COMMISSION ON MARINE RESOURCES

COMMISSION MEETING

July 17, 2012

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COMMISSION ON MARINE RESOURCES
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TRANSCRIPT OF MEETING OF COMMISSION ON MARINE RESOURCES AT
BOLTON STATE BUILDING, PUBLIC MEETING ROOM, 1141 BAYVIEW
AVENUE, BILOXI, MISSISSIPPI, ON THE 17TH DAY OF JULY 2012
COMMENCING AT 9:00 A.M. AND REPORTED BY NORMA JEAN LACNER
SOROE, CERTIFIED SHORTHAND REPORTER.

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COMMISSION MEMBERS PRESENT:

DR. VERNON ASPER, Chairman
RICHARD GOLLOTT
SHELBY DUMOND
STEVE BOSARGE
JIMMY TAYLOR

ALSO PRESENT:

DR. WILLIAM WALSER, Executive Director DMR
JOSEPH R. BUNNELL, Esq., Asst. Attorney General
SANDEE CHIBNUT, Esq., Asst. Attorney General

A. Call to Order

DR. ASPER: Good morning. I'd like to welcome everyone to the regular July meeting of the Mississippi Commission on Marine Resources. Great to have everybody here. Before we start our regular agenda, there are three of our commissioners who have been reappointed for another four year term. We'd like Commissioners Bosarge, Gollott, and Drummond to come around to this side for the swearing in.

1. Oath of Office

(Whereupon the oath of office was administered by the Court Reporter.)

DR. ASPER: Thank you, gentlemen. Thank you for your years of service already, and I'm sure you'll do great in your next term.

2. Election of Officers

DR. ASPER: The next item on our agenda is the election of officers. Every year in July, we elect officers. And we start with the chairman, and then we go to vice-chair.

Are there any nominations for chairman?

MR. BOSARGE: I make a motion that we nominate Vernon Asper for chairman.

MR. GOLLOTT: I'd like to second that motion.

DR. ASPER: Any other nominations?

Is there a motion to close the nominations?

MR. DRUMMOND: So moved, Mr. President.

DR. ASPER: Is there a second?

MR. GOLLOTT: Second.

DR. ASPER: I guess that means I am elected by acclamation. Thank you for your trust in me. I'll try to do a good job.

And for vice-chair, are there nominations?

MR. GOLLOTT: I make a motion for Jimmy Taylor.

MR. BOSARGE: I'll second that motion.

DR. ASPER: Any other nominations?

MR. GOLLOTT: Make a motion we close.

DR. ASPER: Is there a second?

MR. DRUMMOND: I second the motion.

DR. ASPER: I guess we need to vote on that actually. Those in favor say aye. Say aye again for the vice-chair. Okay. Thank you.

Congratulations, Jimmy.

B. Approval of Minutes

DR. ASPER: Okay. We have the minutes here, and there should be copies in the back. Are there any changes to the agenda -- changes to the minutes as they were distributed?

Is there a motion to approve the minutes?

MR. DRUMMOND: So moved, Mr. President.

MR. GOLLOTT: Second, Mr. Chairman.

DR. ASPER: Those in favor say aye. That's carried.

C. Approval of Agenda

DR. ASPER: And the agenda, are there changes?

DR. WALSER: Yes, sir, Mr. Chairman. I assume the last thing on there was approval of the June 19 meeting minutes. You need to also approve the special-called July 2 minutes.

And then changes to the agenda, Item G-3, speckled trout update, need to change that from no action to action.

Item H-1 also needs to be changed from a no action to an action.

I believe that's all the changes.

DR. ASPER: Okay. Let's back up then and take a look at the minutes from the special meeting that was held on July 2. Are there any changes to those minutes? Or is there a motion to approve as distributed?

MR. DRUMMOND: So moved, Mr. Chairman.

MR. GOLLOTT: Second.

DR. ASPER: Those in favor say aye.

Okay. So now we've approved all of our minutes.

And the agenda with two changes. Any other changes? Or is there a motion to approve with those two changes?
MR. COLLOTT: Motion to approve, Mr. Chairman.

DR. ASPER: Is there a second?

MR. DRUMMOND: Second, Mr. Chairman.

DR. ASPER: Those in favor say aye.

Okay. Agenda is approved.

D. Public Comments

DR. ASPER: Come now to the time of public comment. I have two papers here -- requests. If you have not filled one of these out and would like to speak your mind or bring issue up to commission, please fill one of these out and get it to us so that we can recognize you.

Both of these individuals want to speak on Item G-2 which is the speckled trout update. We're going to talk about the quota.

I'll give you the option. This is Mr. Forte and Mr. Dubuisson, you can either talk now or when we're discussing that item. Which would you rather do?

PERSON IN AUDIENCE: When you discuss the item.

DR. ASPER: Okay. We'll do it then.

Anybody else for public comments?

E. Executive Director's Report

DR. ASPER: We'll move on to executive director's report.

DR. WALKER: Mr. Chairman, I have two administrative procedure matters, Mr. Richard Parker and Mr. 

George Lewis, both been found in possession of too many red snapper and have been -- my recommendation would be that we impose an administrative penalty against both of these gentlemen in the amount of $8,000 with $6,000 of the penalty suspended contingent upon the payment of $2,000 within 12 months and no new commercial fishing violations occurring within that same 12 month period.

We received notice that Mr. Parker would not be here today, and Mr. Lewis may or may not be present to discuss his case with you.

DR. ASPER: Okay. Are there any comments? Or is there a motion to accept this recommendation?

MR. TAYLOR: So moved.

DR. ASPER: Is there a second?

MR. BOSSARD: I'll second.


Anything else from the executive director?

DR. WALKER: No, sir.

F. Marine Patrol Report

DR. ASPER: Next, marine patrol. Chief.

2. Marine Patrol Report

MR. CHATIGNIER: Good morning, Mr. Chairman, commissioners, legal, Dr. Walker.

It's been a pretty good shrimp season so far as far as violations. Everybody seems to be in pretty good compliance.

We did have one shrimp in closed waters, and one was washing the nets in closed waters.

We went into a couple crabbing violations. Mr. Nguyen began to keep a few dozen crabs over his legal limit on a shrimp boat. He had 13 dozen without a crab license.

And then we had some undersized -- we had quite a few no saltwater fishing license, but it's that time of the year when the license change and all around and people go fishing and forget to renew their license.

We had one particular case, commercial fishing north of the CSX railroad bridge. One of the other officers approached a man. He presented his commercial fishing license, and he had several redfish that he explained to the officer his intentions were to sell them because he was commercially fishing for them. He was cited, and the fish were released back to the water.

Couple undersized fish cases.

Boat and water safety are running about the same as they do every month. Did three boat and water safety classes, certified 57 students.

We had two boat accidents with injuries. One of them was a boat explosion out at Horn Island. Somebody received major injuries on that. We got to the scene on that kind of late after the accident happened before we were even notified.

We didn't have any fatalities, which is good.

Our dive team assisted Hancock County on a dive looking for some evidence in a criminal case.

And we did boating safety presentations at the Biloxi Fire Department and the Mississippi Power Company during the month of June as far as our outreach presentation.

Our JFD patrols, we did 22 patrols, 333 man hours, made 221 contacts, and issued six strait violations during that time.

That's it for marine patrol. Any questions?

MR. DRUMMOND: Got any idea what the penalty is for a cracker catching 13 dozen too many crabs?

MR. CHATIGNIER: His first offense is one to five hundred, second offense is five hundred to a thousand, and third offense is two to four thousand.

MR. DRUMMOND: Thank you, sir.


G. Marine Fisheries


MR. DIAS: Good morning, Mr. Asper, commissioners, Dr. Walker, Ms. Chesnut.

Before we get started with the marine fisheries presentations, I want to update you on the commercial finfish.
The total commercial quota for redfish is 35,000 pounds a year. To date, we have harvested 19,984 pounds.
The total commercial quota for flounder is 74,000 pounds. To date, we have harvested 17,763 pounds.
First up for marine fisheries for presentations is going to be Buck Buchanan.

DR. ASPER: And just for the record, you did not give a speckled trout.

ME. DIAZ: Speckled trout, we met the quota on that, and it did close in May. Sorry about that.

DR. ASPER: Just so we have them all on the same page here.

3. Speckled Trout Update

ME. DIAZ: First up for marine fisheries is going to be Buck Buchanan, and he's going to do a speckled trout update.

ME. BUCHANAN: Good morning, commissioners, Dr. Walker, Sandy.

At the May commission meeting, we had some of our commercial fishermen asked to see for an update on spotted seatrout to see of the possibilities of extending the season. And we have a number of things that could be done to help them out.

And the commission asked us to give an update.

And if I could get to it, I guess I would...

Sorry about that.

The presentation I'm going to make is just a general overview of what the fishery looks like here right at the moment.

The first slide shows the Mississippi recreational and commercial spotted seatrout harvest. Since 1996, we have had a 40,000 pound quota. You see that the recreational fishery by and large takes the bulk of the catch. And it has been increasing over the last few years. Well, actually since about 1996 has been going up fairly steadily.

MR. BOSARGE: Buck, what is that number, the recreational catch?

ME. BUCHANAN: That's in pounds. The recreational catch is over 1.2 million at the moment. That's the number of pounds that is estimated by MBSG.

If you look at percentage commercial catch by year, this is the -- we have had a 40,000 pound quota. You'll see that the percentage catch for the last ten years, the commercial catch has been somewhere between three and six percent.

Resident commercial hook and line vessel and fisherman license basically peaked in '10 and '11, '11-12. And it has come down somewhat this past year. So the vessel licenses right now is about 211 with the number of commercial fishermen about 360.

These are just hook and line licenses. The vessel has to be licensed. Each fisherman on board the vessel has to have a license.

The way the quota essentially came about in the 1996 year was that at the time we were taking a look at reducing commercial or recreational and commercial fishing mortality at the time, and we basically asked for a 25,000 pound quota. This would be in conjunction of reducing the mortality on the fish, and the same thing as the recreational since it was a ten fish bag limit, 14 inches. And this was the recommendation.

However, that was not accepted by the commission. This would reduce mortality. They decided to go with a 40,000 pound quota which was basically like a ten year average, give or take.

I apologize for that. I should have boldered those. But those are the years that it was closed. The 2011, all those are October through the fishing year started in October of the previous year. So it started October 1995, in essence.

But in this past year, since we changed the fishing year from January 1, we had another three months so that extended the fishing year, so we added some more pounds on the quota. So we went from October through June 6, and in 2012 it went from October -- I mean from January 1 to May 19.

We are utilizing currently trip tickets to try to monitor the quota. These are due by the 10th of the month for the previous month's information. It does collect catch and effort information. We can get any number of things from this. We know there's approximately ten dealers that do dealer specs. There's three or four fresh product permit license holders that also deal because they sell to the public or wherever they chose to sell them. And about 180 fishermen. So that's kind of a -- have sold their catch, anywhere from two to 2,000 pounds.

But if you're on a vessel, only one of those fishermen -- I mean, there's about average of 17 fishermen per vessel give or take. So two people. So one person is going to sell the fish and sign the ticket. So you got to be careful with that.

The recreational. Recreational fishing licenses have basically been increasing for a while. We're up to about sixty -- well, this is another about 65,000 with another 5,000, that's 68,000 annual license. We have about 6,000 three-day licenses. And we have an over 65 license that I really should have added probably these two together. And so that's another probably 5,000. So there's probably like seventy-three, seventy-six thousand licenses out there.

The fishing effort has been steadily increasing,

N.J. SOROE, CSR #1297
along with the increasing license sales. So there have been
more trips.

Catch per unit of effort has stayed pretty much
steady. In 2009, we did have a rise. This is about the time
we changed it to 13 inches. But it has remained fairly steady
state. So there's more fish being caught. There's more trips.
And if you look at just the mean length in
inches, the spotted seatrout size has been somewhere between 14
and 16 inches on the average.

If we look at our independent information, the
independent information goes up. These gill net sets that
we do all across the Gulf Coast, 12 a month. About 108 net
sets per year. And the population looks like it is pretty much
steady state right at the moment.

In that same vein, looking at populations, we
also have a stock enhancement program which began in 2004. And
to date, we've released over 500,000 fingerlings.

All right. When we looked at a bunch of
different I guess scenarios or a bunch of different things for
possibly extending the season any number of different ways, and
we looked at — this is what the other Gulf states do. Take a
look at Florida. In order to — they have a means test. A
person has got to provide at least proof of $5,000 of income
from the sale of saltwater products to a licensed dealer in any
12 consecutive months for the last — so they basically say you

got to be a commercial fisherman or 25 percent of your income
has to come from commercial fishing. Not necessarily speckled
tROUT. It can be anything. They also have a bag limit. And
the length limits are 15 to 25, and the fishing year is June,
July, and August.

Alabama, Texas obviously have no commercial
take. And you know what ours is.

Louisiana, also, you must provide a means test.
And you got to provide proof of such income simply by using tax
returns. And you must have also held a gill net license in
certain years. The legal gear is rod and reel. And the
fishing year is January 2 to the 31st.

When we consider all these — I mean there's any
number of ways that you could extend the season, you could do
this and do that, restrict number of licenses, proof of income,
means test, any number of other things.

And our staff recommendation would actually be
to increase the quota by 25 percent, 10,000 pounds. This would
make it a 50,000 pound quota. This would extend it for a
certain period of time.

And that's what we're here to present to you to
see if this is acceptable or if there's other...

MR. TAYLOR: Do you have an expiration date on
that extension of the quota, Buck, so that it could be tested,
And I think, you know, a lot of people benefit by commercial because they sell license and all. And I think they've been selling 200 plus commercial license at $100 a piece. And they could even charge -- I mean, the way I think the state could benefit from it, they could go to like three or four hundred dollars per boat and, you know, like anywhere from -- if you have one person or five people on the boat, that would be the same amount like you know, $500 or $300. And therefore you could, you know, the state would be getting more money out of it.

But, I guess it needs to go up because this year, all the restaurants down here in the summer, they depend on speckled trout, and here it is the peak of the tourist season, they close it up before the tourist season got started. You know, you can't even sell fish, and there's plenty of them out there.

So I just feel like it's way, way too low. And I hope y'all get it up to at least 100,000.

Okay. Thank you.

DR. ASPER: Thank you.

Mr. Dubuisson.

Mr. Dubuisson: Good morning. Matt Dubuisson.

I'd like to reemphasize everything Jerry said.

Basically, you know, I agree with him.

But I would like to see, you know -- you're talking about the mortality rate of the smaller fish -- maybe go to a 15 inch fish for commercial. Let's look at that.

And that's really -- you know, I don't have the answer or the solution, but I'd like to try something like that maybe.

That's all I got.

DR. ASPER: Thank you.

MR. GOLLOTT: Mr. Chairman, we are not in a hurry to do this. And I've got some ideas. I was thinking about reducing the months down and maybe put a 10,000 quota on per month or something to stretch this thing out so it's not all caught in one or two months.

What I'd like, if it's okay with the commission, is to give it to the staff -- we've got until January -- let's see if we can work out a reasonable quota and a way to implement this thing so, you know, it will last through the summer months when the people eat a lot of fish and not February and March, because that's months that's not really good for fishing, and give us more through September or something.

And if that's okay, I'd like to make that motion that we give it to the staff to study.

DR. ASPER: Is there a second to that motion?

MR. DRUMMOND: I'll second the motion.

MR. BOSARGE: I'd just like to ask one question.

Are you trying to figure out a way to split the quota up or I guess split the quota up amongst the fishermen that are here now? Is that what you've kind got on your mind?

MR. GOLLOTT: Well, I want to look at that and give the fishermen a quota or give the people buying it a quota or, you know, just putting a quota per month, in other words, you can't go over because the last time we increased the quota they filled it within like a couple of weeks.

MR. BOSARGE: And I believe now with the trip ticket, we're probably going to get a better handle on the fish that are actually being landed, too.

So I'm with you. That's going to be a daunting task I think for the folks tasked with it, but, yeah, we need to do something. I'm with you.

MR. TAYLOR: We do need to -- our people that come down here, I think it's very important that they have probably the best resource to eat which is the speckled trout during the summer months. And I think anything we can do to help that, of course, it helps the fisherman, too, without hurting the resource itself.

MR. BOSARGE: Commissioner Gollott, would it be reasonable to go ahead and increase the quota by the 10,000 pounds while we're working on this?

MR. GOLLOTT: Well, it doesn't take effect until January. So let the staff come back and give us a recommendation on that.

DR. ASPER: Okay. The motion before us which has been made by Commissioner Gollott and seconded by Commissioner Drummond is to give this issue back to the staff one more time and with the suggestion that we work with them to come up with a plan to spread the harvest out a little bit longer so that there is not a lack of fresh local trout for the restaurants in the summer. Is that a good synopsis?

MR. GOLLOTT: Yeah. To try to work with the fishermen and the dealers, you know, get their input on this thing, to see if we can come out with a good recommendation that will make everybody happy.

DR. ASPER: I will comment that it's good to see that speckled trout fishery in general is doing so well and that we are in a position where we're deciding an allocation issue rather than a preservation issue or a conservation issue. It's really nice to have it as healthy as it is.

So I think we'll be able to work something out.

Any further comments?

MR. DRUMMOND: I'd like to make a comment.

Buck, if and when there's an increase in the quota for speckled trout commercial fishermen, will there be a public hearing associated with it?

I mean, I think it should go out for the public to hear it, what the changes are and what the plans are.
MR. BOUCHAN: We can if that's the commission's...

MR. DRUMMOND: It's not something that necessarily will happen, huh?

MR. BOUCHAN: Well, no, I mean, unless it's requested by somebody, you know, it doesn't have to go out to public...

MR. DRUMMOND: Okay. That's all I'm asking.

DR. ASPER: Any further discussion? Those in favor of the motion signify by saying aye. Those opposed.

Carries unanimously.

MR. BOUCHAN: Thank you.

4. Biloxi Fishing Reef Development

MR. DIAZ: Next up for marine fisheries is going to be Kerwin Cuevas, and he's going to do a presentation on the Biloxi fishing reef development on Katrina Key.

We wanted to do this because eight, ten months ago, there was a pretty good bit of discussion here in public comments to the commission about how this material was going to be handled from the old fishing piers. I know Senator Collott was interested in it, and there was other members of the public that brought it up in public comments.

So we wanted to give the commission an update.

MR. CUEVAS: Good morning, commissioners, Dr. Walker, legal.

A little update on Katrina Key extension.

The partners in the extension, I'd like to thank the City of Biloxi, of course, our state legislators, in particular Senator Tommy Collott because he was instrumental in obtaining additional funds instead of this material going to the shore and get crushed and used for other stuff. He obtained additional funds from the legislators to put this material on the key. So, I'd like to thank him. Of course, our Commission on Marine Resources and our partner in the artificial reefs for the State of Mississippi, Mississippi Gulf Fishing Banks.

The contractors, of course, W.C. Fore Construction. And Borchles Construction also, they deployed five barge loads from the commercial harbor out of Biloxi on the demolition, so they deployed extra for us on the key.

Just a quick look at where the key is. Most people are familiar right there by Deer Island, just south side of Deer Island. This is all our inshore reefs, you can see, from coastline to coastline.

Here we go. It's somewhere right around Katrina Key just south of Deer Island.

Here's an overall view. I thank Darren Stewart with shrimp and crab for taking these pictures for us. On the right, you can see the key. This is before the extension. And this, of course, is Google Earth on the left.

Here is just a picture of the bridge coming up.

This is the Biloxi side of the Ocean Springs bridge, old fishing pier bridge.

And this is the material that was used on the extension.

And this is just a picture. This is the first leg. There was two legs from this Back Bay fishing pier bridge. This is the first leg.

What we did was, instead of continuing one continuous key to the west, we brought it in, created a gap. We had comments from the public. Of course, the commissioners gave us comments, charter boat captains, everybody wanted to have gaps in there to create this flow which adds additional foraging for our fish which our fishermen can utilize.

This is the first leg to your right, and you can see the gap.

This is the start of the second leg. After the completion of the second leg -- we have two legs. They're approximately 100 yards apart with about a 20 yard gap in between.

And this is results, of course, speckled trout. Where's Back? You're welcome, Back. Thank you.

Anyway... but this is just some of the fish being caught off the reef.

And again, we'd like to thank partners.

Mississippi Gulf Fishing Banks and, of course, the commission for support of the Mississippi Artificial Reef Program.

Any questions?

MR. TAYLOR: I have a comment. I've been involved with the Fishing Banks for about 25 years, served as an officer, and it is a very unusual -- I'm just a member now -- partnership that has worked tremendously well for the State of Mississippi and its citizens.

The Fishing Banks hold most of the permits on the reef that they, along with the DMR and Kerwin, have built reefs probably at a third to one-quarter of what it costs elsewhere in the Nation to build reefs.

I've actually done studies on different reefs to what it costs from other states, and it's just amazing how well the partnership worked for the State of Mississippi.

MR. CUEVAS: Thank you, commissioner.

And again, we wouldn't have the reefs if it wasn't for the Commission on Marine Resources and Dr. Walker getting funding for these reefs.

Thank you.

DR. ASPER: Thank you, Kerwin.

5. State Records

MR. DIAZ: Thank you, Kerwin.

Last up for marine fisheries is Eric Porche, and he has a state record.
MR. FORCH: Good morning. I have one record to submit for your consideration this morning.

It's for conventional tackle. It's for Atlantic sharpnose shark, Rhizoprionodon terraenovae. Old record of 10 pounds 7.18 ounces. It will be a new record of 12 pounds 9.5 ounces caught by Paul Greenwood.

There's the Atlantic sharpnose and Mr. Greenwood and the shark.

Any questions?

MR. DRUMMOND: I make the motion, Mr. Chairman, that we accept this new record.

MR. GOLLOTT: Second.

DR. ASPER: Those in favor say aye. Approved unanimously. Thanks.

Congratulations to the angler.

I believe we're now ready for coastal ecology.

H. Coastal Ecology

MR. BOYD: Good morning, Mr. Chairman, commissioners, Dr. Walker, Sandy.

Coastal ecology has six action items for your consideration this morning. Before we get to that, I wanted to share the Chancery Court of Harrison County made a decision on the John Beck, Kim Beck versus Mississippi Department of Marine Resources case.

Ordered and adjudged that the decision of the

Mississippi Commission on Marine Resources to issue the permit to the City of Biloxi was hereby affirmed. This decision was made by the Court in May, and we waited for the 30 day appeal to end before I brought it to you.

So I just wanted to give kudos to our legal folks for this.

And if you need copies of it, we can provide that to you.

DR. ASPER: Okay.

Jan, I think we need to take a short break before we get into the next issue, so let's take a short break.

(OFF the record.)

DR. ASPER: Come back to order. We're picking up with Item H-1(a).

1. Staff Follow-Up Items

a. Paul A. Lea, Jr.

MR. DAVIS: Good morning, commissioners. My name is James Davis. I'll be presenting the first item for coastal ecology.

We have a petition for reconsideration by Mr. Paul Lea, Jr. It's located on an unnamed canal adjacent to Bayou Portage at 5840 East Midway Drive in Pass Christian. It's in a general use district.

Marked is Mr. Lea's project location just east of Bay St. Louis.

This is Mr. Lea's boathouse and lot here.

Description:

The project involves construction of a boathouse that was constructed outside of permitted guidelines.

On June 19 at last month's commission meeting, you ruled that the boathouse be brought into compliance within 60 days, issued a $1500 fine, and after 60 days have the project forwarded to the Attorney General and $500 per day levied for each day past the restoration.

On July 3, 2012, Mr. Lea filed a petition for reconsideration of the commission ruling on June 19.

On July 9, Mr. Lea was informed his petition was being presented at the July 17 meeting. Mr. Lea responded that day through e-mail he was waiving his appearance.

Title 22 Part 15, the administrative rules are required by Mississippi Administrative Procedures Law, the petition shall state specifically points of law or facts which the party requesting the reconsideration believes the commission has overlooked, misapprehended, and shall contain a statement of action which the party wishes the commission to take.

In Mr. Lea's petition, he did not state a statement of action which he wishes the commission to take.

At this point, the commission may make a final disposition of the petition by either granting or denying the

1 requested action without further argument, request a response from the Department of Marine Resources prior to making a final disposition, set the matter for evidentiary hearing, or make such further order as it deems appropriate under the circumstances.

MR. TAYLOR: Mr. Chairman, I make a motion to deny the petition.

MR. GOLLOTT: I'll second.

DR. ASPER: Is there further discussion? Those in favor say aye. Carried unanimously. Thanks, James.

MR. DAVIS: Thank you.

3. Bureau of Wetlands Permitting

a. Jackson County Port Authority

MR. COLE: Good morning. My name is Ron Cole, and I will be presenting the next project.

It's a request for a certificate of exclusion by the Jackson County Port Authority located on the Passaquosa Lower Sound and Bayou Casotte navigation channels in Jackson County. It's in a special use district, the S-5 which is designated for navigation channels. And the agent for the project is Atkins Global.

Here you can see a map of the project location. The existing channel is -- or the existing channels are in blue, and what they're requesting is in green.

Description of the project. The applicant is

N.J. SOROE, CSR #1297
seeking authorization to widen existing Pascagoula Lower Sound and Bayou Casotte federal navigation channel segments. Widening would consist of widening the existing channel 100 feet towards the west. This would amount to dredging approximately 3.4 million cubic yards of material from along 7.2 miles of channel reaching the established navigational depth of 42 feet below mean low water.

Here's a diagram of the project. You can see the existing channel coming out of Bayou Casotte going out to Horn Island Pass. They want to widen that channel another 100 feet to the west.

The project would serve a higher public purpose by improving shipping transit conditions and safety of the port operations.

The project is allowable within the special use district for navigational channels. There are no precedent setting effects expected because the site has historically been utilized as a navigation channel, and similar projects have been approved by the commission.

There will be a temporary loss of benthic organisms during the dredging operations and an increase in turbidity in the immediate area can be expected. However, best management practices will be utilized daily, and water quality monitoring will take place according to DEQ's water quality guidelines.

There are currently no known plans beyond the proposed channel widening.

Best management practices again will be utilized during all phases of the dredging. And they will minimize the resuspension of sediment during removal and transfer use, as well as again DEQ's water quality monitoring.

There was an alternative design considered for this project. Instead of expanding 100 feet to the west, they considered expanding 50 feet on each side of the channel. But this design was considered to be more operationally feasible. The area is already utilized as a navigation channel, so there should not be any impacts to the scenic qualities.

The project does serve the national interest through the support of natural energy policy and the national need for transportation which includes ports and navigation. The project has been out on comment in the Sun Herald. We received no comments.

DEQ is currently reviewing the project. Secretary of State's Office has stated that they have no objection to the project.

Archives & History has stated that they have no objection to the project.

And Wildlife, Fisheries &arks said that they would like to see preemptive trawling around the dredge head when possible to prevent unintentional killing of state and federally listed species. And they would also like to see the dredging performed at times when these species would be least likely to be in the area.

So based on our evaluation, the staff has determined that the project is consistent with the Mississippi Coastal Program, does serve a higher public purpose, and recommends approval of the project with the condition that preemptive trawling be performed when proper barge methods of dredging are being utilized.

DR. ASPER: Ron, could you comment on the disposition of this material? I'm a little curious first of all about how much of it will go to the open ocean sites and how much of it do you expect to use in beneficial use.

And my perception of this is that it's far easier for them just to go out and dump than it is for them to reclaim it out of their hole basically and pump it up on land somewhere.

So I guess I'm going to ask: How much do you expect to go to the open ocean sites, and how are we monitoring what that impact is?

MR. COLE: Well, the exact ratio hasn't been determined yet. The way we were planning to condition the permit would be to say that it would go to an approved location, which would be either a beneficial use site or the open ocean disposal sites. And its availability for the beneficial use sites would be dependent on passing the testing that we require for these sites and a site being available for them.

And the permit would be conditioned to where it would be placed in either/or.

The applicant and the applicant's consultant are each here if you'd like to get some more information on the technical details of that.

DR. ASPER: Are we monitoring what's going on offshore? The open ocean disposal sites, they're not really that open ocean. They're within state waters, or are they in federal waters?

MR. COLE: These will be in federal waters.

DR. ASPER: I'm a little concerned about the effects it has on our fishing reefs out there, things like that. There is a turbidity factor, and it does cover up the bottom, things like that. So I'm just concerned about that, that we're looking at the big picture when we authorize these.

MR. GOLLOTT: I'm with you, Mr. Chairman. I think we need to use this on beneficial if there's any way possible in the State of Mississippi, not put it out where our shrimp boats are out there shrimpng.

MR. COLE: Okay. Like I said, the material will
be authorized for use as beneficial use, depending on
suitability and availability.

DR. ASPER: How limiting is the availability of
suitable sites for beneficial use? Is it likely that there
won't be a site available?

MR. COLE: We're in the process of getting the
Round Island site approved right now. If you're familiar with
what happened with the Greenwood Island site, the public didn't
want it, so it was shot down.

So, you know, just based on getting these sites
approved -- I mean, the program is very infant stages, so this
work will be going on through I think 2015. So it will be
years to come. So hopefully we'll be able to have a few more
sites approved before the project is complete. So it would
increase the chances that some of this material could be used
beneficially.

DR. ASPER: What's the status of the Singing
River Island site? We had a presentation by the Corps years
ago that they were only going to put a barrier two-thirds of
the way around it or something like that. Is that ongoing?

MR. BOYD: That is ongoing. I think it's been
approved already.

DR. ASPER: It's available for some of this
material perhaps?

MR. BOYD: Well, no. The Corps has got it
nailed down for just their maintenance dredging material. But
we've got several sites we're trying to get approved now. I've
got George Ramsur working on that. We've almost got Round
Island approved for about I'm wanting to say six to eight
hundred acres. And we've got some sites already approved for
Deer Island that we haven't filled up yet.

And we've got some more on the drawing board.

DR. ASPER: I know it's a long ways away, but
what about Ship Island?

MR. BOYD: We can't do much with Ship Island.
That belongs to the federal government.

DR. ASPER: They're going to need a lot of
material; right?

MR. BOYD: I think they've located their
material for that.

MR. GOLLOTT: What about the Deer Island site?

MR. BOYD: We have -- I think we've added about
200 acres to Deer Island so far, and we've got probably another
hundred acres available of area that we can put material in.

MR. GOLLOTT: My concern is once we issue this
permit, then they're going to go the cheapest route and
probably go ocean.

MR. BOYD: I don't think they can necessarily do
that. If it passes the testing criteria that DBQ has set up,
it has to go to beneficial use.
DR. ASPER: Any other questions? Is there a motion?

MR. DRUMMOND: I make a motion we approve this project, Mr. Chairman.

DR. ASPER: Is there a second?

MR. BOSARGE: So second.


b. Tommy Newman

Mr. Davis: Good morning, again. I'm James Davis. Next up we have a permit extension request by Mr. Tommy Newman. It's on Bayou Laporte in Biloxi. It's in the general use district, and the agent is Joe Gill Consulting. And Mr. Joe Gill is here today.

Project location in Biloxi. It's located off Atkinson Road.

Project location is here. Here's Atkinson Road.

And Poppes Ferry is just over here to the west.

Project description. Applicant is requesting a three-year extension to the permit.

Previously permitted project includes wetland fill, bulkhead, multiple piers, and a thousand cubic yards of dredging.

Here is a diagram of the project. We have our wetland fill in this area here, an existing borrow pit here and here. Our piers are going to be in this area. And then our dredging is going to be done in this little narrow canal there.

June 2005, commission approved a permit which expired on June 27, 2008.

March 16, the commission approved a four-year extension request.

And June 18, 2012, DMR received a letter requesting a three-year extension so the permit would expire August 21, 2015.

Staff recommends the commission approves to extend the permit for three years so it expired August 21, 2015.

Mr. Taylor: I make a motion, Mr. Chairman, we accept staff's recommendation.

DR. ASPER: Is there a second?

MR. BOSARGE: I'll second the motion.


c. Warren Public, Inc.

MR. OVERSTREET: Good morning. My name is Jeremy Overstreet, and I'm presenting a permit for Warren Paving. It's located on Harrison County Industrial Seaway in Gulfport. It's located in the industrial development use district. And the agent is Billy Goulpepper.

It's located just east of Cowan-Lorraine Road.

This is a closeup. And this is an existing bulkhead. And it's 455 feet in length. And it was permitted in 2007. And the proposed bulkhead would extend 138 feet to the east and 555 feet to the west.

Project consists of 688 feet of bulkheads and three mooring pilings and 4,564 cubic yards of fill.

This is a diagram. And you see the existing bulkhead here and the extension to each side.

This is a picture of the site. You can see there where they're tying up to the pine trees, and that's where they're mooring currently.

This is a photo of the existing bulkhead.

The public benefit of the project is improving the existing loading facility and creating safer navigational conditions in the Industrial Seaway for recreational and industrial vessels.

The proposed project is allowable within the industrial development use district.

The applicant requested a variance to the coastal program that vertical face structures shall be aligned no further seaward than mean high tide. And they used the justification that the impacts from coastal wetlands would be no worse than if the guidelines were followed.

And best management practices will be employed to reduce the impacts to the manmade canal. And the bulkhead will be constructed prior to any earthwork. And to contain any turbidity associated with such earthwork, and if any areas exhibit potential for erosion into the waterway from the upland site, best management practices such as hay bales, silt fencing, and earthen berms will be employed.

Similar projects have been approved by the commission and is not expected to set a negative precedent.

The proposed fill would be placed in previously excavated manmade water bottoms and not in coastal wetlands.

There would be noise, ground disturbance from heavy machinery, and an increase in boat traffic during the construction.

Best management practices will reduce any adverse impacts.

Utilization of the existing industrial site is preferable to creating a new site elsewhere.

And the proposed site is an industrial area with other industrial facilities located adjacent to the site.

And scenic qualities should not be impaired by the proposed project.

Notification was published in the Sun Herald on June 24, July 1, and July 8, and no comments were received.
DEQ is currently evaluating the project.

Department of Archives & History and Secretary of State have no objections.

And Department of Wildlife, Fisheries & Parks recommend that best management practices be implemented.

The staff has conducted a thorough evaluation of the project. And based on that evaluation, it has been determined that the project should not have significant impacts on coastal wetlands because the area proposed for the fill is not part of a meandering canal and not located in or near coastal wetlands, would not set a negative precedent, and serves a higher public interest.

Therefore, staff recommends approval of the variance request and issuance of the requested permits.

The applicant was notified, and there's a consultant here to answer any questions if you have any.

MR. TAYLOR: Would you go back to the picture of the pine trees where they've been tied up? I think it was the first or second picture.

While you're doing that, my thoughts. The Industrial Canal is a safe haven during storms, hurricanes, for many of our commercial fishing boats and recreational fishing boats. And just curious if that was tied up here are their vessels, Warren Paving vessels, because -- and I'm wondering if there's any restrictions once this is bulkheaded.

And all to keep shrimp boats and so -- I think if a shrimp boat is there and sinks and puts diesel fuel and oil in the water, it's much worse than what you are doing here.

And I'm just curious, I mean.

MR. OVERSTREET: Well, it's private property where they're tying off to. And during the site visit, that's where they said that they were tying up to. And the aerial photography that I pulled up -- well, you can see where they're located right there.

If you have any other questions...

MR. TAYLOR: That's fine.

MR. GULLOTT: Mr. Chairman, I make a motion that we accept staff recommendation.

DR. ASPER: Is there a second?

MR. BOGERS: I'll second.


MR. DRUMMOND: Jeremy, I have one more question after the fact. What's a name like Warren Paving building a bulkhead in the Industrial Canal in Harrison County? Are they a paving company?

MR. OVERSTREET: Yes, sir. What they're using that site for is they get their material from all the way up in Tennessee, and they bring it down the Mississippi and up the canal and eventually to that site. And then that's where they offload and unload in that area right there.

MR. DRUMMOND: Thank you, Jeremy.

MR. OVERSTREET: Thank you.

d. Kim Miller

MR. CHRISTODOULOU: Good morning. My name is Greg Christodoulou. I am presenting H-3(d). It's a permit request by Kim Miller located on the Jourdan River and an adjacent canal at 107 Fiber Street, Bay St. Louis. General use district. And the agent is Pink Marine.

Here is an aerial of the location. It's this yellow thumb tack here, just east of 603, south of 10, and north of 90.

Here is a zoomed-in location on aerial. This is the lot in question right here on this unnamed canal and the Jourdan River.

Project description is for a 30 foot by 13 and a half foot boathouse, three piers, one 40 by 4, one 22 feet 10 inches by 10 feet 10 inches which would be a covered pier, and a pier that is currently existing on the property that's 169 feet by 3 feet 9 inches.

And the total shading for the project is 1,630 square feet.

Here's a diagram of the project. The structures in green are the proposed structures. There's a boathouse here. The piers here. The red piers are currently existing on the property. This area of pier that is currently existing will be removed to get the square footage of the project down to a more acceptable level. There is an existing boat ramp and there's an existing bulkhead on the property.

Normally when we see structures like this, this 40 by 4 foot pier is considered an access pier. But since the property owner has access to navigable depths here in the canal, this would count into the square footage on this particular project.

Decision factors:

The project does not serve a higher public purpose.

It is allowable within the general use district.

Similar projects have been approved by the commission, and this is not expected to set a precedent.

Piling installation may temporarily increase the turbidity in the area and result in a temporary decrease in benthic organisms.

And the project would result in the shading of about 1630 square feet of waterbottoms.

Best management practices will reduce adverse impacts to coastal wetlands.

No alternative sites were considered because this is a private residential lot, and the project serves to allow the property owner access to the water.
There are other piers and boathouses in the area, so the project is not expected to adversely affect the natural scenic qualities.

Public notice was run as required. No public comments were received.

Archives & History is reviewing the project, as well as DEQ.

Secretary of State has said there's no tidelands issues associated with the project.

And Wildlife, Fisheries & Parks has recommended best management practices be implemented.

Staff has made an evaluation of the project. And based on the results, it has been determined the project is consistent with the coastal program, and staff recommends issuance of the requested permit. And the agent for the project is here if you have any questions for him.

MR. TAYLOR: Mr. Chairman, I'll make the motion that we accept staff's recommendation.

DR. ASGER: Is there a second?

MR. DUMOND: Second the motion.


Thanks, Greg.

e. Emmett Zimmerman

MS. BRANTLEY: Good morning, commissioners. My name is Willa Brantley, and I'll be presenting our last item on the agenda this morning. This is a violation/request for a after-the-fact permit by Emmett Zimmerman located on Bayou Carre in the Rln. And it's in a general use district. And the agent is Mickey Lagasse.

Project location. Here is I-10. This is Highway 43. This is the Jourdan River right here. Here's a little oxbow lake, and that's where the project is located. This is the oxbow that extends this way, and this is Dr. Zimmerman's property.

The description is a constructed boathouse 57 feet in length by 35 feet in width with an enclosed storage level. And it's also constructed at 31 feet above mean high tide in height. It might be a little more than that. We've gotten different numbers from the agent, 31 or 32, but it's right in that area.

This is the approved diagram from when this came to the commission and was originally approved. It came before the commission because of the size of the boathouse being over 1500 square feet. The total that was approved was 1,995 square feet.

This is the boathouse. And a boat launch was approved right next to it. This blue line was a proposed bulkhead that has been constructed. And then this red line, they are going to do some erosion control on that part through some type of living shoreline.

This is a picture of the site. You can see the bulkhead is constructed. And this is the boathouse. From this angle, it looks kind of like it's over land, but it's not.

It's over water. You can see the tops of the boats underneath.

It's got stairs up. And it's a whole story that's enclosed here for a storage area.

And yesterday we went out to take some just last minute confirmation measurements on the height, a couple of the staff did. And they noticed that there was an extra pier here that had not been authorized. And apparently this section down here at this end and this section have been added within the last week. So that's another violation that we had to add to it. And they are still under a cease and desist notice.

But I did get an e-mail this morning, actually it looks like it was sent last night after we left, from Mickey Lagasse, their agent, saying that the Zimmermans have agreed to remove the excess dock and come into compliance. So they're going to remove those extra two ends down here, and that will get them within 14 feet, and then they're going to find 14 feet some place else on the structure to get down to the 1,995 that was approved.

Decision factors:

1. This project does not serve a higher public purpose.

The proposed project is allowable within the general use district.

If approved, the project would set a precedent for allowing an enclosed structure over water and for allowing a structure greater than 25 feet above mean high tide in height.

The effects of this:

1. An enclosed structure over water increases the amount of shading to the waterbottoms because the sides aren't light penetrable, there's more shade.

2. There's a higher likelihood both from the vertical walls and from the height of the structure that it could be destroyed during a windstorm event.

3. It would also -- that would cause more debris to either hit other people's homes in the area or be washed back out into coastal wetlands to have to be cleaned up later.

4. There's also the potential if we start allowing enclosed structures over water for people to conceal wastewater discharge points.

5. There is no evidence whatsoever right now that Mr. Zimmerman has done that or has any plans to do that, so as of right now that's not a concern with his. It's just a concern for future projects. If we started allowing those all the time, that would be really hard for the staff to keep up with and enforce.
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<th>Page 1</th>
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<td>Removing the walls and reducing the height to be</td>
<td>And then if the structure is not brought into</td>
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<td>in compliance with the issued permit would minimize these</td>
<td>compliance within 90 days, the matter should be forwarded to</td>
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<td>potential adverse impacts.</td>
<td>the Attorney General's Office for further enforcement action.</td>
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<td>No alternative sites were considered because</td>
<td>And Mickey Lagasse, the agent for Dr. Zimmerman, is here and has indicated that he would like to speak. And I</td>
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<td>this is a private residential lot, and the project serves to</td>
<td>think he even has a handout that he would like to give.</td>
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<td>allow the property owner access to the water.</td>
<td>Dr. ASPER: Willis, my recollection of some past</td>
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<td>The boathouse as currently constructed at 31 to</td>
<td>issues with boathouses is that we have been really strict about</td>
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<td>32 feet above mean high tide in height is taller than other</td>
<td>the open-sided rule. In fact, as I recall, there was one in</td>
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<td>structures in the area and would therefore impact the natural</td>
<td>Waveland that was a pretty nice boathouse, and we required the</td>
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<td>scenic qualities to a greater extent than other structures.</td>
<td>individual to strip the walls off of it and so on. And within</td>
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<td>Notification appeared in the Sun Herald as</td>
<td>a few months, that individual actually committed suicide. He</td>
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<td>required. We did not receive any public comments.</td>
<td>was very depressed about the whole thing.</td>
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<td>And when it was sent out to all the normal</td>
<td>And there was also another issue in Ocean</td>
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<td>agencies, we did not receive any comments from any of them,</td>
<td>Springs that I can remember that was pretty hotly disputed.</td>
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<td>either.</td>
<td>But again, we held the line on it.</td>
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<td>A couple of things we wanted to point out.</td>
<td>So I just want to be sure I'm understanding</td>
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<td>This is the original application that was</td>
<td>right, that the big issues we've got are the open sides, and we</td>
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<td>received in November of 2011. And you can see on the front</td>
<td>just don't allow that, and then we've held the line on that in</td>
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<td>page, the height of the boathouse was entered as 25 feet is</td>
<td>the past. And then, of course, also the height. And we just</td>
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<td>what they were asking for authorization for.</td>
<td>had one for reconsideration which we denied based on the</td>
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<td>This is the permit condition. It's an</td>
<td>height.</td>
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<td>open-sided covered boathouse, gives the dimensions, and it says</td>
<td>Ms. BRANTLEY: And there are others, too, that</td>
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<td>no more than 25 feet above mean high tide in height.</td>
<td>have been caused to take the solid walls out and put in air and</td>
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<td>And then this is showing where the agent for the</td>
<td>light penetrable walls.</td>
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<td>Zimmermans signed the diagram and sent it back. And that</td>
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<td>signature means that they accepted the conditions that were in</td>
<td>I would want to say before you start considering</td>
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<td>the permit.</td>
<td>a decision that it doesn't have to be all or nothing, like, you</td>
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<td>One thing that we did get in this last permit</td>
<td>know, if you wanted to approve the height but not the</td>
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<td>for the after-the-fact because there are more than three</td>
<td>enclosure, you can do that. You can add conditions to our</td>
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<td>residential slips in this boathouse, it was indicated that it</td>
<td>recommendation. So just keep that in mind when you're making</td>
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<td>will serve three families. So we're going to allow it to be</td>
<td>your decision.</td>
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<td>called a multi-family pier, and we have a recommendation at the</td>
<td>Mr. LAGASSE: Good morning.</td>
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<td>end based on that.</td>
<td>Mr. GOLLOTT: The one we just addressed for</td>
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<td>So we conducted a thorough evaluation. Based on</td>
<td>reconsideration, the gentleman didn't want to cooperate with</td>
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<td>that evaluation, we have determined that the project does not</td>
<td>the staff at all (inaudible). A height variance, I think we</td>
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<td>serve a higher public purpose. It would set a precedent both</td>
<td>would have allowed that.</td>
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<td>from the height of the structure and for allowing an enclosed</td>
<td>This looks like a real nice boathouse. And to</td>
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<td>structure over water.</td>
<td>make them reduce the height of this thing, you are going to</td>
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<td>Therefore, staff recommends that the commission</td>
<td>destroy his boathouse.</td>
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<td>deny the applicant's request for after-the-fact authorization,</td>
<td>And how could we go about raising the height to</td>
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<td>require that the structure be brought into compliance with the</td>
<td>accommodate some of these stormwaters and everything that --</td>
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<td>permit issued on December 22, 2011, which contains the</td>
<td>like down in the Pats where the water gets so high? And</td>
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<td>following condition. An open-sided covered boathouse 57 feet</td>
<td>they're really protecting their property by raising it higher.</td>
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<td>in length, 35 feet in width, and no more than 25 feet above</td>
<td>Can the commission revisit this height variance?</td>
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<td>mean high tide in height shall be constructed over open water.</td>
<td>Ms. BRANTLEY: Yeah. If you chose to allow --</td>
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<td>And we are also asking that you add a condition</td>
<td>he has gone through the after-the-fact procedure, so with Mr.</td>
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<td>to that December permit that no more structures shall be</td>
<td>Lea's, he did not choose to -- well, he did apply, and then he</td>
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<td>permitted on the parcel owned by Dr. Zimmerman even should it</td>
<td>chose to withdraw his application. So there was no option on</td>
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<td>be subdivided in the future unless that is authorized by the</td>
<td>the table for that being approved.</td>
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<td>commission.</td>
<td>This has been approved the proper way, and like</td>
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I said, Mickey has a presentation to give his reasons for why
they want to keep it that way.

So it would set a precedent. However, he has
asked for it the proper way. It can be approved today if you
chose to.

MR. LAGASSE: Commission, thank you very much.

DR. ASPER: State your name, please.

MR. LAGASSE: Mickey Lagasse.

And I hope not to be too lengthy, but I feel
that it's very important. And I put the packets together to
sort of explain to the commission how we got here and why.

First of all, in the very back of your packets,
there is a series of pictures that I added that basically shows
a view of the boathouse, and in two actual other pictures
behind it, for the last southeast wind, small tropical wave,
whatever you want to call it that we just recently had.

We are trying to mitigate damage for the
applicant. And I'm going to start off by going through very
quickly if you will allow me to to basically point out some
things that I feel like that need to be discussed.

First of all, I want to bring you through the
timeline how things happened.

We submitted an application on November 2, 2011.

We received an e-mail from Lynn Moore who was
our permittee or permitter that we had a problem with our

The page before that, however, is also what we
submitted. And if you notice, we submitted in this application
a boathouse with an enclosed storage area above it, windows,
the whole nine yards. We in no way were trying to do anything
illegal or wrong.

And to be perfectly honest with you, I've never
seen one submitted. I've never heard of one being done. But
when the only response we got back was the e-mail saying that
we had submitted the wrong -- we needed to submit an 8 1/2 by
11 and I needed to correct the depth and width of the boat
launch, honestly I assumed that -- and maybe wrongly so --
that that's what we were being permitted.

So from that point, we e-mailed on or about
November 30 the corrected size so they could be distributed to
the agencies.

On December 12, my contractor or my owner
applicant allowed the contractor to go ahead and drive the
pilings. His guys were slow. Christmas. Came to y'all on the
20th, openly admitted that they had made a mistake, paid the
$500 fine.

Between December 20 and January 6, after we
received the application, there were a lot of things that went
into this boathouse. It's not just a boathouse.

And I agree that you can't -- long term, you
can't protect everybody from doing something wrong. If they

1 application.

The original application, if you look, is in the
first part of this section. And if you notice, Willa was
 correcting. We did have a 57 by 35 by 25 put in place. But also
above that you will see highlighted an 8 foot by 16 foot boat
ramp.

Now, I've probably done 30 applications through
the DNR in the last four or five years. They've always been
professional, always had a good working relationship. However,
every time I've ever turned in an application there was a
problem, whoever had that application contacted me and said
look, we've got a problem. You can't do this, you can't do
this and so forth.

If you will turn and hold that page, but if you
will turn to the first tab, we did receive an e-mail from Lynn
Moore on November 28 that basically said that I was incorrect
on the boat launch. The boat launch had to be the same width
as it was in length. And, you know, will the new boat launch
meet this criteria? I responded with yes.

She also asked to send letter sized paper
diagrams with the application.

If you'll turn back a couple of pages, you will
see that Ms. Brantley was correct. We had turned in a 11 by
17, me thinking it was better to be seen, and that's what she
showed you the diagram that was originally sent.

1 want to do something wrong, they're going to do it, and they're
going to figure out a way to do it. Doesn't matter what you
allow and what you don't.

If you look in the back, Dr. Zimmerman -- under
the last tab, Dr. Zimmerman finished the plans of his house.

Now, I don't know exactly the term that Willa
used about being in compliance with serenity of the area. But
the issue we have is Dr. Zimmerman not only owns that piece of
property, but he also owns the piece of property across it.

There's 40 acres there that he owns, including the slew that
11 goes all the way back around.

So I feel like if we would have built a
boathouse with T-1-11 siding on the side that we would be doing
more damage than what we have here.

Dr. Zimmerman -- the reason it took us so long
between the December 20 and January 6 is Dr. Zimmerman had to
finish his house plans. We had to figure out what was going to
be on the outside of his house, which is stucco, and the roof
material that he was going to use.

What we wanted to do was, we wanted to have when
people pull onto the site to see a project, one project that
coincided, not a house with a boathouse that didn't match, you
know, that kind of thing.

So there was a lot of time and effort that went
into that.
In that section, once those plans were done, we finished the plans for the house. We delivered the plans to the Hancock County Building Department. Now, the Hancock County Building Department is who controls and has the task with doing your flood prevention ordinance throughout -- you know, each county of jurisdiction has their own.

As you know, the new guidelines have gone a little crazy. Everybody has had to elevate. FEMA is pushing that everything is to be elevated to be out of the floodplain. This meets the requirements. And the reason that we're at this meets the requirements of the new elevations, not the old elevations. But we again put a lot of time and effort to make sure that we met the county requirements.

If you will look through the tabs back here, you'll notice that Hancock County issued a permit. They used the same basic plans and specs.

You'll notice that there's a page in there that shows where the surveyor said that the finished floor elevation of the house across the bayou is 17.6. It's in an AE flood zone of 17.

So the bottom of the first floor is where it's got to be to be built. We minimized the roof slope. We did everything that we possibly could to sort of almost sandwich it in the middle.

The next page, if you'll look, just is a FEMA map. It shows the approved plans for the county. And then there's an original copy of the reduced plans that we presented the county right here.

The next page is basically the same page. But I blew up this section, and it's going to be entitled end wall blown up. And basically what it was was if you look at the bottom diagram, the county required certain construction to meet the building code. And they gave some comments: Cable end wall construction required.

We actually hired an engineer to build trusses and design trusses to keep the roof load as best we can to protect from uplift. It meets or exceeds all of the 2003 code as required by the county.

On January 16, once we turned over the plans, all pilings were ordered -- I mean, all materials were ordered except for the pilings that were previously installed.

January 30, they were removed on site.

Construction began February 1.

February 9 we received a Corps letter of permission.

March 20 through 29.

On March 20, I received a call that we were in violation. I was surprised, didn't know what the violation was. Ms. Moore had seen the structure from the road either in an inspection or passing by and said that we could not have an enclosed structure.

Now, at this time, I mean, the stucco is on, the thing is built, everything has been inspected. We had no idea that we were in any kind of violation.

Again, I did sign the permit. I talked with the applicant. Dr. Zimmerman reviewed the application. It looked as clear as any other standard language that I've seen on one of every other permit.

Again, I received no correspondence to say that we had a problem with the storage area.

At that point, Ms. Moore told me that we had a problem. Went into a panic mode. We had a meeting with some of the DMV staff out on the property.

That's the day that we actually noticed that we had a problem with the height.

Went back and talked to the contractor. And what he had done is, he had based his height off of the highest adjacent grade, which is what the FEMA requirements are, not on mean high tide level.

In other words, if you look at the diagram submitted to you in the very second to last section which is the amended application, you will notice that it's 27 feet above highest adjacent grade. It's 32 feet as Willa said, depending on what's going on, 31, 32, above mean high tide.

The benchmark that was set by the surveyor was set in a telephone pole which is where the contractor went off of to build the structure which is normal practices, not for marine construction, but it's the normal practices that go along with it.

Again, the first time we heard of any notice was the cease and desist.

And, ladies and gentlemen, we are not -- Dr. Zimmerman is trying to build a house that he can retire to that his family and grandchildren can come and basically build himself a compound out there.

He has no intention of making it any kind of living spacing.

He has no intention of putting any sewer and water in it.

As a matter of fact, on the last part of the timeline, until the problem this week when they asked us to stop, when Lynn called and said we had a problem, we stopped.

The main power from the pole to the building is shut down. They've been using extension cords to run the boat lifts to where they need to be so that the boats can be elevated and lowered.

All of the little outlets that's required by code, we've got basically shop lights, those ten or 11 dollar...
shop lights you buy at Lowe's, hanging on the inside.
We did not put in the handrails around the
outside, no staisnay.
And we've not installed the peg board and
shelving inside where the stuff can be stored.
If you go back to the page in the county where
it shows that it's in a floodway. Dr. Zimmerman's piece,
although dry in the middle, has wetlands surround it. If Dr.
Zimmerman were to build a storage area on the ground, the other
tables that you see from these sections in the back showing
the flooding, he would be inundated with flood about nine or
ten times a year in that storage area.
In a floodway, it has to be designed almost to V
zone specifications. So everything has to be above the base
flood.
If he had a storage building that was built on
the ground, it surely would be destroyed with raising water
coming from the river if there was a problem.
So you could pretty much guarantee that it would
end up in the wetlands as Willa has said.
Again, I don't want to bore you. I think that
we have done due diligence. I realize that we believe it sets
a precedent. I don't. And this is why.
First, with Dr. Zimmerman, there was a mistake
made. Partly on me, partly on permitting. I submitted
something. They reviewed it. They gave us comments. We
responded. Nobody intentionally did anything wrong on our end
or theirs.
I believe also this. I went through the coastal
ecology book last night. There is nothing that designates
height. And I don't believe I can find anything that
designates enclosed structures.
Now, I agree with enclosed structures can cause
a problem.
I agree that wastewater discharge.
You could do the same thing right next to that.
I mean, Dr. Zimmerman is not going to build a $400,000 home and
a $40,000 boathouse for storage. We don't need it. I mean,
it's not something he's going to do.
Again, I'm not trying to say that other people
wouldn't say, but I think his conditions are different. I
think that we put in an application in good faith. I think we
turned over multiple sets of plans. We went to the county
office. We met with FEMA's requirements and the county
requirements.
As far as the heights go, you know, again, I
went through the book. I know that it's been a policy of this
board and a policy of the DNR for a very long time. I was in
the enforcement side of things for a while. And a lot of what
we got hit with, we know what may be right or wrong. But it's
never written.
The guidelines that I was trying to follow --
and again, I felt like if we'd have ever had a problem, now
that all this is forthcoming, that it would have been through
the permitting side, not once construction was complete and it
was done. We had completed the roof. We did the stucco. We
picked the colors for the house.
We feel like that boathouse and the ambience of
that house is going to make the view a better place. We could
throw up a lot of different things, and you could do them a lot
cheaper. But we feel like that what we've done during our due
diligence is going to add beauty to the river. There's no
doubt.
It's one of the nicest storage areas I've ever
been in. And I can assure you that Dr. Zimmerman had no
intention of anything incorrect. He certainly wouldn't have
gotten out financially that far knowing that y'all could make
him take it down, you know.
We did reduce the size of the boathouse. The
original size of the boathouse was 57 by 35. The new one, I
added 47 by 35. It's actually 47 by 33. You know, we did that
because we didn't need the additional pace.
I guess to the commission, all I'm trying to do
is say that we feel like it shouldn't set a precedent
because there was some miscommunication made between the
applicant and the permitting department.
The height, I can't say -- we can knock the roof
off and make it a flat roof and be well under the height if
that's what the commission so wanted us to do. But by doing
that, I think it's ruining what you're trying to preserve in
that area.

MR. GOLLICK: Mr. Chairman, I'd like to make a
motion that we table this until next month if Willa doesn't
have a timeline problem with it.
Sir, get with the staff and see if you can work
these problems out.

MR. LAGASSE: We're more than willing. I don't
think that Willa --

MS. BRANTLEY: I don't want this to sound bad
for Dr. Zimmerman. I kind of think we have spent several
months going through this and offering different things. And
it just has gotten to this point.

Dr. Zimmerman wants what he wants, and our
permit says what it says. And that's not -- I don't get that
there's hard feelings on his side that the permit says what it
says. There's no hard feelings on our side that he wants what
he wants. I just don't know that tabling it and discussing it
-- I would leave that up to Mickey as the agent or even Dr.
Zimmerman, he's here.

We would ask that if you did choose to approve

N.J. SOROE, CSR #1297
this that you let Dr. Zimmerman keep it as it's built, that you
would look at it like MacKay said that it didn't set a
precedent, and that you were allowing it only because of a
perceived miscommunication by staff.

And can I stand up here and say that legally we
did what we had to do? Yes, I think I can because the permit
was issued correctly, with the correct conditions.

Can I say that the standard operating procedures
that I expect the staff to follow to work always? No, they
were not.

When there's a question about something in a
permit, when something doesn't look right, I expect that
project manager to contact the applicant or their agent and
make that clear.

And I honestly have to stand up here and say
that that did not happen.

So, you know, if you choose to let him keep the
boathouse because of those reasons, I would ask that that's
made clear in the record, that it was a staff perceived
miscommunication and that it wouldn't set any precedent.

MR. TAYLOR: Richard, can we ask counsel if this
would set a precedent if we do this?

I don't see how we can do it after just denying
someone that's been before us three times. I mean, I just --
you know, I'm not an attorney or anything.

MS. CHESSUT: Any time you do something outside
the guidelines of what you've always done, there's a potential
for precedent.

However, if you enter the reason into the record
why you're doing it and that that's the only reason you're
doing it, ther any further projects in the future would have to
also meet those requirements so that you're essentially
establishing why this went over and above your established
guidelines.

MR. TAYLOR: So if we do this and someone
doesn't read their permit, and from what I understand, Ms.
Brantley, if you'll put the permit back up there, if someone
doesn't read their permit, then we would have to allow it.

Is the onus on us to read the permit or is it on
the property owner?

MS. CHESSUT: Well, the onus is on the property
owner and the agent to read the permit and abide by it.

MS. BRANTLEY: But you've also got with this
where the standard procedures of contacting the applicant and
telling them, hey, you're not going to get what you asked for,
this is what we can approve, and this is what your permit is
going to say, of trying to work that out before the permit goes
out to them, that didn't take place, and it should have.

MR. GOLLITT: Can we do this? Can we table it
until next month and Willa come up with the language, the

proper language, so this won't set a precedent, get with legal
and see if we can work it out that way?

MS. BRANTLEY: Do we need to do that, Sandy? Or
could we just -- if they stated it right now that that was
their reasoning, would that cover it? Or do we need to table
and come back with a specific --

MR. TAYLOR: I would prefer to table it myself.

MS. CHESSUT: To cover it properly, we can work
on it and get it stated just exactly the way you wanted it, if
that's what the commission wanted to do.

MR. GOLLITT: I make a motion that we table this
until next month and have the staff and legal work out the
details.

MR. TAYLOR: Second.

DR. ASPER: Any further discussion?

Just a note from my perspective is that
regardless of what language you put in there, it is setting a
precedent, and so you can put all the disclaimers you want, but
the fact that we allowed it after the fact regardless of
reasons is setting a precedent.

It's like you reason it wasn't, and you can say
that it's not, but the fact is, it is.

So we as we consider this, this motion does not say
that we're going to approve it next month. It just says that
we're going to table it until next month. So there's still the

option of us denying the request and requiring this to come
into compliance.

MS. BRANTLEY: I was about to ask that. So
we'll come back with language, and then the decision will be
made based on that language. The decision is not being made
right now.

DR. ASPER: That's what the motion says, right.

Further discussion? Those in favor say aye.

Those opposed. It's unanimous.

MR. LAGASSE: Thank you all very much for your
time. Sorry it was so drawn out.

MR. BOYD: Mr. Chairman, that concludes
coastal's portion of the meeting.

DR. ASPER: Okay. Move on to the financial
report.

J. Administrative Services

2. Financial Report

MS. VESS: Good morning. My name is Kara Vessa.

Today I'll be giving the budget status as of
June 30. The significance of this date is it is the ending of
one fiscal year and the beginning of another.

So the fiscal year that just ended, Fiscal Year
'12 on June 30, our budget of $6,267,493, all funds have been
spent, as well as our tidelands obligations have all been met
-- excuse me -- the tidelands funds have been obligated.
Going into Fiscal Year 2013, our budget is $6,152,176. And our tidelands budget for that year is $10,170,743.

Any questions today?

DR. ASPER: Thank you, Kara.

Before we dismiss, I'd like to ask Dale if we could get a report next month on the turtle standings.

There was a report in the news about the turtles, and a lot of them were killed apparently by fishing hooks, which is a new thing. And I'd like to hear a little bit more about that. I don't want to blindside you with that right now.

MR. DIAZ: Sure, we'd be glad to do that.

DR. ASPER: This is something that Moby was on TV saying I've never seen this before.

If you could just get us a little bit of a factual report, I think that would be really good.

MR. DIAZ: One thing just to make sure it's clear, we've had a lot of turtles that have interactions with hook and line. And most of those turtles are alive. They require some rehabilitation. But the vast majority of them do live.

We'll have a report for you next month.

DR. ASPER: I think that would be really interesting.

I think we're at the end of our agenda. Is there a motion to adjourn?

MR. DRUMMOND: I make a motion we adjourn, Mr. Chairman.

MR. ROSARGE: So second.

DR. ASPER: We're adjourned.

(Meeting adjourned 11:00 a.m.)