

The Disconnect Between CAMA, CRC, Local Governments, and the Protection of North Carolina's Coastal Waters

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The North Carolina Coastal Area Management Act (CAMA) requires coastal counties to prepare land use plans every five years as a means of protecting the health of our coastal environment while guiding economic development. A primary role of the Coastal Resources Commission (CRC) is to assist local governments in understanding the requirements for these plans and to approve them when submitted. Some members of the Coastal Resources Advisory Council (CRAC) also participate in this review process. To offset the expense of this planning effort, the Division of Coastal Management (DCM) awards grants of up to \$500,000 annually. The beauty of the concept is that it allows local governments to set their own priorities, identify local problems and challenges and to take steps to cope with them as they guide economic growth in their jurisdictions.

Yet, by any objective measure, water quality in the coastal waters is declining. Shellfish waters, our "canary in the mine," continue to experience closings, both temporary and permanent. Fish kills persist and important sea grass beds continue to shrink. The causes vary by region but are well understood. Studies of tidal waters have found a strong correlation between declining water quality and increased

development. The increase in impervious surface coverage and development densities in river basins can be linked to this decline. These are precisely the issues local land use planning was intended to address.

In September 1998, the CRC declared a moratorium on land use planning in coastal counties; this move was motivated partly by expressions of concern by environmental groups. The CRC then formed a task force in early 1999 to revise the requirements and to improve the planning and approval process. This task force is still at work, but unfortunately, the CRC will face serious challenges in implementing its recommendations if they are seen as more "intrusive" in local affairs.

What is the problem? What was intended to be a cooperative effort between local governments and state officials has turned into a process that is bureaucratic, complex yet superficial, and consultant-driven. If one reads the regulations, it is clear that the land use plans were meant to be prepared by the counties with coordination among local governments. However, many local planning boards hire consultants to prepare the plan, with one firm often providing services to multiple communities. Furthermore, 20 county plans were originally envisioned but 90 local and county plans currently exist. To further complicate this situation, there is little or no effort to verify that policy statements and other actions within a county actually complement each other. An extensive bureaucracy has emerged which perpetuates the process without any culpability for the degradation of coastal waters.

Why has this process failed? One reason is the lack of quality public participation. The CAMA regulations require that "[l]ocal

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governments shall employ a variety of educational efforts and participation techniques to assure all segments of the community have a full and adequate opportunity to participate in all stages of plan development.” In my personal experience, however, this simply is not done. In my county, for instance, news notices were placed announcing the public meeting, which drew approximately six people. At this meeting, public input was neither requested nor welcomed, and any input provided was rejected out of hand with no feedback. The DCM did nothing to see that a “Citizen Participation Plan” was developed! From my observations at CRC meetings and discussions with other citizens, similar experiences have occurred in other counties.

Another major reason is the approval process for the plans themselves. The review process is a cursory one which focuses on administrative requirements rather than substance. Elected and appointed officials have learned to make their plans as flexible as possible and the CRC has supported this trend through its interpretation of the regulations. For example, the regulations call for a comprehensive analysis of specific issues such as wastewater management, water conservation and drinking water supply. These elements of the plan are then to be reviewed by the appropriate state department. Instead, local plans often restate North Carolina regulations, despite localized problems that need attention. Many of the aquifers supplying our communities are severely dewatered and other communities have serious wastewater treatment problems, but I have never heard these issues raised in a CRAC or CRC meeting! Shellfish waters continue to be closed or opened conditionally due to stormwater runoff; in many cases, this represents a violation of the requirements of the Clean Water Act. Yet, I have never heard a member of the Division of Environmental Health’s Shellfish Sanitation Section or the Division of Water Quality speak out in opposition to a land use plan! Since it is clear these state departments do not view land use planning as a useful tool in meeting their mission, why are they even involved in the process?

The CRC justifies its cursory examination

procedure by pointing out they cannot require implementation of action plans. The commission and the CRAC members who participate in the review process appear to approve plans knowing they will be ineffective, simply because they are not in a position to point out any specific legal requirements not being met. Others seem to want to avoid making waves, provided the DCM staff says the plan in question complies with the regulations.

Commission members should read their own rules. They clearly require a lot more than is currently being done to involve the community in the planning process. The rules also call for plans of substance, not boilerplate. Why the CRC is so reluctant to make use of this valuable tool speaks volumes as to the level of commitment to real coastal protection that now exists in our state. But in all fairness, the CRC cannot do it alone. If the Division of Coastal Management staff continues to treat this effort as an administrative drill, then matters of substance will never be discussed.

Many local officials freely disparage the land use planning process as a paper drill into which they put as little effort as possible. It appears they feel the state government should not interfere with local responsibility, and yet many seem not to want to create and implement provisions protecting their environment if they seem to “complicate or inhibit” economic growth. But isn’t that the idea in the first place, finding a way to “protect the coast and grow sensibly?”

This debate seems to be about power and politics, not about science. It is about freedom at the local level. CAMA/DCM requirements are viewed as obstacles to overcome. Local officials argue they are protecting “private property rights” and fail to consider protecting “public trust waters,” as they see the former being their responsibility and the latter, DCM’s. A careful reading of CAMA does not support that interpretation.

Quite appropriately, economic growth and development are paramount to local officials. However, they risk “killing the golden goose” if they do not control this development to ensure that it does not continue to ruin the environment that is the foundation of the way of life at the

coast. Local officials who reject out of hand proposed CRC action frequently argue that an economic analysis has not been performed. However, these officials should be willing to perform detailed analyses of the cumulative and secondary impacts of decisions they make regarding the future of their jurisdiction—and this analysis can begin with a good land use plan.

What can be done to improve this situation? Three important action steps are needed. First, the public needs to become better informed and more involved. They should find a way to let their elected officials know they expect them to look at the long-term challenges facing their communities and take steps to protect the coastal environment. Second, local officials should pay more attention to the work of CRC/DCM. They should attend their regular meetings, appoint and properly charge citizens to CRAC slots and expect regular briefings on actions and events. Third, local officials need to be educated on the basic science of environmental issues. They need to understand cause and effect at the regional and local levels so that they can propose sensible and relevant safeguards for their communities. These by-invitation-only sessions could be developed and conducted by DCM staff.

The goals of CAMA cannot be met by minor alterations to land use planning requirements. Land use plans could and should be an integral part of North Carolina environmental law. However, past attempts to integrate the two have failed, since by all objective state measurements, water quality continues to decline in the coastal counties. The CRC needs to raise the bar and make it clear that they expect the local governments to do better. If not, then the money dedicated to this program should be redirected to other, more useful environmental initiatives. **CP**