

Nowak, April

From: Sandra_Hamilton@nps.gov
Sent: Friday, November 21, 2008 9:23 AM
To: Van Dyke, Nancy; Otto, Dana; Fox, Lori; Wetmore, Doug
Subject: Fw: Final September Meeting Summary and Presentation of Committee Feedback on NPS Alternatives

Attachments: Committee Feedback to NPS Alternatives.pdf; CAHA_RegNegMtg6_Summary_Sept08.pdf



Committee Feedback to NPS Alternatives.pdf
CAHA_RegNegMtg6_Summary_Sept08.pdf

FYI.

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----- Forwarded by Sandra Hamilton/DENVER/NPS on 11/21/2008 09:21 AM -----

CAHA Facilitators
<hatteras@cbuilding.org>

11/21/2008 11:03
AM EST

To
Hatteras <hatteras@cbuilding.org>
cc

Subject
Re: Final September Meeting Summary
and Presentation of Committee
Feedback on NPS Alternatives

To: Reg Neg Committee
From: CBI
Re: Final September Meeting Summary and Presentation of Committee Feedback on NPS Alternatives

Reg Neg Committee,

Attached are the final version of the September meeting summary (approved November 15) and the summary we (CBI) presented on November 15 of the comments you gave in small groups on November 14 on the NPS Action Alternatives.

Best,

Ona, Pat and Robert

--
The Consensus Building Institute

0075446

Cambridge, MA
(617) 844-1127

Fisher Collaborative Services
Alexandria, VA

(703) 765-0999 (See attached file: Committee Feedback to NPS Alternatives.pdf)(See attached file: CAHA_RegNegMtg6_Summary_Sept08.pdf)

Committee Feedback on NPS Action Alternatives

Nov 14, 2008 – Small Group Work

Compiled by Facilitation Team

Cape Hatteras National Seashore Negotiated Rulemaking

Alternative C - Benefits

- Conceptually manages based on what's happening in the Park
- Locations for protecting breeding birds as shown on maps
- Predictability of dates
- Easier to manage than Alt. E
- Additional ramps and facilities
- Annual permit runs from date of purchase
- Use of SM2

Alternative C - Benefits

- Year round Non-ORV areas
- Night driving ban and hours
- Easy to communicate
- Mandatory education requirements better than Alt D
- Seasonal dates include pre-nesting of birds and very end of turtles

Alternative C - Concerns

- Concept (what's happening in the park) was not translated into mgt activities
- Closing Spits and Points
- Potential Sea Turtle Areas
- Safety Closures
 - Monitoring every two weeks not often enough
 - Should be up to driver (as in Alt D)
- Seasonal dates too early
- No corridors for pre-nesting areas

Alternative C - Concerns

- Not as flexible or provide as much access as Alt E
- Carrying Capacity
 - Focuses on safety, which is only one factor, and excludes environment and social
 - Less parking allowed on Ocracoke
 - Two year periodic review not often enough
 - Establishes full capacity without knowing the actual capacity
- No measurable objective criteria for changing once plan finalized

Alternative C - Concerns

Hours of Allowable ORV Operation on Beach

- Night Driving
 - Ban inappropriate and unnecessary
 - Hours
 - Under and over inclusive
 - Miss sunset and sunrise
 - Nov 15 too late -- only 7% of turtles nest after Oct 31
 - Law enforcement
 - Access soundside then go onto beach after patrol leaves (e.g. Pole Road)
- Villages
 - No ORVs in front of Villages at any time

Alternative C - Concerns

- Rodanthe Pedestrian Area impractical and does not have high aesthetic value
- Access to Ramp 4 unclear
- Resource protection
 - Dates, times, monitoring frequency
 - SM1 does not include physical boundaries (less monitoring)
- Need better definition of camping (36 CFR §1.4 insufficient)
- Nothing good in Alt C

Alternative C - Ideas

- County purchase of condemned property at Pea Island-Rodanthe boundary for pedestrian area
- Set density numbers using actual data from prior years, use an average after a few years
- Use data from rental agencies to set dates for village closures
- Treat all villages the same (Hours for Allowable ORV Operations on Beach)
- SM2 buffers should be based on science and what's done in other park units

Alternative C - Ideas

- Carrying Capacity
 - Use multiplier of 150% of vehicles per mile
 - Use different calculation/approach
 - Link vehicle free areas to determination

All Alternatives

- Permit Requirements
 - Should be the same for all alternatives
 - Exam raises numerous problems (e.g. languages)
- Night Driving
 - Determine restrictions based on light and vehicle movement rather than hours
 - Use sunset to sunrise (or 30 minutes before and after) and post tables at park entry/access points

Alternative D - Benefits

- Predictability/simplicity/simple to understand
- Requires less staffing/least costly to NPS/easy to administer
- Establish boardwalks by pedestrian areas
- Education for the permit/no exam
- Permit geared toward the driver
- 7am driving start time gives rangers time to discover turtle nests
- No safety closures – don't dictate safety choices
- Ban on night driving
- Nice areas for pedestrian access and resources
- Maximum species protection/best resource protection
- Same sound side access
- Most consistent with the USGS maximum protocols
- None

Alternative D - Concerns

- Least flexibility for management
- Concern about implications of no safety closure
- Night driving dates: Nov unnecessary, inflexible
- Takes the heart out of areas enjoyed by recreational fishing
- Closes points, spits and villages to ORVs year round
- Education less thorough because no test
- Large economic impact to communities
- All X areas on matrix are SM1
- Carrying capacity – needs to be better defined, apply to high-pedestrian use areas, parking 2 deep is by choice

Alternative D - Ideas

- Add parking for walking over at night
- Add ramp 47
- Want objective, measurable criteria for changing designations over time
- Open more of Ramp 1-Oregon Inlet to ORVs
- Better define sea turtle nesting
- Why are the night driving times 7-7? Connect to daylight hours or science. Consider concept of healing beach where wind/waves have time to smooth ruts before night.

Alternative D - Ideas

- Passes: add a 1-2 week pass, make it 12-month
- Use more typical buffers even if less predictable
- Be sure habitat annual review looks at historical data
- Clarify resource protection measures – birds nest outside resource areas?
- Corrections: Map conflict (maps 6-7), dates inconsistent in resource protection/ORV maps

Alternative E - Benefits

- The **most promising** in terms of a conceptual basis for building Committee agreement.
- Utilizes adaptive management.
- Most flexible, adaptive and innovative.
- Strong education component
- Access corridors seeking to protect natural resources and access. Doesn't draw rigid "lines in the sand" as much.

Alternative E - Concerns

- Confusing and complicated; may be hard for public to understand.
 - Most expensive and resource intensive to implement.
 - Routes and Areas
 - Year round closure of Ramp 27 to 30? 45 to 47?
 - Sound side ramps closed with parking lot development– shouldn't close all – makes access harder
 - Not enough pedestrian-only areas on Hatteras.
 - Not enough ORV routes/areas on Ocracoke.
 - Needs a means for changing areas/details with measurable, objective criteria.
 - Don't like if ORV access closed, a pedestrian-only area opened to driving.
- Pedestrians
- Insufficient “segmenting” of pedestrian areas across the geography.

Alternative E - Concerns

- Closure Dates and Times
 - Village seasonal closure dates – 4/1 to 10/31, some view as too restrictive. Data can be hard to interpret.
 - November 15 for turtles seems late in the season.
 - Bird closures until 8/31 generically seems to much.
- Natural Resources
 - Winter habitat and FWS critical habitat designation – too much discretion for NPS without clearer criteria, etc.?
 - In some monitoring scenarios, every 2 weeks too little.
 - Lots of questions about resource tables.
 - Opening at 6 AM doesn't allow for turtle patrols first.
 - Pass thrus may pose some natural resource concerns
 - Is 10 PM closing sufficient for hatchlings who may hatch before 10?
 - Total ban on nighttime driving across Park a problem. Can't we do something more nuanced?

Alternative E - Concerns

- Carrying capacity!?
 - Parking 1 deep subject to interpretation
 - Parking needs to be variable given wind, families, etc.
 - Seems like based on safety and not other required criteria (natural resource and social carrying capacity)
 - Don't like Ocracoke getting the least capacity, especially if routes severely restricted.
- Will a water taxi really be viable – wind, shallow draft, landing difficulties?

Alternative E - Ideas

- Even with night time restrictions, still need night time patrols/enforcement.
- Specific routes need to be worked out to meet the specific needs of the Committee.
- Extend Cape Point access strip around end further to allow for break wave and red drum fishing.
- What about pedestrian area from Buxton north?
- What about developing parking in north end of Rodanthe?
- Couldn't we develop some kind of rolling average year density trigger for seasonal village closures based on actual beach usage, not who is staying in units, which is an imperfect measure?
- What about a land taxi – trained drivers, permitted, allowing more access?

Alternative E - Questions

- How can we ensure the infrastructure is in place at the time the restrictions are put in place?
- What if we don't get the necessary additional money to make this one work?

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**Cape Hatteras National Seashore Negotiated Rulemaking
Meeting 6 – September 8-9, 2008
Avon, NC
Meeting Summary
*Approved November 15, 2008***

Summary of Consensus Agreements

The Cape Hatteras National Seashore Negotiated Rulemaking Committee reached consensus on the following during the meeting:

1. Expanded Vehicle Characteristics and Operations Subcommittee membership (8 September, am), Natural Resources Subcommittee membership (8 September, pm), Permits, Passes and Fees Subcommittee (9 September, am) and Routes and Areas Subcommittee membership (9 September, pm).
2. Approved the Meeting 5 Summary, dated September 4, 2008 (9 September, pm).
3. Decided not to pursue a Park-wide Entrance Fee or Pass (9 September, am).
4. Agreed on how the subcommittees will address confidentiality and distribution of work product (9 September, pm).

Welcome to All and Opening of the Meeting

Mike Murray, Cape Hatteras National Seashore (CAHA) Superintendent and Committee member, opened the meeting in his capacity as the designated federal official (DFO) for the Cape Hatteras National Seashore Negotiated Rulemaking process. He welcomed everyone and gave an overview of the agenda.

Subcommittee Work Overview

Each subcommittee presented the results of its work over the summer. The documents developed by each subcommittee were distributed and are listed in Attachment C. After each presentation, every Committee member got an opportunity to share his or her view about the subcommittee work and additional work needed. This summary lists the major items and questions to be addressed by subcommittees in the future and options for the Subcommittee to consider. It also identifies any changes to the subcommittee document listed in Attachment C made during the presentation.

Vehicle Characteristics and Operations Subcommittee

Jim Keene and Derb Carter presented the work of this subcommittee. Subcommittee members are: Renee Cahoon, Derb Carter, Jim Keene, Neal Moore, Patrick Paquette and Paul Stevens. Committee members generally requested the subcommittee focus on night driving, commercial fishing and vehicle definitions. John Couch, Scott Leggat, Michael Peele and Jason Rylander volunteered to join the Subcommittee.

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Changes to Subcommittee Materials Distributed

- None.

Questions and Issues to Be Addressed

- Speed limits – including linkages to village closures.
- How will NPS enforce the state inspection requirement?
- Tire pressure – determine if recommended or required, consider enforcement issues, consider if it applies to the hard-packed sound-side roads and the road on the south side of Ocracoke, consider safety issues of driving on beach versus on the highway with wrong tire pressure, consider addressing in education or permit.
- Camping – consider: connection to economic issues of private campgrounds (discuss with campsite owners), Park resources, self-contained vehicles in beach environment in designated areas, self-contained tents, enforcement of sleeping/napping rules. Note: under NPS fee policy, if NPS charges a fee for camping it must provide a standard set of amenities.
- Address potential NPS funding and personnel limitations, perhaps by adding a qualification: “subject to resource limitations including funding and personnel.”
- Clarify if/how this applies to commercial fishing.
- Consider night driving permit.
- In the vehicle characteristics section:
 - Define ATVs.
 - Should ATVs be excluded if they meet the other criteria (registered, licensed, and insured and comply with inspection regulations)?
 - How to obtain special use permits for two-wheel drive vehicles?

Options for the Subcommittee to Consider

- Remove flashlight explanation.
- Refine wording on emergency vehicles.
- Require ATVs to be licensed, which might mean ATVs that are driven on another vehicle to a CAHA ramp could be legally driven on CAHA.
- In the vehicle characteristics section that addresses two-wheel drive vehicles, motorcycles and ATVs:
 - Consider whether separate sections are necessary for two-wheel drive vehicles, motorcycles and ATV if the vehicles meet the other requirements (registered, licensed, and insured and comply with inspection regulations). If necessary, consider a single statement that any vehicles other than 4WD ORVs require a special use permit, and let NPS make the determination.
 - Provide for future vehicles in case of development of vehicles appropriate for beach use (quiet, efficient, low emissions, etc.), for example, tricycles are easily outfitted for the beach. Give the superintendent authority to permit vehicles allowing for best technology.
 - Include 2WD vehicles on the generic permit, rather than a separate permit.

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- Replace “2WD” with “any other vehicle” if operator obtains a special use permit.
- Camping and sleeping:
 - Provide for camping in designated areas and leave enforcement and details to NPS.
 - Request proof of residency such as homeownership, campground receipt, etc. if people are found sleeping at night.
 - Define camping and those behaviors that are not acceptable (e.g. discharge of greywater could be a violation).
- Commercial fishing permits (already required) could count as the commercial fisherman’s special use permit for driving their vehicles on the beach.

Permits, Passes and Fees Subcommittee

Patrick Paquette and Dwight Rettie presented the work of this subcommittee, noting that some are not willing to discuss permits further until it is clear where and when people will be allowed to drive on the beach. Subcommittee members are: Carla Boucher, Renee Cahoon, Derb Carter, Destry Jarvis, Mike Murray, Patrick Paquette, Michael Peele and Dwight Rettie. Following review of the Subcommittee’s work, the Committee unanimously rejected the idea of a Park-wide Entrance Fee or Pass. John Alley volunteered to join the Subcommittee.

Changes to Subcommittee Materials Distributed

- None.

Questions and Issues to Be Addressed

- Consider implementation.
- Make the system simple and affordable for visitors.
- Investigate options for structuring special use permits.
- Clarify linkage to NPS’ nationwide America the Beautiful passes.
- Decide if fees are per driver, per vehicle, or per person in vehicle.
- Require NPS keep accurate numbers of permits and fees collected.
- Clarify if/how this applies to commercial fishing, and what is required or allowed.
- Enforcement:
 - Provide clarity on conditions under which a permit would be revoked.
 - Determine NPS capacity to manage a permit system.
- Carrying capacity:
 - Decide how permits fit with carrying capacity management.
 - Review NPS’ carrying capacity framework.
 - Consider carrying capacity for both pedestrians and vehicles.
 - Ensure that carrying capacity limitations will not prevent someone who pays for a permit from driving on the beach.
- Allocation of funds generated through permits:

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- Put all fees collected from ORV permits into a fund for ORV-related amenities, enforcement, administration or education.
- Consider ways to fund amenities for other users.
- Permits should increase CAHA capacity. Make fee collection a net gain for CAHA so that, for example, if permits fund ramp construction, money previously designated to ramp work can be used for other CAHA projects.
- Education program:
 - Consider an educational program or requirement for pedestrians.
 - Determine how to meet educational requirements with online permits.
 - Seek models of existing educational programs such as the *Leave No Trace* program.

Options for the Subcommittee to Consider

- Use EZ Pass technology to prevent traffic bottlenecks.
- Consider having rentals and hotels provide information and education.
- Consider putting posters with educational information at every ramp.
- Consider using collection tubes as a way to collect revenue from parking.

Village Closures Subcommittee

John Alley and Jeff Wells presented the work of this subcommittee. Subcommittee members are: John Alley, Sonny Duke, Steve Kayota, Roy Kingery, Jim Lyons, Wayne Mathis, Paul Stevens and Jeffrey Wells.

Changes to Subcommittee Materials Distributed

- The option for driving in front of the southern beaches (#4) was withdrawn from consideration because the option for no driving in front of villages year round (#1) was not withdrawn.

Questions and Issues to Be Addressed

- Consider the time period of village closure decisions.
- Ensure safety is the number one priority.
- Clarify if/how village closure decisions apply to commercial fishing.
- Consider how to enforce safe driving (including during holiday weeks).
- If some villages are closed year-round because of safety or historical use, identify ways to keep those village beaches publicly accessible (with clear public access spots, parking areas, etc) and consider the economic and other impacts.
- Data to consider:
 - Visitation numbers, including where large populations are located, when the lighthouses open, when seasonal rangers arrive and depart, speed limit changes, real estate company rate increases, ferry schedule changes, etc.
 - Human-ORV accidents in front of villages?

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- Establish criteria for pedestrian density to trigger closure dates. Prohibit driving when pedestrian use above a threshold and let NPS adjust annually.
- Describe “status quo” option.

Options for the Subcommittee to Consider

- Withdraw the two extremes: driving year round and no driving year round.
- Put in a parking area at Ramp 55 similar to the one at the Frisco Pier.
- Dates:
 - May 1-September 30, the dates used in Kill Devil Hills and Duck, for closure of Northern Villages.
 - May 15-September 15, as May 1-15 and Sept 15-30 are off-peak weeks.
- Consider establishing public rights of way across private land in exchange for release of liability and maintenance of boardwalks in places where there is currently no public access.
- Install clear speed limit signage in front of all villages.
- Create incentives for homeowners to provide public parking.
- In front of villages, split the best days of the week for different uses, for example: pedestrian-only on Thursdays and Saturdays, ORV access allowed on Fridays and Sundays. This would meet the legal threshold of zoning of incompatible uses.
- Consider beach passes that could pay for sanitary facilities, lifeguards, showers.

Options Tested for Consensus

The Committee did not reach consensus on:

- Status quo: northern villages closed to ORVs May 15-September 15 and southern villages closed.
- Northern villages closed to ORVs May 15-September 15 and southern villages closed to ORVs due to safety closures.

The reasons for the disagreements included:

- Need more input from civic associations.
- Southern and northern villages should be treated the same.

Routes and Areas Subcommittee

Jim Keene, Frank Folb, and Sidney Maddock presented the documents they worked on for this subcommittee. Subcommittee members are: Frank Folb, David Goodwin, Bernie Gould, Destry Jarvis, Jim Keene, Sidney Maddock and Mike Murray. David Esham volunteered to join the Subcommittee.

Mike Murray noted that the ORV routes and areas must meet the executive order and other requirements to minimize conflicts with users, avoid adverse impacts on natural resources, and contain criteria to designate routes and areas to reduce conflicts. If NPS were to proceed with work on this topic independent of the Committee, they would develop a methodology including a formula and criteria with flexibility, run test

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scenarios, imagine outcomes (including impact on popular recreation areas at popular times), and reconfigure the criteria until NPS achieves the desired results.

Changes to Subcommittee Materials Distributed

- Subcommittee negotiations are at a standstill because of discussions of permanent and year-round ORV closures on this dynamic beach.

Questions and Issues to Be Addressed

- Consider the economic impact of closing areas such as South Beach to ORVs.
- Develop clear requirements when NPS may or must allow emergency exceptions to regulations (for example, allowing driving in otherwise closed areas). Mike Murray committed to work to get such requirements formalized.
- Determine what is allowed, restricted, and prohibited to different users (pedestrian, ORV, etc) and clarify the criteria for each decision, rather than stating what is open or closed to ORV use.
- Clarify if/how this applies to commercial fishing.
- Changes to the landscape:
 - Develop an adaptive management plan so if/when a bird colony closes particular areas to driving, other areas can be opened.
 - Clarify how shoreline change will be addressed.
 - Meet the executive order requirement that trails be “located” while providing for flexibility.
- Pedestrian-only areas:
 - It is difficult to get to Oregon Inlet as a pedestrian.
 - Develop criteria for selection of pedestrian-only areas, which could include ease of entry, parking, beach width, areas most suitable, etc.
 - Identify pedestrian needs that must be met and how to best meet them (trash receptacles, parking areas, proximity to village, right to walk dogs or fly kites, boardwalk separate from ORV ramp, etc.).
 - Collect one year of data on pedestrian use.
 - Consider fixed pedestrian areas given the dynamic nature of the landscape.
- Public Access:
 - Consider how people will get to the beach where ORVs are not allowed.
 - Address concerns about public access in villages. NPS issues permits for construction of boardwalks onto beaches. These boardwalks must be open to the public, but limited public parking sometimes prohibits access.
- Wilderness areas:
 - Consider if CAHA is an appropriate place for a wilderness experience given its narrow shape and many villages.
 - Consider selecting wilderness areas that are not along the ocean such as the dunes, forest, etc.

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Options for the Subcommittee to Consider

- Using criteria, designate any parts of CAHA that are passable by emergency vehicle (including the entire beach but not swales, marshes, forests) as a route/area in order to be flexible given the dynamic nature of the landscape. Then designate different areas for particular uses that can be adjusted for safety or resource needs.
- Improve facilities like parking on sound side at mile marker 46 in order to preserve the shoreline where vehicles currently park.
- Create a parking lot at the north end of Rodanthe or the south side of Pea Island because, though it is a sensitive landscape, people who park on the side of the road and are in danger from traffic on Highway 12.
- Designate certain percentages of CAHA for different experiential objectives.
- To increase public parking in villages for beach access, require developers remove a lot from development and create public parking whenever they build boardwalks.

Natural Resources Subcommittee

Mike Murray presented the work of this subcommittee. He noted that NPS is working on desired future conditions and will articulate the resource protection measures it intends to implement. He also noted that the subcommittee focused on coming up with ideas for protecting natural resources and maintaining year-round access to Cape Point to the greatest extent possible, and the Subcommittee's work on Cape Point was not intended to suggest management strategies for other parts of CAHA. Subcommittee members are: David Allen, Carla Boucher, Bob Eakes, Walker Golder, Larry Hardham, Robert Milne, Mike Murray, David Rabon, Jason Rylander and Judy Swartwood. David Esham joined the Subcommittee. David Allen, Larry Hardham, Bob Davis, Jason Rylander, Dwight Rettie, Michelle Baker (NPS) and Scott Leggat will help frame the turtle presentation in advance of the next Committee meeting.

Changes to Subcommittee Materials Distributed

None.

Questions and Issues to Be Addressed

- Adaptive management – NPS should identify the baseline of protection to promote recovery of the species as a starting point.
- NPS' desired conditions.
- Consider turtles.
- How to manage bird disturbances?
- Effect of decisions while the consent decree is in place (2009-2010)?
- Use percentages of the beach (e.g. under Options and Ideas on Page 2).
- Consider active management such as installing wells to create ephemeral pools.
- Distinguish between chicks of different species.
- Consider whether pedestrians should be allowed in resource closures if they may cause more disturbance than ORVs.

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- Have science reviewed by independent scientists.
- Need details on how regulations would be applied, including specific buffer distance, examples, anticipated outcomes, etc.
- Consider the creation of a volunteer group to help NPS with natural resource monitoring in summer and fall to keep more beach open to ORVs.
- Buffers:
 - Why do piping plover need 100m buffers on Cape Cod National Seashore and 1000m buffers at CAHA?
 - Consider appropriateness of punitive buffer expansion when buffers are breached.
 - Consider whether smaller buffer distances might be appropriate.
- Exempt kiteboards from recreational land kite prohibition.
- Articulate any implications for other CAHA locations.
- Provide for interdunal roads throughout the document.
- Clarify if/how this applies to commercial fishing.

Options for the Subcommittee to Consider

- Consider using buffers from the Recovery Plan, which are clear.
- Watersports users need more space (a few hundred feet) on the south side of Cape Point open for wave access.

NEPA Updates

Socio-Economic Study Effort – Sandy Hamilton presented the current socio-economic study work under NEPA. RTI will start non-contact counting at ramps once a contract is in place. That data will be compared with the results from NPS' automated ramp counters. RTI also will be contacting rental companies soon to collect information. NPS asked for advice on whether to hold a meeting for businesses RTI will be calling or whether an introduction letter would suffice. Several Committee members recommended giving business representatives the chance to meet face to face or get their information from a letter. It was recommended that RTI include businesses in Nags Head, Kitty Hawk and Kill Devil Hills. One Committee member voiced concern about whether the results of the economic study will be used for decision-making. Ms. Hamilton replied that all alternatives must meet NPS objectives including resource protection and multiple use, and the effects (economic and other) must be considered.

NEPA Alternatives Development – NPS is in the process of developing alternatives. NPS is looking at desired conditions and adaptive management, and will share the results with the Committee. In response to a Committee member's question, NPS noted that because CAHA doesn't have a general management plan at this time, the alternatives being developed for NEPA are broad, addressing issues related to ORV driving such as pets and boat landings. One Committee member noted that the Committee has yet to see a summary of the NEPA workbooks, which was promised months ago, and stated that NPS must get the Committee the information it needs to responsibly develop an ORV plan.

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NEPA Schedule – The Committee must finish its primary work by the end of January due to funding and other constraints. Committee members expressed the importance of getting the work done correctly and concern about the tight timeline. NPS might request an extension closer to the deadline if the Committee was making progress.

Committee Business

CADR Negotiated Rulemaking Evaluation – The DOI Office of Collaborative Action and Dispute Resolution (CADR) completed an evaluation of the negotiated rulemaking process over the summer. The results became available on August 8. Mike Murray presented the key points, which included advice for NPS, advice for the facilitators, discussion of the value of hearing a range of opinions even if consensus isn't reached on everything, and a recommendation that the process continue through the scheduled meetings. One Committee member asked for an explanation of the NPS policy on level of protection of non-listed species.

Subcommittees – The Committee added members to some of its subcommittees and tasks to others.

- Routes and Areas: added David Esham.
- Vehicle Characteristics: added Scott Leggat, John Couch, Jason Rylander and Michael Peele.
- Permits/Passes/Fees: added education as a topic.
- Natural Resources: added David Esham.

The Committee also established a workgroup to assist with the turtle presentation at the next Committee meeting: David Allen, Michelle Baker (NPS), Bob Davis, Larry Hardham, Scott Leggat, Dwight Rettie, Jason Rylander.

Proposed Agenda Items for Fall Meetings – Committee members suggested the following topics for upcoming meetings: turtle management options, night driving, and NPS proposed approach to safety closures (including management of parking that prevents traffic flow).

Videotaping – A Committee member requested that the meetings be taped and shown on government television stations, with audio streamed live or posted on websites in order to make the process more transparent. Committee meetings have not been videotaped in the past. The Committee discussed the potential benefits (including transparency and enabling stakeholders to see the process when they are unable to attend meetings) and potential drawbacks (including increasing the likelihood of grandstanding, evidence that videotaping courtroom proceedings detracts from the administration of justice, and safety concerns). The Committee did not reach consensus on videotaping, and NPS will consider the input and decide how to proceed.

Subcommittee Procedures – Subcommittee draft working documents considered confidential were released to the press several times this summer, in violation of

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Committee Groundrules. The Committee discussed when and how working documents should become available to the public. The Committee decided that (a) Committee members can ask for input on draft documents they are developing, (b) each subcommittee will decide when and how it will address confidentiality, (c) once a document is sent to the Committee from a subcommittee, it can be shared with the public, (d) subcommittee work product will be distributed to the Committee and thus available publicly at least seven days in advance of a Committee meeting unless the subcommittee is still working on the work product up to the time of the meeting.

Meeting 5 Summary – The Committee approved the revised Meeting 5 summary draft dated 9/4/08 with no changes.

Membership – The Nature Conservancy withdrew from the negotiated rulemaking process. Because of the lengthy approval process, the Committee size will be reduced to 29 rather than seeking a replacement for the TNC representatives, who filled a national environmental and natural resources seat. Roy Kingery will be away for an extended period and so is stepping down from his seat as representative of a civic and homeowners' association seat. Roy did not have an alternate and requested that Bill Foster, alternative for the commercial fishing seat and member of the Hatteras Village Civic Association, serve as his replacement going forward. The DFO will take this under advisement.

Public Comments (September 8-9)

Rob Alderman asked a series of questions of those present, showing among other things, by raised hands, who lives and works nearby and who feels their business is affected by beach access decisions. He requested more outreach to the public in the form of meetings or public service announcements.

Leslie Lanier stated that Ocracoke residents want healthy wildlife because that is what brings visitors to the island. She also described the importance of commercial fishing and thanked the Committee members for their work.

Alan Sutton said he has seen and heard from thousands of past or current Park visitors upset by lack of access. He noted the need for public parking near beaches where driving on beaches is not allowed.

Sharon Spencer stated that Ocracoke provides 60% of Hyde County's budget and that a small decrease in Ocracoke business has a large impact on county services.

Kyle Williams stated that her childcare facility in Buxton has seen enrollment decline from 96% capacity in 1997 to 46 of 86 spots filled this summer. She had to layoff employees and stated that beach closures are having a direct impact on the number of children receiving early childhood education.

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Thomas Woods described a substantial decline in his campground business this year as people await the Committee's decisions, and noted the personal and community-wide impacts.

Dewey Parr said the consent decree has devastated businesses and a way of life and expressed concern about Cape Point and South Beach being closed again next year.

Hal Lester said outside groups that seem unconcerned about the human impacts are influencing the future on the Outer Banks because of birds.

Carol Dillon, who said she is almost 80 years old, described NPS lying to the community for decades and said NPS actions are now ruining businesses.

Ted Hamilton expressed concern about not receiving Committee-related emails in recent months and said that in order to prepare thoughtful public comments, the public needs Committee meeting agendas in advance. He also stated that pedestrian only areas appear to be an attempt to further limit access because few folks will walk 3-5 miles to the spits.

Jim Harris said he wants to see science used in this decision-making (especially for resource protection), said he doesn't feel the public is represented on the Committee, and expressed a desire for regular updates on Committee business. He suggested that the area behind the dunes could serve as wilderness areas. He also asked about restroom facilities near pedestrian only areas.

Stewart Couch said the economy is rough on the Outer Banks and that closing beaches, especially where there is little public parking, makes beaches crowded and hurts residents and the economy. He said uses must be balanced.

Barbara Ackley said that the three problems affecting piping plover are storms, foraging areas, and predators. She stated that there needs to be vegetation control at Cape Point and Hatteras Spit to decrease predator habitat and increase safe places high up on the beach away from storms where birds can nest and forage.

Fred Westervelt said Ocracoke has felt substantial negative financial impact in the past few months. He expressed delight at the scholarly and respectful Committee discussion and stated that the consent decree is too costly per bird (\$13K per chick) and should be repealed so the Committee can proceed productively. He expressed concern about the process and suggested that the executive order that prioritizes natural resources could be repealed or modified.

Carol Garris stated that national and state government agency missions include enabling the public to enjoy nature and wished more natural resource experts were part of the negotiations.

Alli Garris and Jen Garris asked why a bird matters more than Jen.

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Milton Read stated that South Point is many peoples' favorite place on CAHA and that closing it to ORV access essentially makes it a beach accessible only for the young and fit. He asked that it not become a place only for wildlife.

Greg Krczjak asked the Committee to wrap up their business efficiently because of the economic crisis on the Outer Banks.

Jack Whitehead noted that CAHA visitors care about natural resources. He asked NPS to continue allowing some access as in the interim plan, and for longer-term data to shape the long-term plan.

Darlene Styron said South Point is a vital part of Ocracoke, asked that it not be closed, and expressed hope that a good outcome would be reached.

Steve Magliano asked people to work cooperatively and think about impacts to people and livelihoods and not to close all the beaches given the difficult economic situation.

David Parks asked what data are being used for decision-making, expressed concern whether all Committee members were negotiating in good faith, and voiced concern about non-native species. At his request, the remainder of his time was spent in silence.

David Scarborough asked that the timeline for the Committee be extended and asked that NPS look for creative ways to preserve ORV access while providing resource protection.

Chip Stevens said it is important to predict what is accessible to ORVs and that the sound side of south Ocracoke is a valuable swimming asset. Ocracoke is 15% of the Hyde County population and 60% of its tax base. He asked for help to distribute information about the areas open and closed.

Earl Younce said his family has operated a motel and rental cottages for almost 50 years and that they have seen an unprecedented loss of business (30-40%) due to the current unpredictable nature of beach closures. His guests tell him their main concern is beach access, not the economy or gas prices. He hopes there will be an agreement.

Harvey Scarborough voiced opposition to creating another turnout for kiteboarders between Avon and Salvo because it could interfere with commercial fishing along the shore and because it is one of the few natural areas on the island.

Carl Classen, interim County Manager for Hyde County, said they hope for a balance between nature and use and that half the assessed value of the county is in Ocracoke Village, though Hyde is the third largest county in Virginia. Ridership of the ferry to Ocracoke was down approximately 10% in June and July. He asked that South Point be opened and that the Committee process be transparent.

John Manning asked that South Point not be closed because that would take away the livelihood of many, and noted that residents are happy to help NPS.

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Scott Bradley said a wilderness study area on South Point would be an unwanted intrusion on public lands that provide the best birding and calmest swimming on Ocracoke.

Kevin McCabe stated his expectation that certain groups would sue after any Committee outcome, and asked that Committee members act like heroes and find workable solutions.

Walker Barnett said has lived all his 80 years and stated his disappointment at having the freedom to go to the beach he fought for in two wars taken away.

Committee response to the public comment included thanks to all who attended and those who spoke. Many Committee members noted the value of hearing from Ocracoke residents, especially those who shared their difficult stories so publicly.

Mike Murray thanked participants for their efforts and adjourned the meeting at 4:03pm.

Attachments

- A. Attendance
- B. Action Items
- C. Materials Distributed to the Committee

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Attachment A: Attendance

REG NEG COMMITTEE MEMBERS						
<u>Last Name</u>	<u>First Name</u>	<u>Seat</u>	<u>Organization</u>	<u>Principal or Alternate</u>	<u>Sept 8</u>	<u>Sept 9</u>
Allen	David	State Govt	NC Wildlife Res. Comm	P	AM & PM	AM & PM
Alley	John	User Groups/Open Access	Outer Banks Preservation Assoc	P	AM & PM	AM & PM
Ballance	Gene	County Govt	Hyde County, NC	A	AM	AM & PM
Boucher	Carla	User Groups/ORV Use	United Four Wheel Drive Assoc	P	AM & PM	AM & PM
Bounds	Ronald	User Groups/Rec Fishing	United Mobile Sportfishermen	A	AM & PM	AM & PM
Broili	Thayer	Federal Govt	Cape Hatteras National Seashore	A	AM & PM	AM & PM
Cahoon	Renee	Tourism, Visitation & Business	Outer Banks Visitor Bureau	A	AM & PM	
Cameron	Susan	State Govt	NC Wildlife Res. Comm	A	AM & PM	AM
Carter	Derb	Enviro. & Nat. Res. Cons. (S/R)	Southern Enviro. Law Center	P	AM & PM	AM & PM
Couch	John	User Groups/Open Access	Outer Banks Preservation Assoc	A	AM & PM	AM & PM
Davis	Robert	User Groups/Rec Fishing	Cape Hatteras Anglers Club	A	AM & PM	AM & PM
Duke	C.A.	Civic & Homeowner Assoc	Rodanthe-Waves-Salvo Cvc Assoc	P	AM & PM	AM & PM
Eakes	Bob	User Groups/Rec Fishing	American Sportfishing Assoc	P	AM & PM	AM & PM
Esham	David Scott	County Govt	Hyde County, NC	P	AM & PM	AM & PM
Folb	Frank	Civic & Homeowner Assoc	Avon Property Owners Assoc	P	AM & PM	AM & PM
Forman	Trip	Other User Group	Watersports Industry Association	P	AM & PM	AM & PM
Foster	William	Commercial Fishermen	NC Fisheries Association	A	AM & PM	AM & PM
Golder	Walker	Enviro. & Nat. Res. Cons. (S/R)	Audubon North Carolina	P	AM & PM	AM & PM
Goodwin	David	Tourism, Visitation & Business	Cape Hatteras Business Allies	A	AM & PM	AM & PM
Gould	Burnham	Other User Group	Cape Hatteras Recreation Alliance	A	AM & PM	AM & PM
Hardham	Larry	User Groups/Rec Fishing	Cape Hatteras Anglers Club	P	AM & PM	AM & PM
Joyner	David	User Groups/ORV Use	NC Beach Buggy Assoc	A	AM & PM	AM & PM
Judge	Warren	County Govt	Dare County	P	AM & PM	AM & PM

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REG NEG COMMITTEE MEMBERS						
<u>Last Name</u>	<u>First Name</u>	<u>Seat</u>	<u>Organization</u>	<u>Principal or Alternate</u>	<u>Sept 8</u>	<u>Sept 9</u>
Kayota	Steven	Civic & Homeowner Assoc	Hatteras Island Homeowners Coalition	P	AM & PM	AM & PM
Keene	Jim	User Groups/ORV Use	NC Beach Buggy Assoc	P	AM & PM	AM & PM
Kingery	Roy	Civic & Homeowner Assoc	Hatteras Village Civic Assoc	P	AM	
Leggat	Scott	Tourism, Visitation & Business	Outer Banks Chamber of Comm	P	AM & PM	AM & PM
Lyons	Jim	Other User Group	Cape Hatteras Recreation Alliance	P	AM & PM	AM & PM
Maddock	Sidney	Enviro. & Nat. Res. Cons. (S/R)	National Audubon Society	A	AM & PM	AM & PM
Mathis	Wayne	State Govt	NC Marine Fisheries Commission	P	AM & PM	AM & PM
McCormick	Carolyn	Tourism, Visitation & Business	Outer Banks Visitor Bureau	P	AM & PM	AM & PM
Milne	Robert	Enviro. & Nat. Res. Cons. (N)	Coalition of NPS Retirees	P	AM & PM	AM & PM
Moore	Raymond Neal	Other User Group	Cape Hatteras Bird Club	A	AM & PM	AM & PM
Murray	Michael	Federal Govt	Cape Hatteras National Seashore	P	AM & PM	AM & PM
Paquette	Patrick	User Groups/Rec Fishing	Recreational Fishing Alliance	P	AM & PM	AM & PM
Peele	Michael	Commercial Fishermen	NC Fisheries Association	P	AM & PM	AM & PM
Piner	Lyle	User Groups/ORV Use	United Four Wheel Drive Assoc	A	AM & PM	
Rabon	David	Federal Govt	USFWS, Raleigh Field Office	A	AM & PM	AM & PM
Rettie	Dwight	Enviro. & Nat. Res. Cons. (N)	Coalition of NPS Retirees	A	AM & PM	AM & PM
Rylander	Jason	Enviro. & Nat. Res. Cons.(N)	Defenders of Wildlife	P	AM & PM	AM & PM
Sanguineti	Vincenzo	Civic & Homeowner Assoc	Hatteras Island Homeowners Coalition	A	AM & PM	
Swartwood	Judy	Tourism, Visitation & Business	Cape Hatteras Business Allies	P	AM & PM	AM & PM
Wells	Jeffrey	Civic & Homeowner Assoc	Hatteras Landing Homeowners Assoc	P	AM & PM	AM & PM
Weston	Pat	Civic & Homeowner Assoc	Grtr Kinnakeet Shores Homeowners Inc	A	PM	AM & PM
Winslow	Sara	State Govt	NC Marine Fisheries Comm	A	AM & PM	AM & PM
Wrenn	Lee	County Govt	Dare County	A		AM

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AGENCY AND OTHER STAFF				
Last Name	First Name	Organization	Sept 8	Sept 9
Balance	Kenny	NPS	AM & PM	
Hamilton	Sandra	NPS	AM & PM	AM & PM
Holda	Cyndy	NPS	AM & PM	AM & PM
Muizneeks	Britta	Hatteras	AM	
Stevens	Paul	NPS	AM & PM	PM
Stevens	Mike	DOI - Solicitor's Office	AM & PM	AM & PM
Ferguson	Ona	CBI	AM & PM	AM & PM
Field	Pat	CBI	AM & PM	AM & PM
Fisher	Robert	Fisher Collaborative Services	AM & PM	AM & PM

MEMBERS OF THE PUBLIC				
Last Name	First Name	Organization	Made Public Comment?	Date(s) Present
Ackley	Barbara	self	Y N	Sept 8 & 9
Alderman	Rob		Y	Sept 8
Austriw	Rudy	OCBA		Sept 8
Balfe	Jay	self		Sept 8
Barley	Jimbo	OBPA		Sept 8
Barnes	Steve	self		Sept 8
Barnes	Gus	self		Sept 8
Barnett	Walker	self	Y	Sept 9
Blackurn	Heidi			Sept 8
Bowers	Don	press		Sept 8
Bradley	Scott	Ocracoke	Y	Sept 9
Brite	Kenny	AVFD		Sept 9
Brown	Gilbert	self		Sept 8
Bujorelli	Al			Sept 8
Butrym	Debbie	Avon Property CCFW/UFW		Sept 8 & 9
Carroll	Alita	Graveyard All. Museum		Sept 8
Classen	Carl	Hyde County	Y	Sept 9
Couch	Stewart			Sept 8
Dawson	Scott	self		Sept 8
Dean	Mary	Ocracoke Island Res		Sept 8
Dillon	Carol	Outer Banks Motel owner	Y	Sept 8
Doshier	Ernest	Gecko Sportfishing		Sept 9
Ebert	Jim	homeowner		Sept 8 & 9
Everett	Laura	self		Sept 8
Fenich	Mary Lee	Kinnakeet		Sept 8 & 9
Ferrell	Mike	self		Sept 8
Finley	George	NJBBA		Sept 8 & 9
Garris	Alli	self	Y	Sept 8
Garris	Carol	self	Y	Sept 8
Garris	Jen	self	Y	Sept 8
Giannetti	Nancy			Sept 8

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MEMBERS OF THE PUBLIC				
Last Name	First Name	Organization	Made Public Comment?	Date(s) Present
Gibbs	Jane	Mainland Hyde		Sept 8
Gray	Keith	self		Sept 8
Gray	Gracie	Sands of Time Campground		Sept 8 & 9
Griffin	Millie	self		Sept 8
Hamilton	Ted	self	Y Y	Sept 8 & 9
Hanna	Jim	homeowner		Sept 8 & 9
Hanus	Ryan	self		Sept 8
Harris	Jim	self	Y N	Sept 8 & 9
Hayes	Jeff	self		Sept 8
Kinnair	Rick	self		Sept 8
Krczjak	Greg	self	Y	Sept 8
Lanier	Leslie	self	Y	Sept 8
Lester	Hal	self	Y	Sept 8
Magliano	Steve		Y Y	Sept 8 & 9
Manning	John	self	Y	Sept 9
McCabe	Kevin	self	Y	Sept 9
Midgett	Rusty			Sept 8
Midgette	Monica	Business Owner		Sept 8
Misseri	April	self		Sept 8
Misseri	Ben	self		Sept 8
Moore	Pat	birders		Sept 8 & 9
Murray	Lynne	self		Sept 8
Murtaugh	Kathleen	self		Sept 8
Parks	David		Y	Sept 8
Parr	Dewey	Business Old Gray House	Y	Sept 8
Read	Milton	self	Y	Sept 8
Scarborough	David		Y	Sept 9
Scarborough	Harvey	self	Y	Sept 9
Schaaf	Claire	self		Sept 8
Schaaf	Raymond	self		Sept 8
Shade	Brenda	self		Sept 8
Smyers	Robert	self		Sept 8
Smyers	Angela	self		Sept 8
Spencer	Sharon	Mainland Hyde	Y	Sept 8
Stevens	Chip	self	Y	Sept 9
Styron	Darlene	Ocracoke Island Res	Y	Sept 8
Sutton	Alan	self	Y	Sept 8
Swartz	Dolores	homeowner		Sept 8
Swartz	Neil	homeowner		Sept 8
Wallis	Carol			Sept 8
Westervelt	Fred	Ocracoke	Y Y	Sept 8 & 9
Westervelt	Ernestine	self		Sept 9
Weston	Jim			Sept 8 & 9
Wetmore	Warren	self		Sept 8
Whitehead	Jack	Ocracoke Island Realty	Y	Sept 8

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MEMBERS OF THE PUBLIC				
Last Name	First Name	Organization	Made Public Comment?	Date(s) Present
Williams	Kyle	Munchkin Academy Preschool	Y	Sept 8
Williams	Jarvis	Cape Point Exxon, 4x4 towing		Sept 8
Woods	Thomas	Island Hideaway	Y	Sept 8
Younce	Earl	Motel owner	Y	Sept 9

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**Attachment B: Cape Hatteras National Seashore Negotiated Rulemaking
Meeting 6 – September 8-9, 2008*
Draft Summary of Action Items**

Task	From	To	Deadline
Distribute Action Item list from Meeting 5.	CBI	Committee	Done
Identify dates in January when unavailable for Committee meetings.	Committee	CBI	September 19, 2008
Send out updated subcommittee member lists.	CBI	Committee	September 26, 2008
Provide relevant Meeting 6 flip chart notes.	CBI	Subcommittees	September 26, 2008
Identify dates for January meeting(s).	CBI	Committee	October 1, 2008
Prepare and distribute draft Meeting 6 summary.	CBI	Committee	October 1, 2008
Develop and distribute draft agenda for next meeting.	Agenda Planning Subcommittee	Committee	October 15, 2008
Review draft Meeting 6 summary and submit comments.	Committee	CBI	October 15, 2008
Respond to ethics question about Committee membership.	NPS	Committee	October 17, 2008
Incorporate feedback and distribute revised draft Meeting 6 summary.	CBI	Committee	October 22, 2008
Provide status of Committee membership changes.	DFO	Committee	October 22, 2008
Submit Federal Register notice for January meeting date(s).	NPS		October 31, 2008
NPS policy on management of NC state species of concern.	NPS	Committee	Prior to next meeting
Continue subcommittee work.	Subcommittees	Committee	Prior to next meeting
How do socio-economic study results factor into decision-making?	NPS	Committee	Prior to next meeting
Provide input to NPS on approaching businesses and rental companies about socio-economic survey.	Committee	NPS	Prior to next meeting
Post NEPA workbook executive summary on PEPC and notify Committee.	NPS	Committee	November 1, 2008
Socioeconomic analysis: meeting to launch survey and publicize list of businesses.	NPS	Committee/public	Fall 2008
Distribute updated buffer chart.	NPS	Committee	???
Determine compatible uses regarding providing public parking on Pea Island National Wildlife Refuge, if public can use administrative parking lot, and parking space plans in comprehensive conservation plan, if any.	FWS to FWS Refuge	Committee	???

*Action items not completed from previous meetings are carried forward into the most current action item list.

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Attachment C:

**Cape Hatteras National Seashore Negotiated Rulemaking
Meeting 6 – September 8-9, 2008
*Materials Distributed***

1. Revised Draft Final Agenda, dated September 2, 2008
2. Revised Draft Meeting 5 Summary, dated September 4, 2008
3. List of changes to the Draft Meeting 5 Summary, dated September 4, 2008
4. Working Document on Vehicle Characteristics, Equipment and Operations from the Vehicle Characteristics and Operations Subcommittee, dated September 4, 2008
5. Working Document on ORV Safety Closures from NPS, dated July 30, 2008
6. Working Document on ORV Routes and Areas, Pedestrian Areas, and Resource Areas Principles and Criteria submitted by Sidney Maddock, Burnham Gould, Jr. and Destry Jarvis, dated September 4, 2008
7. Working Document on ORV Routes and Areas Principles and Criteria submitted by Frank Folb, David Goodwin and Jim Keene, dated September 4, 2008
8. Working Document on ORV Routes and Areas Chart submitted by Frank Folb, David Goodwin and Jim Keene, dated August 1, 2008
9. Working Document on Village Closures from the Village Closure Subcommittee, dated September 2, 2008
10. Working Document on Natural Resources and Cape Point from Natural Resources Subcommittee, dated September 4, 2008
11. Working Document on Permits/Passes/Fees from the Permits/Passes/Fees Subcommittee, dated September 4, 2008
12. Written Public Comment from Earl Younce
13. Written Public Comment from David Scarborough
14. Written Public Comment from Barbara Ackley
15. Written Public Comment from John Fletcher