

NC COASTAL RESOURCES COMMISSION (CRC)

September 13-14, 2016

**New Hanover County Government Center
Wilmington, NC**

Present CRC Members

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

Larry Baldwin	Phil Norris
Rick Catlin	Russell Rhodes
Denise Gibbs	John Snipes
Greg Lewis	Bill White

Present CRAC Members

Rudi Rudolph, Chair
Spencer Rogers, Co-Vice Chair
Bobby Outten, Co-Vice Chair

John Brodman	David Moye
Jett Ferebee	Dave Weaver
Beth Midgett	Lee Wynns
Mike Moore	

Present from the Office of the Attorney General

Mary Lucasse

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

Christine A. Goebel
Katie Mills

CALL TO ORDER/ROLL CALL

Frank Gorham called the meeting to order reminding the Commissioners of the need to state any conflicts due to Executive Order Number One and also the State Government Ethics Act. The State Government Ethics Act mandates that at the beginning of each meeting the Chair remind all members of their duty to avoid conflicts of interest and inquire as to whether any member knows of any conflict of interest or potential conflict with respect to matters to come before the Commission. If any member knows of a conflict of interest or a potential conflict of interest, please state so when the roll is called.

Angela Willis called the roll. Marc Hairston and Jamin Simmons were absent. Rick Catlin read his evaluation of statement of economic interest from the State Ethics Commission which found the potential for a conflict of interest, but no actual conflict. Neal Andrew reported a potential conflict of interest with the variance request from the Town of North Topsail Beach and will recuse himself from discussion and voting. Larry Baldwin reported a potential conflict with the Nixon and Coastal Yacht Hangars variance requests and will recuse himself from discussions or voting on these two requests. Based upon this roll call Chairman Gorham declared a quorum.

CHAIRMAN'S COMMENTS

The Chairman introduced Don van der Vaart, Secretary of the Department of Environmental Quality who spoke with the Commission about some of the top issues for our coast.

Secretary van der Vaart stated that over the past year the department has identified increased money for dredging and added flexibility to the process including a reduced matching requirement for local governments. There is also an effort to put together a regional analysis for endangered species act compliance, which when completed, may provide more certainty about when and where you can renourish beaches. We have had some serious reductions in southern flounder. The Marine Fisheries Commission (MFC) by statute was intended to be evenly split between competing groups. The MFC voted for reductions on the commercial and recreational side. It shows that they are doing what they are supposed to do which is to put North Carolina's fishing resources first. Braxton Davis has been very gracious in accepting the challenge of taking on the Division of Marine Fisheries in addition to his duties as Director of the Division of Coastal Management and he's doing a great job. It is a tough job and he has the talent to meet the challenge. North Carolina's energy strategy is important from the standpoint of coastal management. North Carolina's energy sector is making great steps to clean its act up. It doesn't mean that we are going to let the federal government institute a strategy for us. We saw what they did with the Affordable Care Act and we don't want them dictating an energy strategy. North Carolina is third in the nation in solar capacity, we are developing the largest windfarm in the southeast, and we are continuing to push for a proper balance amongst natural gas, coal and nuclear power. From a sea level rise stand point, it is difficult to predict global climate change. We want to clean up our power supply in an orderly fashion based on economic decisions.

Chairman Gorham informed Secretary van der Vaart that last year the CRC gathered over 100 town officials to identify top coastal issues in the State. The Advisory Council and the local governments on the coast all asked for a more reliable source of funding for beach renourishment. There is a very short dredging window and it is hard to book contracts if you don't know if the funding will be there. The State funding needs to be flexible. We have started conversations between the Corps, the Ports, and the State and all parties are in support of the use of a statewide agreement, but it has to work for everyone. The first thing we need to decide is the funding mechanism and contact person. Secretary van der Vaart stated the Department has a good relationship with the State Ports and the Corps and this is the right direction. The Department will talk with the Governor about the best way to make this happen and find a vehicle for local governments to fund and know money is available for placing sand on their beaches. There is also an issue with the short dredging window which is dictated by US Fish and Wildlife Service and it is hurting local communities because other states up and down the coast don't have the same time limitation. Dredging companies hate to dredge in the winter when it is harder and more expensive. Secretary van der Vaart stated that will still be up to US Fish and Wildlife. Chairman Gorham stated the Commission also has concerns about insurance rates and the difficulty for property owners to get insurance. Many real estate transactions fall apart due to insurance. We need to be able to find a way to get a larger pool of carriers that will insure coastal property owners. The last thing the Commission wants to point out is the great CAMA staff. These staff are overworked and there are not enough of them. This Commission would like to get the word out to the Legislature that they need additional help. Commissioner Lewis commented that shallow draft inlet dredging has been addressed, but not deep draft inlet dredging. This is a big concern in Morehead City because it is the source of sand for our beaches. A Memorandum of Agreement (MOA) with the Corps and the Ports will help. This is the third year Morehead City has required emergency dredging to address one area and we are not maintaining the harbor. The

Legislature is making progress on shallow draft dredging funding and it will be worthwhile to the local communities and counties that want to take care of what needs to be done. The port at Morehead City is a North Carolina asset and provides service by rail and trucks to the piedmont and western parts of the state. The State needs to understand the port services the manufacturing businesses in the state. Commissioner Catlin commented that Tom Reeder worked on the first MOA for shallow draft inlets and is a good resource to continue this effort. One of the biggest problems we have with beach renourishment and inlet maintenance in the coastal waterways and ports are that there are only four dredging companies in the United States that we can use because of the Jones Act. There used to be 3,000 ships that met the Jones Act and now there are less than 200. A bill was filed to do an economic analysis that was passed by the House, but did not make it through the Senate. The work to get an economic analysis should continue, think about how much we could save if modifications were made to the Jones Act requirements. One of the other big issues is that because of the Jones Act and the fact that American fuel is trying to be competitive with international fuel, all of the fuel terminals in North Carolina that intake fuel have gone out of business except for one and they get it with tanker trucks. When Hurricane Katrina shut down the pipeline it saved North Carolina and surrounding states because they could drive and get fuel. This is now a homeland security issue because there are only 49 ships that meet the Jones Act for moving fuel. I hope the CRC will look at competitive enterprise for our beach renourishment and inlet maintenance. We could save a lot of money.

VARIANCES

Nixon (CRC VR 16-06), Wilmington, ¼ width rule

Christine Goebel, NCDEQ Office of General Counsel/Merrie Jo Alcocke, Ward and Smith

***Larry Baldwin recused himself from discussion and voting on this agenda item.*

Tara MacPherson, DCM field representative, gave an overview of the property. Christy Goebel, represented staff and stated petitioner, Nicholas Nixon, owns property on Hollis Lane on the Atlantic Intracoastal Waterway in New Hanover County. Petitioner sought a CAMA Major Permit for the construction of a house, driveway, and private docking facility. On June 17, 2016, CAMA Major Permit No. 16-16 was issued for the upland development, but the docking facility was conditioned out of the permit as it was not consistent with 15A NCAC 7H .0208. Petitioner seeks a variance from the Commission's quarter width rule in order to develop his docking facility as proposed in his permit application. Ms. Goebel reviewed the stipulated facts of the variance request and stated staff and petitioner agree on all four variance factors which must be met in order to grant the variance.

Ms. Alcocke represented the petitioner and stated this type of request is exactly what the variance procedure was intended for. This variance balances the needs of the property owner and protection of the resource.

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

Renee Cahoon made a motion that the Commission find that hardships result from conditions peculiar to the petitioner's property. Bill White seconded the motion. The motion passed

unanimously (Rhodes, Norris, Catlin, Andrew, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

Renee Cahoon made a motion that the Commission find that hardships do not result from actions taken by the petitioner. Russell Rhodes seconded the motion. The motion passed unanimously (Rhodes, Norris, Catlin, Andrew, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

Renee Cahoon made a motion that the Commission find 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. Phil Norris seconded the motion. The motion passed unanimously (Rhodes, Norris, Catlin, Andrew, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

This variance request was granted.

**NC Division of Parks and Recreation (CRC VR 16-07), Ft. Fisher, Oceanfront Setback
Katie Mills, DEQ Asst. General Counsel/Jonathan Avery, DNCR Asst. General Counsel**

Sean Farrell, DCM field representative, gave an overview of the property. Katie Mills represented staff and stated petitioner manages the Fort Fisher State Recreation Area in Kure Beach, New Hanover County. In June of this year, Parks staff submitted a CAMA Minor Permit application seeking to develop a maritime trail with elevated public boardwalk, access walkways, renovations to the existing public restrooms and five new small and one new large shade structures. The shade structures do not meet the applicable 225-foot ocean erosion setback based on the current first line of stable and natural vegetation and the applicable erosion rate at this site. On July 1, DCM issued CAMA Minor Permit KB 16-03, but conditioned the six shade structures out of the permit for failing to meet the setback. Petitioner filed a variance petition from the Commission's ocean erosion setback rules in order to develop the shade structures as proposed. Ms. Mills reviewed the stipulated facts of this variance request and stated that staff and petitioner agree on all four variance criteria which must be met in order for the variance to be granted.

Jonathan Avery represented the petitioner, the Department of Natural and Cultural Resources and reviewed the stipulated facts which petitioner contends supports the granting of this variance request. These shade structures will provide visitors needed shade from the heat of the day and mitigate any heat related health issues. There is currently no natural shade at this location. The shade structures would be able to be removed in the event of bad weather only leaving the concrete footings in place.

Renee Cahoon made a motion that the Commission find that strict application of the applicable development rules, standards or orders issued by the Commission cause an unnecessary hardship. Larry Baldwin seconded the motion. The motion passed unanimously (Rhodes, Norris, Baldwin, Catlin, Andrew, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

Renee Cahoon made a motion that the Commission find that hardships result from conditions peculiar to the petitioner's property. Larry Baldwin seconded the motion. The motion passed unanimously (Rhodes, Norris, Baldwin, Catlin, Andrew, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

Renee Cahoon made a motion that the Commission find that hardships do not result from actions taken by the petitioner. Phil Norris seconded the motion. The motion passed unanimously (Rhodes, Norris, Baldwin, Catlin, Andrew, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

Renee Cahoon made a motion that the Commission find 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. Russell Rhodes seconded the motion. The motion passed unanimously (Rhodes, Norris, Baldwin, Catlin, Andrew, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

This variance request was granted.

**Coastal Yacht Hangar, LLC (CRC VR 16-08), Beaufort, ¼ width rule
Christine Goebel, NCDEQ Office of General Counsel/Clark Wright, Davis Hartman Wright
Larry Baldwin recused himself from discussion and voting on this agenda item.

Roy Brownlow, DCM district manager, gave an overview of the site location. Christy Goebel represented staff and stated petitioner has an existing CAMA Major Permit issued in 2008 authorizing the development of a marina with 30 wet slips, 330 covered dry stack spaces, 685 boat rack storage facilities and associated amenities. In June 2016, following significant consultation between petitioner and the various resource agencies, petitioner applied to extend two of the existing docks by about 85 feet to span one-third of the width of the waterbody and reconfigure and combine two permitted 6-foot accessways into one 14-foot accessway. On August 1, 2016, DCM denied petitioner's modification request due to its inconsistency with 15A NCAC 7H .0208. Petitioner is seeking a variance from the Commission's pier length and width rules in order to construct its marina as proposed in its 2016 major modification permit application. Ms. Goebel reviewed the stipulated facts of this variance request and stated staff and petitioner agree on all four variance factors which must be met in order to grant the variance request.

Clark Wright represented petitioner and reviewed the stipulated facts which petitioner contends supports the granting of the variance request including the attempt to minimize shading impacts by the use of light permeable fiberglass grate material in the middle two feet of the proposed access walkways.

Renee Cahoon made a motion that the Commission find that strict application of the rules, standards or orders issued by the Commission will cause the petitioner an unnecessary hardship. Greg Lewis seconded the motion. The motion passed unanimously (Rhodes, Norris, Catlin, Andrew, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

Renee Cahoon made a motion that the Commission find that hardships result from conditions peculiar to the petitioner's property. Bill White seconded the motion. The motion passed unanimously (Rhodes, Norris, Catlin, Andrew, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

Renee Cahoon made a motion that the Commission find that hardships do not result from actions taken by the petitioner. Greg Lewis seconded the motion. The motion passed unanimously (Rhodes, Norris, Catlin, Andrew, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

Renee Cahoon made a motion that the Commission find 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. Phil Norris seconded the motion. The motion passed unanimously (Rhodes, Norris, Catlin, Andrew, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

This variance request was granted.

Town of North Topsail Beach (CRC VR 16-09), Sandbags/Geotextile tube
Christine Goebel, NCDEQ Office of General Counsel/Brian Edes, Crossley McIntosh & Collier
***Neal Andrew recused himself from discussion and voting on this agenda item.*

Jason Dail, DCM field representative, gave an overview of the site location. Christy Goebel represented staff and stated the Town holds oceanfront easements for the area north of Topsail Reef Condos toward the New River Inlet in connection with their Inlet Management Plan. Following the Phase I channel realignment and nourishment project which was completed in early 2013, the Town began to research various options to protect the 20 structures in this area from erosion in 2014. The Town sought and was granted a variance from the Commission in November 2014 to install a sandbag structure up to 45 feet wide and +12 ft. NAVD but constructed the structure smaller than the maximum size authorized. As part of the resulting permit, the Town requested DCM authorize use of a geotextile tube the length of the sandbag project to protect the worksite during construction. Following completion of the 2014-15 project, the Town informed DCM that it wanted to keep the tube in place. After a Notice of Violation (NOV) issued by DCM in March 2015, the Town petitioned and was granted a variance in July 2015 in order to keep the geotextile tube until the planned shallow draft project planned for 2015-16. In April 2016, DCM issued another NOV after the Town failed to timely remove the geotextile tube as required by the variance. As part of the NOV restoration plan, DCM agreed to first let the Town seek another variance from the Commission. The Town submitted a permit modification request to keep the geotextile tube in place, which was denied by DCM through a letter dated July 26, 2016. On August 3, 2016, DCM received petitioner's variance application seeking to keep the geotextile tube at least until the sandbag permit expires in November of 2022. Staff argued that petitioner has failed to demonstrate each of the four variance criteria which must be met in order to grant the variance request

Town attorney Brian Edes, represented petitioner and reviewed the site location, proposed plans, and stipulated facts which the Town contends supports the granting of this variance request. During the hearing on the Town's variance request, Chairman Gorham requested that Petitioner and DCM Staff pull out of the hearing and engage in settlement negotiations to determine whether the Town and DCM could agree on a joint recommendation to the Commission. After approximately 30 minutes, Petitioner and DCM returned to the Commission and stated they had successfully negotiated an agreement. The Town's attorney informed the Commission that the Town was amending its variance petition to reduce the time it sought to allow the geotextile tubes to remain in place to May 1, 2017. In light of the revised variance request, DCM recommended that if the Commission decided to grant a variance, the variance should include the following conditions: (1) The geotextile tubes may remain in place until May 1, 2017; (2) By May 1, 2017, the Town is required to compromise and remove the geotextile tubes. DCM has defined removal to require that the Town cut the exposed geotextile tube and remove all visible material using a forklift to pull out loose material. Removal does not include excavating the entire geotextile tube if it is covered with

sand. DCM may provide addition directions to the Town and its consultants based on Site conditions during the removal process. (3) By May 1, 2017 any exposed geotextile tube material shall be removed; (4) By May 1, 2017 the geotextile tubes shall not be operable. (5) No sand or sandbags may be placed on any uncompromised portion of the geotextile tubes; (6) The geotextile tubes and sandbag revetment will remain within and will not exceed the footprint of the supersized sandbags allowed by the Commission in its final agency decision dated November 24, 2014. The Town, through its attorney, orally represented to the Commission at the hearing that it agreed with these conditions.

Renee Cahoon reluctantly made a motion that the Commission should find that based upon the amended variance request, the Town has shown strict application of the development rules, standards or orders issued by the Commission cause the petitioner unnecessary hardship. John Snipes seconded the motion. The motion passed unanimously (Rhodes, Norris, Baldwin, Catlin, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

Renee Cahoon reluctantly made a motion that the Commission should find that based upon the amended variance request the Town has shown that hardships result from conditions peculiar to the petitioner's property. Larry Baldwin seconded the motion. The motion passed unanimously (Rhodes, Norris, Baldwin, Catlin, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

Renee Cahoon reluctantly made a motion that the Commission should find that based upon the amended variance request the Town has shown that the hardships do not result from actions taken by the petitioner. Phil Norris seconded the motion. The motion passed unanimously (Rhodes, Norris, Baldwin, Catlin, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

Renee Cahoon made a motion that the Commission should find that based upon the amended variance request and subject to inclusion of the following conditions in the variance, the Town has shown that the variance request will be consistent with the spirit, purpose and intent of the rules, standards, or order issued by the Commission; will secure the public safety and welfare; and preserve substantial justice. The conditions to be included in the variance are as follows:

1. The geotextile tubes may remain in place until May 1, 2017;
2. By May 1, 2017, the Town is required to compromise and remove the geotextile tubes. DCM has defined removal to require that the Town cut the exposed geotextile tube and remove all visible material using a forklift to pull out loose material. Removal does not include excavating the entire geotextile tube if it is covered with sand. DCM may provide addition directions to the Town and its consultants based on Site conditions during the removal process.
3. By May 1, 2017 any exposed geotextile tube material shall be removed;
4. By May 1, 2017 the geotextile tubes shall not be operable.
5. No sand or sandbags may be placed on any uncompromised portion of the geotextile tubes;
6. The geotextile tubes and sandbag revetment will remain within and will not exceed the footprint of the supersized sandbags allowed by the Commission in its final agency decision dated November 24, 2014.

John Snipes seconded the motion. The motion passed unanimously (Rhodes, Norris, Baldwin, Catlin, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

This variance request was granted with conditions.

DCM Living Shoreline Strategy Implementation (CRC 16-34)

Whitney Jenkins

Whitney Jenkins, Coastal Training Program Coordinator, stated living shorelines include a suite of erosion control options for estuarine shorelines. Living shorelines maintain the connection between the upland area, intertidal areas and flood areas which are necessary to maintain water quality, ecosystem services and habitat values. Unlike vertical stabilization techniques, such as bulkheads, living shorelines typically use native materials like oyster shell and marsh plantings. Over the past several years the Division of Coastal Management has made significant investments in advocating for the use of living shorelines as an alternative to vertical stabilization measures. These efforts are summarized in our living shoreline strategy which identifies short and long term actions related to permitting, research, mapping, outreach, training, policy and funding. We also have an internal Division workgroup that implements these actions. We have recently published an accomplishments report and will be working with partners to update the strategy and determine next steps. Property owner outreach is one of the goals. Field representatives talk with property owners and contractors about options for estuarine shoreline stabilization and give them resources to learn more about living shorelines. Over the course of the next year we will be asking our field representatives to ask the contractors and property owners what went into their decision making regarding which shoreline stabilization choice they chose and why, or why not, they considered a living shoreline. This will help us with future outreach and research efforts to help improve the advocacy of living shorelines in the state. We have a robust web resources page. There are also pamphlets published by NOAA referencing our web resources page as well as a “weighing your options” booklet. We have also been committed to offering training on living shorelines. Since 2011 we have offered 11 workshops and this past year we offered seven workshops up and down the coast in an attempt to reach people in all of the twenty coastal counties. We offer continuing education credits for engineers, landscape architects, certified flood plain managers, real estate agents and American Institute of Certified Planners. The training content is provided by experts in their field and the workshops always include a field component. Updates have also been made to the estuarine shoreline mapping project based on 2012 imagery. This provides the most accurate inventory of shoreline type and structures to date. Research is a big part of what we have been doing with living shorelines. This helps inform our policy decisions and we also incorporate our research findings into our training. The North Carolina Coastal Recreational Fishing License grant program is administered by the Division of Marine Fisheries and has supported many projects that have come out of UNC’s Institute of Marine Science. Because of the benefits that living shorelines provide, DCM will continue to build upon these accomplishments and promote living shorelines as a viable method for estuarine shoreline stabilization. DCM is working with federal, state and academic partners to pursue living shoreline research projects and ensure project results are incorporated into living shoreline design, construction, permitting and outreach for North Carolina. Short and long-term actions implemented will be modified as new research and resources become available. The Coastal Habitat Protection Plan (CHPP) identifies living shorelines as a priority issue and will be a focus for implementation in the next five years.

Legal Update

Mary Lucasse

Mary Lucasse stated that pursuant to the Commission’s authorization, she has drafted and filed an Amicus Brief on behalf of the Commission with the North Carolina Supreme Court in *Nies v. Town of Emerald Isle*, 409PA15. The CRC is not a party to the case and the purpose of the amicus brief is

to advise the Court of what the Commission's rules say about the public trust and how that factors into the Commission's work. Many amicus briefs were provided to the Court in this case including briefs from every oceanfront county (8) and every oceanfront municipality (20). The briefing on this case is finished and oral argument will be scheduled before the NC Supreme Court most likely in November, December or January.

There are three other cases arising out of requests for contested case hearings. Every time a permit is issued, there is a provision to allow third parties to challenge the permit decision. Unlike other permits, the Chairman or his designee has the role of determining whether a third-party (not the permit holder) has shown that holding a contested case hearing would not be frivolous. *Winchell v. DCM* and *Milhous v. DCM* are both third party contested case requests. *Winchell* was granted and went to the Office of Administrative Hearings (OAH). It was assigned to an ALJ and a hearing occurred. The judge issued his findings supporting the Division's issuance of the permit and the third party did not challenge the judge's findings. *Milhous* also involves a request for a third party contested case hearing. In that case, the Chairman determined the request was frivolous and denied the contested case hearing. The time to appeal the Chairman's decision has expired and the petitioners did not file a petition for judicial review in Superior Court. Both the *Winchell* and *Milhous* cases have been completed. The last case is a consolidated case filed in OAH resulting from two separate third party requests for contested case hearings to challenge a permit issued by DCM for development of infrastructure in Sunset Beach. These requests were delegated by the Chairman to the Vice-Chair who found that petitioners had raised certain limited issues that were entitled to a contested case hearing. In addition, the Town has filed a case in Superior Court on the title and property issues. The parties are currently discussing a stay of the litigation in OAH until the Superior Court has determined the title issues.

Amendments to 15A NCAC 7L Planning and Management Grant Program (CRC 16-33)

Mike Christenbury

Mike Christenbury, DCM District Planner, stated as part of the comprehensive review of the planning program the CRC amended 7B Land Use Planning Requirements in 2015. The amendments to 7B was a two-year process which included numerous stakeholders and local governments and two regional workshops. The amendments to 7B became effective in February of this year. The next step in the review of the CAMA planning program is an assessment of the 7L priorities for funding for land use plans and implementation projects. This is the mechanism by which we give grant funds to write land use plans or other implementation projects. In the past heavy emphasis was placed mainly on the development of land use plans. The purpose of these amendments is to shift the primary focus of grant funding from land use plans to a broad variety of local projects which address specific coastal issues. DCM is hoping to create some flexibility in placing focus on specific areas of interest of the CRC and awarding grant funding for local projects. We hope this will help further the CRC's goal of public access, natural hazards, land use compatibility, infrastructure carrying capacity, habitat enhancement and other topics or special issues. Some of the types of local projects that may be funded through these amendments is expanding local education and outreach efforts, projects that focus on coastal resources or issues, projects to improve intergovernmental coordination, targeted research studies, and development of local ordinances that are directly related to carrying out coastal concerns. Estuarine shoreline stabilization plans, marine debris, abandoned vessels, and the National Flood Insurance Program's community rating system projects would all be available for grant funding. The Town of Morehead City has current grant to development a flood mitigation plan that will include the development of a repetitive loss analysis to determine areas of town where there have been multiple flood insurance claims on individual properties. These efforts by the town are to secure reductions in flood

insurance premiums within the town's jurisdiction. The overall goals of these amendments are to increase the flexibility offered to local governments on the types of projects that can be funded and to allow a variety of local projects to address specific coastal issues or areas of interest by the CRC. The next step will be to draft a fiscal analysis and move forward with the rulemaking process.

Neal Andrew made a motion to approve the amendments to Subchapter 15A 07L for public hearing. John Snipes seconded the motion. The motion passed unanimously (Rhodes, Norris, Baldwin, Catlin, Andrew, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

State Ports Inlet Management AEC Development (CRC 16-32)

Heather Coats

Heather Coats, DCM Asst. Major Permit Coordinator, stated the review of this AEC began after legislation was passed in 2012 directing the Commission to study the feasibility of creating a new AEC for the lands adjacent to the Cape Fear River. The legislation directed the Commission to consider the unique coastal morphology and conditions not found elsewhere along the coast. The Commission recognized that the issues identified by the Cape Fear River Inlet may apply to other inlets as well. The CRC recommended rolling this study into a comprehensive study of all of the inlets. The final results of the inlet management study established both short and long-term priorities, one of which was to recommend development of a new AEC for the state's two deep draft inlets specifically taking into account the priority placed on maintaining federal channels for access to the State Ports and looking at erosion control measures, beneficial use of dredged materials, beach management, and protection of coastal resources. Legislation was passed in 2014 that removed the inlet hazard designation from lands adjacent to these two deep draft inlets. We started this AEC development by meeting with the local governments adjacent to the two inlets. They identified the following priorities: better sand management was a concern for Carteret County, Fort Macon and Shackleford Banks; Caswell Beach indicated that most of the initial discussions dealt with Fort Caswell and the desire for more flexibility in addressing dune erosion and protecting threatened structures; Bald Head Island discussed wanting more flexibility with beach bulldozing (Note, the elimination of the inlet hazard area now allows them to utilize the General Permit for beach bulldozing), sandbag rules were discussed extensively, as was sand management. Draft use standards were sent out for review to the local governments, the US Army Corps of Engineers, the State Ports Authority, Fort Macon and the National Park Service. There was extensive discussion about beneficial use of dredged material for beach compatible sand. We received numerous concerns regarding any rule changes that required beneficial use of dredged sand on beaches. It was determined that a working group be established to work towards development of a cost sharing agreement with local, state and federal governments. The sandbag rules revolve around allowing local governments more flexibility to protect frontal dunes, primary dunes, and threatened structures and infrastructure through different use standards. These amendments would modify the definition of what is imminently threatened and allow local governments to protect frontal and primary dunes. There is a provision that allows limited small scale development in accordance with our General Permits for shoreline stabilization and small scale piers. This has been on hold for the past year as the Commission worked on a comprehensive review of the sandbag rules. All other ocean hazard rules still apply including setbacks and removal requirements. The AEC boundaries need to be established. The AEC will begin at the low water line and extend landward as designated on the maps. In discussion with the local governments, Carteret County envisioned the Science Panel's proposed Inlet Hazard Area as an AEC boundary. Caswell Beach wanted the boundaries to include all of Caswell Beach and terminate at the tower at Fort Caswell. The next steps for the Commission include determining AEC boundaries, discussing and approving draft language. After the

Commission has approved boundaries and draft language, staff will begin work on the fiscal analysis.

Renee Cahoon made a motion to approve the maps as presented for the boundaries of the State Port Inlet AEC for Caswell Beach and the Village of Bald Head Island. Neal Andrew seconded the motion. The motion passed unanimously (Rhodes, Norris, Baldwin, Catlin, Cahoon, Gorham, Lewis, Gibbs, White)(Snipes absent for vote).

Renee Cahoon made a motion to approve the map as presented for the boundaries of the State Port Inlet AEC for Beaufort Inlet. Neal Andrew seconded the motion. The motion passed unanimously (Rhodes, Norris, Baldwin, Catlin, Cahoon, Gorham, Lewis, Gibbs, White) (Snipes absent for vote).

Renee Cahoon made a motion to approve the draft rule language for the State Port Inlet AEC as presented to the Commission. Neal Andrew seconded the motion. The motion passed unanimously (Rhodes, Norris, Baldwin, Catlin, Cahoon, Gorham, Lewis, Gibbs, White)(Snipes absent for vote).

CHAIR COMMENTS

The Chair reviewed the agenda items remaining.

Renee Cahoon made a motion to appoint Mike Lopazanski as hearing officer for the public hearing scheduled for this meeting for rule amendments and fiscal analysis for 15A NCAC 07H .0306. Russell Rhodes seconded the motion. The motion passed unanimously (Rhodes, Norris, Baldwin, Catlin, Andrew, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

MINUTES

Neal Andrew made a motion to approve the minutes of the July 12-13, 2016 Coastal Resources Commission meeting. Larry Baldwin seconded the motion. The motion passed unanimously (Rhodes, Norris, Baldwin, Catlin, Andrew, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

EXECUTIVE SECRETARY'S REPORT

Braxton Davis, DCM Director, gave the following report:

Tropical Storm Hermine

As you are aware, Tropical Storm Hermine impacted the state September 2nd through the 4th, 2016. While the initial passage of the storm through eastern North Carolina was less severe than past storms, the backside of the storm as it pulled away from the coast brought significant winds that caused wind damage and soundside flooding along the Outer Banks. DCM's Elizabeth City District reported one septic system was compromised from ocean overwash in Kitty Hawk and flood damage was reported for five oceanfront cottages in the Rodanthe, Waves, Salvo area and many structures in Avon, Buxton, Frisco, and Hatteras had a combination of flood/wind damage from soundside flooding. Currituck OBX had little damage. The number of bulkheads and piers damaged in the northern district is estimated to be around 75. DCM's Washington District reported significant flooding to agricultural lands and damage in the area of Roper and Columbia to approximately 25 bulkheads and 25 piers mostly in the Bulls Bay area. Most if not all of these structures were damaged prior to the storm. Minimal damage reports were received from the Morehead City and Wilmington Districts. While the number of structures damaged is significant, the majority are considered repair under your rules and do not need a CAMA permit.

Regulatory

On the regulatory side, Major Permit actions appear to be slightly ahead of the same period in 2015. Notable permit actions since your last meeting include the issuance of an emergency permit to the State Ports authorizing an agitation dredging project for a shoaled area of the Morehead City Port Facility. Permits were also issued to two municipalities for public access projects. Separate permits were issued to the City of Havelock and the City of Jacksonville, both for the expansion of existing public park and water access facilities. Finally, a permit was issued to the NC Wildlife Resources Commission and Audubon of North Carolina, authorizing the deposition of dredge spoils on two existing islands within the Cape Fear River for the purposes of maintaining and restoring nesting habitat for colonial water birds. The Division has also been heavily involved in coordination efforts with Dare County concerning solutions to existing navigational problems within Hatteras Inlet and with Carteret County over existing navigational problems with Wainwright Slough.

Federal Consistency - Notable Projects

Wind energy RPC

The Coastal Zone Management Act requires state Coastal Programs to formally incorporate changes made to the laws, rules and policies that require a Federal Consistency determination. As I mentioned at the July meeting, DCM recently submitted the Commission's 2010 "wind energy facilities" rules including 7H.0106, 7H.0208, 7H.0309, and 7M. 0400 to the National Oceanic and Atmospheric Administration requesting the incorporation of these rules into our Coastal Program. NOAA has concurred that these changes are routine and approved them as enforceable policies for future federal consistency submissions. We will conclude this process by conducting a public notice of NOAA's approval.

BOEM Wind Energy Lease

The U.S. Department of Interior, Bureau of Ocean Energy Management (BOEM) has submitted a federal consistency determination to us proposing to issue wind energy leases offshore the Kitty Hawk area. The leases would allow site assessment activities to determine whether the sites are suitable for, and would support, commercial-scale wind energy production. Site assessment activities would be conducted between 2017 and 2022. We are currently conducting a public notice (comments due to DCM by September 27, 2016) and will participate in a federal public meeting on Sept. 21st where BOEM will be accepting comments on the proposed lease. The meeting will be held on September 21st from 5 p.m. to 8 p.m. at Jennette's Pier, 7223 South Virginia Dare Trail in Nags Head. The Division's consistency determination is due on October 11th.

Morehead City Port DMMP

The USACE prepared the Morehead City Harbor, Final Integrated Dredged Material Management Plan (DMMP), and sent this to us for a Federal Consistency Determination. On August 24th we found the proposal consistent with our program contingent upon two conditions. First, the placement of dredged materials along the beaches of Bogue Banks shall not be overly concentrated in the area immediately adjacent to Beaufort Inlet. Second, the USACE shall coordinate with state and local entities on the mutually-acceptable placement of dredge materials. This is not intended to require the USACE to extend sand placement farther west than otherwise required. Beach-quality dredged materials must be placed within the identified beach placement areas of Bogue Banks at least two times within the first seven years of the effective date of the DMMP.

Coastal Reserves

The Department approved the Coastal Reserve's legislatively mandated existing periodic rules review draft agency determination for 15A NCAC 07O, presented to you at the July meeting, and will be seeking public comment on the draft determination in the coming weeks.

The Division received funding from the NOAA Marine Debris program for a two-year project to partner with Duke University Marine Laboratory to use drones to map debris at the Rachel Carson Reserve, prioritize debris removal based on benefits to habitats, and monitor areas of post-debris removal habitat recovery.

Also, the National Estuarine Research Reserve System Science Collaborative recently funded two multi-year projects to address management needs of the North Carolina Reserve. UNCW was funded to evaluate ecosystem services associated with shellfish culture operations at the Masonboro Island Reserve and other coastal areas and UNC Chapel Hill was funded to examine and manage stormwater impacts on the Rachel Carson Reserve. Coastal Reserve Staff will be participating in both of these projects.

Policy & Planning

The Division Planning Staff have completed their review of the 2016 Public Beach and Coastal Waterfront Access Program grant applications. Upon final concurrence by the Department, we expect to the Governor's Office to make formal announcements in the coming weeks.

Planning Staff have also worked with the Coastal Reserve's Coastal Training Program to offer two free workshops in September and October to share information with local governments about grant opportunities to acquire land and make improvements to beach and waterfront access, parks, and boating facilities. The first workshop will be held on September 27th at the Vernon G. James Research & Extension Center in Plymouth.

A second workshop will be held on October 18th at the New Hanover County Government Complex's Human Resources Building in Wilmington. The intent of the workshops is to educate communities on the range of funding resources available and how to leverage funds from multiple grant sources, identify which grants best fit their projects, , and to effectively navigate the various grant application processes.

Staffing News

Since your last meeting, the Division has lost two of our most experienced field representatives. Kelly Russell, a field representative working out of DCM's Elizabeth City Regional Office, has taken a new position as a teacher with the Perquimans County School System. Robb Mairs, a field representative working out of the Wilmington Regional Office, has taken a new position with the Division of Water Resources. Many of you know Robb as our field representative for New Hanover County. We will greatly miss both Kelly and Robb, but certainly wish them both well in their new jobs. Also in the Wilmington District Office I am pleased to announce Brooks Sorgan as our newest field representative. Brooks is originally from the New York area where he received his BS in Marine Science from Stony Brook University and is currently working on his Master's in Coastal and Ocean Policy at UNCW. He previously worked as a Consultant (Permit Administrator/Project Manager) in Westhampton Beach, New York and just finished an internship with the USACE in the Wilmington office. Elise Gilchrist joined the Division in August as the Reserve's Communications Specialist. She has a bachelor's degree in Animal Behavior from

Franklin and Marshall College and has spent the last three years abroad focusing on science communication for elephant and marine ecosystem conservation in Thailand and Mexico, respectively. Elise is working on a variety of Reserve communications tasks, living shoreline outreach, and working with staff to complete the NCNERR management plan update. Finally, I am pleased to announce that DCM has been awarded a NOAA Coastal Management Fellow for 2016-2018. The NOAA fellowship program is a nationally competitive program that pairs six coastal states with six new or recent college graduates. The states compete to be one of the six that will receive a Fellow, and the graduates go through a rigorous application, screening and interview process to be chosen as one of the 12 candidates that then get to interview with the states for one of the six fellowships. Our Fellow, Monica Gregory, is a recent graduate of Indiana University with a Master's in Public Affairs, Environmental Policy & Natural Resources. Monica will be based in the Morehead City office, and her project will be focused on community resilience.

CRAC REPORT

Rudi Rudolph stated Debbie Smith has stepped down as CRAC Chair. The CRAC selected me as CRAC Chair and Spencer Rogers and Bobby Outten as co-Vice chairs. The CRAC received an update on the National Flood Insurance Program. The new flood insurance rate maps are out which depict which properties are included in the floodplain. If you are in the floodplain, then it is mandatory that you have flood insurance. FEMA has redrawn the risk and this requires specific construction standards. The risk may not be matching reality. The CRAC recommends that the CRC take a look at this issue at the November meeting. The maps were preliminary on June 30. These maps will become effective in 2018. In other business, the CRAC would like to nominate Kathleen Riely for consideration by the CRC to appointment to the CRAC.

Larry Baldwin made a motion to appoint Kathleen Riely to the CRAC. Phil Norris seconded the motion. The motion passed unanimously (Rhodes, Norris, Baldwin, Catlin, Andrew, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

Division of Coastal Management Digital Resources

DCM Website Mapping Navigation

Sarah Young

Sarah Young, DCM Public Information Officer, stated there is a new website platform for the entire Department of Environmental Quality and a new content management system that is part of the Governor's rebranding effort. All State Agencies are moving to the new platform called Drupal. One of the biggest complaints I get is the fact that you have to scroll down to find information on the homepage. New information can be found on the top of the DCM landing page. There is also information on what the Division of Coastal Management is responsible for and each staff member's title and location. The "What's New" section is continuously updated. Under the Coastal Resources Commission block, there is a description of the CRC, the members and their contact information, meeting schedule, recent actions, and meeting agendas and minutes. There are also links to the CRC's science panel, Advisory Council membership, and Commission studies. If you find a link that is broken or have suggestions on content that could be added to the website, please feel free to contact me to make changes to the site.

Mapping Tools and Data

Ken Richardson

Ken Richardson provided a review of the useful interactive mapping tools on the website. The beach access mobile app has been very popular and the interactive maps have been updated. From the webpage, navigate to "Science and Data" and there are a variety of links that will navigate to

GIS data and interactive maps. Erosion rates and setbacks can be viewed and there are links to maps that will show many map layer options. You can also zoom in to specific addresses. Once you have entered a specific address you can choose the layers that you want depicted on the map including sandbag structures, setback factors, erosion rates, and static vegetation lines. When looking at Shackleford Banks if you have the imagery turned on, you can compare change at one site. There is also a measurement tool to look at linear, miles, feet, and area. We are also able to add data from other web sources to overlay on our maps. All of this information can be exported and shared.

Compliance Program Overview (CRC 16-35)

Roy Brownlow

Roy Brownlow provided a snapshot of the compliance and enforcement program within the Division. The number one question I get asked is “why do I need a CAMA permit?” There are a couple of reasons and one is to protect the environment, protect public trust rights, protect riparian property rights, and protect the economy of North Carolina’s coast. CAMA permits are not only a State permit, but also a federal authorization as well. Based on the number of permits issued, the individual private property owner is our biggest customer. We also regulate permits issued to small business owners, corporations, public entities, local governments, and non-profit organizations. What constitutes a CAMA violation? There are several factors, but primarily it is when someone undertakes development in a coastal county in an area of environmental concern without a CAMA permit. This is called unauthorized development. If someone does not comply with the terms and conditions of authorized development; this would also constitute a violation. The Division is provided the authority by the CRC’s rules as well as the North Carolina General Statutes. Originally DMF enforced the Dredge and Fill Law. After CAMA was implemented in 1978, the CRC became responsible for permits and the enforcement of the Dredge and Fill Law as well. A few years later, the CRC approved a tiered enforcement policy for minor violations that has evolved into our DEQ mandated tiered enforcement policy. In 1989, the DCM Director authorized the District Managers to issue proposed civil penalty assessments. In 2002, the compliance coordinator position was added to oversee, coordinate and ensure consistency amongst the district offices of the compliance and enforcement program. In 2006, as a response to the Coastal Habitat Protection Plan we added four additional field specialists who specialized in compliance monitoring and enforcement activities. In 2008, the Legislature provided a new higher civil penalty. In 2011, the Regulatory Reform Act mandated that all regulatory divisions within the Department implement a tiered enforcement policy. DEQ mandated this in 2012. There are three tiers of enforcement. Tier I violations receive warning letters and there are no civil penalties involved. A Tier II violation is the most common. In these instances, unauthorized work has been completed and a Notice of Violation is issued and civil penalty is assessed. These violations involve activities that could have been permitted if a permit had been sought by the applicant. Tier III is based on the seriousness of the violation, the degree of damage, or the length of time. These could be Continuing Notices of Violation, willful and intentional violations, dredge and fill violations, shellfish beds, or activities in Primary Nursery Areas. The Division may issue a Cease and Desist Order and civil penalties can be assessed based on the degree of impact on the resources. There is a civil penalty matrix that we use which include subcategories that can increase the amount of the penalty. The Commission has the authority to consider the extent of harm to the resources, public health, private property, the duration and gravity, the effect of the violation on water quality, coastal resources, public trust areas, the cost of rectifying the damage, the amount of money saved by non-compliance, whether the act was willful and intentional, the prior record of the respondent, and the cost to the State for enforcement procedures. We can also seek injunctive relief from the courts if necessary. From 2012-2015, DCM has an average of 50 enforcement actions per year.

PUBLIC INPUT AND COMMENT

No public comments were received.

BEACH AND INLET MANAGEMENT

Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund

Darren England, DWR

Darren England, engineer with the Division of Water Resources, stated he has managed the State's shallow draft navigation fund for the past three years. Shallow draft channels, according to the Legislature, are waterways less than 16 feet in depth and primarily used by commercial and recreational watercraft. There are two categories of shallow draft channels, those that are federally authorized channels and non-federal channels. Typical maintenance of federally authorized channels is handled by the Corps of Engineers dredge fleet and the non-federal channels are maintained by the NCDOT and local private contractors. Another piece of the shallow draft fund is DWR's Aquatic Weed Fund which is a statewide program dealing with infestations of aquatic weeds. There are quite a few federally authorized channels in North Carolina covering the entire coast. Our non-federal channels include the ferry channel routes, connecting channels to sounds and inlets and connecting channels to federal projects. Since 2005, federal funding for shallow draft channel maintenance dredging has been in a steady decline. There have been no annual Congressional appropriations for the majority of the seven major shallow draft inlets in the past 12 years. The Corps of Engineers has attempted to maintain the channels via emergency and work plan funds. That effort was falling short and the Corps and the State recognized this. In 2012, The NC General Assembly authorized DENR to enter into a long term Memorandum of Agreements with the Corps allowing us to provide supplemental funding for maintenance dredging of North Carolina federal navigation projects. In 2013, the NC General Assembly established the Shallow Draft Navigation Channel and Lake Dredging fund to provide a dedicated funding source for the long term MOA. On November 12, 2013, the long term MOA was approved by DENR and the USACE. There have been several name changes to the Fund. It was initially the shallow draft navigation and lake dredging fund, then the shallow draft navigation channel dredging and lake maintenance fund and in 2016 was changed to shallow draft navigation channel dredging and aquatic weed fund. When it was initially established the revenues for the fund came from 50% of the vessel registration fees, ten dollars of the vessel certificate of title fees and 1/6 of 1% of the motor fuel tax revenue allocated to the Highway Fund. In 2015, the allocation changed to a full one percent of the motor fuel tax revenue in addition to vessel registration fees and ten dollars of vessel certificate of title fees. Another change that occurred was the cost share. When it was originally established, one State dollar was spent for every one non-State dollar. In 2015, this was changed to three State dollars to one non-State dollar in Tier 1 counties and two State dollars to one non-State dollar in Tier 2 and Tier 3 counties. Revenues to date total \$40.3 million as of September 1, 2016. Expenditures to date total \$19.8 million. There are currently \$8.6 million in outstanding grant awards. In the last couple of years, the General Assembly has earmarked some of these funds for special projects. Currently, there is a little over \$10 million available for award. To date, we have not had to turn anyone down for funding. We have used two different programs. Local and State funds are provided to the USACE under the 2013 long term MOA for work in federally authorized channels. There are also a lot of cases where the local government wants to do their own project and in those cases a Water Resources Development Grant is given directly to the local government who then hires the contractor and obtains permits. A majority of the money spent so far has been through the grant program. Funds are also expended on the aquatic weed eradication efforts across the State via the Division of Water Resources Aquatic Weed Program. The long-term MOA agreement runs until 2026. Under this long term MOA, we have given \$4.5 million in matching funds to local

governments and provided \$6.7 million in State match and have completed maintenance work at almost every major federally authorized channels.

Development Line Procedures Overview

Ken Richardson

Ken Richardson stated on the oceanfront the construction setback is measured from the first line of stable and natural vegetation. When a community receives a large-scale beach nourishment that exceeds 300,000 cubic yards a static vegetation line is established and the setback is then measured from the static vegetation line. In 2009, communities that were being proactive in trying to manage their beach were looking to see if they could get some relief from the static vegetation line restriction. The Commission approved certain conditions to allow for a static vegetation line exception that would allow the community to measure the setback from the first line of stable and natural vegetation instead of the static line. Communities with a static line exception were required to come back to the CRC for approval on a regular basis (5 years). In April 1 of this year the Commission adopted the development line. The development line allows communities to have another management option in establishing a line on the oceanfront limiting oceanward construction. In order to receive approval of a development line from the CRC, it has to be approved by the Town board and the development line has to be referenced in local ordinances. The development line cannot be below mean high water and cannot be more oceanward than the most oceanward structure within the Town's jurisdiction. Two Towns are appearing before the Commission today seeking approval of a development line.

Town of Oak Island Development Line Approval (CRC 16-36)

Steve Edwards, Building Code Administrator/Jake Vares, Planning and Zoning Coordinator

Steve Edwards stated, Oak Island received a static vegetation line after completing two large-scale nourishment projects which extend approximately 8.4 miles. Outside of a few exceptions, all development must be measured from the static vegetation line. Our development line does not go below the mean high water line, but there is some conflict with where the construction line was when the static vegetation line was established. There are approximately 167 undeveloped parcels along the proposed development line and 129 of those parcels were identified as unbuildable because of the static vegetation line. There are approximately 525 total oceanfront residential structures along the development line and 341 of these structures are identified as not re-buildable because of the static vegetation line. There are approximately 440 oceanfront residential properties landward of the proposed development line and about 85 structures that are intersected by the proposed development line. These 85 structures would still be seaward and non-conforming with the development line. A lot of the structures are on the edge of the development line and could be rebuilt in the same location. They are currently non-conforming because of the static line. Jake Vares stated, the Town created an interactive GIS map to show exactly how the development line will affect any oceanfront property. The Town exceeded the mandatory public notification requirements and held an advertised public workshop at Town Hall to explain the development line. There were also an additional three meetings before the Town Council before they voted unanimously for approval. The development line is now a part of our Code of Ordinances and is fully adopted by the Town. The Town requested the CRC's approval of its development line.

During discussion of the Town's request and review of the materials submitted, the Commission became aware that along sections of the Town's oceanfront, the proposed development line was drawn waterward of mean high water line(s) established during past beach nourishment projects. The Commission expressed concern that the proposed development was inconsistent with 15A NCAC 07H .0306(a)(3) which provides that "in no case shall a development line be created or

established below the mean high water line.” During the discussion, the Town agreed to provide the Commission with a revised development line consistent with the Commission’s rules.

Phil Norris made a motion to reject the development line as submitted and conditionally approve a development line for the Town of Oak Island as long as the revised development line is landward of the mean high water line. In order to get approval of a proposed revised development line the Commission required the Town to 1) submit a survey to DCM showing a revised development line located landward of any existing mean high water lines and 2) submitted a certified copy of the Town of Oak Island Town Council Meeting Minutes showing adoption of a revised development line. Once the revised development line, as shown on a map amendment, is approved by the Division of Coastal Management, the Town’s development line will be deemed approved without further action by the Commission. Larry Baldwin seconded the motion. The motion passed unanimously (Rhodes, Norris, Baldwin, Catlin, Andrew, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

Town of Carolina Beach Development Line Approval (CRC 16-37)

Jeremy Hardison, Senior Planner/Ed Parvin, Planning Director

Jeremy Hardison stated, in 1963, Carolina Beach established a building line and any land that was east of the building line was dedicated to the Town of Carolina Beach for public use. This was our development line prior to CAMA. Once the State program was implemented then the static vegetation line was developed and it created setbacks. There are currently 57 structures that are not able to be rebuilt within the same footprint or are non-conforming within the Town limits of Carolina Beach. There are 843 units that are affected by the current regulations. The Town Council held a public hearing on the development line and voted to adopt it as a Town Ordinance. The Town requested the CRC’s approval of its proposed development line.

Renee Cahoon made a motion to approve the Town of Carolina Beach’s development line proposal. Neal Andrew seconded the motion. The motion passed unanimously (Rhodes, Norris, Baldwin, Catlin, Andrew, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

PUBLIC HEARING

15A NCAC 7H .0306 General Use Standards for Ocean Hazard Areas – Grandfathering Provisions

Tancred Miller stated The CRC is proposing amendments to 15A NCAC 7h .0306, General Use Standards for Ocean Hazard Areas. The proposed amendments will allow rebuilding of certain commercial and multi-family residential structures on the oceanfront under the following conditions:

1. The structure is no larger than 10,000 square feet of total floor area;
2. The structure was originally constructed prior to August 11, 2009;
3. The structure as replaced does not exceed the original footprint or square footage;
4. It is not possible for the structure to be rebuilt in a location that meets the ocean hazard setback criteria required under Subparagraph (a)(5) of this Rule;
5. The structure as replaced meets the minimum setback required under Part (a)(5)(A) of this Rule; and
6. The structure is rebuilt as far landward on the lot as feasible.

DCM prepared a fiscal analysis for the proposed amendment, which has been approved by the Department of Environmental Quality, the Office of State Budget & Management, and the CRC. The proposed amendment does not require an action by any regulated party, and does not directly create

any new cost to any affected party. Instead, the rule amendment allows a new activity to occur that is currently prohibited. The actual fiscal and economic impact of this rule amendment will depend on the impact conforming or nonconforming status has on market values, how many affected structures will be destroyed or substantially damaged in the future, and how many parties take voluntary action under the new allowance. DCM has no basis for making assumptions about how many more real estate transactions will occur as a result of this amendment, whether there will be a difference in market value, or how many structures will be destroyed and rebuilt under the amended rule. For these reasons, DCM finds that this rule action does not have any direct economic impact, but will likely have an indirect impact. The potential indirect economic impacts are offsetting but incalculable, and the net impact is unclear.

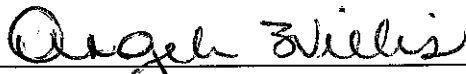
Seth Palmer, NC REALTORS, spoke in favor of the rule amendment. Melissa Dickerson, NC Sierra Club, spoke in opposition to the amendments.

OLD/NEW BUSINESS

John Snipes made a motion to draft a letter to Gwen Baker thanking her for her service. Renee Cahoon seconded the motion. The motion passed unanimously (Rhodes, Norris, Baldwin, Catlin, Andrew, Cahoon, Gorham, Lewis, Snipes, Gibbs, White).

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


Braxton Davis, Executive Secretary


Angela Willis, Recording Secretary