

NC COASTAL RESOURCES COMMISSION (CRC)

April 26-27, 2017

**Dare County Government Center
Manteo, NC**

Present CRC Members

Renee Cahoon, Chair

Neal Andrew, Second Vice-Chair

Larry Baldwin

Rick Catlin

Denise Gibbs

Phil Norris

Russell Rhodes

Jamin Simmons

Bill White

Present CRAC Members

Greg Rudolph, Chair

Spencer Rogers, co-Vice Chair

Bobby Outten, co-Vice Chair

Beth Midgett

David Moye

Debbie Smith

Dave Weaver

Present from the Office of the Attorney General

Mary L. Lucasse

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 at 1:05 p.m. on April 26, 2017 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 Greg Lewis were absent. No conflicts were reported. Based upon this roll call Chair Cahoon declared a quorum.

CHAIR COMMENTS

Chair Cahoon stated there is a Celebration of Life for the late Bill Morrison, former member and Chair of the Coastal Resources Advisory Council on Saturday, May 13 in Topsail Beach. Ms. Cahoon further stated that the Commission has prepared a resolution thanking former Chair Frank Gorham for his service on this Commission on behalf of the State of North Carolina.

VARIANCES

Sanitary Restaurant (CRC VR 17-02), Morehead City, Urban Waterfront

Christine Goebel, Esq. represented DCM; Meredith Jo Alcoke, Esq. represented Petitioner

Roy Brownlow, DCM District Manager, presented a PowerPoint of the site location. Christy Goebel, NCDEQ Assistant General Counsel reviewed the stipulated facts with the Commission. Specifically, Petitioner is The Sanitary Fish Market & Restaurant, Inc., through Jeff Garner, Secretary and Registered Agent, which leases a portion of a lot owned by the Vernon Jackson Garner Jr. Trust located at 501 East Evans Street in Morehead City, Carteret County. Most of the site is located over the navigable waters of Harbor Channel, part of Bogue Sound in the urban waterfront area of Morehead City. The Sanitary takes up approximately half the lot. It includes a large building which houses the restaurant and the deli, dock platforms around the building which provide outdoor seating, an electrical vault, a new roof over part of the outdoor dock platform area, and boat docks. Through a January 2017 CAMA Minor Permit application, Petitioner sought authorization to build a new set of stairs to the top of the roof to provide more seating for deli customers. On February 13, 2017, the Morehead City LPO denied Petitioner's CAMA Minor Permit application as the proposed development does not comply with 15A NCAC 7H .0209(g)(4)(B)(iii) which limits new structures built for non-water dependent purposes to single-story, unenclosed decks and boardwalks. Petitioner now seeks a variance to develop the access stairs and to convert the roof into a second-story use. Ms. Goebel then explained staff's position on all four statutory criteria and explained why Staff recommended the request be denied. Ms. Alcoke reviewed the stipulated facts which petitioner contends supports the granting of the variance request.

Russell Rhodes made a motion that strict application of the applicable development rules, standards or orders issued by the Commission cause the petitioner an unnecessary hardship. Phil Norris seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).

Russell Rhodes made a motion that hardships result from conditions peculiar to the petitioner's property. Larry Baldwin seconded the motion. The motion passed with eight votes in favor (Norris, Baldwin, White, Simmons, Andrew, Catlin, Gibbs, Rhodes) and one opposed (Cahoon).

Russell Rhodes made a motion that hardships do not result from actions taken by the petitioner. Bill White seconded the motion. The motion passed with eight votes in favor (Norris, Baldwin, White, Simmons, Andrew, Catlin, Gibbs, Rhodes) and one opposed (Cahoon).

Russell Rhodes made a motion that the variance request will be consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission; will secure the public safety and welfare; and will preserve substantial justice. Denise Gibbs seconded the motion. The motion passed with eight votes in favor (Norris, Baldwin, White, Simmons, Andrew, Catlin, Gibbs, Rhodes) and one opposed (Cahoon).

This variance request was granted.

COASTAL RESERVES

NC National Estuarine Research Reserve Management Plan (CRC 17-08)

Rebecca Ellin

Rebecca Ellin stated the Coastal Area Management Act requires the Department to consult with the Coastal Resources Commission and seek the advice of the Commission in its administration of the Reserve program. Ms. Ellin stated she was before the Commission requesting support for the draft Management Plan (“Plan”). She explained that the NC National Estuarine Research Reserve is part of the National Estuarine Research Reserves system managed by our federal partner, NOAA. NOAA requires that we have an up-to-date plan to guide implementation of the Reserve program. This Plan will provide a framework to continue, enhance and expand our research, education, training and stewardship programs and operations to support the four sites within the program from 2017 through 2022. We are required to have NOAA’s approval on the Management Plan and adhere to guidelines set by NOAA. The Plan includes goals, objectives and actions for each program area, a summary of management issues, and plans for public access and visitor use, land acquisition and facilities. Our initial Plan was established in 1983 just before the Reserve was designated. It has been updated three times.

NOAA requires a public input at the end of the update process. However, we elected to embark on a robust public input process. The first phase was an information gathering and feedback phase using a variety of mechanisms. From this input, four themes emerged. The first was the need to enhance the program visibility. The second was a need for increased awareness of the research that we and our partners do on site. Visitor use also emerged as a theme and there was a wide variety of perspectives including concern about the increased use of the sites as well as concerns that the ability of visitors to use the sites is maintained. Coastal Management themes were also identified and those have been incorporated into the topical areas. The second phase of our input process was a request for comment on the actual draft Plan by local advisory Committees. The Reserves Education Advisory Committee and other partners also had the opportunity to review the draft Plan. Feedback on the Plan has been very positive with no major concerns identified.

Ms. Ellin provided the Commissioners with an overview of the draft Management Plan including the introduction, information regarding the Reserve Sites, and the Plan’s objectives. The education objectives include working to train educators about coastal and estuarine resources. We host educator workshops and develop curricular activities for use by teachers and educators. Through this program, we leverage partnerships and capitalize on the vast environmental education resources within the State. In the needs assessment, we identified a couple of areas for which our audience would like more information including changing coastal conditions, the human impact on ecosystems, and the use of estuaries as nurseries. Our work includes providing hands on experiences for students at our Reserve sites through school and summer programs and providing community education and outreach program for the general public. Our coastal training program delivers science-based information to coastal decision makers and provides workshops and training to professionals. Our needs assessment identified stormwater, wetlands, shoreline development, living shorelines, community resilience preparedness, sea level rise adaptation and sustainable growth as areas on which to provide additional information. Our research and monitoring program is done with a variety of partners available in the research community. We take advantage of those partnerships to conduct work on priority issues and leverage the expertise we have within our program. The research priorities include estuarine shoreline stabilization, habitat status and trends, and water quality. The stewardship program is tasked with maintaining the natural integrity of our Reserve sites for research, education and compatible, traditional uses. In addition to the standard goals and objectives, NOAA requires that we include an access and visitor use plan, land

acquisition plan, and resource protection plan within this chapter. Our resource protection plan includes a table summarizing the allowable and prohibited uses at each of the four sites. The Plan also discusses approaches to managing and monitoring species of interest as well as invasive species and habitat management. The Plan describes how and when to access the sites, the types of users and uses that take place at the sites, general challenges related to public access and use, and the use of site infrastructure to guide site access to protect the resources and ensure positive visitor experiences. The land acquisition plan provides short and long-term priorities for Reserve acquisitions and criteria by which we evaluate acquisitions. An additional feature of this chapter is the stewardship policies that have been in place for a long time and are largely unchanged. These policies address site specific conditions and uses and include recreation, off-road vehicle use, fishing and hunting, dredge material placement, habitat restoration, feral horses, and enforcement. The stewardship staff are located on site to monitor conditions and address issues. The bulk of our volunteers come from the stewardship program. The administration plan seeks to advance the operation, infrastructure and stature of the Reserve to support and enable implementation of the program and meet the mission. We have identified topical areas that enhance the alignment of our work with the NERR's strategic plan. The first topical area is water quality. This is a national concern and is a threat and stressor for all four of our sites. We conduct a lot of studies in the water quality monitoring arena. The second topical area is coastal and estuarine ecosystem protection. This focuses on the enormous ecological and economic value that North Carolina's coast and estuarine area provide. We are leveraging the vast amount of monitoring we do on both the physical, biological and species side to ensure we are addressing ecosystem service research needs. The third topical area is coastal hazards resilience. This is a threat and stressor for all four of our sites and the entire coast of North Carolina. We are working to continue to monitor the conditions, but also beginning to look at the vulnerability of our sites. The last section of the management plan is the facility development and improvement plan. This section provides an overview by reserve site and describes our existing capabilities and needs. After this meeting, we will take feedback from the Commission to the Department. After the Department review, the Plan will go back to NOAA for technical and content review. The public comment period will begin after NOAA's review and will be advertised in the Federal Register. We will host three public meetings in each region of the coast to coincide with the comment period to provide an update to stakeholders on the Plan.

Commissioner Andrew asked if the Plan included any new restrictions that impact compatible, tradition, or recreational uses of the reserves sites. Ms. Ellin confirmed there are no new restrictions in the Plan. Commissioner Andrew recommended the reserve staff have more coordination with the New Hanover County Engineering staff and adjacent municipalities to Masonboro Island regarding sand placement activities and to consider using some of the dredge material already placed on the other sand storage sites within the Reserve boundary for use in beach nourishment on Masonboro Island. Director Davis commented that a federal consistency finding made by the Division required the Corps to place a certain volume of sand on Masonboro Island. The Corps has done this subject to the availability of funding. Additional coordination with the County would be great moving forward. Commissioner Simmons asked about impacts to the Reserves because of potential cutbacks to NOAA and additional federal cuts. Ms. Ellin stated the potential cuts are being watched and we are being cautious with the Reserve budget for next year. The bulk of the Reserve budget funding and staffing are supported by our federal grant. If there are cuts there will be impacts. Specific numbers will be needed to analyze direct impacts. Director Davis stated the President's budget has zeroed out the CZMA grants which accounts for over half of the Division's operating budget. The analysis and initial response to the federal budget is being worked on by the Department.

Neal Andrew made a motion to support the 2017-2022 NCNERR Management Plan. Phil Norris seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).

At this time, Chair Cahoon recognized DEQ Assistant Secretary for the Environment, Sheila Holman. Ms. Holman thanked the Commission for their service to the State and dedication to the issues of coastal North Carolina. Ms. Holman stated she has been with the Department for 24 years and DCM has excellent staff.

ACTION ITEMS

Perquimans County LUP Amendment (CRC 17-10)

Charlan Owens

Charlan Owens stated Perquimans County is seeking certification of a policy text amendment to exclude the County from the shoreline setback within waterfront subdivisions which had previously been included in the joint land use plan with the Town of Hertford and the Town of Winfall. The County intends to rely on its local zoning ordinance to establish the waterfront setback. The County held a duly advertised public hearing on the proposed amendment. The public was provided the opportunity to submit comments. No comments were received. After determining the County has met the substantive requirements outlined in the Land Use Plan Guidelines and that there are no conflicts evident with either state or federal law or the State's coastal management program, staff recommends approval.

Neal Andrew made a motion to certify the Perquimans County Land Use Plan amendment. Larry Baldwin seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).

Adoption of 15A NCAC 7L Planning and Management Grants

Rachel Love-Adrick

Rachel Love-Adrick stated staff requests adoption of amendments to the planning and management grants program. Over the past few years the planning staff has undertaken a comprehensive review of the CAMA planning program. This review has focused on updating and separating the land use planning program provisions from the grant program. 7L establishes criteria for funding grants to local governments for planning and management projects within the twenty coastal counties. The amendments shift the primary focus of grant funding from local land use plans to a broad variety of local projects that address coastal issues and allows DCM to fund specific issues or areas based on the Commission's interest. This year's grant funding has focused on natural hazards and storm recovery projects. No public comments have been received on these proposed amendments. Following adoption and approval by RRC, the amendments will become effective July 1, 2017.

Phil Norris made a motion to adopt the proposed amendments to 15A NCAC Subchapter 7L. Neal Andrew seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).

ESTUARINE SHORELINE MANAGEMENT

Living Shoreline (Marsh Sill) General Permit Update (CRC 17-11)

Daniel Govoni

Braxton Davis opened the discussion and stated this an important issue for the Division. The focus of living shorelines is to maintain an intertidal area. This initiative has involved marine contractors, a variety of designs, a comparison of cost to the property owner, and a review of how marsh sills

perform during storms. The Division has developed a strategy to address all regulatory and non-regulatory components and implementation of the strategy is guided by an internal workgroup. In the past couple of years, we have held numerous workshops for realtors, marine contractors, and the public. An estuarine shoreline map of North Carolina has been completed that includes shoreline. There is also quite a bit of research looking at interactions between bulkheads and the marsh. We have also been working on the regulatory side of the General Permit for marsh sills. General Permits are for routine projects that have predicted impacts. Marsh sills are more complex since there isn't a standard design and we don't have a good feel for how multiple sites will react to sills. The goal is to get to a point where the federal and other state agencies are comfortable knowing DCM will do an extensive review. This will streamline the permitting process for these structures.

Daniel Govoni stated House Bill 1028 established a General Permit for construction of riprap sills. During its original development, there were concerns expressed by multiple agencies about these structures including the distance sill structures could be built for shore, the impact of trading one type of habitat for another, navigation and public trust concerns, the suitability of these structures in certain areas, and permitting requirements of other agencies. Original General Permit .2700 had 29 specific conditions and required coordination with DMF, DWR and the Corps. This coordination requirement is not consistent with other General Permits. DCM has held numerous meetings with federal and state agencies to streamline the General Permit. Last year we were able to remove some unnecessary or redundant conditions and DMF and DWR's coordination requirement. At that time, we came to the CRC with an amended GP .2700. Just before these amendments were to be adopted, DCM staff became aware that the Corps had created a Nationwide Permit. This Nationwide permit had a pre-construction notification requirement. This puts the burden on the applicant to file the notification and send it to the Corps. Given this development, Staff did not request adoption of the amendments to the General Permit. To get a better understanding of the issue, DCM held additional stakeholder meetings with the Corps, the marine science community, DWR, DMF, the Coastal Federation, Sea Grant, and the National Marine Fisheries Service. These stakeholder meetings are now complete. The next steps include adding permit conditions. A positive outcome of these meetings was the Corps' willingness to consider creating a regional general permit removing the pre-construction notification requirement. DCM staff will develop a guidance document and if the Corps can create a regional general permit, then it was agreed to by all regulatory parties that the rulemaking process would begin again concurrently both at the State and Federal level.

CLOSED SESSION

Neal Andrew made a motion that the Commission enter closed session pursuant to North Carolina General Statute 143-318.11(a)(3) to consult with its attorney regarding the case of Nies v. The Town of Emerald Isle which was filed in the North Carolina Supreme Court under file number 409PA15. Denise Gibbs seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).

Following discussion, the Commission returned to Open Session and recessed until the next day April 27, 2017 at 9:00 a.m.

MINUTES

Neal Andrew made a motion to approve the minutes of the February 2017 Coastal Resources Commission meeting. Denise Gibbs seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).

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.

S131 – An Act to Amend Certain Environmental, Natural Resources and Other Laws

Section 2.1: Eliminate Outdated Provision of CAMA (113A -109). This action would eliminate the provision for the CRC to develop the initial Land Use Plan (LUP) for a County if they have not already done so. All CAMA counties currently have LUPs.

Section 2.5: 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 CRC Memo #16-23. The Commission is also directed to adopt temporary and permanent rules to implement this section.

Section 2.6: CRC to Amend Sediment Criteria Rule. Directs the CRC to exempt 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 from the permitting requirements of the Sediment Criteria rule (15A NCAC 7H .0312). This provision would be effective immediately upon passage of the bill until the Commission completes permanent rule making.

Section 2.7: 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 3.19: Reporting Frequency on Terminal Groin pilot Projects by the CRC. Reduces the frequency of reports from once a year to once every five years.

S434: An Act to Amend Certain Environmental and Natural Resources Laws

Section 6.(a) – State Participation in AIWW Dredged Material Disposal Easements. Directs DCM, DEQ and the State Property Office to negotiate with the federal government for the state to assume responsibility for acquiring dredged material easement sites for dredging the AIWW between Beaufort Inlet and the VA border in exchange for the reduction in size and possible change in location of dredged material disposal easement sites currently held by the federal government.

H507: Act to Make Changes to the Land Use Regulatory Laws of the State

Section 1. - If a permit applicant submits a permit application for any type of development and a rule or ordinance changes, including an amendment to a zoning map or text of any applicable land development regulation as defined in G.S. 160A-400.21 or a change to a State agency regulation affecting the development of property, between the time the permit application was submitted and a permit decision is made, the permit applicant may choose which version of the rule or ordinance will apply to the permit. The permit applicant shall not be required to wait for a pending rule or ordinance to be adopted to choose which version of the rule or ordinance applies to the permit.

H56: An Act to Amend Various Environmental Laws

Section 8.(a) – CAMA Modifications

G.S. 113A-124(c) To delegate the power to approve land-use plan for a county in accordance with G.S. 113A-110(f) to any qualified employee of the Department." This is the provision the Commission has requested to delegate authority to the Division to certify CAMA land use plans G.S. 113A-119. Exempt Minor Permit applications from the requirement that a public notice be posted at the location of the proposed development in order to expedite permitting for minor development activities. The proposed legislative amendment would eliminate the requirement that

notices of minor permit applications be physically posted at the site of the intended development. Other legislative and regulatory requirements provide notice of proposed development to adjacent property owners and other interested parties. This legislative change would speed the CAMA minor permitting process by a week or more.

Regulatory

On the regulatory side, we are seeing equal if not greater permit activity in the first quarter of 2017 compared to the same period in 2016. For example, during the first 3 months of 2017, the Division issued 41 Major Permits, which is on par with the number of major permits issued during the same period in 2016. Additionally, the Division issued 498 general permits during the first three months of 2017, which represent an increase of over 100 actions relative to the same period in 2016.

During the first quarter of 2017 we are still issuing a good number of general permits (78) under emergency General Permits .2500, which was enacted on October 10th following Hurricane Matthew. The most notable permit action since your last meeting involves the issuance of a permit to Carteret County, authorizing excavation of Wainwright Slough in eastern Carteret County.

Wainwright Slough is an important navigational route that allows vessels from eastern Carteret County to access Pamlico Sound, as well as allowing commercial fishing vessels working in the Pamlico Sound to access fish houses and other offloading sites within the County. We understand that the County finished this dredging effort within the last week. More recently, on April 23rd, the Division issued an emergency consistency determination to the U.S. Army Corp of Engineers, authorizing the emergency dredging of a portion of Big Foot Slough leading into Silver Lake on Ocracoke Island. A portion of the slough has shoaled in to the point that the NCDOT Ferry Division has had to suspend the use of their highest capacity ferry using the Ocracoke Ferry facility, and the Corps requested emergency approvals to carry out emergency dredging for this shoaled portion. The Corps estimates approximately 14 days to complete work once the sidecast dredge is on site.

Coastal Reserves

The Reserve is wrapping up its spring local advisory committee meetings this week with the final meeting to be held for the Buxton Woods Coastal Reserve on April 27 in Buxton. The Reserve and the N.C. Wildlife Resources Commission are seeking volunteers to help estimate the population of diamondback terrapins at the Masonboro Island Reserve through the annual Terrapin Tally count. Participants are required to attend a training session and paddle a defined route collecting data on terrapin sightings using a smart phone device. Count dates are scheduled for April 29, May 6 and 13. The Coastal Training Program is hosting “Low Impact Development Basics for Water Quality Protection” - a workshop for real estate professionals - in Beaufort on May 24. The next day, “Watershed Planning: Strategies and Tools to Protect and Restore Coastal Water Quality” will be held for those interested in learning more about how watershed planning can protect and restore coastal water quality; stormwater volume reduction; the steps involved in creating a Watershed Restoration Plan; and touring the stormwater control measures installed on Pivers Island. The Reserve is offering several summer programs in the coming months including summer camps for children and field trips to Rachel Carson Reserve. More information for these offerings is available on the Reserve’s website.

Policy & Planning

Resiliency Project

Our NOAA Coastal Management Fellow, Monica Gregory is making excellent progress on her Resilience Evaluation and Needs Assessment project. Monica is working directly with the Towns of Pine Knoll Shores, Oriental, Edenton, and Duck, and Dare County, to identify and map their biggest structural and social vulnerabilities to flooding and other coastal hazards. Once the preliminary

mapping is complete in early summer, Monica will organize a series of public workshops to get resident feedback on the maps and invite additional input. Monica will also be meeting with local government staff, residents, and partners such as Sea Grant, the Department of Public Safety, and The Nature Conservancy to identify needs, strategies, and specific projects that can help build hazards resilience. DCM received NOAA approval last week to reallocate \$75,000 in unspent funds to support local government work under this project. Monica could not be at this meeting today, but we plan to have her present this work at your July meeting.

Access Grants

DCM has received 22 applications from 20 local governments requesting \$3.2M in funding from the Public Beach and Coastal Waterfront Access Program. Due to a special appropriation from the Legislature, DCM's allocation from the Parks and Recreation Trust Fund this year was substantially higher allowing us to make \$2M available for access projects during this fiscal year. Local governments whose proposals are selected will be notified by Wednesday, May 10, 2017 to submit a Final Application with more detailed project information following a public hearing to discuss its proposal and consider comments. Final Applications are anticipated to be due by Monday, Aug. 14, 2017. All final applicants will be notified in September whether their project has been selected for funding.

Planning & Management Grants

DCM has received 8 applications from local governments requesting over \$130,000 in funding from the CAMA Planning and Management Grant Program for the 2017-18 fiscal year. DCM has made \$100,000 in federal funds available for grants up to \$20,000. The priority for this year's grants are projects that address natural hazards and storm recovery. DCM will make funding announcements shortly. Projects are anticipated to begin July 1, 2017 and be completed by June 30, 2018.

Staffing News

Curt Weychert has recently come on board as one of DCM's fisheries resource specialists. Curt has moved into the position vacated when Gregg Bodnar moved into a new role within the Division. Curt comes to us highly recommended from the Division of Marine Fisheries, where he ran much of DMF's oyster sanctuary program. Curt will be in the Division's Morehead City office. Elise Gilchrist, the Communications and Project Management Specialist with the Coastal Reserve will be leaving DCM in June to pursue a Masters of Environmental Management degree at Yale. We appreciate all Elsie has done for the Reserve Program and Division and wish her well.

CRAC REPORT

Spencer Rogers reported that new members are given a guidebook on the duties and charge of the Advisory Council. This guidebook is outdated. DCM staff and counsel have revised and updated the guidebook. The CRAC is requesting the CRC review, comment and request revisions as needed to the revised guidebook. The CRAC has identified a problem with the beach bulldozing permit as it applies to beach nourishment projects. The CRAC also recommends taking a look at the development line performance in the locations that have received approved.

At this time, Webb Fuller was recognized by the Commission for 31 years of service on the Coastal Resources Advisory Council. Ray Sturza was recognized by the Commission for 32 years of service on the Coastal Resources Advisory Council.

BEACH AND INLET MANAGEMENT

Sediment Criteria – Sampling Methodology (CRC 16-44)

Ken Richardson

Ken Richardson stated the CRC adopted technical standards for beach fill projects in 2007 to ensure that sand used for beach nourishment closely matches the sand on the existing beach based on grain size and composition within defined ranges of similarity. There is a four-step process to define compatibility. The CRC's rules contain requirements on how transects are established during sampling and the spacing of each sample. The CRC's rules also establish the protocol for seafloor surveys of potential borrow sites. Percentages of weight dictate compatibility and the CRC rules define what percentage of weight above the native beach can be to be classified as compatible. In 2014, the CRC amended the sediment criteria rules in an attempt to balance the risk of putting incompatible material on the beach with the sampling burden placed on permit applicants. Currently we are looking at ways to make these rules more efficient by allowing the applicant more flexibility in designing the sampling protocol. The current sampling protocol limits flexibility in sampling design and can limit the opportunities for communities to pursue small projects or respond to nourishment opportunities in a short amount of time. The current protocol can also limit the applicant's ability to use existing data. Without the stringent protocol, an applicant can still satisfy the criteria. The current sampling protocol may also eliminate the ability of communities to take advantage of beneficial use projects that present themselves late in the planning process. DCM staff has been discussing eliminating the rigid protocol in favor of a simpler process where the project's consultant or engineer designs a sampling protocol that ensures sediment compatibility between the beach and the borrow site. DCM is proposing the CRC keep existing standards for the grain sizes in the rules, which would require the applicant's engineer to attest to the sediment compatibility. This will allow DCM staff to devote more time to the environmental review components of each project and decrease the time for permit issuance. If the CRC approves this approach, DCM staff will meet with stakeholders and sand managers on the coast to refine amendments with the intention of having a proposed rule for CRC consideration.

Figure Eight Island Development Line Approval (CRC 17-13)

Bill Raney, Wessell & Raney, L.L.P.

Ken Richardson stated Figure Eight Island submitted a request for development line approval on March 1, 2017. A development line request applies to the entire large scale project area as defined in the CRC's rules. The Petitioner's request may be extended to include areas not in front of the static vegetation line. Figure Eight Island does not currently have a static vegetation line. However, the Figure Eight Island Homeowners Association is requesting a development line from the Commission before a static vegetation line has been put into place. In the event that the HOA decides that they would like to construct a large-scale beach project, they would automatically receive a static vegetation line, but would have the development line as well. The Petitioner is required to utilize the adjacent neighbor sightline approach resulting in an average line of structures. In areas where the seaward edge of the development is not linear, the Petitioner may propose an average line of sight on a case by case basis. Any existing structures that are oceanward of the development line would be permanently nonconforming and would not be allowed to be rebuilt if destroyed. Figure Eight Island does not have any structures that are seaward of the development line proposal. DCM staff has verified that Figure Eight Island has met the requirements defined in the CRC's rules.

Bill Raney, Counsel for Figure Eight Homeowners Association, stated David Kellum, Administrator for the Figure Eight HOA, is also present on behalf of the HOA. Mr. Raney requested that Figure Eight HOA's request for a development line be approved.

Rick Catlin made a motion to approve the development line request submitted by Figure Eight HOA. Neal Andrew seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).

Braxton Davis stated that the development line is a new concept for staff. The current development line rules require certain technical elements and there are some concerns about the current rules. While the static line can be complex the general idea is that the ocean has been at that location before and can return to that point and any setbacks should not be measured from newly created vegetation unless there is a long-term plan to maintain the beach over time. The static line exception ensures that a long-term plan is in place for funding and sand sources which allows measurement of setbacks from the existing vegetation line rather than the static. There is still a oceanward development limit associated with the Static Line Exception based on the landward most adjacent neighbor. The development line rules however, do not require that properties be tied to the landward most adjacent neighbor. If a new line of vegetation is created by a nourishment project, then there is an opportunity for substantial encroachment seaward associated with the development line. Chair Cahoon stated that during the Commission's discussions during the process of writing the development line rules, it was the Commission's intention that seaward development not be allowed or encouraged. Phil Norris stated staff should use judgment when reviewing the development line proposals. Mike Lopazanski stated the way the rule is written, there is not a requirement that staff provide the Commission with a recommendation on whether to approve the line. Up to this point, Staff has simply reviewed the materials submitted for completeness and presented them to the CRC. After discussion, the CRC asked staff to bring back recommendations to tighten up the rules and not encourage or allow seaward development.

OCEAN SHORELINE MANAGEMENT

CRC Dune Protection, Restoration & Repair (CRC 17-14)

Frank Jennings

Frank Jennings stated in 1928 the citizens of Dare County paid for a causeway road and bridge to connect Manteo with Nags Head. In 1930, a group of developers from Elizabeth City who owned land in Kitty Hawk built a bridge across Currituck Sound. The State then paved a road between these two bridges to connect with Manteo, which was the County Seat. This was the "beach road" and the first section of what is now NC-12. The next year, two hurricanes did a great deal of damage to the beach road. After the storms, state and federal officials determined there needed to be some type of protection along the Outer Banks to diminish the erosion problem and try to stabilize the area. In 1934, the Civilian Conservation Corps came to the Outer Banks and started building dunes by constructing sand fences and planting vegetation up and down the beach area. By 1940, the Parks Service reported that the dunes had been constructed and created a strong dune system. Unfortunately, World War II came along and ended the program. After the war, the Parks Service continued a program of dune construction. In 1962, the storm of Ash Wednesday knocked down virtually all of the dunes. Currently, sand fences and Christmas trees are used to build up the dunes. Beach bulldozing is also allowed to repair dunes. When a dune fails it creates flooding, overwash, and structure damage. The current CRC rules say that no fill shall be allowed oceanward of the landward toe of the frontal dune. A primary dune is at least as high as the base flood area plus six feet. CRC rules allow fill up to the crest of the primary dune. With the Nags Head beach nourishment, we learned a lot about sand migration. After the beach nourishment project, we saw sand come off the beach and go over the dune into the area behind the dune. When there is no beach nourishment, over the years newer cottages have been built that meet the current setback. The older cottages get inundated with sand and the Commission's rules do not allow placement of the sand in

front of the primary dune. There is also an issue with the current rules and the technology, such as beach mats, that are not addressed by the CRC's rules for beach access. The dune rules have not changed since the inception of CAMA and need to be updated. There are also differences in dunes located in the north and dunes in the south. The Commission should consider allowing fill to be placed on the frontal dune similar to the current fill placement on a primary dune. Another consideration would be to define by rule dune disturbance by volume or height. CRC rules allow for cottages to be built at a setback line and then allow exceptions to the setback. The CRC could also consider allowing by rule excess sand from lots displaced by storm overwash or wind erosion to be returned to the beach as repair and maintenance. Lastly, the CRC could consider beach mats or other techniques to provide access. DCM staff will come back to the Commission with rule language to consider to incorporate some of these needed updates.

PUBLIC INPUT AND COMMENT

Willo Kelly, Outer Banks Home Builders Association, requested that the CRC allow homeowners to push sand as a matter of safety and to keep sand in the system. (Written comments provided.)

Brian Newman, individual property owner and homebuilder, requested that the CRC allow material from oceanfront lots to be placed back on the beach.

PUBLIC HEARING

15A NCAC 7H .0306 and 7J .1301 Development Line Procedures Amendments

Chair Cahoon delegated Ken Richardson as hearing officer for this public hearing. Ken gave an overview the rule amendments and the fiscal analysis.

No public comments were received.

OLD/NEW BUSINESS

Chair Cahoon stated a letter was received from the Topsail Island Shoreline Protection Commission requesting review and suggesting changes to some CRC rules. This letter was forwarded to the Advisory Council for review. The CRAC can bring any suggest changes to the CRC. The Chair further stated that after the two vacancies on the Commission are filled, an official orientation session should be scheduled for the entire Commission. The next meeting of the Coastal Resources Commission will take place in Greenville on July 11-12, 2017.

Bill White made a motion to nominate Neal Andrew as Vice-chair to the CRC. Jamin Simmons seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).

Jamin Simmons made a motion to nominate Greg Lewis as Second Vice-chair to the CRC. Larry Baldwin seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).

Phil Norris made a motion that a Resolution of Thanks be issued by the Commission to former Chairman Frank Gorham, III for his service to the State and leadership to the CRC from 2013-2017. Larry Baldwin seconded the motion. The motion passed unanimously (Norris, Baldwin, White, Simmons, Andrew, Cahoon, Catlin, Gibbs, Rhodes).

Commissioner Simmons advised the Commission that Hyde County has hired a Water and Flood Control Coordinator for Hyde County. This is in response to meetings that David Moye and Braxton Davis coordinated for Hyde County residents regarding drainage. Following Hurricane

Matthew, a FEMA representative came to Hyde County and advised the County that it could not qualify for certain things as an individual county or municipality, but if other counties joined the County's requests, then it could qualify for FEMA funds following disasters. A good point of contact for coordinating multiple counties for FEMA requests is Kris Noble, CRAC representative from Hyde County.

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



Braxton Davis, Executive Secretary



Angela Willis, Recording Secretary