

NC COASTAL RESOURCES COMMISSION (CRC)

November 9, 2023

Beaufort Hotel, Beaufort

Present CRC Members

Renee Cahoon, Chair
Neal Andrew, Vice-chair
Larry Baldwin
D.R. Bryan
Bob Emory
Jordan Hennessy
Robert High
Sheila Holman, 2nd Vice-chair
Lauren Salter
Earl Smith
James “Robbie” Yates

Present CRAC Members

Bobby Outten, Chair	Spencer Rogers
Candy Bohmert	Debbie Smith
Sandy Cross	John Spruill
Webb Fuller	David Szerlag
David Hewett	Dave Weaver

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 9:00 a.m. on November 9, 2023, reminding the Commissioners of the need to state any conflicts in accordance with 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 Steve King and Steve Shuttleworth were absent. Commissioners Hennessy and Yates read their Evaluation of Statement of Economic Interest into the record. Neither Commissioner reported actual conflicts, however the State Ethics Commission noted the potential conflict of interest which does not prohibit service on the Commission. Neal Andrew stated he will recuse himself from the Shugart variance request and the Wrightsville Beach beach management plan on this agenda. Larry Baldwin stated he will recuse himself from the CRC’s Closed Session. Based upon the roll call Chair Cahoon declared a quorum, recognized DEQ Deputy Secretary Bill Lane, and thanked him for attending.

Report on Cooper v. Berger 23 CV028505-910 and Revisions to CRC Bylaws (CRC 23-22)

CRC Counsel Mary Lucasse stated Session Law 2023-136 which became law on October 10, 2023, made changes to the composition of the Coastal Resources Commission. The Session Law deleted three seats and added three seats. The Session Law also provides that the CRC elect its own Chair. Attorneys for Governor Cooper filed a complaint alleging, among other things, that the Session Law was unconstitutional as the law violated the separation of powers. Plaintiff Cooper requested a preliminary injunction and a motion to stay to prevent the law from taking effect. During a hearing on November 1, 2023, in Wake County, the court denied Plaintiff's request as to the CRC and EMC. As a result, Commissioners Wills, Tunnell, and Batts seats have been deleted and Commissioners Hennessy, King, and Yates have been appointed to fill the new seats created by the Session law. As a result of the changes made in the Session Law, the CRC's Internal Operating Procedures have been updated and are currently before the Commission for review and adoption.

Sheila Holman made a motion to adopt the Internal Operating Procedures as revised. Bob Emory seconded the motion. The motion passed unanimously (Yates, Salter, Smith, Hennessy, Cahoon, Andrew, Emory, Baldwin, Holman, Bryan, High).

CRC Counsel Mary Lucasse stated in light of the Session Law and the approved revised Bylaws, the next order of business is for the Commission to vote on a Chair which will require a majority vote of the Commission.

Neal Andrew made a motion to elect Renee Cahoon to continue to serve as Chair of Coastal Resources Commission. D.R. Bryan seconded the motion. There were no other nominations.

Jordan Hennessy made a motion to defer the vote until the full membership of the Commission is present. Ms. Lucasse replied that there is a quorum of the Commission, so the Commission is able to take action on all action items on the agenda.

The motion passed with seven votes in favor (Salter, Smith, Cahoon, Andrew, Emory, Holman, Bryan) and four opposed (Yates, Hennessy, Baldwin, High).

Chair Cahoon accepted the position of Chair of the Coastal Resources Commission, and the election is final.

Science Panel Update

Mike Lopazanski stated the CRC directed the Science Panel to re-examine Inlet Hazard Areas and provide an update to the Sea Level Rise Report. The Sea Level Rise Report is to be updated every five years. While the last two updates have been extensive updates, this update, in line with the latest Science Panel scope of work, only requires an evaluation of notable changes and new information since the last update. For the update, the Science Panel will utilize NOAA data and reports. Ken Richardson added that the Science Panel has reviewed new shorelines since the Inlet Hazard Area last analysis as requested by the CRC. Once the boundaries are fine-tuned, the Panel will provide a report to the CRC at its April 2024 meeting.

CRAC REPORT

CRAC Chair Bobby Outten stated the CRAC met and discussed amendments to the CAMA Land Use Plan Program and rules in 15A NCAC 07B. The CRAC was provided with a presentation to review the Staff's goals for these changes. These amendments will simplify, clarify, and expedite the planning process and incorporate resiliency. The CRAC was engaged in discussion and was interested in reaching out to local government planners and providing the Division with their suggestions and recommendations at the February 2024 meeting.

The second issue discussed was the dune rules. The CRAC received an excellent presentation and discussion indicating that there were ambiguities and clarifications needed in the rules. There were questions to Staff regarding sand fencing rules, using straw bales as sand fencing, and specific concerns about dune planting rules. The CRAC asked Staff to let local members speak with their communities and stakeholders and then make comments and suggestions to be provided to the CRAC for discussion at the February 2024 meeting.

MINUTES

Neal Andrew made a motion to approve the minutes of the September 21 Specially Called Meeting of the Coastal Resources Commission. Sheila Holman seconded the motion. The motion passed unanimously (Cahoon, Andrew, Baldwin, Bryan, Emory, Hennessy, High, Holman, Slater, Smith, Yates).

EXECUTIVE SECRETARY'S REPORT

DCM Director Braxton Davis gave the following report:

Good morning, Madam Chair and members of the Commission, and welcome to our new commissioners, I look forward to working with you. I was sorry to miss the special commission meeting back in September. It was the first time I've missed a commission meeting in the past 12 years. I was attending a Coastal States Organization meeting in Duluth, Minnesota. CSO was established in 1970 and is made up of delegates from the 35 coastal states and territories. As always, the meetings are valuable opportunities to collaborate with my counterparts in other states on management approaches, as well as interact with NOAA and other federal partners.

As usual I'll begin my updates on the regulatory side of DCM. Overall, permitting numbers remain high, but we have seen a 24% decline in permit fees from July - October, in comparison to this same time period in the prior year. The Division recently issued 3 CAMA major permits to Dare County authorizing dredging from the channel leading from Manteo down to Oregon Inlet, the inlet throat, and channels leading out to Pamlico Sound. Dare County has a fourth permit application in review for dredging in the Hatteras Inlet area, from the Ocracoke Ferry Terminal to Rollinson Channel. DCM also issued a major permit to Hammocks Beach State Park for a 3,000 linear foot living shoreline. The structure is made of prefabricated concrete units called QuickReef, which is one of several alternative materials and designs that are increasingly being used in living shoreline construction. The project includes an extensive monitoring plan to review performance over time. Robb Mairs, DCM Minor Permitting Coordinator, has scheduled a workshop for Local Permit Officers on November 16, 2023, at the Dare County Government Complex in Manteo, and a workshop for the Central and Southern Districts for December 5, 2023, at the New Hanover County Government Complex. Participants will learn about CAMA rule changes; permit processing; adjacent riparian property owner notifications; our interactive

map viewer; legal updates; compliance and enforcement; and field training. You'll note that we are not moving forward on today's agenda with several rules that have been underway over the past year. The General Permit timeframe extension to 6 months, the minimum growing season for planted vegetation on the oceanfront, and the expanded exception to oceanfront construction setbacks for lots platted after 1979 will be presented to you for adoption within 12 months of the end of the public comment period. On DCM's Policy & Planning front, it's the busy season for the Resilient Coastal Communities Program (RCCP). The second round of Phases 1 and 2 is underway with 15 communities and 8 vendors participating. Over the past few weeks, DCM staff have been traveling to the participating communities for their initial stakeholder engagement meetings. The communities are beginning the vulnerability assessment process and will have their individual Resilience Strategies and priority projects identified by the spring. Five communities were also awarded a combined total of approximately \$1.2 million for construction and implementation projects, which are beginning now and are scheduled to be completed by next August. We're excited that the state budget included \$10M in nonrecurring funds for the RCCP. Staff are working on budgeting these funds so that they can get into the hands of local governments as quickly as possible and are looking into opportunities to leverage federal dollars to increase the amount of funding available. Mackenzie Todd, our Resilience Coordinator, is available if you have any questions. There were two land use plans for Brunswick and Pasquotank Counties certified since the September 21 meeting. DCM also certified two land use plan amendments for the Towns of Swansboro and Beaufort. Several other land use plans have been received and are under staff review. The Public Beach and Coastal Waterfront Access grant program awarded \$2.8 million to nine local governments to improve public access to coastal beaches and waters for the 2023-24 fiscal year. Grants were awarded to the City of Washington, Hyde County, Nags Head, Winton, Carolina Beach, Surf City, Holden Beach, Kure Beach, and Sunset Beach. The next solicitation for access grants will occur in February 2024. Your Science Panel met on October 2 in response to your study charges on the topics of sea level rise, inlet hazard areas, and oceanfront erosion rate methodologies. Staff presented the work that has been done to date on re-delineating the IHAs and evaluating erosion rate methodologies and received good feedback from the Panel. Due to scheduling challenges, the Panel is targeting your April meeting to deliver the sea level rise update. The Panel is scheduled to meet virtually on November 27 to continue its work. As always, Science Panel meetings are open to the public and noticed in advance. Please be on the lookout for a meeting announcement and WebEx link from Christy Simmons. Finally, Mike and I will be drafting a proposal for a series of events next year in recognition of the 50th anniversary of the Coastal Area Management Act. We have discussed this with the Chair and the Department, and plan to organize discussions and events around specific coastal issues at each of your 2024 commission meetings, starting with an event focused on the history of the coastal program at your February meeting. We plan to work with the Executive Committee and a variety of partners to plan those events and meetings.

Coastal Reserve

The Coastal Reserve will host local advisory committee meetings for its 10 sites in December. Meeting information will be available on the Reserve's website. The Scuppernong Water Study Engagement Team, comprised of the Coastal Reserve, Albemarle-Pamlico National Estuary Partnership, The Nature Conservancy, and NC Sea Grant, hosted a public meeting in October to gather local knowledge on flooding to inform the development of the Scuppernong Regional Water Management Study funded by the NC DWR and NOAA Digital Coast Connects funding. The Reserve also celebrated the Year of the Trail with 2 events last week. Staff led participants

on a guided hike through one of the largest tracts of bald cypress on the Outer Banks at the Kitty Hawk Woods Reserve. Staff partnered with the Bald Head Island Conservancy to lead guided hikes through Bald Head Woods Reserve showcasing the second largest maritime forest in the state. Interpretive signs were also installed along trails at the Masonboro Island and Bird Island Reserve and along the Currituck Banks Reserve boardwalk highlighting the unique features of those sites. The Coastal Reserve's Site Stewards Volunteer Program has significantly enhanced the program's capacity in managing several Reserve sites this year. Since January 2023, over 100 volunteers have logged more than 650 hours of stewardship work. Site Stewards observe and record data on site conditions, marine debris, infrastructure damage, and species observed in the field and report findings back to Reserve staff. A big thank you to our Site Steward volunteers. This year our Coastal Training Program (CTP), led by Whitney Jenkins, again offered outstanding workshops and partner engagement meetings for decision-makers throughout coastal North Carolina. A total of 533 professionals participated, including real estate agents, local government staff, federal and state agency staff, and land use planners. The workshops are focused on delivering science based information that various practitioners can apply in their work to protect and manage coastal resources. Students and educators gained in-the-field experiences at the Rachel Carson and Masonboro Island Reserves this year. Over 50 students participated in summer camps in partnership with the N.C. Maritime Museum and over 40 educators received free continuing education credits through the Teachers on the Estuary and Coastal Explorations programs. Students from Carteret, Onslow, and Craven Counties traversed the Rachel Carson Reserve and the Masonboro Island Explorers program once again hosted fifth grade students from New Hanover County in partnership with Masonboro.org and Carolina Ocean Studies. Finally, the Reserve introduced its "Discover the NC Coastal Reserve" tour last month, which is a multi-year campaign spanning 2023-2026 to connect with target audiences through events hosted at our sites along the coast. The tour kicked off in June at our Currituck Banks Reserve with a grand reopening and dedication of the refurbished boardwalk. Commission and Advisory Council members are one of the target audiences and you should have received information about the tour and the next scheduled event at our Bird Island Coastal Reserve in December.

Staffing News

Abby Williams joined the Division in September as the Reserve program's Resilience Specialist. Abby will develop resilience plans, secure funding for, and implement projects on the ground at the national reserve sites to ensure the sites continue to provide ecological services and protection to the communities where they are located. Abby comes to us from the Division of Marine Fisheries where she served as a Cultch Planting Biologist and is now working at our Beaufort office.

VARIANCES

Shugart (CRC-VR 23-05), Oak Island, Pier and Water Depth

Patrick Amico, Christy Goebel, Esq./Alex Elkan, Esq., Mousa Alshanteer, Esq.

***Neal Andrew recused himself from this agenda item.*

Patrick Amico reviewed the site conditions for the proposed development. Christy Goebel represented staff and reviewed the stipulated facts for the variance request. Ms. Goebel stated Petitioners Brian and Susan Shugart are present and are represented by attorneys Alex Elkan and Mousa Alshanteer. The property is located at 2206 East Yacht Drive in Oak Island. The property

is adjacent to the Atlantic Intracoastal Waterway, which has a marked channel and right-of-way setback managed by the US Army Corps of Engineers (USACE). While the right-of-way setbacks have not changed near the property, in 2013 the USACE has taken steps to strictly enforce its prohibition against structures within its setback area. Petitioners initially sought a pier structure similar in length to neighboring piers and received a 2021 permit for a pier and fixed observation platform landward of the USACE setback. Petitioners then proposed a structure without driven pilings within the setback and a USACE allowed floating structures. Petitioners applied for a CAMA Major Permit for an addition to the existing platform which included two boatlifts landward of the setback with stops and four fixed finger piers all landward of the setback and a gangway to a floating platform with 12 legs that will rest on the bottom to support the floating pier above the bottom within the setback. Staff and Petitioner agree on all four variance criteria which must be met in order for the variance request to be granted.

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

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

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 (Yates, Salter, Smith, Hennessy, Cahoon, Emory, Baldwin, Holman, Bryan, High).

Larry Baldwin made a motion that Petitioner has shown that the variance requested will be consistent with the spirit, purpose and intent of the Commission's rules, standards, or orders; will secure the public safety and welfare; and preserve substantial justice. The permit should include the specific monitoring plan recommended by the Division of Marine Fisheries. Sheila Holman seconded the motion. The motion passed unanimously (Yates, Salter, Smith, Hennessy, Cahoon, Emory, Baldwin, Holman, Bryan, High).

This variance request was granted with conditions.

RULEMAKING

Proposed Amendments to 15A NCAC 07H .0208, .0308, and 07M .0603 to Address Rules Review Commission Objections (CRC 23-21)

Mike Lopazanski

Mike Lopazanski reviewed the rulemaking process. When the CRC drafts rule amendments staff also prepares a fiscal analysis to identify economic impacts. Following the CRC's approval of the fiscal analysis, the amendments and analysis are sent out for public hearing and comment. Staff provides the CRC with the summary of all comments received and the Commission

considers adoption. Following final adoption by the CRC, the rules are submitted to the Rules Review Commission (RRC) for review and approval.

The CRC recently revised its rules to allow floating upweller systems within permitted marinas or at private docks and made amendments defining the general and specific conditions necessary for them to be allowed. The current membership of the RRC has questioned the CRC's authority to regulate floating upweller systems associated with shellfish aquaculture and has objected to the CRC rule. The Shellfish Growers Association is opposed to these regulations and believes they fall under an agriculture exemption. Given the RRC's objections, the amendments to allow for floating upwellers have been removed and DCM will not permit these structures. Additionally, the RRC received ten letters of objection, automatically requiring a legislative review of the rules. The Commission will now, in accordance with the NC Administrative Procedures Act, wait to see if the General Assembly will review the rules in the next session. Larry Baldwin asked who would regulate these structures. Braxton Davis stated these structures will now have to be permitted by the Corps of Engineers. The Division of Coastal Management will not exercise any regulatory authority over structures associated with shellfish aquaculture. Chris Matteo, NC Shellfish Growers Association, stated there is debate over whether the Corps will regulate floating upweller systems. Braxton Davis responded that the Corps will be the regulatory authority for these structures.

The CRC also made rule amendments to allow the use of beach mats for additional handicap access to the beach. In both 7H .0208 and 7H .0308, the RRC has objected to the use of the term "significant adverse impact". This term has been used in your rules since the inception of the program and is a key phrase, when used by one of the review agencies in comments on a CAMA permit application, there will usually be a requirement to alter a proposed development activity or lead to a denial of the permit. The phrase has been used by the General Assembly in various statutes, in other state regulations, in federal regulations, and by appellate courts to analyze negative impacts in various cases. This term has been used in your rules for decades and the RRC has approved its use repeatedly, most recently with readoption of the rule in 2020. The RRC has now objected to this term stating that it is undefined. However, the RRC seems open to consider approving these rules if the CRC can provide a definition of the terms "significant" "adverse" and "impacts". Staff is proposing the addition of these definitions to the rule amendments in 7H .0208 and .0308 based on the federal definition to satisfy the RRC objections.

Additionally, the amendments include deleting specific use standards for boat basin design. The Division has relied on DWR flushing models to ensure adequate water exchange, making this provision unnecessary. Another amendment eliminates the preference for upland basin marinas over open water marinas. This preference dates from the early days of the coastal program and was intended to preserve public trust rights by encouraging marina development away from open water areas. The provisions also cite preferences for marina development that minimize impacts to estuarine habitats by dredging and protection of water quality through adequate flushing. Over the years, the preference has had little influence on the siting of marinas and DCM Staff believe it is not necessary. The provisions themselves are not being deleted, only the order of preference. The siting options are being retained to indicate the types of marinas that will be allowed. In 7H .0208(b)(5(C) staff deleted the provision encouraging dry storage marinas. As with the preference criteria for marina siting, this provision dates from the early days of the coastal program and was intended to preserve public trust areas. It has not been utilized and DCM Staff believe it is no longer necessary. Additionally, the provision that marinas

be designed to accommodate dredged material associated with maintenance dredging on site has been deleted as it is another older provision that has not been used. Also, DCM Staff do not believe it is necessary to require marinas to adhere to applicable standards for docks and piers, shoreline stabilization and dredged material disposal as it is accounted for in other CRC rules.

Neal Andrew made a motion to approve the amendments as presented for public hearing. Sheila Holman seconded the motion. The motion passed unanimously (Yates, Salter, Smith, Hennessy, Cahoon, Andrew, Emory, Baldwin, Holman, Bryan, High).

ACTION ITEMS

Consideration for Adoption – Permit Fee Increases

Mike Lopazanski

Mike Lopazanski stated in 1989 the graduated permit fee schedule was introduced. In 2000, permit fees were increased to fund an increase in staffing of the Division. In 2006, there was a decline in State appropriations to the Division and General Permit fees were increased again. Since that time, there has been a 32% decline in State appropriations for the Division's regulatory program and federal appropriations have not kept up with inflation. Due to an increase in staff time to review permits with increased complexity and due to increased operating costs, the Division recommends fee increases for 11 General Permits, permit renewals, modifications, transfers, and DCM-issued Minor Permits. Due to continuing objections by the Rules Review Commission, DCM is not asking for fee increases for Minor Permits or Major Permit extensions, transfers, and modifications. The Division requests the CRC adopt permit fee increases for the 11 General Permits.

Neal Andrew made a motion to adopt the permit fee increases for 15A NCAC 07H .1103, .1203, .1303, .1403, .1503, .1903, .2003, .2103, .2203, .2403, and .2503. Bob Emory seconded the motion. The motion passed unanimously (Yates, Salter, Smith, Hennessy, Cahoon, Andrew, Emory, Baldwin, Holman, Bryan, High).

PERIODIC REVIEW OF EXISTING RULES

Rules Review Commission's Return of Rules Pursuant to S.L. 2023-134

Mary Lucasse

Mary Lucasse stated when the Periodic Review of Rules was put into place in 2013, the CRC began review of its rules. The readoption process began in 2020. In 2022, the Rules Review Commission (RRC) objected to many of the last 132 rules submitted for review. The staff worked through many of the technical change requests, but the RRC continued to object to 47 of the CRC's rules. At its November 2022 meeting, the Commission discussed how to respond to these continued objections. In closed session, the Commission decided to repeal some of the rules, authorized additional technical changes, and passed a motion authorizing CRC Counsel take whatever action was needed including seeking declaratory judgment from the Superior Court. The CRC's response was sent to RRC addressing the remaining 47 rule objections in November and the rules were considered by the RRC over several of their meetings. Some objections were resolved. Ultimately, at the RRC's February meeting, the RRC adopted its staff recommendation to continue objections to the remaining 30 rules. In summary, the RRC alleges that the Administrative Procedures Act prohibits establishing policies in rules. However, in our CAMA Statute, the legislature has charged the CRC to establish policies, guidelines, and standards for the protection and preservation of the coast through rulemaking and defines

guidelines as “statements of objectives, policies, and standards.” The second objection raised by the RRC was that the phrase “significant adverse impacts” is allegedly ambiguous. We have not persuaded the RRC that this phrase is well understood (even by the RRC which has approved rules including this phrase many times in the past. The third objection raised by the RRC is that several rules are allegedly “unnecessary.” We disagreed in reliance on the APA which allows brief statements that pull together language from Statutes. Our position is that we have made it easier for the regulated public to understand by pulling together language from multiple statutes and added clarifying language.

Until Session Law 2023-134 a rule could not be returned to an agency without the agency requesting return. As of October 3, 2023, the Session Law became effective and RRC can now return the rules to an agency. Following an October 5 special meeting of the RRC, the RRC voted to return these 30 rules to the CRC. As a result, the Codifier removed these rules from the Administrative Code. As a result of the return, the CRC filed its complaint in Wake County Superior Court requesting a temporary restraining order to return the rules to the Code and for declaratory judgement to resolve the deadlock between the RRC and the CRC. The CRC’s request for a TRO was denied.

Neal Andrew made a motion that the Commission go into closed session pursuant to North Carolina General Statute section 143-318.11(a)(3) to consult with its attorney regarding CRC v. RRC filed in Wake County Superior Court on November 3, 2023, File No. 23CV031533-910 relating to the Rules Review Commission’s Objections to the CRC’s rules. Sheila Holman seconded the motion. The motion passed unanimously (Yates, Salter, Smith, Hennessy, Cahoon, Andrew, Emory, Baldwin, Holman, Bryan, High)

The Commission returned to Open Session.

PUBLIC INPUT AND COMMENT

No comments were received.

BEACH MANAGEMENT

Wrightsville Beach’s Beach Management Plan – DCM Recommendation (CRC 23-23)

Ken Richardson ***Neal Andrew recused himself from this agenda item.*

Ken Richardson reviewed the Beach Management Plan criteria and stated the purpose of the Beach Management Plan is to provide regulatory relief from the pre-project vegetation line (formerly the static vegetation line) for communities and towns that have demonstrated a long-term commitment to beach nourishment. The Commission will review all beach projects in the Plan area, the maintenance plans needed to achieve a design life of no less than 30-years of shore protection, the sediment source to ensure compatibility, the financial resources identified, and any public comments received on the Plan. DCM staff has reviewed the Town’s Beach Management Plan and have determined that all required elements are addressed within the Plan. Staff recommends the CRC’s approval of Wrightsville Beach’s Beach Management Plan.

Consideration of the Town of Wrightsville Beach’s Beach Management Plan

Nicole Vanderbeke, Moffatt & Nichol

Nicole Vanderbeke stated Wrightsville Beach previously had a static line exception which was originally approved in 2009, re-authorized in 2014 and 2019, and the current authorization expires in February 2024. The Town is looking for approval of the proposed Beach Management Plan prior to that expiration date. The Corps of Engineers' Coastal Storm Risk Management Project was first authorized in 1962 and constructed in 1965. It was re-authorized in 1986 for 50 years with the first construction under the re-authorization taking place in 1991 on an estimated 4-year nourishment cycle. There have been 8 projects under the current authorization, occurring every 4 years with the exception of the first cycle which was only 3 years and the most recent nourishment cycle which was extended due to borrow area concerns regarding the use of material from CBRA zones. The issue has been resolved and the next project will be taking place during the upcoming dredging window.

The average placement has been just under 775,000 cubic yards per event for the last 8 events under the current authorization. As you review the location, timing, and placement quantities for the history of the project, you will see in initial project placement covered a much larger area, but monitoring showed that a smaller placement area was warranted as material placed during nourishment in the middle portion of Wrightsville Beach gets transported south towards the jetty which helps to abate the erosion on the southern end of the island without actually placing sand there. The authorized design template extends approximately 14,000 feet north from the Masonboro Inlet jetty with an approximate 2,000 feet transition to taper back to the existing beach. The local cooperation agreement with the USACE establishes a 4-year nourishment cycle for the project unless monitoring indicates the need to deviate, but it is expected that the nourishment cycle will remain at 4 years throughout the remainder of the authorization.

It is anticipated that there will be 3 more projects in addition to the one that is going to be constructed during the upcoming dredging window. The main sediment source is a deposition basin within Masonboro Inlet so the only sediment criteria that applies is less than 10% fines. This borrow area has been used to nourish Wrightsville Beach since 1986. The USACE often takes vibracores prior to nourishment events and historic vibracores have shown less than 10% fines and over the history of the project, the material has never been out of compliance. In terms of volume, this borrow area is self-sustaining and self-replenishing. Material dredged out of it and placed on the beach makes its way back into the inlet through longshore sediment transport. The average infill rate has been shown to be approximately 200,000 cubic yards per year and has historically met the needs of the average nourishment event which has been just under 775,000 cubic yards over the 8 events under the current authorization.

If there were ever to be a shortfall with the Masonboro Inlet borrow area, a significant amount of work has been done by the USACE to develop an offshore borrow area. The USACE has identified borrow areas two to three miles offshore of Masonboro Inlet with compatible sediment. There was some controversy surrounding the geophysical investigations that identified tires and magnetic anomalies. But the USACE has zoned off 7 sub-areas with no tires and minimal anomalies in anticipation of using these sites for upcoming projects. Since the CBRA exemption was granted for the upcoming project, the USACE will return to using Masonboro Inlet.

The USACE conducts annual surveys. Based on these monitoring results, the primary dune has typically stayed intact, and renourishment efforts have focused on the berm and storm berm. The County also has its own annual monitoring program, which started in 2014, where it calculates annual shoreline and volume changes along the oceanfront at USACE transects and within Masonboro Inlet. The County regularly provides the annual monitoring data to the USACE. The County annual monitoring program also uses USACE surveys to estimate volume changes within Masonboro Inlet each year and tracks the performance throughout each nourishment cycle to see how much sand was lost versus how much was placed. The Town intends to cooperate with the USACE to extend the authorization once it expires in 2036. Carolina Beach recently went through this process and got a 15-year extension.

In case anything threatens the USACE's ability to construct a nourishment event or extend authorization, the County has some additional engineering work to develop nourishment triggers which are minimum volumes of sand required on the beach to protect the first row of infrastructure from a 10-year storm event. Instead of nourishment being based on a set cycle, the nourishment triggers would support a nourishment event once the beach erodes to a certain point.

Currently there is a cost share for the USACE project where the federal government pays 65% while the State and local government split the remaining amount at 17.5% a piece. The local portion is paid by the County from their beach nourishment fund which collects room occupancy taxes from Wrightsville, Carolina, and Kure Beaches. There is an interlocal agreement between the County and Towns for use of these funds toward beach nourishment. The County beach nourishment fund is derived from a 6% room occupancy tax in which 60% of the first 3% is allocated to beach nourishment. For reference, the 2022 room occupancy tax allocated to beach nourishment was \$6.1 million. The average annual expenditure over the last 10 years was \$3.6 million so average annual collections have been greater than average annual expenditures, allowing the beach nourishment fund to grow to \$51.3 million. In addition, Wrightsville Beach has an additional \$6 million in capital improvement funds which could be used towards beach nourishment.

The Town's public involvement process includes providing a draft copy of the Beach Plan online and allowing the public to submit written comments or provide in-person comments at a Town meeting. The plan was presented at the Town meeting after which public comments were received and the Town approved the Beach Management Plan. All public and Town comments were included as an appendix to the Beach Management Plan. In summary, Wrightsville Beach has had a successful beach nourishment project since 1965 with 8 projects completed under the current authorization and 4 more anticipated. The historical borrow source at Masonboro Inlet is naturally replenishing and has fulfilled the need to date. The USACE and the County have annual monitoring programs which indicate successful management of the template and borrow source throughout project history. The financial resources to fund the project are well established through occupancy tax collections which exceed the average annual expenditure. This plan has been approved by the Town and an opportunity for the public to provide input was granted.

Bob Emory made a motion to approve the Town of Wrightsville Beach's Beach Management Plan. Lauren Salter seconded the motion. The motion passed unanimously

(Yates, Salter, Smith, Hennessy, Cahoon, Emory, Bryan, High) (Baldwin, Holman absent for vote)

LEGAL UPDATES

Update on Litigation of Interest to the Commission (CRC 23-24)

Mary Lucasse

***Larry Baldwin recused himself from this agenda item.*

Mary Lucasse stated there are no updates since CRC 23-24 was provided to the Commission.

Neal Andrew made a motion that the Commission go into closed section pursuant to North Carolina General Statute section 143-318.11(a)(3) to consult with its attorney regarding the case of Batson v. CRC 94A22-1 in the North Carolina Supreme Court. Bob Emory seconded the motion. The motion passed unanimously (Yates, Salter, Smith, Hennessy, Cahoon, Andrew, Emory, Bryan, High) (Holman absent for vote).


The Commission returned to Open Session.

OLD/NEW BUSINESS

The next scheduled meeting of the Commission will be in Wilmington on February 21-22, 2024.

With no further business, the CRC adjourned.

Respectfully submitted,



Tancred Miller, Executive Secretary



Angela Willis, Recording Secretary