

## New Orleans Bound!

As top producer in the South Brunswick Islands Chamber of Commerce membership blitz, Jody Simmons wins a trip for two to New Orleans, presented by project chairman Annette Odum. More winners are on the Business Page, 11-C.



BCC Sees Brighter Days Ahead, Page 6-A

Trojans Travel To Whiteville Friday, 9-B

# THE BRUNSWICK BEACON

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It's A Clean Sweep!

Still smiling after four hours of picking up litter, these youngsters at Holden Beach were among the more than 300 volunteers who made a clean sweep of

South Brunswick Islands beaches Saturday morning. The Beach Sweep '88 story and more photos are on Page 6-A.

## Lockwood Folly River Sampling Results Could Have More Impact Than Usual

BY SUSAN USHER

Area residents who depend on shellfishing for all or part of their livelihood were waiting this week for the results of two sets of samples taken from the Lockwood Folly River.

The results were to be available at midweek from the state's Shellfish Sanitation program.

The first are shellfish samples, collected Monday, which will indicate whether any of the river can be reopened to shellfishing soon. Testing of these samples takes 48 hours.

The second set are water samples collected Tuesday in a cooperative effort with a local water quality protection citizens group, Save Our

Shellfish (SOS). Analysis of those samples takes 24 hours. SOS will use the information to help map its strategy to gain long-term protection of the river, the county's major shellfishing resource.

"We're going to use everything we can get our hands on to use," said Annie Smigiel, president of SOS.

Bob Benton, chief of shellfish sanitation, agreed at a meeting in August for his agency to collect and test the samples at no charge if a local guide were provided.

Smigiel, SOS Vice-President Carson Varnam and Alex Kuigre accompanied technician Lori Brooks from the Shellfish Sanitation Wilmington office in the field Tuesday, Varnam said. They collected samples of

water from "five or six locations" considered as "possible" contributors to pollution of the river.

Those sites included several point discharge pipes, the old Cedar Grove landfill, and places on the east side of the river, near Sunset Harbor, where recent development has occurred.

If any of those sites has been specifically sampled before, SOS is unaware of it, Varnam said. He noted that within the past several years waters along the eastern shore were checked, but that no specific areas were targeted then as was done Tuesday.

Said Smigiel, "The state keeps telling us the pollution is coming from the east side of the river. We want to find out if that's where it's coming

from or track down wherever the source is."

SOS still plans to take water samples of its own, Varnam said, possibly within the week, depending on conditions in the river.

"We're waiting 'til the right time," he said. "There's no point doing it when the whole river is closed up to shellfishing."

He and Smigiel said local shellfishermen are hoping the state will reopen some local waters soon, and at least by Oct. 15, when the fall oyster season begins.

The state closed 153 acres of the river above Genoes Point in mid-August, citing concentrations of fecal coliform bacteria—the indicator us-

(See RIVER, Page 2-A)

## Roberts Gets Early Release Because Prison Over-Crowded

BY RAHN ADAMS

A Holden Beach businessman and former town official can thank the state's overcrowded prison system for making his parole possible at least two weeks early.

Clarence Virgil Roberts, 51, was paroled on Sept. 20—one day before a system-wide overcrowding "crisis" ended, according to N.C. Department of Corrections Public Information Officer David Guth.

Roberts, who was serving on the Holden Beach Board of Adjustments in June 1987 when he was indicted by a Brunswick County investigative grand jury, was sentenced in April to

a 3½-year prison term. He was given credit for 57 days that he spent undergoing pre-sentencing evaluation at the corrections facility in Troy.

Court records show that Roberts pleaded guilty in August 1987 to trafficking in more than 400 grams of cocaine, two counts of conspiracy to traffic in more than 400 grams of cocaine, four counts of trafficking in more than 28 grams of cocaine, and five counts of conspiracy to traffic in more than 28 grams of cocaine.

Until Judge Giles Clark ruled that Roberts had provided "substantial assistance" to the state—a finding

which allowed the defendant to receive a lighter sentence than is required by drug trafficking laws—he faced a mandatory minimum prison sentence of 168 years.

Roberts was admitted to the prison system on April 19 and was assigned to Wayne Correctional Center, Guth said. He added that Roberts' final release date was listed as Nov. 20, 1989, on an August report.

Even without the overcrowding situation, Roberts' case would have been referred to the N.C. Parole Commission on Sept. 30, Guth said. However, he indicated that consideration of the case was "advanced

by the (prison) population emergency."

Guth explained that the state's Emergency Prison Population Stabilization Act was triggered on Aug. 10, when the prison system's population exceeded 17,460 for more than a 15-day period. The act required the department to reduce the prison population to 17,280 on or before Oct. 9. That figure was reached on Aug. 21.

As a result of the overcrowding, a greater number of inmates—including Roberts—became eligible for parole. "The pool is ex-

(See ROBERTS, Page 2-A)

## Robbery, Arson Suspected In Man's Murder

BY RAHN ADAMS

No arrests were reported as of Tuesday afternoon in connection with the weekend murder of a Shallotte area businessman who was shot in what authorities believe was a robbery and arson.

According to Brunswick County Sheriff's Capt. Phil Perry, the body of Darwin Kingsley "King" Freeman, 74, of Route 7, Shallotte, was found by Grissetown-Longwood firefighters early Sunday morning at Anchor Lumber Company on U.S. 17 south of Shallotte.

"We're investigating all angles at this time," Perry said Monday. "The way we're looking at it, it's possibly a robbery motive."

Sheriff's Det. Lindsay Walton, who is handling the investigation with assistance from the SBI, said late Tuesday morning that authorities have "nothing at this point," in terms of having definite suspects in the case.

The sheriff's department has notified law enforcement agencies in North Carolina and South Carolina of the murder, to find out if similar incidents have happened elsewhere, Walton added.

Freeman, who was owner and manager of Anchor Lumber, lived in an efficiency apartment located at the rear of the office building. The fire was reported by a newspaper carrier who spotted flames from the highway Sunday around 3:30 a.m., Perry said.

Walton said minor fire damage was confined to the living area, although the entire building sustained heat and smoke damage. Firefighters discovered Freeman's body as they checked the building. The body was not burned.

The victim, whose hands and feet had been tied behind him, was found on the floor in a doorway between the office and living area, said Brunswick County Coroner Greg White.

The coroner said an autopsy, which was performed Monday morning at the regional pathologist's office in Jacksonville, determined that Freeman died of a single .22-caliber gunshot wound to the left side of his head.

"There were no other obvious injuries, other than the gunshot wound," White said.

He added that the autopsy also indicated that Freeman died prior to the fire, because there were no signs of carbon monoxide in the body. He estimated that the time of death was around 3 a.m. Sunday—about 30 minutes before the fire was reported.

SBI Assistant District Supervisor Fred McKinney said Tuesday that an on-the-scene inspection by one of his agents indicated that the fire was intentionally set with a "petroleum-based accelerant." He noted that samples from the crime scene were being sent to the SBI laboratory in Raleigh for testing.

As of late Tuesday morning, authorities had not determined what, if anything, had been stolen from the business due to damage from the fire. However, Walton said investigators are "going on the assumption that something was taken."

According to the detective, Freeman was last seen alive by his employees Saturday around 5 p.m. when Anchor Lumber closed for the weekend. Walton said the employees noticed nothing out of the ordinary when they left work.

## Shallotte Firefighters Show Equipment To Public

Area residents shouldn't be alarmed this weekend when they see members of the Shallotte Volunteer Fire Department and its fleet of red trucks gathered at Hill's parking lot in Shallotte.

Chances are good that they won't be fighting any fires there. Instead, the volunteers will be showing off the department's trucks this Saturday during a membership drive equipment display scheduled from 10 a.m. until 5 p.m.

Fire Chief Tim Carter said the main purpose of the event is to recruit more firefighters and make the public more aware of the department's role.

Firefighters will be around all day to show the equipment and how it is used in fighting fires, he said.

Carter also said the department will be giving away a "boohoo of prizes" with a drawing every half hour. The prizes were donated by local merchants, he said.

Refreshments will also be available.

The rain date is Saturday, Oct. 8, from 10 a.m. until 5 p.m.

## Judgment Signed; Way Cleared For Appeal In West End Case

BY RAHN ADAMS

Some 10 months after announcing in open court that he intended to rule that a road leading to the western end of Holden Beach should remain private, Superior Court Judge Bruce Briggs earlier this month signed a written judgment, finally allowing a local citizens group and the state to appeal his decision.

The judgment, which was signed Sept. 13 by the Madison County judge, was filed Sept. 22 in Brunswick County Superior Court.

Assistant Attorney General Jernigan said Monday that the case would be docketed this week in the N.C. Court of Appeals. After both sides are given time to comment on the appeal, it will be scheduled for the appellate court's review, he said.

Jernigan said the appeal will take "probably a few months" to be decided.

The lawsuit, which was heard last November in Brunswick County Superior Court, was filed in 1986 by a group called Concerned Citizens of Brunswick - County Taxpayers Association against Holden Beach Enterprises Inc., the developer of the Holden Beach West subdivision.

The N.C. Department of Natural Resources and Community Development's Office of Coastal Management also intervened as a plaintiff in the case, in the agency's role as administrator of the state's coastal access program.

During the two-day trial in Bolivia, the plaintiffs contended that Ocean View Boulevard West through the subdivision was a public right-of-way, even though the developer had used different means to block the road to public traffic over the years

and had finally constructed a gate and guardhouse at the subdivision's entrance in 1985.

Briggs stated at the close of the proceedings that he planned to rule in favor of Holden Beach Enterprises, and he instructed the company's attorney to write a proposed judgment for him to sign.

Although the written judgment had not been signed before a June 10 appeal deadline, a "proposed record on appeal" was filed by the plaintiffs' attorneys—Jernigan and Durham lawyer James Maxwell. The attorneys used the trial transcript to formulate their exceptions to the intended ruling that Briggs announced in open court.

But the defendant's attorney, Nancy Guyton of Shallotte, filed objections July 13 to the proposed record on appeal, saying the appeal was

premature due to the absence of a signed judgment. "Submission of the trial judge's statements as to what he will find and order is not sufficient . . .," Ms. Guyton wrote in her objections.

The plaintiffs, in turn, requested that Briggs rule on the objections concerning the appeal. That matter was resolved when Briggs signed the judgment in the original case, Jernigan said Monday.

Briggs' written judgment orders that Ocean View Boulevard within Holden Beach West is a private right-of-way "over which the public has acquired no prescriptive easement, nor any other rights."

The judge concludes that there was no dedication of Ocean View Boulevard to public use. Also, as would be required to establish a prescriptive easement, the plaintiff's

use of the property was not continuous for 20 years and was not confined to a "definite and specific line of travel," the decision states.

In his findings of fact, Briggs notes that all construction and maintenance costs for the street were paid by Holden Beach Enterprises or the previous owner, Holden Beach Realty Corporation.

Also, "neither the Town of Holden Beach nor any other public authority has ever provided any money—including Powell Bill funds—or equipment to construct or maintain" the street, and the town "has never authorized or enforced any traffic regulations in the subdivision nor erected any traffic signs" on the street.

Briggs points out that town commissioners never received an "express offer of dedication" for the sub-

division street. The judgment also outlines the various means—a log, cable, farm gate, sign and finally the guardhouse—that Holden Beach Realty and Holden Beach Enterprises had used since 1963 to restrict public traffic on the private street.

In addition, the decision states that "any paths within the subdivision existing prior to the road construction in 1978 were temporary in nature; curved around the shifting sand dunes, and were frequently obliterated by the processes of nature."

Jernigan, however, told the Beacon Monday that he feels the plaintiffs "made an excellent showing that there had been continual use of that area by the public," to justify the street's identification as a public right-of-way.