

# District Court Judge Rules Gill Net Regs Unconstitutional

BY DOUG RUTTER

A Brunswick County District Court judge ruled last week that a state proclamation requiring fishermen to stand watch over gill nets set from the beach is unconstitutional. Judge Jerry Jolly made the ruling last Wednesday in dismissing a case against Annice Narcise of Caswell Beach, who was cited for leaving ropes and anchors unattended on the strand, according to court records.

N.C. Division of Marine Fisheries officials said they will continue to enforce the rules set forth in the proclamation. The division may ask the N.C. Attorney General's Office to appeal the court ruling.

A little over a year ago, following a public hearing at Long Beach, the state fisheries director issued a proclamation establishing rules concerning the use of gill nets along the Brunswick County beaches.

The proclamation, which was updated earlier this month to include Holden Beach, requires fishermen to attend gill nets that are set or fished from the beach from Labor Day through Memorial Day.

It also requires that all equipment used in gill netting such as ropes, anchors and buoys be removed when the net is not in use. During the peak tourist season, between Memorial Day and Labor Day, the proclamation prohibits the setting of gill nets from the beach and leaving nets unattended if they are set from a boat within 300 yards of the beach.

Judge Jolly, who is working in Columbus County this week, could not be reached for comment Tuesday. Two telephone calls were not returned.

The state may appeal the judge's ruling, said Col. Fred Swain, head of law enforcement for the Division of Marine Fisheries.

"Right now we're talking with the attorney general's office. The state may make an appeal," Swain said Tuesday.

"Personally, I don't really understand how a district court judge can rule something unconstitutional," he said.

The state has until Friday—10 days from date of the court ruling—to file an appeal with the Brunswick County Clerk of Court.

Tim Nifong of the N.C. Attorney General's Office said Tuesday he didn't know if an appeal was forthcoming.

"That is a decision the client has to request. The Division of Marine Fisheries would have to request that," Nifong said. "I haven't filed anything yet, and I haven't been requested to file anything."

Nifong said the judge's ruling has no effect on the proclamation. It does not set a precedent for the 13th judicial district or bind Jolly or other judges in the district to

make the same ruling in the future.

"This has no precedential effect to my knowledge," Nifong said. "I think district court judges dismiss cases for a lot of reasons and those reasons aren't always part of the public record."

Swain said Marine Fisheries officers will continue enforcing the gill net regulations in effect.

Capt. Pete Rivenbark, head of law enforcement for the Marine Fisheries' southern district, said the rules were imposed last year to reduce friction between gill net fishermen and other people who use the beach and ocean.

"That was at the request of the beach towns in Brunswick. They were wanting to get rid of some of the gear on the beaches," Rivenbark said.

Rivenbark said the regulations are needed for safety reasons to protect the public from

anchors, pipes, cinder blocks and other debris used as part of netting operations.

People walking on the beach and swimmers have been injured and boats have been damaged because of netting gear left on the strand and in the water, Rivenbark said.

Narcise said she's been net fishing at Caswell Beach since 1963 and has always left ropes on the strand and an anchor in the water during the fall fishing season.

She said net fishing from the strand is a tradition and it's one of the reasons she moved to Oak Island 31 years ago.

"I don't think nets should be neglected. I don't think fish should die. I think there's a proper way to do it," Narcise said.

"I think it can be handled with restrictions, but I think it's ridiculous to sit there with it when I can sit in my house and walk out every 10 minutes to check on it. I think that's taking it to extremes."

## Lawsuits May Be Ahead In Sheriff's Race Scandal

(Continued From Page 1-A)

his index fingers, three times. Lt. Hewett said "Get One Like This."

The two-page letter says the students rented "two Steven Segall movies" and an X-rated one called "L.A.P.D. You're Busted." It claims Hewett stayed in the room and viewed the latter tape.

The letter is signed by Suzanne Pearson, wife of Brunswick County Sheriff's Department Deputy Lt. Carl Pearson, along with Anthony Key, who is also a deputy, and former sheriff's deputy Robert Young, who allegedly paid for the movies. The signatures are notarized by Weston Lewis.

In an interview Tuesday, student Laura Crane, who is mentioned in the letter but did not sign it, called the account "totally fabricated" and "obviously a political game." She said Hewett "was not even on campus" and had gone home to eat lunch when some of the students decided to rent some videos.

"It's a total lie. It did not happen," Crane said. "It says I was there. How come they didn't ask me to sign it? If they are so upset about this, why didn't they say something sooner? This happened two years ago. Why are we just hearing about it now, a few weeks before the election?"

Crane said she was not asked to add her signature to the letter, although she "heard others were asked to sign it." Another of the 12 students in the class, who requested not to be identified, said Tuesday that he turned down a request to sign the letter.

Trest would not give details of the deposition in which he says the Leland Police officer claims he was given a copy of the letter by Brown. Nor would the attorney release the name of the woman in Ash who allegedly received a videotape from

the candidate.

Trest said he plans to wait until after the Nov. 8 election before filing lawsuits seeking compensatory and punitive damages against those involved in the "smear campaign." He would not say how many people would be sued, nor would he indicate whether Brown would be among them.

"I haven't determined who will be named because these things are still being circulated," Trest said. "The statements being made against (Hewett) are libelous on their face. A number of the letters were sent to people in the school system, because of his connection with the school's DARE program as an underhanded method to try to discredit him."

"Political wisdom says to keep this kind of thing quiet," Trest said. "But every once in a while, you have to take a stand for what's right. And this is wrong. Otherwise nobody is going to run for public office."

The law says that any statements made "maliciously, with a reckless disregard for the truth" are considered slanderous, Trest said. The publication of such statements is libelous. Each time the damaging falsehood is transferred from one person to another, it is considered a "publication."

"Everyone who handed out or verbally repeated (the claims made in the letter) is potentially liable," Trest said. "I will be actively pursuing everyone who I find responsible."

Trest said he has viewed the video believed to be an excerpt of the X-rated movie mentioned in the letter. He called the 15 minutes of film "very explicit. He said it was labeled 'triple X,' but did not have a title on it."

"I would say it's quadruple X," Trest said.

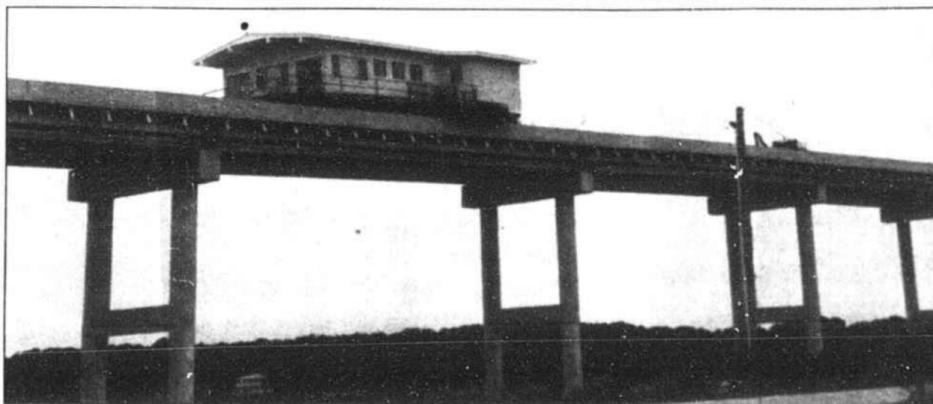


PHOTO BY GEORGE MADISON

### Rolling Along

A house is moved off the island at Ocean Isle Beach via the Odell Williamson Bridge on Oct. 12. Milligan House Movers did the job.

## Shallotte Picks Top Priorities For Easing Traffic Congestion

BY DOUG RUTTER

Shallotte officials still have a lot of work to do before approving a thoroughfare plan, but they have agreed on two major road projects that will be presented to the state next month.

At a joint meeting Tuesday, aldermen and planning board members voted in favor of two construction proposals the town will pitch to the N.C. Board of Transportation at its Nov. 15 public hearing in Wilmington.

To direct the majority of the Ocean Isle Beach and Holden Beach traffic to the U.S. 17 Bypass and out of downtown Shallotte, officials have proposed the following:

—Build a short connector road between Holden Beach Road and Smith Avenue through the Wal-Mart parking lot.

—Build an extension of N.C. 179 from its intersection with Hale Swamp Road north to U.S. 17 Business near Shallotte Township Park. The road would continue north across U.S. 17 Business to N.C. 130 West near Bridger Road.

Shallotte officials view those proposals as the most important of the 10 included in a long-range thoroughfare plan proposed by Rick Blackwood of the N.C. Department of Transportation.

The planning board will continue working on the thoroughfare plan, which continued to draw criticism Tuesday night from residents of two neighborhoods.

For the second straight meeting, residents of the Brierwood Estates golf community packed town hall to oppose the planned addition of two new entrances into the subdivision.

One resident handed the town

board a petition signed by 125 voters who object to the idea, which now seems destined for the trash heap.

Blackwood and town officials said they see no reason for additional entrances into Brierwood if the residents don't want them. Blackwood said he included them in the plan for the safety and convenience of residents, but the entrances are not needed to aid traffic flow.

Bluff Drive residents also turned out in force Tuesday to shoot down a more significant proposal to turn their residential street into a major thoroughfare.

To reduce traffic on Main Street, Blackwood has proposed extending Bluff Drive across Shallotte River to the south end of Cheers Street and continuing it on to Holden Beach Road. Bluff also would be extended from its intersection at Copas Road behind Shallotte Middle School to N.C. 179.

Bluff Drive residents said they don't want their street turned into an alternate route to U.S. 17 Business.

"I hope that when you folks vote, I hope that you will choose the people who are here now over the people who may come later," said longtime Bluff Drive resident Rex Gore.

"I hope if you have to choose between these people here and the progress up on that map I hope you'll choose the people here," Gore said.

Blackwood said the Brierwood entrances can be eliminated from the plan, but he doesn't want to do away with the Bluff Drive extension unless there is a viable alternative.

"I'm not picking on one particular area. I have reasons for wanting to keep that in the plan," he said.

## Weather Puts Damper On Festival, Delays Oyster Season

While lighter-than-usual crowds at the N.C. Oyster Festival Friday and Saturday chowd Gulf Coast oysters from Louisiana, opening of the local oyster harvest season was delayed because of the area's heaviest short-term rainfall in 10 years.

The festival came on the heels of the largest rainfall in a 24-hour period that Shallotte Point weather watcher Jackson Canady has recorded since Hurricane Diana in September 1994.

Canady said the passing system dumped seven and one-third inches of rain in 24 hours and a total of seven and forty-seven one-hundredths of an inch for the week. "That's the largest 24-hour total since Hurricane Diana, at least on my rain gauge," he said. "We have had some 4- and 5-inch rainfalls, but not this much unless there were isolated situations."

During Diana, the largest 24-hour rainfall total was seven and one-half inches, with more than 11 inches of rain that week.

Oyster harvest season was to have opened Saturday, but instead a state proclamation closed waters from the high rise bridge at Atlantic Beach in Carteret County to the South Carolina state line.

Field personnel with the N.C. Division of Shellfish Sanitation were sampling local waters Tuesday to the coliform bacteria count. The earliest waters could open is today, Thursday.

For the period of Oct. 11-17, Canady recorded a high of 75 degrees and a low of 41 degrees, both occurring on Oct. 17. A daily average high of 71 degrees and an average nightly low of 55 degrees combined for a daily average temperature of 63 degrees, which is 2 degrees below the long-term average.

For the coming period, Canady said he anticipates near normal temperatures and rainfall, with nighttime lows in the mid-50s and daytime highs reaching into the mid-70s and no more than a half-inch of rainfall.

### Pic 'n Pay Robbed

Shallotte police on Tuesday night were trying to identify a suspect in the 7:15 p.m. robbery of the Pic 'n Pay shoe store in Twin Creek Plaza.

A clerk reported to police that the robber, who fled on foot with an undisclosed sum of money, said he had a weapon in right pocket. Police Chief Rodney Gause said the clerk did not see a weapon.

Gause said the robber was described as a black man in his mid-40s, about 6 feet tall, 160-175 pounds with medium-length hair. At 10:30 p.m., Pic 'n Pay clerks were in the store awaiting the arrival of police photos of a possible suspect.

Gause said the clerk on duty during the robbery was not harmed.

Both the Food Lion grocery store and Subway restaurant in the shopping center were also open at the time of the robbery.

### SEWER EXPANSION

## Town Considers Funding Options

BY DOUG RUTTER

Leave no stone unturned. That's the attitude Shallotte officials are taking concerning sources of funding for their proposed sewer system expansion.

The town board's current plan is to apply for a \$1.5 million loan through the State Revolving Fund at 4 or 5 percent interest.

At a special meeting last Friday, aldermen authorized a grants writer from Raleigh to talk with the engineer designing the expansion about going after grants and loans with lower interest rates.

"We're giving you the right to go for what you can help us with," Mayor Sarah Tripp said. "Anything that can help us—anything less than 4 percent for sure—we're reaching for it."

Tripp and board members David Gause, Bill Allen and Carson Durham met for an hour with grants writer Skip Greene and Chip Leavitt, assistant general manager of Brunswick Electric Membership Corp.

Discussion focused on how to

fund an expansion of the sewer capacity from 206,000 to 750,000 gallons per day. Construction is expected to begin in July 1995 and take about 18 months to complete.

Leavitt said Brunswick Electric, through a possible grant from the Rural Electrification Administration, may be in a position to loan the town \$400,000 at low interest.

BEMC could use the grant to set up a revolving loan fund, similar to the state's revolving fund. However, Leavitt said BEMC would only charge about 1 percent interest to cover administration costs.

"This is the best avenue we have right now to help you all, this revolving fund," Leavitt told the town board.

Town officials indicated a strong interest in the loan opportunity and the savings in interest payments.

"If we could get \$400,000 at 1 percent I'd say go ahead and pursue that. I definitely think we should go for that," Tripp said.

Said Allen, "I think any money that we're borrowing in that 1 to 2 percent area I'm glad to get."

Brunswick Electric has already secured a \$10,000 grant for the town to help pay for the engineering study by McKim & Creed. BEMC put up half the money and it was matched by the statewide Carolina Electric Cooperative.

Greene indicated that Shallotte could receive grants if town officials can show that sewer expansion will attract new business to Shallotte and create jobs in an area with a double-digit unemployment rate.

Among the opportunities discussed were a \$500,000 economic development grant for job creation and a \$100,000 grant to supplement what the town will be able to accomplish through the \$1.5 million state loan.

Shallotte officials say expansion will create jobs by providing the wastewater treatment capacity needed to serve a planned shopping center on N.C. 130 West and the planned expansion of Mirrorlite's Smith Avenue plant.

"There are a lot of little towns becoming big towns because of grants like this," Durham said.

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