

**NC COASTAL RESOURCES COMMISSION (CRC)**

**February 8, 2017  
Hilton DoubleTree  
Atlantic Beach, NC**

**Present CRC Members**

Frank Gorham, Chair  
Renee Cahoon, Vice-Chair  
Neal Andrew, Second Vice-Chair

Larry Baldwin	Greg Lewis
Rick Catlin	Phil Norris
Denise Gibbs	Russell Rhodes
Marc Hairston	Bill White

**Present CRAC Members**

Greg "Rudi" Rudolph, Chair  
Spencer Rogers, co-Vice Chair  
John Brodman  
Jett Ferebee  
Beth Midgett  
Mike Moore  
David Moye  
Kris Noble  
Kathleen Riely  
Todd Roessler  
Frank Rush  
Debbie Smith  
Dave Weaver

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

Mary Lucasse

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

Christine A. Goebel

**CALL TO ORDER/ROLL CALL**

Frank Gorham called the meeting to order reminding the Commissioners of the need to state any conflicts due to Executive Order Number One and the State Government Ethics Act. The State Government Ethics Act mandates that at the beginning of each meeting the Chair remind all members of their duty to avoid conflicts of interest and inquire as to whether any member knows of 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. John Snipes and Jamin Simmons were absent. No conflicts were reported. Based upon this roll call Chairman Gorham declared a quorum.

## **CHAIR COMMENTS**

Chairman Gorham mentioned the passing of Bill Morrison, long-time member of the Advisory Council and former CRAC Chair. The Commission presented Bill with a Certificate of Service and Appreciation at their September 2015 meeting. Chairman Gorham asked Mary Lucasse, CRC Counsel, to draft a letter to his widow conveying the Commission's condolences. Chairman Gorham stated the Commission decided to hold a conference call meeting for variances in July and only have four in-person meetings in 2016. We should reconsider this plan. Renee Cahoon commented that variances are difficult to participate in when they are done by conference call. Chairman Gorham directed staff to search for a meeting location and overnight accommodations for a summer meeting.

## **MINUTES**

**Renee Cahoon made a motion to approve the minutes of the November 30-December 1, 2016 Coastal Resources Commission meeting. Neal Andrew seconded the motion. The motion passed unanimously. (Gorham, Andrew, Baldwin, Cahoon, Catlin, Gibbs, Hairston, Lewis, Norris, Rhodes, White).**

## **EXECUTIVE SECRETARY'S REPORT**

Braxton Davis, DCM Director, gave the following report:

### **Regulatory**

On the regulatory side of the program, some final permit numbers for 2016: Last year the Division issued 154 Major Permit with an average processing time of slightly less than 70 days. Also during 2016, staff issued 1,685 General Permits, of which 163 were emergency General Permits. As you may remember, Emergency General Permit 7H .2500 was enacted on October 10th following Hurricane Matthew. Notable permit actions since your last meeting included the issuance of an emergency major permit to a property owner in Salter Path allowing for the rapid shoreline stabilization of the property to prevent the potential failure of an adjacent condominium structure. The Division also issued permits to the Town of Ocean Isle Beach authorizing the implementation of an island-wide 30-year beach shoreline protection strategy, and to Dare County authorizing continuing maintenance excavation for a portion of the Hatteras Inlet navigation channel.

The Central East Coast Chapter of ASBPA hosted a coastal permitting workshop in Wilmington in January. It was attended by representatives from federal and state permitting and resource agencies, coastal engineering and environmental practitioners, and beach nourishment and navigation project sponsors, with the intent of discussing what is working well and what can be improved with the permitting of coastal projects in the region. Doug and I made a presentation on CAMA permit procedures and requirements as they relate to the permitting of nourishment and navigational projects. The conference resulted in very good discussions on areas of potential improvement and possible innovative solutions for the permitting processes for beach nourishment and navigation projects.

In 2015 DCM initiated a project to develop a statewide biological opinion for beach sand placement projects to satisfy the requirements of the Endangered Species Act (ESA) consultations with the US Fish and Wildlife Service. This project included compilation of existing data for presently listed, and soon to be listed, endangered species. The data was analyzed for potential threats and mitigation opportunities. Dial Cordy and Associates completed the draft Programmatic Biological

Assessment (PBA) in October. Comments were provided by our Interagency Review Team (incl. Corps of Engineers, Fish and Wildlife Service, National Marine Fisheries Service, Bureau of Ocean Energy Management, NCDCM, NCDMF, and North Carolina Wildlife Resources Commission). The Corps submitted the PBA to the USFWS in December to begin the consultation process. Under federal regulations, USFWS has 90 days to consult and negotiate the terms of the Biological Opinion (BO) and 45 days after that to issue the BO. The USFWS met with the Corps, NCDCM and BOEM earlier this week, and we anticipate a final BO by mid-April.

### **Coastal Reserves**

The Division is hosting four "dinner and a living shoreline movie" events throughout the coast in February and March. These free events are designed for marine contractors and other professionals involved in estuarine shoreline stabilization. Regulatory staff will provide an overview of the permitting process and answer questions. More information is available on the Reserve's website. The Reserve is also hosting a "Coastal Explorations" educator workshop in Wilmington on February 10. The workshop is open to all educators and highlights the Reserve program. It is approved for NC teacher certification renewal credits and for the NC Environmental Educators certification program. The Reserve and the Town of Kitty Hawk are conducting a survey to develop an access plan for the Kitty Hawk Woods Coastal Reserve to maintain a balance between the site's ecology and recreational use. The survey results will provide a better understanding of how and when visitors access the Kitty Hawk Woods Reserve and what access and trail enhancements may be appropriate. The survey is available on the Reserve's website and is open through March 10.

### **Policy & Planning**

#### *Flood maps*

Rudi will provide a report on this issue later today, but I wanted to give you a quick update on staff's work since the last CRC meeting. We had a good phone call in January with John Dorman and Tom Langan from the Division of Emergency Management's Floodplain Mapping Program discussing where DEM is in the flood map update process, and whether or how the CRC and DCM can be helpful in identifying possible technical issues in the coastal maps, or with outreach to local communities. The background and the proposed maps had been cleared by FEMA and an independent third-party reviewer. They are now in the appeals phase of the process. They are open to making specific adjustments where there is data to support it, and they have already made a few changes based on feedback, but did not anticipate performing another coastwide analysis. They are willing to come and talk to the Commission at a future meeting and welcomed our help with community outreach and education. We have also reached out to the State Building Code Council and are hoping to meet with them in the coming weeks to discuss the connectivity between the State Building Code, the flood maps, and the CRC's rules. We hope that DEM and Sea Grant can be a part of that discussion, and we will report back to you on any recommended or necessary rulemaking.

### **Public Access Grants**

DCM will be notifying local governments in the 20-county coastal area that grant funding is available for Public Beach and Coastal Waterfront Access projects for the upcoming 2017-18 fiscal year. Local governments are invited to apply for funding for projects that are anticipated to begin after November 2017 and will be completed within eighteen months. DCM estimates that approximately \$1 million dollars will be available for public beach and coastal waterfront access projects in FY 2017-18. Pre-applications are due by April 10, 2017. We are also pleased to announce that the Division will once again be notifying local governments in the 20-county coastal area that grant funding will be made available for Local Planning and Management projects for the

upcoming 2017-18 fiscal year. The Division has \$75,000 available for grants up to \$15,000 each. Local governments are invited to apply for funding for projects that are anticipated to begin in July and to be completed by June 30, 2017. As you know, the Planning staff have worked over the past couple years on revisions to the CAMA Planning Program, most recently on the focus of the Planning and Management Grant Program. We expect the rulemaking associated with today's public hearing to be effective for this coming round of grant awards. The intent of the rulemaking is to provide more flexibility to the Division for the types of projects that are funded. A solicitation for projects will be sent to local governments later this week with proposals due to the Division in early April.

### **Staffing News**

At the last meeting, I mentioned that the Elizabeth City office of the Divisions of Coastal Management and Marine Fisheries has been closed for facility repairs for an undetermined amount of time. DCM staff have successfully relocated to 401 South Griffin Street and are fully operational. DCM fisheries resource specialist, Gregg Bodnar, has moved into a new role as an assistant Major Permits Coordinator. Gregg will remain in the Division's Morehead City office. The process for hiring a replacement fisheries resource specialist is ongoing. Also, I'm pleased to announce that Yvonne Carver has accepted a position as a field representative in our Elizabeth City Office. Yvonne has been part of the DCM Staff in the Elizabeth City Office since 2003 and is already well versed in permitting, and as a native of Perquimans County, she is very familiar with northeastern coastal North Carolina.

### **CRAC REPORT**

Rudi Rudolph, CRAC Chair, stated the main topic of the CRAC meeting was the white paper to the CRC updating information regarding the CRAC membership, role, and guidebook. The CRAC consists of 20 members and there are currently four vacancies. The CRAC recommends that the composition should include local government representatives. The feeling of the CRAC is that recently a lot of the priorities have focused on oceanfront issues and we could use more estuarine expertise on the CRAC. There aren't enough members on the CRAC to allow for standing subcommittees. The CRAC's role is directed by the CRC and issue-specific.

**Renee Cahoon made a motion to approve the white paper as presented and direct DCM staff to update the CRAC guidebook. Larry Baldwin seconded the motion. The motion passed unanimously (Norris, Hairston, Catlin, White, Cahoon, Gorham, Andrew, Gibbs, Lewis, Rhodes, Baldwin).**

Chairman Gorham directed Mr. Rudolph to add a member from each CAMA county to the CRAC contact/interested parties list and to send a letter to all CAMA counties to solicit issues that may need to be addressed.

Mr. Rudolph stated the CRAC also discussed bulldozing on unnourished beaches as well as Hurricane Matthew's impacts on the development lines. The CRAC did not come up with any recommendations on either of these issues.

## VARIANCES

### **Thexton (CRC VR-16-11), Topsail Beach, Oceanfront Setback & Repair/Replace**

#### **Christine Goebel/Debbie Wilson**

Christine Goebel, DEQ Asst. General Counsel, represented staff. Mr. Andrew Thexton was present and represented himself in the variance request. Debbie Wilson, Wilmington District Manager, presented the PowerPoint to the Commission showing the site location of the proposed development. Ms. Goebel stated Petitioners Andrew and Deborah Thexton purchased an oceanfront lot in 2016 located at 1117 Ocean Boulevard in Topsail Beach. As part of a voluntary FEMA mitigation program for homes that have made repetitive loss claims, Pender County contacted the Petitioners about participating in a program where the cost to elevate their structure within its existing footprint would be covered 100% by FEMA if Petitioners and future owners would agree to keep flood coverage on the elevated structure. Petitioners agreed to participate. The consultant hired by Pender County to manage several similar claims, along with Pender County's Planning Director, acted as agents for Petitioners and applied for a CAMA permit on their behalf. DCM denied the CAMA permit as the existing location of the structure does not meet the applicable 60-foot ocean erosion setback on the site. Additionally, the work proposed exceeded 50% of the value of the house structure and was not consider "repair", but rather considered "replacement" under the Commission's rules and CAMA statute. Petitioners seek a variance from the oceanfront erosion setback to elevate the existing house within the same footprint. Ms. Goebel reviewed the stipulated facts of the variance request and stated that staff and petitioners disagree on all four statutory criteria which must be met for the variance request to be granted. Mr. Thexton reviewed the stipulated facts which he contends supports the granting of the variance request. After discussion, the CRC determined that additional facts were required before it could decide the variance request.

**Greg Lewis made a motion to remand the variance request back to the staff of the Division and the Petitioners to allow the parties to provide additional stipulated facts and exhibits. Russell Rhodes seconded the motion. The motion passed unanimously (Norris, Hairston, Catlin, White, Cahoon, Gorham, Andrew, Gibbs, Lewis, Rhodes, Baldwin).**

## ACTION ITEMS

### **Fiscal Analysis Approval – 15A NCAC 7H .2200**

### **Free Standing Moorings – Osprey Poles (CRC 17-01)**

#### **Mike Lopazanski**

Mike Lopazanski stated changes have been made to the free-standing mooring rules, primarily to address osprey poles. The existing rules required the permit request for osprey poles to go through the Major Permit process. The rules have been amended to allow the location of osprey poles under the General Permit process. We also made changes to the mooring rules to bring them up to date with the changes for docking facilities. The fiscal analysis for these amendments indicates a savings to the permit applicant. The fiscal analysis has been approved by the Department and is currently under review by OSBM. If there is a substantial change to the fiscal analysis following OSBM review, then we will bring the analysis back to the Commission for approval.

**Neal Andrew conditionally approved the fiscal analysis for amendments to 15A NCAC 07H .2200 based on OSBM approval. Marc Hairston seconded the motion. The motion passed unanimously (Norris, Hairston, Catlin, White, Cahoon, Gorham, Andrew, Gibbs, Lewis, Rhodes, Baldwin).**

**Fiscal Analysis Approval – 15A NCAC 7H .1300 Development Line Procedures (CRC 17-02)**

**Mike Lopazanski**

Mike Lopazanski stated amendments have been made to the development lines rules. During one of the previous development line approvals, there was some question about how far seaward the development line could be sited by the local government. At the time, only the mean high water line was included in the rule. There are other lines that can be taken into consideration including easements. This rule language has been amended to clarify that in no case shall the development line be created or established on state owned lands or oceanward of the mean high water line or perpetual property easement line whichever is more restrictive. These amendments were approved by the CRC at the last meeting and the fiscal analysis indicates that there is no fiscal impact associated with these amendments. The fiscal analysis has been approved by the Department and OSBM.

**Renee Cahoon made a motion to approve the fiscal analysis for amendments to 15A NCAC 07H .1300. Larry Baldwin seconded the motion. The motion passed unanimously (Norris, Hairston, Catlin, White, Cahoon, Gorham, Andrew, Gibbs, Lewis, Rhodes, Baldwin).**

**Periodic Review of Existing Rules (7A, 7H, 7I, 7J, 7K, 7L, 7M) (CRC 17-03)**

**Mike Lopazanski**

Mike Lopazanski stated prior to 2013, rules did not expire. The Legislature now requires each rulemaking body to review and readopt its rules every ten years. Rules that are deemed unnecessary expire and are removed from the Administrative Code. Rules that are necessary with substantial public interest must be readopted by the Commission. Rules that are necessary without substantive public interest do not expire and do not need to be readopted. In 2015, the Commission reviewed and readopted the rules in 7B in 2015. The Coastal Reserve rules located in 7O are currently going through the review process. We have begun the rule review process for rules in 7A, 7H, 7I, 7K, 7L, and 7M. We have classified most of the CRC's rules as necessary with substantive public interest. We have categorized some of the CRC's rules as unnecessary as they are obsolete, simply repeat the Statute, or are outdated. The Office of Administrative Hearings will review these classifications and they will be posted for a 60-day comment period. Following the comment period, any comments received will be addressed and classifications will be changed as needed. The final report will be submitted to the Rules Review Commission for approval. The final report will then go to the Joint Legislative Administrative Oversight Committee for review and final determination on the classification of the Commission's rules. If this Committee doesn't meet within 60-days of submission, then the report is approved. The final report is due to RRC by December 2017.

**Renee Cahoon made a motion to approve the initial classifications proposed for the existing Rules in 7A, 7H, 7I, 7J, 7K, 7L, and 7M and open the comment period. Marc Hairston seconded the motion. The motion passed unanimously (Norris, Hairston, Catlin, White, Cahoon, Gorham, Andrew, Gibbs, Lewis, Rhodes, Baldwin).**

**Gates County LUP Certification (CRC 17-04)**

**Charlan Owens**

Charlan Owens stated Gates County has submitted their comprehensive land use plan for certification. The Gates County Board of Commissioners unanimously adopted their plan. A duly advertised public hearing was held on December 2. The Division has not received any comments or

objections on this plan. DCM recommends certification of the plan based on the determination that the document has met the substantive required outlined within the 7B land use plan guidelines and that there are no conflicts evident with either state or federal law or the State's coastal management program.

**Phil Norris made a motion to certify the Gates County Land Use Plan. Neal Andrew seconded the motion. The motion passed unanimously (Norris, Hairston, Catlin, White, Cahoon, Gorham, Andrew, Gibbs, Lewis, Rhodes, Baldwin).**

**Oak Island LUP Certification (CRC 17-05)  
Mike Christenbury**

Mike Christenbury stated the Town of Oak Island is seeking certification of the 2017 Oak Island comprehensive land use plan. Oak Island held a duly advertised public hearing on January 10 and voted unanimously by Resolution to adopt the plan. Staff has reviewed the plan and has determined that it meets the substantive requirements outlined in the 7B land use planning guidelines and is consistent with state and federal law and the State's coastal management program. DCM recommends certification of Oak Island's land use plan.

**Phil Norris made a motion to certify the Oak Island Land Use Plan. Marc Hairston seconded the motion. The motion passed unanimously (Norris, Hairston, Catlin, White, Cahoon, Gorham, Andrew, Gibbs, Lewis, Rhodes, Baldwin).**

**COASTAL RESERVES  
Research Overview  
Brandon Puckett**

Brandon Puckett, Reserve Research Coordinator, stated the purpose of the Reserve is to preserve coastal ecosystems, provide information to inform management, increase understanding of coastal ecosystems, and accommodate compatible uses. There are three programs that work together to fulfill these purposes the research program, stewardship, and education. The Coastal Reserve is made up of ten sites that protect 44,000 acres of coastal ecosystems in North Carolina. Six of the sites are State sites and four sites comprise the North Carolina National Estuarine Research Reserve (NERR). The NC Estuarine Research Reserve is one of 29 national reserves. This network spans from Hawaii to Alaska, Puerto Rico, and all the coastal and Great Lakes states. Management of the NERRS is done through partnerships with NOAA and local coastal programs. The goals of the research and monitoring program is to advance the understanding of coastal ecosystems to inform coastal managers. We strive to do work that is both nationally significant and locally relevant. The current priorities include estuarine shoreline stabilization, water quality and vegetation monitoring, species and habitat restoration, impacts on non-native and invasive species, and resilience of coastal ecosystems to coastal hazards. To accomplish these priorities, we work with several partners including universities, state and federal agencies, and non-profit groups. The research and monitoring programs are conducted through the long-term system-wide monitoring program (SWMP), site-based research, and off-site research. The system-wide monitoring program is a program that is implemented at all 29 of the NERRs and is designed to look at short-term variability and long-term change. Water quality and weather monitoring has been done since 1997 and is ongoing. Marsh vegetation monitoring has been ongoing since 2008 and is an annual effort. Habitat

mapping has been occurring since 2013. Marshes are some of the most productive systems on Earth and occupy a narrow elevation range within the tidal window. In the face of sea level rise the marsh platform can accrete vertically or migrate landward. We have developed five indicators of resilience and applied them to 16 sites across the country. Research conducted within the Reserve boundaries is conducted by research staff and through a research permit program. In the last five years, we have permitted 74 research projects on the ten sites mainly concentrated at Masonboro and Rachel Carson. The research on the Reserves is very diverse ranging from bacteria to birds and from conducted by several organizations. We also co-sponsor a graduate fellowship program with Sea Grant. We require that research done must be conducted within Reserve boundaries. Work outside of the Reserve boundaries occurs in the 20 coastal counties and has focused on estuarine shoreline stabilization and oyster restoration. In 2016, the Research and Monitoring program had 31 active projects within the Reserves, had mapped 2,667 acres of habitat, and produced seven peer-reviewed publications.

### **PUBLIC INPUT AND COMMENT**

No public comments were received.

### **BEACH AND INLET MANAGEMENT**

#### **Flood Insurance Rate Maps (FIRMs) Work Group Update**

**Greg “rudi” Rudolph/Spencer Rogers**

Rudi Rudolph stated the basic tenant is that the risk shown on the flood maps do not represent the risks on the ground. This should be a concern to the CRC because that might be working at cross-purposes of what the CRC rules are intending. The work group’s job is to identify the areas where there are problems and what the issues are. The recommendation from the working group was to meet with John Dorman and have him talk to the CRC about how they generate the flood maps. Then we could illustrate areas where we think there are issues. The maps are supposed to improve over time so this update should be an improvement in identifying risk and it is apparent in some areas that this is not the case and it should be addressed. Spencer Rogers stated the CRC has a mutual interest with the flood insurance program to identify oceanfront hazards. The bottom line is that their methods are not working, for example, some oceanfront sand dunes are labeled safe from 500-year floods and this is incorrect. This isn’t necessarily a criticism of North Carolina Floodplain Mapping. They are constrained by FEMA’s models and methods. If they do something different then they lose the appeals. It is not an issue between agencies. It is an issue relating to FEMA’s models and requirements and is not something that can be quickly or easily fixed. The CRC should address these issues. Mr. Rudolph added that the appeals process is very site specific. Property owners will retain consultants to argue the elevation of their property. The bigger issues and regional problems are not addressed in the appeals process. We should invite John Dorman to a Commission meeting and talk with him about these issues.

**Renee Cahoon made a motion that a letter be sent from the Chairman requesting John Dorman make a presentation at the next CRC meeting. Greg Lewis seconded the motion. The motion passed unanimously (Norris, Hairston, Catlin, White, Cahoon, Gorham, Andrew, Gibbs, Lewis, Rhodes, Baldwin).**



## **Sediment Criteria – Sampling Methodology (CRC 16-44)**

**Mike Lopazanski**

Mike Lopazanski stated there are criteria for beach nourishment projects that requires you to match the sand from the borrow area with the sand on the native beach where it will be placed. The Science Panel was engaged to develop sediment criteria and came up with grain size requirements. As a result of this work, there is a sampling protocol to use when doing a beach nourishment project. Over the years we have been amending these rules as we have gotten more practical experience with their application. There is still a problem with the rigidity associated with the sampling protocol being in the rule. It does not allow for any flexibility. Amendments will be drafted to remove the sampling protocol from the rules. We want to keep the criteria in terms of the percentages of grain sizes that are deemed acceptable

## **PUBLIC HEARING**

### **15A NCAC 7L Planning & Management Grants**

**Mike Lopazanski**

Mike Lopazanski opened the public hearing to receive comments on changes to 15A NCAC 7L and stated that a comprehensive review of the CAMA planning program has occurred over the past couple of years. We have focused on separating the land use planning provisions from the planning grants. 7L now contains the planning and management grant program and the categories for the types of projects that are eligible have been broadened. The comment period ends March 6 and the CRC can adopt the amendments at the April meeting.

No comments were received.

## **COASTAL PROGRAM IMPLEMENTATION**

### **CAMA Permit Application Requirements – Plans, Drawings & Surveys**

**Doug Huggett**

Doug Huggett gave a presentation to the Commission about permit application requirements relating to plans, drawings, and surveys. He began by noting that during some previous variance requests, Commissioners asked questions during the discussion about the accuracy of permit drawings submitted to DCM. Doug Huggett explained that in the mid-70s when CAMA was passed, it was intended to be a simple permit process available to as many applicants as possible. Staff work with the applicants to fill out the applications. Applicants are not required to hire engineers or surveyors to complete the application process. This process has worked well over time. The Division issues between three and four thousand permits per year and only about ten come before the Commission for a variance request. Water depth surveys can be particularly difficult to do. While surveys may be technically accurate, they may not accurately reflect the amount of water at the site. If the Commission wants to make a change to the permitting process, staff suggests it consider any of the following four options. The first option would be to require survey drawings for all permit applications. There would be a greater level of precision and accuracy with this option and there would be an increased legal defensibility. However, the cost and time to the applicant would be increased and there may be a need to coordinate with other agencies. The major drawback to this option is that it would add a level of complexity to even the simplest of projects. The second option would be to require surveys only for Major Permit applications. The benefit of this option is that it would add precision, accuracy, and increased legal defensibility for the complex permit applications. The drawbacks for this option is that it would also require surveys for modifications

and it would not alleviate the problem of the Commission not seeing a survey on a variance relating to a Minor or General permit. The third option would be to require surveys based upon staff judgment or discretion. Under this scenario, surveys would only be required for the most complex projects and staff would have the flexibility to require surveys on other projects as needed. This option would, however place a significant amount of pressure on DCM's field staff. This discretion could also result in an inconsistent standard applied across different regions of the Division resulting in difficulty figuring out the ground rules for each project. The last option is to only require surveys if a project is pursuing a variance from the Commission. The advantages of this option are that the survey requirement would apply to approximately 10 permit applications per year. This will provide the precision and accuracy the Commission would like to see as well as increased legal defensibility. The disadvantage of this option is that if we don't know at the time of initial permit application that a variance request may be coming, it is impossible to require this survey during the application process which would enable the survey drawings to be included in the variance packet. We could require as part of the variance process that the applicant go get the required information, but that may slow down the variance process. Legally, the application drawings that were submitted originally with the application would also be included in the variance packet. Mr. Huggett suggested applicants could view this additional requirement for variance requests as punitive. It would be an added burden for an applicant, who has been denied a permit for development, to pay an additional cost for a survey and possibly retain legal counsel to represent them before the Commission. Staff does not recommend any changes to the permit application process.

During discussion, the Commission noted that if it needs additional information to make a ruling on the variance request, the variance can be remanded back to the DCM staff and the petitioner to provide the additional information. Mary Lucasse, CRC Counsel, reminded the Commission that if a Commissioner determines prior to a meeting that additional information would be helpful, the Commissioner can notify CRC counsel who can then request additional information from DCM and the petitioner. The Commission determined that no changes would be made to the permit application process.

### **COASTAL PLANNING**

#### **Planning & Management Grant Program Priorities (CRC 17-06)**

##### **Mike Christenbury**

Mike Christenbury stated as part of our most recent review of the entire CAMA land use planning program, we looked at the 7L Planning and Management Grant funding rules. In the past, emphasis was placed on land use plans. We recognized that we would like to build more flexibility in these rules to allow for funding a greater range of projects. We have also built into the rules the ability for the Commission to give feedback to staff on the types of projects the Commission would like to see funded. Solicitations will be sent out soon to the 20 coastal counties for this year's grant funds. Staff recommends that grant funding be prioritized for natural hazards and storm recovery projects.

**Neal Andrew made a motion to approve the Planning and Management Grant Program priorities as presented. Greg Lewis seconded the motion. The motion passed unanimously (Norris, Hairston, Catlin, White, Cahoon, Gorham, Andrew, Gibbs, Lewis, Rhodes, Baldwin).**

## **Hyde County Drainage Project Update**

### **David Moye**

David Moye stated in 2012, the CRC and CRAC attended a field trip in Hyde County. A little over a year ago the Commission directed staff to work with Hyde County to establish a steering committee to identify specific issues of concern and explore possible solutions. A steering committee was made up of individuals from Hyde County, NRCS, the local storm and water board, agricultural consultants, DCM staff, as well as soil and water staff. The original plan was to come up with the committee and decide on the issues that needed addressed and set up meetings with three specific stakeholder groups. The local stakeholders were the local government officials, local land owners, and farmers from Hyde County. The second group were the federal and state agencies that would deal with any permit activities associated with on-going issues in Hyde County. The third stakeholder group included the non-governmental groups that had been working with different people in the County on ways to fix their problems. After the first meeting with the local stakeholders it came out that the original plan to subdivide the three groups was probably not a viable option. Director Davis sent out an email about another stakeholder meeting to talk about this concern. Recommendations came out of this meeting. The first thing everyone agreed upon was that the County could benefit from a point person capable of taking the lead on drainage related projects from conception to permitting, construction and operation maintenance. The County has put this position in their budget. The second recommendation was for the County to explore the drainage districts within the County to establish easements for work corridors, responsible parties, and operating procedures. The County is working on establishing drainage districts for the entire County. A document also need to be developed as a step-by-step tutorial on the process for obtaining permits for various drainage related projects. DCM has the developer's handbook on its website which works through the permit process. The problem with this document is that it includes every DCM permit and is not specific to drainage projects. DCM took this document and pulled out processes related to drainage and agricultural permits. The final document will be available for any county to use when they apply for an agriculture related permit. Also, included in this document are technical and funding sources available to the county. We were able to identify three different funding sources. We asked WRC to modify the language within their document to make it easier for agricultural drainage ditches to be cleared and snagged. WRC has done this. Some questions were raised about cutting and removing vegetation within DWR's buffers. Specific legislation was written to remove agricultural drainage ditches from the buffer requirements. It was also agreed that Hyde County should move forward to develop a county-wide comprehensive water management plan. The County is working with Lake Matamuskeet on a watershed management plan. This is an important step because the federal side is working with Hyde County to come up with a plan for watershed management. The Division is also considering whether the CRC should develop rules to make it easier for some of these projects to move forward. Staff is currently looking at a General Permit to streamline the permitting process for straightforward agricultural drainage projects, pumps and water control structures in place of the Major Permit process. All this information is in draft. Once the report is completed it will be presented to the Commission.

## **OLD/NEW BUSINESS**

### **Riggings Annual Report (CRC 17-07)**

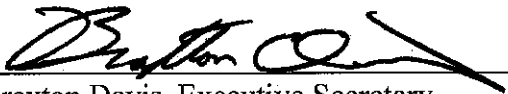
**Mary Lucasse**

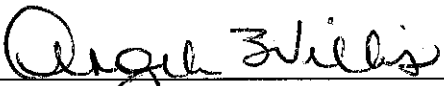
Mary Lucasse stated the Riggings Homeowners Association was notified that the CRC would review their report at this meeting and invited to attend. Ted Sampson, environmental consultant for the Riggings, was present on behalf of the Riggings. Ms. Lucasse stated the Riggings HOA has had sandbags since 1992 to protect their buildings. Sandbags, by statute and rule in North Carolina, are considered temporary erosion control structures. This site has had erosion problems since the buildings were built. The most recent variance granted by the CRC in December 2015 provided a five-year time frame for the HOA to have sandbags to protect their buildings and to explore permanent responses to the erosion at the site. This permit will expire in 2020. The Commission conditioned the variance on the requirement that an annual report be provided to the CRC on measures taken to address the erosion on this site. The Riggings' annual report was submitted to DCM and provided to the CRC in their meeting materials. Mr. Sampson produced the report for the Riggings. DCM has reviewed the report and provided comments to the Commission.

Christy Goebel, counsel for DCM, stated the site was designated by the Natural Heritage Program as the coquina rock outcropping. The record for the variance request does not indicate what this designation means and whether there are any limitations because of the designation. Braxton Davis stated, we are not aware that the Riggings has formally asked the Corps to include the area in front of their buildings in the next nourishment project. Commissioner Greg Lewis stated that at the next annual update the Riggings should include what steps they have taken to answer these and other questions. Mr. Sampson stated the HOA has asked his firm to request a meeting with the Corps to find out what could occur at this site. Anything alternate to sandbags would either be a hardened structure or beach nourishment. There appears to be solid resource agency objection to putting nourishment anywhere south of the northern-most outcrop. The Corps' representative did not raise objections to nourishment, but there are processes that must take place by the Riggings or the Town. Commissioner Neal Andrew asked if the conclusions made in the report are the conclusions made following the interagency meeting with the Riggings or are they Mr. Sampson's personal conclusions? Mr. Sampson stated the conclusions belong to himself based on discussions at the meeting. Mr. Andrew also stated that New Hanover County staff do not believe beach nourishment will work at this location. One reason is that a lot of sand has been placed just north of this area on Kure Beach and none of it has tried to remain in place at this location. Another option that is available to the Riggings is relocation. Without support from the local County officials, it is unlikely that the Corps will change their template for sand placement. Commissioner Renee Cahoon agreed with Commissioner Andrew's comment about relocation. She further stated that there has been no documentation that the Riggings HOA has tried to work with the State that made this designation to have it modified or help with a process if the designation is causing harm. The HOA had done nothing outside of asking the CRC for multiple variances. Mr. Sampson stated the Riggings HOA has looked at what can be done and based on what they have done so far it appears that beach nourishment is what needs to be pursued. Mr. Sampson stated the problem doesn't appear to be that the site has been listed on the Registry, the resource agencies of the State and federal government have objections based on what the effect nourishment would have to the habitat along the unique shoreline. This will need to be dealt with in a permit process if a permit application goes forward. Ms. Goebel added that the record is lacking in proof that agencies have objected. Chairman Gorham stated that the Riggings HOA needs to use the time it has been provided with a sandbag variance to consider all possible remedies. Mr. Sampson stated he will try to find something proposed solution that DCM can approve and then get the other agencies to find a

solution that is acceptable. Braxton Davis stated the Division will make itself available to discuss options with The Riggings and other resource agencies review the options and suggested that The Riggings should contact the Corps and DNCR. The Riggings should also talk to the County to see if they would be supportive of nourishment. The Commission, DCM staff and Mr. Sampson continued their discussion of steps The Riggings should take in the next year and include in the second annual report to the Commission. At the conclusion of the discussion, the Commission directed counsel to forward a letter to The Riggings incorporating the requests made by the Commission during the discussion.

With no further business, the CRC adjourned.  
Respectfully submitted,

  
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Braxton Davis, Executive Secretary

  
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Angela Willis, Recording Secretary