

NC COASTAL RESOURCES COMMISSION (CRC)

July 11-12, 2017

Holiday Inn

Greenville, NC

Present CRC Members

Renee Cahoon, Chair

Neal Andrew, Vice-chair (present 7/12/17 only)

Greg Lewis, Second Vice-chair

Larry Baldwin

Rick Catlin

Denise Gibbs

Phil Norris

Russell Rhodes

Bill White

Present CRAC Members

Rudi Rudolph, Chair

Spencer Rogers, Co-Vice-chair

Bobby Outten, Co-Vice-chair

John Brodman

Jett Ferebee

Johnny Martin

Michael Moore

David Moye

Kris Noble

Todd Roessler

Dave Weaver

Lee Wynns

Present from the Office of the Attorney General

Shawn Maier

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

Christine A. Goebel

CALL TO ORDER/ROLL CALL

Renee Cahoon called the meeting to order reminding the Commissioners of the need to state any conflicts due to Executive Order Number 34 and the State Government Ethics Act. The State Government Ethics Act mandates that at the beginning of each meeting the Chair remind all members of their duty to avoid conflicts of interest and inquire as to whether any member knows of a conflict of interest or potential conflict with respect to matters to come before the Commission. 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. Marc Hairston and Jamin Simmons were absent. No conflicts were reported. Based upon this roll call Chair Cahoon declared a quorum.

CHAIR COMMENTS

Chair Cahoon stated the President's budget eliminates funding for many NOAA programs including Coastal Management and the National Estuarine Research Reserves. If this budget is passed, between DCM and NERR, the programs stand to lose about \$3.15 million annually. This would be approximately half of DCM's budget. This will impact permitting, federal consistency reviews, policy development, staff support for the CRC, coastal programs and basic administration and operations. This would limit the State's ability to protect coastal and marine resources, public access, navigation, riparian property rights, monitoring and managing natural hazards such as beach erosion and inlet shoaling. The chair inquired whether the CRC would like to support NOAA programs through a letter to North Carolina's Congressional Delegation?

Greg Lewis made a motion to send a letter of support for NOAA coastal programs to the North Carolina Congressional Delegation. Denise Gibbs seconded the motion. The motion passed unanimously (Lewis, Catlin, Baldwin, Cahoon, Norris, Rhodes, White, Gibbs).

Robert High of New Hanover County has been appointed to fill the unexpired term of John Snipes filling the sport fishing seat. Doug Medlin, Mayor of Surf City, has been appointed to fill the coastal property owner/land development seat. These were the only remaining vacancies on the Commission. The two newest members should be qualified to participate at the September meeting. Due to the number of new Commission members, it would be appropriate to have a full orientation for the entire Commission.

Later in this meeting's agenda there is a public hearing scheduled for amendments to 15A NCAC 7H .2200, the General Permit for Construction of Freestanding Moorings and Bird Nesting Poles. The Commission designated Jonathan Howell as hearing officer for this public hearing.

COASTAL ISSUES

Flood Insurance Rate Map Development

John Dorman, Asst. State Emergency Management Director for Risk Management

John Dorman stated the floodplain mapping program started in 2000 after Hurricane Floyd. The program's goal is to develop, maintain and disseminate data, models, and maps. Flood studies are reviewed for necessary updates every 3.5 years. Once engineering studies are completed and we calculate the financial loss at the structure level. This was a significant benefit available during Hurricane Matthew. Even before the end of the storm we could tell FEMA what the financial costs were going to be for North Carolina. Dorman reviewed all information that is necessary to make the mandatory determinations for flood insurance. FEMA is the responsible custodian of the technical data which is transferred to the state of North Carolina. As we update the maps, FEMA utilizes the information to determine what buildings require flood insurance. Typically, any federally backed mortgage requires flood insurance if it is within the 100-year flood zone. All this information is also incorporated into our real-time flood warning system. Since we started the program, DEM has acquired LiDAR-derived topography, building footprints, and first floor elevations. We are completely digital and much of the data that we have can be shared with others. We have studied about 32,000 stream/coastal miles and calculated impact and financial loss to properties from different flood elevations. In 2006, we started looking at the coastal models and studies and incorporate all of FEMA's coastal requirements and standards in these studies. We also utilize private sector engineers and surveyors. to develop engineering models for our review. FEMA also performs quality control on the models as well as an independent firm. Dorman stated the DEM also utilizes the most up to date hydrodynamic process methodology based on FEMA's latest models. None of the current modeling has anything to do with climate change or sea level rise. That

has not been built in since FEMA is prohibited from incorporating any climate change or sea level rise into the maps. The surge model is one of the many components that build the flood map as are field transect surveys and reconnaissance. Dorman stated that the primary frontal dune was a significant component in making the changes to the maps this time around. FEMA makes determinations on how you classify the primary frontal dune including incorporating storm-induced erosion, wave modeling and coastal flood hazard mapping. FEMA provided funding for us to update the entire coastline. The last study was based on 1981 surge modeling and significant changes have occurred since then. The model used in 1981 did not include wave setup, the resolution of the points of elevation were on a 1-mile basis and the models did not extend into the streams. The wind and pressure field data was also at a low resolution in the former models. Based on the new modeling, we have seen a reduction in the width and the seaward push of the VE Zone. The primary reason for this shift is the topography and FEMA's new definition of the primary frontal dune. The result of all this is the regulatory requirement and base flood elevations on the coast have gone down. Out of about 94,000 buildings, we saw 58,154 (or 62% of all the buildings) had a reduction in base flood elevation, and 23,000 went up by about 1.5 feet. This resulted in a net reduction in the number of buildings and NFIP policies in the regulatory coastal AE and VE flood zones. Currently there are a couple of counties and municipalities that have some issues with the results and we understand and agree with them. We have met with Jacksonville and Morehead City and we are updating the regression equations from the US Geological Survey to better reflect what is happening in Jacksonville. The sensitivity analysis that we are going to do on the storm surge in Morehead City and Jacksonville will require a refined model and that should occur within the next couple of weeks. The website to view all this information can be found at fris.nc.gov/fris.

Randy Mundt, Outreach Coordinator for floodplain mapping program, stated our team has been responsible for coordinating with the local communities in finding out where they have needs for updates as well as walking them through the post-preliminary process that FEMA mandates which allows for review of the data. This update is the first since the early 1980's and there are several factors that resulted in the changes to the base flood elevations. There is substantially more detailed terrain and bathymetric data as well as higher-resolution storm surge model grid/mesh and increased inland extents. There have been several strong storms that were accounted for in the new model. The wind fields are more detailed as there has been significant advancements in wind field science. A refinement has also been made to the primary frontal dune definition and enhanced wave run-up modeling and new guidelines. All survey data used has been sealed by NC licensed professional land surveyors and meets all FEMA vertical and horizontal accuracy requirements.

Tom Langan, Chief Engineer for the floodplain mapping program, stated we have received a lot of questions as to why we used ADCIRC as our model for our storm surge. When we began our study in 2006, there were only three models that were approved by FEMA for use for coastal storm surge studies. ADCIRC was the best model that was available to us at the time. An advantage of using ADCIRC was that a model was already setup at UNC by Dr. Rick Leutlich for the entire Atlantic Basin. To model a storm surge, you need to be able to simulate hurricanes as they track for the entire basin. ADCIRC also has the benefit to allow for a flexible mesh. ADCIRC could integrate with 2-D offshore and nearshore wave and wind field models. The methodology and application of ADCIRC are well-established in the coastal engineering community and in the published literature. It has also been used in all coastal FEMA NFIP studies conducted in the last decade from Texas to New York and the Great Lakes. There are seven NOAA tidal gauges in North Carolina however, there is not a sufficient period of record and gauge coverage to analyze flood frequency based on gauges alone. The model could be improved by more coastal gauges and we also need newer and better bathymetric data, particularly in the Albemarle and Pamlico Sounds where a lot of the

bathymetric data is old. New LiDAR data would provide a slightly better resolution on the edge of the flood boundaries. We also need to continue to collect building footprints to facilitate the building level risk analysis and keep it up to date. In 2014, we added seven additional tidal gauges and have identified thirteen additional locations where we feel additional gauges are needed to better understand water levels in the state and improve our coastal model.

Resilience Evaluation and Needs Assessment Project

Monica Gregory, NOAA Coastal Management Fellow

Monica Gregory stated the Coastal Management Fellowship is sponsored through NOAA which places Fellows for two years in different state agencies across the country. My current project with DCM is called the Resilience Evaluation and Needs Assessment. Former President Obama defined resilience as the ability to anticipate, prepare for and adapt to changing conditions and withstand, respond to and recover rapidly from disruptions. Resilience is about proactive planning. After extreme weather events, we want our communities to recover and the economy to move. This project is part of a five-year plan with the goal to build a coastal community resilience framework guide that is specific to North Carolina. The guide will include case studies that other communities experiencing the same issues can use and to develop specific adaptation and mitigation strategies. Currently we are conducting a pilot program in several communities that involves mapping with the local government, public workshops, and project identification. NOAA and DCM co-sponsored this project and we have worked closely with The Nature Conservancy in the northern region. NC Sea Grant has also provided information on contacts for different resources as well as the NC Coastal Federation and the Town of Nags Head. We are working with the Town of Pine Knoll Shores which has a lot of issues with stormwater management and drainage. Edenton is our largest and densest community and has drainage and stormwater management issues.

Hatteras Village has a lot of concerns related to sea level rise, but may be further along in adapting to some of the hazards they are experiencing.

Duck is a newer community with a different set of priorities and is focused on shoreline stabilization. Oriental experiences a lot of flooding due to its physical location and orientation. A needs assessment was conducted to find out what kind of resilience work had already been done as well as the needs of the local governments. The most common challenges were flooding, stormwater management and drainage issues, and damage from hurricanes and heavy winds. The communities also mentioned the need for addressing these challenges and how to find grants, expand community buy-in, and secure resources to begin resilience planning. DCM's GIS Specialist has physically mapped out each of the five communities and we have identified the physical and social vulnerabilities. From these maps, we can overlay different data sets such as sea level rise modeling or precipitation modeling. Public workshops will gather feedback and input from the communities with the last step of the process being project identification. In areas that are repetitively flooded, communities might be interested in a project that would include an engineering study on how to alleviate some of the flooding. This will be a local level effort centered on identifying the projects that will help the communities now by addressing current needs.

ACTION ITEMS

Periodic Review of Existing Rules – Public Comments, Approval of Final Report (CRC 17-15)

Mike Lopazanski

Mike Lopazanski stated prior to 2013 the rules in the Administrative Code did not expire. The Legislature passed a provision in the Administrative Procedures Act that requires a ten-year review of existing rules. The CRC's rules were classified as necessary with substantive public interest, necessary without substantive public interest, or unnecessary. Unnecessary rules will expire. Rules classified as necessary with public interest will need to be readopted and rules classified as

necessary without substantive public interest will remain in the Administrative Code. The CRC approved the draft report in February which was posted on DEQ's, DCM's and OAH's websites for a period of 60 days. The comment period ended in April and the CRC can now approve the final report. Based on the comments received, no changes have been made to the initial classifications. Staff recommends the CRC approves the final report which will then be sent to the Rules Review Commission for review. Once the RRC has approved the report it will be sent to the Joint Legislative Procedures Oversight Committee for final determination. If they do not meet within 60 days of submission, then the report is considered final and CRC can begin the readoption process.

Greg Lewis made a motion to approve the final report and submit to the Rules Review Commission. Larry Baldwin seconded the motion. The motion passed unanimously (Lewis, Catlin, Baldwin, Cahoon, Norris, Rhodes, White, Gibbs).

Town of Boiling Spring Lakes LUP Certification (CRC 17-16)

Rachel Love-Adrick

Rachel Love-Adrick stated the Town held a duly advertised public hearing on April 4, 2017, and on May 2, 2017 and voted unanimously by Resolution to adopt the 2017 Comprehensive Land Use Plan. DCM staff reviewed the plan and has determined that the Town has met the substantive requirements outlined in the CRC's 7B land use plan guidelines and there are no conflicts with either state or federal law or the state's coastal management program. No comments were received. Staff recommends certification of the 2017 Boiling Spring Lakes comprehensive land use plan.

Phil Norris made a motion to certify the Town of Boiling Spring Lakes Land Use Plan. Russell Rhodes seconded the motion. The motion passed unanimously (Lewis, Catlin, Baldwin, Cahoon, Norris, Rhodes, White, Gibbs).

Town of Beaufort LUP Amendment (CRC 17-16)

Rachel Love-Adrick

Rachel Love-Adrick stated the Town made text amendments to its land use plan updating the zoning districts in the plan to coincide with their updated land development ordinance. The Commissioners held a duly advertised public hearing on the amendment at their March 13, 2017 regular meeting. The Board voted unanimously by Resolution to adopt the land use plan amendment. The public was provided the opportunity to submit comments on the plan amendment and no comments were received. Staff recommends certification of an amendment to the 2007 Town of Beaufort CAMA Land Use Plan based on the determination that the Town has met the substantive requirements outlined in the 7B guidelines and that there are no conflicts with either state or federal law or the state's coastal management program.

Larry Baldwin made a motion to approve the Town of Beaufort's Land Use Plan amendment. Bill White seconded the motion. The motion passed unanimously (Lewis, Catlin, Baldwin, Cahoon, Norris, Rhodes, White, Gibbs).

CRC RULE DEVELOPMENT

CRC Dune Protection, Restoration & Repair (CRC 17-18)

Frank Jennings

Frank Jennings reminded Commissioners that a presentation was given at the last meeting about the Outer Banks dune system, the CRC's current rules on dune protection in the Ocean Erodible AEC and some of the issues that we face as regulators in trying to implement the rules of the Commission. The Commission was asked to consider allowing fill to be placed on a frontal dune

similar to the current rule for fill placement on a primary dune. The Commission was also asked to consider defining, by rule, disturbance by volume of disturbance and limit disturbance by a percentage of volume so long as the protective nature of the dune is not diminished. Additionally, the Commission was asked to consider allowing, by rule, excess sand on lots that is displaced by storm overwash or wind erosion to be returned to the beach as repair and maintenance. Finally, the Commission was asked to consider allowing, by rule, beach mats and other techniques to provide access. The Commission directed staff to come back to the Commission with possible rule amendments that would provide solutions to these issues. Proposed amendments to 15A NCAC 7H .0308 and 7K .0103 were reviewed. The Commission requested adding language for structural accessways in 7H .0308 to require that any sand added shall be of the same general characteristics as the sand in the area in which it is to be placed.

Phil Norris made a motion to approve the proposed amendments to 15A NCAC 7H .0308, with the additional language regarding sand compatibility, and 7K .0103 for public hearing and begin the fiscal analysis. Larry Baldwin seconded the motion. The motion passed unanimously (Lewis, Catlin, Baldwin, Cahoon, Norris, Rhodes, White, Gibbs).

LEGAL UPDATE

Update on Litigation of Interest to the Commission

Shawn Maier

Shawn Maier stated in the Nies v. Town of Emerald Isle case, the Nies appealed to the United States Supreme Court and the Court has asked the Town of Emerald Isle to respond to the Nies petition on whether the case should be heard. A decision is expected this Fall. In another case, Brooks/HEB Properties filed a petition in Guilford County Superior Court for judicial review stemming out of a denial of the third-party hearing request related to a CAMA permit issued for a docking facility in Wrightsville Beach. The petition was filed June 15 and we are waiting on the schedule for this case. Sunset Beach Taxpayer's Association/Coastal Federation/Sunset LLC v. DCM are two contested cases at OAH that were consolidated. The cases involved a Major Permit for a 21-lot residential development at the western end of Sunset Beach. The consolidated case has been stayed pending the outcome of a Superior Court hearing to determine whether the permittee has title to the property at issue. The Riggings variance from 2015 required the Riggings to submit an annual update on progress on finding and implementing alternative solutions to sandbags. The next annual update will be due December 11, 2017.

MINUTES

Neal Andrew made a motion to approve the minutes of the April Coastal Resources Commission. Denise Gibbs seconded the motion. The motion passed unanimously (Andrew, Baldwin, Catlin, Cahoon, Gibbs, Lewis, Norris, Rhodes, White).

EXECUTIVE SECRETARY'S REPORT

Braxton Davis, DCM Director, gave the following report:

Legislative Update

DCM has been tracking several bills introduced during the current legislative session. S.L. 2017-10 (S131) – An Act to Provide Further Regulatory Relief to the Citizens of NC Section 3.8 Eliminate Outdated Provision of CAMA (113A -109) – This action eliminates the provision for the CRC to develop the initial Land Use Plan for a County if they have not already done so. All CAMA counties currently have LUPs. Section 3.14, CRC Rules on Temporary Erosion Control Structures, allows the Commission to adopt an emergency rule for the use of

sandbags consistent with the amendments in a CRC memo (CRC-16-23). The Commission is also directed to adopt temporary and permanent rules to implement this section. A review of your currently proposed amendments to temporary erosion control structures is on your agenda for this meeting. Section 3.15, CRC to Amend Sediment Criteria Rule, Exempt Cape Shoal Systems, directs the CRC to exempt from the permitting requirements of the Sediment Criteria rule (15A NCAC 7H .0312) any sediment in the cape shoal systems used as a borrow site and any portion of an oceanfront beach that receives sediment from the cape shoal system. This provision would be effective immediately upon passage of the bill until the Commission completes permanent rule making. The Commission began the process at the last meeting that included revisions of the sampling protocol associated with the sediment criteria rules. Staff has been soliciting input from stakeholders on draft amendments and will have rule language for you to consider at the September meeting. Section 3.16, DCM to Study Long-term Erosion Rates Adjacent to Terminal Groins, directs DCM to study the change in erosion rates directly adjacent to existing and newly constructed terminal groins to determine if current erosion rates should be adjusted to reflect any mitigation of shoreline erosion resulting from the installation of the terminal groin. Section 4.19, Reporting Frequency on Terminal Groin pilot Projects by the CRC, reduces the frequency of reports from once a year to once every five years.

There are several bills that are still active and in conference between the House and Senate. All environmental omnibus bills were held back due to a disagreement between the House and Senate on the Energy bill (HB 589). While there was, an agreement reached to the original Energy bill that passed the House with a wind moratorium of 18 months that still allows DEQ to process permits time but not issue them, the omnibus bills that were in conference that affected DEQ (HB 56, SB 16, HB 770, SB 469, HB 374) all were left unresolved. The General Assembly adjourned until August 3rd, with an additional session scheduled for September 6th, and then another session to resolve new district maps before November 15th. During the session that starts August 3rd, conference reports can be taken up which will likely include the environmental bills.

H56, An Act to Amend Various Environmental Laws, contains our requested modifications to CAMA to delegate the power to approve land-use plans to the Department and exempt Minor Permit applications from the requirement that a public notice be posted at the location of the proposed development to expedite permitting for minor development activities.

The budget bill included a targeted, recurring reduction of \$27,000 for DCM. Total reductions in appropriations since 2010: \$1.93M to \$1.35M today, which is a 30% reduction over that time period. Since 2010, we have reduced staff positions by 14, and shifted existing positions to federal grants to support operations. Additionally, the bill included a reduction of approximately \$800,000 in the first year and up to a one million reduction in the second year for the Department. This will likely have additional implications for each of the Divisions. The bill requires the Department to develop a Reduction Through Reorganization (RTR) plan; which we are working on. The Department of Justice's budget has also been impacted. Christy Goebel stated there is a ten million dollar cut to the DOJ budget, but excludes SBI and Criminal Training Standards so it must come out of the Attorney General's Office. This will result in a 40% reduction including 123 full-time positions.

Regulatory

On the regulatory side, we are continuing to see higher permit activity in the first six months of 2017 as compared to the same period in 2016. Major Permit actions remain steady, with 87 permit decisions made during the first half of 2017, which is on par with the number of major permits

issued during the same period in 2016. Additionally, the Division issued 1,104 general permits during the first six months of 2017, which represents an increase of over 250 actions relative to the same period in 2016. The most notable permit action since your last meeting involves the issuance of a permit to the Town of Southern Shores, authorizing a beach nourishment project for a portion of the Town's oceanfront. This permit allowed the Town to add their project to previously approved nourishment projects for the Towns of Duck, Kill Devil Hills and Kitty Hawk. Nourishment activities for these four communities began in early June, and is ongoing. Additionally, the Village of Buxton just recently began their own beach nourishment project. On May 16, the Division held a local permit officer training session in Wilmington for those local governments in the southern portion of the State that participate in the LPO program. The session was well attended and we got some good feedback from the attendees. A similar session for the northern LPO programs is scheduled for the fall.

Coastal Reserves

Coastal Reserve summer programming is underway including free public field trips and the Summer Science School programs - details are available on the Reserve's website on the event calendar. Fifteen seasonal temporary staff and interns are helping the Reserve with a variety of projects this summer including general public and summer camp education programs, various site management activities, sea turtle and shorebird monitoring, pre-storm marsh sill assessment monitoring, and aerial photo documentation of marsh seaward of bulkheads. Funding for the paid positions comes from the Division and Reserve, Youth Advocacy Involvement Office, and the National Fish and Wildlife Foundation. Several the unpaid interns (5) are receiving college credit for their work. The Reserve hosted a 2-day Teachers on the Estuary, or TOTE, workshop in June for eleven teachers. TOTE is a program implemented at all reserves within the National Estuarine Research Reserve System and is tailored to meet the needs of teachers in N.C. The program included a field trip to the Rachel Carson Reserve, hands-on utilization of both national and N.C. Reserve curricular activities and presentations with activities by Reserve and NOAA staff on stormwater management, marine debris, marsh elevation, and protected species. This teacher workshop complements the Reserve's 1-day Coastal Explorations workshop which is held twice per year. The Rules Review Commission (RRC) approved the rules review report for the Coastal Reserve rules 15A NCAC 070 at its June meeting. The Joint Legislative Administrative Procedures Oversight Committee received the report with the public comment and response on June 19, 2017. The report will become final if the Oversight Committee meets or by the 61st day that it was submitted to them. Once the report is final, staff will work with the Department and RRC to establish a timeline for the rules that need to be readopted.

Policy & Planning

DCM has awarded grants to seven coastal municipalities for local planning and management projects that will help them prepare for hurricanes, storms and growth through the CAMA Planning and Management Grant Program for the upcoming 2017-18 fiscal year. The Division has utilized \$100,000 of its federal funding from NOAA to support local land-use planning and management projects in the state's 20 coastal counties for the past two years. You will recall that grants up to \$20,000 were made available for Natural Hazards and Storm Recovery projects as prioritized by the Commission. Projects funded include flooding mitigation planning, flooding vulnerability, storm water drainage and updates to land use plan natural hazard policies. Of particular note, is a grant to Hyde County to assist in the development a watershed restoration plan to addresses drainage issues and improve water quality in Lake Mattamuskeet. Projects are to be completed by June 30, 2018.

Offshore Oil and Gas Activities

Geological & Geophysical Surveys (Seismic Testing)

In 2015 the Division issued federal consistency determinations to four companies to conduct geological and geophysical activities offshore of North Carolina. G&G 2d surveys are seismic surveys that use air guns to send sound waves through the ocean floor to map the subsurface related to oil and gas resource development. The applicants included: Ion Ventures; CGG; TGS; and Spectrum. Generally, federal consistency requires that federal actions, within and outside the coastal zone (even in federal waters), which have reasonably foreseeable effects on any coastal use or natural resource be consistent with the enforceable policies of a state's federally approved Coastal Management Program. Federal actions include federal activities, federal license or permit activities, or federal financial assistance. In this case since the Bureau of Ocean Energy Management would be issuing permits to these companies to conduct seismic surveys, a federal consistency determination was required. DCM found all four applicants consistent with your rules and policies, however, the division did condition the determinations that all companies conduct pre-survey meetings with representatives from DCM and DMF in advance to avoid, minimize, and mitigate any possible impacts or conflicts with commercial and recreational fishing offshore of our coast. Several of these companies are also in the process of pursuing Incidental Harassment Authorizations under the Marine Mammals Protection Act. On June 6, 2017, NOAA Fisheries published notice of a 30-day public review for take of marine mammals incidental for G&G surveys. The public comment period has been extended to July 21, 2017.

5-Year Lease Program

The Trump administration recently announced that the public comment period will open for a new five-year energy leasing program for the outer continental shelf, including opening East Coast waters to oil and gas exploration. The Five-Year Lease Program sets a schedule for proposed oil and gas lease sales of the federal OCS area. The initial step in developing the 2019-24 Plan includes a public comment period and BOEM will be accepting comments until Aug. 17, 2017. We are working closely with the Department on these issues and DEQ is currently reviewing and considering comments on both the IHA permits and the new five-year energy leasing program.

Administrative

Due to recent changes in the interpretation of IRS regulations, the Office of State Controller is requiring that all boards and commission members who receive a per diem payment have taxes withheld from the payments. This change went into effect January 2017. Board and commission members will be treated like employees for tax purposes only. To that end, we need to collect certain information from the members in order to get them into the Integrated HR/Payroll System. A letter will be coming to you shortly explaining the two options: (1) continue to receive the per diem of \$15/per day of service, but have it taxed. This does not include your hotel reimbursement, mileage or meal reimbursements; or (2) waive the per diem and pay back any that they have received in 2017.

Staffing News

We are very happy to announce that we have finally been able to fill our new beach and inlet management project coordinator. Last year's State budget allocated shallow draft inlet funds to DCM for the purpose of hiring a position that will work on permits, projects, and policy-related issues involving the management of North Carolina's inlets, nourishment of our beaches, as well as other related topics and issues. This has been a much-needed position for many years, and we are very happy to announce that Matt Slagel started work with the Division on June 19th. Some of you may remember Matt from when he previously worked for the Division from 2012 to 2014, at which

time he returned to the South Carolina Coastal Program. Matt is in our Morehead City office. We are also pleased to announce Ella Godfrey recently joined our Elizabeth City office as their new administration assistant. Ella has nearly 26 years of experience as an administrator for the Elizabeth City Pasquotank Public School System and the City of Elizabeth City, and most recently at Elizabeth City State University for their IT department. Please join me in welcoming both Ella and Matt to the Division.

CRAC REPORT

Rudi Rudolph

Rudi Rudolph stated the CRAC consists of 20 at-large members and currently has four vacancies. The CRAC needs more representation from the inner banks so those issues are addressed as well. A letter was sent to all coastal communities asking them for nominations to the CRAC and for their top coastal issues. The CRAC discussed the nominations and recommend Seth Laughlin, Candy Bohmert, David Kellam, and Nancy White for appointment. The CRAC set up a subcommittee to prioritize the top coastal issues submitted.

Greg Lewis made a motion to approve the recommendations and appoint Seth Laughlin, Candy Bohmert, David Kellam and Nancy White to the Advisory Council. Rick Catlin seconded the motion. The motion passed unanimously (Lewis, Catlin, Baldwin, Andrew, Cahoon, Norris, Rhodes, White, Gibbs).

BEACH AND INLET MANAGEMENT

Development Line Approval Process

Shawn Maier

Shawn Maier gave a brief outline of the Commission's process for approving a development line and the rules related to the development line process. The question of what is meant by the "average line of structures" or "average line of construction" or "an adjacent neighbor sight-line approach" is not defined by the rules. This requires the Commission to exercise its discretion in determining whether the proposed development line meets the standards. The goal of CAMA is to protect the public from ocean hazards which may result from placing development in a location too close to ocean hazards and to protect coastal resources while allowing appropriate development.

Town of Kure Beach Development Line Approval (CRC 17-19)

Ken Richardson

Ken Richardson stated the Town of Kure Beach is requesting a development line and has submitted the required information and documentation. The Town has an Army Corps of Engineers easement line which is a permanent line. In an attempt to reduce the number of management boundaries on the oceanfront, the Town would like to present the easement line as the proposed development line.

John Batson, Building Inspector for the Town of Kure Beach, stated the Town does have a large-scale beach renourishment project which expires in 2047. The development line request is the Town's easement line that runs across every property in our jurisdiction. Mr. Batson reviewed the maps illustrating the proposed development line and the current static line.

The Commission noted that there were two areas where the line extends oceanward of the neighboring structures. There are not structures present and the proposed development line could potentially allow more oceanward development. Mr. Batson identified the two locations at issue as 217 S. Fort Fisher Boulevard and 1009 S. Fort Fisher Boulevard. The Commission noted that the southernmost end of the proposed development line, extends beyond the coastal storm damage

reduction project limits and was oceanward of the neighboring structures. Commissioner also remarked that the proposed development line did not appear to comply with the requirements of 15A NCAC 07J .1301.

Greg Lewis made a motion to deny the development line as proposed by the Town of Kure Beach and suggest that the Town address the three areas of concern identified by the CRC. Neal Andrew seconded the motion. The motion passed unanimously (Lewis, Catlin, Baldwin, Andrew, Cahoon, Norris, Rhodes, White, Gibbs).

ACTION ITEMS

Adoption of 15A NCAC 7H .0306 and 7J .1301 – Development Line Procedures Amendments Ken Richardson

Ken Richardson stated in December 2016, the CRC was supportive of making some clarifying amendments to the development line rules. Towns were required to draw their development lines and be behind easement lines and mean high water, but were not required to put them on the maps for the CRC to review. Staff requests adoption of these amendments.

Neal Andrew made a motion to adopt the amendments to 15A NCAC 7H .0306 and 7J .1301. Phil Norris seconded the motion. The motion passed unanimously (Lewis, Baldwin, Andrew, Cahoon, Norris, Rhodes, White, Gibbs)(Catlin absent for vote).

CRC RULE DEVELOPMENT

Amendments to 15A NCAC 7H .0306 and 7J .1301 Development Line (CRC 17-20)

Ken Richardson

Ken Richardson stated the development line procedures became effective April 1, 2016 and Carolina Beach was the first town to submit a request for a development line. Oak Island, Figure Eight Island and Kure Beach have followed since. Through experience gained by the initial requests, Staff and Commissioners have identified several areas in need of improvements to these rules. Currently, the development line rules are based more on procedures and less on criteria and standards. The interpretation of the development line by the average line of construction or utilizing and adjacent neighbor's sight line approach is subjective. Also, how to delineate the development line is vague. Staff does not have a role in the review process and is limited to reviewing what is submitted and ensuring that petitioners have met the criteria for a complete package. Staff has been trying to provide guidance to communities to assist in drawing the development line and to help the CRC when reviewing the proposals. One option would be to utilize a house-to-house line and follow the existing structures. Another concept to smooth the line out is to buffer a certain distance in front of the landward neighbors. The landward most adjacent neighbor approach could also be used. Both methods have their complications. The original intent of the Commission was to try to get the average line of sight for structures, but trying to translate the rule language on to a map is challenging. The Town of Oak Island chose a distance from the landward side of the structure to measure from so the line would be consistent. This cut through some existing structures, and if they were damaged more than fifty percent, they then would be non-conforming with the development line.

Braxton Davis added there are some technical challenges with some of these options. Using the landward-most adjacent neighbor is the standard that is applied in the static line exception on a lot-by-lot basis as it is based on an individual property. It is difficult to smooth a line out based on that. Chair Cahoon stated it was not the intent of the Commission to have something as presented in method #2, the "house-to-house" approach. There should be some smoothing effect without having

wide swaths of structures being enabled to move seaward. The Commission identified method #4, the “line of sight” approach, as the closest to the intent of the CRC’s prior discussions.

Neal Andrew made a motion to request that staff provide proposed rule language to clarify the “line of sight” approach and DCM staff’s role in the review of development line requests for review by the Commission at the next meeting. Larry Baldwin seconded the motion. The motion passed unanimously (Lewis, Catlin, Baldwin, Andrew, Cahoon, Norris, Rhodes, White, Gibbs).

Amendments to 15A NCAC 7J .0409 Civil Penalties (CRC 17-21)

Roy Brownlow

Roy Brownlow stated persons undertaking development without a valid CAMA permit or failing to comply with the terms and conditions of permit are in violation of CAMA. The objective of the compliance program is focused on resource recovery, and protection of riparian property rights, including the right of access. If work is done and the work couldn’t have been permitted, then the Division has the authority to issue a restoration order. Brownlow advised that minor amendments are needed to 7J .0409, Civil Penalties. The current rule states that Notices of Violation shall be delivered personally or by registered mail, return receipt requested. Staff recommends changing this language to eliminate personal delivery and include certified mail in addition to registered mail. The second amendment is related to the requirement that the Director shall issue a Notice of Assessment within 30 days after the Division determines that restoration of adversely impacted resources is complete. This language conflicts with a General Statute that went into effect in July 2011. The Statute states that the Division must wait until 10 days after the Notice of Violation before it can issue a Notice of Assessment. This creates a narrow window for the division to comply with both the statute and the Commission’s rules. To be consistent with the statute, staff recommends changing the language in the rule to read, “may” issue a Notice of Assessment within 90 days of violation. This will allow a reasonable amount of time, but still be firm enough to meet the intent of the statute. Staff also recommends that all references to the High Hazard Flood area also be removed as the AEC was removed in 2015.

Neal Andrew made a motion to approve the amendments to 15A NCAC 7J .0409 for public hearing. Phil Norris seconded the motion. The motion passed unanimously (Lewis, Catlin, Baldwin, Andrew, Cahoon, Norris, Rhodes, White, Gibbs).

Amendments to 7H .0308(a)(2) Temporary Erosion Control Structures (CRC 17-22)

Mike Lopazanski

Mike Lopazanski stated beginning in 2016 the Commission and Advisory Council have been discussing amending the rules to address certain implementation issues with temporary erosion control policies. We have discussed time limits associated with the permitted structures, criteria for removal, requirements for covered and vegetated sandbags, as well as how to address sandbags and beach nourishment projects. Also last year, we were addressing provisions directed from the legislature to allow sandbags to be placed on a property even if there was no imminently threatened structure, to allow continuous sandbag structures from one property shoreline boundary to the other, to change the termination dates of sandbag permits to the latest sandbag structure placement, and allow the replacement, repair or modification of damaged sandbags that were placed if the structure was being litigated by the property owner. This year the legislature adopted S.L. 2017-10 that repealed the 2015 provisions and directed the CRC to adopt emergency or temporary rules that are consistent with CRC Memo 16-23. S.L. 2017-10 allows the CRC to make any further modifications of these rules. Lopazanski advised that the current proposed amendments remove the distinction

between structures that are greater or less than 5,000 square feet and set the time limit at eight years for all structures. Upon the expiration of the eight-year permit, sandbags exposed above grade must be removed and if the structure is demolished or relocated, all sandbags must be removed. The vegetated requirement for sandbags was removed and the bags can remain in place if they are covered by sand. Sandbag structures placed incrementally will have time limits corresponding to the latest installation. Sandbag structures will be allowed to remain in place if they are being litigated in court.

The Commission noted that restarting the eight-year clock each time another sandbag structure is placed will result in giving a property owner a permanent sandbag structure. The reason for sandbags is to protect a property until a beach nourishment or solution can be completed. The time limit should begin when the first sandbag permit is issued. Chair Cahoon stated sandbags should be allowed to remain if they are under litigation. Draft language will be reviewed by the CRC at the next meeting.

PUBLIC INPUT AND COMMENT

Rudi Rudolph, Carteret County Shore Protection Office, spoke about oil and gas leases in the mid-Atlantic states. Mr. Rudolph spoke in favor of revenue sharing if oil and gas leasing is going to take place in North Carolina.

Greg Lewis, coastal citizen, spoke in favor of a new revenue sharing model for the coastal communities to be able to address potential hazards of offshore oil and gas leases if they are going to be off the coast of North Carolina.

PUBLIC HEARING

15A NCAC 7H .2200 Free Standing Moorings – Osprey Poles

Jonathan Howell reviewed the amendments and fiscal analysis for 7H .2200. No comments were received.

OLD/NEW BUSINESS

Chair Cahoon stated the next scheduled meeting of the CRC will be at the New Hanover County Government Center in Wilmington on September 27-28, 2017. February would be a good time for the CRC to meet at Sea Trail in Sunset Beach, Brunswick County. Ms. Cahoon further stated that a Resolution should be put on the next agenda for consideration asking for revenue sharing for North Carolina.

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



Braxton Davis, Executive Secretary



Angela Willis, Recording Secretary