

NC COASTAL RESOURCES COMMISSION (CRC)

November 17, 2022

Beaufort Hotel, Beaufort

Present CRC Members

Renee Cahoon, Chair
Larry Baldwin, Vice-Chair
Neal Andrew
D.R. Bryan
Bob Emory
Robert High
Sheila Holman
Doug Medlin
Phil Norris
Lauren Salter
W. Earl Smith
Alexander "Dick" Tunnell
Angie Wills

Present CRAC Members

Candy Bohmert	Ike McRee
Kyle Breuer	Bobby Outten, Chair
Daniel Brinn	Kris Noble
Sandra Cross	Justin Whiteside (for Debbie Smith)
Ryan Davenport	John Spruill
John Farrell	David Szerlag
Webb Fuller	John Windley
David Hewett	Dave Weaver
David Kellam	

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

Renee Cahoon called the meeting to order at 9:00 a.m. on November 17, 2022, 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 so state when the roll is called. Commissioners Baldwin and Emory disclosed that they are friends with Clark Wright, attorney representing petitioner in the variance request on today's agenda, however it will not be a conflict. No actual conflicts were reported. Based upon this roll call Chair Cahoon declared a quorum.

MINUTES

Larry Baldwin made a motion to approve the minutes of the September 15, 2022, Coastal Resources Commission meeting. Sheila Holman seconded the motion. The motion passed unanimously (Cahoon, Andrew, Baldwin, Bryan, Emory, High, Holman, Medlin, Norris, Salter, Smith, Tunnell, Wills).

EXECUTIVE SECRETARY'S REPORT

DCM Director Braxton Davis gave the following report:

I'll start with a few notes on Hurricane Ian. Overall, we've been fortunate this year when it comes to storm impacts, but after causing terrible damages in south Florida, Ian re-emerged in the Atlantic and came ashore at Georgetown South Carolina on September 30. Storm surge impacted our southern coast - both the east and west ends of Ocean Isle Beach had fairly significant erosion as did the areas adjacent to the Shoals Club and Shoals Watch in BHI. Oak Island experienced significant flooding and the new beach berm overwashed in a few places. The north end of Carolina Beach also experienced flooding. In Carolina and Kure Beach, the tidal surge came all the way up to the dunes in the newly renourished areas. In addition, there was beach erosion along the southern end of Figure "8" Island, and several properties there were deemed to be imminently threatened. DCM issued emergency beach bulldozing exemptions to these property owners, and we are aware that some are currently pursuing sandbags permits.

At your last meeting, I briefed you on staff completing testing of our new e-permitting system. At this time, most of the state and federal agencies involved in reviewing CAMA major permits have registered in the system, and we have ordered some additional hardware that we plan to begin testing for transitioning our General Permit process as well. Several consultants and agents were contacted to conduct a "soft rollout" of the system, which is ongoing. We expect to "go live" with processing major permits as soon as we complete the registration of state and federal agencies, hopefully within the next several weeks. We hope we will be able to launch General Permits soon after. A couple of additional regulatory highlights, we are currently processing an application for the proposed placement of 20,000 cubic yards of "olivine" sediment in the nearshore area of Duck, NC. Based on the information we have thus far, the olivine sediment would be imported from an upland mine located abroad, however at this time the precise mine has not been identified. It may be sourced from a mine located on the west coast of Norway, the world's largest olivine producer. The material would be milled to the required grain sizes and then possibly transported to the Port of Norfolk, VA and then barged to the project site. The proposal is intended as a pilot project and has been described as playing a role in carbon sequestration and reducing ocean acidification due to climate change. The applicant is planning a public information session with the residents of Duck later today, and we will continue to process the permit with input from other federal and state resource agencies. On the DOT front, last week we issued a CAMA Major Permit to NCDOT for the widening of Ocean Boulevard in Holden Beach for approximately six miles to accommodate new bicycle lanes on both sides of the road. We also issued a modification to the proposed living shoreline project along Highway 24 in Swansboro that will result in a significant reduction in the time required to construct the project and reduced impacts. With the opening of the new "jug handle" bridge, NCDOT has begun to remove the sandbags protecting Highway 12 just north of Mirlo Beach in Rodanthe. As of last week, over 500 bags had already been removed. DCM held a Northern Districts LPO Workshop in the Town of Duck on October 25, 2022. The workshop focused on training new

and existing LPOs in the CAMA Minor Permitting program on rule changes, DCM's interactive map viewer; legal updates, E-permitting, compliance and enforcement, and field work on identifying coastal wetlands, normal water level, the first line of stable natural vegetation and dune system components. We are holding another LPO Workshop for the central and southern districts on December 15 at Carolina Beach State Park. On the Policy and Planning side of DCM, we recently awarded nearly \$1.8 million in Public Beach and Waterfront Access grants to nine local governments to acquire and improve properties that expand the public's access to ocean beaches and estuarine waters. Demand for these grants continues to be very strong, greatly exceeding the available funding each year. In September, we released a request for applications for a round of Planning & Management grants for local governments, prioritizing support for the development of Beach Management Plans, and plans or ordinances focused on shoreline management and public trust waters. Three applications were received and are being funded, but since we still have some funding available, we have reopened the application period. Any interested local government needs to apply by December 1. Application materials are available on our website, and DCM's district planners can provide more information and application support. We will be releasing a new request for applications for Phases 1 and 2 of the Resilient Coastal Communities Program in the next couple of weeks. Grants will be available to local governments, with no match requirement, for resiliency planning, vulnerability assessments, and project identification. We will also release a request for applications for Phase 4, construction grants, in early 2023. Mackenzie Todd can provide more details to any interested local governments. DCM also recently certified an amendment to the CAMA Land Use and Comprehensive Plan for the Town of Cape Carteret. As always, please let us know if you would like any further information on this amendment.

Coastal Reserve

Local Advisory Committee meetings for the 10 Reserve sites will be held in December, starting December 7. These meetings are open to the public. Meeting locations, dates, and times will be available on the Reserve and Division's websites. On Monday, partners and supporters of the Masonboro Island Explorers program gathered in Carolina Beach to celebrate the 10,000th student being taken to the Masonboro Island Reserve since the program's inception in 2013. This program aims to take every 5th grade student in New Hanover County to the reserve to experience hands-on learning and exploration in a natural barrier island ecosystem. The reserve partnered with Carolina Ocean Studies early on to create the curriculum that has been taught by Richard Cecelski and his staff for nearly 10 years. This program is funded through donations to Masonboro.org by corporations, businesses, and grass roots support from the public at various events. Masonboro.org's dedication to this program has resulted in over 1,000 volunteer hours and a lasting impact on participating students. The reserve is pleased to be a part of this program and thankful for the great partnerships and individuals who provide fulfilling experiences and education to New Hanover County 5th grade students. In October, educators joined Reserve and N.C. Maritime Museum staff for a free Coastal Explorations workshop to learn about estuaries and local maritime history. Classroom activities and a field trip to the Rachel Carson Reserve will help participants bring lessons learned to their students, and teachers and educators received continuing education credits for attending.

Staffing News

First and foremost, I wanted to let you know that Ken Richardson is recovering from a medical procedure last month. We are keeping Ken and his family in our thoughts and prayers and looking forward to welcoming him back to work soon. I'm happy to pass along any words of

support and encouragement. Last week we welcomed Kasen Wally to the resilience team. Kasen will be working alongside Mackenzie Todd and Krista Early in the Morehead City office. Kasen comes to us from Auburn University, where he earned his Masters in Natural Resource Management. He also holds a Bachelor's in Environmental Science from Western Carolina University. I am pleased to announce that we have reorganized our Regulatory section. Jonathan Howell will serve as the new Regulatory Section Manager for DCM. Jonathan will supervise all permitting and enforcement program activities in the four district offices. As initial priorities, I've asked Jonathan to focus on coordination among district offices; reviewing and ensuring the quality and efficiency of permitting processes; updating regulatory policies and template letters; assisting with the new e-permitting initiative; and engaging with federal and state resource agencies to improve interagency coordination. Jonathan is well suited for this new role - he has been with DCM for 19 years and has served as a District Planner, Asst. Major Permits Coordinator, Field Representative, Washington District Manager and ultimately Major Permits Coordinator in the Morehead City office for the past three years. In addition, I'm happy to announce that Gregg Bodnar will now serve as DCM's Major Permits Coordinator. Gregg has been with the division since 2015, having previously served as a fisheries specialist for 2 years prior to his present job as an Asst. Major Permits Coordinator. His leadership on the DEQ e-permitting initiative over the past few years has positioned DCM well for this significant transition, and he brings a wealth of experience to his new role as Major Permits Coordinator. Last, I am proud to report that several of our staff have been recognized for their outstanding contributions to our program. Last week, three of our staff received annual DEQ Distinguished Employee awards in Raleigh for their leadership, including Paula Gillikin for her work on marine debris and abandoned vessels, Tara MacPherson for her leadership in the Wilmington District, both within and outside the office, and Rachel Love-Adrick, for her outstanding GIS work for the division, including the development of the "find a field rep" tool and the online Beach and Waterfront Access tool, which has had over 11,000 users this year alone. Very proud of their work for the division and we're lucky to have them at DCM. Also, in October, Rebecca Ellin, our Coastal Reserve program manager, received the 2022 National Estuarine Research Reserve Association's (NERRA's) Award for Outstanding Achievement. This national award honors leaders that demonstrate sustained commitment to the National Estuarine Research Reserve System. Since 2005, Rebecca has been a true leader at the NC Reserve and in the National System. I first met Rebecca in 2009, while she was serving as NERRA President and I was still with the SC coastal program. I've always been impressed with her contributions to the national NERRS program, her positive interactions with a diverse range of state and federal program managers, and her enthusiasm for the Reserve's mission. Under Rebecca's leadership, the NC reserve is also well-integrated into the NC coastal program, which requires adaptation to changing management needs and a willingness to partner and engage directly with staff across our regulatory, policy, and planning programs. Congratulations to Rebecca for this well-deserved recognition.

CRAC REPORT

CRAC Chair Bobby Outten stated the CRAC elected me as Chair and elected Webb Fuller and Spencer Rogers as vice chairs to the Advisory Council. There were a lot of newly appointed members and the attendance was great. We received an overview of the Division of Coastal Management from DCM Director Braxton Davis. We also received a presentation from Rachel Love-Adrick, Morehead City District Planner, to review the process and DCM's role in using Land Use Plans for permit consistency. The Council also discussed the latest Science Panel meeting and encouraged anyone who wasn't present to listen to the recorded meeting. The Council's take away from this discussion was that planning should be occurring now to be ready

for rising sea levels and coastal resilience. There are no actions or recommendations for the Commission.

VARIANCES

New Jack Partners, LLC (CRC-VR 22-05), Wilmington, quarter-width

Bryan Hall/Christine Goebel, Esq./Clark Wright, Esq.

Bryan Hall gave an overview of the site location. Christy Goebel represented staff and stated Clark Wright is present to represent the Petitioner. Petitioner owns property on Masonboro Sound in Wilmington. Petitioner proposes to remove an existing two-slip pier with access to a nearshore channel and develop a new five-slip pier with access to Masonboro Sound and the AIWW. In April 2022, Petitioner applied for a CAMA Major Permit to develop a 6' x 650' pier/walkway, a 6'x86' fixed T-head, two 6'x24' finger piers, four 12'x12' boat lifts, a 31'x8' floating platform for loading kayaks with a 4'x8' ramp, and a 20'x20' covered gazebo. In July 2022, DCM denied Petitioner's application as the proposed community docking facility exceeded the quarter-width length rule found in 15A NCAC 07H .0208(b)(6)(G)(iii) and 07H .0208(a)(2)(G) which protects against interference with public navigation. Ms. Goebel reviewed the stipulated facts of the variance request and stated staff and petitioner disagree on all four variance criteria which must be met in order to grant the variance. Ms. Goebel stated if the Commission grants the variance, staff would request that the State hold the convenance providing that the community pier would be the only pier and personal piers on individual lots would not be allowed. Mr. Wright reviewed the stipulated facts which petitioner contends supports the granting of this variance request. Petitioners will agree to not allow personal piers on this property.

Neal Andrew made a motion to support Petitioner's position that strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner an unnecessary hardship. Phil Norris seconded the motion. The motion passed with eleven votes in favor (Smith, High, Norris, Tunnell, Bryan, Andrew, Baldwin, Cahoon, Emory, Wills, Medlin) and two opposed (Holman, Salter).

Neal Andrew made a motion to support Petitioner's position that hardships result from conditions peculiar to the petitioner's property. Larry Baldwin seconded the motion. The motion passed with nine votes in favor (Smith, High, Norris, Tunnell, Bryan, Andrew, Baldwin, Emory, Medlin) and four opposed (Cahoon, Holman, Salter, Wills).

Neal Andrew made a motion to support Petitioner's position that hardships do not result from actions taken by the petitioner. Larry Baldwin seconded the motion. The motion passed with eight votes in favor (Smith, High, Norris, Tunnell, Andrew, Baldwin, Emory, Medlin) and five opposed (Bryan, Cahoon, Holman, Salter, Wills).

Neal Andrew made a motion to support Petitioner's position 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 the public safety and welfare; and preserve substantial justice. The permit shall be conditioned to not allow personal docks on the property and the State of North Carolina holding the right to enforce this condition. Robert High seconded the motion. The motion passed with eight votes in favor (Smith, High, Norris, Tunnell, Andrew, Baldwin, Emory, Medlin) and five opposed (Bryan, Cahoon, Holman, Salter, Wills).

This variance request was granted with conditions.

PERIODIC REVIEW OF EXISTING RULES

Rule Review Commission Objections to Re-adopted Rules – Additional Rules for Repeal (CRC 22-23) Mike Lopazanski

Mike Lopazanski stated the Commission has completed the review of its rules as required by the General Assembly in 2013. The Division began this process with the 7B rules in 2015. The Division has continued through the APA process holding 20 public hearings, provided a 60-day comment period, and the CRC ultimately readopted its rules in February 2020. The readopted rules were provided to the Rules Review Commission in groups that were manageable and had similar objectives. In June 2022, RRC requested the remainder of the CRC's rules be submitted for RRC review. In June 2022, 132 rules were submitted to RRC. The RRC objected to 47 of these rules in September for various reasons including lack of authority, ambiguity, or non-APA compliance. After the Division and CRC counsel reviewed the objections, we believe there are several rules that are no longer necessary. Staff are asking the CRC to consider repealing 7H .0504 which contains no standards, 7H .0601 since a CAMA permit does not relieve the holder from other local, state or federal requirements, 7H .0603 as the CRC lacks authority to enforce FAA regulations, 7M .0801 and .0802 as there are no standards within these rules and the CRC lacks authority to enforce other laws, 7M .0902 as the rule seeks to dictate the use of airspace which is outside of the CRC's authority, and 7M .1201 and .1202 as the use standards of Submerged Lands Mining covers this topic. Staff also recommends the repeal of 7M .0602 as this rule provides definitions that are already defined within our statute and is unnecessary.

Bob Emory made a motion to repeal 15A NCAC 07H .0504, .0601, .0603, .0604, 07J .0604, 07M .0501, .0503, .0602, .0801, .0802, .0902, .1201, and .1202. Dick Tunnell seconded the motion. The motion passed unanimously (Smith, High, Norris, Tunnell, Bryan, Andrew, Baldwin, Cahoon, Emory, Holman, Salter, Wills, Medlin).

Neal Andrew made a motion that the CRC go into closed session pursuant to North Carolina General Statute 143-318.11(a)(3) to consult with its attorney regarding the possible legal options including seeking judicial review it could take to respond to the Rules Review Commission's September 17, 2022 objections to the CRC's rules adopted during the periodic review. Sheila Holman seconded the motion. The motion passed unanimously (Smith, High, Norris, Tunnell, Bryan, Andrew, Baldwin, Cahoon, Emory, Holman, Salter, Wills, Medlin).

After returning to open session,

Neal Andrew made a motion to authorize Counselor Lucasse to send a letter responding to the objections stated in the RRC September 17, 2022, letter to the CRC and to undertake all actions necessary, including to pursue judicial review of the RRC's objections to those rules. Bob Emory seconded the motion. The motion passed unanimously (Smith, High, Norris, Tunnell, Bryan, Andrew, Baldwin, Cahoon, Emory, Holman, Salter, Wills, Medlin).

PUBLIC INPUT AND COMMENT

DCM Director Braxton Davis stated the Division and Commission have received several written comments, many of which oppose the proposed inlet hazard areas (IHA) update on today's agenda. One of the letters felt that these updates were not publicized, however these amendments and associated maps have already been approved by the CRC following multiple public hearings, review by the Science Panel, public comment sessions, local government workshops and

discussions at multiple CRC meetings. This update began in 2019. The only remaining issue, which is on today's agenda, is for the CRC to consider allowing a structure of up to 2,000 square feet as an exception where the setback cannot be met. Inlet hazard areas have been in place since 1978 and it has been challenging to get the maps updated. The goal of the inlet hazard area is to add additional restrictions because of high erosion rates and the dynamic nature of inlets. The goal is to prevent high density and large structures in these areas. Historically, erosion rates within IHAs were not calculated. With new methodologies available, we are now able to measure the actual erosion rates within these areas. Another comment asked about density limits. The Commission does not want subdivisions or high-density complexes in these dynamic areas. Additional comments asked about the "49%" rule. If a structure is damaged beyond 50% then it is considered replacement, not repair, and a CAMA permit is required. This rule applies coastwide and not just in IHAs. We have also received multiple comments regarding grandfathering existing structures. DCM is looking at options and will present these to the Commission for their consideration. Other comments asked about the boundaries of IHAs and whether nourishment is included in the decisions. There may be areas that this was not considered during the 2019 update, however when the IHAs are updated nourishment projects will be calculated into the shoreline change rate of the five-year period. If the Commission acts on the amendments proposed today, it will send the amendments through the APA process which includes a 60-day comment period for written comments.

Todd Roseller, representing The Point in Ocean Isle Beach, spoke against the proposed IHA update, in particular the structure size limitation within an IHA.

Cherri Cheek, resident of Ocean Isle Beach, spoke against the IHA maps in the Ocean Isle Beach area and provided written comments to the Commission.

Steve Johnson, east end resident of Ocean Isle Beach, spoke against the proposed IHA maps in Ocean Isle Beach as the rates do not consider the terminal groin's effects.

Justin Whiteside, Town of Ocean Isle Beach, spoke against the erosion rate calculations for Ocean Isle Beach. Consideration should also be given for the terminal groin and the beach management plan. In addition, the fiscal analysis indicates that there is no substantial economic impact for the proposed IHA amendments, however the Town disagrees.

Donna Creef, Outer Banks Association of Realtors, spoke on the Commission's direction regarding septic tanks on the beach.

Matt Storey, oceanfront homeowner in Rodanthe, spoke against proposed amendments limiting septic tanks from being oceanward of the vegetation line.

Kerri Allen, NC Coastal Federation, spoke in favor of amendments to siting, repair, and replacement of oceanfront septic systems.

Chris Matteo, NC Shellfish Growers Association, spoke in favor of FLUPSYs for oyster growers but spoke against the need for a CAMA Major Permit. Shellfish farming activities are agriculture and should be exempt from CAMA permitting. Written comments were provided to the Commission.

Julie Youngman, Southern Environmental Law Center, spoke in favor of proposed amendments to the septic tank rules on the oceanfront. Recommended adding septic tanks in the definition of structure to clear up ambiguity and to add that a building and its associated septic tank systems are treated as separate structures. Written comments were provided to the Commission.

Jimmy Bell, The Point at Ocean Isle Beach, LLC, spoke against the proposed IHA amendments particularly the effects on properties at Ocean Isle Beach. Spoke in favor of adding the grandfather clause.

BEACH MANAGEMENT

Additional Amendments and Fiscal Analysis for 15A NCAC 07H .0309 and .0310 – Inlet Hazard Areas (CRC 22-25) Mike Lopazanski

Mike Lopazanski stated prior to the IHA update, the erosion rates used for calculating construction setbacks in an Inlet Hazard Area were established solely based on the erosion rate calculated in the adjacent Ocean Erodible Area. The recently approved amendments will require erosion rates specifically calculated for each inlet to be used for determining construction setbacks in IHAs. The calculated erosion rates are included in the 2019 Inlet Setback Factors report that the Commission has previously approved. Since some new IHA boundaries have expanded and some areas have higher calculated erosion rates than were previously used, there is the potential for some lots to become unbuildable. Staff had previously noted that any existing lots that may become “unbuildable” due to the updated IHA erosion rates may benefit from an exception provided in 15A NCAC 7H .0104 – Application of Erosion Rate Setback Factors, which allowed development on lots created on or after June 1, 1979 to use the erosion rate in effect at the time the lot was platted in the calculation of the construction setback. However, while the IHA rules were proceeding through two rounds of public hearings, the Division and Commission began work on the Beach Management Plan rules. 15A NCAC 7H .0104 was proposed for repeal as the rule was seldom used and had caused confusion for Staff and Local Permitting Officers. Due to the extended discussions surrounding the IHA rules, the Beach Management Plan rules moved ahead and became effective August 1st of this year and included repeal of 7H .0104.

The amendments to 7H .0309 proposed today would incorporate the grandfathering provision in the Inlet Hazard Areas in a manner similar to 7H .0104. Of the 224 vacant lots within the IHA, the Division has identified 62 that do not have enough land to meet the setback and could use this provision to allow for development up to 2,000 square feet. If the Commission is comfortable with this direction, staff will consider the comments received and provide rule language and the fiscal analysis for consideration at the February meeting. The Commission agreed to this approach.

Proposed Amendments to 15A NCAC 07H .0306, .0309, 07J .0210 – Septic Tanks Seaward of the Vegetation Line (CRC 22-26) Mike Lopazanski

Mike Lopazanski stated presentations have been given to the Commission from the Division as well as National Park Service on the recent structure collapses along the Cape Hatteras National Seashore near Rodanthe. The Commission has heard about the environmental impacts, the 15-mile-long debris field, hazardous materials on the beach, as well as damaged septic systems along the oceanfront. The CRC discussed the Department of Health and Human Services involvement and the oversight of permits by the Division of Environmental Health. Their regulations only require that new and replaced septic systems be placed fifty feet from Mean High Water. The CRC’s rules require that new systems be subject to the oceanfront setback. The Commission directed staff to develop rule language to address this issue. The Division is heading

up an interagency workgroup to discuss these issues and staff would like to take these proposed amendments to that workgroup for input. Amendments to 7H .0306 clarify that septic tanks must meet the oceanfront setback. The relocation of septic systems with public funds must meet the setback. Relocation with non-public funds must be landward of the primary structure and vegetation line. If septic systems are damaged due to a storm event, a provision has been added to require the system and its components must be landward of the pre-storm vegetation line. For replacing septic systems in the oceanfront setback, amendments to 7H .0309 allow septic systems to be located within the setback. Amendments to 7J .0210 clarifies that a building, septic tank, drain field, or any of its components are considered separate structures.

Braxton Davis stated since these amendments were drafted, we have considered additional changes. When a storm comes and a septic tank gets washed out, and the vegetation line is gone, the Division does not intend to make houses uninhabitable because they cannot replace their septic tanks if they are located beyond the pre-storm, public beach area. Staff requests that the Division continue to receive comments on these amendments and bring back the information to the CRC in February and update the CRC on the interagency workgroup meeting.

SHELLFISH AQUACULTURE

Amendments to 15A NCAC 07M .0603 and 07H .0208 and Fiscal Analysis

Floating Structures Policies/Floating Upweller Systems (CRC 22-27) Daniel Govoni

Daniel Govoni stated a couple of years ago, the CRC approved amendments that would allow floating upweller systems at private docking facilities and marinas. The fiscal analysis was completed, and a public hearing was conducted. However, due to ongoing discussions regarding the CRC's floating structures policies, these amendments were never submitted to Rules Review for final approval. Since the floating structure policy discussions have concluded, staff would like to bring these rule amendments back to the Commission for consideration. By allowing floating upwellers within permitted marinas and private docking facilities subject to platform area limitations that apply to docking facilities, the Division believes this management strategy can accommodate these structures while limiting public trust impacts. Amendments to 7H .0208 and 7M .0603 consider platforms in the square footage calculation, defines floating upweller systems, and allows them only within private docking facilities and permitted marinas. These amendments provide the shellfish growers with clear regulatory guidance and a pathway for having floating upwellers permitted. 7M .0602 will be repealed as it contains definitions for boats and floating structures which are already defined in statute. These structures will require a CAMA Major Permit and the Division anticipates one permit application per year. The fiscal impact summery assumes an increase in permit fees of \$2,000 over a five-year period. OSBM has approved the fiscal analysis. Staff is requesting the Commission's approval of the amendments and associated fiscal analysis.

Larry Baldwin made a motion to approve the amendments and fiscal analysis for 15A NCAC 07H .0208 and 7M .0603 for public hearing. Sheila Holman seconded the motion. The motion passed unanimously (Smith, High, Norris, Tunnell, Bryan, Andrew, Baldwin, Cahoon, Emory, Holman, Salter, Wills, Medlin).

ACTION ITEMS

Consideration of Approval of Fiscal Analysis – 15A NCAC 07K .0207 and 07H .0308

Expanded Exemption for Beach Mats (CRC 22-28) Mike Lopazanski

Mike Lopazanski stated at the September CRC meeting, the Commission discussed and approved the use of beach matting for residential application as an alternative to structural accessways. The amendments include limiting matting to the same general standards that apply

to structural accessways with a limitation of no wider than six feet wide and be no further waterward than six feet from the toe of the dune. amendments for the use of matting will allow for public access and wildlife protection while reducing debris on the state's beaches during storm events. The Commission also approved changes to allow beach mats on the dry sand beach without the need for a variance where projects are sponsored by local government entities for the purpose of enhanced handicap accessibility and are subject to review by the Wildlife Resources Commission and US Fish and Wildlife Service. The fiscal analysis indicates that government entities and private property owners will benefit from the proposed rule amendments by potentially reducing costs associated with providing public and handicap access to the beach. Beach mats provide handicap access at a lower cost compared to wooden accessways. There will be no impact to NCDOT and no change in permit fees or operating costs to the Division. Staff recommends approval of the fiscal analysis.

Bob Emory made a motion to approve the fiscal analysis for 7H .0308 and 7K .0207 for public hearing. Sheila Holman seconded the motion. The motion passed unanimously (Smith, High, Norris, Tunnell, Bryan, Andrew, Baldwin, Cahoon, Emory, Holman, Salter, Wills, Medlin).

Consideration of Approval of Fiscal Analysis – 15A NCAC 07B Land Use Plan Enforceable Policies (CRC 22-29) Mike Christenbury

Mike Christenbury stated this fiscal analysis for the proposed rule amendments to Subchapter 7B Guidelines for Land Use Planning is currently under review by OSBM. These amendments address the application of enforceable policies within local CAMA Land Use Plans during the CAMA permit review process. The Commission approved the amendments at the November 2021 CRC meeting. These amendments are written to clarify which policies are enforceable and intended to be enforced by local governments during the CAMA permitting process. The fiscal analysis has no direct impact on property owners or NCDOT and there is a potential time savings for local governments through reduced coordination during permit and policy review with DCM. Staff recommends conditional approval of the fiscal analysis pending final approval of the fiscal analysis by OSBM.

Phil Norris made a motion to approve the fiscal analysis for amendments to 7B for public hearing. Angie Wills seconded the motion. The motion passed unanimously (Smith, High, Norris, Tunnell, Bryan, Andrew, Baldwin, Cahoon, Emory, Holman, Salter, Wills, Medlin).

LEGAL UPDATES

Update on Litigation of Interest to the Commission (CRC 22-30)

Mary Lucasse updated the CRC on active litigation and any actions since CRC memo 22-30 was provided.

OLD/NEW BUSINESS

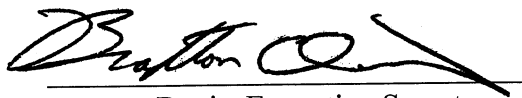
Inland Waters Boundary Update

Chair Cahoon attended the Marine Fisheries Commission (MFC) meeting last night in Emerald Isle and provided a public comment on this issue. (a copy of the Chair's comments was provided to the CRC) DEQ Deputy Secretary Bill Lane stated the agenda for the MFC meeting provides the timeline of actions thus far between MFC and WRC. These rules were readopted without change through the Periodic Review process. At today's MFC meeting, the MFC directed Division of Marine Fisheries staff to work with Wildlife Resources staff to identify problems and potential solutions to resolving the issues. There was no action taken by the MFC at this meeting.

Chair Cahoon stated the next scheduled meeting of the CRC will be February 22-23 in Ocean Isle Beach.

With no further business, the CRC adjourned.

Respectfully submitted,



Braxton Davis, Executive Secretary



Angela Willis, Recording Secretary