and other infrastructure projects.

Examples of recent situations regarding retreat were discussed including problems associated with the seawall at DeBordieu, erosion at Edisto Beach, and accretion on Sullivan's Island.

A motion was made, and seconded, to add the word "natural" to the previous motion as follows: *The policy of the state of SC is the preservation of its natural coastal beachfront and beach/dune system*.

The committee discussed the definition of the word "natural". One member expressed concern that this language gives no credence to renourishment and may have unintended consequences. Additional discussion centered on the definition of "beachfront".

There was uncertainty from some members as to the need for the general statement. One member felt that the statement broadened the policy instead of defining it.

DHEC staff informed the committee that there was currently a policy statement under the Beachfront Management Act that provides very similar context (§48-39-260(1)(a)). The chairman advised that the motion statement under consideration was not meant to replace the policy statement as cited but replace

the statement that includes language regarding retreat. The intent of the motion was not to change anything in the substantive law.

The amended motion was called to question. A vote was taken on the amended motion: *The policy of the state of SC is the preservation of its natural coastal beachfront and beach/dune system*.

The amendment failed to pass with 4 members voting in favor of the amendment and 5 voting against. The members voting in favor of the amendment were Hagood, Perry, Richardson, and Young. Members voting against were Campbell, Herbkersman, Jones, Otis, and Peeples. Members abstaining were Burdette and Pinckney.

A vote was then taken on the original motion: *The policy of the state of SC is the preservation of its coastal beachfront and beach/dune system*.

The vote passed with six members voting in favor of the motion and 3 members voted against. Members voting in favor of the motion were Burdette, Campbell, Herbkersman, Jones, Otis, Peeples, and Richardson. Members voting against were Hagood, Perry, and Young. Member abstaining was Pinckney.

The committee was asked to review the suggested definition/goal statements for retreat that were provided in the handout (Attachment 7) and provide any comments for incorporation prior to the next meeting.

MEETING WRAP UP:
The next meeting was scheduled for Thursday, October 27, 2011 at 9:00 a.m. in the DHEC 3rd floor conference room at 1362 McMillan Avenue in Charleston. A field trip to discuss current beach management issues was scheduled to follow the upcoming meeting.

Mr. Jones adjourned the meeting.

Attachments:
1 Agenda
2 Sign-in Sheet
3 Public Comment letter read my Mayor Goodwin, Folly Beach
4 Public Comments received via e-mail
5 Action Sheet 1: *Movement of Baseline*
6 Action Sheet 2: *Area Seaward of the Baseline*
7 Action Sheet 3: *Definition and/or Goals of Retreat*

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C. Earl Hunter, Commissioner
Promoting and protecting the health of the public and the environment.

Blue Ribbon Committee on Shoreline Management

October 4, 2011

SC Department of Health and Environmental Control
3rd Floor Conference Room
1362 McMillan Avenue, Charleston, SC

AGENDA

9:00 am **Welcome and Introductions**
Wes Jones, Chair

Action: Approval of June 14 and July 12 Meeting Notes

9:30 **BRC Status and Key Issues**
Carolyn Boltin-Kelly, SCDHEC - OCRM
- Update on Recent Storm Impacts and Implications for BRC

10:00 **Committee Discussion**
- Re-read and Discuss Motion(s) from June 14, 2011 Meeting

11:30 **Public Comment Period**

11:45 **Wrap Up**
Wes Jones, Chair

12:00 pm **Adjourn**

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
Ocean and Coastal Resource Management
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Blue Ribbion Committee on Shoreline Management
Tuesday, October 4, 2011
DHEC Conference Room, Charleston, SC

PLEASE PRINT

NAME	REPRESENTING	MAILING ADDRESS or E-MAIL	PHONE #
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Sarah Latshaw	DHEC-OCRM	~~sarah~~ latshasa@dhec.sc.gov	
Tim Goodwin	City of Folly Beach	Timgoodwin@BellSouth.net	(843)7290298
Bob Perry	DNR	perryb@dnr.sc.gov	843.833.3894

YAHOO! MAIL Classic

Input for Blue Ribbon Shoreline Change Committee Saturday, October 1, 2011 10:22 AM

From: "DICK4972@aol.com" <DICK4972@aol.com>
To: rileyj@charleston-sc.gov
Cc: timgoodwin@bellsouth.net, gsorban@kiawahisland.org, cjenningssmith1908@yahoo.com, bholtz6@bellsouth.net, blyons@townofedistobeach.com, billotisjr@aol.com

Dear Joe, Riley + Mac Burdett

On September 29, 2011 the Coastal mayors of Charleston County met for our bi-annual meeting. We invited Mayor Bill Otis, Pawley's Island, and asked that he brief us on activities of the Blue Ribbon Shoreline Change Committee. One major point of discussion was the difficulty we all have with the use of the term "retreat" particularly those in coastal communities in Charleston County who have "developed" beach fronts. The group was also joined by the Mayor of Edisto Beach.

The group unanimously took the action to endorse Mayor Otis' suggestion to substitute the words "preservation and stabilization" in lieu of a word like "retreat" since the word "retreat" relative to a developed shoreline suggestion a virtually impossible goal.

I am copying all who were in attendance at this meeting. We hope that this unanimous, collective endorsement will encourage your agreement with Mayor Otis' suggestions at the future meeting of the committee. I would be happy to discuss this position with you if you would like.

Dick Cronin

DHEC - GMM

1362 McMillan Ave
Suite 400

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Fwd: OCRM Blue Ribbon Committee-October meeting

Vonkolnitz, Elizabeth <vonkoleb@dhec.sc.gov>

From: Tom Leath
Sent: Monday, October 03, 2011 2:45 PM
To: 'BillOtisJr@aol.com'; 'Mac Burdette'; 'raycleary@ssenate.gov'; ' tracy.edge@bccompant.com'
Cc: Ron Andrews; Jack Walker; 'BRC@dehec.sc.gov'
Subject: RE: OCRM Blue Ribbon Committee-October meeting

Mayor Otis, thank you for speaking with me today regarding the "retreat policy" and a move to redefine it to "preserve and stabilize". While Myrtle Beach Council has not been briefed, it appears to me that you are on the right track. Myrtle Beach has a setback ordinance (slightly older and tougher than the state law) which is replete with the word "retreat"; now that you mention it, preservation is probably a much better word. Because of the relatively small lots in Myrtle Beach, owners do not have much room for meaningful retreat, so are not we really trying to stop structures from being built further seaward than they were when the law was enacted.

I have heard talk of eliminating the setback law in highly developed areas, which I think would be a mistake. If that idea is indeed gaining any momentum, moving from retreat to stabalizing and preserving may take some pressure off.

One thing that has to stop is the practice of moving the baseline eastward after a nourishment project. All nourishment projects are temporary (our several projects have all been designed to last 10 years) so there is no reason to move the base line seaward as a result. The only time a base line should be moved seaward is following a period of sustained natural accretion.

Finally, we have a group made up of all Mayors and the County Chairman whose jurisdictions in Horry County touch the coast, named the Coastal Alliance. This group would appreciate an update from any of you on the progress of the Blue Ribbon Committee.

Tom Leath

City Manager

Myrtle Beach

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brc

Blue Ribbon Committee on Shoreline Management

tiptonseachef@aol.com

Just ALWAYS remember what you are Committee on Shoreline MANAGEMENT. We need to stop creating a shoreline management plan and then changing it for people with greed. We all know when we buy on a barrier island that it is ever changing and yes we hope not in our lifetime but let's not put the others at risk because of no shoreline, no dunes, reducing the perk because of overdevelopment to squeeze that last house closest to the ocean and then screaming when it washes in and saying "OCRM & DHEC' allowed it so why couldn't I do it or I have my rights.

I know you have a hard job but remember even without pay it is a JOB that you were entrusted.

Thanks for volunteering Blue Ribbon Committee,

Ida Tipton

Attachment 5

MOVEMENT OF THE BASELINE

At the June 14 meeting, the BRC discussed disallowing the seaward movement of the baseline. It was questioned whether this decision would have regulatory takings implications. It was understood that it would not if a structure is already in place on the property or a remedy is available such as the existing special permit provisions of the Act. Discussion ensued on reconciling the recommendation to disallow seaward movement of the baseline with maintaining the special permit provision.

A motion was made, and seconded, to adopt the following as a recommendation of the committee:

Subject to SC Code of Law 48-39-290(D), the baseline established under the SC Beachfront Management Act should not move seaward from its position on June 14, 2011.

Vote Record from June 14, 2011

	Yea	Nay
Mac Burdette	X	
Josh Eagle	X	
Elizabeth Hagood	X	
Wes Jones	X	
Nick Kremydas		X
Bill Otis		X
Tom Peeples	X	
Bob Perry	X	
Terry Richardson	X	

Votes to be taken on October 4, 2011

	Yea	Nay
Paul Campbell		
Ray Cleary		
Tracy Edge		
Bill Herbkersman		
Clementa Pinckney		
Joe Riley		
Rob Young		

AREA SEAWARD OF THE BASELINE

Special Permit Provision

The Act currently allows construction or reconstruction of a structure seaward of the baseline through a special permit if the following conditions apply:

- The structure is constructed no larger than similar structures in neighborhood and in no case larger than 5000 sq ft,
- It is constructed no further seaward than the houses on either side,
- The structure is not situated on a primary oceanfront sand dune,
- The structures is not on the active beach,
- The permittee agrees to remove the home when it comes on to the active beach, and
- The permittee does not have any other reasonable use of the property.

In addition to the above permit conditions, the following is also considered when issuing special permits:

- There shall be no adverse impact on the stated policies of the Act,
- The granting of a special permit shall not create a situation contrary to the public health, safety or welfare.
- Generally, the Department considers special permits only under extraordinary circumstances. Three specific areas, however, where the Department deems that special permits are more appropriate include:
  (a)Habitable Structures Seaward of the Baseline
  (b) Pools
  (c) Parking Lots and Drainage Devices

Questions for Discussion and Committee Vote

In previous meetings, the BRC indicated a commitment to upholding the special permit provision.

1) Are the Special Permit conditions sufficient or should additional criteria be considered for issuing special permits in the area seaward of the baseline?

2) If additional criteria are desired, discuss topics that have been presented by BRC members at previous meetings:

- Construction on renourished beaches.
- Special permit conditions documented on the deed of property.
- Authority of the Department to deny permits based on adverse impacts, or impacts to public health, safety, or welfare.
- Post-storm reconstruction.

3) Determine motion and vote.

DEFINITION AND/OR GOALS OF RETREAT

The Act does not currently provide a definition for the term "retreat", nor does it include goal statements or a statement of intent for the retreat policy.

Question for Discussion and Committee Vote
During previous meetings, the BRC indicated that there was a need for a more clearly defined policy of retreat due to the lack of agreement or understanding of its meaning, intent, and/or success.

1. Should the statute and regulations define the word "retreat" to provide clarity for the policy or should the policy be clarified through policy statements?

2. Discuss the recommended definitions/policy statements drafted by BRC members Mayor Otis and Josh Eagle:

   (1) The policy of "retreat" includes all measures within this Act intended to:

   (a) stabilize the present beachfront shoreline position and sand volumes, through the use of renourishment in combination with groins, where such measures can be used without long-term adverse effects on neighboring properties and the public beach,

   (b) discourage (or limit) new construction in the beach/dune Critical Area

   (c) prevent the seaward expansion of existing beachfront development

   (d) limit the size of structures within the beach/dune Critical Area

   (e) encourage the opportunistic, voluntary relocation of vulnerable structures and infrastructure;

   (f) prevent the loss of dry sand beaches, and the state's intertidal beaches, by restricting shore-parallel erosion control devices and,

   (g) encourage local governments, through zoning, to maximize space between existing oceanfront structures and the shoreline to the extent practical,

3. Determine motion and vote.