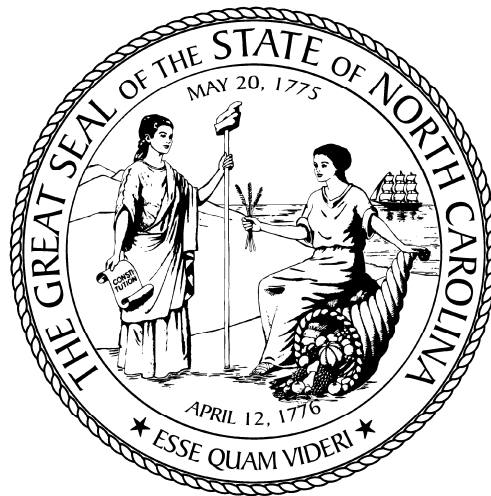


WATERFRONT ACCESS STUDY COMMITTEE FINAL REPORT

APRIL 13, 2007



NORTH CAROLINA SEA GRANT
and the
N.C. COASTAL RESOURCES LAW, PLANNING AND POLICY CENTER
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UNC-SG-07-03

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LETTER OF TRANSMITTAL



WATERFRONT ACCESS STUDY COMMITTEE
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NORTH CAROLINA STATE UNIVERSITY
Box 8605
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APRIL 13, 2007

TO: THE N.C. JOINT LEGISLATIVE COMMISSION ON SEAFOOD & AQUACULTURE
THE N.C. MARINE FISHERIES COMMISSION
THE N.C. COASTAL RESOURCES COMMISSION

On behalf of the Waterfront Access Study Committee, I submit this final report for your consideration.

Respectfully,

Michael P. Voiland, Study Committee Chairman
and Executive Director of North Carolina Sea Grant

EXECUTIVE SUMMARY

In August 2006, the Waterfront Access Study Committee was created by the North Carolina General Assembly and charged to study the degree of loss and potential loss of the diversity of uses along the coastal shoreline of North Carolina, and how these losses impact access to the coastal public trust waters of the State. After seven months of meetings, discussions, public comments, study of waterfront-dependent uses, and review of public access issues regarding coastal public trust waters, the Committee determined that the State is experiencing a significant loss in the diversity of waterfront-dependent uses and in public access.

Skyrocketing market demand for this limited, finite shoreline resource, accelerating non-waterfront-dependent development of the shoreline, and steadily increasing real property taxes are among the factors contributing to this loss and strongly suggest that, without State intervention, this disturbing trend will continue to the detriment of the people of the State of North Carolina.

The Waterfront Access Study Committee believes that the need to ensure existing waterfront-dependent uses, to ensure future diverse waterfront-dependent uses of the shoreline, and to retain and enhance public access to coastal public trust waters is an important and urgent issue confronting the people of North Carolina, and that there are grounds for an immediate, comprehensive, and creative response by the State.

Therefore, the Waterfront Access Study Committee offers the following recommendations:

Retaining and Enhancing Working Waterfronts

- **The N.C. Waterfront Access Study Committee recommends that the N.C. General Assembly extend eligibility of present use value taxation to working waterfront properties, as defined in this report, or as subsequently redefined, given consideration of this report.**
- **The Committee recommends the establishment of a working waterfronts trust fund, or some other separate and distinct set-aside of State funds, to assist in the retention and enhancement of working waterfront land uses along coastal public trust waters of the State.**
- **The Committee endorses ongoing efforts on the part of the N.C. Department of Environment and Natural Resources' *One NC Naturally* program to develop a statewide strategic conservation plan, which proposes, among other actions, to develop a Geographic Information Systems-based model that will identify "working lands"— including working waterfronts.**

Enhancing Public Access to Coastal Waters

- **The Committee recommends that the N.C. Wildlife Resources Commission's (WRC) Boating Infrastructure Program be funded at significantly higher levels,**

and be charged to allocate a majority of these new resources to projects enhancing coastal public trust water access.

- **The Committee endorses the N.C. Wildlife Resources Commission's (WRC) continuing efforts to reach agreements with the N.C. Department of Transportation (DOT), power companies, local governments, nonprofits, and other State agencies to proactively and cooperatively address public access to coastal waters in infrastructural programs. In particular, the Committee urges the DOT to work closely with the WRC to see that expanded public coastal access is a priority in its road project planning and construction programs.**
- **The Committee recommends that the N.C. Division of Coastal Management (DCM) Public Beach and Coastal Waterfront Access program be funded at significantly higher levels.**
- **The Committee recommends that the N.C. Division of Water Resources' Water Resources Development Project Grants Program give greater priority to grant applications that seek to enhance access to coastal public trust waters, via coastal waterfront recreation site development. To accommodate such new prioritization, the Committee also recommends that the program's annual funding level, via General Assembly appropriation, be increased.**
- **The Committee recommends and endorses efforts within the N.C. Division of Marine Fisheries (DMF) and the N.C. Wildlife Resources Commission (WRC) to allocate a reasonable share of proceeds from the new Coastal Recreational Fishing License to public coastal fishing access enhancements.**
- **The Committee supports various findings and recommendations of the Joint Legislative Commission on Land and Water Conservation that would allow for additional funding (\$1 billion over five years) to finance conservation and cultural and historic preservation activities in North Carolina.**
- **The Committee recommends that consequent and/or attendant public recreational access enhancements be elevated as a criterion for the awarding of grants through the State's Clean Water Management Trust Fund (CWMTF), and, as corollary, that the CWMTF require public access enhancements in awarded projects that may, upon its review, offer multiple-use potential and benefits, such as public recreational access.**
- **The Committee recommends that those State agencies engaged in management of the State's coastal resources catalog and prioritize those waterfront sites required to conduct resource management activities, such as DMF oyster cultch collection sites.**

Planning and Zoning Approaches to Waterfront and Access Issues

- **The Committee recommends that the N.C. Coastal Resources Commission (CRC) amend its Land-Use Planning Guidelines to include, in the management topics, a requirement of local governments to inventory, assess and develop policies concerning working waterfronts within their planning jurisdiction.**

- **The Committee recommends that additional funding be provided to the N.C. Division of Coastal Management’s (DCM) Planning and Management Grant Program to assist local governments in the development of public access inventories and plans.**
- **The Committee recommends that the Coastal Area Management Act (CAMA) be amended, commensurate with adequate funding, authorizing the N.C. Division of Coastal Management to provide grants to local governments proposing to inventory, and plan for, retention or enhancement of working waterfronts.**
- **The Committee recommends that coastal local governments explore potential uses of special zoning techniques, including conditional zoning, as means to retain or enhance areas for working waterfronts and/or public access facility development, consistent with approved Coastal Area Management Act land-use plans.**

Purchase or Transfer of Development Rights

- **The Committee recommends that the General Assembly consider enacting legislation to authorize Purchase of Development Rights (PDR) and Transfer of Development Rights (TDR) programs at the local government level, for use in local working waterfront and/or public access retention and enhancement programs.**

Fishing Piers: A North Carolina Heritage

- **The Committee recommends that private fishing piers providing public access be given present use value taxation classification as working waterfronts, with all attendant advantages.**
- **The Committee recommends the State explore, with all due speed, sources of funding and financing mechanisms to be used in assisting owners of private fishing piers providing public access with storm damage repair, including the possibility of tapping the proposed working waterfront trust or set-aside fund to finance a low-interest loan program.**
- **The Committee recommends that the North Carolina Aquariums be authorized and funded to pilot the design, development, and operation of three (3) public fishing piers that not only would provide angling access, but also would offer public educational opportunities.**

Fees for Public Trust Submerged Lands and Easements

- **As one approach to identifying and creating a more substantive source of revenues for State development of access to coastal public trust waters, the Committee recommends that the General Assembly re-examine and reformulate the State’s public trust submerged lands easement fee structure.**

- **The Committee also recommends that the General Assembly explore new means by which to generate a source of State revenues to be directly allocated for both working waterfront and public access retention and enhancement programs.**
- **The Committee recommends that the General Assembly, in concert with the N.C. Department of Justice and the N.C. Coastal Resources Law, Planning and Policy Center, examine the nature and legality of the long-term or permanent sale of docks or “dockominiums” that occupy coastal public trust submerged lands.**

Meeting Environmental Compliance Costs

- **The Committee recommends that funding sources and mechanisms, including those recommended in this report, be made available and tapped to assist working waterfront and public access facility developers, pursuant to local government approval, in developing or redeveloping facilities along the waterfront in ways that comply fully with environmental regulations.**

Need for a Comprehensive Socioeconomic Study

- **This Committee recommends that the General Assembly provide funding for a socioeconomic study of working waterfronts and access to coastal public trust waters, and/or for an ongoing series of such studies, to examine these issues comprehensively and in detail.**

Cooperative State-Local Partnerships and Approaches

- **The Committee recommends that the General Assembly encourage coastal counties and waterfront municipalities to establish working waterfront and public access advisory bodies, having appropriate ex-officio State agency representation, to address and seek cooperative State-local solutions to waterfront and access issues.**

Educational Outreach

- **The Committee recommends that the General Assembly, contingent upon the level of its response to the recommendations in this report, endorse and financially support educational outreach programs to improve retention and enhancement of working waterfronts and public access to coastal waters.**

Further Study and Oversight

- **The Committee recommends that the General Assembly establish a formal joint legislative commission to continue the work of the Waterfront Access Study Committee, and to guide any programs or actions implemented, either out of this Study Committee’s recommendations or other related deliberations.**

Background & Committee Proceedings

In recent years, North Carolina legislators, media, State and local agencies and commissions, community organizations, and the public have highlighted waterfront access issues. Concerns over access to coastal public trust waters include the loss of “working waterfronts,” as well as a spectrum of needs for boat launches, paddling put-ins, marinas fishing piers and urban boardwalks. Clearly, the State’s remarkable population growth and ancillary economic and residential development has stoked the issue. The Tar Heel State has seen a 31% increase in population since 1990, making it one of the fastest growing states in the nation. Several coastal counties have seen significant population increases: Brunswick, 76%; Currituck, 68%; Pender, 62%; Dare, 50%; and New Hanover, 49%. New residential developments abound along coastal creeks, rivers and sounds. And related commercial developments (e.g., retail, lodging, dining, exclusive recreational services) also seek sites with water access.

Although coastal communities had noted changes in recent years, access issues moved to the forefront of public discussions in 2005 and 2006, as several events, actions, and reports called public and legislative attention to the loss of traditional or public access uses along the shore. These included:

- a resolution passed by the N.C. Marine Fisheries Commission;
- a resolution passed by the N.C. Coastal Resources Commission;
- a resolution by an ad hoc assemblage of maritime scholars;
- a conference held in New Bern, N.C. in June 2006, sponsored by North Carolina Sea Grant, and entitled “North Carolina’s Changing Waterfronts: Coastal Access and Traditional Uses” that attracted nearly 200 individuals;
- dozens of newspaper articles and editorials published in coastal dailies and weeklies;
- a major, multi-month series on the issue, entitled “The New Waterfront,” in Raleigh’s newspaper, *The News and Observer* (see <http://www.newsobserver.com/1233/index.html>);
- requests that the General Assembly consider “present use value” tax provisions for waterfront parcels; and
- a bill to create a study committee on the issue, introduced through the General Assembly’s Joint Legislative Commission on Seafood and Aquaculture (JLCSA).

In addition, constituents shared with legislators anecdotal accounts of closures or sales of waterfront fish houses, marinas, boat repair services, or for-fee fishing piers, along with the loss of traditional public access points. At the Sea Grant conference, the audience was particularly interested in presentations by officials from Maine and Florida, where waterfront access legislation has established new programs and policies.

Establishing Legislation

On July 27, 2006, the General Assembly passed a bill (N.C. Session Law 2006-248, Part XLV, see Appendix A) that established the **Waterfront Access Study Committee** (WASC). Signed into law Aug. 16, 2006, the statute called for the Committee to “study the loss of diversity of uses along the coastal shoreline of North Carolina and how these losses impact access to the coastal public trust waters of the State.” The General Assembly sought the panel’s guidance on potential solutions, including “incentive-based techniques and management tools,” to sustain riparian land-use diversity and public access along the State’s coastal shorelines.

The WASC was specifically tasked to:

- “(1) Gather information about local land-use management and zoning, current shoreline development trends, and local tax rates, including tax assessment trends for shoreline properties.*
- (2) Collect research and information from North Carolina and other states and jurisdictions regarding incentive-based techniques and management tools used to preserve waterfront diversity.*
- (3) Assess the applicability of such tools and techniques to the coastal shorelines of North Carolina.*
- (4) Prepare a draft report with a statement of the issues, a summary of the research, and recommendations to address issues of diversity of waterfront use and access in North Carolina.*
- (5) Hold three public meetings to present the draft report and recommendations to the public and user groups. One public meeting shall be held in each of ... three coastal regions....”*

The Committee was required to report and solicit public comment at three public coastal meetings, and submit a final report by April 15, 2007 to the State’s Joint Legislative Commission on Seafood and Aquaculture, Marine Fisheries Commission, and Coastal Resources Commission.

WASC membership was either prescribed specifically in the bill, or was the result of appointment authority granted within the bill to the President Pro Tempore of the Senate and the Speaker of the House. It included representation from State and local agencies, State commissions, local governments, an environmental organization, an economic development council, scholars, the building and realty industries, and commercial and recreational fishery trades. By law, the director of North Carolina Sea Grant was appointed WASC chair.

Committee Membership

The 21 members of the Waterfront Access Study Committee are:

(1) The Director of the Sea Grant College Program of The University of North Carolina or the Director's designee. (Committee Chair) **Michael Voiland, Executive Director, North Carolina Sea Grant**

(2) The Senate Cochair of the Joint Legislative Commission on Seafood and Aquaculture or the Cochair's designee. **Senator Charles Albertson, Senate Cochair, Joint Legislative Commission on Seafood and Aquaculture**

(3) The House Cochair of the Joint Legislative Commission on Seafood and Aquaculture or the Cochair's designee. **Representative William Wainwright, House Cochair, Joint Legislative Commission on Seafood and Aquaculture**

(4) The Chair of the Marine Fisheries Commission or the Chair's designee. **Mac Currin, Chair, Marine Fisheries Commission**

(5) The Chair of the Coastal Resources Commission or the Chair's designee. **Courtney Hackney, Chair, Coastal Resources Commission**

(6) The Chair of the Wildlife Resources Commission or the Chair's designee. **Gordon Myers, Deputy Director, Wildlife Resources Commission**

(7) The Director of the Division of Marine Fisheries or the Director's designee. **Brian Chevront, Federal Aid Coordinator, Division of Marine Fisheries**

(8) The Director of the Division of Coastal Management or the Director's designee. **Charles Jones, Director, Division of Coastal Management**

(9) The President of the North Carolina Recreation and Parks Association or the President's designee. The individual who serves in this position must also be a director of a public parks and recreation agency located in a coastal region as described in G.S. 143B 289.54(b). **Neal Lewis, Director, New Hanover County Parks and Recreation**

(10) A representative of a local government located in the Northeast Coastal Region, as described by G.S. 143B 289.54(b), appointed by the President Pro Tempore of the Senate. **Allen Burrus, County Commissioner, Dare County**

(11) A representative of a local government located in the Central Coastal Region, as described by G.S. 143B 289.54(b), appointed by the Speaker of the House of Representatives. **Art Schools, Mayor, Emerald Isle**

(12) A representative of a local government located in the Southeast Coastal Region, as described by G.S. 143B 289.54(b), appointed by the President Pro Tempore of the Senate. **John Vereen, Mayor, Oak Island**

(13) An economist appointed by the Speaker of the House of Representatives. **Doug Wakeman, Meredith College**

(14) A representative of the residential building industry who builds in a coastal

region as described in G.S. 143B 289.54(b), appointed by the President Pro Tempore of the Senate. **Buddy Milliken, The Milliken Company**

(15) A realtor licensed under Chapter 93A of the General Statutes, appointed by the Speaker of the House of Representatives. **Julia Wax, Emerald Isle Realty**

(16) An individual involved in economic development in a coastal region as described in G.S. 143B 289.54(b), appointed by the President Pro Tempore of the Senate. **Dave Inscoe, Carteret County Economic Development Council**

(17) A representative of the marine trades industry appointed by the Speaker of the House of Representatives. **Robin Mann, Paul Mann Custom Boats, Mann's Harbor**

(18) A representative of the commercial fishing industry appointed by the President Pro Tempore of the Senate. **Hardy Plyler, Commercial Fisherman, Ocracoke**

(19) A representative of the recreational fishing industry appointed by the Speaker of the House of Representatives. **Ernie Foster, The Albatross Fleet, Hatteras**

(20) A social scientist appointed by the President Pro Tempore of the Senate. **Barbara Garrity-Blake, Cultural Anthropologist/Book Author, Gloucester**

(21) A representative of the environmental community appointed by the Speaker of the House of Representatives. **Jim Stephenson, Policy Director, N.C. Coastal Federation**

For contact information on each member, please see Appendix B.

WASC has had staff support provided by North Carolina Sea Grant, as well as by legal scholars and students associated with the N.C. Coastal Resources Law, Planning and Policy Center (CRLPPC). The General Assembly and the Sea Grant Program entered into a contract to provide the Committee with fiscal support and to ensure smooth operation and conduct of all Committee activities.

Committee Logistics and Meetings

WASC had a tight timetable. To present a transparent record of the Committee's work and to encourage public input, Sea Grant has utilized online (www.ncseagrant.org/waterfronts) and e-mail options to share information with the Committee, the media and the public. The special Web site has provided meeting announcements, news releases, agendas, presentations, and transcripts, as well as comments and links provided by Committee members and the public. More than 400 people requested to receive WASC notices via e-mail.

Four business meetings were held:

- **Sept. 26, 2006** – Legislative Office Building, 300 N. Salisbury Street, Raleigh
- **Nov. 20, 2006** – North Carolina Aquarium, 1 Roosevelt Boulevard, Pine Knoll Shores
- **Jan. 9, 2007** – Orringer Auditorium, Craven Community College, New Bern

- **Feb. 27, 2007** – North Carolina Aquarium, 1 Roosevelt Boulevard, Pine Knoll Shores

Business meeting deliberations and activities included:

- presentations by the co-directors and scholars associated with the CRLPPC on potential incentive-based land taxation approaches, and planning and management tools;
- presentations by State natural and coastal resource agency officials, typically on existing access-related programs;
- formal and informal presentations by members of the Committee, including, for example, one regarding the status and loss of seafood (fish) houses along the coast; and another on a State agency collaboration on public access development; and
- in-depth discussions among members on various topics, including several focused on definitions of key terms, such as “working waterfront” and “public access,” and on potential recommendations to be made to the General Assembly.

Appendix C includes a listing of presentations made during these meetings, along with links to files available at www.ncseagrant.org/waterfronts. Transcripts also are available on the site.

An interim progress report was presented to the Joint Legislative Commission on Seafood and Aquaculture on Jan. 18, 2007. That report was the basis for a presentation that Chairman Voiland gave at three public comment sessions:

- **Jan. 30, 2007**, North Carolina Aquarium at Roanoke Island, 374 Airport Road, Manteo, 6:30 p.m. to 8:30 p.m.
- **Jan. 31, 2007**, Joslyn Hall in the McGee Building, Carteret Community College, 3505 Arendell St., Morehead City, 6:30 p.m. to 8:30 p.m.
- **Feb. 1, 2007**, 114 Deloach Hall, UNCW main campus, 601 S. College Road, Wilmington, 6:30 p.m. to 8:30 p.m.

The three comment sessions drew a total of more than 275 people, with 68 offering formal statements to the Committee. The speakers represented commercial and recreational fishing; access-related business (such as boat builders, marinas and fishing piers); State and local government; boaters and paddlers; and other community organizations. Speakers offered wide endorsement of all the tools and approaches broached by the Committee as potential recommendations for legislative consideration. Additionally, several new ideas or nuances to Committee thinking were raised. Appendix D offers a *Coastwatch* magazine article that highlights the public comment session. Complete transcripts of the three comment sessions are available at www.ncseagrant.org/waterfronts (follow the link to the meetings).

The business meetings and public comment sessions drew extensive coverage via print and broadcast media outlets. The meetings and coverage brought to light strong support for recreational access enhancements to coastal public trust waters and for sustaining a diversity of working waterfronts along the shore. The Committee’s work drew national

media attention through a story done by WHQR that aired on National Public Radio. Other media that provided continuing coverage of the WASC process included: *The (Raleigh) News & Observer*, *Wilmington Star-News*, *Jacksonville Daily News*, *The (New Bern) Sun Journal*, *Carteret News-Times*, *Outer Banks Sentinel*, *Coastland Times*, *State Port Pilot*, *Charlotte Observer*, WUNC, Public Radio East, North Carolina News Network (radio), WTKF-107.3, UNC-TV, WCTI-TV and a variety of news outlets for communities and organizations. In some cases, Associated Press or other news services picked up stories that were then shared across the State and beyond.

In 2005 and 2006, North Carolina looked to Maine and Florida for examples of programs and policies to support waterfront access. Now, North Carolina has been added to the lists of states showing leadership on waterfront access topics. WASC Chair Michael Voiland will discuss the Committee's process and recommendations at a national conference, the Working Waterways & Waterfronts 2007 Symposium, May 9 to 11 in Norfolk, Virginia.

WATERFRONT ACCESS ISSUES AND RECOMMENDATIONS

Definitions

The following definitions are primarily a product of the Waterfront Access Study Committee (WASC) deliberations during the first three Committee meetings (Raleigh, September 2006; Pine Knoll Shores, November 2006; New Bern, January 2007). Additional revisions were made as a result of public input during comment meetings and Committee members' reviews of drafts of this report. The definitions were used to focus Committee discussion, and are offered to guide any action undertaken by the General Assembly in response to the recommendations contained in this report.

Preamble

The State of North Carolina adheres to the public trust doctrine, which provides that the coastal waters of North Carolina and the submerged lands below the mean high waterline belong to the people of the State and shall be available for their *use* and *enjoyment*. The State also recognizes that access to coastal waters (*waterfront access*) is essential to the continued shared use and enjoyment of coastal public trust waters and submerged lands. *Working waterfronts* and *public access facilities* provide waterfront access for the shared use and enjoyment of coastal public waters and submerged lands.

- **Waterfront Access** – means a parcel, or parcels, of real property that provides access to *water-dependent* commercial and/or recreational activities in North Carolina's coastal public trust waters or on coastal public trust submerged lands.
- **Working Waterfronts** – are commercial facilities that *require* direct access to or a location on, over or adjacent to North Carolina's coastal public trust waters and submerged lands. The term includes *water-dependent* facilities that may be open to the public, offer access by vessels to State waters and lands *or* that support facilities for recreational, commercial, research or government vessels.

Examples include, but are not limited to: commercial fishing facilities, including fish houses; wet and dry marinas available for public use; boat construction facilities; boat haul-out and repair facilities; recreational fishing facilities, including fishing piers; facilities engaged in or offering boating for hire (e.g. charter/headboats); and aquaculture facilities that require direct use/flow of coastal waters and/or wharf areas for marine aquaculture operations and product transport.

- **Public Waterfront Access Facility** – is a site or facility owned by a public entity that provides (or is capable of providing) public access for *water-dependent* recreational activities in North Carolina's coastal public trust areas.

Examples include, but are not limited to: public boat ramps and other boat launching sites; public mooring facilities; waterfront parks and boardwalks; and public rights-of-way adjacent to North Carolina Department of Transportation bridges.

Retaining and Enhancing Working Waterfronts

North Carolina's fishing industry, including commercial, recreational and charter/headboat components, is an important economic sector within the State. Typically, commercial landings range in value from \$60 million to \$100 million annually, which does not take into account the value of in-State seafood processing activities. The overall value of recreational angling activities in the State has been estimated by the National Marine Fisheries Service to be more than \$1 billion annually.

Beyond economic values, however, fishing activity supports important social and cultural aspects that are essential in defining the State's coastal resource and living heritage. Commercial fishing and all its ancillary activities are a way of life that, in the case of many native resident families and their communities, goes back 200 years or more. Clearly, the passion and poignancy with which many speakers at the public comment meetings addressed commercial fishing's cultural and community meaning and heritage was sobering. Recreational fishing — in all of its forms (shore and private boat anglers, and charter/head boat fishing) — while more recent in its growth and magnitude of importance, provides escape, relaxation and leisure/sporting/aesthetic opportunities to all the State's citizens and tourists.

The State's boating industry also constitutes a major economic force. According to University of North Carolina's Marine Science and Marine Trades Task Force, 3,500 marine-related companies, 100 boat-builders, 30,000 jobs, and annual sales of more than \$500 million are the result of the State's vibrant boating-related industry (e.g., marinas, boat building, boat repair and haul-out) with a large share of the firms and activities occurring in or impacting the State's 20 coastal counties. A recent study of the economic impact of the Oregon Inlet attests not only to the importance of ocean and waterway access, but to the diversity and scope of the marine industry, inclusive of boating and fishing related (charter/head boat enterprises and boat-based angling) activities. Similar to fishing, such boating-related activities and operations, especially those sited on the waterfront, provide a range of leisure opportunities for North Carolina residents and tourists, and have maritime cultural and heritage aspects that can be discovered and appreciated.

Prior to and also prompting formation of the Waterfront Access Study Committee, several key groups recognized all of these important aspects of coastal waterfront-based and dependent industries. But, in doing so, these groups also relayed a message of serious concern. For example, an N.C. Marine Fisheries Commission (MFC) resolution recognized fishing for its "vital role in the history, culture and economy of eastern North Carolina." MFC members also cited the "importance of the diverse range of commercial and recreational endeavors associated with fishing, including boat building, seafood marketing" and that "special measures can and must be taken to ensure maintenance of public access to coastal public trust waters despite the ongoing trend of privatization, soaring real estate values, and overall reduction in commercial and recreational fisheries infrastructure." The N.C. Coastal Resources Commission voiced equal conviction and concern when it passed a similar resolution.

In another resolution, an ad hoc group of maritime scholars went further in addressing the human dimensions and potential loss of such by stating that “the health of North Carolina’s fishing communities is increasingly fragile and in a state of flux and crisis, imperiling the unique culture of the coastal plain, and the community integrity of small towns and villages.” They went on to say that it was important to recognize “a place and role for fishing families in North Carolina’s future as providers of quality seafood to the public, bearers of invaluable culture and traditional way of life, stewards of the environment, and contributors to the future growth of heritage and eco-tourism.” Finally, they noted, “specific measures must be taken to ensure a future for future fishing communities...and associated livelihoods and traditions in coastal North Carolina.”

Behind these messages of recognition and resolve, and several others offered up at the county level, there were facts, media reports, research reports, and a host of transactions in coastal counties that highlighted the essence of the problem at hand. Census data show that the State and many of its 20 coastal counties were among the fastest growing areas in the country. A Sea Grant-supported study inventoried fish houses (sites of wholesale buying/selling/handling of harvested fish) and surveyed owners/operators. The researchers found that between 2000 and 2006, 39 of 117 fish houses closed or came under contract for sale, representing a 33.3 percent decrease in North Carolina seafood packing facilities. Owners cited not only competition, fuels prices, harvest regulations, labor supply scarcity, and but also “development pressure.” Fish house owners/operators feared the loss of support-system working waterfronts, such as boat repair and railway facilities, load-off sites, docks for commercial fishers, and community docks and harbor areas.

Newspaper reports highlighted the sale or closure of traditional working waterfronts, the loss of fishing piers, and the declining availability of waterfront marine services. A multi-part series in *The News and Observer* (Raleigh, N.C.) focused on the development boom in the State’s “Inner Banks” counties, noting the rise of residential sub-division development (reporters tallied “100 approved subdivisions.... 34,000 home permits”) in these still highly rural areas. The series cited effects of that increase on traditional uses and economic enterprises.

Threats to traditional working waterfronts and waterfront access for the public in the State have been clearly identified. A finite amount of developed and/or developable waterfront (i.e., the limited coastal resource) in North Carolina is under intense demand by increasing numbers of potential buyers and developers, resulting in higher market values. Such escalating market values are prompting the selling off of existing traditional working waterfront properties (or land with public access potential) as means to either “cash-in” on attractive purchase offers, and/or simply to “escape” escalating property taxes. The outcome is typically one in which non-waterfront-dependent residential properties (or subdivisions), or retail establishments (such as hotels, restaurants) take ownership of waterfront parcels, often excluding water-dependent uses and general public access, and likely precluding such uses in the future.

This waterfront issue, which has now reached serious proportions in North Carolina, affected the states of Florida and Maine earlier. Both Maine and Florida have responded in notable ways. To summarize:

- Maine’s voters changed its constitution to allow “current use value” — also known as “present use value” — taxation for working waterfronts as means to lower property taxes on working waterfronts.
- Maine voters approved a \$12 million bond act, of which \$2 million was allocated toward preserving working waterfront properties via financial grants for the purchase of full title, development rights, or other permanent public interests in waterfront land. The initial six projects supported under this bond act were approved in January 2007.
- In Florida, the General Assembly passed a bill in 2006 that defined working waterfronts.
- Florida required working waterfront preservation regulatory incentive and criteria considerations in county comprehensive land-use plans.
- Florida established a program that offers eligible coastal communities two years of technical assistance and financial assistance to revitalize their waterfronts.
- Florida required that coastal county management plans include strategies to be used to preserve working and recreational waterfronts.
- In a major educational approach to the issue, the state contracted with the University of Florida Law School to assist local communities and others in responding to new planning mandates. The partnership also helped communities understand a host of new access-gaining strategies, including the use of new tax deferral programs, submerged lands fees, designated community redevelopment areas, and land acquisition approaches.

The N.C. Waterfront Access Study Committee recommends that the N.C. General Assembly extend eligibility of present use value taxation to working waterfront properties, as defined in this report, or as subsequently redefined, given consideration of this report. Since 1973, the State of North Carolina has allowed farmland to be appraised, assessed and taxed at its current or present use value, instead of its fair market value. Such an allowance and land taxation classification has helped to retain farmland in agricultural uses by insulating it from increasing property tax assessments, rates and billings due to heavy real estate market pressures.

In North Carolina, agricultural land satisfying the conditions for present use value classification is taxed on the basis of the value of the land for its present use. The difference between the taxes due on the present use basis and the taxes that would have been paid in the absence of the present use basis, including any additional interest, penalties or costs, are treated as a lien on the property. That difference or lien is recorded on taxation records. The taxes become due and payable when the land no longer meets any of the conditions or requirements of the present use classification. When that occurs, deferred taxes to be paid (and to remove the lien) are based on the three immediately preceding tax years.

By providing public access to fishery resources, boating waterways or waterfront land uses that support the State’s important seafood, fisheries, and marine industries, such working waterfronts are an important public good. Application of the principle of present use value taxation to water-dependent working waterfront property would help preserve this

important economic, cultural, and social resource for the benefit of the people of the State. By lessening the tax burden, a present use value taxation system tailored to the unique needs and characteristics of working waterfronts would reduce the economic pressures on working waterfront owners to sell their properties for non-waterfront-dependent development (e.g., residential or non-waterfront-dependent commercial use). Therefore, authorizing the application of present use value taxation to working waterfronts offers the State and coastal communities an opportunity to stem undesirable effects of rising land market values on such waterfront uses.

To be eligible for the benefits of present use taxation, a working waterfront property owner should be required to demonstrate that the waterfront property is, in fact, engaged in an appropriate and documented waterfront-dependent commercial activity. As with the State's farmland present use value taxation system, legislation to provide the benefits of present use value taxation to working waterfronts should address a number of issues, such as, specification of income and ownership qualifications that demonstrate commercial "working" activity, allowance for maintenance of present use value tax eligibility through property sales and conveyances of ownership, and whether all of the deferred tax differential for past years must be repaid whenever the property no longer qualifies for present use value treatment.

The Committee recommends the establishment of a working waterfronts trust fund, or some other separate and distinct set-aside of State funds, to assist in the retention and enhancement of working waterfront land uses along coastal public trust waters of the State. This pool of dollars would be used to provide financial grants for fee simple acquisition costs of real properties, or for the purchase of development rights or easements by cooperatives, municipalities, non-profit organizations, organizations qualified to hold conservation easements under State law, or other organizations made eligible and qualified under law.

Projects eligible for support would provide for permanent use of waterfront property for eligible and viable waterfront-dependent businesses.

Provisions should be explored and included to ensure the property's secure and permanent usage as a working waterfront, and that property so acquired, or secured under easement, may not be used, altered or developed in a way that would preclude future use as the specified working waterfront.

This fund could be modeled, to an extent, after Maine's new Working Waterfront Program, or, also, to a degree, after North Carolina's former Farmland Preservation Trust Fund, which was folded into the Agricultural Development and Farmland Trust Fund in 2005. Another option would be to amend the N.C. Coastal Area Management Act (CAMA), commensurate with adequate funding, to authorize the N.C. Division of Coastal Management (DCM) to provide grants to localities proposing to acquire, maintain or enhance working waterfronts. As an added incentive, requirements for local matching funds for these projects should be lowered or waived.

Using Maine's new program as a base reference point, but also in consideration of the magnitude of the working waterfront issue in North Carolina and the skyrocketing price of waterfront land in the eastern part of the State, an annual allocation of at least \$10 million for each of the next five years, should be considered. After five years, this funding mechanism

should be evaluated, and, if continued, should be funded at a level deemed appropriate based on that evaluation.

The Committee endorses ongoing efforts on the part of the N.C. Department of Environment and Natural Resources' *One NC Naturally* program to develop a statewide strategic conservation plan, which proposes, among other actions, to develop a Geographic Information Systems-based model that will identify "working lands"—including working waterfronts. Such an effort can not only help in inventorying working waterfronts across the State's coastal resource, but also can enhance and inform regional and local planning efforts relating to the retention and enhancement of working waterfront lands and uses.

Enhancing Public Access to Coastal Waters

At the Committee's three public comment meetings, perhaps no message came through with greater purpose, clarity and urgency than the need to protect and expand access to the coastal public trust waters of North Carolina — *before* privatization of the coast substantially restricts the scope of affordable opportunities available to State and local governments. Speaker accounts of traditional access points no longer open to public passage or use were noted, as were the limited number of public access facilities (e.g., fishing areas, marinas, simple or elaborate boat ramps, beach pathways), and reports of long waits for facility use or parking. This was validated by the N.C. Wildlife Resources Commission's (WRC) 2006 Boat Ramp Access Survey, in which launch unavailability, crowding, and lack of parking were by far the most-often-reported aspects of WRC ramps needing improvement. In addition, statements made at public comment meetings (and also within Committee discussions) noted that even State agencies would soon be hard pressed to find and utilize sites to serve as waterfront access, staging and storage areas in support of management activities (e.g., oyster shell transport and recycling). In sum, Committee members left these public meetings with a clear sense that North Carolinians are frustrated by unmet public access needs to the coastal shoreline and adjacent waterways.

The Committee believes that a spectrum of State-funded development and grant programs are available that could be further harnessed to provide greater public access to coastal waters for boating, fishing, beach use, and management purposes — provided increased State fiscal resources are allocated to address the task. Several of these programs, in the Committee's view, simply need significant infusions of additional funding. Other programs, however, may need a change in proposal review criteria, with greater priority given to public access aspects or benefits. In addition, new State programs proposed by the Joint Legislative Commission on Land and Water Conservation could help to improve public access to coastal waters.

The Committee recommends that the N.C. Wildlife Resources Commission's (WRC) Boating Infrastructure Program be funded at significantly higher levels, and be charged to allocate a majority of these new resources to projects enhancing coastal public trust water access. This program has successfully developed almost 250 boating and fishing access facilities across the State since its start, tapping approximately \$3.6 million dollars annually from State motorboat registration fee, sales taxes on sporting goods, gasoline

taxes (currently only one-sixth of 1 percent), and federal contributions. The WRC has identified options that our Committee supports that would provide for a major expansion of funding for this program to almost \$27 million, using increases from the aforementioned sources, in addition to possibly gaining revenues from submerged land usage fees and Coastal Recreational Fishing License fees.

The Committee endorses the N.C. Wildlife Resources Commission's (WRC) continuing efforts to reach agreements with the N.C. Department of Transportation (DOT), power companies, local governments, nonprofits, and other State agencies to proactively and cooperatively address public access to coastal waters in infrastructural programs. In particular, the Committee urges the DOT to work closely with the WRC to see that expanded public coastal access is a priority in its road project planning and construction programs. The DOT owns and maintains thousands of miles of road rights-of-way and more than 14,000 bridges across the State, with many adjacent to and/or over public trust waterways. Portions of public thoroughfares in coastal counties should be designed (or redesigned) and developed (or redeveloped) with multiple uses by the public in mind and with access use given substantive priority.

The Committee recommends that the N.C. Division of Coastal Management (DCM) Public Beach and Coastal Waterfront Access Program be funded at significantly higher levels. This program, initiated in 1981 as part of the State's Coastal Area Management Act (CAMA), offers matching grants to local governments in the 20 CAMA counties, for oceanfront and estuarine access developments. Initially, funding for the program came primarily from federal grants, but since 1997 funding has been derived from the State's Parks and Recreation Trust Fund (PARTF) — receiving 5% of the trust fund revenues. Under this program, more than 300 public access sites have been constructed or improved at a cost of more than \$27 million (\$15 million State/federal and \$12 million local funds). The program has been successful with an average annual funding level of approximately \$1.5 million. However, the booming waterfront real estate economy of the coast may not allow the current program to meet community needs and requests beyond a handful of annual acquisition and development projects in the near future. The Committee endorses an increase in funding for this program in order to ensure its continued success. Sourcing of such increased funding might be from a revised PARTF formula or from other sources, some mentioned in this report. In addition, DCM is encouraged to generate public access provisions, in conjunction with localities and other stakeholders, for adoption in cases where beaches have been restored via beach nourishment projects supported by State funds.

The Committee recommends that the N.C. Division of Water Resources' Water Resources Development Project Grants Program give greater priority to grant applications that seek to enhance access to coastal public trust waters, via coastal waterfront recreation site development. To accommodate such new prioritization, the Committee also recommends that the program's annual funding level, via General Assembly appropriation, be increased. This cost-sharing program has funded numerous water-based recreation and navigation projects in coastal North Carolina. Water-based recreation projects can include riverine canoe access sites, estuarine boat ramps including associated docks and bulkheads, and public parks and greenways, including parking, adjacent

to bodies of water. Navigation projects can include maintenance dredging of shallow navigation channels that access harbors of refuge, boat ramps, and commercial fishing docks, removal of underwater pilings and other debris that restrict navigation, and construction of docks and bulkheads associated with navigation channels.

The Committee recommends and endorses efforts within the N.C. Division of Marine Fisheries (DMF) and the N.C. Wildlife Resources Commission (WRC) to allocate a reasonable share of proceeds from the new Coastal Recreational Fishing License to public coastal fishing access enhancements. As presented recently by DMF, the “Strategic Plan for the Conservation and Improvement of North Carolina’s Marine Resources through Funding from the Coastal Recreational Fishing License” (dated March 12, 2007) cites “improving public fishing access and fishing opportunities” within the plan’s program areas. “Enhancing access to coastal waters and conservation education programs will build public confidence in the benefits of the CRFL,” the plan explains. DMF and WRC are developing grant programs that will review requests from State agencies and local governments, among other entities. The Committee agrees with plans for a cautious and measured approach in the start-up of new programs funded by the new license to address coastal public trust water access needs, along with other fishery and habitat needs.

The Committee supports various findings and recommendations of the Joint Legislative Commission on Land and Water Conservation that would allow for additional funding (\$1 billion over five years) to finance conservation and cultural and historic preservation activities in North Carolina. The Committee’s support is based on its expectation that such additional funding would provide additional resources to the State’s various trust funds, which, in turn, would ultimately channel greater financial support to localities, State agencies and nonprofit conservation organizations for projects that could enhance public access and to a lesser degree, retention of certain culturally or historically significant working waterfronts. In addition, should the Landing Jobs Initiative (proposed at \$150 million over five years) be funded by the General Assembly (as proposed by Land for Tomorrow), the Committee urges that working waterfronts be eligible as the foci of planning and implementation grants awarded to nonprofits or local governments. Such planning and implementation grants would be meant to retain or create jobs in industries that preserve cultural heritage.

The Committee recommends that consequent and/or attendant public recreational access enhancements be elevated as a criterion for the awarding of grants through the State’s Clean Water Management Trust Fund (CWMTF), and, as corollary, that the CWMTF require public access enhancements in awarded projects that may, upon its review, offer multiple-use potential and benefits, such as public recreational access. Since 1996, the CWMTF has helped local governments, State agencies and conservation non-profit groups finance projects to protect and restore surface water quality. As of 2006, the CWMTF had awarded 943 grants for a total of \$711.5 million, addressing ways to enhance or restore degraded waters, protect unpolluted waters, and contribute toward a network of riparian buffers and greenways for environmental, educational, and recreational benefits. Currently, criteria used to evaluate and review specific applications give little weight to recreational access benefits, although there is a general

CWMTF guidance to “coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water quality.” The Committee urges that the CWMTF board consider changing CWMTF guidelines such that multiple uses and indirect benefits such as public access be given higher priority in award review and approval.

The Committee recommends that those State agencies engaged in management of the State’s coastal resources catalog and prioritize those waterfront sites required to conduct resource management activities, such as DMF oyster cultch collection sites.

High priority locations should be made part of active State land or easement acquisition efforts, or, where possible, should be secured via cooperative agreements reached with local governments or private landowners. Examples of cooperative arrangements would include those forged at Washington Acres in Hamstead, and in Varnumtown.

Planning and Zoning Approaches to Waterfront and Access Issues

In its establishing legislation, the Waterfront Access Study Committee was charged to gather and consider information relating to local land-use management tools and zoning approaches that might be applied to preserve waterfront diversity within the North Carolina context. Clearly, such tools and approaches have been shown, to varying degrees, to be useful mechanisms by which the loss of waterfront use diversity and access can be addressed in coastal settings.

Arguably no state has done more in the way of addressing waterfront use issues via planning and zoning approaches than Florida. While the loss of commercial fishing-related working waterfronts was a concern, Florida also was beset with widespread privatization of marinas, residential condominiums replacing boatyards, a severe deficit in the number of boat ramps, and the rise of long-term sales of docking slips, i.e., “dockominiums.” In enacting the Waterway and Waterfront Improvement Act of 2005, the state sought to provide solutions to waterfront use problems through tax-incentives to generate additional sources of revenues for state development of access facilities, such as boat launches, and also through several planning- and zoning-related actions.

These latter initiatives included creation of a state waterfront agency focused on providing technical assistance to localities on waterfront revitalization projects. The statute requires comprehensive planning at the coastal county level to address waterway access elements and the preservation of recreational/communal elements. Communities also were offered educational programs, in which experts assisted local communities and other entities in responding to the Act’s new planning mandates, and in understanding a host of new access-gaining strategies, including designation of community redevelopment areas.

Prior to and during the North Carolina Committee’s work, there were clear signs that localities within the State were initiating planning and zoning approaches to assess and address waterfront use and access issues. (As a backdrop to these local initiatives, the State’s 20 coastal counties have indeed been obligated since 1974 to address shoreline recreational access needs and elements, but not working waterfronts per se in their required Coastal Area Management Act (CAMA) land-use plans, which are generally updated on a five- to eight-year cycle). Examples include:

- Oriental began planning a community harbor that would include commercial fishing/working waterfront elements.
- Carteret County created and funded a Public Water Access Committee, the activities of which are guided by the county's Parks and Recreation Master Plan and shoreline Access Plan Update completed in 2006.
- Pamlico County secured funding to formulate a recreational plan that would pay special focus to public waterfront access.
- Kinston has formed a waterfront development group that seeks public input into guiding plans for the city's river waterfront area.
- Brunswick County, the N.C. Coastal Federation and United States Environmental Protection Agency have collaborated to form the Lockwood Folly River Roundtable to address the degradation of the Lockwood Folly River Watershed in Brunswick County. One of the issues addressed has been the preservation of working waterfronts along the Lockwood Folly River.
- In response to an appeal by a Sneads Ferry waterfront crab shed owner who was found to be in violation of local zoning ordinances, the Onslow County Commissioners are studying four waterfront zoning alternatives, including (1) creating a district for waterfront dependent uses; (2) allowing fishing activities at home-based businesses; (3) establishing an special overlay district; and (4) allowing traditional fishing activities as primary uses at vacant waterfront parcels.

Moreover, given the fast pace of development that could, among other aspects, threaten waterfront use and sustainable development, a few coastal communities implemented strict local land development measures. For example, in 2006, Bath and Camden County put development moratoriums in place. Swansboro enacted a one-year development moratorium on its historic downtown district and adjacent zones, including the older waterfront area. And Washington's city manager suggested either county or city land-use controls in light of high-rise, condominium and marina development proposals on or near the town's waterfront.

Perhaps no locality in the State is a better example of a community using the planning and zoning process to address waterfront use and needs than Wanchese, an unincorporated area in Dare County. Wanchese has always been a close-knit, highly commercial fishing-oriented community. Generally speaking, fishers and other residents had been mistrustful of government action. Yet, beginning in 2005, the people of Wanchese began designing a land-use plan that would retain traditional "village" cultural and economic aspects, including working waterfronts. The people of Wanchese came to view zoning as a convenient "tool" that might allow for measured growth while continuing traditional community land uses. Community residents decided to work closely with Dare County officials to provide for residential, commercial, and strictly water-dependent or water-related land-use zones that would reflect not only historical uses, but also anticipated and appropriate growth in the future.

As a result of that planning process, the Wanchese Historic Mill Landing Zoning Area was created to retain the historic element of the village and some of its special features

and structures. Importantly, it would allow for zero-line property setbacks for existing structures on the waterfront, a measure that would be key to permitting waterfront-dependent uses to “build back” to the water’s edge in the event of needed restoration. The final overall plan, approved by Dare County in March 2006, is a pattern of 12 zoning districts — from “Wanchese Wharf Marine Commercial” (allowing for boatyards, offices, schools, taxidermy and marine businesses) to “Baumtown Traditional” (permitting mobile and single-family homes, as well as farming, waterfowl, poultry and greenhouses). The patchwork allows or restricts appropriate development in Wanchese, and still allows traditional working waterfront uses, such as crab shedding operations, netting houses, and others. Along the North Carolina coast, Wanchese is the only unincorporated community with special zoning for traditional fishing village businesses, according to N.C. Division of Coastal Management (DCM) officials.

The Committee has considered and been advised on several planning approaches, and has interest in the use of those that, as done in Wanchese, might allow for special districting that would retain or enhance waterfront-dependent uses. While a spectrum of specialized zoning tools might be applied to retain or enhance access for working waterfronts or public recreational uses, one particular approach that the Committee has focused on is the expanded application of conditional zoning.

State statute allows zoning ordinances to include conditional districts, in which site plans and individualized development conditions are imposed, as long as such zoning complies with local comprehensive land-use plans, and that the zoning addresses expected use impacts.

In practice, conditional zoning allows for greater flexibility, as agreed to by the locality and all landowners in a specified area. It permits local government units to increase their allowable use flexibility in the early zoning/rezoning phase, rather than having to use the variance or “special use” permits procedure later in the decision process. Conditions agreed to by the petitioning landowner(s) and the government are legally binding.

The essential outcome of conditional zoning is to allow permitted land use that accommodates the owner’s (and neighboring owner’s) interests while still advancing an overall public good or interest. A general and hypothetical example would be to allow a land developer to more intensely develop part of the conditionally-zoned area (for instance, more residential units per acre than typically allowed in area A) in exchange for providing some public good (an easement for parking boat trailers or for the locality to develop a public wharf or launch ramp in area B) as set forth for in the locality’s comprehensive land-use plan. Conditional zoning has been widely used in Charlotte and Cary, N.C. In addition, the coastal community of Emerald Isle added conditional zoning to its ordinances to help it achieve recreational and public access goals presented in its land-use plan.

The Committee recommends that the N.C. Coastal Resources Commission (CRC) amend its Land-Use Planning Guidelines to include, in the management topics, a requirement of local governments to inventory, assess and develop policies concerning working waterfronts within their planning jurisdiction. Under the Coastal Area Management Act (CAMA), local governments develop land use plans consisting of statements of objectives, policies and standards to be followed in public and private use of land within the local jurisdiction. These policies address the appropriate location of particular types of land or water use and their relationships to each other and to public facilities. The

policies are intended to include specific criteria for particular types of land or water use in general to specific areas. The CRC requires that these policies be developed to address certain management topics, which include Public Access.

The Committee recommends that additional funding be provided to the N.C. Division of Coastal Management's (DCM) Planning and Management Grant Program to assist local governments in the development of public access inventories and plans. This funding should also be made available to implement land use policies and strategies outlined in the Coastal Area Management Act land-use plans for maintaining or enhancing working waterfronts and public access. Also under CAMA, DCM has been delegated authority to make annual grants to local governmental units for the purpose of assisting in the development of local planning and management implementation programs.

The Committee recommends that the Coastal Area Management Act be amended, commensurate with adequate funding, authorizing the N.C. Division of Coastal Management to provide grants to local governments proposing to inventory, and to plan for, retention or enhancement of working waterfronts. A priority of these awards should be to maintain traditional fishing-related infrastructure. As an additional incentive, local matching requirements for these types of projects should be lowered or waived.

The Committee recommends that coastal local governments explore potential uses of special zoning techniques, including conditional zoning, as means to retain or enhance areas for working waterfronts and/or public access facility development, consistent with approved Coastal Area Management Act land-use plans. Local governments in North Carolina have the zoning authority and subdivision review/permit power to exact "set-asides" to meet public needs, or to provide access for waterfront-dependent businesses such as commercial fishing. Localities should be encouraged to support the participation of their planning and zoning staff and local commission members in educational opportunities that offer training in the legal bases and applications of more sophisticated, problem-solving zoning techniques.

Purchase or Transfer of Development Rights

The Committee also considered two related, but distinct, voluntary methods of preserving working waterfronts and traditional public access facilities. The first is a PDR program (purchase of development rights) and the second is a voluntary TDR program (transferable development rights). Both are market-based programs that operate to limit undesirable development but ensure that participating property owners are compensated for the fair value of any limitation on the development of the subject property. In both methods, the development rights associated with a particular parcel of land are being severed and sold. And, finally, both methods have been utilized in other states by State and local governments in agricultural, coastal and other contexts, and both could be explored and tried by local governments in attempts to retain or enhance working waterfronts or lands for public access. The differences are in (1) whether a governmental or nonprofit entity is purchasing the rights or whether the sale is part of a private market transaction and (2) whether the rights are

“retired” or may be used to increase the development potential of land located in a different area of the community.

In a PDR program, the development rights associated with a particular property are purchased from (rather than donated by) the landowner, which permits the property to continue to be used in its current capacity but restricts any further development of it by the present owner or any future owners. The restriction is permanent and is in the nature of a negative easement. The purchased development rights are then “retired,” thereby extinguishing them. In addition to the cash payment the current owner receives for the development rights, the severance and retirement of the development rights reduces the property tax burden on the property. With its future use legally restricted, the current use becomes its “highest and best use.” Thus, a PDR program shares one characteristic with a current or present use tax program — a qualifying property owner’s real property tax burden is reduced after the sale of the development rights.

It appears that, to be successful, PDR programs need to be underwritten with adequate public funding, especially in settings where land values are very high. In its final report, the State’s Joint Legislative Commission on Land and Water Conservation (2007) recently endorsed the use of PDRs for conservation purposes.

A TDR program, like a PDR program, attempts to take advantage of the severability of development rights from privately owned land. Unlike PDRs, however, TDRs do not retire the rights to develop; rather, through a government-created market system, the rights may be sold and the purchaser may transfer them to an outside developable area for the purpose of increasing the development potential of property located there beyond that legally permissible in the absence of the TDRs. Thus, TDRs require the setting up of development credit “sending zones” and developable “receiving zones.”

In a voluntary TDR program, landowners in the sending zone are not legally compelled to participate in the program but may choose to participate. Electing landowners sell development credits (TDRs) to landowners/developers with property in a receiving zone. Because a TDR program does not extinguish the development right through its retirement, the community’s overall development potential is not altered. Instead development is shifted from one area of the community to another area. Consequently, a TDR program would have less impact on a community’s overall tax base than a PDR program.

Challenges to successful TDR programs would include determining exactly what particular development rights are included within the program, assigning appropriate values to TDRs, the careful selection of receiving areas (such that, for example, neighboring landowners do not contest more intensive development); overcoming possible high sending area land values (especially in highly developed sending areas) so that landowners have an incentive to actively participate in the program; and creating an adequate market for the TDRs.

TDR programs at the local level may require enabling State legislation. The North Carolina General Assembly has enacted enabling legislation allowing for the implementation of TDR programs, but it is limited only to sending areas used for “street or highway purpose” (N.C.G.S. 136-66.10). The General Assembly would have to act to enable local governments to implement TDR programs under which working waterfronts and potential public access sites could be identified and protected as sending areas.

Publicly funded purchases of PDRs for conservation easements are permitted by present North Carolina law. If the purpose of a PDR program is preservation or creation of

easements for recreational purposes or open space preservation (as encouraged by the Land and Water Conservation Commission), that is permissible under existing North Carolina legislation. But use of a PDR program to preserve a traditional waterfront use or activity rather than a natural resource (e.g., open land) is not specifically authorized by existing legislation. Therefore, it is advisable that the General Assembly provide explicit State authorization for a PDR program directed at traditional waterfront uses and activities, similar to the agricultural conservation easement program available for farmland preservation [N.C.G.S. sec.106-744]).

The Committee recommends that the General Assembly consider enacting legislation to authorize Purchase of Development Rights (PDR) and Transfer of Development Rights (TDR) programs at the local government level, for use in local working waterfront and/or public access retention and enhancement programs. While such legislation could provide an expanded set of tools to coastal governments for such waterfront-focused programs, it could also be of use and benefit — dependent on the legislative scope and language chosen — to communities statewide in their pursuit of land preservation and conservation goals.

Fishing Piers: A North Carolina Heritage

Since the first privately owned, commercially operated, open-to-the-public fishing pier reportedly opened at Kure Beach in 1923, such recreational fishing piers have been a signature feature — not only of the State’s coastal landscape but also in the lives of many coastal visitors. Called the “bleacher seats of the angling community,” these mostly wooden-legged structures provide public access, for a reasonable daily fee (typically less than \$10), to thousands of resident and non-resident anglers every year. Many North Carolina residents can likely recall how pier fishing nurtured their angling skills, and introduced them to the joy and wonder of ocean-based recreational activities and the coastal environment in general. Furthermore, the piers host youth fishing derbies, fishing classes for all ages, and opportunities for the visually or other impaired visitors to enjoy a rare experience.

During the last 20 years, natural and human forces have taken a toll on the array of fishing piers that stretch anywhere from 400 to 1,000 feet out into the ocean from the State’s shore. From various sources, it has been roughly determined that the number of fishing piers has moved from a high number of 36 fishing piers in 1980 (claimed to represent a quarter of all fishing piers along the U.S. Atlantic and Gulf Coasts) to 25 in 2000, and to just 20 operating facilities at the present time.

The reasons?

Coastal storms (hurricanes and nor’easters) have battered the piers. Some owners were able and willing to rebuild. Others were not. Constant beach erosion, other damage from the elements, and rising operating costs all adversely impact those trying to run a viable business. Also, rising waterfront land values have put pressure on pier owners to sell, whether because of escalating property tax bills, or simply to take a profit after years of toil, albeit a labor of love to most.

But the main losers in the decline of the number of these piers in North Carolina are anglers of modest means, who have, for decades, gained convenient access to the ocean fishery resource via payment of a reasonable daily entry fee. The Committee believes in the

importance of retaining these true working and recreational waterfronts to provide an affordable recreational access option for thousands of North Carolina citizens and visiting tourists.

In addition, State agencies hold interest in making public investments to expand fishing pier opportunities to all. As just one example, North Carolina Aquariums managers wish to explore operating State-owned fishing piers, associated with the existing Aquariums at Fort Fisher, Pine Knoll Shores, and Roanoke Island, that not only would offer over-the-ocean perches for angling, but also public exhibits and programs that would extend the Aquariums' educational outreach efforts to thousands more. The "trick" with public entry into the fishing pier "business" is to ensure that the publicly subsidized competition does not undercut or further destabilize the economic viability of nearby existing privately owned and operated fishing pier enterprises. Public pier development efforts should not — intentionally or unintentionally — further diminish the number of private piers along the shore.

The Committee recommends that private fishing piers providing public access be given present use value taxation classification as working waterfronts, with all attendant advantages. (See Committee recommendation on present use value taxation cited earlier).

The Committee recommends the State explore, with all due speed, sources of funding and financing mechanisms to be used in assisting owners of private fishing piers providing public access with storm damage repair, including the possibility of tapping the proposed working waterfront trust or set-aside fund to finance a low-interest loan program. Such low-interest, State-underwritten loans, regardless of financial sourcing, should be allocated only and specifically to assist private pier owners in rebuilding from damages caused by single-storm events.

The Committee recommends that the North Carolina Aquariums be authorized and funded to pilot the design, development, and operation of three (3) public fishing piers that not only would provide angling access, but also would offer public educational opportunities. This program should be initiated on a pilot basis so as to ensure that its implementation does not unfairly compete with existing privately held and operated fishing piers. Authorization and funding of such a limited pilot development program should be provided with the understanding that formal public review be conducted, during the development and after the opening of such subsidized piers, to assess fully their impact on their private "sister" piers. The Committee believes that the above N.C. Aquariums pilot program should not preclude other State agencies, such as the N.C. Division of Marine Fisheries or the N.C. Clean Water Management Trust Fund from exploring creative ways and means to collaborate and cooperate with local governments, non-profits, and private fishing pier businesses in development of pier- or jetty-based fishing access opportunities.

Fees for Public Trust Submerged Lands Easements

With few exceptions, all submerged lands lying under estuarine, coastal or other navigable waters ("coastal public trust waters") are State-owned public trust lands. Under State law, fee title may not be conveyed to such public trust submerged lands, but easements

may be granted under N.C.G.S. 146-4(1). The N.C. Department of Administration (DOA) is authorized to grant such easements to littoral or riparian owners “for such purposes and upon such conditions as it may deem proper.” However, until 1993, the policy of the DOA was not to require an easement for a commercial marina and for the N.C. Coastal Resources Commission to issue development permits. This practice was successfully challenged in *Walker v. N.C. Department of Administration*, 111 N.C. App. 851, 433 S.E.2d 767(1993). In that case, the court held an easement was required for the placement of a commercial marina in State coastal public trust waters. At about the same time, questions were being raised as to whether N.C.G.S. 146-29.1 and the Exclusive Emoluments Clause of the North Carolina Constitution required the establishment of a fee structure which fairly compensated the State for the use of public trust lands by commercial marinas or commercial operations. The response of the General Assembly to the *Walker* decision and this debate was to amend N.C.G.S. 146-12.

As amended, N.C.G.S. 146-12, among other things, mandates that new commercial marinas permitted after Oct. 1, 1995, obtain an easement from DOA. In addition, the amended 146-12 establishes a fee structure for the easements. Easements are valid for 50 years, and may be renewed for an additional 50 years. The fee for a 50-year easement is \$1,000 per acre of “footprint coverage.” The per year rate is \$20 per acre. The minimum payment is set at \$500. The legislation also provides for a “riparian credit” that can be applied to reduce the total area subject to a fee. Based on linear feet of shoreline frontage and a numerical factor, the riparian credit area can often be more than the footprint coverage area, resulting in a free easement. Suffice to say, that even when an easement is required and payment made under the formula (which, accordingly to the State Property Office, is the exception, not the rule), it is often extremely small for a 50-year term, to the point that some legal observers have opined that the fee structure can be challenged as an unconstitutional exclusive emolument for certain riparian owners. According to records, during the last five years (2002-06), such easements for marinas and utilities generated less than \$50,000. As such, current easement sales constitute a very limited source of State revenue.

Furthermore, marinas permitted prior to Oct. 1, 1995, are *not required* to obtain an easement, but *may* voluntarily obtain one. There are two potentially undesirable consequences of this situation: first, the end result is the almost free use of public trust submerged lands by private commercial enterprises and, second, the existence of such below-market long-term easements may legally confound, if not limit, potential future use of public trust submerged lands by the State.

If commercial marinas are catering to the general public and providing docking space to transient boat traffic and to the general boating public, the existing easement and fee structure for commercial marinas might well be in the public interest. But development pressures and consumer desire to secure docking space on a long-term basis have recently prompted some marinas to cater only to an exclusive segment of boat owners. These marinas are essentially private facilities, not open or available to the public and not providing a public service in exchange for their use of State-owned public trust submerged lands.

More alarmingly, some developers now offer sales of individual dock ownership within a marina setting, or “dockominiums,” at often-exorbitant prices, some reportedly reaching \$180,000 per slip. This privatization of docking space not only allows developers to profit from the use of public trust submerged lands but also puts even greater pressure on

owners of more traditional working waterfronts to sell or convert their properties to similar uses.

As one approach to identifying and creating a more substantive source of revenues for State development of access to coastal public trust waters, the Committee recommends that the General Assembly re-examine and reformulate the State's public trust submerged lands easement fee structure. While fees for submerged lands easements should be reasonable enough to allow for profitable commercial use, they also should be more reflective of what indeed they are and need to be — that is, substantive recompense to the people of North Carolina for private use of public trust submerged lands, and a potential source of State dollars for underwriting public trust access development projects. The fee structure could be changed by amending N.C.G.S. 146-12.

The Committee also recommends that the General Assembly explore new means by which to generate a source of State revenues to be directly allocated for both working waterfront and public access retention and enhancement programs. One approach would be to design and implement a fee structure and system that would require owners of all structures, or at least all commercial structures, on or over coastal public trust waters and submerged lands of the State to pay an annual fee or surcharge. Rationale for the fee could be based on the public good served by working waterfronts and public access development and the fair and equitable compensation of the people of North Carolina for private use of public trust resources, as defined by N.C.G.S. 1-45.1 and N.C.G.S. 113-131. The State's Equitable Compensation Study Committee previously discussed additional approaches to generating funds from the use of coastal public trust waters/submerged lands. Such opportunities should be examined or re-examined accordingly.

The Committee recommends that the General Assembly, in concert with the N.C. Department of Justice and the N.C. Coastal Resources Law, Planning and Policy Center, examine the nature and legality of the long-term or permanent sale of docks or "dockominiums" that occupy public trust submerged lands.

Meeting Environmental Compliance Costs

During and since the public comment sessions convened by the Waterfront Access Study Committee (WASC), meeting speakers and other parties have addressed the matter of environmental regulations in the State of North Carolina, and how such regulations might affect the challenge of preserving or enhancing working waterfronts and public access.

Statements made by a few individuals at the public meetings expressed concern that implementation of strict environmental regulations at present, and perhaps more so in the near future, may prevent private and public entities from making headway in the effort to keep a diversification of uses along the shore and to keep coastal public trust waters wholly accessible for public uses.

Statements made by several individuals clearly made the case that it is, in fact, the very high quality of coastal public trust waters that makes this resource so important and attractive to users of every kind (e.g., developers, tourists, resource managers, property owners, businesses, commercial fishermen, charter/head boat captains and customers, and

recreationists), and that environmental and water quality standards must remain high in the face of development pressure.

Shortly after the public hearings, a resolution was passed by the Carteret County Economic Development Council and conveyed to the Committee. The resolution urged that the Committee recommend in its final report to the General Assembly, the N.C. Marine Fisheries Commission and the N.C. Coastal Resources Commission that “regulatory issues which could potentially reduce the diversity of uses along the coastal shoreline of North Carolina and reduce access to coastal public trust waters of the state be addressed.” The term “regulatory issues” noted in the resolution most clearly referred to Session Law 2006-246, Senate Bill 1566, which was approved by the General Assembly “to provide for the implementation of Federal Phase II Stormwater Management Requirements and to protect water quality as recommended by the Environmental Review Commission.”

In February 2007, the Carteret County Board of Commissioners passed and conveyed to the Committee a similar resolution regarding concern over Phase II Stormwater Management rules and the possible “unintended and negative consequences to the diversity of uses along the coastal shoreline of Carteret County and reduce public access to the coastal public trust waters of the state.” The Commissioners urged the WASC to recommend in its final report that “existing and new regulatory issues which potentially reduce the diversity of uses along the ... shoreline and reduce access to the coastal public trust waters of the state be addressed so as to lessen the negative impact of existing and proposed regulation.” This was followed by a third similar resolution from the Carteret County Chamber of Commerce, also conveyed to the Committee in February 2007.

In response to the resolutions noted above and to the several statements made by speakers at the public comment meetings, the Committee engaged in a discussion of the matter at the Feb. 27, 2007, Committee business meeting held at the N.C. Aquarium at Pine Knoll Shores. The transcript of that discussion can be viewed at:

http://www.ncseagrant.org/files/wasc_feb27_transcript.txt.

The Committee believes that compromising the standards determined by the State of North Carolina to be protective of the environmental/water quality of coastal public trust waters should not be an option or means to help resolve the working waterfront or public access issue. At the same time, the Committee felt that it was imperative that such standards and attendant regulations be clearly promulgated and articulated, and also consistently applied and enforced by regulating agencies.

The Committee believes that the costs of purchasing land (or easements or development rights to land) and developing (or re-developing) working waterfront and public access uses and facilities close to the shore in the future will not be trivial. The price tag will most assuredly reflect the private or public investments required to ensure that development is compliant with environmental and water quality rules and regulations promulgated by the federal government and/or the people of the State of North Carolina via the General Assembly. The Committee understands that customary (standardized) and innovative (e.g., such as low-impact, or “green”) engineering solutions to limit impervious surface area and consequent runoff at waterfront development sites will need to be applied, and that any engineering application to meet environmental/water quality regulations will carry costs, as determined on a case-by-case basis, for design, site work and installation.

The Committee recommends that funding sources and mechanisms, including those recommended in this report, be made available and tapped to assist working waterfront and public access facility developers, pursuant to local government approval, in developing or redeveloping facilities along the waterfront in ways that comply fully with environmental regulations. There may be opportunity for localities and the State to work cooperatively on identifying waterfront design and engineering approaches that meet water quality and other permit requirements in affordable ways. Potentially, this could be accomplished through any new State-county working waterfront/public access advisory structure to be put in place by the State and counties, or through State-supported outreach educational programs. In other sections of this report, the Committee recommends formation of such cooperative advisory committees and educational programs.

Need for a Comprehensive Socioeconomic Study

The working waterfronts of North Carolina are an exceedingly valuable resource to our State. This is true whether we consider the issue purely in terms of economic value, or in terms of the larger social and cultural fabric of our State and our local coastal communities. The same can be said of all North Carolina citizens' ability to gain access to the coastal public trust waters of the State. The General Assembly's recognition of these facts led to the creation of this Committee, and to our charge to search for and recommend ways to retain and expand our working waterfronts and public access to coastal waters.

Our knowledge of the importance of waterfront access is certain, but it is not precise. Little quantitative study, or rigorous qualitative study, has been conducted regarding the value and economic impact of working waterfronts and public access. Nor has there been systematic, rigorous research into the costs inherent in the retention and expansion of these resources and opportunities. Further, such studies as have been conducted tend to be narrowly focused (e.g., benefit/cost studies of waterway dredging) and/or geographically restricted (e.g., the economic impact study of Oregon Inlet). As useful as these limited studies may be, they do not provide the detailed, quantitative, and comprehensive data that will be needed as the State moves forward with various measures to preserve and enhance working waterfronts and public access.

The need for such data is both wide and deep:

- The General Assembly would benefit greatly from having such data available as it considers, prioritizes, and adopts various measures pertaining to waterfront access.
- Members of regulatory bodies (and the citizens whom they regulate) would better understand the values, impacts, and costs associated with waterfront access.
- Local governments need to make important and difficult choices in areas including land use, zoning, and taxation, but at present these officials must do so with very little precise information regarding the economic consequences of their choices.
- The private sector could make more efficient choices regarding working waterfronts and public access if those decisions are better informed by comprehensive data; and, the voters and citizens of the State, of course, will benefit from better understanding

of both the large picture regarding the total value of waterfront access and the details of local initiatives.

There is, therefore, a great need for systematic and rigorous quantitative and qualitative study of the economic value, impact, and cost of retaining and expanding working waterfronts and public access.

This Committee recommends that the General Assembly provide funding for a socioeconomic study of working waterfronts and access to coastal public trust waters, and/or for an ongoing series of such studies, to examine these issues comprehensively and in detail. It is the Committee's belief that the necessary tools and expertise may be found within our community colleges, universities, and coastal regulatory agencies.

General subject areas to be studied could include:

- State and local, public and private economic values, impacts, and costs of those sectors whose success depends on waterfront access, including but not limited to commercial fishing, recreational fishing, boat-building, charter/headboat fishing, eco-tourism, marine service industries, marinas open to the public, fishing piers, and paddling/boat liveries;
- State and local, public and private economic values, impacts, and costs that depend upon retention and expansion of citizen access to coastal public trust waters, including but not limited to boat ramps, paddling access sites, pedestrian access to urban and other waterfront areas, and all types of access for persons with disabilities;
- The extent to which necessary environmental (and other) regulation of coastal counties affects the public and private value and cost of retaining and expanding working waterfronts and citizen access to coastal public trust waters; and
- Systematic, quantitative and qualitative consideration of the social value of North Carolina's maritime traditions, occupations, culture, heritage, and coastal communities. Study areas would include such things as the economic value of heritage tourism, as well as the inherent value of preserving and sustaining the diverse coastal cultures and communities for present and future generations.

More specific investigation should be conducted into particular policy areas, and changes thereto, including those found elsewhere in this report. Local governments (county and municipal) have substantial need for enhanced understanding of the likely economic and fiscal impacts of such measures as conditional zoning, development rights, public access requirements in land-use plans, and present use taxation for working waterfronts.

As our working waterfronts and public access areas rapidly disappear, the need for better economic data is urgent; however, the need for action is more so. Time is of the essence. Many of the measures recommended in this report may be initiated or implemented immediately without the need for additional study. The recommendation for a comprehensive socio-economic study of waterfront access issues should not be interpreted as a suggestion

that application of appropriate environmental regulatory measures, or other measures recommended in this report, need to await the outcome of that study.

Cooperative State-Local Partnerships and Approaches

Another resonating message at public comment meetings and at full Committee meetings relates to the need for different levels of government to work jointly and cooperatively in addressing working waterfront and public access issues. Cooperation between State and local governments (and, when appropriate, with federal entities) is clearly viewed as a key element to resolving the issues at hand. The Committee's sense is that all government levels need to be "on the same page" in terms of understanding the extent of issues, resources, and high priority areas; identifying opportunities and hurdles (i.e., geographical, regulatory and fiscal); and reducing "red tape."

Questions and statements at the public meetings touched upon the need for localities to have more direct interaction with State agencies, and, as a consequence, more direct knowledge about State grant and assistance for conducting waterfront or access acquisition, planning or design activities. There was also testimony suggesting that private property owners or developers could benefit from a straightforward, "one-stop-shop" channel through which they may explore with State or local entities matters such as land donation, easement mechanisms, or regulatory compliance.

Steps that localities have taken of late to help them address community concerns about working waterfront uses and public access to waterways show potential to assist all government levels in dealing with waterfront and access issues. Some county (e.g., Dare, Carteret) and municipal governments (e.g., Kinston) have established committees that include elected leaders and/or agency officials and community members to examine waterfront access needs and work to resolve related needs and issues.

Carteret County's effort exemplifies how formal constitution of such a committee — with formal membership and involvement by State resource agency representatives — can be a useful approach in addressing access issues. The Carteret County Public Access Committee was formed and funded by the Carteret County Board of Commissioners in 2006 in response to a recognized growing need in the county to increase or upgrade public waterfront access sites for use by its citizens and visitors. The committee is guided by the county's approved parks and recreation master plan and shoreline access plan update completed in July 2006.

The committee has one commissioner (as chair), other county officials and several citizen appointees. Most interestingly, however, is the formal appointment of two State agency representatives (i.e., N.C. Wildlife Resources Commission and N.C. Department of Transportation) in ex officio status. These appointments have fostered a high level of State-county discussion and some shared resources and in-kind contributions that will soon lead directly to access facility improvements in Carteret County.

In another case, a task force at the city level in Kinston, structured differently than Carteret County's committee and with more localized perspective, has been able to benefit from the resources, ideas and activities of faculty and students at North Carolina State University's College of Design. Though the federal-State-county Cooperative Extension program, NC State faculty and students have given the group new and innovative concepts to consider for improved access to the Neuse River, creation of a network of trails, and

suggestions for retail, residential, and even aquacultural use of the city's old landfill and water treatment plant.

It is the thinking of the Committee that voluntary yet formal establishment of such advisory bodies in the State's coastal counties could lead to an extraordinarily cooperative State-local mechanism through which to address working waterfront and access issues in the State's coastal zone. As such committees would be established and begin to interact, nurturing of coastwide networking and communication channels among the committees could result in more expeditious application and sharing of waterfront preservation and access enhancement approaches and techniques that work well (or do not work well) in the local and coastal North Carolina context.

The Committee recommends that the General Assembly encourage coastal counties and waterfront municipalities to establish working waterfront and public access advisory bodies, having appropriate ex-officio State agency representation, to address and seek cooperative State-local solutions to waterfront and access issues. Ways should be considered to stimulate formation of such bodies, such as making available small "start-up" grants for such committee organizational activities, or providing funds through State-supported extension programs to assist in the formation of local advisory bodies.

Educational Outreach

Educational outreach efforts clearly can play a critical role in helping the State's coastal communities and the public-at-large to address and to resolve the issue of declining diversity of coastal land uses.

North Carolina Sea Grant hosted "North Carolina's Changing Waterfronts: Coastal Access and Traditional Uses," a one-day forum on June 5, 2006, at the New Bern Riverfront Convention Center. The conference, which attracted more than 200 participants, explored the reasons why waterfronts across the nation and in North Carolina are changing; the waterfront economies and cultures; general options for communities and riparian owners to address the change; and innovative approaches used to address changing waterfront uses in other states. Experts from Maine, Florida, coastal counties, and UNC-Chapel Hill's School of Government described innovative approaches to dealing with waterfront change (http://www.ncseagrant.org:index.cfm%3Ffuseaction=page&filename=waterfront_forum2006.html). Perhaps more than any other single event, this conference galvanized public focus on changing waterfront use in the State, and helped to stir legislative action (i.e., the establishment of this Committee) on the issue.

Success in the small community of Wanchese with its development of a community zoning plan that accommodated working waterfront and other access uses within locally determined and appropriate levels of preservation and development was, in many ways, a slow, multifaceted outreach approach to educating local citizens about available zoning tools, and enlisting their participation in a community process.

As noted in another section of this report, provisions of a new Florida waterfront law called for a heavy dose of public-service educational activities to assist local communities in legal compliance and to encourage them to participate in technical assistance and competitive proposal-based programs. These educational (and some research) activities, offered through the University of Florida College of Law, Florida Sea Grant, and the Florida Department of

Community Affairs, were designed to enable more rapid understanding and adoption of the state's new (2006) waterfront property act provisions, including local planning mandates, new permit and fee considerations for marinas, and involvement of communities in the Waterfronts Florida Partnership Program.

And in Maine, agencies such as the Department of Marine Resources and the Land for Maine's Future Program, have produced and delivered a host of public educational and informational products, all meant to successfully launch the state's new working waterfront protection efforts.

Ideas conveyed in this final report of the N.C. Waterfront Access Study Committee (WASC) may help to exemplify the potential for such public educational programs to address the issue at hand in innovative ways. For example, the Committee has mentioned and recommended present use valuation and conditional zoning approaches as potential means to retain/enhance working waterfront uses or public access. According to the staff of the N.C. Coastal Resources Law, Planning and Policy Center, an innovative combination of these two approaches might serve well in the North Carolina context. If present use value classification is extended to working waterfronts, further legal research, followed by presentation and discussion of such a combined approach at educational workshops for local planners, planning commission members and other officials, could result in an approach to working waterfront retention and enhancement that could not only be applied in North Carolina coastal community settings, but also potentially provide a national model.

The Committee recommends that the General Assembly, contingent upon the level of its response to the recommendations in this report, endorse and financially support educational outreach programs to improve retention and enhancement of working waterfronts and public access to coastal waters. Such programs should be designed to assist local coastal communities in understanding and adopting tax-incentive, planning, zoning, and cost sharing approaches. To accomplish this aim, grants or contracts could be awarded to public programs or nonprofit organizations having a coastal resource focus and public educational outreach mission. Awards should be based upon the capacity of those organizations to identify community educational needs and ability to deliver quality, cost-effective outreach programs. Whenever and wherever possible, the resources and expertise existing within the University of North Carolina system should be brought to bear in this endeavor.

Further Study and Oversight

Among all the facts, positions and opinions presented at full business meetings and at the three public comments meetings convened by the Committee, there was an overwhelming sense that time and timing were the most critical factors in the State's response to the loss of waterfront use diversity along — and public access to — coastal public trust waters. From expressions of appreciation to the General Assembly and to our Committee for taking up the issue and task, to laments of loss of the State's coastal heritage, to pleas for State resolve, assistance and investment, to demands that a wide variety of access for water-dependent business and recreational pursuits be secured, it seemed that the one underlying postscript to every statement could easily have been "but we must act soon!"

As the Committee conducted its business, there continued to be an almost daily drumbeat of reports via word-of-mouth, the media, or interest group pronouncements that the exclusionary privatization of the shore was continuing unabated. Headlines such as “Boat storage, access prices soar as waterfronts develop” (*Wilmington Star-News*, Oct. 18, 2006), “Public piers on N.C. coast are vanishing” (*Charlotte Observer*, Dec. 17, 2006), and “Rising urban waterfront catching eye of regulators” (*Jacksonville Daily News*, Feb. 25, 2007) gave testimony to the incessant development pressures bearing down on that thin strip of shoreline so critical to those special ways of life, livelihood, and leisure in Eastern North Carolina.

While the Committee took up the General Assembly’s charge with great effort, eagerness, conviction, and dedication to public service, it believes that it has just scratched the surface of what the State may need to explore, seek counsel on, and monitor with regard to waterfront and access issues. The Committee was given little time and only temporary sanction to study the issues and to generate the recommendations offered in this report. In the Committee’s opinion, the issues are of such complexity, and may have such a broad range of possible, yet untried and unproven, solutions that further work on a more permanent basis is required.

The Committee recommends that the General Assembly establish a formal joint legislative commission to continue the work of the Waterfront Access Study Committee, and to guide any programs or actions implemented, either out of this Study Committee’s recommendations or other related deliberations. For example, such a commission could explore the notion of the North Carolina State Ports Authority reasserting its purview and charge to assist the commercial fishing industry. The question of how the Ports Authority may provide or enhance working waterfronts was raised late in this study Committee’s term, and warrants further exploration.

Such a commission could also take on unresolved WASC discussion and debate. For example, during finalizing of this report, strong differences of opinion were expressed about whether to recommend mandating, via State funding stipulation, local access requirements along waterways projects that were maintained with State dollar contributions. Concerns about the local costs of such a mandate was countered by the argument that a mandate of this sort may be necessary to afford even the most basic level of access in “access-poor” stretches along publicly maintained waterways. This issue needs further consideration.

The suggested joint commission should have Senate and House co-chairs, be assisted by the legislative staff, and be provided with adequate resources to complete assigned duties.

APPENDICES

- A.** Enabling Legislation
- B.** Contact Information for Committee Members
- C.** Links to Presentations and Reports to/from the Waterfront Access Study Committee
- D.** *Coastwatch* Story on Public Comment Sessions

Appendix A: Enabling Legislation

The following enabling legislation may also be viewed at:
http://www.ncseagrant.org/files/SL2006_248WASCexcerpt.pdf

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2006-248
HOUSE BILL 1723**

AN ACT TO PROVIDE FOR STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, STATUTORY OVERSIGHT COMMITTEES AND COMMISSIONS, AND OTHER AGENCIES, COMMITTEES, AND COMMISSIONS.

The General Assembly of North Carolina enacts:

PART I. TITLE

SECTION 1. This act shall be known as "The Studies Act of 2006."

...

PART XLV. WATERFRONT ACCESS STUDY COMMITTEE (H.B. 1922 – Wainwright, Justice; S.B. 1352 – Albertson)

SECTION 45.1. There is created the Waterfront Access Study Committee.

SECTION 45.2. The Committee shall be comprised of 21 members as follows:

- (1) The Director of the Sea Grant College Program of The University of North Carolina or the Director's designee.
- (2) The Senate Cochair of the Joint Legislative Commission on Seafood and Aquaculture or the Cochair's designee.
- (3) The House Cochair of the Joint Legislative Commission on Seafood and Aquaculture or the Cochair's designee.
- (4) The Chair of the Marine Fisheries Commission or the Chair's designee.
- (5) The Chair of the Coastal Resources Commission or the Chair's designee.
- (6) The Chair of the Wildlife Resources Commission or the Chair's designee.
- (7) The Director of the Division of Marine Fisheries or the Director's designee.
- (8) The Director of the Division of Coastal Management or the Director's designee.
- (9) The President of the North Carolina Recreation and Parks Association or the President's designee. The individual who serves in this position must also be a director of a public parks

and recreation agency located in a coastal region as described in G.S. 143B-289.54(b).

- (10) A representative of a local government located in the Northeast Coastal Region, as described by G.S. 143B-289.54(b), appointed by the President Pro Tempore of the Senate.
- (11) A representative of a local government located in the Central Coastal Region, as described by G.S. 143B-289.54(b), appointed by the Speaker of the House of Representatives.
- (12) A representative of a local government located in the Southeast Coastal Region, as described by G.S. 143B-289.54(b), appointed by the President Pro Tempore of the Senate.
- (13) An economist appointed by the Speaker of the House of Representatives.
- (14) A representative of the residential building industry who builds in a coastal region as described in G.S. 143B-289.54(b), appointed by the President Pro Tempore of the Senate.
- (15) A realtor licensed under Chapter 93A of the General Statutes, appointed by the Speaker of the House of Representatives.
- (16) An individual involved in economic development in a coastal region as described in G.S. 143B-289.54(b), appointed by the President Pro Tempore of the Senate.
- (17) A representative of the marine trades industry appointed by the Speaker of the House of Representatives.
- (18) A representative of the commercial fishing industry appointed by the President Pro Tempore of the Senate.
- (19) A representative of the recreational fishing industry appointed by the Speaker of the House of Representatives.
- (20) A social scientist appointed by the President Pro Tempore of the Senate.
- (21) A representative of the environmental community appointed by the Speaker of the House of Representatives.

The Director of the Sea Grant College Program of The University of North Carolina or the Director's designee shall be the Chair of the Committee. Any vacancy shall be filled by the original appointing authority. A quorum of the Committee shall be a majority of its members. The Committee shall meet upon the call of the Chair.

SECTION 45.3. The Committee, with the assistance of the Sea Grant College Program of The University of North Carolina and the North Carolina Coastal Resources Law, Planning, and Policy Center, shall study the degree of loss and potential loss of the diversity of uses along the coastal shoreline of North Carolina and how these losses impact access to the public trust waters of the State. Specifically, the Committee shall:

- (1) Gather information about local land-use management and zoning, current shoreline development trends, and local tax rates, including tax assessment trends for shoreline properties.
- (2) Collect research and information from North Carolina and other states and jurisdictions regarding incentive-based techniques and management tools used to preserve waterfront diversity.
- (3) Assess the applicability of such tools and techniques to the coastal shorelines of North Carolina.
- (4) Prepare a draft report with a statement of the issues, a summary of the research, and recommendations to address issues of diversity of waterfront use and access in North Carolina.

- (5) Hold three public meetings to present the draft report and recommendations to the public and user groups. One public meeting shall be held in each of the three coastal regions described by G.S. 143B-289.54(b).

SECTION 45.4. Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. Upon the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to the Commission to aid in its work. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. The Commission may meet during a regular or extra session of the General Assembly, subject to approval of the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building. The Commission, while in the discharge of its official duties, may exercise all the powers provided under the provisions of G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them and the power to subpoena witnesses.

SECTION 45.5. The Committee may submit an interim report of its study to the Joint Legislative Commission on Seafood and Aquaculture, the Marine Fisheries Commission, and the Coastal Resources Commission no later than January 15, 2007. The Committee shall submit a final report of the results of its study, including any legislative recommendations, to the Joint Legislative Commission on Seafood and Aquaculture, the Marine Fisheries Commission, and the Coastal Resources Commission no later than April 15, 2007. The Committee shall terminate on April 15, 2007, or upon the filing of its final report, whichever occurs first.

SECTION 45.6. From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the purpose of conducting the study provided for in this act.

...

PART LVII. BILL AND RESOLUTION REFERENCES

SECTION 57. The listing of the original bill or resolution in this act is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

PART LVIII. EFFECTIVE DATE AND APPLICABILITY

SECTION 58. Except as otherwise specifically provided, this act is effective when it becomes law. If a study is authorized both in this act and in the Current Operations and Capital Improvements Appropriations Act of 2006, the study shall be implemented in accordance with the Current Operations and Capital Improvements Appropriations Act of 2006 as ratified.

In the General Assembly read three times and ratified this the 27th day of July, 2006.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:51 a.m. this 16th day of August, 2006

Appendix B: Committee Member Contact Information

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Senator Charles Albertson

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Representative William L. Wainwright

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http://www.ncseagrant.org/files/WASC_roster.pdf

Appendix C: Links to Presentations and Reports to/from the Waterfront Access Study Committee

September 26, 2006 – Committee Business Meeting, Raleigh

- *Exploring Waterfront Access and Traditional Use Issues in Coastal Public Trust Waters*, Walter Clark and Joe Kalo, Coastal Law, Planning, and Policy Center
http://www.ncseagrant.org/files/wasc_exploringaccess.pdf

November 20, 2006 – Committee Business Meeting, Pine Knoll Shores

- *An Inventory of Fish Houses along Coastal North Carolina*, Barry Nash, North Carolina Sea Grant Seafood Specialist, and Barbara Garrity-Blake, WASC Member
http://www.ncseagrant.org/files/wasc_inventory_fish_houses.pdf
 - FINAL REPORT: *An Inventory of North Carolina Fish Houses*, Barbara Garrity-Blake, University of North Carolina Wilmington and Barry Nash, North Carolina Sea Grant (submitted March 2007)
http://www.ncseagrant.org/files/wasc_bgb_fishhousefinal.pdf
- *Defining Access in the North Carolina Context*, Walter Clark and Joe Kalo, N.C. Coastal Law, Planning, and Policy Center
http://www.ncseagrant.org/files/wasc_clark_kalo_waterfrontaccess.pdf
- *Potential Funding Mechanisms/Sources and Their Advantages/Disadvantage*, Erin Wynia, UNC-CH Law School, N.C. Coastal Resources Law, Planning, and Policy Center
http://www.ncseagrant.org/files/wasc_funding_landacquisition.pdf
 - FINAL REPORT: *Funding Mechanisms for Land Acquisition*, Erin Wynia, N.C. Coastal Resources Law, Planning, and Policy Center (submitted February 2007) http://www.ncseagrant.org/files/wasc_fundingmechs.pdf
- *The NCWR Boating Access Program and Survey*, Gordon Myers, N.C. Wildlife Resources Commission and WASC Member
http://www.ncseagrant.org/files/wasc_boatinginfrastructure.pdf
- *DCM's Beach and Estuarine Access Program*, Steve Underwood, N.C. Division of Coastal Management
http://www.ncseagrant.org/files/wasc_DCM_accesspresentation.pdf
- *Present Use Value Strategies and Tax "Circuit Breaker" Approaches*, Jared Zajac, UNC-CH Law School, N.C. Coastal Resources Law, Planning, and Policy Center
http://www.ncseagrant.org/files/wasc_incentivebasedtechniques.pdf
 - FINAL REPORT: *The Working Waterfront: Incentive-based techniques for protecting the traditional waterfront worker*, Jared Zajac, UNC-CH Law School (submitted March 2007)

http://www.ncseagrant.org/files/wasc_zajac_incentivetechniques.pdf

- *Transfer Development Rights*, Kevin Cheshire, UNC-CH Law School, N.C. Coastal Resources Law, Planning, and Policy Center
http://www.ncseagrant.org/files/wasc_TDR_presentation.pdf
 - FINAL REPORT: *Market-Based Planning Tools: An Overview of TDRs and PDRs*, Kevin Cheshire, UNC-CH Law School, N.C. Coastal Resources Law, Planning, and Policy Center (submitted February 2007)
http://www.ncseagrant.org/files/wasc_cheshireTDRandPDR.pdf

January 18, 2007 – Presentation to the Joint Legislative Commission on Seafood and Aquaculture, Raleigh

- *Waterfront Access Committee Progress Report to the Joint Legislative Commission on Seafood and Aquaculture*, Michael Voiland, Executive Director of North Carolina Sea Grant and WASC Chair
http://www.ncseagrant.org/files/wasc_jan18.pdf

January 30 – February 1, 2007 – Public Comment Sessions (Manteo, Morehead City, Wilmington)

- *North Carolina Waterfront Access Study Committee Public Comment Meetings*, Michael Voiland, Executive Director of North Carolina Sea Grant and Committee Chair
http://www.ncseagrant.org/files/WASCpublic_comment_finalprint.pdf

February 27, 2007

- *Goal: Process Integration*, Gordon Myers, N.C. Wildlife Resources Commission and WASC member
http://www.ncseagrant.org/files/wasc_myers_roadways.pdf
- *Funding Mechanisms for Land Acquisition*, Erin Wynia, UNC-CH Law School, N.C. Coastal Resources Law, Planning, and Policy Center
http://www.ncseagrant.org/files/wasc_fundingmechs.pdf

Additional Report

- *Conditional Zoning in North Carolina*, Erin Wynia, UNC-CH Law School, N.C. Coastal Resources Law, Planning, and Policy Center (submitted March 2007)
http://www.ncseagrant.org/files/wasc_wynia_conditionalzoningNC.pdf

Appendix D: *Coastwatch* Article on Public Comment Sessions

Waterfront Access: Meetings Highlight Spectrum of Needs, Katie Mosher, North Carolina Sea Grant, *Coastwatch* magazine (Spring 2007)

http://www.ncseagrant.org/files/wasc_cwarticle.pdf

Note: This is a large file with many graphics. It may take a few minutes to download.

Coastwatch

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**WATERFRONT
ACCESS
MEETINGS
HIGHLIGHT
A SPECTRUM
OF NEEDS**



The Pace of Change

You may think that life in the big city is fast paced, while a slower schedule rules coastal communities. But some folks will tell you the reverse may be true these days.

Several speakers at public comment sessions convened by the N.C. Waterfront Access Study Committee (WASC) noted the relative speed of the committee’s work — especially compared to what they perceive as the normally slow pace of state government focused in Raleigh.

The pace of change is quick in many parts of the coast these days — and if you haven’t visited recently, you may be surprised.

Folks argue that state and local agencies need to act quickly if they want to maintain or increase water access in coastal communities — where lucrative offers are regularly presented to owners of prime waterfront parcels that are not officially on the market. In some cases, these parcels include boat ramps, piers, marinas, and docks or other access points used for generations by the public and water-based commercial operations.

Turn to page 6 for a sampling of the comments received during the meetings in Manteo, Morehead City and Wilmington.

The committee was established by the N.C. General Assembly based on a recommendation from the Joint Legislative Commission on Seafood and Aquaculture, which had reviewed resolutions passed by the N.C. Marine Fisheries Commission, the N.C. Coastal Resources Commission and an ad-hoc group of maritime scholars.

The General Assembly approved the legislation on July 27, 2006, and it was signed into law Aug. 16, 2006. North Carolina Sea Grant’s executive director — Michael Voiland — was appointed the committee chair, with 20 other members representing various perspectives on access issues.

Sea Grant already was involved with the waterfront issues, including cosponsorship of conferences focusing on coastal

communities, and hosting of *North Carolina’s Changing Waterfront*, a June 2006 meeting that drew nearly 200 people interested in a broad spectrum of access issues.

The public response to the committee and the topics has been strong. More than 275 people attended the public comment sessions. More than 400 people receive WASC e-mail notices.

Many also check the committee’s Web site — www.ncseagrant.org/waterfronts — to read complete transcripts from the meetings.

The committee’s early sessions included a presentation on the loss of fish houses, seafood dealers and processors along the coast, as well an explanation of the N.C. Wildlife Resources Commission’s network of public boat ramps.

The directors and students from the N.C. Coastal Resources Law, Planning and Policy Center presented research on topics such as tax incentives, as well as potential access requirements within local planning and zoning regulations.

As the panel began considering potential recommendations, members debated the phrasing for definitions of terms such as “working waterfront.”

At the three public comment sessions, Jan. 30 to Feb. 1, the committee listened to more than 70 people who shared their thoughts.

At its Feb. 27 meeting, the committee discussed environmental and regulatory concerns; access at state highway/bridge rights of way; public/private efforts regarding fishing pier access; the fee structure for private use of public trust waters/submerged lands; and the potential for a new “working waterfronts” trust fund along with increases to existing funds that provide grants. The final report is due in April.

To review the N.C. Waterfront Access Study Committee’s meeting agendas, presentations and transcripts, go online to: www.ncseagrant.org/waterfronts.

Katie Mosher, Managing Editor

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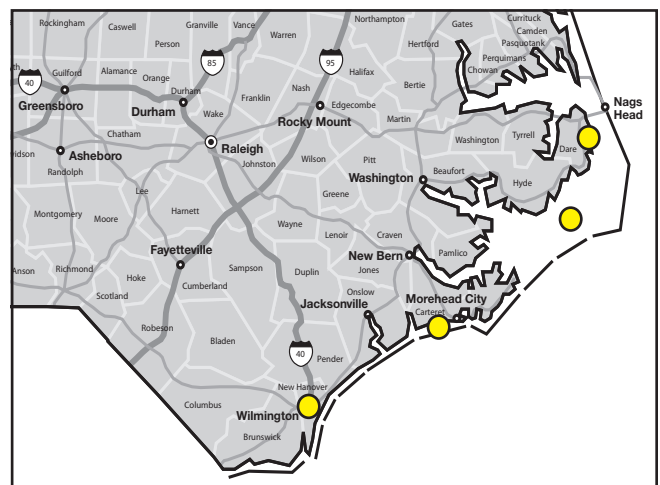
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North Carolina’s diverse coast offers countless interesting subjects.

The large dots on the map indicate story settings in this issue — including Dare, Carteret and New Hanover counties, and the Pamlico Sound.





Michael Halmins

WATERFRONT ACCESS: MEETINGS HIGHLIGHT SPECTRUM OF NEEDS

BY KATIE MOSHER

In coastal North Carolina, access issues cover the waterfront. People seeking access — for commercial and recreational fishing, seafood handling, paddling, boating, operating marine-related businesses or simply wading in sound and river waters — shared their concerns during recent public comment sessions held along the coast.

“I think you’ve hit a nerve — and you now have more stakeholders than a good night at Outback,” said Willy Phillips of Columbia, the first speaker at the Manteo session Jan. 30.

“I know when we were growing up it was always — whether we were fishing or surfing or whatever — ‘You should have been here yesterday.’ And I really don’t want to have to continue saying that to the people that come behind us.”

Bob Simpson of Carteret County noted that people wish to visit the coast because of the waters. Thus, state and local government agencies should consider the long-term economics of the coast, he added. “We can no longer afford to cater to short-term thinking.”

Convened by the N.C. Waterfront Access Study Committee, the meetings in Manteo, Morehead City and Wilmington together drew more than 275 people. Dozens more shared thoughts through written comments and e-mail.



Michael Halminski

LEFT: Commercial fishing captains say it is getting harder to find docking space at the coast. RIGHT: The Hatteras waterfront serves a variety of watercraft.

The 21-member committee, with representatives from state and local government agencies and a variety of stakeholder groups, is preparing a report that will be presented to the N.C. Joint Legislative Commission on Seafood and Aquaculture in April.

By law, the committee “shall study the degree of loss and potential loss of the diversity of uses ... and how these losses impact access to the public trust waters of the state.”

Since September, the committee has reviewed potential recommendations, including but not limited to:

- using and expanding existing trust funds to purchase waterfront parcels;
- expanding the “present use value” tax option now available for agricultural and forestry operations;
- encouraging the use of conditional zoning and other special district options within local land-use plans; and
- funding a socioeconomic impact study of sustaining and expanding working waterfronts and public access.

“The committee appreciates the speakers’ great passion and conviction on the topic of preserving and enhancing working waterfronts and public access uses along the state’s shore,” said Michael Voiland,

executive director of North Carolina Sea Grant and chair of the committee.

“The public statements not only validated most of our thinking to date, but also alerted us to a few aspects that had not been raised in the committee meetings.”

ANGLERS, BOATERS, PADDLERS

For generations, families from across the state have headed to the coast for a day or weekend to fish from oceanfront piers or launch boats onto sound waters and brackish creeks.

Thanks to better highways, getting to the coast is easier than ever. But upon arrival, daytrippers say fewer piers and long lines at public boat launching sites are the rule.

Ken Humphrey of Morehead City described meeting a Winston-Salem man who was near tears. The man had promised his grandsons a day of fishing — but by 1 p.m. he could not find an open launch ramp.

The state has good oceanfront access, but “when you get to the roads less traveled in North Carolina, there becomes a dearth of such access points,” said Jack Spruill of Hampstead. He encouraged the committee to include “low-key personal and family use” of public waters, such as

Continued



Jonathan Spiers/State Port Pilot



Sara Mirabilio



Courtesy N.C. Wildlife Resources Commission



Dylan Ray/Carteret News-Times



Sara Mirabilio



Courtesy N.C. Wildlife Resources Commission

TOP ROW, LEFT TO RIGHT: *The Wilmington comment session drew 65 people.* • *Speakers at the sessions had three minutes to offer comments on waterfront access.* • *The N.C. Wildlife Resources Commission provides launch ramps around the state, including at the coast.* • *The number of fishing piers along the coast is declining.* • *Commercial fishing gear includes nets and pots that sometimes draw complaints from new residents.* • *Morehead City has an urban waterfront.*

fishing from shore, putting in a skiff or letting the kids splash around.

Angler Oscar Palmer of Leland looks for public launch sites, which can be up to 30 miles or more apart. “Wetslips and drystacks are getting prohibitive for the average working guy like myself,” he said.

Many privately owned launch spots that had been low-cost options for generations are being sold, said Bob Bryant. He cited the recent closing of the Sneads Ferry Campground and Marina that had more than 70 parking slots.

Paddlers also are concerned about the loss of traditional “put-in” sites included in maps published by the Crystal Coast Canoe and Kayak Club. “People-powered watercraft do not require expensive infrastructure, only a grassy or sandy path to the water and a sand beach,” said Laura Bader, club representative. “We hope our voices will be heard for future construction projects, such as the Cape Carteret/Emerald Isle bridge access point.”

Several speakers suggested that access could be provided by the N.C. Department of Transportation at bridge spans and landings, and related easements.

While many comments focused on estuarine waters, several speakers noted the closing of oceanfront fishing piers after parcels change hands.

Outer Banks Fishing Pier owner Garry Oliver said that operations like his are part of many families’ histories and coastal lore. Countless youngsters caught their first fish on his pier. “Where else can you get a day of entertainment for less than \$10?”

Some pier owners suggest that the state should not buy piers, arguing that it would be unfair competition with existing businesses.

But if the General Assembly decides to fund an effort to purchase piers and provide operational funds, the North Carolina Aquariums — with locations at Roanoke Island, Pine Knoll Shores and Fort Fisher — would welcome the opportunity to operate a variety of programs at the sites.

Donna Moffitt, director of the Fort Fisher aquarium, said the aquariums could provide traditional ocean pier fishing and beach access, as well as educational exhibits and programs, environmental monitoring, and other research efforts.

WORKING WATERFRONTS

“North Carolina needs to remember its past to move forward effectively,” said David Hilton, a commercial fisherman from Ocracoke. “We are creeping toward an economy totally based on tourism.”

Others agreed. “Every week or two weeks you notice another recreational yacht in the place of a work boat,” said Karen Ampsacher of the Core Sound Waterfowl Museum on Harkers Island. Waterfronts and fish houses have as much historical value as colonial mansions, she added.

Jim Waterfield, a fish house owner in Knotts Island, spoke of increasing tension between long-time residents and newcomers who describe stacks of crabpots as “unsightly.”

And Jeff Aiken of Hatteras Island has fielded complaints that his ice-making machines are too noisy. He fears fish houses like his are fast becoming museums, as younger generations increasingly choose jobs off the water.

“I don’t mind working in a museum every day if it’s a working museum,” Aiken said. “But if I’ve got to put wax fishermen in it, I’m not interested.”

Similar sentiments were echoed along the coast. “Fishermen are being pushed out of their habitat,” said William Hickman of Brunswick County. He also cited a loss of commercial fishing slips at the Southport Marina, which is owned by the N.C. State Ports Authority.

While state officials are offering incentives for new companies to come to North Carolina, they are forgetting about industries that have



Michael Halminski



Michael Halminski



Scott Taylor



Michael Halminski



Michael Halminski



Michael Halminski

BOTTOM ROW, LEFT TO RIGHT: *The Morehead City session drew the largest crowd, more than 150 people.* • *Committee Chair Michael Voiland and other members listened to speakers at the Manteo meeting, which drew 60 people.* • *Parking is at a premium at launch sites.* • *Friends pause for a day of pier fishing.* • *Fish houses are located on the water so that the catch can be easily off-loaded.* • *Some waterfronts offer a variety of public uses.*

been in the state for centuries, said Gerry Smith, a fish house and boatyard owner on the Beaufort-Morehead City causeway.

Smith does not want a subsidy. “All I want is to be able for my family to keep on doing what we have been doing.”

Melvin Shepherd said that while state and regional committees were looking at fish stocks and habitat issues, coastal water access was slipping away. “Sneads Ferry right now is right at the edge of losing all its boats’ ability to dock – large and small.”

Betty Norman Edens of Sneads Ferry agreed. “I am one of those people crying for your help,” she told the committee. “Don’t let North Carolina become Florida.”

BUSINESS INTERESTS

Some business owners said that they do not want additional layers of government — and reminded the committee that access solutions must serve the entire state.

“There’s no free ride,” said Duke Geraghty of the Outer Banks Home Builders Association. “It’s got to be done with broad-based taxes.”

The N.C. Home Builders Association (NCHBA) supports the acquisition and maintenance of waterfront access, Lisa Martin told the committee. But, she added in written comments, “not all waterfront property needs to be completely accessible to the public. Private property rights must be respected.”

NCHBA questioned zoning approaches to advance access and also “opposes any new tax or fee on the development or transfer of property for the purpose of supporting a coastal access working waterfront trust fund.”

Melanie Cook of the Business Alliance for a Sound Economy repeated the NCHBA concern that “present use value” designations for property taxes may shift the tax burden to others.

Cook also suggested that greater study is needed to determine the expected economic impact of potential recommendations by the committee.

Her group, which includes homebuilders, landowners and realtors along the state’s southeastern coast, also would like a list of the areas and types of industry that may be considered for protection so that the “fixes” are adapted to meet specific community and industry needs.

“It would do little to further the fishing industry in the state if a building that once housed a commercial fishing operation is retained, yet there are no fishermen who can live and/or work in the immediate area as a result of unbridled regulation of the industry in the state,” Cook said.

Haywood Newkirk, a real estate appraiser, suggested that many developers would like incentives to include public boat ramps or public marinas, but “these people don’t know who to turn to.”

Some marina owners, like Tim Ward, are trying to develop new access options, but are frustrated by regulations. “We need more boat slips. We need some more access points,” Ward said.

Jim Flynt, owner of Core Creek Marine, voiced similar concerns in dealing with regulators while facing increasing customer demand. “Our phone rings almost daily with boaters seeking to haul-out — a haul-out commitment for hurricanes,” he said.

Jim Hardin of Grady-White Boats, Inc., noted that boating registrations in North Carolina had jumped 69 percent in the past 20 years, and that boat manufacturing and related businesses have annual sales of \$1 billion.

He suggested that the state explore revenue sources, such as requiring registrations for nonmotorized watercraft, reallocating gas taxes and increasing efforts in federal grant competitions.

Continued



Scott Taylor



Michael Halmnski



Scott Taylor



Courtesy N.C. Division of Coastal Management



Courtesy N.C. Division of Coastal Management



Courtesy N.C. Division of Coastal Management

CLOCKWISE FROM TOP LEFT: Coastal waters draw many paddlers. • Kayaks and canoes need “put-in” spots. • Many former fish markets, such as the Ottis’ market that was in Morehead City, are being replaced by new waterfront development. • The N.C. Division of Coastal Management (DCM) has a grant program to encourage communities to establish sites for waterfront access. • Urban waterfronts often include boardwalks or other areas that provide a view of boats in dock. • Some access sites offer launch areas and small piers.

“Boating is big business in North Carolina, and we need sufficient facilities to support our state’s boaters and their rights to enjoy using the public trust waters,” Hardin added in written comments.

WIDE SPECTRUM

State tourism efforts could be an option to fund access projects, several speakers suggested. And coastal tourism marketing campaigns could note the value of fresh local seafood.

“Any time I eat seafood, I ask where it came from,” said Carol McIntyre of Sneads Ferry.

Alton Ballance of Ocracoke said there are no simple solutions. But, he added, continued efforts will benefit year-round communities and tourists alike. “Create a North Carolina coast that has great diversity, and they’ll come back.”

Small communities in particular need help, several speakers explained.

“There are a mind-boggling number of different agencies that seem to blend all together. A single clearinghouse that could lead small communities in the right direction would be a major help. We have very dedicated volunteers, but dealing with state bureaucracy is most often a very daunting and discouraging process for the novice,” said Don Saddlemire of Sneads Ferry.

Although unincorporated, Wanchese may be ahead of many communities looking at zoning options to preserve traditional waterfront uses.

“Wanchese did something extraordinary for a small, local fishing village,” Tina Beacham explained. “Our zoning plan was designed in consideration of the different aspects of the community. Some areas in Wanchese are residential, some are commercial, and some are strictly water related. We designed each area to reflect what that area has historically been and how we wanted to see it for the future.”

Wilmington, the largest city along the North Carolina coast, faces similar challenges on a different scale. In particular, the city is concerned that many traditionally public access points have now

become exclusive, senior planner Philip Prete said.

Thus, city officials suggest state funds are needed to purchase critical parcels. Wilmington City Council passed a resolution to encourage the state to identify ways to ensure public access to coastal waters “to maintain the cultural integrity and character of coastal North Carolina for the benefit and enjoyment of all the people of the state.”

Doug Harris, chairman of the Carteret County Commissioners, told the committee that public comments focused on preserving and maintaining, rather than creating new waterfronts. “I wonder if that’s not because the people who organized you, and sent you here, realize that the volume and complexity and maze of regulations that one would have to go through to create any new working waterfronts are almost impossible.”

In recent years, Carteret County and its municipalities have found funding for access projects through the N.C. Division of Coastal Management and the Clean Water Management Trust Fund.

But, Morehead City Manager Randy Martin said, the needs are great — and existing sources are limited. “A small municipality like Morehead City, with less than 10,000 permanent residents, cannot take on the responsibility to provide water access for the entire state of North Carolina,” he said.

The N.C. Coastal Federation, which highlighted access issues in its 2006 *State of the Coast* report, had speakers at each of the regional comment sessions. They highlighted a variety of issues, including a need for more shellfish recycling sites, recent sales of access points by government agencies to private developers, and a request that aquaculture operations be included in the list of traditional waterfront uses.

Coastkeeper Jan DeBlieu said the large crowds at the meetings reflect public concern. “I think this is a vital effort. We’re all hoping that this is not just going to be a study that ends up on a shelf.”

For updates on the N.C. Waterfront Access Study Committee, go online to www.ncseagrant.org/waterfronts or call North Carolina Sea Grant at 919/515-2454. The committee is completing its report, which is due in April.