

DOT Will Study Environmental Impact Of Proposed High-Rise

BY SUSAN USHER

State and federal transportation officials have dropped plans to appeal a January court ruling that halted construction of a planned high-rise bridge at Sunset Beach.

Instead, state Transportation Secretary Thomas J. Harrelson announced Friday that it will instead undertake an environmental impact study as U.S. Eastern District Judge W. Earl Britt had originally ordered in his 1990 decision.

The U.S. Justice Department was to file notice of dismissal of the joint appeal Monday in the 4th Circuit Court of Appeals in Richmond, Va., said Jaun Santos, a DOT spokesman.

Harrelson said the decision to proceed with the study came after learning the federal government had decided not to appeal the court ruling. Defense briefs in the case were to have been submitted this week.

"We're willing to do whatever it takes to provide appropriate environmental documentation," Harrelson said in a news release. "We're willing to do the environmental impact statement. We already have a lot of environmental information, but we'll provide whatever time it takes to get additional data."

The Sunset Beach Taxpayers Association and eight individual defendants had filed suit against state and federal transportation officials in an attempt to halt construction of the bridge. Their concerns included impact of the bridge on recreational use of the beach as well as on the habitat of the wood stork and other endangered species.

Citing inadequacies in the original environmental

study made in the mid 1970s, Britt directed completion of a full study on the environmental impact of the bridge and voided all permits for the project. That means the state will have to reapply for project permits from various state and federal agencies.

In February Britt denied a request to reconsider three points of his decision. That was when state and federal transportation officials announced plans to appeal the original order.

Cletus "Clete" Waldmiller, president of the Sunset Beach Taxpayers Association, said Monday that the decision to drop the appeal "was kind of what I was hoping would happen, that they wouldn't drag it out through the courts and increase the costs. That's fine."

DOT officials are predicting that completion of the study could delay construction of a new bridge for as long as three years.

Harrelson said he and other transportation officials

remain concerned about the potential for interrupted service to the island at Sunset Beach.

The existing pontoon bridge that links the island and mainland was knocked out in 1985 when it was struck by a runaway barge that caused about \$166,000 in damages. The one-lane, 506-foot bridge was hit again in 1987 by a tug.

"I don't believe the current bridge is completely safe and reliable," said Harrelson. "I know that local governments and emergency squads share the same concerns. But we'll do the best we can to keep it maintained and in working order."

The original pontoon bridge was built in the mid 1950s by a private developer.

Construction was to have begun on the high-rise bridge last September.

Sunset Beach Mayor Mason Barber was out of town Monday and could not be reached for comment.



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OTHER COUNTY EMPLOYEES TO GET RAISES

Commissioners Cut Clerk, 4 Other Jobs

BY SUSAN USHER

In a series of votes along a now familiar 3-2 split, Brunswick County Commissioners Monday decided to eliminate the salary of the clerk to the board from next year's budget as well as salaries of four other jobs.

The board expects to consider next year's \$35 million budget, with the changes included, when it meets Friday, June 28, at 9 a.m. in its chambers.

Voting with Commissioner Jerry Jones for the cuts were Chairman Kelly Holden and Commissioner Donald Shaw. Voting against them were Commissioners Gene Pinkerton and Frankie Rabon. Since the votes were taken during a workshop they were not official.

Chairman Kelly Holden said after the meeting that the cuts were a logical follow-through to the recommendations made in a recently commissioned water system study regarding top heaviness.

"With less than 50 employees you need no assistant managers in the chain of command," said Holden. "I think we've had too many people in the upper chain of command for too long."

Other existing positions to be eliminated are those of assistant director of operations/water management coordinator, held by Pearly Vereen of Exum, a former county commissioner; and environmental health supervisor I in the Brunswick County Health Department, held by Gary McDonald of Supply. The post involves field supervision of sanitarians conducting site tests for septic tank suitability.

Also, the board will eliminate one of the four new housekeeping positions and a new finance office position included in the proposed 1991-92 budget.

The position that Regina Alexander of Southport has held for the past 15 years will be eliminated and her duties as clerk reassigned to the county manager's secretary, Kelly Barefoot.

Mrs. Alexander is black and Mrs.

Barefoot is white. Commissioners who voted for the move said neither race nor political party affiliation figured in the personnel decisions.

Holden pointed out that the all-Republican board hired a county manager, Clegg, who is a Democrat. "Where else in North Carolina have you seen that happen?" he asked.

"The message this board is sending out is not creationist," Holden said later. Though it "may" have been done in the past, he said, "We're not rewarding political supporters with jobs. We're letting the manager handle personnel in a professional manner."

Liking or not liking the individuals had nothing to do with the decision, either, he said. "Liking someone is no justification for rewarding them with a job or letting them keep their job if it is no longer needed or functional."

Mrs. Alexander, a county employee for the past 17 years, was at her post when board members voted to eliminate her salary.

"I've made that job," she said, "and I've been an outstanding clerk."

But she said the board has the right to do as it chooses regarding the position. Like the county manager and county attorney, the clerk serves at the pleasure of the board.

County Manager David Clegg said the move came as "a complete surprise" to him.

Commissioner Jerry Jones, who made the series of motions, said he studied the budget "long and hard" first.

Pinkerton questioned elimination of the clerk's job at a time when the county manager has asked for more, not less, in administration. A new secretarial position is included in the proposed budget.

While not agreeing that any cuts should be made, Rabon said the first position to be considered should have been that of the assistant clerk, not the clerk.

Rabon, who in the past has advocated elimination of positions in county government, said his new

stance reflects changing circumstances.

"The need (for the personnel) is there more so than three years ago," he said, citing county growth.

While he felt the recent water system study could have been done in-house, Rabon said he agreed with its recommendations regarding upper management. "It's hard to cut people today, but also I don't believe in keeping people around just because they're there, when they aren't needed."

Position Redefined

In a motion by Holden, commissioners voted 3-2 to merge the position of soil scientist into a new engineering department technician post included in the proposed budget. Walt Marley would no longer serve as a "lobbyist" for county commissioners, said Holden.

"He would no longer be involved in giving second opinions on whether a lot will perk," said Holden, noting that the sanitarian had the final say now regardless.

Marley would continue working on special projects such as obtaining permits for solid waste disposal sites, gathering data for use in defending cases taken to the Property Tax Commission and working with the planning and health departments on preliminary subdivision plat reviews.

Employee Raises Set

All county employees would receive 2½ percent pay increases in the new budget under a motion made by and informally approved on a vote.

While saying employees deserved the raises, Commissioner Donald Shaw said he would prefer to wait and see what the state does for its employees. The school system will give its locally-paid employees the same raises state employees receive.

Commissioners also agreed to increase the county's share of the increased cost of employee insurance benefits by another \$139,265.

In a related motion, the board also approved on a 3-2 vote an ordi-

nance creating a performance evaluation system. Formal evaluations completed during the coming year would serve as the baseline for evaluations made the fiscal year that begins July 1, 1992, at which employees would be considered for merit raises under a proposed system that commissioners said has won mixed reviews from employees.

Rabon said he objected to the plan because of its committee structuring, that only a department head can do a fair evaluation of employees.

Chairman Holden said the system is a "starting point" that can be changed as it is developed.

A fund of \$365,000 set aside to cover the merit pay system next year would instead be used to fund across-the-board raises and insurance benefits.

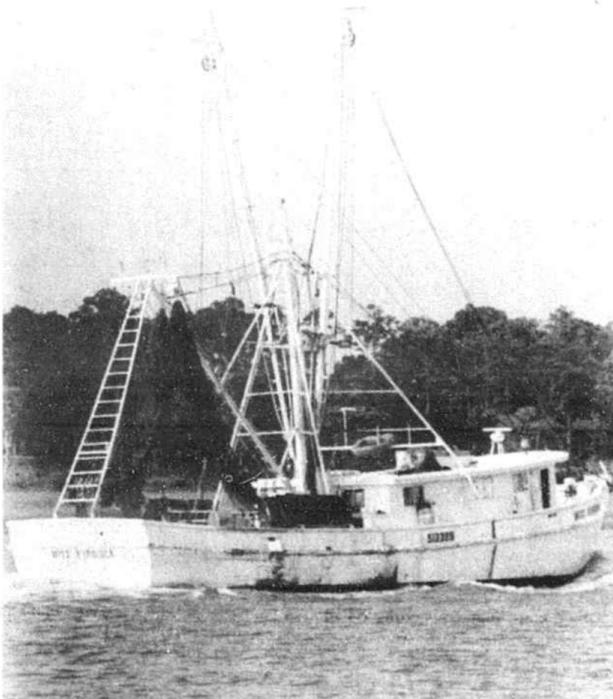
Transfers Don't Fly

Board members rejected, on the same 2-3 split, a series of budget transfers proposed by Pinkerton. He wanted \$5,400 moved from the Resources Development Commission budget to North Carolina Marine Crescent, noting the regional agency's support of maritime-related projects in the county.

He also wanted to move \$25,300 to the Brunswick Community College budget, saying that would give it a 5 percent increase. He wanted \$2,300 to come from a printer already purchased for the county administrative offices; \$9,150 from the RDC; and \$13,700 from capital reserves. Commissioners expressed reluctance to "dabble" in the reserve.

Requests Heard

The board also heard and took no action on: 1) a plea from Yahweh Center to reconsider its decision not to give the center any of the \$10,000 it had requested; and 2) a request to consider increasing the budget for advanced life support services by \$125,400 to insure a minimum standard of 24-hour service.



STAFF PHOTO BY DOUG RUTTER

Homeward Bound?

The shrimpboat *Miss Virginia* chugs west along the Atlantic Intracoastal Waterway near Ocean Isle Beach last Wednesday night.

Longwood Man Charged In Shooting

BY DOUG RUTTER

A Longwood man was arrested last week after he allegedly shot and injured two local men with a 12-gauge semi-automatic shotgun.

The shooting occurred last Wednesday around 11:12 p.m. on Little Prong Road near the Columbus County line, said Lt. Donnell Marlowe of the Brunswick County Sheriff's Department.

Dexter Woodring Hughes Jr., 41, of Longwood has been charged with two counts of assault with a deadly weapon with intent to kill inflicting serious bodily injury.

The suspect was released from Brunswick County Jail last Thursday after posting \$12,000 bond. His

first appearance in court is scheduled June 24.

One of the shooting victims, a 45-year-old resident of the Ash community, was listed in serious condition Tuesday at New Hanover Medical Center in Wilmington.

A sheriff's department report said part of the man's right hand was shot off and he was shot in the right groin area.

The other victim, who is 30 years old and also from Ash, was shot in both legs, the left hand, right arm and the right side of his chest, according to the report. He was released from The Brunswick Hospital at Supply last Friday.

(See LONGWOOD, Page 2-A)

DEVELOPERS WILL CONTINUE OPPOSITION

Citizens' Group Wins New Trial In Holden Beach Public Access Dispute

BY SUSAN USHER

Last Wednesday Concerned Citizens of Brunswick County won a significant victory in their six-year public access dispute with the developers of Holden Beach West when the N.C. Supreme reversed a lower court's ruling and ordered a new trial.

"We're just tickled to death. It feels great," said Raymond Cope, a Lexington resident and part-time Holden Beach area resident who was active in forming the citizens' group. "We're poor as church mice, but it's worth every cent it's cost. We're going to get a new trial."

Meanwhile, an attorney for Holden Beach Enterprises Inc., developers of the subdivision, said Tuesday they plan to continue opposing the effort to gain permanent public beach access across the west end island tract.

Vaiden P. Kendrick, of the Wilmington law firm of Murchison, Taylor, Kendrick, Gibson & Davenport, is one of the attorneys representing the development firm in the case.

"We will continue to oppose this lawsuit," Kendrick said Tuesday. "Exactly what steps we will take we

haven't decided, but we will do those we think are appropriate."

He did not rule out the possibility of further action at the appellate level, which could affect the remanding of the case for new trial.

James D. (Jim) Griffin Jr. of Holden Beach Enterprises did not return calls from *The Brunswick Beacon*.

Kendrick said the court's ruling is "unfortunate" because it leaves "very much in doubt what lengths a property owner must go to (in order) to protect his property from intrusion by people who aren't authorized to go on it" as well as to protect it from prescriptive easement.

Especially when someone lives at a distance from the property in question, he said, preventing its use by others is difficult. He feels the ruling could serve as precedent in other, similar property use disputes.

The citizens' group filed suit in 1986, after Holden Beach Enterprises blocked in July 1985 a road leading to the west end of Holden Beach.

The group, represented by attorney Jim Maxwell of Durham, sought continued access across the

property on the basis of "prescriptive easement." Eventually, the state intervened. Assistant Attorney General Allen Jernigan said the state thought the case significant because it involves the right of access to the state's public beaches.

The group argued that while the road and area at the end of Ocean Boulevard West might be privately owned, a general passageway through the dunes had been established over the years by the public seeking access to the ocean strand and Shallotte Inlet for fishing and recreation. They contended there was a sufficient and longstanding enough pattern of traditional use to establish a public easement by prescription, something akin to squatter's rights.

In Brunswick County Superior Court Judge Bruce Briggs ruled in favor of the developers. That judgment was upheld by the N.C. Court of Appeals in November 1989.

The Supreme Court agreed in December 1989 to discretionary review of the case on the single issue of prescriptive easement. It heard oral arguments in April 1990.

Last week the court split 4-3 in vacating the judgment rendered by

Judge Bruce Briggs in 1987 and in reversing the opinion of the N.C. Court of Appeals that affirmed that judgment.

The Supreme Court is remanding the case to the Court of Appeals with instructions to remand it to Brunswick County Superior Court "for further proceedings not inconsistent with this opinion." In deciding the case the court will have to adhere to the findings of the Supreme Court regarding establishment of prescriptive easement.

In its 25-page majority opinion written by Justice Louis B. Meyer, the Supreme Court found two questions to be pivotal: whether the path used by the public in crossing to the beach was established and whether public use of the road had continued without interruption for 20 years.

Standard Said Wrong

It said Briggs' ruling was flawed because he had applied an "erroneous standard" in deciding there was not enough evidence to establish such an easement.

Briggs had determined that a prescriptive easement had not been established due to changes in the location of the path and interruptions of use during the period in

question by a series of barricades that included, at various times, a log, a cable, a farm gate with lock and key, and in 1985, the staffed guardhouse.

Meyer said the trial judge did not determine whether there existed "substantial identity" of the easement claimed. Instead he determined only that the plaintiffs had failed to show a single "definite and specific line" of travel. Meyer said the trial court judge's standard wasn't appropriate given the "dynamic" quality of the easement through shifting dunes.

Further, he said the public's seasonal and recurring use was sufficient and that the developers' actions had not entirely prevented public usage.

"While continuity of use by the public is essential (in establishing prescriptive easement)," he wrote, "it need not be perpetual and unceasing."

"The fact that the barricades placed by the defendant may have discouraged the use of the pathway by a few members of the public or even suspended its use very briefly by the entire public does not destroy the public's continuity of use for the

period necessary to establish its right by prescriptive use," wrote Meyer.

Three Justices Disagreed

Justice Burley Mitchell wrote the eight-page dissenting opinion, with the Justices John Webb and Willis Whichard concurring.

Mitchell wrote that he thought the majority erred in holding that the evidence failed to support the trial court's findings and conclusions regarding interruption of use of the road.

He said he agreed with the trial court's view "that the plaintiff's adverse use of the easement asserted was interrupted several times and

(See ACCESS, Page 2-A)

Tasteful
Diversions

Dining and entertainment supplement included in this issue.