



## COASTAL RESOURCES ADVISORY COUNCIL

**Jim Kastelic**  
Chairperson

**David Spotts**  
Vice Chairperson

### ***Mission Statement***

*To advise the Director of ODNR on the Ohio Coastal Management Program and to promote, protect, enhance, and encourage the wise use of Lake Erie's coastal resources and its watershed.*



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## COASTAL RESOURCES ADVISORY COUNCIL

**Thursday, August 9, 2007**

**10:00 am**

St. Michael's Hall  
Kelleys Island, Ohio  
Meeting Notes

### **Council Members Present**

Rodney Althaus  
Eric Dodrill  
Joe Hayberger  
Patrick Hayes  
James Kastelic, Chair  
John Keenan  
David Miesmer  
Jim O'Connor  
David Spotts, Vice Chair

### **Council Members Absent**

John Born  
Tom Denbow  
George Goudreau  
Bob Heath  
Vince Urbanski

### **ODNR Staff Present**

Director Sean Logan  
Chief John Watkins, OCM  
Liz Everhard, OCM  
Patrick Ernst, OCM  
Matt Adkins, Soil & Water  
Gary Comer, Clean Marinas

### **I. Call to Order – Salutation**

- Welcome / Introductions
- Director Logan Comments
  - Today is his first Coastal Resources Advisory Council Meeting and has been making his way around to all 19 advisory councils that exist within ODNR. Thank you to the council and office staff for having him and for the hospitality.
  - Hospitality is key ingredient in ODNR because all the employees are ambassadors for the State of Ohio. He is proud to be joining them.
  - His intention is for all dept. councils to play an active role in advising us.
  - The OCM program recently celebrated the 10 anniversary. Have made a big difference in Ohio's communities along the shore with grants and technical assistance. However, the program has struggled to find its place in the regulatory part in managing the coast.

- This is a new beginning and opportunity to find common ground for the area where the water
  - The role of ODNR is not nor has at ever intending to be rigid and unchanging. Because of what we do, we will always have a challenge managing the public resources: To use, manage and preserve is not easy, but we are up to the task.
  - ODNR is trying to be flexible on the work in progress for meeting the Governors policy.
  - ODNR and OCM have been working diligently since Governor Strickland announced the new policy. It will take some time, but this is an opportunity for a new beginning to protect the resource we all enjoy and that will be here for generations to come.
- Facility Acknowledgements and Thanks
    - The Chairman expressed thanks on behalf of the council to Kelleys Island, St. Michael's and Pat Hayes for hosting the quarterly meeting.
  - Agenda Review-The agenda was reviewed and no additional items were added.
  - February and May Minutes Approval- The minutes were reviewed and a motion was called.
 

**MOTION: To approve the February and May Coastal Resources Advisory Council meeting minutes. Motion made by Joe Hayberger and seconded by Rodney Althaus. Unanimously approved.**
  - Appointment of Vice Chairperson
    - Due to the resignation of Maggie Thurber the nominating committee met and is recommending David Spotts as Vice Chair. There were no other nominations. A motion was called.
 

**MOTION: To appoint David Spotts Vice Chairperson of the Coastal Resources Advisory Council. Motion made by John Keenan and seconded by Joe Hayberger. The appointment of David Spotts as Vice Chairperson was unanimously approved.**

## II. Executive Report/Sub-Committee Reports

Chairman Kastelic announced that two of the council's sub-committees have vacant chairman openings. He asked that Rodney Althaus chair Recreation and John Keenan chair Commerce, Ports and Shoreline Issues. Both accepted.

Chairman Kastelic asked that Commerce, Ports and Shoreline Committee take up the 312 vs. 262 miles of shoreline issue now that they have a chair. John Keenan is to touch base with Liz to set up a time for the committee to meet and have a report for the November meeting.

Report was given by the Chair.

**COASTAL RESOURCES ADVISORY COUNCIL  
EXECUTIVE COUNCIL NOTES  
July 19, 2007  
10:30 a.m.**

**Welcome  
August Meeting**

- *Review Agenda  
Executive Council approved agenda for August.*
- *Director is planning on attending. As is Deputy Director Loucas.*

**OCM Update/Issues on Horizon**

- **Governor Strickland's Policy Changes**  
*John Watkins gave a summary of the Governor Strickland's new policy directives (also distributed to the entire council on July 13, 2007 by e-mail) regarding the Submerged Lands Leasing Program. A link to the statement can be viewed at:*

Two questions were raised by Jim Barchok

- 1.) What about deeds that are totally submerged, and what standards will be used to determine their validity?
- 2.) What will the survey standards be for making sure the projects stay within the deeded area?

- **CRAC vacancies**  
John informed the council that applications OCM has on file in addition to few recommendations made by Chairman Kastelic have been forwarded to Deputy Director Loucas. She has reviewed and forwarded to the Director.
- **Issues for Subcommittees**  
Jim O'Connor submitted notice to the entire council on June 21, 2007 that he intends to make a motion to eliminate the Submerged Lands Leasing Program at the August CRAC meeting. Executive Council discussed referring this issue to the **Rules, Laws, Consistency, Enforcement and Implementation** committee for review prior to asking for a vote of the entire council.
- **Legislation**  
State Senator Grendell introduced legislation (SB 189) similar to that of the legislation he introduced last GA. John Watkins requested that Liz send the legislation to all CRAC members.
- **Lake County Class Action Lawsuit**  
John Watkins let the executive council know that any documents that are of public record can be obtained and distributed if anyone so desires. Executive council requested copy of docket.

#### Additional items/ wrap up

- Vice Chair-The nominating committee met and has a requested a motion appointing David Spotts as Vice Chair to replace Maggie Thurber who recently resigned her seat on the Council.
- David Spotts is working with Ardent Bement, of the National Science Foundation to speak at the November meeting on Climate Changes.
- Jim Barchok announced that there will be a Coastal Ohio Meeting next week and Ohio will be working with Pennsylvania and New York to expand the byway.
- Update requests by Executive Council: Great Lakes Water Quality Compact

Discussion:

The Chair asked that the questions raised by Jim Barchok:

- 1.) What about deeds that are totally submerged, and what standards will be used to determine their validity?
- 2.) What will the survey standards be for making sure the projects stay within the deeded area?

be sent to the Rules, Laws, Consistency, Enforcement and Implementation committee and a report be made at the November meeting.

### **III. OCM Update- John Watkins, OCM**

Staff Introductions

Patrick Ernst, Coastal Lands, Submerged Lands Leasing Program

Liz Everhard, Executive Secretary and CRAC Administrative Support

Matt Adkins, Non-point Pollution Coordinator- Division of Soil & Water Conservation

Gary Comer, Ohio Clean Marinas Coordinator, Ohio Sea Grant

## **Administration and DNR**

### New Regulatory Policy

Press Release from Governor:

Governor Announces New Regulatory Policy for Coastal Land Management  
7/13/07

Columbus, Ohio – Governor Ted Strickland announced today plans to implement a new regulatory policy regarding the ownership and management of property along Lake Erie coastal lands.

“Under this new policy, the state will honor the valid deeds of local property owners along the coast of Lake Erie,” Strickland said. “I believe this policy ensures protection of our important natural resources without compromising the rights of landowners.”

The New Regulatory Policy Follows:

#### New Regulatory Policy Regarding Coastal Land Management

The State of Ohio, the Ohio Department of Natural Resources (“ODNR”), and its Director, Sean Logan, are defendants in a lawsuit filed in May of 2004 in the Lake County Court of Common Pleas regarding the ownership and management of property along the shores of Lake Erie. Since the inception of the case, the State and ODNR have argued that the lands along the shores of Lake Erie up to the “Ordinary High Water Mark” (OHWM) are lands held in trust by the State of Ohio on behalf of its people. Property owners along the lake, on the other hand, have insisted that their deeds demonstrating property ownership below the OHWM are valid and must be honored and that the State’s “public trust lands” position interferes with their private use of land that they own. As he has consistently stated for more than a year, Governor Strickland believes that apparently valid real property deeds must be honored unless a court of law determines that the deeds are limited by or subject to the public’s interest in those lands or are otherwise defective and/or unenforceable.

The Governor and ODNR recognize that there are arguable legal claims that some of the deeds have specific defects and that deeds purporting to cover lands below the OHWM may ultimately be found by the Ohio courts to be subordinate to the public’s interest in those lands. Still, without such a determination by the Ohio courts, ODNR believes that it must honor those deeds.

The Governor and ODNR also recognize that they have a solemn duty to manage coastal lands in a manner that protects the important resource that Lake Erie represents. In that regard, ODNR has begun the planning necessary to implement the following new regulatory policies:

- 1.) Property owners who wish to build structures along the shores of Lake Erie that could or would impact coastal lands will no longer be required to obtain leases for the lands within their deeds which are beneath such structures, but will be obligated to obtain appropriate permits from ODNR’s Office of Coastal Management before commencing any such construction.

Much like local zoning laws which require homeowners to obtain permits from local officials before building a fence or garage on their own property, this requirement, utilizing the State’s existing coastal management authority under Ohio law and the Ohio Administrative Code, will assure that coastal land management interests are not compromised by the construction of unauthorized break walls, docks or other structures.

- 2.) Consistent with the Governor’s view that deeds should be honored unless they are found to be limited and/or unenforceable by a court of law, ODNR has determined that it is inappropriate to require deed holders to lease land that they maintain that they own.

Still, because some land owners would prefer to voluntarily obtain a lease for the property on which they intend to build permitted structures, ODNR will continue to make leases voluntarily available. This will accommodate those landowners wishing to hold an unchallenged, leasehold property interest in the lands beneath their permitted structures.

The Attorney General's office has appointed outside counsel to represent ODNR and Director Logan in the ongoing litigation, and that outside counsel will immediately make the above positions known to the Court in the pending Lake County case. The Attorney General, in his role as counsel to the State of Ohio, has informed the Governor that his office will continue to pursue its current position in support of the public trust lands doctrine.

Discussion: John Watkins added that the Office of Coastal Management had been working very hard to develop procedures and changes need to implement the policy. Leases are a leasehold interest; some property owners along the shore may want to have leasehold interests because of mortgages that are tied to those leasehold interests. OCM will be working to change policies and the OAC rules to reflect the ability to not have a lease within the limits described within their deed. Although not specifically stated in the governor's policy announcement, OCM will also use this as an opportunity to make changes so that existing lease holders can amend their leases to remove the portions described within the limits of their deeds. OCM and ODNR will be working with the council to address this issue through changes to Administrative Code Rules. There are approximately 800 lease holders, and it will be a large task to go through all 800. The 800 are a mix; approximately 570 private use for docks, erosion control, etc; 150 commercial entities, such as the ferry boats; and the remaining are with public entities, such as waterfront parks. There are different rate structures and those can be reviewed at a later time.

## **Legislation/Rule Changes**

### Senate Bill 78

This legislation proposes to create the Great Lakes-St. Lawrence River Basin Water Resources Compact Task Force and requires the task force to conduct hearings and take testimony concerning Ohio's entry in to the compact and to report findings by October 2007.

There have been reports that Senator Grendell has organized a meeting for opponents and supporters in Traverse City on August 25 to work out a solution.

[http://www.legislature.state.oh.us/bills.cfm?ID=127\\_SB\\_78](http://www.legislature.state.oh.us/bills.cfm?ID=127_SB_78)

### Senate Bill 189

This legislation, similar to previous SB 172/126<sup>th</sup> GA, proposes to revise the laws governing coastal management and the control of erosion along Lake Erie. According to the Legislative Service Commission it has been referred to the Senate Environment & Natural Resources Committee. There have been 0 hearings to date.

[http://www.legislature.state.oh.us/bills.cfm?ID=127\\_SB\\_189](http://www.legislature.state.oh.us/bills.cfm?ID=127_SB_189)

Ohio State of Ex Rel/Robert Merrill/Trustee et al. vs. Ohio State of Department of Natural Resources et al EAL

All filings and actions are listed on the case docket.

A link to case docket:

[https://phoenix.lakecountyohio.gov/pa/pa\\_cp.urd/pamw2000.docket lst?70141787](https://phoenix.lakecountyohio.gov/pa/pa_cp.urd/pamw2000.docket lst?70141787)

Federal Ballast Water Legislation-HR 2830 and S. 1578

(See attached)

Discussion: Director Logan added that last month he was in Washington with the Great Lakes Commission and met with Senators Voinovich and Brown and 7 members of congress. The legislation

is looking to set standards for discharging of ballast water, the biggest issue has been the timeline. The legislation was about to go through but was delayed in the Senate at the last minute over the issue of preemption of states' rights. The house version should be going through soon. If anyone wishes, write Senator Boxer (California) and express your interest as great lake state about having progress on this legislation.

### **Permit/Lease/Consistency Totals (Jan. 07-June 07)**

Chief Watkins noted the report provided totals of permit and lease related activities for the first six months of 2007.

### **Coastal Management Assistance Grants (CMAG)**

Eight grant applications totaling \$250,000 were selected to receive either full or partial funding. The Cycle 11 projects were announced in May 2007, agreements are being processed, and projects were eligible to begin in July, 2007. The grant projects are to be completed by September of 2008. It is uncertain at this time whether the City of Willowick intends to accept the grant award for a public access acquisition project. There are nine open grant projects from Cycles 9 and 10.

*(A list of the selected projects is attached in the back)*

The application and guidance documents for Cycle 12 grants are being prepared and will be available on the Office of Coastal Management website in September. Priorities for grant funding in Cycle 12 have not been finalized but will likely remain the same as in Cycle 11, The priorities are:

#### Coastal Dependent Uses & Community Development

- Projects to implement comprehensive community plans that include coastal resource protection and enhancement of public access.
- Projects to initiate the development of a Watershed Balanced Growth Plan implemented through the Ohio Lake Erie Commission. Project applications under this priority must be developed in coordination with the Ohio Lake Erie Commission office at 419-245-2514 or [lakeeriecommission@ameritech.net](mailto:lakeeriecommission@ameritech.net).

#### Water Quality

- Implementation projects for the Coastal Nonpoint Management Measures Component of a Watershed Action Plan endorsed by the ODNR Division of Soil and Water Conservation and the Ohio Environmental Protection Agency.

### **Coastal and Estuarine Land Conservation Plan (CELCP)**

The CELCP application packets for the Forest Ridge, Bratenahl Phase I, Mayer Preserve, and Honey Point projects were successfully submitted to NOAA prior to June 30. These projects were funded through the reprogramming of an FY04 CELCP earmark previously awarded to ODNR. Efforts have been underway to include the Firelands Scout Reservation (easement being purchased by Lorain Metroparks) in this FY04 list. This project was originally put into the FY07 list as an earmark, but was struck when the federal FY07 budget was finalized. Because of the sensitivity of the issue of earmarks in the current Congress, it was an unexpected challenge to get this project funded. Latest word is that the House and Senate committees have signed the approval letter and we are waiting for word from NOAA that it has been received and the Firelands application can be submitted (note: by the time of the CRAC meeting, we anticipate that it will have been submitted).

The Port Clinton and Bratenahl CELCP applications for FY07 were submitted to NOAA for final approval on time on Friday, June 22. The grant awards for these two projects total \$1,589,000.

The ranked list for the CELCP FY08 projects was provided by NOAA to Congress the last week of June. Unfortunately, Ohio did not enjoy the same success as in previous years, with the East Point project ranked 34 of 44 and the West Creek Confluence project ranked 38 of 44 (a total of 55 projects were submitted; 11 projects were not ranked). Although it is likely that more funds will be allocated to CELCP in FY08 than in recent years, we do not anticipate that congress will allocate sufficient funding to the listed projects to allow these Ohio projects to receive funding. The third project from Ohio, Howard Farms in Lucas County, was not ranked. It was considered not eligible due to the predominately agricultural use of the property combined with the lack of specific restoration planning.

The CELCP press release to announce the request for projects for FY09 has been put on temporary hold at the request of the governor's office. We will still be seeking projects, and this will be announced as soon as possible. The CELCP request for proposal was announced by mail the week of July 16. Applications are not yet available on the OCM website, but can be forwarded via email or CD on request. NOAA staff have confirmed that they are planning to seek projects for FY09 on approximately the same schedule as last year (applications to be due to NOAA at or near the end of October 2007).

#### Discussion:

Chairman Kastelic inquired why the two Ohio Projects weren't ranked higher. John Watkins noted he did not have a definite answer but would relay that information to the council as it becomes available.

#### **Lake Erie Shore Erosion Management Plan (LESEMP)**

The state summaries developed by the LESEMP workgroup were sent out to their respective states for review. The purpose of the documents is to accurately summarize policies related to coastal erosion control methods that have been adopted by other State Coastal Management Programs. In addition to content editing, photos and a map of the state's coastal zone were also requested for use in the final publication. At this time, comments have been received from most states, allowing for DNR to begin editing. The finalized state summaries product is expected in early fall.

Ohio Sea Grant and the LESEMP workgroup are approximately halfway through the LESEMP Local Community Needs Assessment. The focus group sessions commenced on June 18<sup>th</sup> with a session in Bay Village. The following two sessions were held June 21<sup>st</sup> in Painesville and June 26<sup>th</sup> in Port Clinton. An interim report was provided to the workgroup on June 30<sup>th</sup>; the results of which will be used for the development of the survey questions. The survey questionnaire is expected to be ready for distribution in late August, with the final results expected by the end of the calendar year.

#### **Coastal Design Manual**

In the past few months, OCM has made significant progress towards the preparation of the Coastal Design Manual. In May 2007 a Request for Qualifications (RFQ) was posted in the Ohio Register. OCM worked closely with ODNR Division of Engineering to prepare the RFQ for technical sections of the manual that will be prepared by a private consultant, and recently ODNR received statement of qualifications from two consulting engineering firms. Presently, OCM is working with the Division of Engineering to prepare a Scope of Services that will be forwarded to the firms along with letters requesting detailed technical proposals for the CDM. Internally, OCM is working towards completing a Project Charter, a draft of which is currently under review.

#### **Ohio Coastal Management Document**

The routine program change to the Ohio Coastal Management Program was approved by NOAA in April. The program document now accurately reflects the creation of the Office of Coastal Management, implementation of the Ohio Coastal Nonpoint Pollution Control Program, creation of the Ohio Clean Marinas Program, and updates to laws, regulations, and federal financial assistance. A copy of the complete document is online at [www.Ohiodnr.com/Coastal](http://www.Ohiodnr.com/Coastal). A CD is included in your packet. The question of how many miles of shoreline exist in Ohio was deferred, and the references in the program document were left at 262 miles.

### **Lake Erie Balanced Growth Initiative**

The Balanced Growth Initiative pilot project managers, along with LEC and OCM staff, met on Friday, July 13 to discuss progress and cover related issues. All four projects are beginning to take their proposed Priority Conservation Areas and Priority Development Areas out to the local communities. Response has been favorable with most comments and suggested revisions fairly minor and localized. The Chagrin River group did a presentation and Q & A session on their Riparian Setback ordinance and how it has been implemented in the watershed. Kirby Date of CSU reported on the BMP workshops and on plans to continue to provide this information and technical assistance into next year. Ted Lozier of the Division of Water was also in attendance to get an update on the status of the initiative.

### **Ohio Coastal Atlas - Second Edition and DVD Edition**

OCM has distributed approximately 80% its inventory of 3,000 copies of the Ohio Coastal Atlas, Second Edition to coastal partners, stakeholders and decision makers; academia; libraries; and special interest groups, among others. With exception to continued distribution efforts, the Ohio Coastal Atlas-Second Edition (print version) is complete. The DVD version of the atlas parallels the chapter and topic structure of the Second Edition and incorporates additional maps not published in the book. The DVD contains interactive and easy-to-use PDF files of each chapter and all maps which can be printed on standard paper sizes. Five-thousand copies of the Ohio Coastal Atlas, DVD Edition were produced and delivered to OCM in July of 2007. Updated versions of the DVD will be developed as new and modified GIS datasets are produced.

### **Education & Outreach**

The Office of Coastal Management participated in the annual School Days event at Cleveland Lakefront State Park (Edgewater). The event brought together environmental educators with hundreds of children from the Cleveland School District. The Office of Coastal Management presented information about Ohio's coast and how it varies from one location to another.

The Office of Coastal Management is also scheduled to give presentations to the Western Basin Fishing Association at their August monthly meeting; host a Beach Walk in conjunction with Conservation Weekend on August 18 at East Harbor State Park; and give a presentation to attendees of the Ohio Watershed Leaders (OWLS) workshop on Friday August 31 at Nickleplate Beach in Huron. In coordination with the Ohio Clean Marinas Program, the Office of Coastal Management will also host a booth at the annual North American In-Water Boat Show at Cedar Point Marina from September 12-16.

Ohio's annual Coastweeks celebration, sponsored by the Ohio Lake Erie Commission, is from September 5 through September 22. Ohio's Coastweeks falls in line with Ocean Conservancy's International Coastal Cleanup on September 15. More information about Ohio's Coastweeks can be found at <http://www.epa.state.oh.us/oleo/cw/cw.html>. More information about the International Cleanup can be found at [http://www.oceanconservancy.org/site/PageServer?pagename=press\\_icc](http://www.oceanconservancy.org/site/PageServer?pagename=press_icc).

### **Wind Energy**

ODNR participates in the Ohio Wind Working Group (OWWG). At the June 29th Ohio Wind Working Group meeting, the Environmental Action Team, co-chaired by ODNR and the US Fish and Wildlife Service, committed to five action items. The five action items are as follows: 1) Identify priority research needs in Ohio relative to wildlife and wind power interactions and identify potential funding sources, 2) Participate in and help develop a Great Lakes Wind Working Group, 3) Utilize the Pennsylvania cooperative agreement and other examples to develop an Ohio voluntary wind energy cooperative agreement model to facilitate wildlife studies and mitigation between agencies and wind developers, 4) Develop pre-construction wildlife monitoring protocol for wind turbine proposals in Ohio for use with the cooperative agreement, model ordinance, and elsewhere, 5) Develop post-construction wildlife monitoring protocol for wind turbine proposals in Ohio for use with the cooperative agreement, model ordinance, and elsewhere. The next meeting of the OWWG will be September 7, 2007. More information about the OWWG can be found at [www.ohiowind.org](http://www.ohiowind.org).

In addition, Section 309 Enhancement Grant funds administered through the Office of Coastal Management together with funds and oversight through the ODNR Division of Wildlife will be used to assist with the development of the Ohio voluntary wind energy cooperative agreement model and to conduct pre- and post-construction monitoring in one or more locations in the Lake Erie coastal region. This monitoring will contribute to the development of the wildlife monitoring protocols for wind turbine proposals being developed by the Ohio Wind Working Group.

### **Ohio Clean Marinas**

- Total Number of OCMP Workshops to date: (14)
- Total Number in attendance: (121)
- Marinas in Attendance: (85)
- Total Current Pledges (23)
- Total Certified (29)

A list of currently Certified and Pledged Marinas can be found at:  
[www.ohiocleanmarina@osu.edu](mailto:www.ohiocleanmarina@osu.edu)

### **Shrink-wrap Program Summary**

By the end of June, over 265,000 lbs of boat shrink-wrap had been collected for recycling; a 165% increase from the 100,000 lbs collected in 2006. In addition, the working partnership with OSU Extension Horticulture, yielded over 66,280lbs of greenhouse plastics were collected, compared to approximately 46,000lbs in 2006; another 144% increase. Specially scheduled marina and greenhouse collections will continue through the summer and fall. The educator also plans to pilot a fall collection of shrink-wrap to recycle scraps from the winterization process and any incidental wrap from new boats.

A few interesting facts regarding shrink wrap collected from Ohio Lake Erie marinas alone in 2007 that demonstrate the significant impact and achievement of this Sea Grant Educators effort include:

- Plastic collected from the boat winterization process alone if stretched out ~ 5.5 feet wide would cover the entire 312 miles of the Lake Erie coast.
- Mondo Polymers the end user of the recycled plastic generated approximately 37,857 guard rail blocks from 265,000 lbs of boat wrap with an approximate economic value of over \$113,571.
- Using the 2006 marinas survey figure, the average saved by an Ohio marina from shrink-wrap recycling, as opposed to paying for landfill services, was \$500, with a range of \$200 to \$1200. If the average figure were used, over \$50K was saved by Ohio's Lake Erie Coastal Marina industry, with total savings ranging from \$20K to \$120K.

- An estimated 800 Mondo blocks are used per mile of highway guard rail, with the 2007 shrink wrap collected from marinas alone equaling 47 miles.
- The 265,000lbs of boat shrink wrap, baled into bundles, would equal the space of burying (8) 54 passenger school buses in a land fill.

### **Coastal Non-Point Program**

The 2007 Ohio Watershed Leaders Conference is scheduled for August 30 and 31 at Beulah Beach Resort in Vermilion, Ohio. The agenda and registration is available on the Ohio Watershed Network <http://ohiowatersheds.osu.edu/2007owls.html>

The ODNR, Division of Natural Areas and Preserves is hiring a Scenic River/Watershed Coordinator in the next two months. The partners involved in this project include Huron, Lorain and Erie SWCD, Friends of Vermilion River, ODNR, Soil and Water Conservation, Ohio EPA, OSU Extension and ODNR, DNAP.

The Home Sewage Treatment System HSTS rules that were effective at the first of the year have been rescinded. We are now operating under Statewide Interim Sewage Rules. These rules are almost identical to the 1977 rules. More information on this can be found on our web site at <http://www.odh.ohio.gov/odhPrograms/eh/sewage/sewage1.aspx>

The Portage River Watershed is being faced with a petition ditch project through the Wood County Engineer. This potential project could impact nearly 10,000 parcels in both the East and West Branch of the Portage River. For more information, contact Elaine Moebius, Portage Watershed Coordinator @ Phone: 419-241-9155 x139 or Elaine Moebius [moebius@tmacog.org]

### **OCM Strategic Planning**

The OCM Strategic Plan publication has been drafted and is under review. The four themes are:

#### **Maintain and Enhance Existing Office Functions**

The Office of Coastal Management will maintain and enhance its existing grant and business functions while improving efficiency and effectiveness as opportunities arise.

#### **Provide Coastal Resources Management Education and Outreach**

The Office of Coastal Management will provide information to coastal communities and decision makers regarding Lake Erie, coastal resources and Ohio's Coastal Management Program and the Great Lakes ecosystem.

#### **Implement an Effective Regulatory Program**

The Office of Coastal Management will effectively administer the regulatory programs of which it has direct authorities, and will coordinate with other state, federal and local authorities to ensure the proper management of natural resources in the coastal area.

#### **Protect and Restore of Coastal Resources**

The Office of Coastal Management will work closely with partners at the local, state and federal levels to identify key coastal resources and secure funding to protect and restore Ohio's coastal resources.

**NOAA 312 Evaluation** - No draft comments to date. Main problem identified by NOAA is lack of compliance monitoring/enforcement by OCM.

Discussion: Director Logan thanked John Watkins and staff for a job well done on the entire 312 evaluation. The Director noted that the peer review was very complimentary and it was very comforting to know that the program is being viewed successfully.

The full written report has not been released yet by NOAA. The 2000 and 2003 are available for review if anyone would like a copy.

David Spotts asked if the Governor's new policy directives were limited to private uses of the lake or did it include business. John Watkins noted that the policy applied to all uses.

Chairman Kastelic echoed Director Logan's statements on the NOAA 312 evaluation, specifically CMAG site visits. In addition, noted as an employee of Cleveland Meteroparks plant invasive species are becoming a problem as well.

#### **IV. Old Business**

- Vacancies

Chair notified council of the recent resignation of Jim Barchok.

- Now have 5 Vacant Seats, 3 of which are set to expire Feb. 1 2008).
- In addition to those 3 seats, the following are up for reappointment:
  - Rodney Althaus
  - George Goudreau
  - Pat Hayes
  - Bob Heath
  - Jim Kastelic
  - Vince Urbanski

Discussion: Terms set to expire will be announced to the public. Those who wish to continue their service should let the office know. The three vacant seats that are set to expire will be filled with the others.

For the seats that are vacant and set to expire in 2010, OCM and ODNR have looked through the previous applications and an individual that was nominated by Chris Riddle.

#### **V. New Business**

##### Web Pages

- Ask council to review the current web pages, copies are distributed in packet.
- Correct any wrong information under your name.
- Offer suggestions for improvement.
- Have written comments to Liz by August 31.

John Watkins also encouraged council to look at the entire ODNR/Ohio Coastal Management Program website and provide feedback. The Director has been working hard at updating for the entire department.

Director Logan asked the audience if they visited the website.

##### Attendance Policy Reminder

Ohio Revised Code (3.17 Failure to attend meetings).

*Any member of a board, commission, council, board of trustees of an institution of higher education, or other public body of the state, except a member of the general assembly or a judge of any court in the state, who fails to attend at least three-fifths of the regular and special meetings held by that board, commission, council, board of trustees, or public body during any two-year period forfeits the member's position on that board, commission, council, board of trustees, or public body.*

*Effective Date: 09-29-1997*

The May 2005 Executive Council Meeting Council approved the following:

If a Council member misses two consecutive Council meetings they will be sent a letter from the Chair reminding them of their responsibilities as a Council member to attend meetings. The letter will also ask Council members to consider resigning their seat on Council if their personal circumstances have changed and they are no longer able to meet the obligations of a Council member.

### Local Updates

Eric Dodrill, Erie County- Successfully implementing watershed coordinator grant. Have hired someone and the program is taking off.

John Keenan, Ashtabula County- Ashtabula River dredging continues and is 50% done. A beach cleaning machine is being used successfully. The Longest covered bridge in the universe is still being worked on. A project to cap the breakwall at the lighthouse has been proposed. The project should provide access for fishing.

Pat Hayes, Erie County (KI)- Everything is good. The beaches are clean no bad water reports. Locals seem to be happy. Fall eco-tourism will kick in soon with nature related events for the month of September.

David Spotts, Ashtabula County- There was significant soil/shore erosion over the winter. Working with ODOT on saving Lake Rd. west. Saybrook Township has received a grant and is working hard to complete.

Dave Miesmer- The Portage River Watershed Coordinator position has been filled. A wind farm is being proposed.

Rodney Althaus, Ottawa County- Port Clinton is on hold with the Waterworks project. Next month is the 15<sup>th</sup> Annual Put-In-Bay Clean-up. If you're interested in helping out let Rod know.

Joe Hayberger, Erie County- Participates on the Bayfront Corridor Committee. Chesapeake lofts are filling up. There are 160 condos, 30 + are occupied, 70 have been closed on. There will be a ballot issue in November on what to do with the old surf's up site.

Jim Kastelic, Cuyahoga County- Cleveland received flooding this week due to sewage problems. There is a lot going on at the confined disposal site, Dike 14. There are efforts in place to make

the 88 acres a nature preserve. Currently a risk assessment is being conducted for health issues and should be completed later this year. Ownership is yet to be determined. It could be a great spot to develop for public access and addition to the Cleveland lakefront.

### November Meeting

- Presentation  
David Spotts and Bob Heath have invited Arden Bement from the National Science Foundation to speak on climate change. As a resident of Stow, hopefully we can get him while he is home for Thanksgiving. If Dr. Bement can speak we should go at Kent State University.

### Submerged Lands Leasing/Permit Motion- Jim O'Connor-Ohio Lakefront Group (OLG)

#### History

- OLG Group formed after neighbors approached Jim about a meeting with ODNR.
- Jim then met with Tom Jordan and others and brainstormed on forming an organized voice.
- At this year's OLG annual meeting there was discussion of a land locked property owner taking neighbors lakefront land because "fill" (a term invented by coastal management to confiscate land they cannot afford to buy). The people are using this new policy in an attempt to take property.
- This led to e-mail that Jim O'Connor sent to John stating this was a new low. John Watkins assured Jim that this is not something OCM was a part of or approved.
- Jim stated that was not the impression or perception that the OLG had.
- Prior to OCMP there were 17 leases given out. John added that it was more like 70 or 80.
- OLG research showed much less and that they were signed off for the Governor and only for large commercial properties and municipalities.
- The OLG wants to go back to reasonable regulation which has been lost.
- There are far more important things that need addressed.
- Lorain Morning Journal Editorial-State Bullying
- There has been a lot of bad publicity towards property owners.
- The history of all this being lost.
- Testified for HB 218 because with 13 sex offender in his city he needs to protect his property for his children.
- Audubon Society testified against the bill using information they obtained from ODNR as part of deed research.
- There is a wealth of information...from true stewards of the lake, the property owners.
- Jim attended first 312 Evaluation, when the public comment period came out the public comment period portion was listed as lost.
- All these things have contributed to their perspective.
- Property owners are concerned about how structures are built and what goes into the water.
- Ohio has never owned up to the HWM as they have proclaimed.
- Office of Coastal Management should not be involved with .
- Appreciates that a lot of these things happened in previous administration, but the media has portrayed the wrong message. Just looking for respect not looking to be the villains they have been portrayed to be by the office, the Ohio Environmental Council, the Audubon Society and the sportsmen's groups and any others who have been spoon fed by the office.

The motion before the council and Jim does not want it to go to a committee. If it passes great, if not we will live with this issue hanging over us and never move forward.

BE IT RESOLVED THAT:

The Coastal Resources Advisory Council recommends that ODNR and the Office of Coastal Management immediately and appropriately notify all residents that have Lake Erie submerged lands leases with the State. The notification should state that, to the extent covered by private deeds, the State will immediately waive the requirement in the lease for the payment of fees pursuant to the Governor's July 13, 2007, announcement. The Coastal Resources Advisory Council further recommends that ODNR and the Office of Coastal Management convert all leases of privately deeded property to permits within six (6) months.

Chairman Kastelic asked for a second. There was no second.

Chairman stated that he appreciates compassion and sense of frustration and although it was requested that the motion not be sent to committee for further review, He believes it is appropriate to do so. He also expressed that he would have a hard time voting on something without knowing the legal and fiduciary issues involved.

Motion was referred to Rules, Laws and Consistency Committee for review and report to be offered to the council at the November meeting.

Comments from Council:

John Watkins added that he can review the situation on the Cedar Point Chausee with anyone over the lunch break. In addition he believes there is a lot of commonality with Jim O'Connor's proposal. Even though the Governor's statement doesn't speak to existing leases, it is recognized in the spirit of the statement to focus on all leases. Discussions are underway internally on the issue of existing leases. John would like the sub-committee to work with the office and department on changes to the OAC that need to occur to implement the new policy.

## **VI. Public Comment**

Guests wishing to make comments will be asked to state their full name, community of residence and group or organization affiliation, if any, before beginning their comments. Guests are asked to limit their comments to five minutes unless otherwise scheduled.

### **1.) Sandy Wade, OLG, Port Clinton**

Ms. Wade apologized to the Director and John Watkins for the "in your face" t-shirts and stated that as a whole she recognizes the department does many great things and many things that help. It's just a small issue that has led them to form the organization. They often get pushed into an "anti-environment" group, but it's not the case. Instead of time and money being used for taking property it could go to cleaning beaches. Most living in area have opted to install aeration systems, the county would not. Thank you for other work, but we need to work on property issue.

### **2.) Nancy Plymule, OLG, Marblehead**

Retired planning supervisor from Columbus and owns property on the water in Marblehead and member of OLG. Ms. Plymule asked if the minutes were available to the public on-line. OCM staff stated the minutes are available following the meeting, however they are not posted on the website until they are approved by council. Director Logan and Chief Watkins directed the office staff to post the minutes in draft form as soon as possible, but to clearly indicate they are subject to change. Ms. Plymule believes Governor has taken a step in the right direction and the law suit will help bring resolution.

**3.) Mary Drusbacky, OLG, Port Clinton**

Secretary of OLG and lives on the lake with husband, Roger. They both care a lot about the environment, recently donated land to US Fish and Wildlife for preservation. Ms. Drusbacky believes to be listed on an ODNR Non-compliance list. As a teacher for 40 + years she has always tried to do the right thing. By advice of their attorney they did not sign a lease. She is worried that the list will be published. If there is anything that could be done to be taken off the list or the list be destroyed it would be appreciated. Director Logan stated he had never seen a list. Ms. Drusbacky said she retrieved a copy of through the Freedom of Information Act from Coastal Management. It was given to Richard Bailey by Brenda Gautschi in 2003 or 2004. Ms. Wade added that you used to have to get a permit from the Army Corps. Mary got her permit and then the Office of Coastal Management came out to her property and others and asked them to sign a lease. Director Logan reiterated there was no list that he was aware of and that Ms. Drusbacky should not worry. John Watkins added that as the Department begins drafting the rules this would be a good opportunity to discuss these sorts of issues. In addition he will ask Brenda Culler-Gautschi about the list.

**4.) Kent Kemmerer, OLG, Willowick**

Appreciates being here and listening to Director Logan and Chief Watkins. Disappointed that Jim O'Connor's motion was not seconded. Hopes that committee will earnestly look at the motion. Believes Jim's motion is in the spirit of the Governor's directives. Seeing as this is an advisory committee that advises ODNR it's part of the committee's responsibility to acknowledge not only what the governor says but the people that represent those who live along the lake.

**5.) Bill Minshall, Kelleys Island, Public**

Used to be a CRAC member from 1996-1999. Some history is that the Ohio legislature passed a law that gave ODNR/OCM the ability to set the level of the water or the ordinary high water mark/low water mark. Mike Colvin followed through with it. He asked Mike why not do permits instead of leases.

Jim O'Connor added that Mike Colvin did an interview with WKYC and said that it's the states property when the water level reaches that height.

Mr. Minshall also commented that he hopes that the interest in wind energy will translate into other sources of energy. First Solar out of Toledo has 25 million in loans from State of Ohio. They manufacture solar panels that will be competitive with oil and gas. Hopes that ODNR will be involved with these developments.

John Watkins stated that the bill that transferred the leasing authority from DAS to ODNR occurred 1989, following that the department developed administrative rules in 1992. OCM and CRAC will be looking at those rules in the sub-committee. Currently they apply to leasing not permitting. In addition, there was a sub-committee that had looked into leases vs. permits issue. John will track down the report and post it on website if he can find it.

Jim O'Connor: ODNR approached the Ohio Attorney General for determination and the Attorney General said the boundary was where the water hits the land on a calm day. John Watkins added that in that opinion from 1993 the AG offered that the natural shoreline was where the water meets the land. John further added that according to the opinion, the state holds title to land under the water of Lake Erie within the boundaries of the state and to all land beyond the natural shoreline that was previously covered by the waters of Lake Erie and is now covered by artificial fill. According to the opinion when the land is not submerged the littoral owner is the beneficiary of the grant of land above the natural shoreline up to the ordinary high water mark.

- 6.) **Linda Kemmerer, OLG, Willowick**  
No Comment
- 7.) **Roger Dresbacky, OLG, Port Clinton**  
No Comment
- 8.) **Don Huntley, OLG, Kelleys Island**  
No Comment
- 9.) **Lori Hayes, Kelleys Island Audubon**  
No Comment
- 10.) **Judy DuShane, Kelleys Island Audubon**  
No Comment

Other Discussion: Eric Dodrill commented he was inclined to second the resolution, he felt the council owed it to Jim and OLG. However as a registered land surveyor in Ohio and knowing what goes into it to determining what a deed represents, that passing the resolution as it stands is a real stretch. He understands their point of view as a property owner and sympathizes. In addition, knows it has been a very long process. Having this issue go to the rules committee will give the council a chance to digest and really give some strong recommendations to the council.

- 11.) **Edith Chase,**  
(See attached letter re: Middle Bass Island State Park Marina)

## **VII. Lunch Break**

## **VIII. Presentations**

Kelley's Island Photo Slide Show  
Pat Hayes

Pat Hayes presented a slide show to the council featuring photographs about Kelleys Island history and attractions.

## **IX. Adjournment**