

**NC COASTAL RESOURCES COMMISSION (CRC)**

**November 13-14, 2024**

**Ocean Isle Beach Town Hall, Ocean Isle Beach**

*Corrected: February 24, 2025 (page 8, changed "Chairman Emory" to "Commissioner Emory" as noted by Commissioner Emory)*

**Present CRC Members**

Renee Cahoon, Chair  
Larry Baldwin  
D.R. Bryan  
Bob Emory  
Jordan Hennessy  
Robert High  
Sheila Holman, 2<sup>nd</sup> Vice-chair  
Lauren Salter  
Steve Shuttleworth  
Earl Smith  
James "Robbie" Yates

**Present CRAC Members**

Spencer Rogers  
Bobby Outten  
John Farrell  
David Hewett  
David Kellam  
David Weaver  
Candy Bohmert  
Kyle Breuer  
Webb Fuller  
Debbie Smith

**Present from the Office of the Attorney General**

Mary Lucasse

**Present from the Department of Environmental Quality, Office of the General Counsel**

Christine Goebel

**CALL TO ORDER/ROLL CALL**

CRC Chair Renee Cahoon called the meeting to order at 3:00 p.m. on November 13, 2024, reminding the Commissioners of the need to state any conflicts due to Executive Order Number 34 and the State Government Ethics Act. The State Government Ethics Act mandates that at the beginning of each meeting the Chair remind all members of their duty to avoid conflicts of interest and inquire as to whether any member knows of a conflict of interest or potential conflict with respect to matters to come before the Commission. The Chair requested that if any member knows of a conflict of interest or a potential conflict of interest, they state when the roll is called. Commissioners Andrew and King were absent. Chair Cahoon stated she would recuse herself from the variance request from the Town of Nags Head. Commissioner Hennessy disclosed that he had communicated with Petitioner McCoy prior to the submittal of his variance request,<sup>1</sup>

however, did not believe it constitutes a conflict of interest. Based upon this roll call Chair Cahoon declared a quorum.

### **CHAIR COMMENTS**

Tancred Miller recognized Jason Dail, field representative in the Wilmington Regional Office, who will retire at the end of the month. District Manager, Tara MacPherson, presented Jason with a certificate of service from the State of North Carolina.

Chair Cahoon stated that this will be Mike Lopazanski's last Commission meeting in his role as DCM Deputy Director as he is retiring after 35 years of State service. Chair Cahoon presented a Resolution for the CRC's consideration for Mike Lopazanski.

**Bob Emory made a motion to adopt the Resolution. Sheila Holman seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates). The CRC presented Mike Lopazanski the Resolution, a Certificate of State Service, and the Eure Gardner Award for his 35 years of service to the State.**

### **MINUTES**

**Sheila Holman made a motion to approve the minutes of the August 27-28, 2024, Coastal Resources Commission meeting. Steve Shuttleworth seconded the motion. Jordan Hennessy noted a correction to the minutes. On the topic of the Buxton clean-up presented at the August meeting the minutes should be corrected from the reference to the U.S. Coast Guard to the U.S. Army Corps of Engineers. This motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

### **CRAC REPORT**

CRAC Chair Bobby Outten stated the CRAC discussed Sea Grant's deployment of sentinels on the beach during storms to monitor and get data. This does not fit the permitting system in terms of timing and adjacent property owner notifications. The CRAC asked staff to bring back rule language that would allow a Minor Permit, issued by the Local Permit Officer (LPO), that does not require adjacent property owner notifications only notification to the property owner where the sentinel would be placed. Additionally, the CRAC would like a definition for "research purposes". By consensus, the CRC directed staff to bring back these rule amendments for CRAC discussion.

The next issue was artificial turf in the AEC on the waterways and near the ocean. There are rules that create issues in allowing this installation. The CRAC asked staff to bring back the pros and cons to allowing the installation of this material. By consensus, the CRC directed staff to move forward with preparing the information and recommendations for the CRAC's consideration.

The CRAC discussed the Towns of Topsail, North Topsail and Surf City's issues with the Local Permit Officer Program. Currently the State administers that program for them. These Towns have concerns that because the Minor Permit program only generates about \$25,000 in revenue

that isn't enough to pay a full time person in the Town to administer the program. Staff stated that the fees had not been increased since the 1980s. The CRAC asked staff to look at the fee schedule and work with these three towns to see if there are any solutions available to assist these programs. By consensus, the CRC directed staff to look at the Minor Permit Program fee schedule and provide some recommendations for the CRAC's consideration.

The last item on the CRAC's agenda was an update given by Ania Bayers on the NOAA 5-year 309 assessment. The public comment period will be February – March 2025. In June there will be a final document turned in to NOAA. In June 2026 the Division can begin the implementation. This presentation was for information purposes only and no action was required. Sheila Holman added there is a survey that is available until late November 2024 to provide input on the nine critical areas that are being looked at. Chair Cahoon asked that the Division's public information officer provide the link on the website for anyone wishing to complete the survey.

### **EXECUTIVE SECRETARY REPORT**

DCM Director Tancred Miller gave the following report:

Good afternoon, Madam Chair and members of the Commission. I hope you've all been well since we met in August. Good afternoon to the Advisory Council, guests, staff, and those online. I'd also like to recognize DEQ Deputy Secretary Bill Lane. Before we begin, I'd ask us to take a moment to turn our thoughts to our neighbors out west who have experienced unimaginable losses and face a difficult road to recovery after Hurricane Helene. We know from our own experience that recovery can take years, well past the time that the event has faded from public discourse. Commissioner Holman, we are grateful that you and your family were spared the worst of the storm.

### **CAMA 50<sup>th</sup>**

As we approach the end of 2024, I'd like to thank members of the commission for indulging our reflection on 50 years of the Coastal Area Management Act and all that has been accomplished under the Act to protect public trust resources, access to healthy beaches and clean waters, property owners' rights to develop and use their private land, and county and local governments' ability to promote managed economic development and desirable places to work and live. We all have a stake in maintaining the fragile balance between private and public rights, and it is in large part thanks to our commitment to faithfully implementing CAMA that the two continue to thrive.

### **Legislative**

CAMA itself continues to be a work in progress. In August I reported on four legislative provisions affecting CAMA and the CRC's rules under the 2024 Regulatory Reform bill, SL 2024-45 (*AKA H385 then S 607*). Two of the provisions directed the commission to do rulemaking—docks and piers replacements, and measurement lines in conjunction with dune projects. The other two provisions were amendments to CAMA that do not require rulemaking; exempting aquaculture from the definition of development and allowing the replacement of the Village of Bald Head Island's fabric groin tubes with rock. In October, the General Assembly passed the Disaster Recovery Act of 2024. In addition to providing funding for storm recovery,

the Act repealed the rulemaking provisions from the Reg Reform bill and placed them into CAMA. This action eliminated the need for rulemaking, which is why your October special meeting was canceled.

### **Policy & Planning**

The Division awarded 17 grants totaling \$2.8M to 14 local governments to enhance beach and waterfront access in their communities. The grants include improvements to dune crossovers and estuarine boardwalks, new site amenities including parking, restrooms, showers, and land acquisition. Some previously funded access projects that have recently been completed include pier enlargement at Scuppernong River Park, boardwalk replacement at the Currituck Banks Reserve, multiple amenities at the Tall Glass of Water site in Bertie County, and replacement of three dune crossovers in Sunset Beach. Staff certified a land use plan for Town of Southern Shores, and a plan amendment for the Town of Morehead City. Two of the pre-proposals we submitted to NOAA's Habitat Protection and Restoration Competition on behalf of partners have been invited to submit full proposals.

- *The Coastal Federation* requested \$3.8M to complete wetland restoration design and construction on 1,490 acres in Newport, Carteret County. The project will allow for salt marsh adaptation to sea-level rise while rejuvenating the natural hydrology of wetlands and forest floodplains, improving water quality and mitigating flooding.
- *The Nature Conservancy* requested \$3.9M to complete hydrologic restoration across 17,235 acres of drained pocosin peatland habitat at Holly Shelter Game Land in Pender County. This project represents one of the largest, single-owner coastal wetland restoration efforts in NC.

### **Regulatory**

In regulatory updates, DCM issued CAMA and Dredge and Fill permits to build out an existing artificial reef located adjacent to Carolina Beach State Park in the Cape Fear River. This reef, constructed with small, crushed concrete or marl, continues to support habitat for finfish and shellfish while enhancing fishing opportunities. DCM issued CAMA and Dredge and Fill permits to the Department of Natural & Cultural Resources to revamp their 31-acre Gallants Channel waterfront site in Beaufort. The project includes the Beaufort Maritime Education Center which will consist of a new two-story building (approximately 8,700 sq. ft.), two road entrances, access roads, parking lots, and sidewalks. DCM issued CAMA and Dredge and Fill permits to the Coastal Federation to create a 1-acre salt marsh with a 380-foot-long manmade tidal creek off Ward Creek in Carteret County. After restoration efforts, the goal is to harvest wetland plants from this created salt marsh use in future restoration projects along the coast. DCM issued CAMA and Dredge and Fill permits to the Division of Parks and Recreation to install three sections of offshore sill along the shoreline of Carolina Beach State Park, adjacent to the Cape Fear River. The living shoreline will consist of a combination of wave attenuators and coastal wetland species plantings at three sites. DCM issued Emergency CAMA and Dredge and Fill permits to NCDOT to replace a failed culvert with a new bridge over Price Creek in Southport. The culvert was damaged during the PTC8 storm that occurred on September 15-16. NC DOT requested an emergency permit review due to the road being washed out and resulting loss of access and soil and debris entering the creek and adjacent coastal wetlands. DCM staff,

led by Robb Mairs held a workshop in Manteo for LPOs, in the Northern and Northeastern District on October 30<sup>th</sup> and 31<sup>st</sup>. The workshops included formal presentations by Division staff and other state and federal agencies representatives, rule updates, hands-on training in the field, and informal Q&A sessions. The LPOs' attendance at this workshop is part of the contract with the local governments. Wilmington district staff are working with the DWR and USACE for continued restoration efforts for a violation on Saucepan Creek and the Cape Fear River. Interagency collaboration has been essential on moving forward with these important tasks to restore our local resources. DCM would like to commend the efforts of Bryan Hall, Field Representative for southern New Hanover County, for his continued work, coordination, and numerous hours spent onsite for this ongoing Enforcement Case adjacent to the Cape Fear River in New Hanover County.

### **Coastal Reserve**

2,272 students have participated in field trips to the Rachel Carson and Masonboro Island Reserves so far this year, including students from Carteret, Onslow, and Craven Counties. The Masonboro Island Explorers program is hosting fifth grade students from nearby counties at the Masonboro Island Reserve in partnership with Masonboro.org and Carolina Ocean Studies. The Reserve celebrated National Estuaries Week in September by hosting and participating in a variety of activities: visitors were encouraged to photograph flora and fauna at the sites and upload them to iNaturalist; staff participated at outreach events at the Olde Beaufort Farmers Market in Beaufort and at Femme in STEM at the NC Aquarium at Fort Fisher, and a marsh cleanup with volunteers at Kitty Hawk Woods Reserve. The Reserve will host its fourth stop on the "Discover the NC Coastal Reserve" tour at the Kitty Hawk Woods Reserve on December 6<sup>th</sup>. The tour is a multi-year campaign to connect target audiences with the program and places through events hosted at Reserve sites. The December event will also highlight the division's public beach and waterfront access and resilient coastal community programs and the Division of Marine Fisheries' Marine Patrol. CRC and CRAC members are invited and should have received an invitation to the event. The Reserve's recently released film "Secrets of the Estuary" took home two National Estuarine Research Reserve Association FilmFest awards - the Egret Award for Best Scenery and the Tidal Award for Estuary Ambassador! Congratulations to Reserve filmmakers Communications Specialist Jillian Daly and Research Coordinator Justin Ridge. The link to the film is available. The Coastal Training Program offered workshops and partner engagement meetings for decision-makers throughout coastal North Carolina this year. 13 events served 591 professionals including real estate agents, local government staff, federal and state agency staff, and land use planners by delivering science-based information and technical assistance to protect and manage NC's coastal resources. Fall Reserve local advisory committee meetings are currently underway; meeting details are on the Reserve's website.

### **Staff News**

Paula Gillikin was promoted to serve as the Reserve's Stewardship Coordinator. Paula has worked with the Reserve's stewardship team for the past 17 years, serving the past 12 years as the Central Sites Manager for the Rachel Carson and Permuda Island Reserves. Paula has also served in leadership roles for the state's work on marine debris and abandoned and derelict vessels. She will continue working from our Beaufort office. Cameron Luck has transitioned from the regulatory to the policy side of the house, moving into the Policy Analyst and Federal Consistency position that Daniel Govoni previously held. Ania Bayers recently moved to North

Carolina and has joined DCM in a temporary role as a Program Consultant. Ania previously worked for 12 years with the Illinois Coastal Management Program, including 7 years as Program Manager. Ania is coordinating DCM's next 5-year Program Assessment & Strategy. Lee Canady has come aboard as the new DOT Field Representative for Division 1, which includes Dare, Hyde, Tyrrell, Washington, Bertie, Hertford, Gates, Chowan, Perquimans, Pasquotank, Camden and Currituck. Lee comes to DCM from the Department of Agriculture in the CREP program. Daisha Williams, Admin Assistant for the Wilmington office, left the Division for a new career in September. DEACS has not moved to post the position at this time and our office Manager Patricia Hay is also retiring at the end of this month. Phil D'Angelis, Field Representative for western Brunswick County, hit his six-month mark with DCM and continues to learn and demonstrate his value to the team. Grace Loonam, a MS student at East Carolina University, is the 2024 North Carolina Coastal Research Fellow. Grace's research will investigate changes in habitat complexity and community assembly in restored versus natural oyster reefs at the Rachel Carson Reserve. The fellowship is funded by North Carolina Sea Grant and the N.C. Coastal Reserve and National Estuarine Research Reserve. Mina Surprenant, a PhD student at the University of North Carolina Wilmington is the 2024-2026 Davidson fellow at the NC Reserve. Mina will evaluate salt marsh responses to sea-level rise at the Masonboro Island and Zeke's Island Reserves by integrating drone technology data with computational models to help predict how marshes adapt to changing sea levels. The Carrot Island Living Shoreline Team received a DEQ Team Achievement Award for its work across divisions to complete the living shoreline at the Rachel Carson Reserve. DCM team members include Reserve staff Paula Gillikin, Justin Ridge, Abby Williams, and Rebecca Ellin, and regulatory staff Gregg Bodnar and Wayne Hall. Their teamwork ensured the project was completed on time, met all requirements, and will serve as a model for future resilience strategies in NC. Gregg Bodnar received a DEQ Distinguished Employee Award for his leadership in making DCM the first agency within DEQ to launch an e-permitting system and sharing that knowledge with other agencies to make e-permitting a successful and convenient tool for the public. Jason Dail, Field Representative and LPO for Pender Co, Topsail Beach and Surf City will be retiring at the end of next month. Jason has handled the LPO program for Topsail and Surf City since 2009. He has 25 years with the state, and we are both excited for him and very sad to see him go. This is a huge loss for the Division as Jason basically handles two positions covering Minor Permits for all of Pender County, including most of Topsail Island, and has incredible institutional knowledge. DCM staff are working with the local governments in Surf City and Topsail Island to address their permitting needs after Jason's departure. Mike Lopazanski is down to his final meeting as a DCM staff member. We could not be more grateful for all he has done for the state during his tenure, or prouder of his enduring legacy in the public access program, the coastal Reserve system, and sensible approach to coastal management.

#### **Cape Hatteras National Seashore Update**

##### **Dave Hallac, Superintendent, National Park Service**

Dave Hallac provided the first update since 2022 regarding oceanfront structures adjacent to Cape Hatteras National Seashore. The Seashore has 75 miles of ocean facing beaches. In 1937 an Act of Congress provided those areas deemed to be especially appropriate for recreational uses such as swimming, boating, sailing, fishing, and other recreational activities of similar nature, shall be permanently reserved as a primitive wilderness and no development of the project or plan for the convenience of visitors shall be undertaken which would be incompatible with the

preservation of the unique flora and fauna of the physiological conditions. The seashore is important economically. North Carolina is only second to California in visitor spending. Between 1936-38, the Civilian Conservation Corps built almost all of the dunes on the outer banks. Park Service employees planted beach grasses and put up sand fencing to try to stabilize the dunes. In 1959, dunes were being built again to hold sand in place and keep the beach from washing away. Over 13 million square feet of grasses were planted to hold the barrier islands in place. Sand was also pushed up from the sounds and oceans. This has been an ongoing battle for decades. The Army Corps of Engineers has pumped dredged material to fill in inlets cut by storms and hurricanes. In the mid-1960s, erosion had taken the dunes again and after 37 years and over \$20 million dollars spent, virtually the entire Federal investment in the beaches and dunes had been lost to erosion. The official position of the Seashore was to allow the natural processes to occur, including erosion. On the north end of Ocracoke Island about a decade ago, 500 feet of sandbags were installed. Currently there are almost 7,000 feet of sandbags. Threatened oceanfront structures will be one of the most significant problems that the Seashore faces. At my last presentation to this Commission, four houses had collapsed into the ocean from 2020-2022. Since that time, ten houses have collapsed and there will be many more. Collapse affects everyone. The beach has to be closed to clear debris, additional houses are unstable, and the debris becomes part of the beach ecosystem because you cannot clean up all of the debris. This problem is not just in Rodanthe. We are seeing houses and neighborhoods in Buxton that are being affected. Septic tanks are an additional problem. They are a nightmare. There are 15 biological technicians employed by the Seashore. They pick up piles of septic tank pieces. We have begun to work with DEQ's recreational water quality program. When there is a wastewater spill, we close the area until testing confirms that the area is safe. From August until the first of October of 2024 there were 23 wastewater spills into your National Seashore. With sea level rise this problem will only get worse. A study was conducted along all 75 miles of the National Seashore, measuring the erosion rate every 100 meters. The beach is eroding, and the Seashore is moving westward. In Rodanthe there is an endpoint erosion rate of about four feet per year, and a linear regression rate of about three feet per year. In 10 years, the problem won't be just oceanfront structures, it will be dozens of houses streets back and that will end up on the public trust beach. Stable lines of vegetation do not exist on barrier islands. These areas are very dynamic, and the erosion will continue even without storms or hurricanes. So, what are the options to approach barrier island management? The choices include building out with beach nourishment, building out by moving or removing the structure, building up by raising the structures, or building a boat and thinking differently about barrier island transportation. Beach nourishment can be successful, although they do have ecological impacts, but are hard to maintain with rapid erosion rates and may delay infrastructure management decisions. Beach nourishment is also causing an inadvertent loss of the barrier island area and habitat. Beach nourishment does not solve all of the problems associated with rapidly eroding areas. Another option is building back and moving structures. This concept is considered by some to be giving up. However, it minimizes the impacts to the beach and may be more cost effective in the long-term. A pilot program to purchase threatened oceanfront structures was implemented. The Seashore bought the properties, demolished the structures, and restored the natural, pristine beach. We would like to scale-up this program to prevent these problems from happening. In partnership with the Division of Coastal Management, an interagency workgroup was formed that published a report called Managing Oceanfront Structures: Ideas from an Interagency Work Group. The group discussed financial assistance opportunities, the role of public and private

insurance, and legal and regulatory authorities. The work group put forward a series of ideas for further discussion that can help advance this issue.

Commissioner Hennessy asked about the CRC that requires removal when a structure is considered imminently threatened. Director Miller responded that the AEC Hazard Notice (15A NCAC 07H .0306) requires an applicant to acknowledge the hazard and requires removal of the structure. However, this rule has not been enforced. Commissioner Hennessy questioned whether the rule should be updated or removed if it isn't used.

Commissioners Hennessy and Baldwin suggested using wave attenuators or artificial reefs in these areas.

### **PUBLIC INPUT AND COMMENT**

Maria Dunn, USFWS, spoke against the use of wheat straw bales as sand fencing as the CRC has proposed in 15A NCAC 07H .0314.

### **RULEMAKING**

#### **Amendments to 15A NCAC 07H .0209 Urban Waterfront (CRC-24-16)**

##### **Gregg Bodnar**

Gregg Bodnar stated urban waterfront characteristics include being in a Coastal Shorelines AEC, waters not designated as Outstanding Resource Water by the Environmental Management Commission (EMC) and are located within the corporate limits of a municipality; central business district with services such as water, sewer, streets, police/fire, and waste management; of an industrial or similar zone classification adjacent to a central business district. This rule was initially discussed in 1995 as an AEC designation. In 1997, an amendment to CAMA allowed for the re-development of historically urban waterfront areas. This Session Law set criteria for designation and allowed non-water dependent use over public trust. The CRC adopted its Urban Waterfront rule on April 1, 2001. The CRC was interested in preserving historical and aesthetic values while enhancing the local economy and public access to coastal waters. The Commission addressed non-conforming structures, vertical expansion, and non-water dependent uses. The Urban Waterfront rules allow for specific non-water dependent uses over the public trust by limiting it to restaurants and retail services. New structures must be pile supported, single story decks and boardwalks, limited to no more than 20 feet waterward of normal high or normal water level, and may be roofed, but not enclosed. Existing enclosed structures may be expanded vertically by one story, not to exceed the footprint of the structure, and limits to one additional story over the lifetime of the structure. The CRC heard a variance request in August 2024 (CRC-VR-24-02) which was a previously enclosed deck with vinyl sheeting that was inconsistent with the CRC's rules and the Petitioner had replaced it with removable vinyl siding panels. The variance request was granted by the CRC to allow for the removable vinyl siding panels. The CRC then instructed staff to review 7H .0209 for the potential to accommodate enclosed decking utilizing removable materials.

Commissioner Emory reminded Commissioners that these structures are not water dependent and are located over public trust. That was the thinking behind only allowing restaurants and retail services, and not residential structures, as to protect public access and public view.



**Larry Baldwin made a motion to approve the amendments to 15A NCAC 07H .0209 for public hearing. Sheila Holman seconded the motion. This motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

#### **ACTION ITEMS**

**Public Comments and Consideration of Adoption 15A NCAC 07J .1401, .1402 .1403, .1404, .1405 and 15A NCAC 07J .1501, .1502, and .1503 (CRC-24-17)**

##### **Jonathan Howell**

Jonathan Howell stated the Division is asking the CRC to adopt these rules related to the permitting application and permit processing. The 60-day public comment period ended on November 4<sup>th</sup> and public hearing was held on September 26. These rules were vacated by the Rules Review Commission (RRC) and since 7J .1405 addresses the fee, it is considered a new fee and must be reviewed by the Joint Legislative Commission on Governmental Operations (GovOps). The Division received one comment from Cedar Point Developers that voiced several concerns about statutory authority and conditions from outside agencies. Other concerns outlined by Cedar Point Developers have been corrected.

Commissioner Hennessy asked about the concern raised about circulating permit applications to outside agencies, including the concerns raised by RRC about the authority to circulate to state agencies in the Dredge and Fill Law, but no similar language in the Coastal Area Management Act. Mary Lucasse referred the Commission to the briefing provided in the litigation the CRC brought against the RRC. She explained that the Legislature directed the CRC to use a consolidated and efficient permit process as laid out in the Dredge and Fill and Coastal Area Management Act. This authorizes one application for both permits. In addition, as part of the CAMA Statute, DCM is given the authority to do an investigation which includes reaching out to Agencies with specific expertise. DCM then considers the information received and determines whether permit conditions are necessary.

Commissioner Bryan asked about the difference between the authority spelled out in the Dredge and Fill Law and the CAMA. Mary Lucasse stated the Dredge and Fill Law was enacted in 1969, which is five years prior to the Coastal Area Management Act and does not have exactly the same language. However, the NC Supreme Court has stated that we have to look at the laws practically as there are so many laws on the books that we have to figure out the intent of our Legislature. If the legislature authorized a coordinated permit process, its intent would appear to be that the application for both permits go through the same process.

**Bob Emory made a motion to adopt 15A NCAC 07J .1401, .1402, .1403, .1404, .1405, .1501, .1502, and .1503. Larry Baldwin seconded the motion. The motion passed with nine votes in favor (Cahoon, Baldwin, Bryan, Emory, High, Holman, Salter, Shuttleworth, Smith) and two opposed (Yates, Hennessy).**

**Consideration of Approval of Fiscal Analysis 15A NCAC 07H .2302 & .2305 General Permit for Replacement of Existing Bridges and Culverts 15A NCAC 07H .2302 & .2305 (CRC-24-18)**

**Cathy Brittingham**

Cathy Brittingham stated the CRC approved the amendments to 7H .2302 and proposed language in 7H .2305 at the August meeting. The amendments to .2302 included increasing the timeframe that the General Permit is in effect from 120 days to two years after the date of issuance.

Amendments to .2305 returned the specific conditions for the replacement of existing bridges and culverts. The fiscal analysis found that approximately 20-40 General Permits (GPs) are issued to NCDOT under 7H.2300 each year, approximately 5-10 GPs are issued to local governments each year, and approximately 5-7 GPs are issued to private property owners each year. State agencies other than NCDOT rarely replace bridges and culverts, and federal agencies seek approval to replace bridges and culverts through DCM's federal consistency program. The permit fee for a GP .2300 is \$400. The fiscal impact is positive but minimal. There will be a positive impact for NCDOT in expanding the timeframe for an active permit which will provide adequate time for the authorized project to be constructed. A positive impact was also found to be related to permit fees and operating costs for all applicants that apply for a GP .2300 and the return of the specific conditions in .2305 results in a more efficient and streamlined process. A minimal negative fiscal impact for DCM is the result of the loss in revenue from additional permit fees if the current 120-day timeframe was to remain in effect. This impact is offset in savings in operating costs to DCM due to the two year timeframe. This fiscal analysis has been submitted to OSBM and is awaiting approval. Staff is requesting CRC approval of the fiscal analysis conditioned upon OSBM approval.

**Sheila Holman made a motion to approve the fiscal analysis for 7H .2302 and .2305 and send these rules out for public hearing. Larry Baldwin seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

**Public Comments and Consideration of Adoption 15A NCAC 07H .0508 Jockey's Ridge Area of Environmental Concern (CRC-24-19)**

**Daniel Govoni**

Daniel Govoni stated during the periodic review process, the designation for Jockey's Ridge as an AEC was removed from the NC Administrative Code. The CRC is granted authority under NCGS 113A-113 to designate geographic areas of the coastal areas as areas of environmental concern and specify the boundaries. Jockey's Ridge is a State Park, a State Nature Preserve, a complex natural area, and contains a unique geological formation as identified by the State Geologist. The permanent rule before the CRC re-designates Jockey's Ridge as an AEC, provides use standards, and addresses RRC's concerns. A public hearing was held at Jockey's Ridge State Park on October 15 and the public comment period ended on November 4.

Seventeen oral comments and 65 written comments were received with overwhelming support for the redesignation of Jockey's Ridge as an Area of Environmental Concern.

**Jordan Hennessy made a motion to adopt 15A NCAC 07H .0508. Larry Baldwin seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

### **Minor Permit Program Overview (CRC-24-23)**

#### **Mary Lucasse**

Mary Lucasse stated in 1974 when the Legislature created the CRC, Part 2 of CAMA required all 20 coastal counties to prepare a Land Use Plan (LUP). These Plans are used by communities to prepare for the future. The local governments may also adopt ordinances identifying those aspects of the LUP that are enforceable as opposed to visionary. Each of the 20 coastal counties has made a land use plan that includes specific topics. LUPs allow for consistency between local, state, and federal guidelines. The local governments use this document as a planning device. Resiliency will be a new requirement included in updates to the Plans. Once LUPs have been completed, the counties, cities, and municipalities are allowed to manage their own local implementation and enforcement program—the CAMA Minor Permit Program. Robb Mairs at DCM is the person responsible for coordinating the training and working with the Local Permit Officers. The CRC rules in 7I provide for the grant and procedures for local implementation and enforcement programs. When a community wants to begin a new Minor Permit Program, they request permission from the CRC to do so and follow the guidelines laid out in 7I. The Rules in 7J lay out the delegation from the CRC to the local government to implement and enforce their own local program.

### **Town of Cape Carteret Minor Permit Program (CRC-24-24)**

#### **Robb Mairs**

Robb Mairs stated the Town of Cape Carteret has requested the CRC's approval to implement a Minor Permit Program. The Town had a Minor Permit program and operated that program until 2015. Due to staffing shortages, the Town requested that the Carteret County Western Office assist in undertaking the Program. But in 2024, the County had staff shortages and approached DCM to take over. Since that time there is a new town manager, and he expressed interest in taking back the Program. DCM has met with Town staff and provided field training. The Town has prepared a local ordinance, with assistance from DCM, for implementing the Program and it was adopted by the Town on September 9. The Town now requests approval from the CRC to move forward with their Minor Permit Program.

**Sheila Holman made a motion to approve the Town of Cape Carteret Minor Permit Program. Larry Baldwin seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

### **VARIANCE REQUESTS**

#### **Town of Oak Island-(CRC-VR-24-07), Oak Island, Oceanfront Setbacks**

#### **Patrick Amico, DCM & Christine Goebel, Esq./Brian Edes, Esq.**

Patrick Amico gave an overview of the site of the proposed development. Christy Goebel represented staff and stated Brian Edes is present and will represent Petitioner. Ms. Goebel reviewed the stipulated facts of the variance request and stated staff and petitioner agree on all four variance criteria which must be met in order to grant the variance. Mr. Edes reviewed the stipulated facts which he contends supports the granting of the variance request.

**Bob Emory made a motion that Petitioner has shown that strict application of the applicable development rules, standards, or orders issued by the Commission cause the**

**Petitioner an unnecessary hardship. Sheila Holman seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

**Bob Emory made a motion that Petitioner has shown that hardships result from conditions peculiar to the petitioner's property. Earl Smith seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

**Bob Emory made a motion that Petitioner has shown that hardships do not result from actions taken by the Petitioner. Earl Smith seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

**Bob Emory made a motion that Petitioner has shown that the variance request will be consistent with the spirit, purpose, and intent of the rules, standards, or orders issued by the Commission; will secure public safety and welfare; and preserve substantial justice. Earl Smith seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

This variance request was granted.

**Eggleston-(CRC-VR-24-08), Holden Beach, Riparian Setbacks  
Patrick Amico, DCM & Christine Goebel, Esq./Glenn Dunn, Esq.**

Patrick Amico gave an overview of the site of the proposed development. Christy Goebel represented staff and stated Glenn Dunn is present and will represent Petitioner. Ms. Goebel reviewed the stipulated facts of the variance request and stated staff and petitioner agree on three of the four variance criteria which must be met in order to grant the variance. Mr. Dunn reviewed the stipulated facts which he contends supports the granting of the variance request.

**Larry Baldwin made a motion that the Petitioner has shown that strict application of the applicable development rules, standards, or orders issued by the Commission will cause the Petitioner an unnecessary hardship. Sheila Holman seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

**Larry Baldwin made a motion that Petitioner has shown that hardships result from conditions peculiar to the petitioner's property. Sheila Holman seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

**Larry Baldwin made a motion that Petitioner has shown that hardships do not result from actions taken by the Petitioner. Sheila Holman seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

**Larry Baldwin made a motion that Petitioner has shown the variance request will be consistent with the spirit, purpose, and intent of the rules, standards, or orders issued by the Commission; will secure public safety and welfare; and preserve substantial justice. Sheila Holman seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

This variance request was granted.

**McCoy ENC, LLC-(CRC-VR-24-09), Avon, Oceanfront Setbacks**

**Yvonne Carver, DCM & Christine Goebel, Esq./Steve Coggins, Esq.**

Commissioner Hennessy stated Mr. McCoy had reached out with questions prior to the filing of this variance request, however, he does not believe there is a conflict of interest.

Yvonne Carver gave an overview of the site of the proposed development. Christy Goebel represented staff and stated Steve Coggins is present and will represent Petitioner. Ms. Goebel reviewed the stipulated facts of the variance request and stated staff and petitioner agree on one of the four variance criteria which must be met in order to grant the variance. Mr. Coggins reviewed the stipulated facts which he contends supports the granting of the variance request.

**Jordan Hennessy made a motion to grant the Petitioner's request for a procedural variance to not be required to seek a variance from Dare County. Robbie Yates seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

**Larry Baldwin made a motion that Petitioner has shown that strict application of the applicable development rules, standards, or orders issued by the Commission cause the Petitioner an unnecessary hardship. Steve Shuttleworth seconded the motion. The motion passed with six votes in favor (High, Yates, Smith, Shuttleworth, Baldwin, Hennessy) and five opposed (Salter, Holman, Emory, Cahoon, Bryan).**

**Larry Baldwin made a motion that Petitioner has shown that hardships result from conditions peculiar to Petitioner's property. Steve Shuttleworth seconded the motion. The motion failed with five votes in favor (High, Yates, Shuttleworth, Baldwin, Hennessy) and six opposed (Salter, Smith, Holman, Emory, Cahoon, Bryan).**

**Larry Baldwin made a motion that hardships do not result from actions taken by the Petitioner. Sheila Holman seconded the motion. The motion passed unanimously (Salter, High, Yates, Smith, Holman, Shuttleworth, Baldwin, Emory, Cahoon, Bryan, Hennessy).**

**Larry Baldwin made a motion that the variance request will be consistent with the spirit, purpose, and intent of the Commission's rules, standards, or orders; will secure public safety and welfare; and preserve substantial justice. Steve Shuttleworth seconded the motion. The motion passed with six votes in favor (High, Yates, Smith, Shuttleworth, Baldwin, Hennessy) and five opposed (Salter, Holman, Emory, Cahoon, Bryan).**

This variance request was denied.

**Branstom Residence Trust-(CRC-VR-24-10), Figure Eight Island, Impervious Surface Limits**

**Kelsey Beachman, DCM & Christine Goebel, Esq./Steve Coggins, Esq.**

Kelsey Beachman gave an overview of the site of the proposed development. Christy Goebel represented staff and stated Steve Coggins is present and will represent Petitioner. Ms. Goebel reviewed the stipulated facts of the variance request and stated staff and petitioner agree on three of the four variance criteria which must be met in order to grant the variance. Mr. Coggins reviewed the stipulated facts which he contends supports the granting of the variance request.

**Jordan Hennessy made a motion that Petitioner has shown that strict application of the applicable development rules, standards, or orders issued by the Commission cause the Petitioner an unnecessary hardship. Larry Baldwin seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

**Jordan Hennessy made a motion that Petitioner has shown that hardships result from conditions peculiar to Petitioner's property. Larry Baldwin seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

**Jordan Hennessy made a motion that Petitioner has shown that hardships do not result from actions taken by the Petitioner. Larry Baldwin seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

**Jordan Hennessy made a motion that the variance request will be consistent with the spirit, purpose and intent of the Commission rules, standards, or orders; will secure the public safety and welfare; and preserve substantial justice. Larry Baldwin seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

This variance request was granted.

**Town of Nags Head-(CRC-VR-24-12), Oceanfront Setback**

**Yvonne Carver, DCM & Christine Goebel, Esq./John Leidy, Esq.**

Chair Cahoon advised the Commission that while there is no actual conflict, to avoid an appearance of a conflict of interest, she will recuse herself from discussion and voting on this variance request and Bob Emory will serve as presiding Commissioner:

**Jordan Hennessy made a motion to recuse Chair Cahoon from this agenda item. Steve Shuttleworth seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

Yvonne Carver gave an overview of the site of the proposed development. Christy Goebel represented staff and stated John Leidy is present and will represent Petitioner. Ms. Goebel reviewed the stipulated facts of the variance request and stated staff and petitioner agree on the

four variance criteria which must be met in order to grant the variance. Because DWR requested additional information and are continuing to work with the Town, a condition could be considered that states, should coordination between the Town and DWR result in minor changes to the project following the granting of a variance request, it is the intention of the CRC that minor design changes be incorporated into the CRC variance approval prior to issuance of the permit or by modification. Mr. Leidy reviewed the stipulated facts which he contends supports the granting of the variance request and stated the Town agrees to the condition suggested by Staff if the variance request is approved.

**Sheila Holman made a motion that Petitioner has shown that strict application of the applicable development rules, standards, or orders issued by the Commission cause the Petitioner an unnecessary hardship. Jordan Hennessy seconded the motion. The motion passed unanimously (Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

**Sheila Holman made a motion that Petitioner has shown that hardships result from conditions peculiar to Petitioner's property. Jordan Hennessy seconded the motion. The motion passed unanimously (Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

**Sheila Holman made a motion that Petitioner has shown that hardships do not result from actions taken by Petitioner. Jordan Hennessy seconded the motion. The motion passed unanimously (Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

**Sheila Holman made a motion that the variance request will be consistent with the spirit, purpose, and intent of the rules, standards, or orders issued by the Commission; secure the public safety and welfare; and preserve substantial justice. The variance should include the condition regarding any minor design changes proposed by DWR. Bob Emory requested a friendly amendment that the CRC be informed of the outcome of any changes that result from coordination between the Town and DWQ. Jordan Hennessy seconded the motion. The motion passed unanimously (Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

This variance request was granted.

#### **Update on Litigation of Interest to the Commission (CRC-24-25)**

##### **Mary Lucasse**

Mary Lucasse stated that since the update provided in CRC 24-25, the only update is the filing of the record for the Petition for Judicial Review in Beaufort County. No date has been set for the hearing on CRC v. RRC, but an update will be provided when it is calendared in Wake County Superior Court.

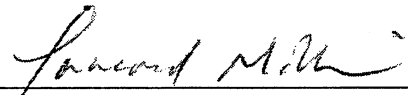
#### **OLD/NEW BUSINESS**


Chair Cahoon stated the next meeting is scheduled for February 26-27, 2025, in New Bern.

**Commissioner Hennessy made a motion to direct staff to continue rulemaking that includes the removal of the June 1, 1979 provision in 15A NCAC 07H .0309 and remove the 1,000 square foot limitation on footprint. Larry Baldwin seconded the motion. The motion passed unanimously (Baldwin, Bryan, Emory, Hennessy, High, Holman, Salter, Shuttleworth, Smith, Yates).**

With no further business, the CRC adjourned.

Respectfully submitted,

  
\_\_\_\_\_  
Tancred Miller, Executive Secretary

  
\_\_\_\_\_  
Angela Willis, Recording Secretary