

**NC COASTAL RESOURCES COMMISSION (CRC)**

**April 10-11, 2018**

**Sea Trail Convention Center**

**Sunset Beach, NC**

**Present CRC Members**

Renee Cahoon, Chair

Neal Andrew, Vice-Chair

Larry Baldwin

Rick Catlin

Denise Gibbs

Robert High

Doug Medlin

Phil Norris

Russell Rhodes

Jamin Simmons

Bill White

**Present CRAC Members**

Greg Rudolph, Chair

Spencer Rogers, co-Vice Chair

Bobby Outten, co-Vice Chair

Candy Bohmert

John Brodman

Jett Ferebee

David Kellam

Johnny Martin

Ike McRee

Mike Moore

Kris Noble

Todd Roessler

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**

Drew Hargrove

**CALL TO ORDER/ROLL CALL**

Renee Cahoon called the meeting to order at 3:15 p.m. on April 10, 2018 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. Greg Lewis was absent. Larry Baldwin stated he would recuse himself from the Hunter Variance Request (CRC VR 18-02). Based upon this roll call Chair Cahoon declared a quorum.

### **CHAIR COMMENTS**

Chair Cahoon thanked Dare County for the use of their facility. Statements of Economic Interest are due to the State Ethics Commission by April 16. There will not be a July CRC meeting. If we have variances that need to be heard; we can have a phone conference to discuss those subject to the open meetings law. This decision is based on the high cost of travel.

Neal Andrew stated the Masonboro Island Coastal Reserve and existing oyster leases were discussed at the last meeting. Since that time there have been additional meetings and conversations regarding the existing oyster leases and The Natural Heritage Program's claim that it has jurisdiction over Masonboro Island Reserve. It is my opinion that jurisdiction over the oyster leases at Masonboro Island should be with DEQ and DCM. We met with DEQ and DNCR in Raleigh and have had preliminary meetings with some of the members of the General Assembly from southeastern North Carolina to discuss ways to clarify who has jurisdiction over the Coastal Reserve sites. The Natural Heritage Program rules are similar to the rules that reside within the Coastal Reserve so there seems to be some duplication. Rebecca has been working with the Natural Heritage Program to update a Memorandum of Understanding about who is going to manage and have jurisdiction over the sites.

### **VARIANCES**

#### **Hunter (CRC VR 18-02), Ocean Isle Beach, 30' Buffer**

#### **Drew Hargrove, Esq./Debbie Wilson; Todd Roessler, Esq.**

*\*\*Larry Baldwin recused himself from discussion or voting on this variance request.*

Debbie Wilson gave an overview of the site. Drew Hargrove, DEQ General Counsel, represented DCM staff and stated petitioner West Hunter owns property in Ocean Isle Beach. The property is adjacent to a manmade canal on two sides. The property is within the Coastal Shorelines AEC. Therefore, the first 30' landward from normal high water is subject to the Commission's 30-foot buffer rule which limits impervious surfaces and development within the buffer. Petitioner applied for a CAMA Minor Permit to construct a two-story piling supported residence. The Ocean Isle Beach LPO denied petitioner's permit application as a portion of the proposed house extended into the 30-foot buffer along the south side of the lot contrary to 15A NCAC 7H .0209(f)(10). Mr. Hargrove reviewed the stipulated facts of this variance request and stated staff and petitioner agree on all four statutory criteria which must be met to grant the variance request.

Todd Roessler, Esq. represented the petitioner and stated Petitioner is requesting two variances. The first is a request to vary the requirement of seeking a variance from the local government before asking for a variance from the Commission. The second seeks relief from the 30-foot buffer since strict application of this rule would only leave a 16-foot wide building footprint. Petitioner has proposed installing an engineered stormwater system on the lot.

**Neal Andrew made a motion to grant a variance from the procedural requirement of seeking a local variance. Phil Norris seconded the motion. The motion passed unanimously (High, Catlin, Medlin, Andrew, Cahoon, Simmons, Rhodes, White, Norris, Gibbs).**

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

**Neal Andrew made a motion that petitioner has shown that hardships result from conditions peculiar to the property. Phil Norris seconded the motion. The motion passed unanimously (High, Catlin, Medlin, Andrew, Cahoon, Simmons, Rhodes, White, Norris, Gibbs).**

**Neal Andrew made a motion that petitioner has shown that hardships do not result from actions taken by petitioner. Phil Norris seconded the motion. The motion passed unanimously (High, Catlin, Medlin, Andrew, Cahoon, Simmons, Rhodes, White, Norris, Gibbs).**

**Neal Andrew made a motion that petitioner has shown 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 preserve substantial justice. The variance request should be conditioned to include the four standard stormwater conditions. Bill White seconded the motion. The motion passed unanimously (High, Catlin, Medlin, Andrew, Cahoon, Simmons, Rhodes, White, Norris, Gibbs).**

This variance request was granted.

**Sackett (CRC VR 18-03), Nags Head, Oceanfront Setback  
Drew Hargrove, Esq./Yvonne Carver; Charles Evans, Esq.**

Yvonne Carver gave an overview of the site. Drew Hargrove, DEQ General Counsel, represented staff and stated petitioner Dean Sackett owns a residence in South Nags Head. The property is located within the Commission's Ocean Hazard Area of Environmental Concern. This area of Nags Head is subject to the static line following a large-scale beach nourishment project in 2011. Petitioner filed a CAMA Minor Permit application seeking to construct a 72.33 square foot addition to the bottom floor of the piling-supported residence under an existing covered porch. The Town of Nags Head LPO denied petitioner's CAMA Minor Permit application as the proposed addition does not meet the applicable 105' setback from the static line. Mr. Hargrove reviewed the stipulated facts of this variance request and stated staff and petitioners disagree on all four statutory criteria which must be met to grant the variance.

Charles Evans represented the petitioners and reviewed the stipulated facts which petitioners contend support the granting of this variance request.

**Neal Andrew made a motion that petitioner has shown that strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships. Bill White seconded the motion. The motion passed with ten votes in favor (High, Catlin, Medlin, Baldwin, Andrew, Simmons, Rhodes, White, Norris, Gibbs) and one opposed (Cahoon).**

**Neal Andrew made a motion that petitioner has shown that hardships result from conditions peculiar to the petitioner's property. Bill White seconded the motion. The motion passed with ten votes in favor (High, Catlin, Medlin, Baldwin, Andrew, Simmons, Rhodes, White, Norris, Gibbs) and one opposed (Cahoon).**

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

**Neal Andrew made a motion that petitioner has shown 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 preserve substantial justice. Bill White seconded the motion. The motion passed with ten votes in favor (High, Catlin, Medlin, Baldwin, Andrew, Simmons, Rhodes, White, Norris, Gibbs) and one opposed (Cahoon).**

This variance request was granted.

#### **LEGAL UPDATES**

##### **Update on Litigation of Interest to the Commission**

**Mary Lucasse**

Mary Lucasse, CRC Counsel, reviewed the CRC and DCM cases which are currently active. *(handout provided and available from DCM)*

#### **MINUTES**

**Neal Andrew made a motion to approve the minutes of the February 2018 Coastal Resources Commission meeting. Larry Baldwin seconded the motion. The motion passed unanimously (Cahoon, Andrew, Baldwin, Catlin, Gibbs, High, Medlin, Norris, Rhodes, Simmons, White).**

#### **ACTION ITEMS**

##### **Fiscal Analysis 7H .0308, .1704, .1705 Temporary Erosion Control Structures (CRC 18-11)**

**Mike Lopazanski**

Mike Lopazanski stated the Commission has approved proposed amendments to the rules governing the use of temporary erosion control structures. The fiscal analysis indicates that there will be a cost savings from this action derived from the delayed costs associated with the removal of sandbags and the elimination of the requirement to plant vegetation on top of covered bags. The fiscal analysis has been approved by DEQ and OSBM.

**Doug Medlin made a motion to approve the fiscal analysis for 15A NCAC 7H .0308, 7H .1704, and 7H .1705 for public hearing. Larry Baldwin seconded the motion. The motion passed unanimously (High, Catlin, Medlin, Baldwin, Andrew, Cahoon, Simmons, Rhodes, White, Norris, Gibbs).**

## **EXECUTIVE SECRETARY'S REPORT**

Braxton Davis, DCM Director, gave the following report:

It is good to be back in Dare County. I spent some time yesterday with our esteemed chair and then with the mayors of Duck, Kitty Hawk and Nags Head. I was also able to tour NC-12 and meet with officials from the National Park Service and US Fish and Wildlife Service to discuss current and future issues and opportunities for improved coordination across our programs. I plan to continue meeting with local officials, stakeholders, and agency partners in different locations along the coast this year, to learn how DCM can do a better job in addressing issues that are unique to each region. I will now review some highlights since your last meeting:

### **FEDERAL BUDGET**

Last month, Congress passed a spending bill that allotted \$75M for state coastal management programs nationwide, a \$5M increase over FY17 levels. You may recall the funding support letter the Commission sent to the NC Congressional Delegation last fall, which was greatly appreciated. Our congressional delegation has been very supportive of the NC coastal program and the federal coastal management program in general. We are proud to have this kind of support for our program both locally and nationally, and we will keep you posted as the FY19 budget begins to take shape.

### **REGULATORY**

On the regulatory side of DCM, we are continuing to work on several beach and inlet management-related projects, including coordination of the permit application package for the Bogue Banks programmatic long-term oceanfront shoreline management project. We have also continued to work with our partners at the Department of Transportation's Ferry Division to respond to some serious shoaling issues at some of their ferry facilities. Division staff are also meeting with DOT later this week to discuss some longer-term solutions for the ferry facility at the north end of Ocracoke Island. Notable permit actions since your last meeting include the issuance of a permit to the Town of Nags Head to carry out a beach nourishment project that is of a similar scope and scale to their very successful 2011 nourishment project, and the issuance of a permit to the Village of Bald Head to place material dredged from Jay Bird Shoals along sections of their oceanfront beaches. Additionally, the Division granted a one-time federal consistency determination to the U.S. Army Corps of Engineers to perform maintenance dredging outside of established dredge windows of the Wilmington Harbor outer bar, with the dredged material to be placed along the beachfront on Caswell Beach and Oak Island. In this case, the Corps did not receive acceptable bids for the project during the original bid process late last year. The Corps therefore requested they be allowed to carry out the project during the 2018 summer moratoria. Following significant agency coordination, the one-time request was approved. In an effort to avoid this situation in the future, we are in the process of setting up a meeting with the Corps, DOT, and other interested state and federal agencies to discuss potential long-term solutions that can help avoid or minimize the need for future dredging outside the traditional environmental windows in NC.

## **POLICY & PLANNING**

### **Offshore Energy Update**

The Division continued to work with the Department and Governor's Office on activities related to the DOI 2019-2024 Draft Proposed Oil and Gas Leasing Program. At the end of February, DCM staff participated in a BOEM open house in Raleigh, where we answered attendee questions regarding the state's role in reviewing OCS activities. Staff also provided information and assisted in the review of the Governor's comment letter on the Draft Proposed Program, which was transmitted to BOEM on March 9<sup>th</sup>.

### **Land Use Plans**

The Division received two requests, one from The Town of Beaufort and the other from Perquimans County/Town of Hertford/Town of Winfall (joint LUP), for certification of amendments to land use plans under the Commission's recent delegation of authority. On March 5, 2018, the Division granted both requests for certification based on its finding that the plans met the substantive requirements outlined within the Commission's 7B Land Use Planning Requirements; there are no conflicts evident with either state or federal law or the State's Coastal Management Program; and the elected bodies of the Towns provided opportunity for the public to provide written comment following local adoption of the plan as required by N.C.G.S. § 113A-110 and 15A NCAC 7B .0802 and .0803.

### **Public Access Grants Program**

DCM has received 21 applications from 19 local governments requesting \$2.8 million in funding from the Public Beach and Coastal Waterfront Access Program. DCM has approximately \$1 million available for access projects during this fiscal year. Local governments whose proposals are selected will be notified by Wednesday, May 9<sup>th</sup>, to submit a Final Application with more detailed project information. Prior to submitting a Final Application, the local government is required to hold a public meeting or hearing to discuss its proposal and consider comments prior to its decision to submit a Final Application for state funds. Final Applications are anticipated to be due on or before 5 p.m. on Monday, Aug. 13, 2018. All final applicants will be notified in September whether their project has been selected for funding.

### **Coastal Reserves**

- **Summer Camps** Registration ongoing, **Promoting Living Shorelines for Erosion Control – A Workshop for Real Estate Professionals** (04/13, Beaufort), **5th Annual Terrapin Tally Training** (04/14, Masonboro)
- **Earth Day Events:** The Reserve will be joining the Crystal Coast Earth Day celebrations at Fort Macon, Atlantic Beach (04/21), the Wilmington Earth Day Festival (04/22), and OBX Earth Fair in Nags Head (04/22)
- **Spring Community Paddle** (04/27): Join the reserve staff for a paddle to the Masonboro Island Reserve for an evening of fun and education! Equipment is available for rental, see the Reserve website for more details and registration.
- **Sea Turtle Volunteer Info Session & Training** (05/01): The Reserve is hosting an informational session and training for all who are interested in volunteering for the 2018 sea turtle nesting season on Masonboro Island Reserve.
- **Local Advisory Committees:** Spring local advisory committee meetings will be held in May (check Reserve website and Division press releases for info)

- **Partnership agreements:** The Reserve is currently updating a number of its partnership agreements, including developing a new agreement with the Natural Heritage Program to more explicitly outline how the Reserve and Heritage Program work together to manage the complementary Reserve and State Nature Preserve designations.
- **2018 NCSG-NCCR & NERR Coastal Research Fellow:** NC Sea Grant, the Reserve and Division co-sponsor a graduate research fellowship each year for a student to conduct work within the sites of the Coastal Reserve. The 2018 fellow is Chris Moore, a doctoral student in Biology at East Carolina University. Under the advisement of Dr. April Blakeslee, Chris will be evaluating the success of shoreline stabilization practices in restoring biodiversity.
- The Reserve's spring **Tidal Flat newsletter** coming out in May.

### Staffing News

We are excited to welcome Amanda Cannon as our receptionist in the Morehead City office. Amanda and her family live in Havelock and she has had administrative experience working for several local businesses in the Morehead City area. Our NOAA Coastal Management Fellow, Monica Gregory, is rapidly approaching the end of her time with DCM. Monica has been working on an innovative resiliency evaluation and needs assessment project with five of our local governments. She has done an outstanding job in designing a process that engaged local government staff and residents, and presented many of her results to the CRAC yesterday. This is Monica's last CRC meeting as she moves on to her new position as a coastal advocate with the nonprofit 100 Miles, in Savannah GA, in May. We greatly appreciate her work for the NC Coastal Management Program, and wish her the best as she continues her career. Finally, Sean Farrell, a field representative in our Wilmington regional office, has accepted a position with the Department of Transportation. We are going to miss Sean, but also wish him the best in his new position. We are in the process of advertising for a replacement for Sean's position.

### CRAC UPDATE

Rudi Rudolph stated the CRAC requests a speaker be lined up to speak regarding GenX. This would provide clarity on what it is, how and why it's getting into the water, and who is taking the lead on addressing it. The CRAC also reviewed and discussed rules regarding existing, public stormwater outfalls. The CRAC is recommending draft language for the Commission's consideration that allows a local government or the State to rebuild within the existing footprint of the existing stormwater outfall. This will eliminate the need to go through the major permit process.

Chair Cahoon stated a GenX presentation could be scheduled for the September CRC meeting.

Tancred Miller presented the rule amendments to the ocean outfall rules and stated these amendments are based on a request for relief from the current rules to allow the extension of stormwater outfalls. The current rules do not allow new construction seaward of the vegetation line. The Commission asked the Advisory Council to look at amending the existing rules to allow the extension of ocean outfalls. The CRAC proposes revisions to the current rules to allow local and state government through the Major Permit process and would allow outfalls to be extended and not require an additional permit to maintain the outfall within the original footprint.

**Neal Andrew made a motion to approve the amendments to the ocean outfall rules for public hearing. Denise Gibbs seconded the motion. The motion passed unanimously (High, Catlin, Medlin, Baldwin, Andrew, Cahoon, Simmons, Rhodes, White, Norris, Gibbs).**

## **BEACH AND INLET MANAGEMENT**

### **Inlet Hazard Areas (CRC 18-12)**

#### **Mike Lopazanski**

Mike Lopazanski stated the Inlet Hazard Area of Environmental Concern (AEC) is part of the Ocean Hazard AEC. These geographic areas are vulnerable to the effects of sand, wind, water, and waves. Properties located along these shorelines are at an increased risk from erosion. The Inlet Hazard Area boundaries are referenced in a report from 1978 in 7H .0304. These maps were adopted by the Commission in 1978 and amended in 1981, but have not been changed since that time. The IHA AEC is based on aerial photography. The Commission re-evaluated IHAs because the inlet areas were dramatically different than that of the oceanfront. Ultimately the CRC decided upon a statistical approach looking at past shorelines. During the public hearings, there was a lot of criticism over the statistical approach. The Commission included setbacks from the first line of vegetation and kept density restrictions, but applied the erosion rate from the adjacent Ocean Erodible Area. There has been legislative interest in the Inlet Hazard Areas and in 2012 the Commission was directed to study the feasibility of creating a new AEC for lands adjacent to the mouth of the Cape Fear River. In 2014, the Legislature removed the Inlet Hazard Area designation for any inlet that had been closed for more than 15 years which applied to Mad Inlet. The CRC removed this area from the Inlet Hazard designations. The Legislation also addressed providing access to State Ports. The Commission conducted a comprehensive Inlet Management Study which included stakeholder input, local governments, the dredging industry, USACE and geologists. The Science Panel is currently working on the Inlet Hazard Area boundaries and a deep draft port management navigation based inlet management area of environmental concern is working its way through the rulemaking process. We have met with the Army Corps of Engineers which resulted in beach bulldozing being allowed below mean high water. The current rules for the IHA require development be set back from the first line of vegetation by using the erosion rate from the adjacent ocean erodible area, density is restricted in the IHAs, and new dunes in the inlet hazard areas are prohibited. When the maps, based on the Science Panel's recommendations, come to the Commission; the Commission will need to consider development standards within these areas. The Science Panel is delineating an area of inlet influence which is larger than the areas originally depicted in the 1978 study.

### **CRC Science Panel IHA Delineation Update (CRC 18-13)**

#### **Ken Richardson**

Ken Richardson stated in 2016, the Commission issued a Scope of Work to the Science Panel to do three things: develop a methodology for calculating the shoreline change rate; look at the oceanfront shoreline and determine where the transition point is between the inlet processes dominating the location of the shoreline versus the oceanfront; and provide the Commission with an updated set of maps and recommendations. There are a lot of challenges when looking at inlets. There needs to be a methodology that captures the migrating and oscillating inlets. The maps should be ready for presentation to the Commission in September. The Science Panel is looking at a hybrid vegetation line which represents a composite of the most landward position of the vegetation line. The Panel has looked at 50 years of data. The shoreline change rates will



use a linear regression methodology. Some of the statistical data that we are getting will allow us to use standard deviation and find the point along the shoreline where the inlet processes no longer dominate the oceanfront processes. There is also a 30- and 90-year risk line. This was developed by the Science Panel because there was discussion on zoning the inlet hazard area. The Science Panel will identify in their report where expert or professional judgment has been used to define the boundaries. In summary, the analysis has been done, the maps are ready for the Science Panel's review, and at the next Science Panel meeting the Panel should be able to approve and make recommendations to the Commission at the September meeting.

Sea Grant has been working on a web based program to demonstrate the changes that inlets have gone through over time. Spencer Rogers stated the site can be accessed at: [goncsu.edu/inletatlas](http://goncsu.edu/inletatlas). The "time machine" has a customized list of inlets in North Carolina. These are time lapsed photographs of every inlet in North Carolina between 1984 and 2016.

### **State Port Inlet Management AECs (CRC 18-14)**

#### **Heather Coats**

Heather Coats stated the Commission approved this AEC at the September 2016 meeting. However, legislation was passed in 2017 that changed the General Assembly's prior direction on temporary erosion control structures. Since this legislation could impact the utility of this AEC, the Commission put its work on this AEC on hold until the temporary erosion control amendments were finalized. In 2012, legislation was passed that directed the CRC to study the feasibility of creating a new AEC for lands adjacent to the Cape Fear River. The Commission was directed to identify regulatory concerns and strategies for creating a more efficient regulatory framework for this area. The final decision of the Commission was to recognize that there are issues that were identified at the Cape Fear Inlet, but that these issues may also apply to other inlets. The recommendation from the Commission was to take a more inclusive study of all inlets. The results of the inlet management study identified short and long-term priorities. One recommendation was the development of a new AEC for the State's two deep-draft inlets. During this time, legislation was passed to remove these inlets from the Inlet Hazard Area designations. DCM met with the local governments adjacent to these two inlets to identify their priorities for the rules changes. Staff drafted rules based on the Commission's objectives and local government input which included beneficial use of dredged materials requiring sand to go onto the beach or the nearshore area. The draft rules were sent to the local governments, the Army Corps of Engineers, State Ports Authority, Fort Macon and the National Park Service. Almost immediately we heard back from the Army Corps of Engineers regarding the beneficial use component of the rule. There was a lot of concern about unanticipated impacts from creating this rule. It was decided to create a working group to establish cost-sharing agreements between the Corps, local governments, and the State. For the boundaries, Carteret County proposed the inlet hazard areas as the AEC boundaries with the waterward extent including the ebb tidal delta. Caswell Beach felt the boundary should include Caswell Beach in its entirety and would terminate at the tower off Fort Caswell. Bald Head Island wanted the AEC to include all of South Beach. If the Commission approves the rule language and maps, then the next step will be the development of the fiscal analysis.

Larry Baldwin stated that State government should be added to 7H .0313(b) and (c) to allow the same activities as local governments.

**Neal Andrew made a motion to approve the rule language and maps for the State Port Inlet Management AEC, with the addition of “State Government” in 7H .0313, for public hearing. Phil Norris seconded the motion. The motion passed unanimously (High, Catlin, Medlin, Baldwin, Andrew, Cahoon, Simmons, Rhodes, White, Norris, Gibbs).**

### **Review of Ocean Hazard AEC Setback Line (CRC 18-15)**

#### **Ken Richardson**

Ken Richardson stated the Ocean Erodible Area by definition is the area where there exists a possibility of excessive erosion and significant shoreline fluctuation. This area is calculated by multiplying the setback factor times 90. On the oceanfront, there are many lines to consider in the management of oceanfront development. Setbacks are not determined by the shoreline change rate at each individual transect. Additional data processing is required in order to establish setback factors. Raw shoreline change rate data are smoothed using a 17-point running average. Smoothing effectively filters out shore-term dynamic shoreline phenomena such as beach cusps. Smoothed raw data are then blocked. Per CRC rules, the minimum setback factor is two feet per year. Transects with erosion values less than two feet per year are assigned a blocked rate value of two. Construction setback is measured landward from the first line of stable and natural vegetation, or the static vegetation line, whichever is applicable. The setback is based on the size of the structure and the erosion rate. Building in accordance with setbacks does not guarantee that the ocean will never threaten a structure, but it reduces the risk of property loss, reduces the encroachment of development onto public beaches, and can reduce the amount of tax money spent responding to problems that are exacerbated by poorly sited development. Where that has been no beach fill, the setback is measured from the first line of stable and natural vegetation using the graduated setback. Where there has been a beach fill project of less than 300,000 cubic yards, the setback is also measured from the first line of stable and natural vegetation using the graduated setback. Where a beach fill project was greater than 300,000 cubic yards the static vegetation line prevails. With a static vegetation line, the community can measure setbacks from the static vegetation line, or the CRC can approve a static line exception, or a development line. In determining which reference feature should be used to measure the setback, first ask if the community has a static vegetation line. If the answer is no, then measure from the first line of stable and natural vegetation. When beach fill projects are maintained there is a possibility that vegetation could grow seaward of the static vegetation line. In these cases, the CRC can grant a static vegetation line exception. The community must provide the CRC with a 30-year plan to maintain the initial beach fill project. The CRC reauthorizes these exceptions every five years. When the static vegetation line is applied, no portion of new construction can be oceanward of the landward most adjacent structure. No pools can be oceanward of the static vegetation line and structures greater than 5,000 square feet must meet the minimum setback of 120 feet or 60-times the shoreline erosion rate at the time of permit issuance whichever is greater. The development line is not the same as the static line exception. It is not used as a reference feature to measure setbacks. It is a line established by local government representing the seaward-most allowable location of oceanfront development. In areas that have development lines approved by the CRC, the vegetation line or measurement line shall be used as the reference point for measuring oceanfront setbacks instead of the static vegetation line. In no case shall new habitable development be sited oceanward of the development line and in no case shall the development line be created or established below the mean high water line. The setback

distance is determined by both the size of the development and the long-term erosion rate using the graduated setback. The static line exception provision that allows structures greater than 5,000 square feet to measure the setback based on 60-times the erosion rate cannot be used where a development line exists. Development line requests apply to the entire large-scale project area and can be extended to include an entire town's oceanfront jurisdiction. The development line utilizes the adjacent neighbor's site line approach and where development is not linear, an average line of construction may be used on a case-by-case basis. In no case, can a development line be established seaward of the seaward-most structure. Existing structures seaward of the development line may not be replaced if damaged more than 50 percent and the static vegetation line still applies to pools as they cannot be placed oceanward of the static line.

### **Hwy 12/Bonner Bridge/Hatteras Island Nourishment Projects Update**

#### **Jerry Jennings, NCDOT Division 1 Engineer**

Jerry Jennings stated from Kitty Hawk to Ocracoke there are historical hot spots, a few new areas of concern and three active projects: Bonner Bridge, Pea Island Bridge, and Rodanthe Bridge. The Bonner Bridge replacement bridge crosses Oregon Inlet immediately to the west of the existing bridge. The existing Bonner Bridge opened in 1963. Planning for the replacement of the bridge began in 1990. A contract was awarded to replace the bridge in 2011. There was a legal challenge and then a settlement agreement was reached to replace the bridge in 2015. Construction of the new bridge began in March 2016. The current bridge only has one navigation span with a width of 130 feet and the new bridge will have nine navigation spans each with about 300 feet in length. The new bridge uses a lot of precast concrete elements and will be barged or trucked to the site. It is almost completely stainless reinforcing steel and high durability concrete to protect against corrosion to provide a longer life. The work trestle on the north end of the bridge will be 6,300 feet in length. The demolition material from the old bridge will be used at offshore reef sites and a portion of the existing bridge will be retained at the south end. Another unique facet of this project is the SAV mitigation reef. As part of the bridge project we are impacting SAV and in order to mitigate for those impacts, this structure was constructed in the Sound to create a 50-acre wave shadow to provide habitat for SAV. The bridge project is about 79% contractually complete and about 68% of the onsite construction is completed. Some of the activities at the site are taking place 24 hours per day. The bridge is scheduled to open in late 2018 and the contract completion date, to include demolition of the old bridge, should be completed by fall 2019.

The Pea Island Bridge is 4-5 miles south of Bonner Bridge, located in the historical area of New Inlet. A breach formed during Hurricane Irene in August 2011 and a 660-foot steel bridge was constructed. Further damage occurred during Hurricane Sandy in October 2012 and planning began for a long-term solution. A contract was awarded in November 2015 and includes ½ mile long concrete structure. Onsite construction began in March 2016. The bridge opened to traffic in November 2017 and was named the Captain Richard Etheridge Bridge. The bridge is complete except for some final paving and paving marks.

The Rodanthe Bridge is also known as Mirlo Beach Bridge or S-Turns. This is a hot spot that has been a problem for years. A breach formed during Hurricane Irene in August 2011. The roadway was reconstructed and sandbags were placed. There was further damage from Hurricane Sandy in October 2012. A beach nourishment project was completed in September 2014, but there has

been extensive overwash during the recent nor'easters. Planning for a long-term solution has been underway for several years. The preferred alternative was selected in June 2015 and a Record of Decision was approved in December 2015. This preferred alternative is a 2.4-mile jug handle design. A contract was awarded in January 2017 and design and permitting are currently underway. Onsite construction will begin in summer 2018 with completion scheduled by 2020.

In Kitty Hawk, there are several projects to install or extend sandbags, reconstruct dunes, and rebuild roadway. The recent beach nourishment by the Town and County has provided significant protection to the roadway. The recent nor'easters caused minimal problems. The Canal Area and Birdwatcher Area have merged into one large site extending over three miles. The dunes are very unstable and have minimal vegetation. The combination of windblown sand and overwash are impacting the roadway, but there has been no pavement damage. This area requires almost continuous maintenance to keep sand off of the roadway and flooding of the roadway occurs regularly when overwash or heavy rain is trapped inside the dunes. This area is within the scope of the Bonner Bridge, but no project is currently funded. The area south of Avon Pier is becoming an emerging problem. Impacts to NC 12 have been limited to flooding to date due to the distance from the ocean. Overwash is overwhelming the existing drainage infrastructure along NC 12. The greatest impacts are to secondary roads and private properties east of NC 12. Buxton is a historical hot spot and a feasibility study was completed in 2016. A wide range of options were evaluated. No projects are currently funded in our transportation plan. The recent Dare County beach nourishment project provided a significant benefit to this area. There are soundside concerns southward towards Canadian Hole. We will coordinate with DCM and the National Park Service regarding options available. This is a very narrow part of the island. Hatteras Village is another historical hot spot and a feasibility study was completed in 2016. A wide range of options have been evaluated, but there are no projects currently funded in the transportation plan. There were minimal impacts from the recent weather events. With the exception of some dune maintenance this area has remained fairly stable with relatively minimal problems since Hurricane Isabel in 2003. A feasibility study was completed for Ocracoke in 2016 and a wide range of options were evaluated, but no projects are currently funded under the transportation plan. The biggest challenge here is that there is very little distance between the road and the ocean. Dune maintenance continues with the compatible sand from ferry dredge spoil site when needed and available. The Ocracoke South Dock is a new problem related to the ongoing changes with Hatteras Inlet. Short term improvements include sandbags and relocation and reconstruction of pavement. The Ferry Division has some planned dredging of some of the channel blockages in the area, and we are looking at some longer-term options that may be available. There are currently no projects funded in the current transportation plan. Progress is being made on Highway 12 and we appreciate the partnership and cooperation that we get from the Division of Coastal Management.

#### **PUBLIC INPUT AND COMMENT**

Dave Dawson of the Cape Hatteras Motel thanked Dare County for the recent beach nourishment and discussed beach stabilization options and the advantages of having a flat beach versus a dune.

**OLD/NEW BUSINESS**

Jamin Simmons stated he had a conversation with Ray Tooley, Hyde County, and the issue is not about CAMA rules, but upstream hydraulic trespass that would need some legislative action. Hyde County residents would appreciate a letter of support from the Commission.

Chair Cahoon appointed Mike Lopazanski as hearing officer for the public hearings.

**PUBLIC HEARINGS**

**15A NCAC 7H .0308 Specific Use Standards & 7K .0103 Maintenance and Repair (Dune Rules)**

Mike Lopazanski stated these amendments will offer flexibility in the ways that oceanfront sand dunes are maintained and managed and how accessways are constructed. These amendments require that sand remain on a lot to the maximum extent practicable, allow distribution of sand to the crest of a frontal dune, allow removal of sand from around structures provided it remains in the Ocean Hazard AEC, allow accessways to cross frontal dunes, preserve the volume of dunes while allowing access.

Steve Smith, Topsail Beach Commissioner, commented on Topsail Beach's concerns regarding the dune rules.

Cliff Ogburn, Nags Head Town Manager, commented on the improvements made in the amendments regarding Hatteras Ramps.

**15A NCAC 7K .0208 Single Family Residences Exempted (LPO Authority)**

These amendments correct the inconsistency with other exemptions and with the EMC's coastal stormwater rules.

No comments received.

**15A NCAC 7H .0209 Coastal Shorelines (Stormwater Correction)**

These amendments correct a conflict between the CRC's coastal shorelines rules and the EMC's coastal stormwater rules.

No comments received.

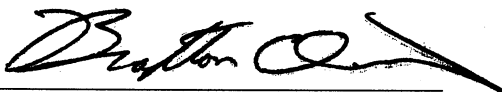
**15A NCAC 7B .0802 Public Hearing and Local Adoption Requirements & 7B .0803 Certification and Use of the Plan (CRC Delegation of Certification)**

These amendments streamline the land use plan certification process and delegates certification authority to the Division Director.

No comments received.

With no further business, the CRC adjourned.

Respectfully submitted,



Braxton Davis, Executive Secretary



Angela Willis, Recording Secretary