

NC COASTAL RESOURCES COMMISSION

May 9, 2013

NOAA/NCNERR Administration Building

Beaufort, NC

The State Government Ethics Act mandates that at the beginning of any meeting the Chair remind all the members of their duty to avoid conflicts of interest and inquire as to whether any member knows of any conflict of interest or potential conflict with respect to matters to come before the Commission. If any member knows of a conflict of interest or potential conflict, please state so at this time.

Thursday, May 9th

- 9:30 EXECUTIVE COMMITTEE MEETING (Auditorium)** Bob Emory, Chair
- 10:00 COMMISSION CALL TO ORDER* (Auditorium)** Bob Emory, Chair
- Roll Call
 - Approval of February 6-7, 2013 Meeting Minutes
 - Executive Secretary's Report (*CRC-13-11*)
 - Chairman's Comments
- Braxton Davis
Bob Emory
- 10:15 Legislative Update** Braxton Davis
- 10:30 Local Issues Forum –**
- Town of Atlantic Beach - Welcome
 - Follow Up From November 2012 Meeting Hyde County Drainage Issues Follow Up (*CRC-13-10*)
- Trace Cooper, Mayor
Steve Trowell
- 11:15 Beach Management**
- Carteret County Beach Commission
 - Update on DCM Beach & Inlet Management Activities (*CRC-13-12*)
- Greg "Rudi" Rudolph,
Carteret Co. Shore Protection Office
Matt Slagel
- 12:00 PUBLIC INPUT AND COMMENT** Bob Emory, Chair
- 12:15 LUNCH**
Coastal Resources Advisory Council Meeting (DUML Dining Hall) Ray Sturza, Chair
- 1:30 ACTION ITEMS**
- CRC Rule Development**
- Adopt 15A NCAC 7I .0401 & 7I .0406 – Minor Permit Program
 - Rule Change Overview, Proposed Changes to CAMA, Dredge & Fill Regarding Notifications (*CRC-13-13*)
 - Amendments to 7H .2600 Wetland, Stream and Buffer Mitigation Permit (*CRC-13-14*)
 - Amendments to 7H .1300 GP to Maintain, Repair and Construct Boat Ramps – Expanded Activities (*CRC-13-15*)
 - Discussion of 15A 7J .0210 Replacement of Existing Structures (*CRC-13-20*)
- Mike Lopazanski
Ted Tyndall
Doug Huggett
David Moye
Frank Jennings
- 3:30 Land Use Plan Certifications and Amendments** John Thayer
- Town of Swansboro Land Use Plan Amendment (*CRC-13-16*)
 - Town of Nags Head Land Use Plan Implementation Status Report (*CRC-13-17*)
- 3:45 BREAK**
- 4:00 CRC Science Panel Updates**
- Draft Science Panel Charge from CRC (*CRC-13-18*)
 - Science Panel Member Nominations Process
- Mike Lopazanski
Mike Lopazanski

- Re-appointments, vacancies and ad hoc committee, nominations
Committee (CRC-13-19)

OLD/NEW BUSINESS

Bob Emory, Chair

5:00 ADJOURN

Executive Order 34 mandates that in transacting Commission business, each person appointed by the governor shall act always in the best interest of the public without regard for his or her financial interests. To this end, each appointee must recuse himself or herself from voting on any matter on which the appointee has a financial interest. Commissioners having a question about a conflict of interest or potential conflict should consult with the Chairman or legal counsel.

** Times indicated are only for guidance. The Commission will proceed through the agenda until completed.*



N.C. Division of Coastal Management

www.nccoastalmanagement.net

Next Meeting:
July 10-12, 2013

NC COASTAL RESOURCES COMMISSION (CRC)

February 6-7, 2013

UNCW

Wilmington, NC

Present CRC Members

Bob Emory, Chair

Joan Weld, Vice Chair

Lee Wynns

Renee Cahoon

David Webster

Joseph Hester

Ed Mitchell

Scott Cutler

Larry Baldwin

Present CRAC Members

Ray Sturza, Chair

Tim Tabak, Vice Chair

Alan Holden

Kristen Noble

Bill Morrison

Webb Fuller

Debbie Smith

Spencer Rogers

Anne Deaton

Charles Jones

Tim Burgess

Wayne Howell

Harry Simmons

Tracy Skrabal

Joe Lassiter

Boyd Devane

Present Attorney General's Office Members

Mary Lucasse

Christine Goebel

Amanda Little

CALL TO ORDER/ROLL CALL

Bob Emory called the meeting to order reminding the Commissioners of the need to state any conflicts due to Executive Order Number One and also 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 any conflict of interest or potential conflict with respect to matters to come before the Commission. If any member knows of a conflict of interest or a potential conflict of interest, please state so when the roll is called.

Angela Willis called the roll. No conflicts were reported. Pat Joyce, Jerry Old, Bill Peele, Gwen Baker and Jamin Simmons were absent. Based upon this roll call, Chairman Emory declared a quorum.

Larry Baldwin and Ed Mitchell read their Evaluations of Statement of Economic Interest from the State Ethics Commission which indicated they did not find an actual conflict, but did find the potential for a conflict of interest. The potential conflicts identified do not prohibit service.

VARIANCES

Review of CAMA Variance Procedures

Mary Lucasse

Mary Lucasse reviewed CAMA statute 113A-120.1 which states that any person may petition the Commission for a variance granting permission to use a person's land in a manner otherwise prohibited by rules or standards prescribed by the Commission or orders issued by the Commission pursuant to this Article. There are four factors that the Petitioner must show in order for the variance to be granted. The Commission put together rules that set forth more specifics about the variance procedure. (15A NCAC 07J .0701, 7J .0702, and 7J .0703) If someone's request for a permit is denied or they receive a permit that contains conditions that they don't agree with then they come to the CRC and ask for a variance. Before seeking a variance, the petitioner must first seek relief from local requirements that may restrict their use of their property. Another prerequisite for seeking a variance is that there be no pending litigation. To initiate the process of seeking a variance, the Petitioner puts together a package a stipulated facts and photographs. The Commission does not take testimony. The Commission's decision is made based on stipulated facts. A staff recommendation is provided to the CRC which describes the property and how the property will be affected by the rules. The staff attorney and the Petitioner, or their counsel, make a presentation to the CRC. The CRC may ask questions following the presentations. To grant a variance the Commission must affirmatively find each of the four factors. A variance can be issued as asked for, the CRC can require conditions, or the CRC can deny a variance request. Once the final decision is signed by the Chairman it is sent out by certified mail to the Petitioner. Petitioner's receipt of the Final Decision triggers a thirty day period during which the Petitioner may appeal the Final Decision by seeking judicial review from the Superior Court.

Entrust Freedom (CRC VR 12-07) Holden Beach, buffer Christine Goebel

Christy Goebel of the Attorney General's Office represented DCM staff. William A. Raney of Wessell & Raney L.L.P represented Petitioners on this variance request.

Ms. Goebel stated the Petitioner is an LLC which owns property adjacent to a man made canal in Holden Beach, Brunswick County. In June 2012, Petitioner applied for a CAMA Minor Permit with the Town of Holden Beach's LPO to construct a single family residence on an undeveloped lot. On July 25, 2012, the LPO denied Petitioner's CAMA permit application as part of the house and covered deck were located within the Commission's 30-foot buffer. Petitioner first sought and was granted a variance from the Town's street-side setback. Following that variance, Petitioner now seeks a variance from the 30-foot buffer rule to allow construction of impervious surfaces within the buffer. Ms. Goebel reviewed the stipulated facts for this variance request. Staff and Petitioners agree on all four variance criteria that must be met in order to grant the variance.

Bill Raney spoke and reviewed the stipulated facts which he contends supports the granting of this variance request. Mr. Raney stated he agrees with the Staff on all four statutory criteria.

David Webster made a motion that strict application of the applicable development rules, standards or orders issues by the Commission will cause the Petitioner an unnecessary hardship. Renee Cahoon seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Webster, Weld, Wynns, Hester, Cutler, Baldwin).

David Webster made a motion that hardships result from conditions peculiar to the Petitioner's property. Lee Wynns seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Webster, Weld, Wynns, Hester, Cutler, Baldwin).

David Webster made a motion the hardships did not result from actions taken by the Petitioner. Ed Mitchell seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Webster, Weld, Wynns, Hester, Cutler, Baldwin).

David Webster made a motion that the variance request will be consistent with the spirit, purpose and intent of the standards or orders issued by the Commission; will secure the public safety and welfare; and preserve substantial justice. Renee Cahoon seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Webster, Weld, Wynns, Hester, Cutler, Baldwin).

This variance request was granted.

**Gindes (CRC VR 12-10), North Topsail Beach, oceanfront setback
Christine Goebel**

Christy Goebel of the Attorney General's Office represented DCM staff in this variance request. Petitioner, Mr. Jonathan Gindes, was present and represented himself.

Ms. Goebel stated that Staff and Petitioner agree on all four variance criteria which must be met in order to grant the variance request. The stipulated facts of this variance request show that Petitioner purchased this oceanfront property in North Topsail Beach, Onslow County last year. An inspection revealed that portions of the house were not built to code. The engineer hired by the Petitioner recommended installing a floor system in a two-story open area at the oceanward side of the home in order to provide better bracing for wind loads and to meet code. The project was completed last summer. The project increased the total floor area by 144 square-foot increase oceanward of the oceanfront setback. DCM staff concluded the project was development in an AEC undertaken without a CAMA permit and issued a Notice of Violation. Petitioner removed the floor to comply with the NOV restoration plan and now seeks a variance to reinstall the floor.

Jonathan Gindes stated that this variance request is designed to remedy a safety condition pointed out by his engineer. Initially, I did not understand that I needed a CAMA permit. I have remedied the notice of violation by removing the floor system and now request a variance to reinstall the floor system in my home to improve the safety of the home. DCM and Petitioner agree on all four factors.

Joan Weld made a motion to support Staff's position that strict application of development rules, standards or orders issued by the Commission cause the Petitioner unnecessary hardship. Larry Baldwin seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Webster, Weld, Wynns, Hester, Cutler, Baldwin).

Joan Weld made a motion to support Staff's position that hardships result from conditions peculiar to Petitioner's property. Ed Mitchell seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Webster, Weld, Wynns, Hester, Cutler, Baldwin).

Joan Weld made a motion to support Staff's position that hardships do not result from actions taken by the Petitioner. Ed Mitchell seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Webster, Weld, Wynns, Hester, Cutler, Baldwin).

Joan Weld made a motion to support Staff's position that the variance 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. Larry Baldwin seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Webster, Weld, Wynns, Hester, Cutler, Baldwin).

This variance request was granted.

**Allis Holdings LLC (CRC VR 12-11) Duck, buffer
Amanda Little**

Amanda Little of the Attorney General's Office represented Staff in this variance request. Crouse Gray represented Petitioner.

Ms. Little reviewed the stipulated facts and stated that Petitioner proposes additions to an existing restaurant to include a 20-foot by 26-foot wooden pergola over an elevated wood deck and a 4-foot by 4-foot elevated wood ramp and a second set of stairs on its property located in Duck. The Town of Duck LPO denied Petitioner's application based on the proposed development being inconsistent with 15A NCAC 07H .0209(d)(10). Petitioner seeks a variance from this rule to allow construction of the proposed development within the 30-foot buffer of the Estuarine Shoreline AEC. Staff agree with Petitioner on two of the four variance criteria which must be met in order to grant the variance request. Staff agrees with Petitioner that strict application of the 30-foot buffer rule would cause Petitioner an unnecessary hardship. Staff disagrees with Petitioner that hardships result from conditions peculiar to the property. Staff contends that this property is typical of properties located within and adjacent to the estuarine shoreline AEC along the coast of North Carolina. Staff also disagree with Petitioner on the third criteria and contend that any hardships are a result of actions taken by the Petitioner. Staff argues that Petitioner has an alternate location available for the proposed development. Staff agreed with Petitioner on the fourth variance criteria as long as conditions be added to the permit. Since the mailout, Staff has received an engineer-designed stormwater management plan. This plan provides for the construction of stormwater measures to manage the first 1 ½ inches of runoff. Provided Petitioner incorporates the stormwater management plan into any construction, staff agrees that Petitioner has met the fourth variance criteria.

Crouse Gray, attorney for Petitioner, reviewed the stipulated facts which he contends supports the granting of this variance request. Mr. Gray stated we can't put what we want to the north because it is still within the 30-foot buffer. There is no space to put the proposed development anywhere else due to a topography issue on the property.

Lee Wynns made a motion to support Staff's position that strict application of the applicable development rules, standards or orders issued by the Commission cause the Petitioner unnecessary hardship. Larry Baldwin seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Webster, Weld, Wynns, Hester, Cutler, Baldwin).

Lee Wynns made a motion to support Petitioner's position that hardships result from conditions peculiar to Petitioner's property. Ed Mitchell seconded the motion. The motion passed with six votes in favor (Mitchell, Cahoon, Wynns, Hester, Cutler, Baldwin) and two opposed (Webster, Weld).

Lee Wynns made a motion that hardships do not result from actions taken by Petitioner. Ed Mitchell seconded the motion. The motion passed with five votes in favor (Mitchell, Cahoon, Wynns, Hester, Baldwin) and three opposed (Webster, Weld, Cutler).

Lee Wynns made a motion that the variance request including the storm management plan 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. Ed Mitchell seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Webster, Weld, Wynns, Hester, Cutler, Baldwin).

This variance request was granted.

PUBLIC HEARINGS

15A NCAC 07I .0401 Program Costs – Rule Amendment
15A NCAC 07I .0406 Application Fees – Rule Amendment
and Fiscal Analysis

Mike Lopazanski stated these rule amendments apply to the local implementation and enforcement programs. CAMA makes provisions for local governments to participate in our permitting program through Minor Permits. The intention is to facilitate expeditious processing of permits for projects that don't require a General or Major Permit. There are 10 counties and 26 municipalities that participate in the Minor Permit program. We train town employees to be local permitting officers and hold annual workshops and reimburse them for attendance. In compliance with Executive Order 70 we have reviewed our rules. Since 1993 we have been reimbursing local governments \$200.00 per LPO for up to 3 LPOs. 7I .0401 currently states that reimbursement rates are \$150.00 per LPO. Making this correction will update the CRC rules. In 7I .0406 the fee states \$25.00 when the actual application fee for a Minor Development permit is \$100.00 (7J .0204) and has been in place since 2000. The fiscal analysis addresses the inconsistency in the Commission's rules and the amendments won't affect or change any existing policy or procedures, but will alleviate some confusion for those in the regulated community. It has no affect on NCDOT or DCM's permitting practices.

No public comments were received.

MINUTES

Renee Cahoon made a motion to approve the minutes of the November 2012 Coastal Resources Commission meeting. Larry Baldwin seconded the motion. The motion passed unanimously (Weld, Wynns, Cahoon, Hester, Mitchell, Cutler, Baldwin) (Webster absent for vote).

EXECUTIVE SECRETARY'S REPORT

DCM Director Braxton Davis gave the following report.

Good morning and welcome to our new Commissioners. I look forward to having an opportunity to meet with each of you soon to discuss the work of the Division of Coastal Management. In your information packets you will find a DCM Update Memo that covers our recent permitting, enforcement, rule development, planning and Coastal Reserve activities. You'll find an update on the Commission's currently proposed rules, as well as some non-regulatory program efforts being led by DCM's Policy and Planning section, including an update on efforts related to the Beach and Inlet Management Plan, land use planning, and estuarine shoreline mapping. You'll also see an update on our Coastal Reserve program, including information on recent workshops and a note about the recent fish kill at Masonboro Island that you'll be hearing more about later today.

Since this is our first meeting of 2013, I wanted to provide a brief recap of some of the Division's activities in 2012. First, we have just over 30 permitting and enforcement staff spread across our four district offices. In 2012, they handled 160 Major permit actions and over 1800 General permits. Many of the General permits were related to storm damage from Hurricanes Irene and Sandy, and staff did a great job in helping people recover as quickly as possible. Staff also issued 141 Minor permits, along with our local government partners who issued an additional 771 Minor permits. In 2012, 94% of the CAMA permits issued coast-wide were either General permits or Minor permits, and these permits are issued within a matter of a few days up to a few weeks, respectively. In addition, the processing timeline for Major permits was reduced from 86 days (2011) to 75.5 days (2012). As a reminder, these are "umbrella" permits wherein staff guides applicants through reviews and authorizations by as many as 10 state agencies and 4 federal agencies in order to find a project design that meets the applicant's needs and is in compliance with state and federal regulations. The fact that in 2012, we had only one Major permit denial and very few permit withdrawals, and that these permits were issued within a 75-day time window, is a major accomplishment and a significant part of our approach to customer service.

I also want to highlight the compliance assistance efforts at DCM. Our staff look for potential violations early in project construction so that permittees can be guided toward compliance with the Commission's rules and avoid enforcement actions. We apply a three-tiered approach to enforcement, with a focus on compliance assistance, restoration of impacted resources, and graduated enforcement actions where necessary. What often goes unseen is the routine work of DCM staff in providing guidance for projects that may or may not require a CAMA permit, and their efforts to continue monitoring permitted projects in order to offer compliance assistance. During 2012, staff conducted more than 2,000 compliance monitoring inspections and more than 1,500 permit inspections. The division had a 98 percent compliance rate of inspected permitted projects, one of the highest in the department.

I certainly don't mean to leave out the important achievements of our Coastal Reserve staff and our Policy and Planning staff, who do such a great job in so many areas of our program. For the sake of brevity, I won't be able to cover their accomplishments in detail today. But I will say that 2012 was a very busy year, and 2013 looks to be as well, and I truly appreciate the hard work that they are putting into a program that they all care very much about.

We want to extend our gratitude to Dr. Webster for working closely with us and UNCW to host this meeting. As usual, we also worked with the Executive Committee to develop today's agenda, which this time starts off with a "Local Issues Forum." Building on the strong local engagement we had at

our last meeting in Plymouth, we'd like to begin this and future Commission meetings with a discussion of the coastal issues unique to our meeting location. We really appreciate today's participation of Wilmington's Mayor Pro Tem, Dr. Earl Sheridan, as well as Mr. Adam Lisk, to hear about how this city and region are approaching coastal issues and interacting with the Division of Coastal Management. We also have Mr. Layton Bedsole, who will kick off a beach management session with a discussion about the New Hanover County Beach Commission and beachfront management issues in this region. We'll also be discussing terminal groin issues during that session, and we are pleased to have Robin Hammond and Sara Shippee here from the State Treasurer's Office to provide some key information on financial instruments used by local governments in North Carolina. Then we will address ongoing and proposed rule development efforts and consider a land use plan certification. Later this afternoon we'll have an in-depth discussion on the Commission's Science Panel on Coastal Hazards, and discuss specific studies that they've been asked to work on this year. Finally, you'll hear an update on efforts related to agricultural drainage issues following on our last meeting in Plymouth.

We now have set dates for Commission meetings throughout 2013. Locations will largely be budget-driven but we plan to be back in Carteret County for our next meeting.

CRAC REPORT

Ray Sturza stated the CRAC continued to focus on grant programs that are available to give the public access to our coastal resources. The most popular is the ocean access program, but there are also estuarine access programs and programs that provide for riverine access. We have been trying to raise the profile to make sure the Advisory Council members take the information back to their local governments, but also to emphasize the fact that North Carolina's CRC and DCM are more than just a regulatory agency. We also got into a discussion on some issues that relate to municipal authority on public trust beaches. Most of the local governments have been adopting a template resolution that found its origin in Carteret County asking the General Assembly for a clarification on what authority municipalities have in conducting certain police powers on the shoreline. There are a number of issues related to regulatory activities that are occurring as our beaches become more popular. We also heard a presentation from Charlan Owens about the National Flood Insurance Community Rating System program. If you and your community do certain things then you can secure adjustments in your rate structure that reduce your premiums. Each municipality that has chosen to participate has found that there is a reduction in their premium rates. DCM is now undertaking activities that will allow for its activities to bond onto those of municipal governments and give policy holders additional reductions in their premiums. The other side of the presentation detailed the fact that rates are rising significantly in some cases for certain structures that were in existence prior to the adoption of flood insurance rate maps. We also welcomed two new members yesterday, Mr. Alan Holden from Brunswick County and Tim Burgess that represents New Hanover County.

CHAIRMAN'S COMMENTS

Bob Emory welcomed Commissioners Larry Baldwin and Scott Cutler. Gwen Baker is also a new appointment, but she couldn't make it to the meeting today. The Mayor of Plymouth attended our last CRC meeting and we were able to incorporate a field trip in Hyde County to see some of the problems people were having with salt water inundation and agricultural drainage. It was a fascinating field trip and I hope that we can incorporate field trips in the future. I will be participating in the Shape of the Coast program, which is continuing education for attorneys. "Coastal issues" is one of the tracts. I will give an update on what the CRC and DCM have been doing. I am always very proud to give this update. Senate Bill 10 could affect the make-up of the

CRC and CRAC. The CRAC would be appointed by the CRC and the number would be reduced from 45 to 20. There is a requirement that half of the 20 live on the coast. Current members of the CRAC terms would expire on June 30. There is to be a new CRAC named by July 1st. All current terms of CRC members would expire when the bill becomes law. The areas of expertise have been changed. The members would be reduced from 15 to 11. The appointing authority will also change. The Chair and Vice Chair would be elected by the Commission.

PRESENTATIONS

City of Wilmington – Welcome Earl Sheridan, Mayor Pro Tem

Earl Sheridan welcomed the Commission back to Wilmington on behalf of Mayor Saffo and the Wilmington City Council. As a faculty member at UNCW, I also want to extend my own personal welcome to our University which is intricately involved in the social, political, economic and ecological well being of our region. Southeastern North Carolina has benefited over the years by the guidance provided by the Coastal Area Management Act and it has allowed us to be good and balanced stewards of the migration of people and development that has occurred in our fragile ecosystem. Our area has grown and changed substantially over the years. We have become more interconnected with one another as we are no longer simply a port or group of beach communities. What happens to our riverfront or to our beaches or to our waterways impacts all of us. The City of Wilmington is highly engaged in protecting and enhancing our historic riverfront area. This is an area that has transformed over the past 30 years. We have moved from an industrial based riverfront to one that is predominantly reliant on consumer spending and tourism. Our Riverwalk is now the center attraction to our downtown. You will see that we are not only expanding it with the hope of getting it from bridge to bridge, but are also putting significant amounts of funding into projects that are designed to maintain and enhance existing portions of the Riverwalk. There are plans to improve Riverfront Park. We are also in the midst of updating our riverfront development plans. We are finding that we have accomplished much of what was laid out for the turn of the century and we must now plan for the future. In doing so we recognize that much of what we have accomplished and much of what we will accomplish in the future must be done in concert with many different groups, including not only the public sector, but also the private sector. Later you will be discussing the Masonboro Island fish kill. This incident epitomizes the interconnectivity of our region. Regardless of the reason for the fish kill, the occurrence of such an incident in a region that is so dependent on its beautiful environment for its economic well being it is a cause of great concern. We recognize the impact of area development on our fragile ecosystem and are working through programs that are designed to encourage all of us to be better ecological stewards. Thank you for the work that you are doing.

Riverfront Marina – CAMA Involvement Adam Lisk, Vice President of Operations, USA InvestCo

Adam Lisk stated this is a unique opportunity for us. We are a CAMA Major Permit holder. The DCM representatives spend a lot of time with us. The effort that they make to try to lead us in the right direction to prevent compliance issues and in the permitting sector is telling because what they have done for us is substantial to help guide us through the process. As you will see, the site is exceedingly difficult and it has all sorts of challenges and issues that come with it which can create compliance issues. They have helped guide us through the process and for that I thank the CRC for

giving them the direction to make sure they do those things. Because of the complications with the site it also presents problems when it comes to permits because you have to maintain compliance with all these agencies. To date there isn't an agency that we don't have a permit from and by the time the project is done I believe we will have every permit from every agency in the State.

The site is roughly 34 acres. It sits adjacent between both of the bridges. The site was a shipping terminal with heavy industrial utilization. We are in the process of excavating the marina which will be roughly 10.7 acres of submerged land. The riverfront is roughly 2,600 linear feet. To date we have spent roughly 18 million dollars. We have driven almost 1.75 million pounds of steel. We have excavated in excess of 300,000 cubic yards. We have reclaimed about a million board feet of wood. We have recycled no less than 300 tons of steel that we have pulled out of the site as debris. We have utilized 80,000 gallons of diesel and 40,000 man hours of labor. Some of the notable permits that we have are CAMA, EPA, Army Corps, Inactive Hazardous Waste, State Stormwater, City Stormwater, and Sediment and Erosion Control. That is part of what CAMA has done so well for us as the lead agency is to help balance the permit requirements. To navigate the process is complicated and it is fabulous that CAMA has developed this process where they bring all of the pieces together. At the end of the process we will have in excess of 90 permits to finalize the project. This site has been used for the past 300 years as an industrial site. This site will have a 200 slip marina and we are renovating the old shipping pier to return it to public use. There will be two portions of Riverwalk that will complete the Riverwalk for the City. We are partnering with the Arts Council for one portion that will feature art along the walkway and will be an Art Walk. We are partnering with the NC Aquariums for the other portion that will be the Nature Walk. There will also be two restaurants, a 126 room hotel, 24,000 square feet of retail space, substantial stormwater projects, and associated parking and roadway. There are future conceptual plans for another hotel. We anticipate the restaurants to be open and operational in the fourth quarter of this year. The CRC has given the authority to the staff to push these permits along and without that it holds up a project like this. It is very beneficial for us and allows us to get the permits that we need.

Coastal Reserve Monitoring & Masonboro Island Fish Kill **Byron Toothman, Research Specialist**

Byron Toothman stated I work with the Research Staff at the North Carolina Coastal Reserve. One of the things we do is the System-Wide Monitoring Program (SWMP). This is a three phase program where we look at abiotic monitoring, biotic monitoring, as well as tracking watershed and land use changes. There are four water quality stations in the southern sites area. The data we are collecting are wind, temperature and direction speed for weather. For water it is salinity, temperature, dissolved oxygen, pH, and turbidity. This information is collected every fifteen minutes, 24 hours per day, and 365 days per year. This is a large dataset that has been collected since the late 1990's. It has proven useful on long-term scales and also on small scales. The Coastal Reserve has ten properties across coastal North Carolina. I work in the Southern Sites office here in Wilmington. Most of my work is done at Masonboro Island and Zeke's Island. The Coastal Reserve is a part of the National Estuarine Research Reserve system.

On January 8 we were scheduled to do research on the north end of Masonboro Island and there had been some reports that there had been a fish kill in that location. We have a research station on Loosin Creek. We saw lots of dead menhaden. Most of the menhaden we saw were sprinkled along the beach and a majority were underwater in large piles where they had been collected by the tide. We followed the trail of fish south towards Loosin Creek and we didn't see anymore fish once we got to the mouth of the creek. We also partnered with DWQ and took a look at the fish kill

several times. On January 9 and 10 we saw piles of fish under the water. Since the water was cold it slowed the decomposition and slowed them from floating to the surface. Almost all of the dead fish were menhaden. The fish were in pretty good shape. There were no sores and they weren't damaged. There were no obvious problems with the fish. We started ruling out the possibilities. The first thought was an algae bloom. But we didn't think it was an algae bloom because the water wasn't discolored. It is winter time and cold water will hold more oxygen. There could have been a harmful algal bloom, but we didn't see any evidence of that. We couldn't rule out pollution or poison, but we were pretty sure that wasn't the case because the location was pretty close to the inlet and is very well flushed. Hypoxia, or low oxygen in the water, was the next possibility. How could something happen in an area like this? On a trip out with DWQ we had enough time to take a look at the data. When we looked at the data on the computer we observed that the dissolved oxygen and pH drops at 2:30 a.m. This told us that it was a hypoxic event. The data from the Loosin Creek station indicated a respiration signal. Anything that's alive is going to respire and consume oxygen. When it consumes oxygen then it expels carbon dioxide. When you expire carbon dioxide and put it in the water there is a chemical reaction that causes it to form carbonic acid. Carbonic acid is acidic and caused the pH in the water to drop. All of this happened at high tide. The fish came in with the high water and got trapped in some small areas and couldn't figure their way out. They sucked up all of the oxygen and died. The effect of them consuming all of the oxygen in the water and adding carbon dioxide to the water and causing the pH to decrease at the exact same time. The tide is ebbing out by about 8:30 a.m. and bringing non-fish kill water deeper in the bay and the respiration signal goes away. That left us with a couple of more questions. We saw the fish in a broad, deep area where the water is well mixed and it is close to the inlet. How did the number of fish that we saw cause a respiration signal like that? It seemed like we were missing some fish because there is too much water for that to occur. The second issue was that it happened downstream of our water quality monitoring station and if the tide was going out then the water was going toward the inlet. How would the respiration signal get past the water quality station? The idea we came up with was perhaps the fish came in further to where the water quality station is and got into the small areas, died and then the signal washed passed the station as the tide was ebbing. We went at low tide and saw shallow bays. There we saw a lot of fish. The fish we saw in the previous few days made us think that there were tens of thousands of fish. When we got into the small bays we were seeing millions of fish. That day DENR had a plane ready to go. Aerial photographs were taken and we found that what we had seen was only part of an even larger scale fish kill.

New Hanover County Beach Commission
Layton Bedsole, New Hanover County

Layton Bedsole stated coastal communities are diverse and New Hanover County is no different. Mason Inlet to our north is managed by the County. Masonboro Inlet is managed by the Corps. Carolina Beach Inlet is managed for navigation. There are 26 miles of AIWW within New Hanover County with three crossings. Our fourth inlet that occasionally comes and goes is Corncake Inlet. We have been very fortunate in New Hanover County to have had three federal coastal storm damage reduction projects. Within those coastal storm damage reduction projects there has been a contract between a non-federal sponsor and a federal sponsor through a project cooperation agreement. In that agreement percentages of participation for these projects are laid out. That process has worked well for years. In the 2002-2003 timeframe the federal government's priorities changed. We started looking at participating beyond our percentage of cost-sharing. There was a contributing authority clause that allowed the non-federal sponsor to contribute more than what their project cooperation agreement had allowed. We went on a quest to have the legislation

changed. About 18 months ago we were fortunate and had the legislation changed so now these coastal storm damage reduction projects have contributing authority capability. Kure Beach, which is getting sand this winter, got no federal dollars and no state dollars. We have been fortunate that the Corps district has done a good job of putting us back into our percentage of participation. Carolina Beach's project turns 50 in 2014. It will no longer have access to federal dollars. We have been working this issue for about six years now. We will continue to try to figure out a path for re-authorization. We started making calls to DCM staff, the Corps and other resource agencies about 18 months ago. About 12 months ago we had a pre-application meeting where we brought forward a suggested path that New Hanover County could retain the authorization that the Corps has been given for 49 years. On December 22, 2012, a CAMA Major Permit to implement Carolina Beach's coastal storm damage reduction project was received. I want to thank everyone in the room. In three years if we haven't been capable of getting Carolina Beach re-authorized then we have a mechanism now. This brings flexibility to Carolina Beach that could be useful at Kure and Wrightsville Beaches. I am going to make a recommendation to the County Commissioners that we move in that same path for Kure Beach and then Wrightsville Beach. The last option is a holistic, programmatic approach where we look at Mason's Inlet to Corncake. How do these systems or system interact? How do we manage them? Are we managing them as we should? With that knowledge then we can assess the viability of our borrow source material.

Terminal Groins – Financial Instruments

Doug Huggett

Doug Huggett stated Senate Bill 110 was passed by the Legislature in 2011. The bill modified CAMA to allow for the permitting of up to four terminal groins in North Carolina. The bill includes a lot of specific requirements that will apply to the permitting decision process and the application process before a terminal groin permit can be issued. Under the Statute an applicant for a permit for the construction of a terminal groin shall submit information that demonstrates that a structure or infrastructure is imminently threatened by erosion and that non-structural approaches to erosion are impractical. The next requirement is a NEPA or SEPA document and an environmental impact statement. The third part requires a list of property owners and local governments that may be affected by the construction of the groin and its beachfill project and proof that all property owners and local governments in the area have been notified of the application to allow them the opportunity to comment. The fourth is the plan for the construction and maintenance of the terminal groin and its accompanying beach fill project and the plan has to be prepared by a professional engineer licensed to practice in the state of North Carolina. The next requirement is the plan for the management of the inlet and the estuarine and ocean shorelines adjacent to the inlet and under the influence of the inlet. That management plan shall describe the post construction activities that will be undertaken to monitor the impacts of the project, define the baseline for assessing when adverse impacts are reached and thresholds for when these adverse impacts must be mitigated for, provide for mitigation measures to be implemented if the adverse impacts reach thresholds defined in the plan, and provide for modification or removal of the terminal groin if the adverse impacts cannot be mitigated. The applicant must provide proof of financial assurance in the form of a bond, insurance policy, escrow account, or other financial instrument that is adequate to cover the cost of the long-term maintenance and monitoring of the groin, implementation of mitigation measures in the management plan, modification or removal of the terminal groin, and restoration of any public, private or public trust property that the groin has an adverse impact on. The legislation closes by saying that the Commission shall issue a permit for the construction of a terminal groin if you can't find another reason in the rules to deny an application and all of the following findings can be made. The applicant must have demonstrated that structures or

infrastructure is imminently threatened. Non-structural approaches to erosion, including the relocation of threatened structures, are not practical. The terminal groin will be accompanied by a beachfill project to pre-fill the groin. There has to be a finding that the construction and maintenance of the terminal groin will not result in significant adverse impacts to private property or the public recreational beach. In making the determination of significant adverse impact, it allows us to factor in the various mitigative measures that are in the inlet management plan that may offset the significant adverse impacts. There must be a finding that the inlet management plan is adequate for the purposes of monitoring the impacts of the proposed groin and for mitigating any adverse impacts. There is a requirement that the project must comply with all other state guidelines for coastal development adopted by the CRC.

The proof of financial assurance is the component that DCM staff felt like they had the least amount of experience. One of the first things that staff did was to sit down with members of local governments and other potential sponsors of potential terminal groin applications to get their perspective on difficulties and potential solutions to meet this requirement. The first thing that came out was the bond, insurance policy or escrow account within the confines of how local governments work. The idea was that it would be extremely difficult to obtain any of these things. The difficulties revolve around the unique aspects of a terminal groin project. We haven't done terminal groin projects in this State so we haven't experienced figuring out the areas of impact of a groin. The inlets are extremely dynamic. The groin legislation mandates that the project area for a terminal groin project be cautiously large to make sure you include any properties that may be impacted by the construction of a groin. We believe the intention of the Legislature was to change the law to allow these projects to go forward if properly done and Staff believes the term "other financial instrument" was an attempt to allow flexibility between the staff and the local governments to develop a functional financial assurance. We believe the flexibility of allowing each local government to tailor a financial assurance plan to the specifics of their project and to the specifics of the way their government is set up and financial capabilities will be critical to allow us to tailor a plan that can be implemented. We would work with the applicant on an agreement between the state and the local government. Staff has talked with Department legal counsel, other agencies that implement these, as well as the Treasurer's Office and we believe the current rule as written gives us enough flexibility to be able to implement this.

The "Local Government Test"

Robin Hammond and Sara Shippee, Department of State Treasurer

Sara Shippee, Assistant Director for Fiscal Management, and Robin Hammond, Assistant Legal Counsel for the State and Local Government Finance Division, discussed the Local Government Commission (LGC) and oversight of local governments. The Local Government Commission is made up of nine members and is chaired by the State Treasurer. The LGC meets the first Tuesday of each month. The Executive Committee meets six times per year and the full Commission meets six times per year. Occasionally there are special meetings called. All local governments and public authorities are subject to General Statute Chapter 159 which is the Local Government Budget and Fiscal Control Act. There are approximately 1300 governments that are subject to these Statutes. There was a lot of pain in North Carolina after World War I. The debt was increasing to about 700% and there were legitimate issues with roads and schools and who would pay for them. There was not a lot of statutory control. By 1931 the Great Depression hit North Carolina. There were about 200 bank failures by the mid 1930's. Counties responded by cutting their budgets and there were many defaults throughout the state. There were 62 counties, 152 municipalities, and 200 special tax districts across the state in default. The 1931-1933 session of the General Assembly

determined that the state would be responsible for roads, schools and prisons. The income tax increased, sales tax passed to be the general revenue that would fund county operations. To assist the local governments the Local Government Commission was formed. The LGC was given the authority to review, approve, and conduct sales of all proposed bond issues by local governments. The LGC was also authorized to mandate the enforcement of sinking fund requirements. The LGC as authorized to directly intercede with operations of a unit of government if need arose. There were also other changes that came from the 1931-1933 session. Each unit of government was required to have a finance officer. Uniform budgeting and bookkeeping was also established. A calendar and schedule of deadlines was developed and the Fiscal Code (chart of accounts) was established. By 1946 the local government debt was reduced from \$350 million to \$241 million. The war was over and the economy was good. Revenues increased due to increasing property values. Today the LGC is the only agency of its kind in the United States. We are contacted regularly by other states and the Governmental Accounting Standards Board and Government Finance Officers Association for our thoughts and current practices. There have been no defaults of general obligation bonds since the Depression. In the 1990's, 25% of all AAA rated governments were in North Carolina. Other units in the state are highly rated. Fitch and Standard & Poor's write articles about us frequently. The LGC results in lower interest rates for the local governments which allow them to set lower tax rates and lower user fees in their water, sewer and electric operations. In GS 159 there is an enforcement statute and violators of the statute are guilty of a misdemeanor and the LGC can remove officers or employees from office. The LGC may assume the role of the governing board in all fiscal matters if the unit has or is about to default on its debt or if the unit fails to comply with the General Statute after a warning to comply. The LGC has the ability to amend budgets, raise taxes, levy supplemental taxes, raise utility rates, and appoint finance officers for local governments. We have assumed control of finances only five times in the post-depression era. There have been three instances of takeover of a small town due to the failure to comply with General Statutes and weak finances. In those cases control has been returned to the small town in less than two years. We currently have one in process. One instance was when a town refused to pass an annual budget. Another instance was due to electrical utility workers going on strike. We took over and helped resolve that issue. There was another instance with a public authority about to default on its debt. The County stepped in, purchased the system and paid the debt once rates were set to a level required to pay the debt service. The fiscal management section is the group of people that work specifically to look after these 1320 units. All of these units have to submit their audits to us each year by October 31st. We review the annual audited financial statements and compliance reports prepared by independent CPAs. We assist units with financial difficulties and provide a phone support line for local government assistance in fiscal matters. We provide technical assistance to units and auditors on accounting, financial reporting, deposits and investments. We monitor secondary market disclosure requirements for debt issuing units, prepare financial sections of official statements for general obligation bond issues, and use the website to disseminate information quickly. The goal of our audit review process is to determine the financial standing of the unit, determine if their report is in compliance with generally accepted accounting principles, determine if the unit is in compliance with GS 159, and determine if the unit complies with grant requirements. The result of the audit review process is concerned about finances and internal controls communicated in writing to elected officials. If a unit is seeking debt approval, a copy of our unit letter and the unit's written response go to the Commission. Troubled units are assigned to individual staff members to monitor. Units with more sever troubles are more closely monitored. Units are visited and there is follow up reporting. The LGC can investigate any unit's internal controls and require modifications in those controls. The LGC can issue rules and guidance having the force of law concerning the internal control procedures over funds.

What the CRC is interested in is financial assurance and whether what is in your Statute can be fulfilled by the Local Government Financial Test. You are not quite there yet. The Solid Waste Statute that sets up a financial test for landfills explicitly says that you can use the Local Government Test to find financial assurance. Senate Bill 110 does not say that. It may have to be tweaked a little bit in order to do something that is not a financial instrument. What it looks like you might be left with are general obligation bonds. The drafters of the legislation wanted the public to have some input on where the money was going to come from to set up the fund that is going to be required. DCM staff is talking about having negotiated agreements designed for each project. Depending on the terms of those agreements, the agreement might be considered a financial instrument. These would have to go before the LGC for approval. The other thing we can do is to consult with DCM staff on particular financial issues of the local government in question. We can give an opinion on their financial status. However, that is not a financial instrument.

PUBLIC INPUT AND COMMENT

No public comments were received.

ACTION ITEMS

Approve for Public Hearing 15A NCAC 07H .0312

Sediment Criteria and Fiscal Analysis (CRC 13-02)

Tancred Miller

Tancred Miller stated the Commission adopted the sediment criteria rule in 2007 initially to ensure that the sand used for coastal storm damage reduction projects closely matches sand on the existing beach. These amendments will provide financial relief for sampling related costs in routine borrow areas. There are savings to federal, state and local governments. The reduced sampling protocols for federally maintained navigation channels would be expanded to include all maintained navigation channels as well as sediment deposition basins in the active nearshore region and the inlet shoal system. We can also reduce the sampling in the ODMDS areas. If there is an area that has been sampled twice and we have had a nourishment project in between and the two sampling events have shown compatible material then it can be used in the future and no sampling would need to be done. The estimate of local cost savings is about \$18,000 per year. If there is an ODMDS project involved then the savings would be about \$86,000 in local government savings. The State savings would be the same. The federal savings would be \$66,000 for channel projects and \$320,000 for an ODMDS project. DENR has approved the fiscal analysis and OSBM concurs with our findings.

Larry Baldwin made a motion to send the rule amendment and fiscal analysis for 7H .0312 to public hearing. Ed Mitchell seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Webster, Weld, Wynns, Hester, Baldwin) (Cutler absent for vote).

Summary of Public Comments and Adoption –

15A NCAC 07H .0308 and 7H .1705 Sandbags (CRC 13-03)

Mike Lopazanski

Mike Lopazanski stated the current sandbag rules have a time limit of two years for structures that are less than 5,000 square feet and five years for structures that are greater than 5,000 square feet. We have an existing provision that the sandbags can stay in place for five years if you are located in a community that is pursuing a beach nourishment project and eight years if it is in an inlet hazard area and in a community that is pursuing inlet relocation. The sandbags can only be used once per

structure. In the inlet hazard area you are eligible for an additional eight years if the structure becomes imminently threatened and the community is pursuing inlet relocation. We made these changes in 2009. The current amendments to the rule would mirror what we did for the inlet hazard areas in the ocean hazard areas. It would extend the sandbag permit to eight years if the structure is located in an ocean hazard area and the community is pursuing a beachfill project. We are also removing the one-time per structure limitation if the structure becomes imminently threatened again and the community is seeking a beachfill project. We are also including inlet stabilization, in accordance with the terminal groin bill, as an activity that is eligible if the community is pursuing it. The public hearing was held November 15, 2012. There was one speaker at the hearing and we received 33 written comments. Of the 33 written comments 28 were co-signers on a single letter. All of the comments were in favor of the amendments.

Renee Cahoon made a motion to adopt 15A NCACA 07H .0308 and 15A NCAC 07H .1705. Larry Baldwin seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Webster, Weld, Wynns, Hester, Baldwin) (Cutler absent for vote).

Staff Review of CRC Rules – Executive Order 70 RMIP (CRC 13-04) Braxton Davis

Braxton Davis stated DCM is required to do an annual review of the Commission's rules under the Administrative Procedures Act. There are two things required. The first is for DCM to look at the rules we are implementing and suggest rules that are unnecessary, unduly burdensome or inconsistent with the principles laid out in the Act. The second is the Rules Modification and Improvement Program which sets up a public comment process where the public can submit comments on rules that they find to be unnecessary, unduly burdensome or inconsistent. The Department then responds to the comments. This year as part of this process we wanted to reach out to the staff to see what they are finding while they are implementing the rules. Today we are looking for the Commission's approval to move forward with the rulemaking process on the six rule amendments that we have prioritized from staff's recommendations. The first recommendation is to streamline the General Permit for docks and piers (7H .1200). This General Permit currently allows docking spaces for up to two vessels for individual piers. We are finding there is an increasing use of personal watercraft. For the typical property owner that is constructing a dock for personal use we are finding that the General Permit is becoming less useful because we tend to see more than two docking spaces. We are recommending going back to what used to be allowed under the General Permit which was up to four docking spaces under this GP. The second idea is to streamline the General Permits for boat ramps (7H .1300). Currently a lot of boat ramp projects involve three different GPs under the Commission's rules (the ramp, the access pier and any bulkhead or riprap). The idea is to modify the GP to allow a modest launching pier and associated shoreline stabilization to protect the ramp. There are other types of coastal projects that require multiple GPs and we are recommending putting a cap on General Permit fees where you have multiple GPs on a single project. The next recommendation deals with shallow draft inlets. We have routine dredging projects going on, but because they are often done under a new permit we require some of the same environmental studies. We have been talking about finding a solution to help streamline this. We are working with the Division of Water Resources and a number of stakeholders to talk about some ideas. We are looking to develop a programmatic application for Major Permits that are based on historic environmental studies and integrating those studies, where possible, for inlets in the AIWW crossings and be able to issue multiple permits under a general programmatic application within CAMA. The next recommendation reduces burdens regarding beachfill projects (7H .0312). Sand compatibility for beachfill projects can be rigid in different

situations. The CRC is currently working on this rule change. The requirements for the technical standards related to the way samples are collected are too rigid for every project. Beyond what is currently being worked on we want to take another look at this and work with the community on figuring out if we need to streamline it further or make it more flexible for different projects. There is another piece to this to look at monitoring conditions associated with coastal storm reduction projects and looking at the physical and biological monitoring requirements to make sure that they are meaningful. They are expensive and we want to make sure we are using the data to inform future project decisions. The environmental monitoring permit conditions are not all tied to CAMA, they are also tied to federal agency requirements as well. The next recommendation is to streamline public notice and adjacent property owner notifications for Minor Permits (7K .0208). Minor Permits issued by the local governments require a public notice via newspaper. Because the Minor Permit fee is only \$100.00 and newspaper fees capture most of this fee, the local government is barely covering the newspaper notice fee. In addition, in some places the newspapers are irregularly published and depending on the timing of the permit, CAMA can be the slowest part of a building permit process. Most of these activities don't present a public resource concern and we feel it would be more appropriate to give adjacent property owners notice and standardize Minor Permit and General Permit notice requirements. Minor permits could be issued a lot faster than they are now and the local permitting programs will be a lot more attractive as they can retain the Minor Permit fee. The last recommendation is for wetland, stream, and buffer mitigation projects (7H .2600). This has been limited to DENR's Ecosystem Enhancement Projects or NC Wetlands Restoration Program. Based on staff experience we recommend that we expand this General Permit to include private sector mitigation projects. These projects are closely evaluated by an inter-agency review team before they move forward.

Ed Mitchell made a motion to approve the recommendations presented by staff and directed staff to bring back rule language reflecting these recommendations. Larry Baldwin seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Webster, Weld, Wynns, Hester, Baldwin) (Cutler absent for vote).

Land Use Plan Certifications and Amendments

Town of Cedar Point Workbook Land Use Plan Certification (CRC 13-05)

John Thayer

John Thayer stated the Town of Cedar Point has been a part of the Carteret County Land Use Plan but they have chosen to prepare their own plan. Staff has reviewed their workbook plan and has determined that it exceeds the substantive requirements and recommends certification. No comments were received.

Joan Weld made a motion to certify the Town of Cedar Point Land Use Plan. Renee Cahoon seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Webster, Weld, Wynns, Hester, Baldwin) (Cutler absent for vote).

CRC Science Panel Updates

Science Panel Origin (CRC 13-06)

Mike Lopazanski

Mike Lopazanski stated DCM develops a strategic plan every five years. NOAA provides money to states in the form of enhancement grants to make the coastal programs better by pursuing a variety

of topics; coastal hazards being one of them. Prior to 1995 we didn't make coastal hazards a high priority for our strategic planning efforts because we were already considered a leader when it came to coastal hazards. Things changed in 1996 when we were developing a new strategic plan. We saw that there were some advances in the understanding of coastal hazards, we wanted to take advantage of GIS and technological improvements, and had back-to-back hurricanes. We wanted to make coastal hazards a focus of our strategic planning efforts. We hired a coastal geologist and the focus was to study our ocean hazard AEC rules and policies. We also wanted to utilize an advisory scientific task force to help with the analysis of the rules and policies. Governor Hunt formed a disaster recovery task force and they assembled a list of recommendations. One of the recommendations focused on the CRC's hazard mitigation rules, primarily the ocean hazard AEC. The recommendations wanted us to look at delineation methods for ocean hazard areas, inlet hazard areas and high hazard flood areas. They also recommended looking at erosion rates and associated setback requirements. To address these recommendations the CRC looked at a general overview of the ocean hazard AEC rules. Staff assembled a panel discussion. There was a recommendation from the panel that the CRC form a barrier island erosion task force that would have regular involvement with the Commission. They also wanted to start a general discussion of the need to bring scientific knowledge in the discussions of the Commission. The CRC was looking for scientists that were actively involved in coastal research and had an understanding of the coastal program. This would help bridge the gap between scientific information and policy discussions. The advisory panel was named the CRC's Science Panel on Coastal Hazards and the original members were assembled by DCM staff in consultation with the Commission. The charge to the Panel tracked along the recommendations of the disaster recovery task force. The Commission had a specific task for the Science Panel to develop a series of short-term and long-term recommendations that address the studies that were needed to better describe the coastal processes. The Science Panel that was assembled met monthly through 1998. They developed recommendations that were accepted by the Commission. Many of the short-term recommendations have been incorporated into the CRC rules and policies as well as influenced the methodologies that we are currently using to address coastal hazards. Some of the concepts that were included in the long-term recommendations also found their way into the various rules and policies such as inlet hazard areas designations and presentations on how we establish the erosion rates and setback factors. Over the years the CRC has assigned a number of tasks to the Science Panel. The current Panel is comprised of coastal engineers, coastal geologists, marine biologists, and any vacancies have been filled by recommendations from the Division as well as the Science Panel members and approved by the CRC Chair.

Draft Science Panel Charge from CRC (CRC 13-07)

Braxton Davis

Braxton Davis showed the Commission the two page charge to the Science Panel. The Science Panel has seen it and made comments. The first part of the charge shows the focus of the Panel is coastal hazards processes. Membership is addressed. Currently there are 13 members and there is a desire to try to be more inclusive, but the idea is that on individual studies the membership could be expanded at the discretion of the Chair. Appointments will be made by the CRC Chair. Given the public participation that has grown over time we want to ensure that each meeting includes time for public comments. Meeting notes and other records from the meetings will be kept by DCM and notes can be made available upon request. The Panel has been working in a consensus based approach. We can enhance that approach. We will also be releasing Panel reports for public comment. Often it will create good dialogue.

After discussion, the Commission recommended adding language that indicates that nominations to the Science Panel should be submitted to the CRC Chair. There was also interest in staggered terms for Panel members. The Commission wants to review any draft reports before they go out for public comment.

Draft Sea Level Rise Report Scope of Work (CRC 13-08)

Tancred Miller

Tancred Miller showed the Commission the Charge from the 2010 study. This time around the format will be very similar. The CRC needs to give the Science Panel some very specific guidance. There is additional information that we need for this study because of legislative direction in House Bill 819. We have crafted a new set of questions that we believe the bill requires. The purpose of this assessment is not to define rates for regulation. We have heard from Commissioners that there isn't an interest in a regulatory rate. We have come up with a list of questions to go into the draft scope of work. (1) Based on the comprehensive review of the peer-reviewed scientific literature, characterize the level of agreement among climate scientists about projected sea-level change. (2) What does the available scientific data indicate about historic sea-level change in North Carolina? (3) What are the assumptions and limitations of predictive modeling that is used to predict future sea-level scenarios? (4) How do sea-level measurements compare to predictive models? (5) What is the potential range of future sea-level change in North Carolina at multiple timescales and geographic regions? The CRC will issue the Charge to the Science Panel. As in the 2010 report, we will use the Science Panel and invited co-authors for this report to utilize all of the available expertise. We also propose an expert review period on the draft report. Before it is delivered to the ERC it would have expert review as well as public comment. DCM will coordinate the work of the Panel, work on the economic and environmental study, and coordinate the expert and public review process.

David Webster made a motion to approve the draft Sea Level Rise Report Scope of Work. Joe Hester seconded the motion. Larry Baldwin offered an amendment to include a discussion in the report of how confidence intervals were used and if they weren't used, then why. Commissioners Webster and Hester accepted the amendment. The motion passed unanimously (Mitchell, Cahoon, Webster, Weld, Wynns, Hester, Baldwin) (Cutler absent for vote).

Draft Inlet Hazard Area Study Scope of Work (CRC 13-09)

Matt Slagel

Matt Slagel stated the Science Panel is meeting in two weeks and they will be discussing the inlet hazard area study. Like the Sea Level Rise Assessment Report that is required in H819, there is another study required on the inlet hazard areas. Within the ocean hazard system of areas of environmental concern there are the ocean erodible area, the high hazard flood area, the inlet hazard area and the unvegetated beach area. The inlet hazard area is defined within the rules as natural hazard areas that are especially vulnerable to erosion, flooding and other adverse effects of sand, wind and water because of their proximity to dynamic ocean inlets. This area extends landward from the normal low water line a distance sufficient to encompass that area within which the inlet shall, based on statistical analysis, migrate. It shall also consider factors as previous inlet territory, structurally weak areas near the inlet, and external influences such as jetties and channelization. The existing inlet hazard areas that we have now were adopted by the Commission in 1979. For the

last five years the Science Panel has been working on updating the inlet hazard areas. They proposed draft areas in 2010 for the State's 12 developed inlets based on new shoreline data that is available and mapping capabilities. Those proposed inlet hazard areas were tabled until the statewide erosion rates could be adopted. Those rates were adopted on February 1, 2013.

H819 requires the CRC to determine the feasibility of eliminating the inlet hazard area and incorporating appropriate development standards adjacent to the State's developed inlets. The Bill requires the CRC to consider eliminating the boxes and instead develop tailored shoreline management strategies including looking at erosion rates, setback factors and other development standards that could be used in inlet areas instead of relying on box delineations. When doing this the Commission should take into account historical and ongoing dredging, beachfill and engineered structures. The CRC is also required to collaborate with local governments and landowners to identify regulatory concerns with the existing boxes and develop strategies for accomplishing hazard reduction in inlet areas. A report is due to DENR, the Governor and the General Assembly by January 31, 2015. A draft report should be available for review in the summer of 2014. This will allow time for public comment. The draft scope lists three questions that the Science Panel is tasked with answering. (1) How are hazards different in inlet areas compared to other beach areas? (2) What is the best method to delineate the areas at greatest risk in inlet areas? (3) How should dredging, beachfill projects, and groins or jetties be accounted for in the delineation of risk areas near inlets?

Joan Weld made a motion to approve the Inlet Hazard Area Study Scope of Work and send it to the Science Panel. Ed Mitchell seconded the motion. The motion passed unanimously (Mitchell, Cahoon, Webster, Weld, Wynns, Hester, Baldwin) (Cutler absent for vote).

OLD/NEW BUSINESS

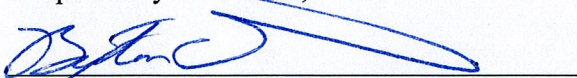
Follow up from November 2012 Meeting

Hyde County Drainage Issues Follow Up (CRC 13-10)

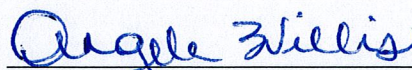
Chairman Emory stated that due to the late hour in the day and since Bill Peele and Jamin Simmons weren't able to attend this meeting, a full presentation will be scheduled at a future CRC meeting. Steve Trowell stated the next step is DCM will continue to coordinate with NRCS and Soil and Water Staff to develop a survey to hand out to different farmers and get input on what their experiences have been in tackling some of the drainage issues.

With no further business, the CRC adjourned.

Respectfully submitted,



Braxton Davis, Executive Secretary



Angela Willis, Recording Secretary



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

CRC-13-10

MEMORANDUM

TO: Coastal Resource Commission
FROM: Steve Trowell, DCM Field Representative – Washington Regional Office
SUBJECT: Staff Follow up on Agriculture Drainage Issues
DATE: 23 January 2012

The primary issue for discussion during the last CRC meeting conducted on 14-15 November 2012 in the Town of Plymouth centered around drainage, mainly agriculture but included municipal drainage, as well as salt water intrusion and its affect on agriculture land in the Albemarle/Pamlico peninsula. A field trip prior to the meeting was undertaken on 14 November 2012 touring Hyde County to see and hear firsthand accounts from state and federal agency personnel, as well as the local area farmers, on the aforementioned issues. This meeting was beneficial in that it enhanced the discussion of agricultural drainage between the farmers and regulatory community by bringing together a variety of non-regulatory agencies, academia, private businesses, local government and nonprofit organizations like the Coastal Federation to share ideas and relate experiences in seeking resolution to the problems while enhancing or protecting coastal habitats.

DCM staff has and continues to be involved with saltwater intrusion on agricultural land through the permitting of water control structures (mainly tide gates) and flood prevention dikes as well as ditch maintenance to improve or maintain current levels of drainage. DCM field staff become involved when the drainage feature exceeds the ditch dimensions outline by rule (NCAC 07K.0206) or meets the definition of Estuarine Waters (G.S.113-229(n)(2)). David Moye, District Manager in the Washington Regional Office, gave an overview to the Commission at the November meeting explaining the Division's regulatory authority regarding certain drainage features and activities.

DCM staff also coordinates with the local County Soil and Water and federal Natural Resource Conservation staff in the review of clearing and snagging projects to ensure best management practices are followed, which can relieve the property owner or farmer of CRC permit requirements. These BMPs were developed with input from the Division. As with other projects requiring CAMA/Dredge and Fill permits, the permitting of drainage and water control structures require close coordination with the USACOE and the Division of Water Quality as well as input from the North Carolina Wildlife Resources Commission and the Division of Marine Fisheries.

During the February meeting in Wilmington, Staff will summarize DCM's involvement in addressing the issues discussed during the 14 November 2012 field trip. Staff will also continue to engage the local County Soil and Water and federal Natural Resource Conservation staff in discussions concerning agriculture drainage and saltwater intrusion and what can be done to improve the current situation.



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

MEMORANDUM

CRC-13-12

TO: Coastal Resources Commission

FROM: Matt Slagel

SUBJECT: Update on DCM Beach & Inlet Management Activities

DATE: April 24, 2013

Sediment Criteria Implementation

The Technical Standards for Beach Fill Projects (15A NCAC 07H .0312), also known as the Sediment Criteria rules, became effective in 2007 in response to concerns with beach nourishment projects and sediment compatibility. Beach sediment characteristics influence local erosion rates, biological communities, recreational activities, aesthetics, and... The potential for negative impacts due to the addition of incompatible sediments during beach fill projects led the Commission to request the CRC Science Panel to develop recommendations to address existing standards for regulating beach fill and sediment compatibility in North Carolina. Prior to the existing rule coming into effect, rules governing sediment compatibility were limited to 15A NCAC 7H .0308(a)(3), which states that nourishment sediment "...shall be compatible with existing grain size and type." To clarify this rule language, the Sediment Criteria rules adopted by the Commission now require the native beach sediment and fill (nourishment) sediment to be quantified to ensure that the fill material is compatible with the beach where it is being placed. In addition to quantifying the percentage by weight of fine, sand, granular, and gravel grain sizes, as well as the percentage by weight of calcium carbonate for both beaches and borrow areas, the existing Sediment Criteria rules also specify how sediment samples and other geophysical data should be collected.

A proposed rule change, scheduled for public hearing in Morehead City on May 2, 2013 (with the public comment period ending on June 14, 2013), would reduce the sampling requirements in areas where sediment has consistently been demonstrated to be compatible with proposed beach sites. Primarily, the reduced sampling requirements would apply to Offshore Dredged Material Disposal Sites (ODMDS) and all maintained navigation channels. The fiscal analysis prepared by DCM staff found that the proposed amendments will result in considerable cost savings to permittees.

DCM staff have continued reviewing the Sediment Criteria rules to ensure they are not overly burdensome or expensive for permittees, while at the same time minimizing risks of incompatible sediments being placed on the beach. DCM staff discussions with coastal engineers, geologists, and local sand managers in the state have revealed general support for the new rules, along with some suggestions for additional changes based on lessons learned that could further reduce costs for permittees while maintaining the existing levels of sand compatibility. DCM is considering the following changes to the Sediment Criteria rules, and will continue to seek feedback from stakeholders in order to present draft rule language to the Commission at your July 2013 meeting.

Examples of Changes under Consideration:

- Allowing single beam bathymetry with adequate line spacing rather than requiring 100% coverage with swath bathymetry for borrow sites.
- Allowing more flexibility in vibracore plans, especially for smaller borrow areas.
- Expanding the granular “native + 5%” criteria to allow slightly more coarse-sand sediment to be placed on the beach. Granular sediment has a grain size greater than or equal to 2 millimeters and less than 4.76 millimeters.
- Allowing excavation depths to exceed maximum core depths, only where geophysical sub-bottom data or other information clearly indicates the sediment below the maximum core depth is beach compatible and with appropriate permit conditions.

Shallow-Draft Inlet Dredging

Many shallow-draft inlet dredging projects in North Carolina have not been funded in a Presidential Budget since 2005. Recently, Lockwoods Folly Inlet and Carolina Beach Inlet received approximately \$500,000 for dredging from Hurricane Sandy federal relief funds. Oregon Inlet also received about \$9 million in Hurricane Sandy funds. In the absence of consistent federal and state funding, municipalities adjacent to shallow-draft inlets are concerned about future channel maintenance, especially if the U.S. Army Corps of Engineers (USACE) side-cast dredge “Merritt” is decommissioned. To plan for this possibility, DCM has partnered with the NC Division of Water Resources (DWR) to draft a Request for Proposals (RFP) for a contractor to perform a permitting cost study.

The goal of the study is to determine the costs, in time and money, of obtaining federal and state permits at the local level to dredge to current authorized dimensions and/or to deeper authorizations. The study will include Bogue, New River, New Topsail, Carolina Beach, Lockwood Folly, and Shallotte inlets, with beneficial reuse of the dredged material for beach nourishment being a key component. DCM will assist the selected contractor with identifying existing resource data (biological opinions, geotechnical data, essential fish habitat studies, cultural resource studies, prior permit applications, etc.) that could be used in the permitting process for the aforementioned inlets. During a conference call on April 24, 2013, representatives from most of the municipalities adjacent to the shallow-draft inlets agreed to contribute 50% of the funds required for the study, which is estimated to be supported at \$30,000 in total. The State is also contributing 50% of the required funds (\$15,000). The RFP will be released by DWR in the near future.

As the Commission is aware, a number of bills have been introduced this legislative session pertaining to inlet dredging. Senate Bill 58 proposed to increase vessel registration fees to support shallow draft inlet dredging projects. House Bill 983, known as the “Game Fish Bill,” among other actions proposes

to use ½ of 1% of the Highway Fund from gas taxes on shallow-draft inlet dredging. House Bill 707 would require a dredging permitting cost study in line with the study described above, and would require NCDENR to assist local governments with obtaining dredging authorizations from the USACE.



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary
CRC-13-13

MEMORANDUM

TO: Coastal Resources Commission

FROM: Ted Tyndall

SUBJECT: Rule Change Overview, Proposed Changes to CAMA, Dredge & Fill Regarding Notifications

DATE: April 25, 2012

At the February meeting, the Commission heard a presentation on rules review and potential proposals for changes to several of the Commission's rules and procedures. This included: 1) providing greater flexibility in the use of the general permits for docks and piers; 2) simplifying the use and cost of general permits for boat ramps and associated structures; 3) expanding the use of the general permit for wetland, stream and buffer mitigation; 4) reducing regulatory burden related to beach fill projects; and 5) streamlining public notice and adjacent property owner notifications requirements. Below is a status report on each topic.

15A NCAC 07H.1200 General Permit for Construction of Piers and Docking Facilities: In Estuarine and Public Trust Waters and Ocean Hazard Areas

The goal for the change is to provide greater flexibility in the use of this GP for the construction of individual docks and piers. Several scenarios are currently being explored with the advantages and disadvantages being debated among the regulatory staff. Once staff agrees on the best approach, hopefully within the next month, draft rule language will be brought in front of the Commission for discussion and consideration.

15ANCAC 07H.1300 General Permit to Maintain, Repair, and Construct Boat Ramps along Estuarine and Public Trust Shorelines and Into Estuarine and Public Trust Waters

The goal for this change is to simplify the permitting process and reduce the overall cost for applicants seeking to construct non-commercial boat ramps and associated structures. Staff has drafted rule language and further down on the Commission's agenda you see that David Moye will present the draft rule language for your discussion and consideration.

15A NCAC 07H.2600 General Permit for Construction of Wetland, Stream, and Buffer Mitigation Sites by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program

The goal is to expand this general permit authorization to cover projects undertaken by private sector organizations. Rule language has been drafted and Doug Huggett will present the details to you for your discussion and consideration.

15A NCAC 07H.0312 Technical Standards for Beach Fill Projects

The goal is to ensure that the technical standards for beach fill projects are not overly burdensome or expensive for permittees while continuing to effectively prevent incompatible sediment on the beach. Division staff are currently reviewing the rule and engaging stakeholders to see if any changes are warranted. Matt Slagel will be discussing in detail various items under consideration during this meeting.

Streamlining Public Notice and Adjacent Property Owner Notification

One of the goals for this effort is to expedite minor permitting while allowing local governments to keep more of the permit fee as reimbursement for their time processing minor permit applications. Another goal is to allow signed statements of no objection by adjacent riparian property owners to be considered an acceptable alternative to certified mail requirements under the CAMA and the Dredge and Fill Law. Language changes to **NCGS 113A-119 and NCGS 113-229** are required and has been provided to the Department for inclusion into an environmental amends bill. In addition an electronic-notification bill may be forthcoming that could include similar language.



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

CRC-13-14

April 24, 2013

MEMORANDUM TO: Coastal Resources Commission

FROM: Doug Huggett

SUBJECT: Proposed revisions to 7H.2600 (General Permit for Construction of Wetland, Stream, and Buffer Mitigation Sites by the North Carolina Ecosystem Program or the North Carolina Wetlands Restoration Program)

In 2004, the Coastal Resources Commission (CRC) adopted Coastal Area Management Act (CAMA) General Permit 7H.2600 for the construction of wetland, stream and buffer mitigation sites by the North Carolina Ecosystem Enhancement Program (NCEEP) or the North Carolina Wetlands Restoration Program (NCWRP). This general permit was adopted in large part based upon assurances that the development of mitigation sites by the NCEEP and/or the NCWRP would involve significant pre-project coordination with relevant review agencies and would contain numerous pre- and post-project checks and balances, ensuring that these mitigation projects were compatible with the goals and objectives of the Coastal Area Management Act.

Since the adoption of this General Permit, the U.S. Environmental Protection Agency has implemented new guidance on compensatory mitigation banks and in-lieu fee projects. This guidance requires all mitigation bank and in-lieu fee projects in North Carolina, including NCEEP and NCWRP projects, undergo significant up-front agency coordination prior to obtaining final regulatory approvals. Staff from the Division of Coastal Management are involved in this coordination effort for any such project located within the coastal zone. Therefore, it is staff's position that this general permit can be expanded to include all mitigation bank and in-lieu fee projects, and not just those related to the NCEEP and/or the NCWRP. The attached draft revision to the existing general permit is provided for consideration by the Commission. Staff recommends that the CRC consider sending the draft rule revision, including any additional changes requested by the CRC, to the public hearing process.

Attachment:

SECTION .2600 – GENERAL PERMIT FOR CONSTRUCTION OF MITIGATION BANKS AND IN-LIEU FEE MITIGATION PROJECTS OF WETLAND, STREAM AND BUFFER MITIGATION SITES BY THE NORTH CAROLINA ECOSYSTEM ENHANCEMENT PROGRAM OR THE NORTH CAROLINA WETLANDS RESTORATION PROGRAM

15A NCAC 7H .2601 PURPOSE

This general permit shall allow for the construction of mitigation banks and in-lieu fee mitigation projects of wetland, stream and buffer mitigation sites by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program. This permit shall be applicable only for activities resulting in net increases in aquatic resource functions and services. These activities include; restoration, enhancement, and establishment of tidal and non-tidal wetlands and riparian areas, the restoration and enhancement of non-tidal streams and other non-tidal open waters, and the rehabilitation or enhancement of tidal streams, tidal wetlands, and tidal open waters. This permit shall be applicable only where the restoration, creation or enhancement of a wetland, stream or buffer system is proposed. However, ~~†~~This permit shall not apply within the Ocean Hazard System of Areas of Environmental Concern (AEC) or waters adjacent to these AECs with the exception of those portions of shoreline within the Inlet Hazard Area AEC that feature characteristics of Estuarine Shorelines. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than in the adjoining Ocean Erodible Area.

*History Note: Authority G.S. 113A-107; 113A-118.1;
Eff. October 1, 2004.*

15A NCAC 7H .2602 APPROVAL PROCEDURES

- (a) The applicant shall contact the Division of Coastal Management (DCM) and request approval for development. The applicant shall provide information on site location, a mitigation plan outlining the proposed mitigation activities, and the applicant's name and address.
- (b) The applicant shall provide either confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work, or confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. Such notice shall instruct adjacent property owners to provide any comments on the proposed development in writing for consideration by permitting officials to the Division of Coastal Management within 10 days of receipt of the notice, and, indicate that no response shall be interpreted as no objection.
- (c) DCM staff shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project meets the requirements of the rules in this Section
- (d) No work shall begin until a meeting is held with the applicant and appropriate Division of Coastal Management representative. Written authorization to proceed with the proposed development shall be issued. Construction of the mitigation site shall be started within 180,365 days of the issuance date of this permit or the general authorization expires and it shall be necessary to re-examine the proposed development to determine if the general authorization shall be reissued.

*History Note: Authority G.S. 113A-107; 113A-118.1;
Eff. October 1, 2004.*

15A NCAC 7H .2603 PERMIT FEE

The applicant shall pay a permit fee of four hundred dollars (\$400.00). This fee shall be paid by check or money order made payable to the Department.

*History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;
Eff. October 1, 2004.
Amended Eff. September 1, 2006*

15A NCAC 7H .2604 GENERAL CONDITIONS

- (a) This permit authorizes only the following-those activities associated with the construction of mitigation banks and in-lieu fee mitigation projects. wetland, stream or buffer restoration; creation or enhancement projects conforming to the standards herein; the removal of accumulated sediments; the installation, removal and

~~maintenance of small water control structures, dikes, and berms; the installation of current deflectors; the placement of in-stream habitat structures; modifications of the stream bed or banks to restore or create stream meanders; the backfilling of artificial channels and drainage ditches; the removal of existing drainage structures; the construction of small nesting islands; the construction of open water areas; the construction of oyster habitat over unvegetated bottom in tidal waters; the planting of submerged aquatic vegetation; activities needed to reestablish vegetation, including plowing or discing for seed bed preparation and the planting of appropriate wetland species; mechanized land clearing to remove non-native invasive exotic or nuisance vegetation; and other related activities.~~

(b) Individuals shall allow authorized representatives of DENR to make periodic inspections at any time deemed necessary in order to be sure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.

(c) There shall be no interference with navigation or use of the waters by the public. No attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work.

(d) This permit shall not be applicable to proposed construction where the DENR has determined, based on an initial review of the application, that notice and review pursuant to G.S. 113A-119 is necessary because there are unresolved questions concerning the proposed activity's impact on adjoining properties or on water quality; air quality; coastal wetlands; cultural or historic sites; wildlife; fisheries resources; or public trust rights.

(e) At the discretion of DCM staff, review of individual project requests shall be coordinated with ~~Division of Marine Fisheries or Wildlife Resources Commission~~ DENR personnel. This coordination may result in a construction moratorium during periods of significant biological productivity and/or critical life stages of fisheries resources.

(f) This permit shall not eliminate the need to obtain any other required state, local, or federal authorization.

(g) Development carried out under this permit shall be consistent with all local requirements, AEC Guidelines, and local land use plans current at the time of authorization.

*History Note: Authority G.S. 113A-107; 113A-118.1;
Eff. October 1, 2004.*

15A NCAC 7H .2605 SPECIFIC CONDITIONS

(a) This general permit shall be applicable only for the construction of mitigation banks or in-lieu fee mitigation projects~~mitigation site proposals made by the North Carolina Ecosystem Enhancement Program or North Carolina Wetlands Restoration Program.~~

(b) No excavation or filling of any submerged aquatic vegetation shall be authorized by this general permit.

(c) The need to cross wetlands in transporting equipment shall be avoided or minimized to the maximum extent practicable. If the crossing of wetlands with mechanized or non-mechanized construction equipment is necessary, track and low pressure equipment or temporary construction mats shall be utilized for the area(s) to be crossed. The temporary mats shall be removed immediately upon completion of construction.

(d) No permanent structures shall be authorized by this general permit, except for signs, fences, water control structures, or those structures needed for site monitoring or shoreline stabilization of the mitigation site.

(e) This permit does not convey or imply approval of the suitability of the property for compensatory mitigation for any particular project. The use of any portion of the site as compensatory mitigation for future projects shall be determined in accordance with the regulatory policies and procedures in place at the time such a future project is authorized.

(f) The authorized work shall result in a net increase in coastal resource functions and values.

(g) The entire mitigation bank or in-lieu fee project site shall be protected in perpetuity in its mitigated state and shall be owned by the permittee or its approved designee. An appropriate conservation easement, deed restriction or other appropriate instrument shall be attached to the title for the subject property.

(h) The Division of Coastal Management shall be provided copies of all monitoring reports prepared for the authorized mitigation bank or in-lieu fee project site.

(i) If water control structures or other hydrologic alterations are proposed, such activities shall not increase the likelihood of flooding any adjacent property.

(j) Appropriate sedimentation and erosion control devices, measures or structures shall be implemented to ensure that eroded materials do not enter adjacent wetlands, watercourses and property (e.g. silt fence, diversion swales or berms, sand fence, etc.).

- (k) If one or more contiguous acre of property is to be graded, excavated or filled, the applicant shall file an erosion and sedimentation control plan with the Division of Energy, Minerals, and Land Resources, Land Quality Section, ~~or government having jurisdiction~~. The plan shall be approved prior to commencing the land-disturbing activity.
- (l) All fill material shall be clean and free of any pollutants, except in trace quantities.

History Note: Authority G.S. 113A-107; 113A-118.1;
Eff. October 1, 2004.



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

CRC-13-15

MEMORANDUM

TO: Coastal Resources Commission
FROM: David Moye, District Manager – Washington Regional Office
SUBJECT: Amendments to 7H.1300 GP to Construct Boat Ramps
DATE: May 9, 2013

At the February CRC meeting, the Commission heard a presentation on rules review and proposals for changes to rules and procedures in accordance with NCGS 150B-19.1(b) (NC Administrative Procedures Act). One of the focus areas in that presentation was streamlining the process of obtaining a General Permit (GP) for boat ramps with associated structures.

Currently under your rules, a simple boat ramp with no associated structures is authorized via GP 7H.1300 and has a fee of \$200. However, when a property owner proposes to install a boat ramp, a common request is for a short, launch access dock adjacent the new boat ramp, and groins abutting one or both sides of the ramp to reduce scouring action under the newly installed ramp. As your rules specify, this request requires the issuances of three different GPs (rule citations are; 7H.1200 for the launch access dock, 7H.1300 for the boat ramp, and 7H.1400 for the groins). With fees of \$200 for each GP cited, the total cost for such a project is \$600 for a relatively small additional impact in addition to the requested boat ramp impact. The inclusion of these development activities into the boat ramp GP would simplify permitting for the applicant and reduce their cost. Since the additional structures are currently allowed under other GPs, the change would not result in any additional environmental impacts that are not already allowed. Staff has contacted the US Army Corps of Engineers and the proposed changes would continue to be authorized via Regional General Permit No. 56.

Staff has attached the proposed rule language for your review. Staff is requesting a modification to the boat ramp GP, to allow for a launch access dock and protective groins as associated structures authorized under this permit. Staff recommends that the CRC consider sending the draft rule revision, including any additional changes by the CRC, to the public hearing process. Staff looks forward to the discussion with the Commission.

Attachment

**SECTION .1300 – GENERAL PERMIT TO MAINTAIN, REPAIR AND CONSTRUCT BOAT RAMPS
ALONG ESTUARINE AND PUBLIC TRUST SHORELINES AND INTO ESTUARINE AND PUBLIC
TRUST WATERS**

15A NCAC 07H .1301 PURPOSE

A permit under this Section shall allow for the construction of boat ramps along estuarine and public trust shorelines and into estuarine and public trust waters AECs according to the authority provided in Subchapter 07J .1100 and according to the Rules in this Section. This permit shall not apply to oceanfront shorelines or to waters and shorelines adjacent to the Ocean Hazard AEC with the exception of those shorelines that feature characteristics of the Estuarine Shoreline AEC. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than the adjacent Ocean Erodible Area.

*History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;
Eff. March 1, 1984;
Amended Eff. April 1, 2003; August 1, 2000.*

15A NCAC 07H .1302 APPROVAL PROCEDURES

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and request approval for development. The applicant shall provide information on site location, dimensions of the project area, and his name and address.

(b) The applicant shall provide:

- (1) confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or
- (2) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide written comments on the proposed development to the Division of Coastal Management within ten days of receipt of the notice, and, indicate that no response shall be interpreted as no objection. DCM staff shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If DCM staff determines that the project exceeds the guidelines established by the General Permit Process, DCM shall notify the applicant that he must submit an application for a major development permit.

(c) No work shall begin until an on-site meeting is held with the applicant and appropriate Division of Coastal Management representative so that the proposed boat ramp alignment may be appropriately marked. Written authorization to proceed with the proposed development may be issued during this visit. Construction of the boat ramp structure shall be completed within 120 days of this visit or the general authorization shall expire.

*History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;
Eff. March 1, 1984;
Amended Eff. August 1, 2007; September 1, 2006; January 1, 1990.*

15A NCAC 07H .1303 PERMIT FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00) by check or money order payable to the Department.

*History Note: Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1; 113A-124;
Eff. March 1, 1984;
Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991.*

15A NCAC 07H .1304 GENERAL CONDITIONS

(a) Structures authorized by this permit shall be non-commercial boat ramps constructed of acceptable material and conforming to the standards herein.

(b) Individuals shall allow authorized representatives of the Department of Environment and Natural Resources to make periodic inspections at any time deemed necessary in order to be sure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.

- (c) There shall be no unreasonable interference with navigation or public use of the waters during or after construction.
- (d) This permit will not be applicable to proposed construction where the Department has determined, based on an initial review of the application, that notice and review pursuant to G.S. 113A-119 is necessary because there are unresolved questions concerning the proposed activity's impact on adjoining properties or on water quality; air quality; coastal wetlands; cultural or historic sites; wildlife; fisheries resources; or public trust rights.
- (e) This permit does not eliminate the need to obtain any other required state, local, or federal authorization.
- (f) Development carried out under this permit must be consistent with all local requirements, AEC rules, and local land use plans current at the time of authorization.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;
Eff. March 1, 1984;
Amended Eff. May 1, 1990;
RRC Objection due to ambiguity Eff. May 19, 1994;
Amended Eff. August 1, 1998; July 1, 1994.

15A NCAC 07H .1305 SPECIFIC CONDITIONS

- (a) Boat ramps shall be no wider than 15 feet and ~~must not extend farther than 20 feet below the mean high water level contour in tidal areas, or the normal water level contour in nontidal areas~~ shall not extend more than 20 feet waterward of the normal high water level or normal water level.
- (b) Excavation and ground disturbing activities above and below the ~~normal mean~~ high water level or normal water level will be limited to that absolutely necessary to establish adequate ramp slope and provide a ramp no greater in size than specified by this general permit.
- (c) Placement of fill materials below the ~~normal mean~~ high water level, or normal water level contour, will be limited to the ramp structure and any associated riprap groins itself. Boat ramps may be constructed of concrete, wood, steel, clean riprap, marl, or any other acceptable materials as approved by department personnel. No coastal wetland vegetation shall be excavated or filled at any time during construction ~~and subsequent use of the proposed ramp.~~
- (d) This permit allows for up to a six-foot wide launch access dock (fixed or floating) immediately adjacent the boat ramp. The length shall be limited to the length of the permitted boat ramp (with a maximum length of 20 feet). No permanent slips are authorized by this permit.
- (e) Groins shall be allowed as a structural component on one or both sides of the permitted boat ramp to reduce scouring. The groins shall be limited to the length of the permitted boat ramp (with a maximum length of 20 feet).
- (f) The height of sheetpile groins shall not exceed one foot above normal high water level or normal water level and the height of riprap groins shall not exceed two feet above normal high water level or normal water level.
- (g) Riprap groins shall not exceed a base width of 5 feet.
- (h) Material used for groin construction shall be free from loose dirt or any other pollutant. Groin material must be of sufficient size to prevent its movement from the approved alignment by wave action or currents.
- (i) "L" and "T" sections shall not be allowed at the end of groins.
- (j) Groins shall be constructed of granite, marl, concrete without exposed rebar, timber, vinyl sheet pile, steel sheet pile or other suitable equivalent materials approved by the Division of Coastal Management.
- (k) Boat ramps and their associated structures authorized under this permit shall not interfere with the access to any riparian property and shall have a minimum setback of 15 feet between any part of the boat ramp or associated structures and the adjacent property owner's areas of riparian access. The minimum setbacks provided in the rule may be waived by the written agreement of the adjacent riparian owner(s), or when two adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction of the boat ramp or associated structures commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the Division of Coastal Management prior to initiating any development of the boat ramp or associated structures authorized under this permit.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;
Eff. March 1, 1984; ~~Amended~~ Amended May 9, 2013.



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

MEMORANDUM

CRC-13-20

TO: Coastal Resources Commission
FROM: Frank Jennings, District Manager
SUBJECT: 15A 7J.0210 Replacement of Existing Structures

The Commission's rules for the repair of existing structures within an AEC allows repairs to be made without a permit if the cost to do the work does not exceed 50% of the market value of the structure immediately prior to the time of the damage or the time of the request. DCM regulatory staff have been applying this rule in such a manner that septic systems servicing oceanfront structures were viewed as individual or separate structures; that is, a damaged septic system could not be repaired without a permit if the cost of the repairs exceeded 50% of its market value.

Recently, the Division was challenged after determining that a damaged septic system could not be repaired because the estimated costs to repair the system exceeded 50% of the value of the system. As a result, the Division, Department, and members of the Attorney General's staff undertook a review of the Commission's rules and the Division's policies on this matter.

The Division, the Department, and the members of the Attorney General's staff agree that the Commission's rules regarding repair/replacement, and the Ocean Hazard Areas of Environmental Concern, do not clearly state whether septic systems and houses should be treated as one structure for the purpose of the repair/replacement rule, or as separate structures. As a result of this review, the Division will now consider an oceanfront structure and its septic system as a single structure for the purposes of repair vs. replacement determinations.



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

CRC 13-16

MEMORANDUM

To: Coastal Resources Commission
From: John A. Thayer Jr. AICP Manger Local Planning & Public Access Programs
Date: April 27, 2013 (May 9, 2013 CRC Meeting)
Subject: Amendment of the 2009 Town of Swansboro Land Use Plan

Recommendation: Certification of the Third Amendment to the Town of Swansboro Core Land Use Plan with the determination that the Town has met the substantive requirements outline in the 7B Land Use Plan Guidelines and that there are no conflicts with either state or federal law or the State's Coastal Management Program.

Overview

The Town of Swansboro is requesting a Future Land Use Map amendment to their LUP, as well as the revision of supporting Future Land Use Acreages Table. This request is the third (3rd) amendment to the plan. The original CRC certification was in August 20, 2011.

The subject property being considered for this amendment is an area of .51 acres located at 42 Old Hammock Rd., at the corner of Main Street Extended. The amendment is to convert property from the "Medium Density Residential" designation to the "Office & Institutional" designation on the Town's Future Land Use Map (Map 16). Additionally adjustments have also been made to the supporting descriptive Table 45 that outlines the distribution of various designation acreages.

The Swansboro Board of Commissioners held a duly advertised public hearing for the LUP amendments and voted unanimously, by resolution, to adopt the map and text amendments on February 19, 2013.

The adopted changes and proposed amendment to the LUP are outlined below:

1. FLUM Change – change of designation from "Medium Density Residential" to "Office & Institutional". (Exhibit A)

2. Text Changes – future land acreages (Table 45, pg. 153) have been updated to reflect the change of designation. (Exhibit B)

The public had the opportunity to provide written comments on the LUP up to fifteen business days prior to the CRC meeting, which the amendments are being considered for certification. DCM has not received any comments.

To view the full 2009 Swansboro Land Use Plan, go to the following link:
http://www.nccoastalmanagement.net/Planning/under_review.htm.







Attachments:

Exhibit A – Updated portion of the Future Land Use Map #16
Exhibit B – Table 45 Town of Swansboro Future Land Use Acreages

PROPOSED AMENDMENT

Town of Swansboro Land Use Plan Future Land Use

Legend

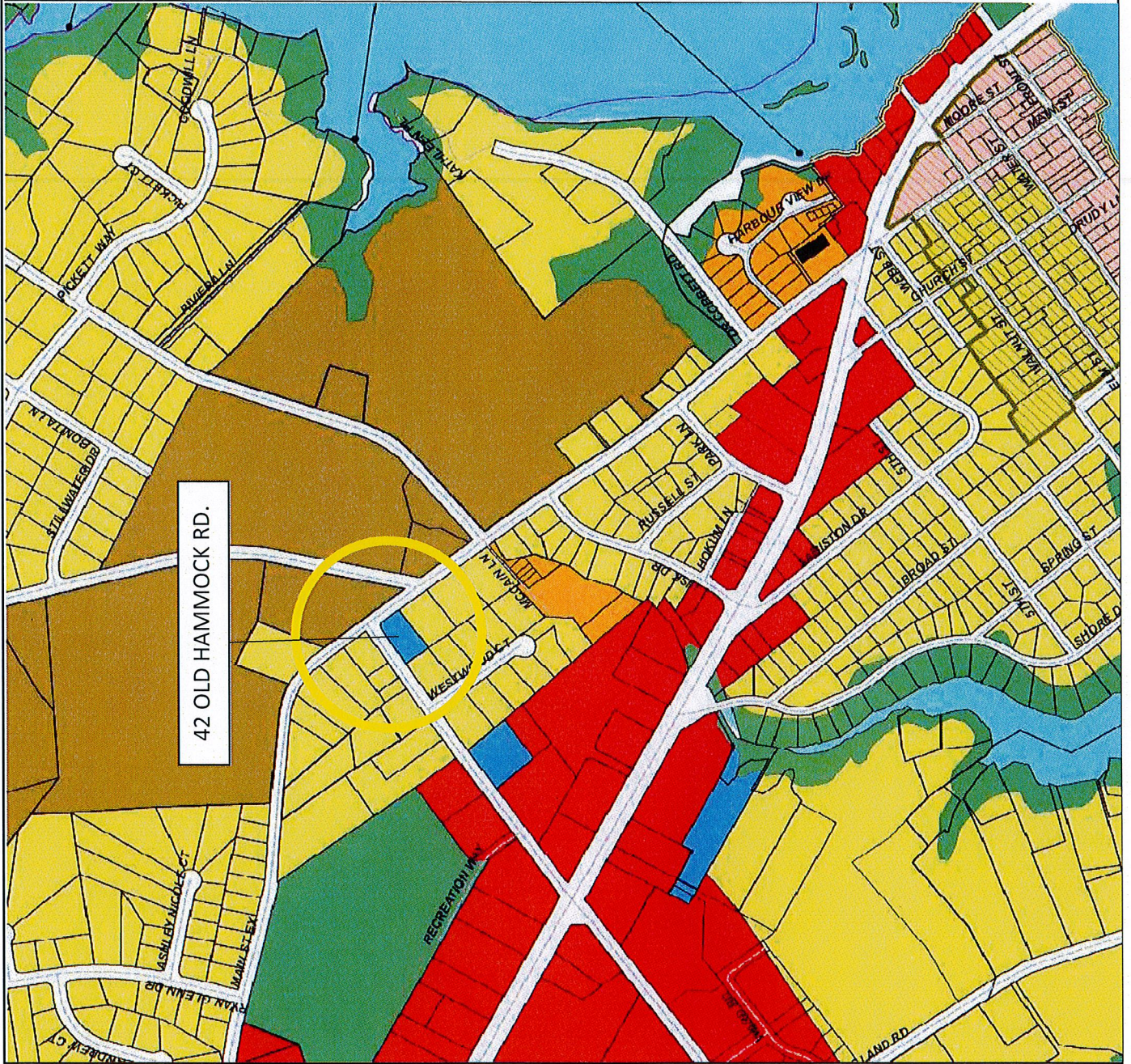
-  DOWNTOWN
-  Town Limits
-  Urban Waterfront
-  Planning Area
-  ETJ
-  WATER

Future Land Use

-  Commercial
-  Commercial Central Business
-  Office & Institutional
-  Light Industrial
-  Low Density Residential
-  Medium Density Residential
-  High Density Residential
-  Conservation

1 inch = 500 feet

The preparation of this map was financed in part through a grant provided by the North Carolina Coastal Management Program, through funds provided by the Coastal Zone Management Act of 1972, as amended, which is administered by the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.



3. Future Land Use Acreages

The Town believes that the future land use map and associated goals and implementing actions are consistent with the land suitability analysis. Table 45 provides a summary of the estimated future land use acreages (as delineated on Map 16, Future Land Use Map).

Table 45. Town of Swansboro Future Land Use Acreages

Land Use	Corporate Limits	ETJ	Planning Area	Total
Commercial	216.21	106.63	0.00	322.84
Commercial Central Business	17.57	0.00	0.00	17.57
Conservation	86.93	202.96	0.00	289.89
High Density Residential	42.98	25.68	0.00	68.66
Medium Density Residential	365.36 364.85	358.43	0.00	723.79 723.28
Low Density Residential	123.05	1,019.08	0.00	1,142.13
Office & Institutional	38.37 38.88	146.91	0.00	185.28 185.79
Light Industrial	0.00	34.69	0.00	34.69
Undesignated Planning Area	0.00	0.00	2,881.37	2,881.37
Total	890.47	1,894.38	2,881.37	5,666.22

Source: Holland Consulting Planners, Inc.

4. Land Demand Forecast/Carrying Capacity Discussion

The following table provides a forecast of land use demand. The acreage forecasts are intended to provide anticipated land use acreages through the extent of the planning period (2030). The acreage forecast are based on the population forecast provided on page 25 of the plan. The forecasts have been calculated based on the persons per acre that existed in 2005.

In reviewing these forecasts, several factors should be taken into account. As noted earlier in the plan (see pages 87 to 99 - includes carrying capacity discussion) all water and sewer services are provided through the Onslow Water and Sewer Authority. The water and sewer facilities are owned by the Town but they are under long-term lease to ONWASA. However, the Town controls sewer capacity allocations for treatment at the Swansboro Wastewater Treatment Plant. The information outlined within the section noted outlines what the current system capacities are, and how these systems will be upgraded to address projected growth trends. Additionally, non-residential growth within the Town's planning area is projected to be fairly moderate. Swansboro lies in very close proximity to the City of Jacksonville, which provides citizens with a large number of retail outlets and professional services.



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

MEMORANDUM

To: Coastal Resources Commission **CRC-13-17**
From: Charlan Owens, AICP, DCM Elizabeth City District Planner
Date: April 25, 2013
Subject: Town of Nags Head Land Use Plan Implementation Status Report
[Information Only-No Action Required]

Overview

Per 15A NCAC 07L.0511 (a), a Land Use Plan (LUP) implementation status report is to be submitted by a local government every two (2) years following the date of LUP certification. The implementation status report for the following LUP is attached:

Town of Nags Head 2010 LUP – certified on February 24, 2011

The implementation status report is based on the LUP Action Plan and identifies activities that the local government has undertaken in support of the LUP's policies and implementation actions.

The following must be included in the report:

- All local, state, federal, and joint actions that have been undertaken successfully to implement its certified CAMA land use plan
- Any actions that have been delayed and the reasons for the delays
- Any unforeseen land use issues that have arisen since certification of the CAMA land use plan
- Consistency of existing land use and development ordinances with current CAMA land use plan policies
- Current policies that create desired land use patterns and protection of natural systems.

For the Town of Nags Head LUP, the implementation status report is based on the action plan as outlined and prioritized in Planning Objectives. The report identifies activities the local government has undertaken in support of the LUP's policies and associated objectives.

Discussion

The implementation status report does not require approval by the CRC, but must be made available to the public and forwarded to DCM. Staff has reviewed the reports and finds that the local government has met the minimum requirements.

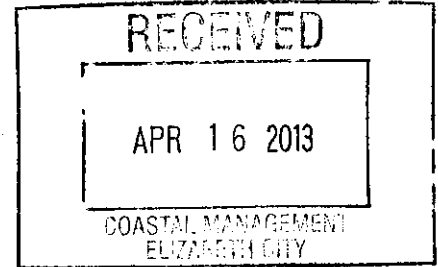
**Department of Planning
and Development**



Town of Nags Head

Post Office Box 99
Nags Head, North Carolina 27959
Telephone 252-441-7016
Fax 252-441-4290
www.nagsheadnc.gov

Elizabeth Teague
Director of Planning
and Development



April 15, 2012

Charlan Owens, AICP
DCM District Planner-Northeast District
1367 US 17 South
Elizabeth City, NC 27909

Re: Implementation Status Report for the Town of Nags Head 2010 CAMA Land Use Plan

Dear Ms. Owens:

As required by the CAMA Local Planning and Management Grant guidelines, attached is the two year implementation status report for the Town of Nags Head. This report is based on the Policies under the Plan for the Future section of the 2010 Land Use Plan.

The implementation status report addresses the five elements in Rules 15A NCAC 07L.0511.

1. All local, state, federal, and joint actions that have been undertaken successfully to implement the certified CAMA land use plan;
2. Any actions that have been delayed and reasons for the delay;
3. Any unforeseen land use issues that have arisen since certification of the CAMA land use plan;
4. Consistency of existing land use and development ordinances with current CAMA land use plan policies; and
5. Current policies that create desired land use patterns and protection of natural systems.

The policies under the Plan for the Future section of the 2010 Land Use Plan, are sited and actions taken by the Town, in 2011 and 2012, are highlighted in red.

Please do not hesitate to contact me with further questions.

Sincerely,

Elizabeth Teague, AICP
Director of Planning and Development

Attachment: Town of Nags Head 2010 Land Use Plan implementation Status Report

Cc: Cliff Ogburn, Town Manager
Angela Welsh, Planner



Town of Nags Head

Planning and Development
Department

Post Office Box 99
Nags Head, North Carolina 27959
www.nagsheadnc.com

Telephone 252-441-7016
FAX 252-441-4290

Town of Nags Head 2010 Land Use Plan implementation Status Report April 15, 2013

All local, state, federal, and joint actions that have been undertaken successfully to implement the certified CAMA land use plan are denoted in red italics. There have been no unforeseen planning issues that have arisen since the 2010 Land Use Plan was certified.

Public Access

1. The Town recognizes that the ocean beaches are our single greatest asset. Fundamental elements important to the Town include, clean beaches, ample recreational access opportunities, no commercialization, reasonable beach driving regulations and the prompt resolution of user conflicts as they arise.

Planning Objective:

A. The Town will not allow or permit any commercialization of the Town's ocean beaches (Highest Priority)

2011 and 2012 actions: The Town has not allowed or permitted commercialization of the ocean beaches. In 2012, the Town revised Zoning Ordinances to address itinerant merchants, rentals of beach equipment and crowd gathering and special events permits to avoid signage or commercial transactions on the beach.

B. When the opportunity arises, the Town will acquire oceanfront property for access and open space. (Highest Priority)

2011 and 2012 actions: The Town eliminated Surfside Drive as a public right-of-way, and continues its involvement in several court cases related to removal of cottages along Seagull. The Town has also looked at multiple properties for purchase, but in the final analysis did not make acquire any new properties.

C. The Town will make a financial commitment including additional personnel and equipment if needed to keep our ocean beaches clean of debris and litter. (Highest Priority)

The Town hires additional personnel during summer months to help with Beach Maintenance and initiated an additional patrol presence on the beach.

D. The Town shall continue to require non-oceanfront hotels and motels to provide private oceanfront beach access facilities for their guests. (Highest Priority)

2011 and 2012 actions: No new non-oceanfront hotels and/or motels have been constructed or permitted. Town facilitated the repair and replacement of private beach accesses damaged by Hurricanes, Irene and Sandy.

2. Multi use paths. The Town places a high value on and encourages the use of alternative means of transportation including multi use paths along NC 12 (Virginia Dare Trail), NC 1243 (South Old

Oregon Inlet Road) and US 158 (Croatan Highway). The Town is currently working with NCDOT on the construction of a detached multi use path along the west side of Croatan Highway. The Town goal is for the multi use path to extend from 8th Street to Hollowell Street (Jockey's Ridge), and then to move northward from Whalebone Junction and the new Whalebone Park.

A. The Town will cooperate with NCDOT and other municipalities in coordinating and developing additional pedestrian multi-use paths on the Outer Banks. (High Priority)

2011 and 2012 actions: The Town has been working with NCDOT and other municipalities to develop the Dare County Comprehensive Transportation Plan as well as The Albemarle Regional Bicycle and Pedestrian Plan.

B. The Town will review and update the Nags Head Pedestrian Transportation System Plan adopted on November 6, 1996. (High Priority)

2011 and 2012 actions: The Town applied for a Bicycle and Pedestrian Planning Grant Initiative Grant through the NCDOT Division of Bicycle and Pedestrian Transportation in 2011 however, we were not selected for the grant. In 2012, the Town applied for the grant again and we are waiting to hear if we were selected for funding.

C. The Town will submit funding requests through the CIP and budget process for the implementation of the five and ten year plans and shall coordinate these plans with NCDOT when appropriate. (High Priority)

2011 and 2012 actions: The Town agreed to fund their portion of the Bicycle and Pedestrian Initiative grant and allocated matching funds for build out of the Multi Use Path in phases and in partnership with the Dare County Tourism Board. The Multi-use Path now runs from Eighth Street to Villa Dunes Drive.

3. The Town will continue to install sidewalks (primarily East-West) within Town right-of-ways to connect with the multi use paths on US 158 and NC 12 to facilitate pedestrian traffic and movement to recreational sites and other areas which generate pedestrian traffic when the need is demonstrated. The Town will install these sidewalk improvements to correspond with existing and proposed NCDOT's signalization plan.

Planning Objective:

A. The Town will identify recreational sites where sidewalks would facilitate pedestrian traffic to these recreational facilities and will submit funding requests through the budget and CIP process. (High Priority)

Some of these areas have been identified through an NC12 and NC1243 safety study completed by the Town's Planning and Development Department in 2012. Others will be addressed as part of the Comprehensive Transportation Plan (in process) and the Local Comprehensive Pedestrian Plan (if funded).

4. The Town shall consider requiring the installation sidewalks and other pedestrian facilities as part of the required infrastructure and improvements for new subdivisions and site plans.

Planning Objective:

A. The Town will consider amendments to the subdivision ordinance requiring the installation of sidewalks and/or multi use paths in areas identified in the "Nags Head Pedestrian Transportation System Plan". (Priority)

No new subdivisions have been approved in 2011-12.

5. The Town shall consider incentives for commercial development which provide pedestrian and bicycle amenities (e.g., sidewalks, bike racks) to improve circulation within and to their site.

Planning Objective:

A. The Town will investigate incentives such as excluding sidewalks from lot coverage calculations and reducing the required number of vehicular parking spaces when areas are provided for parking and storage for bicycles. (High Priority)

2011 and 2012 actions: No action has been taken in these years however; the Town allows commercial businesses a reduction in parking spaces when providing a bicycle storage area (this action was taken in 2010).

6. The continued success of the Town as a tourist and vacation destination depends in part on the continued use of recreational uses and activities on the ocean shoreline and in the sound. The Town shall provide an adequate mix of recreational access sites for residents and visitors in order that they can enjoy the ocean and estuarine shoreline and water recreational opportunities.

Planning Objective:

A. The Town will continue to apply for grants for ocean and sound access sites. (High Priority)

These efforts are on-going. In 2012, the Town applied for CAMA grants to upgrade the Abalone and Blackman beach access sites but we were not awarded funding and made self-funded improvements. In 2013, the Town is applying for assistance with Islington and the Estuarine Accesses.

B. The Town shall consider establishing larger, less traditional estuarine access sites that can function as access sites but also shore recreation areas and parks. (High Priority)

2012 action: The Town initiated planning with landowners along the sound to design and construct a sound side boardwalk.

7. The Town shall actively plan and seek funds for the development of traditional recreation uses, to meet the needs of Town residents of all ages, as the needs are identified and shall consider acquiring and developing small neighborhood recreation areas as funds become available.

Planning Objective:

A. The Town shall through the recreation committee identify funding opportunities for expansion of recreation facilities including parks, play areas and large recreation areas. (High Priority)

The Town adopted a Parks and Recreation Plan, in 2012, which identifies priorities and funding opportunities for recreational areas. The Town applied for and received funding through PARTF for installation of a playground at the Whalebone Park site.

B. The Town shall address recreational needs through the budget and CIP process. (High Priority)

The Town's 2012 Parks and Recreation Plan, includes recommendations for multiple CIP improvements.

8. To the extent practical and allows the Town will fully comply with the handicapped code to install ADA compliant beach accesses.

This action is ongoing. In 2011 and '12, the Town built a new ADA Access Ramp at the Jockey's Ridge Sound Access and invested in several roll-out mats to facilitate wheelchair access across beach sands.

9. If and when the Town's beach nourishment commences the following steps will be taken to provide access to beach areas targeted for nourishment.

Planning Objective:

A. The Town will require access as required by the funding agencies. (High Priority)

The Town completed the beach nourishment project in October of 2011 and complied with all access requirements by funding agencies. The Town continues to monitor the nourishment project through surveys and Benthic monitoring.

10. It is the position of the Town that both the wet sand beach and the dry sand beach east of the first line of vegetation represents public land available for public access and the Town will actively oppose any action to restrict public access to and across the ocean beach.

Planning Objective:

A. The Town will continue to apply for grants for ocean and sound access sites. (High Priority)

On-going (see above): Town applied for CAMA grants to upgrade the Abalone and Blackman beach access sites and we were not awarded funding, but moved forward with improvements on its own from our General Fund. The Town has recently applied for funding assistance to improve accesses as Islington and the Estuarine Park.

B. The Town will not allow or permit any commercialization of the Town's ocean beaches (Highest Priority)

2011 and 2012 actions: The Town has not allowed or permitted commercialization of the ocean beaches. (Also see Item 1 above)

C. The Town may acquire oceanfront property when the opportunity arises. (High priority)

2011 and 2012 actions: The Town has not acquired any new oceanfront property for access and open space.

Land Use Compatibility

1. The Town views the preservation of dunes, vegetation and topography as an important component in the Nags Head image and shall strictly enforce the existing applicable rules and regulations and seek additional measures as needed to preserve these elements as much as possible.

Planning Objective:

A. The Town will consider applying rules and regulations in the commercial districts for the preservation of dunes, topography, and vegetation. (High Priority)

In August of 2011, the Town prohibited bulldozing or pushing by mechanical means to change topography except under certain circumstances. (Ordinance No. 11-08-028)

2. The Commercial Outdoor Recreational Use Overlay Zoning district was established to accommodate the ever-growing commercial recreational development requests made to the Town. It shall be a policy of the Town to periodically review the adequacy of these regulations and make the necessary modifications when public health, safety and welfare issues arise.

Planning Objective:

A. The Town shall not increase the number of rental PWC units allowed to be rented at each site. (Priority)

2011 and 2012 actions: The Town has not allowed an increase in the number of PWC units allowed to be rented at each site.

B. The Town will not permit or allow the land based commercial rental of personal watercraft for use in the Atlantic Ocean. (Priority)

2011 and 2012 actions: The Town has not permitted or allowed the land based commercial rental of personal watercraft for use in the Atlantic Ocean.

3. As the existing housing stock ages, the Town shall consider incentives and regulations to help ensure that the replacement housing stock is in keeping with the "Nags Head image".

Planning Objective:

A. The Town will develop an incentive program designed to help ensure that replacement housing will be in keeping with the "Nags Head image" or vernacular. The Town will continue to enforce and amend, as needed, Section 48-370 of the Zoning Ordinance. (Low Priority)

2011 and 2012 actions: The Town has not amended and continues to enforce Section 48-370 of the Zoning Ordinance.

B. The Town will continue to enforce section 48-370 of the Zoning Ordinance, Residential Design Standards, which sets forth "regulations designed to protect and promote the unique and historical elements of residential architecture." (Low Priority)

C. The Town may not increase and may consider reducing the amount of land zoned commercial. (Low Priority)

2011 and 2012 actions: The Town has not increased and has not considered increasing the amount of land zoned commercial.

D. The Town's current development requirements allow for hotels and motels to be built on the oceanfront. The Town shall not approve any amendment which would allow for a greater density of units, greater height of buildings or allowing these structures in oceanfront districts where they are not allowed now. (R-1, R-2 and SPD-C). The development requirements for hotels and motels can be found under the hotel, motel and cottage court section of the Future Land Use map section of this plan. (Low Priority)

2011 and 2012 actions: The Town has not approved any amendment which would allow for greater density of hotel or motel units, greater height of buildings or allowing them in districts which were not allowed as stated above.

4. Open space and green space are important elements in the Nags Head image. The Town will inventory open space, actively pursue grants and funding opportunities and develop and implement a plan to acquire and preserve open space throughout the Town.

Planning Objective:

A. The Town will identify important areas to be acquired as open space and shall request funds for acquisition of these areas through the budget, CIP, and grant process. (Highest Priority)

The Town 2012 Parks and Recreation Plan, has formed budget, CIP and planning requests. The Town applied for and received funding through PARTF for the Whalebone Park site as well.

B. The Town does not wish to become a regional industrial services area and will not increase the size of the Commercial designation area of the Future Land Use Map or create additional industrial parks or subdivisions. (Highest Priority)

The Town has not increased the size for the commercial designation area of the Future Land Use Map or created additional industrial parks or subdivisions in 2011-12.

C. The Town will not permit fossil and nuclear energy production facilities to be located in Nags Head. (Highest Priority)

2011 and 2012 actions: The Town has not permitted fossil and nuclear energy productions facilities.

5. The Town of Nags Head recognizes that the shortage of affordable "workforce housing" represents a problem in drawing qualified applicants for Town positions.

Planning Objective:

A. The Town will continue to work with public and private community organizations and partnerships to develop solutions to the shortage of affordable "workforce" housing. (High priority)

2011 and 2012:

6. Alternative energy production. The Town is cognizant that many forms of energy production result in the release of carbon dioxide and potentially contribute to global warming. Some forms of alternative energy production do not result in the release of greenhouse gases most notably the use of wind turbines and electric generation by solar energy. While these forms of energy production do not contribute greenhouse gases, they can have a negative visual impact on the aesthetics of the Town.

Planning Objective:

A. The Town will consider, on an experimental basis, the use of wind turbines by government entities only after the Town carefully reviews the advantages and disadvantages of alternative energy production and their effect on the visual environment. (High priority)

2011 action: The Town permitted vertical axis wind turbines in the Hotel overlay, R-1, R-2, R-3 and CR districts (Ordinance No. 11-11-041)

7. The Town considers the following types of development as not desirable in Nags Head and they will not be permitted:

Dry-stack boat storage, floating homes, large (more than ten boats) commercial boat marinas, finger canals, upland excavation for boat marinas, forestry practices in Nags Head Woods (SED-80), mooring buoys to accommodate transient visitors.

2011 and 2012: The Town still considers these types of development as undesirable and they are not permitted.

Infrastructure Carrying Capacity

1. The Town shall provide effective and economical methods for the collection, disposal, and recycling of solid waste.

Planning Objective:

A. The Town shall periodically review existing practices to determine the most effective and economical methods for collecting and processing of solid waste. (Priority)

2011 and 2012 actions: Town continues to provide and maintain 2 recycling collection centers (one at Town Hall and one at Huron), recycling containers at Beach accesses, and offers year-round and seasonal residential collection options for residences.

B. The Town will consider, on a case by case basis, the merits of non-government owned package treatment plants. The Town will not provide public sewage treatment. (Priority)

This is ongoing however no non-government owned package treatment plants have been allowed in 2011 and 2012.

2. The Town will maintain its relative self-sufficiency by providing adequate services and amenities for residents and visitors and shall provide municipal services in a flexible, cost effective, customer friendly manner. The Town will continue to review and modify fees as needed, including the addition of new facilities fees to pay for new and continued development of Town infrastructure while requiring private development fund the installation of infrastructure needed by the proposed development.

Planning Objective:

A. The Town will review and update as needed land development fees in the adopted fee schedule and level of service provided by those fees. (Priority)

Town completed a comprehensive update of its Fee schedule in 2012, and added a Floodplain Permit review fee into the schedule in March of 2013.

3. The Town realizes that vacation rentals and seasonal rentals, and particularly, the rental of large oceanfront homes, while promoting the single-family tourist rental economy, can significantly impact Town municipal resources and infrastructure. The Town shall comprehensively review impacts that these large structures have on the resources, municipal services, and neighboring properties and amend zoning and Town regulation accordingly.

Planning Objective:

A. The Town will not amend the zoning ordinance or any development regulation which would result in either increased density (units/acre) or increased intensity of these homes. See Future Land Use section of this plan for density allowed per land use designation. (High Priority)

2011 and 2012: The Town has not amended the zoning ordinance or any development regulation which would result in increased density or increased intensity.

4. The Town shall continually assess the Town's water processing capacity, storage capacity and distribution system along with monitoring adequate pressure and fire supply and shall make the necessary system improvements when needed. The Town recognizes the importance of a dual or looped water supply system for pressure, service and fire supply and will continue to loop the system when opportunities and funding permits.

Planning Objective:

A. The Town shall develop a five-year and 20 year improvement plan and request funding through either the budget or CIP process to implement that plan. (Low Priority)

2012 actions: One water system extension project (the Memorial Avenue tie-in) has been designed and permitted, and funding requested in the FY 2013-2014 Operating Budget. An additional project, to tie Northridge to Villa Dunes Drive, will require a waterline easement across a portion of Jockey's Ridge State Park. It is currently undergoing review in Raleigh. Both of these projects will meet the objective of eliminating dead-end lines.

5. The Town will evaluate all future development for its impact on traffic congestion and manage this development so as to minimize its impact on traffic. More specifically, the Town encourages development to exit on side streets rather than South Croatan Highway.

Planning Objective:

A. The Town will develop regulations limiting access to US 158; NC 12, NC 1243 and US 64-264 when access can be obtained either through a side street or common drive aisle. (Highest Priority)

2011 and 2012 actions: The Town has been working with NCDOT and other municipalities to develop the Dare County Comprehensive Transportation Plan as well as a Regional Bike and Pedestrian Plan which addresses some of these issues. The Town also applied for a Bicycle and Pedestrian Planning Grant Initiative Grant through the NCDOT Division of Bicycle and Pedestrian Transportation in 2011 however, we were not selected for the grant. In 2012, the Town applied for the grant again and we are waiting to hear if we were selected for funding. Recently, the Town has been participating in, and providing administrative support for, the Outer Banks Bicycle and Pedestrian Safety Coalition to promote safety education.

B. The Town will consider developing regulations which addresses multiple curb cuts onto Town streets. (Highest Priority)

2011 and 2012 actions: As part of the Planning initiatives mentioned above, the Town has recommended and the CTP Committee has agreed to include a US158 Corridor study to look at improving access management and safety along the corridor.

6. The Town conceptually accepts the Outer Banks Thoroughfare Plan dated March 1996 and Town supports improvements, such as adding grassed medians where appropriate on US 158 which are designed to enhance safety for citizens and visitors.

Planning Objective:

A. The Town will work with NCDOT to request changes to the Outer Banks Thoroughfare Plan which reflect the current road and traffic conditions within the Town. (High Priority)

See above.

B. The Town will resist the withdrawal of existing unimproved streets unless it can be shown that such a withdrawal is in the public good. (High Priority)

The Town has not withdrawn existing unimproved streets other than closing Surfside.

7. The Town will work with and petition NCDOT for (1), the necessary road improvements in getting people to the Town, (2) finding ways to reduce the number of vehicles and reduce traffic congestion within the Town on US 158 and (3), increase efficiency on NC 12 and US 158. Such improvements including, but not limited to medians, a flyover at Whalebone Junction, signal coordination, new signals or the removal of existing signals.

Planning Objective

A. The Town will annually review and forward to NCDOT through the TIP process transportation improvement projects, studies, and improvements desired by the Town. (High Priority)

Ongoing - The Town reviews and makes recommendations to the NCDOT transportation improvement projects (TIP) list as part of continued participation in the Albemarle Rural Planning Organization.

B. The Town will encourage interconnectivity between adjacent commercial sites to avoid traffic on US 158 and NC 12. (High Priority)

The Town encourages connectivity between adjacent commercial sites during the Technical Review process as well as Planning Board and Board of commissioners, if required.

Natural Hazard Areas

1. Mitigation represents a proactive approach to reducing the vulnerability of risk to properties in the Town. The Town will investigate innovative programs and seek funds for mitigation measures such as relocation of threatened structures and more stringent building codes for high hazard areas that support the growth management policies of the Town.

Planning Objective:

A. The Town shall investigate the feasibility of adopting more stringent flood requirements and seeking proactive measures for beach nourishment. (High Priority)

In 2012, the Town amended Section 22-32, Flood Damage Prevention Ordinance to define "regulatory flood protection elevation" as the base flood elevation plus the freeboard as specified in the North Carolina Building Codes. (Ordinance No. 12-05-013)

B. The Town will consider amendments to our Flood Ordinance which addresses freeboard and other flood mitigative measures recognized by FEMA and the CRS program to reduce flood losses. (High Priority)

In 2012, the Town amended Section 22-32, Flood Damage Prevention Ordinance to define "regulatory flood protection elevation" as the base flood elevation plus the freeboard as specified in the North Carolina Building Codes. (Ordinance No. 12-05-013)

C. The Town will seek funding from local and regional sources to assist with the local match for local, state and regionally funded beach nourishment projects. (High Priority)

In 2011, the Town raised the local tax rate, effective July 1, 2011, to provide funds for the beach nourishment project.

2. The Town recognizes beach nourishment/renourishment as our preferred alternative for addressing the impacts from barrier island migration and ocean erosion. However, the Town also supports a variety of methods to abate the impacts to ocean erosion, these include, but are not limited to acquisition of threatened structures, relocation of threatened structures and the establishment of innovative technology or designs which may be considered experimental, which can be evaluated by the CRC to determine consistency with 15A NCAC 7M.0200 and the other general and specific use standards with the CAMA rules. The Town, however, is opposed to and will not permit hard structures such as sea walls and bulkheads on the oceanfront regardless of federal or state policies. The Town fully supports the protection of North Carolina's shorelines and the construction of terminal groin and jetty pilot projects along the entire coast of North Carolina as proposed in Senate Bill 599 Session 2007. The proposed bill is currently not consistent with State rules.

Planning Objective:

A. The Town encourages studies designed to determine the financial contribution the beach makes to the Outer Banks and the region. (High priority)

The Outer Banks Tourism Bureau completed an economic study in 2011 that utilized surveys to measure economic impacts of visitors.

B. The Town may acquire oceanfront property when the opportunity arises. (High priority)

The Town has not purchased oceanfront property recently, but did participate in the purchase of the Windmill Point property located on the sound in partnership with the Tourism Bureau.

C. The Town will investigate mitigation programs and grants to assist the property owner in the relocation of threatened structures. (High priority)

In 2011 and '12, the Town applied for funds to elevate three primary residences through the FEMA hazard Mitigation Grant Program. The Town also updated its Hazard Mitigation Plan and

implemented an Incident Command System (ICS) structure for Hurricane events.

3. The Town supports beach nourishment/renourishment projects for the Town beaches subject to commensurate funding from a combination of sources such as appropriations from federal, state and local sources. The Town will support and encourage the establishment of a statewide beach management strategy and policy along with a dedicated funding program designed specifically for beach restoration and nourishment projects.

Planning Objective

A. The Town shall actively lobby the State for a state policy and strategy on beach nourishment and beach renourishment. (Highest Priority)

The Town completed its beach nourishment project in October of 2011.

B. The Town shall lobby the State to establish an annually state funded statewide nourishment program. (Highest Priority)

C. The Town shall lobby for Federal funding to remove/relocate threatened structures by supporting the reinstatement of the Upton-Jones amendment which modified the National Flood Insurance Program. The amendment did not require a homeowner to wait for destruction of their home by erosion but to submit claims and be recompensated if occurrence of damage was imminent. (Highest Priority)

In addition to continued litigation with owners of threatened structures on the oceanfront, the Town applied for funds to elevate three primary residences through the FEMA hazard Mitigation Grant Program. We are closely monitoring the Biggert-Waters Act of 2012 to see how it will affect ocean front property owners. A Resolution of support for reinstating the Upton-Jones amendment was adopted, by the Board of Commissioners on March 5, 2008

Water Quality

1. The preferred form of sewage treatment and disposal shall be the on-site septic systems. The Town realizes that proper maintenance of septic systems and strict enforcement of local and state rules are essential for their safe operation and through the Septic Health Initiative Committee. The Town shall continue to implement the Management Plan as well as preventative and educational programs for distribution to residents and visitors designed to identify and correct failing septic systems.

Planning Objective:

A. The Town shall continue to implement the Management Plan and educational program to implement the above actions. (Highest Priority)

On an on-going basis, the Town continues to implement the 2005 Wastewater Management Plan and educational programs.

2. Proper placement and maintenance of septic systems located in close proximity to drainage ditches or located near the ocean or sound are essential for maintaining high water quality standards. When septic systems fail, effluent can enter these waters and lead to health concerns and closures. If needed, the Town will support research to determine sources of pollution and consider or lobby for additional regulations or enforcement of existing regulations to prevent further degradation and shall seek measures to enhance water quality where needed.

Planning Objectives:

A. The Town shall apply for grant funds for projects that are designed to improve or prevent further degradation of water quality of our ocean and sound system. (High Priority)

B. The Town will fund or assist in funding a water quality-testing program. (High Priority)

C. The Town shall seek funding and shall support water quality testing of the ocean and sound waters to determine the extent, if any of non-point sources of pollution. (High Priority)

Town communications with the State have indicated that our area was not competitive for grant funding in 2011 and 2012. The Town continues to fund a water quality monitoring and testing program at multiple sites.

D. The Town shall consider impervious surface limits, vegetated riparian buffers, natural areas and natural buffers in the event that non-point sources of pollution are discovered.(High Priority)

The Town has allowed porous concrete applications on commercial and residential lots with Engineering approvals.

E. The Town shall seek strict enforcement of existing laws and regulations and shall consider new regulations, if needed, to protect estuarine and ocean water quality. (High Priority)

On-going. The Town enforces existing laws and regulations to protect estuarine and ocean water quality.

F. The Town shall monitor the implementation plan of the CHPP's program. One purpose of the Coastal Habitat Protection Plan (CHPP's) was to document the role of aquatic habitats, provide their status, describe threats, develop management needs and develop management's options for coastal habitats. (High Priority)

On-going. The Town monitors the implementation plan of the CHPP'S program.

3. The Town shall continually assess and evaluate the Stormwater Management Plan and update the plan when necessary and shall actively work to minimize the rate and amount of stormwater runoff into ocean and sound waters and the impact that stormwater has on those waters.

Planning Objective:

A. The Town shall review the adequacy and amend as needed the 2006 Stormwater Management Plan. The Stormwater Management Plan has been implemented and individual projects will be initiated as funds are available. (Low Priority)

The Town has reviewed the 2006 Stormwater management Plan and is in the process of incorporating Low Impact Development practices in our zoning ordinance. In 2012, the Town initiated a text amendment and assigned a sub-committee of the Planning Board to make updates to the local ordinance.

4. The Town recognizes that maintenance is essential for the proper functioning of the ocean and sound outfalls shall actively lobby NCDOT for continued maintenance.

Planning Objective:

A. The Town will investigate the feasibility of land disposal and storm water retention in lieu of outfalls and may seek funds and grants or lobby NCDOT where the feasibility exists for land application of stormwater. (Priority)

The Town replaced and extended 3 of the 4 ocean outfalls as part of the Beach Nourishment Project. The Town has asked NCDOT to replace the fourth and most northern outfall and passed a resolution of support for the state to consider this request.

5. The Town will comply with State rules regarding stormwater control.

Planning Objective:

A. The Town shall continue to review our local policies to ensure compliance with State rules. (High Priority)

The Town is compliant with State rules and local policies.

B. The Town will implement flood control projects discussed in the stormwater systems section of this plan as funds become available. (High Priority)

In 2011 and 2012, the Town undertook two significant stormwater management projects to alleviate flooding in local neighborhoods in the vicinity of Villa Dunes Drive and Lost Colony.

6. The Town will comply with State rules regarding protecting open shell fishing waters and restoring closed shell fishing waters.

Planning Objective:

A. The Town shall continue to review our local policies to ensure compliance with State rules. (High Priority)

B. The Town will implement flood control projects discussed in the stormwater systems section of this plan as funds become available. The use of detention wetlands and filtering systems will be utilized when feasible. (High Priority)

C. The Town will request enforcement of all State agencies rules regarding protection of waters in sub basin 03-01-56 (Pasquotank River basin) (High Priority)

The State enforces rules regarding protection of waters in sub basin 03-01-56, the Pasquotank River Basin. The Town monitors water quality through our Septic Health Initiative and coordinates with NCDENR on public warnings related to swim advisories. The Town also coordinated the Nags Head Woods Conservation Area with an oyster bed restoration project by relocating the Nags Head Woods Road after Hurricane damage and by creating more room for the shoreline restoration portion of the project.

7. The Town supports the use of Advanced Treatment Systems for government owned and operated sewage treatment plants that produce an NSF-40 quality effluent standard described in NCAC 18A.1970 under Laws and Rules for Sewage Treatment & Disposal Systems utilizing Reclaimed Water Facilities designed in accordance as set forth in Subchapter 2T-Waste Not Discharged to Surface Waters Section- 15A NCAC 02T.0906.

Planning Objective:

A. The Town will consider, on a case by case basis, the merits of non-government owned package treatment plants. The Town will not provide public sewage treatment. (Priority)

The Town has not pursued a public sewage treatment facility.

Local Areas of Concern

1. The Town shall consider higher flood regulatory standards for vehicle and equipment storage areas and structures or facilities that produce, use or store highly volatile, flammable, explosive, toxic and or water-reactive materials that may cause environmental problems if flooded or destroyed.

Planning Objective:

A. The Town shall develop a program to identify businesses and material storage areas where significant amounts of toxic or hazardous products are stored which would be subject to flooding. (Highest Priority)

Ongoing.

B. The Town may develop regulations to require fuel tanks, including LP tanks to be adequately anchored to prevent flotation in the event of flooding. (Highest Priority)

Ongoing.

2. During the subdivision process the Town shall require wider rights-of-ways and greater construction standard to proposed Town streets when it can be demonstrated that the proposed street may be required to accept local traffic from other nearby streets which may be damaged or threatened or closed by natural events.

Planning Objective:

A. The Town may develop regulations requiring a greater street standard (dimensional and construction) where it can be reasonable demonstrated that near-by streets may be destroyed by a storm or other natural event and the proposed street will be required to accept greater amounts of traffic due to the loss of nearby streets. (Low Priority)

No new subdivisions have been approved in 2011 and 2012.

3. The Town recognizes that when ocean beaches and estuarine areas and waters are closed for health reasons, proper public notification of the closures is essential for public safety. The Town will work with the respective regulatory agencies to develop a protocol and to ensure that public notification is released in a timely manner after careful monitoring has indicated that the agreed upon standards have been exceeded.

Planning Objective:

A. The Town has initiated meetings with the County and other agencies to develop and establish water quality and monitoring standards and to develop a protocol for public notification when beaches and waters are closed for health reasons. (Priority)

The Town continues to initiate these meetings with the county and other agencies when beaches and waters are closed for health reasons.

4. The Town will communicate with residents and non-resident property owners.

Planning Objective:

A. The Town may publish four newsletters a year. (Highest Priority)

B. The Town may continue to update the Town's web page and add additional components as needed. (Highest Priority)

C. The Town shall assess the effectiveness of various forms of communication. (Highest Priority)

The Town uses Facebook, Twitter, a Sunshine List and weekly updates posted on our webpage and e-mailed to the Sunshine list. The Town also publishes four newsletters per year.

5. The Town shall consider the impact on public safety during the review of site plans and during consideration for proposed changes to the zoning ordinance and shall encourage the use of sprinkler systems, stand pipes and the provision for fire lanes as important fire prevention measures.

Planning Objective:

A. The Department of Public Safety shall recommend changes to the Town code as conditions warrant. (Priority)

2012 actions: Ordinance No. 12-09-028 now makes it a misdemeanor to operate a motor vehicle on the beach without a proper beach driving permit issued by the Town. Ordinance No. 12-03-010 reduced the speed limit from 50 mph to 45 mph on US 158 from Eighth Street to Villa Dunes Drive.

6. It is the policy of the Town to continually assess the police, fire and rescue needs of the Town and to make personnel and resource expenditures commensurate with the needs created by the community.

Planning Objective:

- A. Public safety funding requests shall be considered through the budget and CIP process. (Priority)
- B. The Town shall identify grant opportunities, as they become available. (Priority)

The Fire Department received two radio equipment communications grants in 2011 and a safety grant in 2012. The Police Department has also updated Police car computer equipment.

- 7. The Town recognizes that damaged homes and structures on the oceanfront represent a nuisance eyesore and visual blight and the Town may take appropriate measures to abate this nuisance and will seek changes in NFIP regulations to establish regulations for declaration of destroyed structures.

Planning Objective:

- A. The Town will take a more proactive approach to condemning these structures and taking prompt action including the issuance of civil citations to abate the nuisance. (Highest Priority)
- B. The Town will petition FEMA through our state and regional FIP representatives to consider adopting regulations regarding the determination of destroyed structures.(Highest Priority)

The Town continues its efforts to remove these structures.

- 8. The Town shall continue to address community appearance concerns through Boards such as the Planning Board, Citizens Advisory Committee and Board of Commissioners. The Town shall work toward developing incentives designed to enhance, promote and protect the Town's architectural image and heritage.

Planning Objective:

- A. The Town will investigate the feasibility for an architectural incentive program. (High Priority)
- B. The Town will consider an incentive program rewarding those developers which set aside additional open space in perpetuity. (High Priority)

The Town continues to address community appearance through the Boards listed above and continues to enforce the residential design standards in the zoning ordinance.

- 9. The Historic District represents an irreplaceable part of the Nags Head image and past. The Town shall carefully consider any proposed land use change-not only within the district, but nearby that would diminish the uniqueness of the homes in the district. The Town will promote the creation of a historic district to preserve the historic beachfront cottages. These limits are shown on the Future Land Use map in the appendix.

Planning Objective:

- A. The Town will continue to work with residents within the historic district boundary on the Future Land Use Map to establish a historic district. (Low Priority)
- B. The Town will continue to amend the zoning ordinance by adopting provisions designed to protect the uniqueness of homes on the National Register of Historic Places. (Low Priority)

The zoning ordinance has not been amended to protect these homes as residents do not wish to have a "historic" zoning district placed on them by the Town, however signage has been installed to recognize the Historic District of "Old Cottage Row."

- 10. Over the last 20 years the Town has seen most of its commercial businesses, once numerous along Virginia Dare Trail, move to US 158 or go out of business due to chain restaurants and "big box" retailers building along US 158.

Planning Objective:

A. The Town will investigate the use of incentives to attract and retain locally owned businesses throughout the Town. (High priority)

The Town has refined selected codes and building and zoning review procedures to work with commercial applicants. The Town has provided an outdoor seating incentive for business along the beach road, and is currently working on ordinance updates related to Parking requirements.



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

CRC-13-18

April 19, 2013

MEMORANDUM

TO: Coastal Resources Commission

FROM: Mike Lopazanski

SUBJECT: Draft Science Panel Charge

At the February 2013 CRC meeting, the Commission reviewed the updated charge to the Science Panel on Coastal Hazards. You will recall that the charge focuses on a consensus based approach to working on assignments and also includes member appointment procedures as well as officer elections. The Commission also incorporated, two additional slots, the use of ad hoc members to fill specific needs, provisions for replacement due to non-participation, staggered terms and the review of a nominee's expertise and credentials.

In reviewing the draft charge at their February 22, 2013 meeting, the Science Panel discussed the need for a basis for the CRC Chair to evaluate credentials of nominees, but stated that new members should not be limited to those that are published in peer-reviewed journals. For example, some practicing coastal engineers or geologists may not be published, but they may still be qualified to join the Panel. The Science Panel members suggested a modification of the following: New members and ad hoc members will be appointed by the CRC Chair based on a review of the nominee's relevant expertise and credentials with respect to coastal hazards processes.

In discussing the CRC's interest in expanding the Panel with two additional members, the Panel members questioned if there was a need to add an economist. The Panel decided that economists should be brought on as an ad hoc as needed basis to work on specific projects. The Panel is focused on oceanfront coastal hazard processes and balanced between coastal engineers and coastal geologists. Panel members indicated that they would like to retain that composition and focus and recommend that the CRC add one engineer and one geologist in order to maintain the existing balance.

Finally, DCM staff advised that the CRC would want to review draft Panel recommendations or reports before they are released for public comment, rather than afterward. The Panel agrees with this procedural change, and it was reflected in the charge. With regard to report format, the Panel has also suggested clarifying what is expected for larger more complex reports while allowing for communication of recommendations on engineering technologies and methods in memo form.

Attached is the draft charge with the Science Panel suggested wording changes. Staff is recommending that the Commission adopt the charge at the May 9, 2013 meeting in Beaufort.

Charge to the Coastal Resources Commission's Science Panel on Coastal Hazards

Charge

The purpose of the Science Panel on Coastal Hazards (Panel) is to provide the Coastal Resources Commission (CRC) scientific data and recommendations regarding coastal hazards processes. The Panel is charged with the following: 1) continually review the current state of knowledge of coastal processes and ecological functions of coastal North Carolina; 2) review the current methodologies being used by North Carolina and others to define and identify coastal hazard areas and impacts associated with development in public trust areas of North Carolina; 3) review the scientific basis of the CRC's rules as applied by the Division of Coastal Management (DCM) to development in the coastal area; and 4) develop recommendations for the Coastal Resources Commission on topics that include the following:

1. Opportunities to incorporate current information on North Carolina coastal processes in the CRC rules for Estuarine and Ocean Areas;
2. New coastal engineering technologies or methods;
3. Specific projects as assigned by the CRC or requested by the Panel. When the CRC assigns a project, it should provide the Panel with specific questions it needs answered and any necessary timelines. The Panel should maintain the flexibility to propose projects and scopes of work to the CRC for approval.

Membership and Officers

The membership of the Panel should be no more than 15 individuals having professional expertise in coastal science or engineering, but additional members may be added on an ad hoc basis to expand the expertise of the Panel for specific studies if deemed necessary by the CRC Chair in consultation with the Panel. Nominations for new members and ad hoc members may be made by CRC members, current Science Panel members, DCM staff, or the Coastal Resources Advisory Council at any public meeting of the CRC. New members and ad hoc members will be appointed by the CRC Chair based on a review of the nominee's **relevant** expertise and credentials, with **respect to coastal hazards processes a focus on relevant, peer reviewed publications**. New and replacement members will be appointed as needed. Panel members should serve staggered terms of four years to ensure continuity. New member terms should be for four years, with re-appointments for additional four-year terms when mutually agreed upon by the Panel member and CRC Chair. Regular attendance or participation by other means is important, and a Panel member may be asked to step down after prolonged non-participation, or at the discretion of the CRC Chair.

The officers of the Panel are the Chair and Vice-Chair. Officer terms are for two years, and the Chair and Vice-Chair should be elected biennially by the Panel. The Chair should work with staff to establish meeting agendas, preside over Panel meetings, and appoint subcommittees and subcommittee chairs as necessary to carry out the Panel's business. The Vice-Chair should preside over Panel meetings in the absence of the Chair and assume the duties of the Chair if the Chair is unable to complete their term until another Chair is selected by the Panel.

Panel Meeting Agendas

Meetings of the Panel will be open to the public and each meeting should include an opportunity for public comments for the Panel to consider. Meeting notes and other records of all Panel meetings will be kept by the Division of Coastal Management. Draft notes will be distributed to Panel members for review, and final notes will be posted on the DCM webpage.

The Chair, Vice-Chair, and DCM staff should work together to prepare meeting agendas, which will be provided to members and to the public at least seven days prior to a scheduled meeting.

Consensus Building

Final Panel reports should be developed by consensus whereby (preferably) all Panel members support the general findings and recommendations, and clearly articulate any differences of opinion related to specific findings. In the absence of consensus, a minority opinion section should be included with each recommendation or report, if applicable.

The outline below is a general guideline for larger reports, but not all communications between the Panel and the CRC need to follow this format. Some recommendations, such as those pertaining to new coastal engineering technologies or methods, are as simple as a memo from the Panel to the CRC.

Larger Ppanel reports should follow a common outline so the CRC and stakeholders know what to expect in terms of format and content. The goal of Panel reports is to use the best available data to identify common ground and areas of disagreement to help set the context for CRC policy deliberations. To help reach consensus, it is essential for Panel members to participate in discussions, weigh in on draft recommendations, and review final reports. The outline should include, at a minimum, the following sections:

- General Issue
- Specific Question(s) to be Answered
- Options Explored by Panel
- Best Available Science
- Key Assumptions, Uncertainties, and/or Data Limitations Associated with Each Option
- Consensus Findings and Recommendations
- Minority Opinions and/or Specific Areas of Disagreement

Dissemination of Information

Draft findings and recommendations should be released for public comment following preliminary review and approval by the Coastal Resources Commission. Division of Coastal Management staff will coordinate the public review process.

Final recommendations of the Panel adopted pursuant to the consensus building and public review procedures described above should be reported in writing to the Division Director and the Chair of the Coastal Resources Commission. Presentations of Panel recommendations to the CRC should be made by the Panel Chair or their designee.



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

CRC-13-19

April 19, 2013

MEMORANDUM

TO: Coastal Resources Commission

FROM: Mike Lopazanski

SUBJECT: Science Panel Nominations Process

You will recall from the memo prepared for the February 2013 CRC meeting (CRC-13-06) regarding the origin of the Science Panel on Coastal Hazards, Science Panel vacancies have traditionally been filled by recommendations of the Division and Panel members in consultation with and at the discretion of the CRC Chair. As the Commission has been reviewing the structure and function of the Panel, there has been interest in formalizing the appointment of Panel members. While the Commission expressed a desire to re-appoint the existing Science Panel, the draft charge calls for four-year staggered terms. In order to implement staggered terms, it has been necessary for half of the existing Panel members to volunteer for two-year terms and the other half to volunteer for four-year terms. Staff has contacted members regarding their interest in continuing to serve, as well as their preference for a two-year or four-year term. We have had two resignations due to time commitments and with the two additional slots, will now have four vacancies to fill.

The Division is hoping to have reappointments made at the May 2013 CRC meeting. Once Panel members are formally re-appointed, the members will elect a Chair and Vice-Chair at their next Panel meeting. The Chair and Vice-Chair will serve two-year terms as officers.

In order to fill vacancies, the Division is proposing the following process. There are two nomination categories: Science Panel slots and "ad hoc" study slots (e.g., for the Sea Level Rise Assessment Update). For the four vacant Science Panel slots, the Division will send a call for nominations letter to CRC, CRAC and Science Panel members seeking nominations for two engineers and two geologists. The charge to the Science Panel, provided that it is adopted by the CRC at the upcoming meeting, will be used as guidance for qualifications. Nominees will need to provide the CRC, CRAC or Science

Panel member with a resume, CV and any other qualifying information that will be forwarded to the DCM Director. The call for nominations will also request that the potential nominee be contacted prior to submission in order to ensure their interest in serving. The nominations period will be open for 30 days. Nominations would then be reviewed by the Science Panel and recommendations made to the Science Panel Chair. A subcommittee of the CRC, including the CRC Executive Committee (CRC committee chairs, CRAC Chair and Executive Secretary) and Science Panel Chair, would then review the nominees and make a recommendation to the CRC Chair. Having the Executive Committee and Science Panel Chair make recommendations incorporates all of the Commission leadership into the process. The Chair would then make the appointments known at the next CRC meeting. For the ad hoc study members, the Science Panel could indicate that they need a certain number of members with specified expertise. The Commission or Advisory Council could also suggest a number of members with specific expertise. The call for nominations would be handled and reviewed in the same manner as above, with the specifics dictated by the needs.

Provided the CRC endorses this process at the upcoming meeting, the Division would send the call for nominations for both the Science Panel vacancies as well as an ad hoc group for the Sea Level Rise Assessment Update immediately following the meeting. It is the intention of the Division to have all in place for the July CRC meeting so there are no delays in meeting our obligations under HB 819.

I look forward to discussing this process at the upcoming meeting.



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

MEMORANDUM

TO: Coastal Resources Advisory Council
FROM: Ray Sturza
SUBJECT: May 9, 2013 CRAC Meeting
DATE: April 15, 2013

My dear friends, the Advisory Council will have a lunchtime meeting on Thursday 9th May at the Duke Marine Lab dining hall. We will only have about 30 minutes to meet, and I would like us to use that time talking about Senate Bill 10 and any other issues that the Advisory Council should be aware of. A copy of the latest version of Senate Bill 10 is attached.

Please note that in addition to the changes proposed to the Coastal Resources Commission, the bill proposes to reduce the size of the Advisory Council from 45 to 20 members. In addition, the bill would authorize the CRC to appoint all 20 members, and eliminate the designated county and coastal cities seats. Currently, a House and Senate conference committee is working to resolve the differences between the different versions of the bill. A list of committee members is available at <http://www.ncleg.net/gascripts/confcomm/confcommittee.pl?BillChamber=S&BillID=10&session=2013>

I hope to see you all in Beaufort on the 9th.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S

6

SENATE BILL 10
Rules and Operations of the Senate Committee Substitute Adopted 2/5/13
Third Edition Engrossed 2/6/13
House Committee Substitute Favorable 2/27/13
House Committee Substitute #2 Favorable 2/28/13
Sixth Edition Engrossed 3/4/13

Short Title: Government Reorganization and Efficiency Act.

(Public)

Sponsors:

Referred to:

January 31, 2013

1 A BILL TO BE ENTITLED
2 AN ACT ESTABLISHING THE GOVERNMENT REDUCTION AND EFFICIENCY ACT
3 OF 2013.

4 The General Assembly of North Carolina enacts:

5
6 **PART I. ELIMINATION OF CERTAIN STATE BOARDS AND COMMISSIONS**
7 **THAT HAVE NOT MET RECENTLY, ARE DUPLICATIVE, OR ARE NOT DEEMED**
8 **CRITICAL TO GOVERNMENT OPERATIONS**

9
10 **LOTTERY OVERSIGHT COMMISSION**

11 SECTION 1.1.(a) G.S. 18C-172 is repealed.

12 SECTION 1.1.(b) G.S. 18C-115 reads as rewritten:

13 "**§ 18C-115. Reports.**

14 The Commission shall send quarterly and annual reports on the operations of the
15 Commission to the Governor, State Treasurer, ~~the Lottery Oversight Committee,~~ and to the
16 General Assembly. The reports shall include complete statements of lottery revenues, prize
17 disbursements, expenses, net revenues, and all other financial transactions involving lottery
18 funds, including the occurrence of any audit."
19

20 **SMALL BUSINESS CONTRACTOR AUTHORITY**

21 SECTION 1.2. Part 20 of Article 10 of Chapter 143B of the General Statutes,
22 G.S. 143B-472.100 through G.S. 143B-472.112, is repealed.
23

24 **COMMITTEE ON DROPOUT PREVENTION**

25 SECTION 1.3. Article 6B of Chapter 115C of the General Statutes,
26 G.S. 115C-64.6 through G.S. 115C-64.9, is repealed.
27

28 **STATE EDUCATION COMMISSION ESTABLISHED IN CHAPTER 116C OF THE**
29 **GENERAL STATUTES**

30 SECTION 1.4.(a) G.S. 116C-1 reads as rewritten:

31 "**§ 116C-1. Education Cabinet created.**

32 ...



- (c) The Education Cabinet shall be a nonvoting body that:
- (1) Works to resolve issues between existing providers of education.
 - ~~(2) Sets the agenda for the State Education Commission.~~
 - (3) Develops a strategic design for a continuum of education programs, in accordance with G.S. 116C-3.
 - (4) Studies other issues referred to it by the Governor or the General Assembly.

...."

SECTION 1.4.(b) G.S. 116C-2 is repealed.

STATE EDUCATION COMMISSION ESTABLISHED IN ARTICLE 26 OF CHAPTER 143 OF THE GENERAL STATUTES

SECTION 1.5. Article 26 of Chapter 143 of the General Statutes, G.S. 143-261 through G.S. 143-266, is repealed.

NATIONAL HERITAGE AREA DESIGNATION COMMISSION

SECTION 1.6. Section 18.10 of S.L. 2001-491 reads as rewritten:

"SECTION 18.10. Notwithstanding G.S. 158-8.1, the Western North Carolina Regional Economic Development Commission shall develop a regional heritage tourism plan and shall present the plan to the 2002 Regular Session of the 2001 General Assembly no later than May 1, 2002. The National Heritage Area Designation Commission created pursuant to Section 18.4 of this act shall terminate July 1, 2013."

GOVERNOR'S MANAGEMENT COUNCIL

SECTION 1.7. Part 24 of Article 9 of Chapter 143B of the General Statutes, G.S. 143B-426.22, is repealed.

CENTER FOR NURSING

SECTION 1.8. G.S. 90-171.71 and G.S. 90-171.72 are repealed.

BOARD OF CORRECTION

SECTION 1.9.(a) G.S. 143B-711 reads as rewritten:

"§ 143B-711. Division of Adult Correction of the Department of Public Safety – organization.

The Division of Adult Correction of the Department of Public Safety shall be organized initially to include the Post-Release Supervision and Parole Commission, ~~the Board of Correction,~~ the Section of Prisons of the Division of Adult Correction, the Section of Community Corrections, the Section of Alcoholism and Chemical Dependency Treatment Programs, and such other divisions as may be established under the provisions of the Executive Organization Act of 1973."

SECTION 1.9.(b) G.S. 143B-715 is repealed.

BOARD OF PUBLIC TELECOMMUNICATIONS COMMISSIONERS OF THE NORTH CAROLINA AGENCY FOR PUBLIC TELECOMMUNICATIONS

SECTION 1.10.(a) Part 22 of Article 9 of Chapter 143B of the General Statutes is repealed.

SECTION 1.10.(b) G.S. 120-123(4) is repealed.

BOARD OF DIRECTORS OF THE CERTIFICATION ENTITY FOR THE PHASE II SETTLEMENT FUNDS

SECTION 1.11. Board of Directors of the Certification Entity for Phase II Settlement Funds, established pursuant to S.L. 1999-333, is abolished.

1
2 **ELIMINATION OF CERTAIN STATE BOARDS, COMMITTEES, AND**
3 **COMMISSIONS THAT HAVE MET STATUTORY REQUIREMENTS**

4 **SECTION 1.12.** The following Session Laws are repealed:

- 5 (1) Section 26 of S.L. 2010-169, which established the Public Funding of
6 Council of State Elections Commission.
7 (2) Section 11 of S.L. 2005-442, as amended by S.L. 2006-73, S.L. 2008-81,
8 S.L. 2009-306, and S.L. 2011-266, which established the Legislative
9 Commission on Global Climate Change.
10 (3) S.L. 2011-301, which established the Arts Education Commission.

11
12 **NORTH CAROLINA SUSTAINABLE LOCAL FOOD ADVISORY COUNCIL**

13 **SECTION 1.13.(a)** Section 4 of S.L. 2009-530, as rewritten by S.L. 2012-75, reads
14 as rewritten:

15 "SECTION 4. This act is effective when it becomes law and shall expire on July 31,
16 2015-July 1, 2013."

17 **SECTION 1.13.(b)** The Department of Agriculture and North Carolina's land grant
18 universities shall continue to collaborate on promoting local food production and consumption
19 in North Carolina.

20
21 **PART II. REORGANIZATION OF VARIOUS BOARDS AND COMMISSIONS**

22
23 **COASTAL RESOURCES COMMISSION**

24 **SECTION 2.1.(a)** G.S. 113A-104 reads as rewritten:

25 **"§ 113A-104. Coastal Resources Commission.**

26 (a) Established. – The General Assembly hereby establishes within the Department of
27 Environment and Natural Resources a commission to be designated the Coastal Resources
28 Commission.

29 (b) ~~Composition.—The Coastal Resources Commission shall consist of 15 members~~
30 ~~appointed by the Governor, as follows:~~

- 31 (1) ~~One who shall at the time of appointment be actively connected with or have~~
32 ~~experience in commercial fishing.~~
33 (2) ~~One who shall at the time of appointment be actively connected with or have~~
34 ~~experience in wildlife or sports fishing.~~
35 (3) ~~One who shall at the time of appointment be actively connected with or have~~
36 ~~experience in marine ecology.~~
37 (4) ~~One who shall at the time of appointment be actively connected with or have~~
38 ~~experience in coastal agriculture.~~
39 (5) ~~One who shall at the time of appointment be actively connected with or have~~
40 ~~experience in coastal forestry.~~
41 (6) ~~One who shall at the time of appointment be actively connected with or have~~
42 ~~experience in coastal land development.~~
43 (7) ~~One who shall at the time of appointment be actively connected with or have~~
44 ~~experience in marine-related business (other than fishing and wildlife).~~
45 (8) ~~One who shall at the time of appointment be actively connected with or have~~
46 ~~experience in engineering in the coastal area.~~
47 (9) ~~One who shall at the time of appointment be actively associated with a State~~
48 ~~or national conservation organization.~~
49 (10) ~~One who shall at the time of appointment be actively connected with or have~~
50 ~~experience in financing of coastal land development.~~

1 ~~(11) Two who shall at the time of appointment be actively connected with or~~
2 ~~have experience in local government within the coastal area.~~

3 ~~(12) Three at-large members.~~

4 **(b1) Composition.** – The Coastal Resources Commission shall consist of 13 members as
5 follows:

6 (1) One appointed by the Governor who shall, at the time of appointment, be a
7 coastal property owner or experienced in land development.

8 (2) One appointed by the Governor who shall, at the time of appointment, be a
9 coastal property owner or experienced in land development.

10 (3) One appointed by the Governor who shall, at the time of appointment, be
11 actively connected with or have experience in engineering in the coastal area
12 or a marine related science.

13 (4) One appointed by the Governor who shall, at the time of appointment, be
14 actively connected with or have experience in engineering in the coastal area
15 or a marine related science.

16 (5) One appointed by the Governor who shall, at the time of appointment, be
17 actively connected with or have experience in coastal-related business.

18 (6) One appointed by the Governor who shall, at the time of appointment, be
19 actively connected with or have experience in local government within the
20 coastal area.

21 (7) One appointed by the Governor who shall, at the time of appointment, be
22 actively connected with or have experience in coastal agriculture.

23 (8) One appointed by the Governor who shall, at the time of appointment, be
24 actively connected with or have experience in commercial fishing.

25 (9) One appointed by the Governor who shall, at the time of appointment, be
26 actively connected with or have experience in coastal forestry.

27 (10) One appointed by the General Assembly upon recommendation of the
28 Speaker of the House of Representatives in accordance with G.S. 120-121
29 who shall, at the time of appointment, be actively connected with or have
30 experience in sports fishing.

31 (11) One appointed by the General Assembly upon recommendation of the
32 Speaker of the House of Representatives in accordance with G.S. 120-121
33 who shall serve at large.

34 (12) One appointed by the General Assembly upon recommendation of the
35 President Pro Tempore of the Senate in accordance with G.S. 120-121 who
36 shall, at the time of appointment, be actively connected with or have
37 experience in wildlife.

38 (13) One appointed by the General Assembly upon recommendation of the
39 President Pro Tempore of the Senate in accordance with G.S. 120-121 who
40 shall serve at large.

41 **(c) Appointment of Members.** – The term "appointing authority" appearing anywhere in
42 this section means the Governor in the case of members appointed by the Governor and means
43 the General Assembly in the case of members appointed by the General Assembly.
44 Appointments to the Commission shall be made to provide knowledge and experience in a
45 diverse range of coastal interests. The members of the Commission shall serve and act on the
46 Commission solely for the best interests of the public and public trust, and shall bring their
47 particular knowledge and experience to the Commission for that end alone. Counties and cities
48 in the coastal area may designate and transmit to the appointing authorities no later than May 1
49 of each even-numbered year qualified persons in the categories set out in subsection (b1) of this
50 section corresponding to the Commission positions to be filled that year.

1 The Governor shall appoint in his sole discretion those members of the Commission whose
2 qualifications are described in subdivisions (6) and (10), and one of the three members
3 described in subdivision (12) of subsection (b) of this section.

4 The remaining members of the Commission shall be appointed by the Governor after
5 completion of the nominating procedures prescribed by subsection (d) of this section.

6 (c1) The members of the Commission whose qualifications are described in subdivisions
7 (1) through (5), (9), and (11), (3), (6), (7), (8), (9), (11), and (12) shall be persons who do not
8 derive any significant portion of their income from land development, construction, real estate
9 sales, or lobbying and do not otherwise serve as agents for development-related business
10 activities. The Governor shall require adequate disclosure of potential conflicts of interest by
11 these members. The Governor, by executive order, shall promulgate criteria regarding conflicts
12 of interest and disclosure thereof for determining the eligibility of persons under this
13 section-subsection.

14 (c2) All members of the Commission are covered persons for the purposes of Chapter
15 138A of the General Statutes, the State Government Ethics Act. As covered persons, members
16 of the Commission shall comply with the applicable requirements of the State Government
17 Ethics Act, including mandatory training, the public disclosure of economic interests, and
18 ethical standards for covered persons. Members of the Commission shall comply with the
19 provisions of the State Government Ethics Act to avoid conflicts of interest.

20 (d) ~~Nominations for Membership.— On or before May 1 in every even numbered year~~
21 ~~the Governor shall designate and transmit to the board of commissioners in each county in the~~
22 ~~coastal area four nominating categories applicable to that county for that year. Said nominating~~
23 ~~categories shall be selected by the Governor from among the categories represented,~~
24 ~~respectively by subdivisions (1), (2), (3), (4), (5), (7), (8), (9), (11) — two persons, and (12) —~~
25 ~~two persons, of subsection (b) of this section (or so many of the above listed paragraphs as may~~
26 ~~correspond to vacancies by expiration of term that are subject to being filled in that year). On or~~
27 ~~before June 1 in every even numbered year the board of commissioners of each county in the~~
28 ~~coastal area shall nominate (and transmit to the Governor the names of) one qualified person in~~
29 ~~each of the four nominating categories that was designated by the Governor for that county for~~
30 ~~that year. In designating nominating categories from biennium to biennium, the Governor shall~~
31 ~~equitably rotate said categories among the several counties of the coastal area as in his~~
32 ~~judgment he deems best; and he shall assign, as near as may be, an even number of nominees to~~
33 ~~each nominating category and shall assign in his best judgment any excess above such even~~
34 ~~number of nominees. On or before June 1 in every even numbered year the governing body of~~
35 ~~each incorporated city within the coastal area shall nominate and transmit to the Governor the~~
36 ~~name of one person as a nominee to the Commission. In making nominations, the boards of~~
37 ~~county commissioners and city governing bodies shall give due consideration to the nomination~~
38 ~~of women and minorities. The Governor shall appoint 12 persons from among said city and~~
39 ~~county nominees to the Commission. The several boards of county commissioners and city~~
40 ~~governing bodies shall transmit the names, addresses, and a brief summary of the qualifications~~
41 ~~of their nominees to the Governor on or before June 1 in each even numbered year, beginning~~
42 ~~in 1974; provided, that the Governor, by registered or certified mail, shall notify the chairman~~
43 ~~or the mayors of the said local governing boards by May 20 in each such even numbered year~~
44 ~~of the duties of local governing boards under this sentence. If any board of commissioners or~~
45 ~~city governing body fails to transmit its list of nominations to the Governor by June 1, the~~
46 ~~Governor may add to the nominations a list of qualified nominees in lieu of those that were not~~
47 ~~transmitted by the board of commissioners or city governing body; Provided however, the~~
48 ~~Governor may not add to the list a nominee in lieu of one not transmitted by an incorporated~~
49 ~~city within the coastal area that neither has a population of 2,000 or more nor is contiguous~~
50 ~~with the Atlantic Ocean. Within the meaning of this section, the "governing body" is the mayor~~
51 ~~and council of a city as defined in G.S. 160A-66. The population of cities shall be determined~~

1 according to the most recent annual estimates of population as certified to the Secretary of
2 Revenue by the Secretary of Administration.

3 (e) ~~Residential-Geographic Qualifications. – All nominees of the several boards of~~
4 ~~county commissioners and city governing bodies must reside within the coastal area, but need~~
5 ~~not reside in the county from which they were nominated. No more than one of those members~~
6 ~~appointed by the Governor from among said nominees may reside in a particular county. No~~
7 ~~more than two members of the entire Commission, at any time, may reside in a particular~~
8 ~~county. No more than two members of the entire Commission, at any time, may reside outside~~
9 ~~the coastal area.~~ All members of the Commission must be residents of North Carolina and reside
10 or own real property in the coastal area.

11 (f) Office May Be Held Concurrently with Others. – Membership on the Coastal
12 Resources Commission is hereby declared to be an office that may be held concurrently with
13 other elective or appointive offices in addition to the maximum number of offices permitted to
14 be held by one person under G.S. 128-1.1.

15 (g) Terms. – The members shall serve staggered terms of office of four years. At the
16 expiration of each member's term, the Governor appointing authority shall reappoint or replace
17 the member with a new member of like qualification ~~(as~~ specified in subsection (b)(b1)
18 ~~this section), in the manner provided by subsections (c) and (d) of this section. The initial term~~
19 ~~shall be determined by the Governor in accordance with customary practice but eight of the~~
20 ~~initial members shall be appointed for two years and seven for four years.~~ section.

21 (h) Vacancies. – In the event of a vacancy arising otherwise than by expiration of term,
22 the Governor appointing authority shall appoint a successor of like qualification ~~(as~~ specified
23 ~~in subsection (b)(b1) of this section)~~ section who shall then serve the remainder of his
24 predecessor's term. ~~When any such vacancy arises, the Governor shall immediately notify the~~
25 ~~board of commissioners of each county in the coastal area and the governing body of each~~
26 ~~incorporated city within the coastal area. Within 30 days after receipt of such notification each~~
27 ~~such county board and city governing body shall nominate and transmit to the Governor the~~
28 ~~name and address of one person who is qualified in the category represented by the position to~~
29 ~~be filled, together with a brief summary of the qualifications of the nominee. The Governor~~
30 ~~shall make the appointment from among said city and county nominees. If any county board or~~
31 ~~city governing body fails to make a timely transmittal of its nominee, the Governor may add to~~
32 ~~the nominations a qualified person in lieu of said nominee; Provided however, the Governor~~
33 ~~may not add to the list a nominee in lieu of one not transmitted by an incorporated city within~~
34 ~~the coastal area that neither has a population of 2,000 or more nor is contiguous with the~~
35 ~~Atlantic Ocean.~~

36 (i) Officers. – The chairman shall be designated by the Governor from among the
37 members of the Commission to serve as chairman at the pleasure of the Governor. The
38 vice-chairman shall be elected by and from the members of the Commission and shall serve for
39 a term of two years or until the expiration of ~~his~~ the vice-chairman's regularly appointed term.

40 (j) Compensation. – The members of the Commission shall receive per diem and
41 necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

42 (k) ~~In making appointments to and filling vacancies upon the Commission, the~~
43 ~~Governor shall give due consideration to securing appropriate representation of women and~~
44 ~~minorities.~~

45 (l) Attendance. – Regular attendance at Commission meetings is a duty of each
46 member. The Commission shall develop procedures for declaring any seat on the Commission
47 to be vacant upon failure by a member to perform this duty.

48 (m) Quorum. – A majority of the Commission shall constitute a quorum."

49 **SECTION 2.1.(b)** Transition of Membership of the Coastal Resources
50 Commission. –

1 (a) Except as otherwise provided in this section, the terms of all members of the Coastal
2 Resources Commission serving on January 1, 2013, shall expire when this act becomes law. A
3 new Commission of 13 members shall be appointed in the manner provided by
4 G.S. 113A-104(b1), as enacted by Section 2.1(a) of this act, and this section. Members
5 appointed in the manner provided by G.S. 113A-104(b1), as enacted by Section 2.1(a) of this
6 act, shall be appointed no later than July 1, 2013.

7 (1) The member serving pursuant to G.S. 113A-104(b)(1) on January 1, 2013,
8 shall continue to serve pursuant to G.S. 113A-104(b1)(8), as enacted by
9 Section 2.1(a) of this act, until June 30, 2014.

10 (2) The member serving pursuant to G.S. 113A-104(b)(2) on January 1, 2013,
11 shall continue to serve pursuant to G.S. 113A-104(b1)(10), as enacted by
12 Section 2.1(a) of this act, until June 30, 2014.

13 (3) The member serving pursuant to G.S. 113A-104(b)(11) on January 1, 2013,
14 whose term would otherwise expire on June 30, 2014, shall continue to serve
15 pursuant to G.S. 113A-104(b1)(6), as enacted by Section 2.1(a) of this act,
16 until June 30, 2014.

17 (4) The member serving pursuant to G.S. 113A-104(b)(12) on January 1, 2013,
18 whose term would otherwise expire on June 30, 2014, shall continue to serve
19 pursuant to G.S. 113A-104(b1)(9), as enacted by Section 2.1(a) of this act,
20 until June 30, 2014.

21 (b) Members of the Commission whose qualifications are described by subdivisions (1),
22 (3), (5), (7), (11), and (13) of G.S. 113A-104(b1), as enacted by Section 2.1(a) of this act, shall
23 be appointed for an initial term of two years, and subsequent appointments shall be for
24 four-year terms thereafter. Members of the Commission whose qualifications are described by
25 subdivisions (2), (4), (6), (8), (9), (10), and (12) of G.S. 113A-104(b1), as enacted by Section
26 2.1(a) of this act, shall be appointed for an initial term of one year and subsequent appointments
27 shall be for four-year terms thereafter. Initial terms shall expire on June 30 of the year of
28 expiration.

30 COASTAL RESOURCES ADVISORY COUNCIL

31 SECTION 2.2. G.S. 113A-105 reads as rewritten:

32 "§ 113A-105. Coastal Resources Advisory Council.

33 (a) Creation. – There is hereby created and established a council to be known as the
34 Coastal Resources Advisory Council.

35 (b) Membership and Terms. – The Coastal Resources Advisory Council shall consist of
36 not more than ~~45-20~~ members appointed or designated as follows:

37 ~~(1) Two individuals designated by the Secretary from among the employees of~~
38 ~~the Department;~~

39 ~~(1a) The Secretary of Commerce or person designated by the Secretary of~~
40 ~~Commerce;~~

41 ~~(2) The Secretary of Administration or person designated by the Secretary of~~
42 ~~Administration;~~

43 ~~(3) The Secretary of Transportation or person designated by the Secretary of~~
44 ~~Transportation; and one additional member selected by the Secretary of~~
45 ~~Transportation from the Department of Transportation;~~

46 ~~(4) The State Health Director or the person designated by the State Health~~
47 ~~Director;~~

48 ~~(5) The Commissioner of Agriculture or person designated by the~~
49 ~~Commissioner of Agriculture;~~

50 ~~(6) The Secretary of Cultural Resources or person designated by the Secretary~~
51 ~~of Cultural Resources;~~

- 1 (7) ~~One member from each of the four multi-county planning districts of the~~
 2 ~~coastal area to be appointed by the lead regional agency of each district;~~
 3 (8) ~~One representative from each of the counties in the coastal area to be~~
 4 ~~designated by the respective boards of county commissioners;~~
 5 (9) ~~No more than eight additional members representative of cities in the coastal~~
 6 ~~area and to be designated by the Commission;~~
 7 (10) ~~Three members selected by the Commission who are marine scientists or~~
 8 ~~technologists;~~
 9 (11) ~~One member who is a local health director selected by the Commission upon~~
 10 ~~the recommendation of the Secretary.~~

11 by the Coastal Resources Commission. All members of the Council must be residents of North
 12 Carolina and reside or own real property in the coastal area. Counties and cities in the coastal
 13 area may nominate candidates for consideration by the Commission. The terms of all Council
 14 members serving on the Council on January 1, 2013, shall expire on June 30, 2013. A new
 15 Council shall be appointed in the manner provided by this subsection with terms beginning on
 16 July 1, 2013, and expiring on June 30, 2015. Members may be reappointed at the discretion of
 17 the Commission, provided that one-half of the membership at the beginning of any two-year
 18 term are residents of counties in the coastal area.

19 (c) Functions and Duties. – The Advisory Council shall assist the Secretary and the
 20 Secretary of Administration in an advisory capacity:

- 21 (1) On matters which may be submitted to it by either of them or by the
 22 Commission, including technical questions relating to the development of
 23 rules, and
 24 (2) On such other matters arising under this Article as the Council considers
 25 appropriate.

26 (d) Multiple Offices. – Membership on the Coastal Resources Advisory Council is
 27 hereby declared to be an office that may be held concurrently with other elective or appointive
 28 offices (except the office of Commission member) in addition to the maximum number of
 29 offices permitted to be held by one person under G.S. 128-1.1.

30 (e) Chairman and Vice-Chairman. – A chairman and vice-chairman shall be elected
 31 annually by the Council.

32 (f) Compensation. – The members of the Advisory Council who are not State
 33 employees shall receive per diem and necessary travel and subsistence expenses in accordance
 34 with the provisions of G.S. 138-5."
 35

36 ENVIRONMENTAL MANAGEMENT COMMISSION

37 SECTION 2.3.(a) G.S. 143B-283 reads as rewritten:

38 "§ 143B-283. Environmental Management Commission – members; selection; removal;
 39 compensation; quorum; services.

40 (a) ~~The Environmental Management Commission shall consist of 13 members~~
 41 ~~appointed by the Governor. The Governor shall select the members so that the membership of~~
 42 ~~the Commission shall consist of:~~

- 43 (1) ~~One who shall be a licensed physician with specialized training and~~
 44 ~~experience in the health effects of environmental pollution;~~
 45 (2) ~~One who shall, at the time of appointment, be actively connected with the~~
 46 ~~Commission for Public Health or local board of health or have experience in~~
 47 ~~health sciences;~~
 48 (3) ~~One who shall, at the time of appointment, be actively connected with or~~
 49 ~~have had experience in agriculture;~~

- 1 (4) ~~One who shall, at the time of appointment, be a registered engineer with~~
2 ~~specialized training and experience in water supply or water or air pollution~~
3 ~~control;~~
4 (5) ~~One who shall, at the time of appointment, be actively connected with or~~
5 ~~have had experience in the fish and wildlife conservation activities of the~~
6 ~~State;~~
7 (6) ~~One who shall, at the time of appointment, have special training and~~
8 ~~scientific expertise in hydrogeology or groundwater hydrology;~~
9 (7) ~~Three members interested in water and air pollution control, appointed from~~
10 ~~the public at large;~~
11 (8) ~~One who shall, at the time of appointment, be actively employed by, or~~
12 ~~recently retired from, an industrial manufacturing facility and~~
13 ~~knowledgeable in the field of industrial air and water pollution control;~~
14 (9) ~~One who shall, at the time of appointment, be actively connected with or~~
15 ~~have had experience in pollution control problems of municipal or county~~
16 ~~government;~~
17 (10) ~~One who shall, at the time of appointment, have special training and~~
18 ~~scientific expertise in air pollution control and the effects of air pollution;~~
19 ~~and~~
20 (11) ~~One who shall, at the time of appointment, have special training and~~
21 ~~scientific expertise in freshwater, estuarine, marine biological, or ecological~~
22 ~~sciences.~~

23 (a1) The Environmental Management Commission shall consist of 15 members as
24 follows:

- 25 (1) One appointed by the Governor who shall be a licensed physician.
26 (2) One appointed by the Governor who shall, at the time of appointment, have
27 special training or scientific expertise in hydrology, water pollution control,
28 or the effects of water pollution.
29 (3) One appointed by the Governor who shall, at the time of appointment, have
30 special training or scientific expertise in hydrology, water pollution control,
31 or the effects of water pollution.
32 (4) One appointed by the Governor who shall, at the time of appointment, have
33 special training or scientific expertise in air pollution control or the effects of
34 air pollution.
35 (5) One appointed by the Governor who shall, at the time of appointment, be
36 actively connected with or have had experience in agriculture.
37 (6) One appointed by the Governor who shall, at the time of appointment, have
38 special training and scientific expertise in freshwater, estuarine, marine
39 biological, or ecological sciences or be actively connected with or have had
40 experience in the fish and wildlife conservation activities of the State.
41 (7) One appointed by the Governor who shall, at the time of appointment, be
42 actively employed by, or recently retired from, an industrial manufacturing
43 facility and shall be knowledgeable in the field of industrial pollution
44 control.
45 (8) One appointed by the Governor who shall, at the time of appointment, be a
46 registered engineer with specialized training and experience in water supply
47 or water or air pollution control.
48 (9) One appointed by the Governor who shall serve at large.
49 (10) One appointed by the General Assembly upon recommendation of the
50 Speaker of the House of Representatives in accordance with G.S. 120-121
51 who shall serve at large.

1 (11) One appointed by the General Assembly upon recommendation of the
2 Speaker of the House of Representatives in accordance with G.S. 120-121
3 who shall serve at large.

4 (12) One appointed by the General Assembly upon recommendation of the
5 Speaker of the House of Representatives in accordance with G.S. 120-121
6 who shall serve at large.

7 (13) One appointed by the General Assembly upon recommendation of the
8 President Pro Tempore of the Senate in accordance with G.S. 120-121 who
9 shall serve at large.

10 (14) One appointed by the General Assembly upon recommendation of the
11 President Pro Tempore of the Senate in accordance with G.S. 120-121 who
12 shall serve at large.

13 (15) One appointed by the General Assembly upon recommendation of the
14 President Pro Tempore of the Senate in accordance with G.S. 120-121 who
15 shall serve at large.

16 (b) ~~Members appointed by the Governor shall serve terms of office of six years. Any~~
17 ~~appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or~~
18 ~~disability of a member shall be for the balance of the unexpired term. The Governor may~~
19 ~~reappoint a member of the Commission to an additional term if, at the time of the~~
20 ~~reappointment, the member qualifies for membership on the Commission under subdivisions~~
21 ~~(1) through (9) of subsection (a)(a1) of this section. Appointments by the General Assembly~~
22 ~~shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be~~
23 ~~filled in accordance with G.S. 120-122.~~

24 (b1) The Governor shall have the power to remove any member of the Commission from
25 office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of
26 G.S. 143B-13 of the Executive Organization Act of 1973.

27 (b2) The members of the Commission shall receive per diem and necessary travel and
28 subsistence expenses in accordance with the provisions of G.S. 138-5.

29 (b3) A majority of the Commission shall constitute a quorum for the transaction of
30 business.

31 (b4) All clerical and other services required by the Commission shall be supplied by the
32 Secretary of Environment and Natural Resources.

33 (c) ~~Nine of the~~ The members appointed by the Governor under this section shall be
34 persons who do not derive any significant portion of their income from persons subject to
35 permits or enforcement orders under this Chapter. The Governor shall require adequate
36 disclosure of potential conflicts of interest by these members. The Governor, by executive
37 order, shall promulgate criteria regarding conflicts of interest and disclosure thereof for
38 determining the eligibility of persons under this ~~section, subsection,~~ giving due regard to the
39 requirements of federal legislation, and for this purpose may promulgate rules, regulations or
40 guidelines in conformance with those established by any federal agency interpreting and
41 applying provisions of federal law.

42 (c1) All members of the Commission are covered persons for the purposes of Chapter
43 138A of the General Statutes, the State Government Ethics Act. As covered persons, members
44 of the Commission shall comply with the applicable requirements of the State Government
45 Ethics Act, including mandatory training, the public disclosure of economic interests, and
46 ethical standards for covered persons. Members of the Commission shall comply with the
47 provisions of the State Government Ethics Act to avoid conflicts of interest.

48 (d) ~~In addition to the members designated by subsection (a) of this section, the General~~
49 ~~Assembly shall appoint six members, three upon the recommendation of the Speaker of the~~
50 ~~House of Representatives, and three upon the recommendation of the President Pro Tempore of~~
51 ~~the Senate. Appointments by the General Assembly shall be made in accordance with~~

1 G.S. 120-121, and vacancies in those appointments shall be filled in accordance with
2 G.S. 120-122. Members appointed by the General Assembly shall serve terms of two years.

3 (e) Members of the Commission shall serve terms of four years."

4 **SECTION 2.3.(b)** Transition of Membership of the Environmental Management
5 Commission. –

6 (a) Except as otherwise provided in this section, the terms of all members of the
7 Environmental Management Commission serving on January 1, 2013, shall expire April 15,
8 2013. A new Commission of 15 members shall be appointed in the manner provided by
9 G.S. 143B-283(a1), as enacted by Section 2.3(a) of this act, and this section. Members
10 appointed in the manner provided by G.S. 143B-283(a1), as enacted by Section 2.3(a) of this
11 act, shall be appointed no later than July 1, 2013.

12 (1) The member serving pursuant to G.S. 143B-283(a)(3) on January 1, 2013,
13 shall continue to serve pursuant to G.S. 143B-283(a1)(5), as enacted by
14 Section 2.3(a) of this act, until June 30, 2015.

15 (2) The member serving pursuant to G.S. 143B-283(a)(4) on January 1, 2013,
16 shall continue to serve pursuant to G.S. 143B-283(a1)(8), as enacted by
17 Section 2.3(a) of this act, until June 30, 2015.

18 (3) The member serving pursuant to G.S. 143B-283(a)(7) on January 1, 2013,
19 whose term would otherwise expire on June 30, 2015, shall continue to serve
20 pursuant to G.S. 143B-283(a1)(9), as enacted by Section 2.3(a) of this act,
21 until June 30, 2015.

22 (4) The member serving pursuant to G.S. 143B-283(a)(8) on January 1, 2013,
23 shall continue to serve pursuant to G.S. 143B-283(a1)(7), as enacted by
24 Section 2.3(a) of this act, until June 30, 2015.

25 (b) Members of the Commission whose qualifications are described by subdivisions (3),
26 (5), (7), (8), (9), (11), (13), and (15) of G.S. 143B-283(a1), as enacted by Section 2.3(a) of this
27 act, shall be appointed for an initial term of two years and subsequent appointments shall be for
28 four-year terms thereafter. Members of the Commission whose qualifications are described by
29 subdivisions (1), (2), (4), (6), (10), (12), and (14) of G.S. 143B-283(a1), as enacted by Section
30 2.3(a) of this act, shall be appointed for an initial term of four years, and subsequent
31 appointments shall be for four-year terms thereafter. Initial terms shall expire on June 30 of the
32 year of expiration.

33 (c) Members of the Commission appointed to any other State board or commission as a
34 representative of the Commission shall no longer serve as a member of those boards or
35 commissions after this section becomes law, and a new Commission representative shall be
36 appointed as provided by law.

37 38 **INDUSTRIAL COMMISSION**

39 **SECTION 2.4.(a)** Effective April 15, 2013, G.S. 97-77 reads as rewritten:

40 "**§ 97-77. North Carolina Industrial Commission created; members appointed by**
41 **Governor; terms of office; ~~chairman~~chair.**

42 (a) There is hereby created a commission to be known as the North Carolina Industrial
43 Commission, consisting of six commissioners who shall devote their entire time to the duties of
44 the Commission. The Governor shall appoint the members of the Commission for terms of
45 ~~six~~four years. The terms shall be staggered. Only persons licensed to practice law in North
46 Carolina are eligible for membership on the Commission. At least two commissioners shall be
47 Board Certified in workers' compensation law. Three commissioners shall be persons who, on
48 account of their previous vocations, employment or affiliations, can be classed as
49 representatives of employers. Three commissioners shall be persons who, on account of their
50 previous vocations, employment or affiliations, can be classed as representatives of employees.
51 No person may serve more than two terms on the Commission, including any term served prior

1 to the effective date of this section. In calculating the number of terms served, a partial term
2 that is less than three years in length shall not be included.

3 (a1) Appointments of commissioners are subject to confirmation by the General
4 Assembly by joint resolution. The names of commissioners to be appointed by the Governor
5 shall be submitted by the Governor to the General Assembly for confirmation by the General
6 Assembly on or before March 1 of the year of expiration of the term. If the Governor fails to
7 timely submit nominations, the General Assembly shall appoint to fill the succeeding term
8 upon the joint recommendation of the President Pro Tempore of the Senate and the Speaker of
9 the House of Representatives in accordance with G.S. 120-121 not inconsistent with this
10 section.

11 In case of death, incapacity, resignation, or any other vacancy in the office of any
12 commissioner prior to the expiration of the term of office, a nomination to fill the vacancy for
13 the remainder of the unexpired term shall be submitted by the Governor within four weeks after
14 the vacancy arises to the General Assembly for confirmation by the General Assembly. If the
15 Governor fails to timely nominate a person to fill the vacancy, the General Assembly shall
16 appoint a person to fill the remainder of the unexpired term upon the joint recommendation of
17 the President Pro Tempore of the Senate and the Speaker of the House of Representatives in
18 accordance with G.S. 120-121 not inconsistent with this section. If a vacancy arises or exists
19 pursuant to this subsection when the General Assembly is not in session, and the appointment is
20 deemed urgent by the Governor, the commissioner may be appointed and serve on an interim
21 basis pending confirmation by the General Assembly. For the purpose of this subsection, the
22 General Assembly is not in session only (i) prior to convening of the Regular Session, (ii)
23 during any adjournment of the Regular Session for more than 10 days, and (iii) after sine die
24 adjournment of the Regular Session.

25 No person while in office as a commissioner may be nominated or appointed on an interim
26 basis to fill the remainder of an unexpired term, or to a full term that commences prior to the
27 expiration of the term that the commissioner is serving.

28 (b) One member, to be designated by the Governor, shall act as ~~chairman~~chair. The
29 ~~chairman~~chair shall be the chief judicial officer and the chief executive officer of the Industrial
30 Commission; such authority shall be exercised pursuant to the provisions of Chapter 126 of the
31 General Statutes and the rules and policies of the State Personnel Commission.
32 Notwithstanding the provisions of this Chapter, the ~~chairman~~chair shall have such authority as
33 is necessary to direct and oversee the Commission. The ~~chairman~~chair may delegate any duties
34 and responsibilities as may be necessary to ensure the proper management of the Industrial
35 Commission. Notwithstanding the provisions of this Chapter, Chapter 143A, and Chapter 143B
36 of the General Statutes, the ~~chairman~~chair may hire or fire personnel and transfer personnel
37 within the Industrial Commission.

38 The Governor may designate one ~~vice-chairman~~vice-chair from the remaining
39 commissioners. The ~~vice-chairman~~vice-chair shall assume the powers of the ~~chairman~~chair
40 upon request of the ~~chairman~~chair or when the ~~chairman~~chair is absent for 24 hours or more.
41 The authority delegated to the ~~vice-chairman~~vice-chair shall be relinquished immediately upon
42 the return of the ~~chairman~~chair or at the request of the ~~chairman~~chair.

43 (c) The Commission shall adopt, by majority vote, bylaws to govern the conduct of its
44 business. A quorum of the Commission consists of a simple majority of the membership."

45 **SECTION 2.4.(b)** The terms of members serving on the Industrial Commission on
46 January 1, 2013, shall terminate as follows:

- 47 (1) The term of the member whose term is set to expire on April 30, 2013, will
48 expire on April 30, 2013.
- 49 (2) The term of the member whose term is set to expire on June 30, 2014, will
50 expire on June 30, 2014.

- 1 (3) The term of the member whose term is set to expire on April 30, 2015, will
2 expire on April 30, 2013.
- 3 (4) The term of the member whose term is set to expire on June 30, 2016, will
4 expire on June 30, 2014.
- 5 (5) The term of the member whose term is set to expire on April 30, 2017, will
6 expire on April 30, 2015.
- 7 (6) The term of the member whose term is set to expire on June 30, 2018, will
8 expire on June 30, 2016.";

9 **SECTION 2.4.(c)** Effective April 15, 2013, Section 22 of S.L. 2011-287 is
10 repealed.

11 UTILITIES COMMISSION

12 **SECTION 2.5.(a)** G.S. 62-10 reads as rewritten:

13 "**§ 62-10. Number; appointment; terms; qualifications; ~~chairman;~~ chair; vacancies;**
14 **compensation; other employment prohibited.**

15 (a) The North Carolina Utilities Commission shall consist of seven commissioners who
16 shall be appointed by the Governor subject to confirmation by the General Assembly by joint
17 resolution. The names of commissioners to be appointed by the Governor shall be submitted by
18 the Governor to the General Assembly for confirmation by the General Assembly on or before
19 May 1, of the year in which the terms for which the appointments are to be made are to expire.
20 Upon failure of the Governor to submit names as herein provided, the Lieutenant Governor and
21 Speaker of the House jointly shall submit the names of a like number of commissioners to the
22 General Assembly on or before May 15 of the same year for confirmation by the General
23 Assembly. Regardless of the way in which names of commissioners are submitted,
24 confirmation of commissioners must be accomplished prior to adjournment of the then current
25 session of the General Assembly. This subsection shall be subject to the provisions of
26 subsection (c) of this section. In appointing members to the Commission, the Governor shall
27 appoint persons with at least five years of progressively responsible experience and a
28 demonstrated competency in any one or more of the following areas:

- 29 (1) Utility law and regulation.
30 (2) Economics.
31 (3) Finance.
32 (4) Accounting.
33 (5) Business administration.
34 (6) Engineering.
35 (7) Renewable energy.

36 (a1) Members of the Commission are covered persons for the purposes of Chapter 138A
37 of the General Statutes, the State Government Ethics Act. As covered persons, members of the
38 Commission shall comply with the applicable requirements of the State Government Ethics
39 Act, including mandatory training, the public disclosure of economic interests, and ethical
40 standards for covered persons. Members of the Commission shall comply with the provisions
41 of the State Government Ethics Act to avoid conflicts of interest.

42 Members of the Commission shall not be an office holder of any political party and shall
43 not serve as a delegate to a political convention of any political party.

44 (b) ~~The terms of the commissioners now serving shall expire at the conclusion of the~~
45 ~~term for which they were appointed which shall remain as before with two regular eight year~~
46 ~~terms expiring on July 1 of each fourth year after July 1, 1965, and the fifth term expiring on~~
47 ~~July 1 of each eighth year after July 1, 1963. The terms of office of utilities commissioners~~
48 ~~thereafter shall be six years commencing on July 1 of the year in which the predecessor terms~~
49 ~~expired, and ending on July 1 June 30 of the sixth year thereafter.~~
50

1 ~~(e) In order to increase the number of commissioners to seven, the names of two~~
2 ~~additional commissioners shall be submitted to the General Assembly on or before May 27,~~
3 ~~1975, for confirmation by the General Assembly as provided in G.S. 62-10(a). The~~
4 ~~commissioners so appointed and confirmed shall serve new terms commencing on July 1, 1975,~~
5 ~~one of which shall be for a period of two years (with the immediate successor serving for a~~
6 ~~period of six years), and one of which shall be for a period of two years.~~

7 ~~Thereafter, the terms of office of the additional commissioners shall be for six years as~~
8 ~~provided in G.S. 62-10(b).~~

9 (d) A commissioner in office shall continue to serve until his successor is duly
10 confirmed and qualified but such holdover shall not affect the expiration date of such
11 succeeding term.

12 ~~(e) On July 1, 1965, and every~~Every four years thereafter, one of the commissioners
13 shall be designated by the Governor to serve as chairman of the Commission for the succeeding
14 four years and until his successor is ~~duly confirmed and qualifies~~designated. Upon ~~death~~death,
15 end of term, or resignation of the commissioner ~~appointed~~designated as chairman, the
16 Governor shall designate the chairman from the remaining ~~commissioners and appoint~~
17 ~~a successor as hereinafter provided to fill the vacancy on the Commission.~~commissioners.

18 (f) In case of death, incapacity, resignation or vacancy for any other reason in the office
19 of any commissioner prior to the expiration of his term of office, the name of his successor
20 shall be submitted by the Governor within four weeks after the vacancy arises to the General
21 Assembly for confirmation by the General Assembly. Upon failure of the Governor to submit
22 the name of the successor, the Lieutenant Governor and Speaker of the House jointly shall
23 submit the name of a successor to the General Assembly within six weeks after the vacancy
24 arises. Regardless of the way in which names of commissioners are submitted, confirmation of
25 commissioners must be accomplished prior to the adjournment of the then current session of
26 the General Assembly.

27 (g) If a vacancy in the office of any commissioner arises or exists pursuant to either
28 subsection (a) or ~~(e)~~(f) of this section when the General Assembly is not in session, and the
29 appointment is deemed urgent by the Governor, the commissioner may be appointed and serve
30 on an interim basis pending confirmation by the General Assembly.

31 "

32 **SECTION 2.5.(b)** G.S. 62-10(a), as amended by subsection (a) of this section,
33 reads as rewritten:

34 "(a) The North Carolina Utilities Commission shall consist of ~~seven~~five commissioners
35 who shall be appointed by the Governor subject to confirmation by the General Assembly by
36 joint resolution. The names of commissioners to be appointed by the Governor shall be
37 submitted by the Governor to the General Assembly for confirmation by the General Assembly
38 on or before May 1, of the year in which the terms for which the appointments are to be made
39 are to expire. Upon failure of the Governor to submit names as herein provided, the Lieutenant
40 Governor and Speaker of the House jointly shall submit the names of a like number of
41 commissioners to the General Assembly on or before May 15 of the same year for confirmation
42 by the General Assembly. Regardless of the way in which names of commissioners are
43 submitted, confirmation of commissioners must be accomplished prior to adjournment of the
44 then current session of the General Assembly. In appointing members to the Commission, the
45 Governor shall appoint persons with at least five years of progressively responsible experience
46 and a demonstrated competency in any one or more of the following areas:

- 47 (1) Utility law and regulation.
- 48 (2) Economics.
- 49 (3) Finance.
- 50 (4) Accounting.
- 51 (5) Business administration.

1 (6) Engineering.

2 (7) Renewable energy."

3 **SECTION 2.5.(c)** Reduce Terms and Number of Commissioners. – The terms held
4 by commissioners serving on the Commission as of January 1, 2013, for terms of office that
5 expire on June 30, 2017, shall instead expire June 30, 2015. The term of any appointee
6 confirmed by the General Assembly to fill the unexpired term of the position on the
7 Commission vacant as of January 1, 2013, shall expire on June 30, 2015, instead of June 30,
8 2017. To reduce the number of Commissioners as provided in subsection (b) of this section,
9 two of the positions that are vacant as of July 1, 2015, are eliminated as of July 1, 2015.

10 **SECTION 2.5.(d)** Appointments by the Governor. – By May 1, 2013, the
11 Governor shall submit two names of appointees subject to confirmation by the General
12 Assembly for positions on the Commission for terms that shall begin on July 1, 2013, and
13 expire on June 30, 2017. Appointees submitted by the Governor for these positions shall
14 conform to all of the requirements of G.S. 62-10, including the requirements enacted by section
15 2.5(a) of this Act.

16 **SECTION 2.5.(e)** Subsection (a) of this section becomes effective July 1, 2013.
17 Subsection (b) of this section becomes effective July 1, 2015. The remainder of this section is
18 effective when it becomes law.

19 **WILDLIFE RESOURCES COMMISSION**

20 **SECTION 2.6.(a)** Effective July 1, 2013, G.S. 143-241 reads as rewritten:

21 **"§ 143-241. Appointment and terms of office of Commission members; filling of**
22 **vacancies.**

23
24 The members of the North Carolina Wildlife Resources Commission shall be appointed as
25 follows:

26 The Governor shall appoint one member each from the first, fourth, and seventh wildlife
27 districts to serve ~~six-year terms;~~four-year terms.

28 The Governor shall appoint one member each from the second, fifth, and eighth wildlife
29 districts to serve ~~two-year terms;~~four-year terms.

30 The Governor shall appoint one member each from the third, sixth, and ninth wildlife
31 districts to serve ~~four-year terms;~~terms.

32 The Governor shall also appoint two at-large members to serve four-year terms.

33 The General Assembly shall appoint eight members of the Commission to serve two-year
34 terms, four upon the recommendation of the Speaker of the House, four upon the
35 recommendation of the President Pro Tempore of the Senate, in accordance with G.S. 120-121.
36 ~~Of the members appointed upon the recommendation of the Speaker of the House and upon the~~
37 ~~recommendation of the President Pro Tempore of the Senate, at least one of each shall be a~~
38 ~~member of the political party to which the largest minority of the members of the General~~
39 ~~Assembly belongs.~~

40 The terms of all appointed members serving on the Commission as of January 1, 2013, shall
41 terminate on June 30, 2013. The members initially appointed by the Governor from
42 even-numbered districts shall be appointed for two-year terms, and those from odd-numbered
43 districts shall be initially appointed to four-year terms. Thereafter as the terms of the office of
44 the members of the Commission appointed by the Governor from the several wildlife districts
45 expire, their successors shall be appointed for terms of ~~six-~~four years each. As the terms of
46 office of the members of the Commission appointed by the General Assembly expire, their
47 successors shall be appointed for terms of two years each. All members appointed by the
48 Governor serve at the pleasure of the Governor that appointed them and they may be removed
49 by that Governor at any time. A successor to the appointing Governor may remove a
50 Commission member only for cause as provided in G.S. 143B-13. Members appointed by the
51 General Assembly serve at the pleasure of that body and may be removed by law at any time.

1 In the event that a Commission member is removed, the member appointed to replace the
2 removed member shall serve only for the unexpired term of the removed member."

3 **SECTION 2.6.(b)** G.S. 143-243 reads as rewritten:

4 "**§ 143-243. Organization of the Commission; election of officers; Robert's Rules of**
5 **Order.**

6 The Commission shall hold at least two meetings annually, one in January and one in July,
7 and ~~seven~~ a majority of the members of the Commission shall constitute a quorum for the
8 transaction of business. Additional meetings may be held at such other times within the State as
9 may be deemed necessary for the efficient transaction of the business of the Commission. The
10 Commission may hold additional or special meetings at any time at the call of the chairman or
11 on call of any five members of the Commission. The Commission shall determine its own
12 organization and methods of procedure in accordance with the provisions of this Article, and
13 shall have an official seal, which shall be judicially noticed.

14 At the first scheduled meeting of the Commission after July 1, 1977, and on July 1 of each
15 odd-numbered year thereafter, the Commission shall select from among its membership a
16 chairman and a vice-chairman who shall serve for terms of two years or until their successors
17 are elected and qualified. The Secretary of Environment and Natural Resources or his designee
18 shall serve as secretary of the Commission.

19 The chairman shall guide and coordinate the official actions and official activities of the
20 Commission in fulfilling its program responsibility for (i) the appointment and separation of the
21 executive director of the Commission, (ii) organizing the personnel of the Commission, (iii)
22 setting the statewide policy of the Commission, (iv) budgeting and planning the use of the
23 Wildlife and Motorboat Funds, subject to the approval of the General Assembly, (v) holding
24 public hearings, and (vi) adopting rules as authorized by law. The chairman shall report to and
25 advise the Governor on the official actions and work of the Commission and on all wildlife
26 conservation and boating safety matters that affect the interest of the people of the State.

27 Meetings of the Commission shall be conducted pursuant to Robert's Rules of Order."

29 NORTH CAROLINA TURNPIKE AUTHORITY

30 **SECTION 2.7.** G.S. 136-89.182 reads as rewritten:

31 "**§ 136-89.182. North Carolina Turnpike Authority.**

32 (a) Creation. – There is created a body politic and corporate to be known as the "North
33 Carolina Turnpike Authority". The Authority is constituted as a public agency, and the exercise
34 by the Authority of the powers conferred by this Article in the construction, operation, and
35 maintenance of toll roads and bridges shall be deemed and held to be the performance of an
36 essential governmental function.

37 (b) Administrative Placement. – The Authority shall be located within the Department
38 of Transportation and shall be subject to and under the direct supervision of the Secretary of
39 Transportation.

40 (c) Authority Board. – The Board of Transportation is ex officio the Authority Board of
41 the North Carolina Turnpike Authority.~~The North Carolina Turnpike Authority shall be~~
42 ~~governed by a nine member Authority Board consisting of two members appointed by the~~
43 ~~General Assembly upon the recommendation of the President Pro Tempore of the Senate in~~
44 ~~accordance with G.S. 120-121, two members appointed by the General Assembly upon the~~
45 ~~recommendation of the Speaker of the House of Representatives in accordance with~~
46 ~~G.S. 120-121, four members appointed by the Governor, and the Secretary of Transportation.~~
47 ~~Each appointing authority shall appoint members who reside in diverse regions of the State.~~
48 ~~The Chair of the Authority shall be selected by the Authority Board.~~

49 (d) Board of Transportation Members. – Members of the North Carolina Board of
50 Transportation may serve as members of the Authority Board.

1 (e) ~~Staggered Terms.— One of the initial appointments to the Authority Board by the~~
2 ~~General Assembly upon the recommendation of the President Pro Tempore of the Senate, one~~
3 ~~of the initial appointments to the Authority Board by the General Assembly upon the~~
4 ~~recommendation of the Speaker of the House of Representatives, and three of the initial~~
5 ~~appointments of the Governor shall be appointed to terms ending January 14, 2007. One of the~~
6 ~~initial appointments to the Authority Board by the General Assembly upon the recommendation~~
7 ~~of the President Pro Tempore of the Senate, one of the initial appointments to the Authority~~
8 ~~Board by the General Assembly upon the recommendation of the Speaker of the House of~~
9 ~~Representatives, and one of the initial appointments of the Governor shall be appointed to~~
10 ~~terms ending January 14, 2005. The Secretary of Transportation shall serve as an ex officio~~
11 ~~voting member of the Board. Thereafter, at the expiration of each stipulated term of office, all~~
12 ~~appointments shall be to a term of four years from the date of the expiration of the term.~~

13 (f) ~~Vacancies.— All members of the Authority Board shall remain in office until their~~
14 ~~successors are appointed and qualified. The original appointing authority may appoint a~~
15 ~~member to serve out the unexpired term of any member.~~

16 (g) ~~Removal of Board Members.— Each member of the Authority Board,~~
17 ~~notwithstanding subsection (e) of this section, shall serve at the pleasure of the appointing~~
18 ~~authority. The Chair of the Authority serves at the pleasure of the Authority Board.~~

19 (h) ~~Conflicts of Interest, Ethics.— Members of the Authority Board shall be subject to~~
20 ~~the provisions of G.S. 136-13, 136-13.1, and 136-14.~~

21 (i) ~~Compensation. – The appointed members of the Authority Board shall receive no~~
22 ~~salary for their services but shall be entitled to receive per diem and travel allowances in~~
23 ~~accordance with the provisions of G.S. 138-5 and G.S. 138-6 as appropriate.~~

24 (j) ~~Bylaws. – The Authority Board shall adopt, change, or amend bylaws with respect~~
25 ~~to the calling of meetings, quorums, voting procedures, the keeping of records, and other~~
26 ~~organizational, staffing, and administrative matters as the Authority Board may determine. Any~~
27 ~~bylaws, or subsequent changes or amendments to the bylaws, shall be included in the Annual~~
28 ~~Report as required by G.S. 136-89.193.~~

29 (k) ~~Executive Director and Administrative Employees. – The Authority Board shall~~
30 ~~appoint an Executive Director, whose salary shall be fixed by the Authority, to serve at its~~
31 ~~pleasure. The Secretary of Transportation, or the Secretary's designee, The Executive Director~~
32 ~~shall be the Authority's chief administrative officer and shall be responsible for the daily~~
33 ~~administration of the toll roads and bridges constructed, maintained, or operated pursuant to~~
34 ~~this Article. The Secretary or the Secretary's designee The Executive Director or his designee~~
35 ~~shall appoint, employ, dismiss, and, within the limits approved by the Authority Board, fix the~~
36 ~~compensation of administrative employees as the Executive Director deems necessary to carry~~
37 ~~out this Article.~~

38 (l) ~~Office. – The offices of the Authority may be housed in one or more facilities of the~~
39 ~~Department of Transportation."~~

40 STATE BOARD OF ELECTIONS

41 SECTION 2.9.(a) G.S. 163-19 reads as rewritten:

42 "§ 163-19. State Board of Elections; appointment; term of office; vacancies; oath of office.

43 All of the terms of office of the present members of the State Board of Elections shall
44 expire on May 1, 1969, or when their successors in office are appointed and qualified.

45 (a) The State Board of Elections shall consist of five registered voters whose terms of
46 office shall begin on May 1, 1969, and shall continue for four years, and until their successors
47 are appointed and qualified. The Governor shall appoint the members of this Board and
48 likewise shall appoint their successors every four years at the expiration of each four-year term.
49 No person may serve more than three four-year terms, and the term of any person currently
50

1 serving on this Board who has served more than three four-year terms shall terminate on the
2 effective date of this sentence.

3 (b) Not more than three members of the Board shall be members of the same political
4 party. The Governor shall appoint the members from a list of nominees submitted to him by the
5 State party chairman of each of the two political parties having the highest number of registered
6 affiliates as reflected by the latest registration statistics published by the State Board of
7 Elections. Each party chairman shall submit a list of five nominees who are affiliated with that
8 political party.

9 (c) Any vacancy occurring in the Board shall be filled by the Governor, and the person
10 so appointed shall fill the unexpired term. The Governor shall fill the vacancy from a list of
11 three nominees submitted to him by the State party chairman of the political party that
12 nominated the vacating member as provided by the preceding paragraph. The three nominees
13 must be affiliated with that political party.

14 (c1) Notwithstanding subsection (c) of this section, if (i) a vacancy occurs in the State
15 Board of Elections during the period beginning when a Governor takes office after election and
16 ending April 30 of that year, (ii) the Governor is a member of a different political party than the
17 preceding Governor, and (iii) the vacating member is not a member of the same political party
18 as the new Governor, then the first such vacancy occurring in the Board shall be filled by the
19 Governor, and the person so appointed shall fill the unexpired term. The Governor shall fill the
20 vacancy from among lists of three nominees submitted by the State party chair of each of the
21 political parties with registered voters, as reflected by the latest registration statistics published
22 by the State Board of Elections. Nominees of a party chair must be affiliated with that party.
23 Failure by a party chair to submit such a list within five days of request by the Governor
24 constitutes a waiver of the requirement that the party submit a list.

25 (d) At the first meeting held after new appointments are made, the members of the State
26 Board of Elections shall take the following oath:

27 "I, _____, do solemnly swear (or affirm) that I will support the
28 Constitution of the United States; that I will be faithful and bear true
29 allegiance to the State of North Carolina, and to the constitutional powers
30 and authorities which are or may be established for the government thereof;
31 that I will endeavor to support, maintain and defend the Constitution of said
32 State, and that I will well and truly execute the duties of the office of
33 member of the State Board of Elections according to the best of my
34 knowledge and ability, according to law, so help me, God."

35 After taking the prescribed oath, the Board shall organize by electing one of its members
36 chairman and another secretary.

37 (e) No person shall be eligible to serve as a member of the State Board of Elections
38 who holds any elective or appointive office under the government of the United States, or of
39 the State of North Carolina or any political subdivision thereof. No person who holds any office
40 in a political party, or organization, or who is a candidate for nomination or election to any
41 office, or who is a campaign manager or treasurer of any candidate in a primary or election
42 shall be eligible to serve as a member of the State Board of Elections."

43 **SECTION 2.9.(b)** This section is effective when this act becomes law.
44

45 STATE BOARD OF EDUCATION

46 **SECTION 2.11.** G.S. 115C-11(a) and (h) read as rewritten:

47 "§ 115C-11. Organization and internal procedures of Board.

48 (a) Presiding Officer. – The Governor shall appoint a chairman from among the
49 membership of the State Board of Education. The chairman shall serve in that role at the
50 pleasure of the Governor. The State Board of Education shall elect from its membership a
51 ~~chairman and~~ vice-chairman. A majority of the Board shall constitute a quorum for the

1 transaction of business. Per diem and expenses of the appointive members of the Board shall be
2 provided by the General Assembly. The chairman of the Board shall preside at all meetings of
3 the Board. In the absence of the chairman, the vice-chairman shall preside; in the absence of
4 both the chairman and the vice-chairman, the Board shall name one of its own members as
5 chairman pro tempore.

6 ...

7 (h) Rules and Regulations. – The Board shall adopt reasonable rules and regulations not
8 inconsistent herewith, to govern its proceedings which the Board may amend from time to time,
9 which rules and regulations shall become effective when filed as provided by law: Provided,
10 however, a motion to suspend the rules so adopted shall require a consent of two-thirds of the
11 members. The rules and regulations shall include, but not be limited to, clearly defined
12 procedures for electing the ~~officers~~ vice-chairman and chairman pro tempore of the State Board
13 referred to in G.S. 115C-11(a), fixing the term of ~~said officers, the vice-chairman,~~ specifying
14 how the voting shall be carried out, and establishing a date when the first election shall be
15 held."

16 17 NORTH CAROLINA STATE LOTTERY COMMISSION

18 SECTION 2.12.(a) G.S. 18C-111 reads as rewritten:

19 "§ 18C-111. Commission membership; appointment; selection of chair; vacancies;
20 removal; meetings; compensation.

21 (a) The Commission shall consist of nine members, five of whom shall be appointed by
22 the Governor, two of whom shall be appointed by the General Assembly upon the
23 recommendation of the President Pro Tempore of the Senate, and two of whom shall be
24 appointed by the General Assembly upon the recommendation of the Speaker of the House of
25 Representatives. Commissioners may be removed by the appointing authority for cause. The
26 Governor shall select the chair of the Commission from among its membership, who shall serve
27 at the pleasure of the Governor.

28 (b) The terms of all members serving on the Commission as of January 1, 2013, shall
29 terminate on the effective date of this section. No later than July 1, 2013, Of the initial
30 appointees of the Governor, the Governor shall appoint five members to serve terms of two
31 years, three members shall serve a term of one year, one member shall serve a term of two
32 years, and one member shall serve a term of three years. Of the initial appointees of the
33 than July 1, 2013, the General Assembly
34 Pro Tempore of the Senate, one member shall serve a term of two years, and one member shall
35 serve a term of three years. shall appoint two members to serve terms of two years. Of the
36 initial appointees of
37 No later than July 1, 2013, the General Assembly upon the
38 recommendation of the Speaker of the House of Representatives, one member shall serve a
39 term of two years, and one member serve a term of three years. shall appoint two members to
40 serve terms of two years. Initial terms shall expire on June 30 of the year of expiration. All
41 succeeding appointments shall be for terms of five two years. Members shall not serve for more
42 than two successive terms.

42 (c) Vacancies shall be filled by the appointing authority for the unexpired portion of the
43 term in which they occur.

44 (d) The Commission shall meet at least quarterly upon the call of the chair. A majority
45 of the total membership of the Commission shall constitute a quorum.

46 (e) Members of the Commission shall receive per diem, subsistence, and travel as
47 provided in G.S. 138-5 and G.S. 138-6."

48 SECTION 2.12.(b) This section is effective when this act becomes law.

49 50 CHARTER SCHOOL ADVISORY COMMITTEE

51 SECTION 2.13.(a) G.S. 115C-238.29I(d) is repealed.

1 **SECTION 2.13.(b)** The North Carolina Charter School Advisory Council, as
2 established by the State Board of Education on August 4, 2011, by Policy TCS-B-006, is
3 abolished.

4 **SECTION 2.13.(c)** This section is effective when this act becomes law.
5

6 **BOARD OF TRANSPORTATION**

7 **SECTION 2.14.(a)** G.S. 143B-350(b)(1) reads as rewritten:

8 "(1) Number, appointment. – The Board of Transportation shall have ~~14~~¹⁹ voting
9 members. Fourteen of the members shall be division members appointed by
10 the Governor. Five shall be at-large members appointed by the Governor.
11 One shall be an at-large member appointed by the General Assembly upon
12 recommendation of the President Pro Tempore of the Senate, and one shall
13 be an at-large member appointed by the General Assembly upon
14 recommendation of the Speaker of the House of Representatives. At least
15 three members of the Board appointed by the Governor shall be registered
16 voters of a political party other than the political party of the Governor. The
17 Secretary of Transportation shall serve as an ex officio nonvoting member of
18 the Board. No more than two members of the Board may reside in the same
19 highway division."

20 **SECTION 2.14.(b)** G.S. 143B-350(c) reads as rewritten:

21 "~~(c) Staggered Terms. – The terms of all Board members serving on the Board prior to~~
22 ~~January 15, 2001, shall expire on January 14, 2001. A new board of 19 members shall be~~
23 ~~appointed with terms beginning on January 15, 2001. The Board shall serve the following~~
24 ~~terms: division members representing divisions 1, 3, 5, 7, 9, 11, and 13 and the three at-large~~
25 ~~members filling the positions designated in sub-subdivisions (b)(3)a., b., and e. of this section~~
26 ~~shall serve four-year terms beginning on January 15, 2001, and four-year terms thereafter; and~~
27 ~~division members representing divisions 2, 4, 6, 8, 10, 12, and 14 and the two at-large members~~
28 ~~filling the positions designated in sub-subdivisions (b)(3)c. and d. of this section shall serve~~
29 ~~two-year terms beginning January 15, 2001, and four-year terms thereafter. The terms of~~
30 members shall be for four years beginning January 15, 2013, and quadrennially thereafter,
31 except that the terms of at-large members appointed by the General Assembly shall be for two
32 years beginning on January 15, 2013, and biennially thereafter."

33 **SECTION 2.14.(c)** The terms of the nine members of the Board of Transportation
34 previously appointed for terms expiring January 14, 2015, expire upon appointment of their
35 replacements as provided in this section. The Governor shall designate for each of the nine new
36 appointments which member is being replaced.
37

38 **DIETETICS/NUTRITION BOARD**

39 **SECTION 2.15.(a)** G.S. 90-353 reads as rewritten:

40 "**§ 90-353. Creation of Board.**

41 (a) The North Carolina Board of Dietetics/Nutrition is created. The Board shall consist
42 of ~~seven~~^{five} members as follows:

- 43 (1) One member shall be a professional whose primary practice is clinical
44 dietetics/nutrition;
- 45 (2) One member shall be a professional whose primary practice is community or
46 public health ~~dietetics/nutrition;~~dietetics/nutrition, or an educator on the
47 faculty of a college or university specializing in the field of
48 dietetics/nutrition;
- 49 (3) ~~One member shall be a professional whose primary practice is consulting in~~
50 ~~dietetics/nutrition;~~

- 1 ~~(4)~~(3) One member shall be a professional whose primary practice is in
 2 management of nutritional services;
 3 ~~(5) One member shall be an educator on the faculty of a college or university~~
 4 ~~specializing in the field of dietetics/nutrition;~~
 5 ~~(6)~~(4) Two members shall represent the public at large.
 6 (b) Professional members of the Board shall:
 7 (1) Be citizens of the United States and residents of this State;
 8 (2) Have practiced in the field of dietetics/nutrition for at least five years; and
 9 (3) Be licensed under this Article, ~~except that initial appointees shall be licensed~~
 10 ~~under this Article no later than March 31, 1992.~~ Article.
 11 (c) The members of the Board appointed from the public at large shall be citizens of the
 12 United States and residents of this State and shall not be any of the following:
 13 (1) A dietician/nutritionist.
 14 (2) An agent or employee of a person engaged in the profession of
 15 dietetics/nutrition.
 16 (3) A licensed health care professional or enrolled in a program to become
 17 prepared to be a licensed health care professional.
 18 (4) An agent or employee of a health care institution, a health care insurer, or a
 19 health care professional school.
 20 (5) A member of any allied health profession or enrolled in a program to
 21 become prepared to be a member of an allied health profession.
 22 (6) The spouse of an individual who may not serve as a public member of the
 23 Board."

24 **SECTION 2.15.(b)** G.S. 90-354(a) reads as rewritten:

25 "(a) The members of the Board shall be appointed as follows:

- 26 (1) The Governor shall appoint the three professional member—members
 27 described in G.S. 90-353(a)(5) and the two public members described in
 28 G.S. 90-353(a)(6);G.S. 90-353(a);
 29 (2) The General Assembly upon the recommendation of the Speaker of the
 30 House of Representatives shall appoint the professional members—one
 31 member representing the public described in G.S. 90-353(a)(1) and
 32 G.S. 90-353(a)(2)in accordance with G.S. 120-121, one of whom shall be a
 33 nutritionist with a masters or higher degree in a nutrition-related discipline;
 34 G.S. 120-121; and
 35 (3) The General Assembly upon the recommendation of the President Pro
 36 Tempore of the Senate shall appoint one member representing the public the
 37 professional members described in G.S. 90-353(a)(3) and G.S. 90-353(a)(4)
 38 in accordance with G.S. 120-121, one of whom shall be a nutritionist with a
 39 masters or higher degree in a nutrition-related discipline.G.S. 120-121.
 40 (b) The terms of all members of the Board serving on January 1, 2013, shall expire
 41 March 31, 2013. Members of the Board shall take office on the first day of July immediately
 42 following the expired term of that office and shall serve for a term of three years and until their
 43 successors are appointed and qualified."
 44

45 **POST-RELEASE SUPERVISION AND PAROLE COMMISSION**

46 **SECTION 2.16.(a)** G.S. 143B-721 reads as rewritten:

47 "**§ 143B-721. Post-Release Supervision and Parole Commission – members; selection;**
 48 **removal; chairman; compensation; quorum; services.**

49 (a) Effective ~~August 1, 2005,~~February 1, 2013, the Post-Release Supervision and Parole
 50 Commission shall consist of ~~one full-time member and two half-time~~ four full-time members.
 51 The ~~three~~ four members shall be appointed by the Governor from persons whose recognized

1 ability, training, experience, and character qualify them for service on the Commission. ~~The~~
2 ~~terms of office of any members serving on the Commission on June 30, 2005, shall expire on~~
3 ~~that date.~~ The terms of office of persons appointed by the Governor as members of the
4 Commission shall be for four years or until their successors are appointed and qualify. Any
5 appointment to fill a vacancy on the Commission created by the resignation, removal, death or
6 disability of a member shall be for the balance of the unexpired term only.

7 ~~(a1) Effective August 1, 2012, both half-time commissioners shall begin serving as~~
8 ~~full-time members of the Commission, and the Post-Release Supervision and Parole~~
9 ~~Commission shall consist of three full-time members.~~

10 ~~(a2) Effective February 1, 2013, an additional member shall be appointed by the~~ consist
11 ~~of four full-time members.~~

12 (b) All members of the Post-Release Supervision and Parole Commission appointed by
13 the Governor shall possess the recognized ability, training, experience, and character to qualify
14 each person to serve ably on the Commission.

15 (c) The Governor shall have the authority to remove any member of the Commission
16 from office for misfeasance, malfeasance or nonfeasance, pursuant to the provisions of
17 G.S. 143B-13. The Governor shall designate a member of the Commission to serve as chair of
18 the Commission at the pleasure of the Governor.

19 (d) The granting, denying, revoking, or rescinding of parole, the authorization of
20 work-release privileges to a prisoner, or any other matters of business coming before the
21 Commission for consideration and action shall be decided by majority vote of the full
22 Commission.

23 (e) The members of the Commission shall receive the salary fixed by the General
24 Assembly in the Current Operations Appropriations Act and shall receive necessary travel and
25 subsistence expenses in accordance with the provisions of G.S. 138-6. Notwithstanding any
26 other provision of law, the half-time members of the Commission shall not be subject to the
27 provisions of G.S. 135-3(8)(c).

28 (f) All clerical and other services required by the Commission shall be supplied by the
29 Secretary of the Department of Public Safety."

30 **SECTION 2.16.(b)** The term of office of any member serving on the Post-Release
31 Supervision and Parole Commission on January 1, 2013, shall expire on the effective date of
32 this section. The Governor shall appoint new members in accordance with G.S. 143B-721(a) as
33 amended by this act and shall designate for each of the three new appointments which member
34 is being replaced. The initial term of the members appointed under this section shall expire on
35 June 30, 2017.

36 **SECTION 2.16.(c)** This section becomes effective when it becomes law.
37

38 MINING AND ENERGY COMMISSION

39 **SECTION 2.17.** G.S. 143B-293.2 is amended by adding a new subsection to read:

40 "(a1) Office May Be Held Concurrently With Others. – Membership on the Mining and
41 Energy Commission is hereby declared to be an office that may be held concurrently with other
42 elective or appointive offices in addition to the maximum number of offices permitted to be
43 held by one person under G.S. 128-1.1."
44

45 OFFICE OF ADMINISTRATIVE HEARINGS

46 **SECTION 2.18.(a)** G.S. 7A-753 reads as rewritten:

47 **"§ 7A-753. Additional administrative law judges; appointment; specialization.**

48 The Chief Administrative Law Judge shall appoint additional administrative law judges to
49 serve in the Office of Administrative Hearings in such numbers as the General Assembly
50 provides. Each administrative law judge appointed under this section shall serve a term of four

1 years. No person shall be appointed or designated an administrative law judge except as
2 provided in this Article.

3 The Chief Administrative Law Judge may designate certain administrative law judges as
4 having the experience and expertise to preside at specific types of contested cases and assign
5 only these designated administrative law judges to preside at those cases."

6 **SECTION 2.18.(b)** G.S. 7A-760(a) reads as rewritten:

7 "(a) The number of administrative law judges and employees of the Office of
8 Administrative Hearings shall be established by the General Assembly. The Chief
9 Administrative Law Judge is exempt from provisions of the State Personnel Act as provided by
10 G.S. 126-5(c1)(26). Administrative law judges appointed in accordance with G.S. 7A-753 are
11 exempt from the provisions of the State Personnel Act. All other employees of the Office of
12 Administrative Hearings are subject to the State Personnel Act."

13 **SECTION 2.18.(c)** This section is effective when it becomes law and applies to
14 any administrative law judge serving on or after the effective date of this act.

15 16 STATE PERSONNEL COMMISSION

17 **SECTION 2.19.(a)** G.S. 126-2(b) reads as rewritten:

18 "§ 126-2. State Personnel Commission.

19 (a) There is hereby established the State Personnel Commission (hereinafter referred to
20 as "the Commission").

21 (b) ~~The Commission shall consist of nine members, appointed as follows:~~

22 (1) ~~Two members shall be attorneys licensed to practice law in North Carolina~~
23 ~~appointed by the General Assembly, one of whom shall be appointed upon~~
24 ~~the recommendation of the Speaker of the House of Representatives, and one~~
25 ~~of whom shall be appointed upon the recommendation of the President Pro~~
26 ~~Tempore of the Senate.~~

27 ~~The initial two attorney members appointed under this subdivision shall~~
28 ~~serve terms expiring June 30, 2004; the terms of subsequent appointees shall~~
29 ~~be six years.~~

30 (2) ~~Two persons from private business or industry appointed by the Governor,~~
31 ~~both of whom shall have a working knowledge of, or practical experience in,~~
32 ~~human resources management. The initial members appointed under this~~
33 ~~subdivision shall serve terms expiring June 30, 2003; the terms of~~
34 ~~subsequent appointees shall be six years.~~

35 (3) ~~Two State employees subject to the State Personnel Act serving in~~
36 ~~nonexempt positions, appointed by the Governor, including one of whom is~~
37 ~~a veteran of the Armed Forces of the United States appointed upon the~~
38 ~~nomination of the Veterans' Affairs Commission. One employee shall serve~~
39 ~~in a State government position having supervisory duties, and one employee~~
40 ~~shall serve in a nonsupervisory position. Neither employee may be a human~~
41 ~~resources professional. The Governor shall consider nominations submitted~~
42 ~~by the State Employees Association of North Carolina. The initial members~~
43 ~~appointed under this subdivision shall serve terms expiring June 30, 2001;~~
44 ~~the terms of subsequent appointees shall be six years.~~

45 (4) ~~Two local government employees subject to the State Personnel Act~~
46 ~~appointed by the Governor upon recommendation of the North Carolina~~
47 ~~Association of County Commissioners, one a nonsupervisory local employee~~
48 ~~and one a supervisory local employee. Neither local government employee~~
49 ~~may be a human resources professional. The initial members appointed~~
50 ~~under this subdivision shall serve terms expiring June 30, 2003; the terms of~~
51 ~~subsequent appointees shall be for six years.~~

- 1 (5) ~~One member of the public at large appointed by the Governor. The initial~~
2 ~~member appointed under this subdivision shall serve for a term expiring~~
3 ~~June 30, 2001; the terms of subsequent appointees shall be for six years.~~
- 4 (b1) The Commission shall consist of nine members, appointed as follows:
- 5 (1) One member appointed by the General Assembly upon the recommendation
6 of the Speaker of the House of Representatives who shall be an attorney
7 licensed to practice law in North Carolina.
- 8 (2) One member appointed by the General Assembly upon the recommendation
9 of the President Pro Tempore of the Senate who shall be an attorney licensed
10 to practice law in North Carolina.
- 11 (3) One member appointed by the General Assembly upon the recommendation
12 of the Speaker of the House of Representatives who shall be from private
13 business or industry and who shall have a working knowledge of, or
14 practical experience in, human resources management.
- 15 (4) One member appointed by the General Assembly upon the recommendation
16 of the President Pro Tempore of the Senate who shall be from private
17 business or industry and who shall have a working knowledge of, or
18 practical experience in, human resources management.
- 19 (5) One member who is a veteran of the Armed Forces of the United States
20 appointed by the Governor upon the nomination of the Veterans Affairs
21 Commission and who is a State employee subject to this Chapter serving in a
22 nonexempt supervisory position. The member may not be a human resources
23 professional. The Governor shall consider nominations submitted by the
24 State Employees Association of North Carolina.
- 25 (6) One member appointed by the Governor who is a State employee subject to
26 this Chapter serving in a nonexempt nonsupervisory position. The member
27 may not be a human resources professional. The Governor shall consider
28 nominations submitted by the State Employees Association of North
29 Carolina.
- 30 (7) One member appointed by the Governor upon the recommendation of the
31 North Carolina Association of County Commissioners who is a local
32 government employee subject to this Chapter serving in a supervisory
33 position. The member may not be a human resources professional.
- 34 (8) One member appointed by the Governor upon the recommendation of the
35 North Carolina Association of County Commissioners who is a local
36 government employee subject to this Chapter serving in a nonsupervisory
37 position. The member may not be a human resources professional.
- 38 (9) One member of the public at large appointed by the Governor.
- 39 (c) Each member of the Commission shall be appointed for a term of four years.
40 Members of the Commission may serve no more than two consecutive terms. Appointments by
41 the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those
42 appointments shall be filled in accordance with G.S. 120-122. Vacancies in appointments made
43 by the Governor occurring prior to the expiration of a term shall be filled by appointment for
44 the unexpired term.
- 45 (d) No member of the Commission may serve on a case where there would be a conflict
46 of interest. The appointing authority may at any time remove any Commission member for
47 cause.
- 48 (e) Members of the Commission who are State or local government employees subject
49 to ~~the State Personnel Act~~this Chapter shall be entitled to administrative leave without loss of
50 pay for all periods of time required to conduct the business of the Commission.
- 51 (f) Six members of the Commission shall constitute a quorum.

1 (g) The Governor shall designate one member of the Commission as chair.

2 (h) The Commission shall meet quarterly, and at other times at the call of the chair."

3 **SECTION 2.19.(b)** The terms of the two attorney members appointed under
4 G.S. 126-2(b)(1) serving on the Commission on January 1, 2013, shall expire on June 30, 2013.
5 The terms of the persons from private business or industry appointed under G.S. 126-2(b)(2),
6 serving on the Commission on January 1, 2013, shall expire on June 30, 2014. The terms of the
7 two State employees appointed under G.S. 126-2(b)(3) serving on the Commission on January
8 1, 2013, shall expire on June 30, 2013. The terms of the two local government employees
9 appointed under G.S. 126-2(b)(4), serving on the Commission on January 1, 2013, shall expire
10 on June 30, 2014. The term of the public at-large member appointed under G.S. 126-2(b)(5),
11 serving on the Commission on January 1, 2013, shall expire June 30, 2013.

12 **SECTION 2.19.(c)** This section is effective when it becomes law.
13

14 **NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING** 15 **STANDARDS COMMISSION**

16 **SECTION 2.20.** G.S. 17C-3(a) reads as rewritten:

17 "(a) There is established the North Carolina Criminal Justice Education and Training
18 Standards Commission, hereinafter called "the Commission." The Commission shall be
19 composed of 31 members as follows:

20 (1) Police Chiefs. – Three police chiefs selected by the North Carolina
21 Association of Chiefs of Police and one police chief appointed by the
22 Governor.

23 (2) Police Officers. – Three police officials appointed by the North Carolina
24 Police Executives Association and ~~two~~one criminal justice ~~officers~~officer
25 certified by the Commission as selected by the North Carolina
26 ~~Law Enforcement Officers' Association~~Association of Chiefs of Police.

27 (3) Departments. – The Attorney General of the State of North Carolina; the
28 Secretary of Public Safety; the President of the North Carolina Community
29 Colleges System.

30 (3a) Repealed by Session Laws 2001-490, s. 1.2, effective June 30, 2001.

31 (4) At-large Groups. – One individual representing and appointed by each of the
32 following organizations: one mayor selected by the League of
33 Municipalities; one law-enforcement training officer selected by the North
34 Carolina Law-Enforcement Training Officers' Association; one criminal
35 justice professional selected by the North Carolina Criminal Justice
36 Association; one sworn law-enforcement officer selected by the North State
37 Law-Enforcement Officers' Association; one member selected by the North
38 Carolina Law-Enforcement Women's Association; one individual selected
39 by the North Carolina Sheriff's Association; and one District Attorney
40 selected by the North Carolina Association of District Attorneys.

41 (5) Citizens and Others. – The President of The University of North Carolina;
42 the Dean of the School of Government at the University of North Carolina at
43 Chapel Hill; and two citizens, one of whom shall be selected by the
44 Governor and one of whom shall be selected by the Attorney General. The
45 General Assembly shall appoint four persons, two upon the recommendation
46 of the Speaker of the House of Representatives and two upon the
47 recommendation of the President Pro Tempore of the Senate. Appointments
48 by the General Assembly shall be made in accordance with G.S. 120-122.
49 Appointments by the General Assembly shall be for two-year terms to
50 conclude on June 30th in odd-numbered years.

- 1 (6) Correctional Officers. – Four correctional officers in management positions
2 employed by the Division of Adult Correction of the Department of Public
3 Safety shall be appointed, two from the Section of Community Corrections
4 of the Division of Adult Correction upon the recommendation of the Speaker
5 of the House of Representatives and two from the Section of Prisons of the
6 Division of Adult Correction upon the recommendation of the President Pro
7 Tempore of the Senate. Appointments by the General Assembly shall be
8 made in accordance with G.S. 120-122. Appointments by the General
9 Assembly shall serve two-year terms to conclude on June 30th in
10 odd-numbered years. The Governor shall appoint one correctional officer
11 employed by the Division of Adult Correction of the Department of Public
12 Safety and assigned to the Office of Staff Development and Training. The
13 Governor's appointment shall serve a three-year term.
14

15 PART III. ISSUES RELATING TO INDEPENDENT OCCUPATIONAL LICENSING 16 BOARDS

17 SECTION 3.1. Chapter 93B of the General Statutes is amended by adding a new
18 section to read:

19 "§ 93B-8.1. Use of criminal history records.

20 (a) The following definitions apply in this section:

- 21 (1) Applicant. – A person who makes application for licensure from an
22 occupational licensing board.
23 (2) Board. – An occupational licensing board as defined in G.S. 93B-1.
24 (3) Criminal history record. – A State or federal history of conviction of a crime,
25 whether a misdemeanor or felony, that bears upon an applicant's or a
26 licensee's fitness to be licensed or disciplined.
27 (4) Licensee. – A person who has obtained a license to engage in or represent
28 himself or herself to be a member of a particular profession or occupation.

29 (b) Unless the law governing a particular occupational licensing board provides
30 otherwise, a board shall not automatically deny licensure on the basis of an applicant's criminal
31 history. If the board is authorized to deny a license to an applicant on the basis of conviction of
32 any crime or for commission of a crime involving fraud or moral turpitude, and the applicant's
33 verified criminal history record reveals one or more convictions of any crime, the board may
34 deny the license if it finds that denial is warranted after consideration of the following factors:

- 35 (1) The level and seriousness of the crime.
36 (2) The date of the crime.
37 (3) The age of the person at the time of the crime.
38 (4) The circumstances surrounding the commission of the crime, if known.
39 (5) The nexus between the criminal conduct and the prospective duties of the
40 applicant as a licensee.
41 (6) The prison, jail, probation, parole, rehabilitation, and employment records of
42 the applicant since the date the crime was committed.
43 (7) The subsequent commission of a crime by the applicant.

44 (c) The board may deny licensure to an applicant who refuses to consent to a criminal
45 history record check or use of fingerprints or other identifying information required by the State
46 or National Repositories of Criminal Histories."

47 SECTION 3.2. The Joint Legislative Program Evaluation Oversight Committee
48 shall include in the 2013-2014 Work Plan for the Program Evaluation Division of the General
49 Assembly a study to evaluate the structure, organization, and operation of the various
50 independent occupational licensing boards. For purposes of this act, the term "occupational

1 licensing board" has the same meaning as defined in G.S. 93B-1. The Program Evaluation
2 Division shall include the following within this study:

- 3 (1) Consideration of the feasibility of establishing a single State agency to
4 oversee the administration of all or some of the occupational licensing
5 boards.
- 6 (2) Whether greater efficiency and cost-effectiveness can be realized by
7 combining the administrative functions of the boards, while allowing the
8 boards to continue performing the regulatory functions.
- 9 (3) Whether the total number of boards should be reduced by combining and/or
10 eliminating some boards.

11 **SECTION 3.3.** The Program Evaluation Division shall submit its findings and
12 recommendations from Section 3.2 of this act to the Joint Legislative Program Evaluation
13 Oversight Committee and the Joint Legislative Administrative Procedure Oversight Committee
14 at a date to be determined by the Joint Legislative Program Evaluation Oversight Committee.
15

16 **PART IV. EFFECTIVE DATE**

17 **SECTION 4.1.** If any provision of this act or its application is held invalid, the
18 invalidity does not affect other provisions or applications of this act that can be given effect
19 without the invalid provisions or application, and to this end the provisions of this act are
20 severable.

21 **SECTION 4.2.** Unless otherwise provided, this act is effective when it becomes
22 law. If the terms of office eliminated in this act have not been set out, then the appointing
23 authorities shall determine by July 1, 2013, which terms to eliminate to achieve the
24 membership totals pursuant to this act. After determining which terms to eliminate, the
25 appointing authority shall notify in writing all the persons and entities required to receive
26 notification pursuant to G.S. 143-47.7.