



## SC Beach Preservation Stakeholder Workgroup Meeting Summary September 21, 2022

### OVERVIEW

The SC Department of Health and Environmental Control's (DHEC) Office of Ocean and Coastal Resource Management (OCRM) convened the SC Beach Preservation Stakeholder Workgroup on Wednesday, September 21<sup>st</sup> at James Island Town Hall in Charleston, SC to discuss the topic of land management and further refine and define the Workgroup recommendations identified thus far in the process.

This workgroup brings together representatives of diverse stakeholder groups including residents of coastal communities, state and federal government agency representatives, academic professionals, conservation organizations, consulting engineers and policy experts with a commitment to actively participating in this process. Meetings scheduled in the coming months will present resources and information to promote further dialogue and solution-based discussions. The group was encouraged to maintain the perspective of the full SC coastline and to strive for consensus. DHEC OCRM staff will value all perspectives and take all discussions consideration in determining the agency's recommendations which will be outlined in a final report as the stakeholder process concludes.

There will be opportunities for broader stakeholder and members of the public to provide comment throughout the process and a webpage will be established to provide updates and seek additional feedback. The public participation process and opportunities to comment would extend into any subsequent process of drafting regulations related to the issues discussed by the workgroup.

### WELCOME & INTRODUCTIONS

At 9:30 a.m., S.C. DHEC OCRM Chief Elizabeth von Kolnitz welcomed the Workgroup members and noted the importance of this process and the perspectives they bring.

Adam Bode, Coastal Planner for DHEC's OCRM and Kristy Ellenberg, Director of Collaborative Partnerships & Strategic Initiatives in DHEC's Office of Environmental Affairs introduced themselves and noted they would be serving as co-facilitators throughout the meeting.

The following Stakeholder Workgroup members were in attendance:

Bradley Craig, SC Office of Resilience  
Emily Cedzo, Coastal Conservation League  
Steven Traynum, Coastal Science & Engineering  
Don Thomas, Peace Sotheby's International Realty  
Amy Armstrong, South Carolina Environmental Law Project  
Iris Hill, Town of Edisto Island  
Aaron Pope, City of Folly Beach  
Rob Young, Western Carolina University

A full list of stakeholder workgroup members is included as an appendix to this meeting summary. DHEC facilitators and staff will follow-up with those unable to attend to gather perspectives to be shared with the group.

Also in attendance were members of the DHEC's OCRM staff Jessica Boynton, Coastal Services Section Manager; and Matt Slagel, Beachfront Management Section Manager; and Liz Hartje, Project Manager.

### **LAND MANAGEMENT TECHNIQUES AND APPROACHES**

Workgroup members we provided with the following examples of land management techniques and approaches for consideration and discussion:

- Real-estate Disclosure
- Education
- Better Building Practices
- Setbacks and/or Buffers (local & state)
- Property Buyouts & Land Acquisition

Workgroup members were asked to identify examples of other land management techniques and approaches that may be missing and consider whether each is proactive or reactive in nature as well as the temporal scale of each.

#### **Property Buyouts & Land Acquisition**

- Need to consider and discuss derelict structures on the beach.
- Consider looking at the enforcement of state special permits and the conditions of what is currently allowed. Specifically, reviewing the size of structures.
- This will become a larger issue and one that the state legislature will need to address to deal with the eventuality of having derelict houses on public beach. There are a lot of houses that may end up on the active beach in locations that don't have long term renourishment.

- There are examples where houses are falling over and/or into the water, the local municipality is willing to pay to remove it, but the town or city is being threatened with a lawsuit. Legislation is needed to enable the local municipality to remove these structures without the risk or threat of litigation.
- In unincorporated areas, the Homeowners Associations are suing property owners (and vice versa) while in the meantime, houses are on the beach and in the water. Safety issues, impacts surrounding property values.
- Need a solution on how to deal with derelict homes that are on the beach or under water that not only decreases liability but addresses the safety issues and impacts to surrounding property values.
  - Examples: Pritchards and Hunting Island
- With respect to funding the removal of derelict structures, this could be some that could be funded through the new Beach Preservation Fund.
- May want to consider some level of relief for the current homeowner if the structure is condemned and removed.
- Need to realize that in many instances, these are investment properties (not primary residences) and sometimes people make a bad investment. Could consider a little compensation but the state and/or municipality should not have to buy out properties at a high price, which would make it prohibitive. This put more onus on the property investor to take responsibility for their own investment.
- Funding should be allocated for the cost of removal, not for compensation.
- A previous bill included funding for the cost of removal so there may be legislative support.
- Still need to consider and discuss how to handle such structures on private communities (Harbor Island, for example) who may not be eligible for the Beach Preservation Fund.
- The state of North Carolina recently did an exhaustive search for models in other states for how houses were ordered off public beach by local or state government. North Carolina is dealing with the same issue of houses on the beach or in the water. The state's superintendent would like to order houses off the beach before they collapse. State was unable to find any models of where this has been done successfully. For example, in Surfside, Texas a case went to court to have a structure removed but it was unsuccessful. Largely, language is very general and there is no legislation with specific details about how this could work.

#### Real Estate Disclosure & Education

- Real estate disclosures and education go hand in hand. Stronger and more targeted language and warnings need to accompany disclosures. Realtors aren't experts on the hazards, but education and information are needed to be able to tell the investor what they need to investigate.

- A standard form from DHEC OCRM would be helpful. Could include information such as: property is on the beachfront, property may experience hazards such as erosion and storm damage, property is located on a public beach, current adopted erosion rate, and emergency permits authorized.
- Although some of this information is already shared (flood claims, flood insurance), it is only required for a mortgage.
- Draft disclosure legislation is currently being drafted as the current language is vague and allows for checking 'no representation'. Using South Carolina Association of Counties (SCAC) recommendations to include more information for coastal hazards, including
  - flood disclosures
  - erosion control structures
  - shoreline change and erosion rates
  - emergency orders
  - renourishment projects
  - construction authorized under special permit
  - septic

Conceptually, this could be a form with the information above and links to publicly available data for both the seller and prospective buyer.

- Broad agreement that making this information and data easily available is important otherwise disclosures will be difficult.
- Currently, national organizations are trying to produce parcel by parcel risk maps, i.e., flood risk, but this is often of mixed quality. Concerned that if the State doesn't proactively determine the information that will be made available, others will fill this void and the information may be less accurate.
- SCDHEC OCRM already has several mapping applications that allow the public end user to view and download data. The following were displayed during the meeting:
  - SC Beachfront Jurisdictional Lines Viewer ([LINK](#))
    - Baseline, Setback, shoreline change rates (i.e., long-term erosions rates)
  - SC Beach Renourishment Viewer ([LINK](#))
    - Provides an overview and detailed information for completed beach nourishment projects (by beach, year, and project)
  - SC Beach Erosion Research & Monitoring (B.E.R.M.) Explorer ([LINK](#))
    - Provides beachfront communities, researchers, and the general public access to topographic and bathymetric data for SC beaches. Volume tool can be used to estimate the volume of sand over multiple years.
- SC Office of Resilience is working with the [First Street Foundation](#) on GIS data and recently updated coastal modeling recently. Since counties keep and maintain their

own parcel level data and metadata isn't often standardized, access can be challenging.

### Better Building Practices

- Establishing better building practices may be more important for flood zones. If structures are built in locations that may end up inundated by water, it may not ultimately matter how it's built.
- There have been improvements made in structural engineering as better building practices still won't save a structure from sea level rise, storm surge, or other threats.
- There may be an opportunity to take a closer look at smaller scale, for example Mobi-Mats rather than beach dune walkovers. These could be used for individual walkovers instead of building a structure all the way out to the active beach.
- In addition to structures (houses, pools, erosion control structures), may need to consider if regulatory changes are needed to deal with non-structure issues. These include septic tanks, which are currently tied to the mean high-water line.
  - North Carolina is currently crafting new regulations regarding septic tanks on the beach.
- On Edisto Beach, Hurricane Matthew impacted the first four blocks and included significant damage to septic tanks and the concrete pads under beachfront houses. The beach had to be closed due to public safety issues. Unfortunately, septic systems were often reconstructed in the same location, which is a concern for future storms.
- Septic regulations are not under the purview or authority of DHEC OCRM but regulated by the DHEC Bureau of Environmental Health Services (BEHS). Additional standards could be recommended for BEHS consideration.

### **LAND MANAGEMENT TECHNIQUES AND APPROACHES – FUNCTION OR LOCATION**

Following the large group discussion summarized above, workgroup members worked within small groups to identify whether specific land management techniques or approaches seek to preserve the beach function, the beach location, or both. The following summarizes the input and information gathered during the large group report out:

#### **Preserves the Function of the Beach**

- Property Buyouts
- Land Acquisition
- Removal of Hazardous or Derelict Structures
- Setbacks and/or Buffers
- Closing Jurisdictional Gap (i.e., OCRM "Beaches Critical Area")

#### **Balances the Function and Location of the Beach**

- Beach Preservation Fund
- Real-estate Disclosures & Education
- Better Building Practices
- Septic System Regulation

#### **Preserves the Location of the Beach**

- Property Buyouts & Land Acquisition
- Setbacks and/or Buffers

### **GROUP DISCUSSION: PRIORITY RECOMMENDATIONS FOR LAND MANAGEMENT**

Following the discussion to identify the techniques and approaches that preserve the location, function, or balance both, Workgroup members were asked to identify priority recommendations for land management and provide additional information relating to:

- How this technique or approach would be accomplished?
- Who is responsible or needs to be involved?
- Would this require a policy (statute, regulatory, both) change?

#### **Real-estate Disclosures & Education**

- Real estate disclosures and education go hand in hand. Need to increase public awareness. A brochure or pamphlet could be used to disseminate information with links to other data and information websites and clearinghouses online.
- The SC Realtors Association, Real Estate Commission, and attorneys need to be involved.
- Requiring real-estate disclosures would require a legislative change.

#### **Setbacks and/or Buffers**

- The State setback for septic tank systems needs to be reviewed. If the setback remains at the mean high water, septic tanks will continue to be an issue.
- The City of Folly Beach has adopted additional setbacks from the state Setback Line on the beachfront and have been successful in enforcing. For example, new construction has been prohibited within these areas.
- The Town of Edisto Island also regulates septic systems. Issues arise where DHEC permits an activity under current state statute/regulatory requirements, but the local government cannot according to local ordinances. These instances place the local government in a difficult position.
- Opportunity to modify state permitting process to allow local government review and feedback (indicate that it would need to comply with local ordinances) prior to DHEC review. Need to consider the order of reviews between local governments and state.

- Example - Process by which landfill project applications are reviewed by DHEC. Must meet state requirements and certify that local requirements are met as well.

### **Property Buyouts & Land Acquisition**

- The State should take responsibility for the removal of houses and structures from the active beach as these impact the public trust resource
- Local governments should be given more flexibility and support to increase assessments, and taxes in order to manage their own resiliency at the local level. Currently, the State caps or limits the ability of local governments to raise and utilize additional funds.
- Beach preservation fund needs to be able (eligible) to fund property buyouts and structural removals.
- SC Parks Recreation and Tourism (SC PRT) may not be the appropriate entity to oversee and administer funds for property buyouts and hazardous structure removal. More appropriate for the SC Office of Resilience.

### **GROUP DISCUSSION: THE STATE'S ROLE IN THE BUILT ENVIRONMENT**

Matt Slagel, DHEC OCRM's Beachfront Management Section Manager, provided background information on OCRM's direct permitting authority for beachfront permitting based on the state's jurisdictional lines (baseline, setback) and outlined broader coastal policies that apply in these areas. The state's definition of "beach" and "beach/dune system," as described in [SC SECTION 48-39-10](#) were provided as background information to guide the subsequent group discussion:

*(H) "Beaches" means those lands subject to periodic inundation by tidal and wave action so that no nonlittoral vegetation is established.*

*(4) beach/dune system which is the area from the mean high-water mark to the setback line as determined in Section 48-39-280.*

### **Workgroup Discussion**

- The current definition of "beaches" is inadequate and there is a lack of regulatory specifics to support the state's authority in "beach" areas that are landward of the jurisdictional lines.
  - **Recommendation:** DHEC OCRM should assert its regulatory authority in areas that meet the definition of beach/dune system but are currently landward of the setback line (i.e., "beaches critical area").
- Defining boundaries based on stabilized vegetation becomes problematic over the long-term as geomorphologic features change. With this in mind, considering jurisdiction between beachfront structure (house, pool) and the mean high-water line for erosion control structures may be an option.

- **Recommendation:** No new erosion control structures should be allowed within the beaches critical area.

### **GROUP DISCUSSION: REFINING WORKGROUP RECOMMENDATIONS AND DEFINITIONS**

The meeting concluded with a brief overview of the draft workgroup recommendations and definitions, which are based on the feedback received thus far in the stakeholder workgroup process. Prior to the next workgroup meeting, members were asked to provide their input on the draft language for consideration (see below).

#### **Recommendation – Beach Nourishment Definition**

Current Statute Language for reference

SECTION 48-39-270. Definitions.

(4) Beach nourishment means the artificial establishment and periodic renourishment of a beach with sand that is compatible with the existing beach in a way so as to create a dry sand beach at all stages of the tide.

#### **Recommendation Language for Consideration**

***Add or cross out language as desired. Circle all options from the list below that should be included.***

The definition of Beach Nourishment should be expanded to include the benefits that these types of projects provide, including support for:

- Storm protection
- Habitat
- Tourism and economics
- Recreation opportunities
- Aesthetics

#### **Recommendation – Beach Nourishment Project Specifications**

***Add or cross out language as desired. Circle all options from the list below that should be included.***

Establish a technical advisory committee to further investigate beach nourishment project specifications, including:

- Sand quality
- Timing windows
- Other project specifications
- Placement and borrow area refinements and flexibility
- Dredge type
- Other: \_\_\_\_\_



### Recommendation – Beach Preservation Fund

#### Recommendation Language for Consideration

**Add or cross out language as desired. Circle all options from the list below that should be included.**

- Retain and support current Fund which is called “South Carolina Beach Restoration and Improvement Trust Fund” and is described in SECTION 48-40.
- Establish a dedicated funding source to adequately and reliably fund the “South Carolina Beach Preservation Fund” and expand the purpose, appropriations, and designation of funds to include additional beach management options.
- Identify funding source for current or new fund.
- Recommend that Parks, Recreation & Tourism Department codify formal criteria or requirements for state dollars. Minimal requirements should include:
  - Approved LCBMP
  - With approved LCBMP, private beach communities could apply for a certain percentage or tiered level of funding.
  - Approved comprehensive plan with a section on beachfront management
  - Full and Complete Public access
  - No requirement based on access
  - Other \_\_\_\_\_

### Recommendation – Expand Use and Flexibility of Local Accommodation Taxes

Currently, local governments are allowed to retain \_\_\_% of the 3% of local accommodation taxes for the purposes of tourism-related projects and programs.

Local governments can charge up to an additional 3% in Accommodations Tax. The proceeds must be used for tourism-related projects and programs as defined in [SC Code Section 6-1-530](#)

SECTION 6-1-530. Use of revenue from local accommodations tax.

(A) The revenue generated by the local accommodations tax must be used exclusively for the following purposes:

- (1) tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;
- (2) tourism-related cultural, recreational, or historic facilities;
- (3) beach access, renourishment, or other tourism-related lands and water access;
- (4) highways, roads, streets, and bridges providing access to tourist destinations;
- (5) advertisements and promotions related to tourism development; or
- (6) water and sewer infrastructure to serve tourism-related demand.

#### Recommendation Language for Consideration

**Add or cross out language as desired. Circle all options from the list below that should be included.**

To increase the percentage of local accommodation taxes that local governments retain from \_\_\_% to \_\_\_%. To increase the flexibility to use these local funds as needed for match for state funding for beach preservation/renourishment, rather than \_\_\_\_\_.

### Recommendation – Beach Preservation Definition

Current Statute Language for reference

SECTION 48-39-280. Beach preservation policy established; notice requirements; appeals procedures.

(A) A policy of beach preservation is established. The department must implement this policy and utilize the best available scientific and historical data in the implementation. The department must establish a baseline that parallels the shoreline for each standard erosion zone and each inlet erosion zone.

### Definition Language for Consideration

**Add or cross out language as desired. Circle all options from the list below that should be included.**

Beach Preservation is defined as maintaining the functionality and benefits of the natural beaches and beach/dune system to support:

- Storm protection
- Habitat
- Tourism and economics
- Recreation opportunities
- Aesthetics

### Recommendation – Beach Preservation Policy Statement

Current Statute Language for reference

SECTION 48-39-280. Beach preservation policy established; notice requirements; appeals procedures.

(B) A policy of beach preservation is established. The department must implement this policy and utilize the best available scientific and historical data in the implementation. \* The department must establish a baseline that parallels the shoreline for each standard erosion zone and each inlet erosion zone.

### Implementation Language for Consideration

**Add or cross out language as desired. Circle all options from the list below that should be included.**

Beach preservation will be implemented using the following techniques:

- Beach nourishment
- Inlet management
- Sand dune restoration
- Sand dune stabilization using sand fencing and native vegetation
- Conservation of undeveloped shorelines
- Landward movement and/or removal of habitable structures wherever necessary or feasible

\*Suggested language would be added here

## **Recommendation - Additional coordination and planning between state, county, and local entities**

### **Language for Consideration**

There are several plans that state, county, and local entities develop and maintain, including comprehensive plans, local comprehensive beach management plans, and resilience plans. Increased coordination and syncing of these various plans would help to formalize public engagement, reduce duplication of effort, and streamline timing.

If the South Carolina Beach Preservation Fund is created and fully funded, there will need to be additional coordination between state, county, and local entities. A portion of this Fund could be designated to support these coordination efforts.

Note: Statutory change will be required for changes to Local Comprehensive Beach Management Plans (LCBMPs).

## **Appendix A** – SC Beach Preservation Stakeholder Workgroup Member List

Ross Appel  
Attorney & Charleston City Council Member

Amy Armstrong  
South Carolina Environmental Law Project

Keith Bowers  
Biohabitats, Inc.

Jenny Brennan  
Southern Environmental Law Center

Blanche Brown  
DeBordieu Colony Community Association, Inc.

Alex Butler  
SC Office of Resilience

Emily Cedzo  
Coastal Conservation League

Melissa Chaplin  
U.S. Fish & Wildlife Service

Nicole Elko  
SC Beach Advocates

Paul Gayes  
Coastal Carolina University

Justin Hancock  
South Carolina Department of Parks, Recreation & Tourism

Iris Hill  
Town of Edisto Beach

Lindsey Jackson  
SC Realtor's Association

Michelle Pate  
SC Department of Natural Resources

Aaron Pope  
City of Folly Beach

Queen Quet (or designee)  
Gullah/Geechee Nation

Jack Smith  
Attorney

Don Thomas  
Peace Sotheby's International Realty

Steven Traynum  
Coastal Science & Engineering

Rod Tyler  
Industry - New technology/Living shoreline products/Property Owner on Marsh in Murrels Inlet

Robert Young  
Western Carolina University