

NC COASTAL RESOURCES COMMISSION (CRC)

February 26-27, 2014

Jennette's Pier

Nags Head, NC

Present CRC Members

Frank Gorham, Chair

Renee Cahoon, Vice-Chair

Neal Andrew

Larry Baldwin

Suzanne Dorsey

Marc Hairston

Greg Lewis

Bill Naumann

Jamin Simmons

John Snipes

Lee Wynns

Present Attorney General's Office Members

Mary Lucasse

Christine Goebel

Jill Weese

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. Chairman Gorham stated he has no known conflicts, but is friends with William A. Raney, attorney for a variance petitioner on the agenda, and works with him on the Figure Eight HOA. Chairman Gorham further stated that he has worked extensively with Chris Gibson who is on the inlet management panel. Renee Cahoon stated she has a potential conflict with the NCDOT variance request and will not participate in the discussion or vote. Suzanne Dorsey stated she has a potential conflict with the Bald Head Island Limited variance request. Lee Wynns stated he owns property in Nags Head but does not believe it causes a conflict with the NCDOT variance request on the agenda. Bob Emory and Harry Simmons were absent. Chairman Gorham stated that at the time the meeting was scheduled, he was aware that Commissioners Emory and H. Simmons were going to be absent due to scheduling conflicts and their absences are excused. Based upon this roll call Chairman Gorham declared a quorum.

MINUTES

Bill Naumann made a motion to approve the minutes of the December 2013 CRC meeting. Larry Baldwin made a correction to the minutes to reflect his recusal in the Cape Fear River LLC variance request. Lee Wynns seconded the motion. The motion to approve the minutes as revised passed unanimously (Gorham, Andrew, Baldwin, Cahoon, Dorsey, Hairston, Lewis, Naumann, J. Simmons, Snipes, Wynns).

EXECUTIVE SECRETARY'S REPORT

Braxton Davis, DCM Director, gave the following report:

Good morning. We have passed around a memo that covers the Division of Coastal Management's recent permitting, enforcement, rule development, planning and Coastal Reserve activities. We put together a summary memo for each meeting to provide a quick synopsis of various parts of the program – and in turn I do not try to provide a full account of our program activities during these Executive Secretary remarks. As you'll see from this update, our permit numbers in the latter half of 2013 were holding steady in comparison with the last half of 2012. I will note that a number of procedural changes we've implemented over the past two years are continuing to pay dividends in terms of reduced permit processing times for CAMA Major Permits – we are now at an average of 75 days, which is down from about 86 day-average in 2011. While permit numbers are still relatively low, our staff are out in the field every day meeting with homeowners, realtors, consultants and others to evaluate potential development sites and to help make sure that projects already underway stay in compliance with the rules in order to reduce enforcement issues. You'll also see that our Policy and Planning Section is continuing to move forward in implementing the NC Beach and Inlet Management Plan, or BIMP, which was developed in 2010 and lays out a series of recommendations for, among other things, regional approaches to beach and inlet projects. Right now staff is working closely with Bogue Banks to develop best practices that can be shared with other beach communities. We are also reviewing our CAMA land use planning program in partnership with the Business Alliance for a Sound Economy and the Coastal Federation through a series of regional workshops that we'll discuss further at future commission meetings. We have recently announced 24 public access grant awards totaling \$3.2M for the 2013 competition, and released a new call for proposals for fast-track projects for which ~ 950K should be available. The DCM Update is also a good reference to track the process of current rule changes under the APA. At this meeting we will continue to review a series of rule changes from last year that were developed to reduce unnecessary regulatory burdens, and we will also present a new set of proposals based on our 2013 year-end review. Finally, the Update provides an overview of the outstanding education, research, and extension programs within our Coastal Reserve program, and we hope you'll let us know if you would like additional information on that part of our program.

We worked with the Executive Committee to develop today's agenda, and I would just like to highlight a few items. First, I just wanted to let you know that we have more variances than usual. While the number of variances is not very predictable we usually do not anticipate more than a few at each meeting. We have a few briefing items for you for which no action will be needed at this meeting, including an orientation on the beachfront "Static Lines"/ "Static Line Exceptions" as well as the Science Panel, both of which will likely be on your next meeting agenda. We also have one fiscal analysis and three public hearings on the rule changes. I would also like to thank our two sets of panelists for joining us today. They have already been great to work with in pulling together today's meeting and we look forward to getting your thoughts on our program as we continue working on beach and inlet management issues. The Division will be hosting a scoping workshop intended to address permitting aspects of beach and inlet projects in relation to the Endangered Species Act on March 19 in Beaufort. Finally, we are planning for the next Commission meeting to be held in Carteret County on May 14-15.

CHAIRMAN'S COMMENTS

Chairman Gorham stated this is a busy agenda and it is important not to exceed the time allotted for each agenda item. Chairman Gorham further stated that he would like to thank Renee, Lee and Jamin for sponsoring this meeting and would like to thank the DCM staff for all their work for the CRC. He also thanked Todd Miller and the Coastal Federation for meeting with several Commissioners and answering questions and providing input.

VARIANCE REQUESTS

Currituck County (CRC VR 13-05), Oceanfront Setback Christine Goebel

Christine Goebel of the Attorney General's Office represented Staff in this variance request. Ike McRee, Attorney for Currituck County was present and represented the Petitioner. Ms. Goebel stated, Petitioner owns and runs a water supply system consisting of several smaller water supply systems it purchased from a private water utility in 2011. Along with 22 active wells, the County purchased two existing but not fully developed deep wells located near the oceanfront in the area of Corolla near the Currituck Lighthouse. In February 2013, the County applied for a CAMA Major Permit to complete the two deep wells by installing a new well pump in each existing casing, installing a concrete pad and housing over the top of the well and connecting these wells to the existing system. On June 14, 2013, DCM denied the County's application as it conflicted with the oceanfront erosion setback rules found in 15A NCAC 7H .0306. Petitioner seeks relief from this rule to allow the project as proposed. Ms. Goebel stated that Staff and Petitioner agree on all four statutory factors which must be met in order to grant the variance request. Ms. Goebel stated the strict application of the rules will cause the County an unnecessary hardship because the County needs the extra water capacity in this area and much of the work is complete. The hardships result from conditions peculiar to the property since the location of the wells was designed to take advantage of the best water source within the aquifer. DCM notes that the prior owner, a private utility, may have caused the hardship in this case by not seeking a CAMA permit before development in 2006 and these issues were inherited by the County and are not a result of the County's actions. This variance would be within the spirit, purpose and intent of the setback rules and preserve substantial justice as these two wells are already mostly developed and minimal additional development is proposed within the setback area. The development is landward of the vegetation line and the primary dune.

Ike McRee, Currituck County Attorney, stated Petitioner and Staff have stipulated to the facts and agreed to the four factors. Mr. McRee stated that Currituck County had planned for development that occurred on the Currituck Outer Banks from the 1980's until the early 2000's, it had prepared and established a water supply and water supply treatment systems to address the need for growth and development that occurred in Corolla during that time. The prior owner, a private utility company, provided water service to two important areas within Corolla. That private utility was not able to provide the quality and quantity of water necessary to fulfill the needs of these communities. Much of the work on the two wells has been completed. The additional work required to put these wells into operation will be minimally invasive.

Renee Cahoon made a motion to accept Staff's position that strict application of the applicable development rules, standards or orders issued by the Commission cause the petitioner unnecessary hardships. Larry Baldwin seconded the motion. The motion passed with ten votes in favor (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Wynns, J. Simmons, Snipes) and one opposed (Dorsey).

Bill Naumann made a motion to accept Staff's position that hardships result from conditions peculiar to the property. Jamin Simmons seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

Renee Cahoon made a motion to support Staff's position that hardships do not result from actions taken by the petitioner. Larry Baldwin seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

Renee Cahoon made a motion to support Staff's position 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. Bill Naumann seconded the motion. The motion passed with ten votes in favor (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Wynns, J. Simmons, Snipes) and one opposed (Dorsey).

This variance request was granted.

**COBA Ventures, LLC (CRC VR 13-07), New Hanover County, ¼ Width Rule
Jill Weese**

Jill Weese of the Attorney General's Office represented Staff in this variance request. Charles Busby, attorney for Petitioner, was present and represented COBA Ventures.

Ms. Weese reviewed the stipulated facts for this variance request which show that Petitioner owns a tract of land located at 4616 Serenity Point Road in Wilmington. Petitioner applied for a CAMA Major Permit for upland improvements and for construction of a community docking facility consisting of a pier, pier platform and eight boat slips with lifts. Major Permit #113-13 was issued for the proposed upland development and the community docking facility, however a condition was added to the permit (Condition #5) that states that no portion of the docking facility shall extend more than one quarter the width of the water body. 15A NCAC 7H .0208 requires that piers not exceed one-fourth of the width of the water body. Petitioner seeks relief from 7H .0208 and requests the pier be permitted to extend to 1/3 the width of the water body.

Ms. Weese stated that Staff and Petitioner agree on all four statutory criteria. Staff agrees that strict application of the rules will cause the Petitioner unnecessary hardship. This rule's intent is to keep one half of any water body free of development that could interfere with navigation. In this case this development will not interfere with navigation. The hardship is peculiar due to the peninsula to the south which has forced the navigation route further out. The Petitioner did not cause this hardship and any hardship is a result of the peculiarity of the shoreline and the shallow water depth in this area.

Charles Busby, attorney for Petitioner, stated this has been a pleasant process for me and my client because of the assistance from the Attorney General's office and DCM Staff. There are no disagreements with the facts.

Bill Naumann made a motion to support staff's position that strict application of the development rules, standards or orders issued by the Commission will cause the petitioner unnecessary hardship. Lee Wynns seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

Larry Baldwin made a motion to support staff's position that hardships result from conditions peculiar to the property. Bill Naumann seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

Bill Naumann made a motion to support staff's position that the hardships do not result from actions taken by the petitioner. Renee Cahoon seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

Renee Cahoon made a motion to support staff's position 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. Lee Wynns seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

This variance request was granted.

Taylor (CRC VR 14-01), Atlantic Beach, 15' Riparian Setback Christine Goebel

Christine Goebel of the Attorney General's Office represented DCM staff. William (Jake) Taylor, Petitioner was present and represented himself in the variance request.

Ms. Goebel reviewed the stipulated facts which establish petitioner owns property in Atlantic Beach and is proposing to construct a pier with two boatlifts. On October 7, 2013, the adjacent riparian property owner submitted a letter of objection declining to waive the 15-foot riparian setback established by 15A NCAC 7H .0208. On December 18, 2013, Petitioner's application was denied on the basis that the proposed development does not meet the minimum setback of 15 feet from the adjacent property owner's area of riparian access. Petitioner seeks relief from the strict application of 7H .0208 to construct a pier with two boatlifts.

Ms. Goebel stated staff recommends the request for a variance be denied because Petitioner has failed to establish all four variance criteria which must be met in order to grant a variance. Staff believes that strict application of the 15-foot riparian setback does not cause an unnecessary hardship. The Petitioner knew his adjacent neighbor would decline to sign the waiver before he contracted to purchase this property and Petitioner can adequately use his 31.7 feet of riparian area. While it is a small area, it has an existing pier and he has about 16.7 feet that is outside of the neighbor's setback area. There are options for use of this riparian area including other piers that stay out of the setback. Petitioner suggests that the limited amount of riparian shoreline (only 31.7 feet) is peculiar; however staff disagrees. This size is not unusual in this area. Staff would also note that the brother's medical condition is not a peculiarity to the property. Petitioner has caused his

own hardship in this case by moving forward without the adjacent neighbor's waiver and by designing a pier that is larger than allowed under the rules. The petitioner could have designed a pier that conformed to the rules. Instead, knowing the riparian neighbor would not waive the setback, Petitioner went forward with a design that didn't take the setback into consideration. This variance request does not preserve substantial justice since Petitioner knew about this issue before purchasing the property and the requested development would interfere with the adjacent neighbor's protected riparian corridor.

Petitioner presented his argument in favor of the variance stating the property was divided. There were three lots to begin with and we took one lot and divided it into two. By contract, Mr. Taylor had agreed to remove all encroachments by June 1. The existing boat lift encroaches about a foot and a half into the riparian setback. The existing boat lift has only about four feet of pier. My brother is blind and partially crippled and I need to be able to lead him out to it which is why I need the width. His only recreation is fishing. With strict application from criteria one, the only real option I have is to request a variance for the pier to be moved or to go with the maintenance criteria which requires only 50% of the pier or boat lift be replaced in a 12 month period. I have to remove all encroachments which would be more than 50%. It is a peculiar lot with only 31 feet. If you apply the 15 feet to both sides you don't have anything left to work with. I would like to offer the Commission an alternative to allow me to move the pier over three feet and lessen the encroachment into the neighbor's setback.

Greg Lewis made a motion to support Staff's position that strict application of the rules would not cause the Petitioner unnecessary hardship. Bill Naumann seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

Renee Cahoon made a motion to support Staff's position that hardships do not result from conditions peculiar to the property. Greg Lewis seconded the motion. The motion passed with ten votes in favor (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Dorsey, Wynns, J. Simmons, Snipes) and one opposed (Gorham).

Bill Naumann made a motion to support Staff's position that the hardships result from actions taken by the petitioner. Larry Baldwin seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

Greg Lewis made a motion to support Staff's position that the variance request will not be consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission; would not secure the public safety and welfare; and would not preserve substantial justice. Jamin Simmons seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

This variance request was denied.

**Town of Carolina Beach (CRC VR 14-02), Oceanfront Setback
Jill Weese**

Jill Weese of the Attorney General's Office represented staff. Charlotte Noel Fox was present and represented the Town of Carolina Beach. Ms. Weese stated the Town is requesting the variance because they have reached Phase 2 of a project dealing with the boardwalk in Carolina Beach. The Town is proposing to replace and extend the boardwalk, however their proposed replacement and expansion is inconsistent with the CRC's rules since the entire structure is located oceanward of the Ocean Hazard 60-foot setback. The Town is seeking relief from 15A NCAC 7H .0306. Ms. Weese reviewed the stipulated facts of this variance request. There were no objections to the CAMA permit application, however once the variance process was started an objection was received from a citizen. The Carolina Beach boardwalk project is within the limits of the delineated Static Vegetation Line and based on on-site meetings and survey data from November 2013, the actual vegetation line is approximately 90 feet oceanward of the Static Vegetation Line. Staff and Petitioner are in agreement on all four statutory criteria which must be met in order to grant the variance. Staff agrees with Petitioner that strict application of the applicable rules cause the Petitioner unnecessary hardship. The CRC's rules recognize the need to balance protecting the coast with the right of access to the public trust areas. There has been an existing boardwalk for many years, but this part of the beach is under the Static Line Exception designation. The hardships do result from conditions peculiar to the property due in part by the current location of the existing boardwalk which is on publically owned property. Staff strongly agrees with Carolina Beach that the width of the beach makes it consistent with the spirit, purpose and intent of the rules. There will also be increased access for visitors with disabilities because of the widened boardwalk and will secure public safety. The proposed boardwalk expansion will also likely enhance the community economically.

Charlotte Noel Fox, Town Attorney, stated I am here today with the Mayor, a Council Member and the Project Manager who can answer any questions about the modification and the proposed expansion to the boardwalk. This has been a seamless process and I would like to thank the staff for that. The Town is in agreement with Staff and the staff positions that the strict application creates a hardship not just for this applicant, but also for the public. This proposed expansion and improvement exists in the central business district which is a major area of economic development. It is also a primary means of access for the public to the public trust areas. We believe that the hardships result from peculiarity of the property and are not a result of actions taken by the Town.

Ms. Fox stated that there is not currently a boardwalk in front of Mr. Avarette's property. He has a goat trail; his property is very low, is non-conforming, is in the central business district but was constructed a very long time ago. He can see dunes from his lower deck and has a second floor deck where he has a view of the ocean.

Frank Gorham asked what the Town's position would be if the Commission approved the south side expansion, but not approve the north side. Ms. Fox stated that it would be a hardship to the 17 other property owners that are in the central business district that are in support of the boardwalk expansion in front of their properties. Mr. Avarette is stuck in between two hotels. Those business owners would think it is a hardship to them because they are in favor of the expansion.

John Snipes asked if there are any other residential property owners in the area of the proposed expansion. Ms. Fox answered, no. The Avarette cottage is a 1930's cottage that is not consistent with the character of the properties around him. The Town has volunteered to work with Mr. Avarette on a number of things to address the concerns raised. For example, the boardwalk plans have been modified and moved farther out from the property line, the Town has removed benches from in front of his area and changed the lighting. The Town has offered at least three options to

connect the Avarette property to the boardwalk and make it convenient for his family. Mr. Avarette has been the only person along the entire boardwalk objecting to the proposed development.

Suzanne Dorsey asked if the boardwalk is considered a structure and if sand bags could be linked to this structure? Braxton Davis stated it would not be eligible for sandbags.

Larry Baldwin asked if all the properties along the extension of the boardwalk are all town property except Mr. Avarette. Ms. Fox replied that they are all private property owners but are not residential property owners. Mr. Avarette is the only residential property owner. There are 18 property owners total that will be affected by the northern expansion, but just one is residential. Commissioner Baldwin stated that he recognizes that this is public trust area mainly because of renourishment, how does that affect the property owner's riparian rights? Ms. Fox stated the property owners are in favor of the construction of the boardwalk and the access areas in front of their property. Commissioner Baldwin stated this is a big wooden structure parallel to the coastline. As far as public safety and health, what will happen if we encourage this type of construction on the oceanfront? How will it affect the property owners inland if we get a big storm? It could become a hazard. Ms. Fox stated the Town would insure this like it would any other town structure. The project manager stated the boardwalk is designed to meet the building code and can withstand additional storms.

Chairman Gorham asked if the CRC does not grant the northern end could the Town provide access to the beach by having more walkways to the beach. The project manager stated the plan was to add one additional crossover and stated if they were not approved for the northern end then they would rebuild the existing structure. We have attempted in the northern extension to keep the design profile as low as possible. It would also provide a nice 800 foot extension for additional public access.

Renee Cahoon said the Town has spoken of providing security to the condominiums, are you proposing to provide security to Mr. Avarette as well? Ms. Fox said yes. The Project manager stated there were three options sent to Mr. Avarette and to provide secure, locked gates at his access. Commissioner Cahoon asked about the elevation of the boardwalk and asked if a handicap access could be provided. Ms. Fox said that is one of the options and the Town is willing to accommodate him.

Neal Andrew made a motion to support Staff's position that strict application of the rules will cause the Petitioner unnecessary hardship. Marc Hairston seconded the motion. The motion passed with eight votes in favor (Andrew, Hairston, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes) and three opposed (Lewis, Baldwin, Naumann).

Neal Andrew made a motion to support Staff's position that hardships result from conditions peculiar to the property. Marc Hairston seconded the motion. The motion passed with nine votes in favor (Andrew, Hairston, Lewis, Naumann, Cahoon, Dorsey, Wynns, J. Simmons, Snipes) and two opposed (Baldwin, Gorham).

Neal Andrew made a motion to support Staff's position that hardships do not result from actions taken by the petitioner. Marc Hairston seconded the motion. The motion passed with seven votes in favor (Andrew, Hairston, Cahoon, Dorsey, Wynns, J. Simmons, Snipes) and four opposed (Lewis, Baldwin, Naumann, Gorham).

Neal Andrew made a motion to support Staff's position that the variance request is 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. Marc Hairston seconded the motion. The motion failed with four votes in favor (Andrew, Hairston, Wynns, J. Simmons) and seven opposed (Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Snipes).

This variance request for the project in its entirety was denied.

Larry Baldwin stated he thinks it is a great project, especially on the existing boardwalk, but has big concerns with the north extension.

Frank Gorham asked if the CRC could make a motion to accept the expansion on the existing boardwalk. This would allow the expansion of the existing structure, but not going into adding the new structure on that end. We would approve the south end if we vote for this modification. Chairman Gorham asked the town if they got approval for the south end would they do it. Ms. Fox responded yes. Chairman Gorham stated that we would be taking the existing footprint of the existing boardwalk and allowing the Town to widen it and all the things proposed in that area within the existing length of the boardwalk and would not extend the boardwalk on the northern end.

At the request of the Chair, Mary Lucasse provided the legal opinion that the Commission could consider another motion that granted the variance request in part and denied the variance request in part.

Bill Naumann made a motion to grant the variance request in part and deny it in part by excluding the extension portion of the project. Renee Cahoon seconded the motion.

Renee Cahoon made a motion that the Commission find that that strict application of the rules would cause the petitioner unnecessary hardship. Greg Lewis seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

Bill Naumann made a motion that the Commission find that hardships result from conditions peculiar to the property. Larry Baldwin seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

Greg Lewis made a motion that the Commission find that hardships do not result from actions taken by Petitioner. Bill Naumann seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

John Snipes made a motion that the variance request be granted in part and denied in part and that the Commission find that the replacement of the existing boardwalk, but not the extension of the board walk, 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 Naumann seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

Frank Gorham encouraged the Town to come back to the CRC if they can work something out with Mr. Avarete. Renee Cahoon stated she would like the Staff to provide an expedited variance hearing if the Town comes back to the CRC.

The variance request was granted in part and denied in part.

**Bald Head Island, LLC (CRC VR 14-04), Brunswick County, 30' buffer
Christine Goebel**

***Suzanne Dorsey recused herself from discussion and voting on this agenda item.*

Christine Goebel of the Attorney General's Office represented staff in this variance request. William, A. Raney of Wessell and Raney was present and represented Petitioners.

Ms. Goebel stated the Petitioner is seeking a variance from the 30' buffer rule to construct additional decks with stairs and a brick transition area within the 30' buffer at the ferry terminal on Bald Head Island. The 30' buffer generally prohibits development within 30' of the normal water level or normal high water level on coastal shoreline AECs. The CRC's rules allow for several exceptions including 200 square feet of decking and the purpose of the rule is to help protect water quality. Ms. Goebel reviewed the stipulated facts of this variance request and stated Staff and Petitioner agree on all four statutory criteria which must be met in order to grant the variance.

Mr. Raney stated Petitioner has no disagreement with what Staff has recommended in this variance request and would request that the CRC grant this variance.

Chairman Gorham asked Mr. Raney if the Petitioner would object to the CRC conditioning the variance subject to receiving the stormwater permit from DEMLR. Mr. Raney said they would agree with that.

Renee Cahoon made a motion to support staff's position that strict application of the applicable development rules will cause the petitioner unnecessary hardship. Larry Baldwin seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Wynns, J. Simmons, Snipes).

Bill Naumann made a motion to support staff's position that hardships result from conditions peculiar to Petitioner's property. Renee Cahoon seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Wynns, J. Simmons, Snipes).

Greg Lewis made a motion to support staff's position that hardships do not result from actions taken by the petitioner. Bill Naumann seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Wynns, J. Simmons, Snipes).

John Snipes made a motion to support staff's position that the variance request will be consistent with the spirit, purpose and intent of the rules; will secure the public safety and welfare; and preserve substantial justice. Renee Cahoon seconded the motion. The motion

passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Wynns, J. Simmons, Snipes).

This variance request was granted and conditioned it to include the requirement of getting the stormwater permit from DEMLR.

**NCDOT (CRC VR 14-03), Nags Head, Oceanfront Setback
Christine Goebel**

***Renee Cahoon recused herself from discussion and voting on this agenda item.*

Christine Goebel of the Attorney General's Office represented staff in this variance request. Thomas Henry, also of the Attorney General's Office, was present and represented NC Department of Transportation on this variance request. NCDOT is seeking a variance from the oceanfront erosion setback in order to replace 65 feet of stormwater outfall in Nags Head. NCDOT is seeking relief from 15A NCAC 7H .0306. Ms. Goebel reviewed the stipulated facts of this variance request and stated staff and petitioner agree on all four statutory criteria that must be met in order to grant the variance.

Thomas Henry, counsel for Petitioner, stated the replacement of the outfall structure has been permitted. The 65 foot extension will allow this outfall to function as it was originally designed. The setback rules are designed to protect life and property and the 65 foot extension of the outfall will further that purpose by protecting the lives of the people that use NC12.

Bill Naumann made a motion to support staff's position that strict application of the development rules would cause the petitioner unnecessary hardship. Larry Baldwin seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

Greg Lewis made a motion to support staff's position that hardships result from conditions peculiar to the property. Marc Hairston seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

Greg Lewis made a motion to support staff's position that hardships do not result from actions taken by the petitioner. Bill Naumann seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

Greg Lewis made a motion to support staff's position that the variance 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 Naumann seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

This variance request was granted.

PUBLIC INPUT AND COMMENT

No public comments were received.

PRESENTATIONS

Coastal Resources Advisory Council, Background & Appointment Process (CRC 14-01)

Tancred Miller

Tancred Miller stated the CRAC was created by the General Assembly in 1974. The CRAC originally had 45 members appointed by each of the 20 coastal counties to represent the county. There were also members from coastal cities that the CRC appointed as well as state agency representatives. The CRAC was meant to be a communications link between the local governments and the CRC. Session Law 2013-360 vacated the membership of the CRAC effective July 31, 2013. The size was reduced to 20 members and all of the members are now appointed by the CRC. The term for Advisory Council members is two years.

The CRC sent an invitation for nominations to the local governments. The CRC Executive Committee met to discuss the nominees and look at their qualifications. The Executive Committee decided to recommend 10 individuals for consideration by the full CRC. The other 10 spots can be filled at a later date and the nominees that were not selected in this first 10 can still be considered to fill one of the other 10 spots. The Executive Committee recommends Kris Noble, Robert Outten, Ray Sturza, Jordan Hughes, Charles Jones, Greg "Rudi" Rudolph, Bill Morrison, Spencer Rogers, Debbie Smith, and Dave Weaver.

Renee Cahoon made a motion to accept the Executive Committee's ten recommendations for appointment to the Coastal Resources Advisory Council. Jamin Simmons seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

Renee Cahoon made a motion that Debbie Smith serve as Chair of the Advisory Council and Spencer Rogers and Rudi Rudolph would jointly serve as Vice-Chairs. Bill Naumann seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

Bill Naumann made a motion to approve the Charge to the CRAC as drafted. Larry Baldwin seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

Beach Nourishment, Static Line and Static Line Exceptions (CRC 14-02)

Matt Slagel

Matt Slagel stated oceanfront setbacks are measured from the first line of stable and natural vegetation, except in unvegetated beach areas or in areas that have received a large-scale beach nourishment project. If beach nourishment occurs, the vegetation line is surveyed before the nourishment project occurs and that establishes a static line. The static line is used for measuring the setback in areas that have been nourished with a large-scale project. After a nourishment project,

if a new vegetation line grows that is more seaward of the static line then the static line is still used as the measurement line for setbacks. If beachfill erodes to a point that the vegetation line is more landward than the static line then the more landward vegetation line is used for setbacks. The static line policy was codified by the CRC in 1996 recognizing that engineered beaches erode at least as fast if not faster than the pre-project beach, there is no assurance of future funding or beach compatible sediment for project maintenance, and that development that is tied to a vegetation line in an artificially forced system could locate buildings in a more vulnerable location. Prior to 2008, a large-scale beach nourishment project was defined as one that placed more than a total volume of 200,000 cubic yards of sand at an average ratio of more than 50 cubic yards of sand per linear foot of shoreline, or an Army Corps of Engineers hurricane protection project. To avoid a static line, municipalities had the ability to design projects under 200,000 cubic yards or under the 50 cubic yards per foot ratio. This created a disincentive for larger, less frequent projects. In 2008, the CRC altered the large-scale definition and increased the volume threshold from 200,000 cubic yards to 300,000 cubic yards.

There is also a static line exception. For communities with a demonstrated, long-term commitment to beach nourishment, the CRC created the static line exception to allow setbacks for small-scale development to be measured from either the natural vegetation line or the static line which made more lots developable. A community must wait five years after a large-scale project to apply to the CRC for the exception. An approved static line exception allows development to be measured from the vegetation line and not the static line if it meets the minimum setback of sixty feet or 30 times the erosion rate, if the total floor area of the structure is under 2,500 square feet, if the structure extends no further oceanward than the landward most adjacent building, and no swimming pools are allowed oceanward of the static line. For structures that are greater than 2,500 square feet, the setback is measured from the most landward line. If the structure is between 2,500 and 5,000 square feet then the setback is 60 feet or 30 times the erosion rate whichever is greater. If the structure is greater than 5,000 square feet then the setback is 120 feet or 60 times the erosion rate whichever is greater. In order for a community to get a static line exception they must wait five years after a large-scale beach nourishment project and then request the exception from the CRC. The request must show proof of compatible sediment and financial resources to pay for the project. Every five years after an exception has been approved, a progress report must be submitted to the CRC to re-evaluate the project. Carolina Beach, Wrightsville Beach, Ocean Isle Beach, and all of Bogue Banks currently have an approved static line exception. The five year progress reports for Carolina Beach and Wrightsville Beach are due by August 27, 2014. The CRC will likely see the progress reports from these two towns at its meeting in May.

Chairman Gorham stated that at Figure Eight we have done several beach renourishment projects. Because we are so opposed to being under the rule of the static line we have designed our projects to be less than 300,000 cubic yards. This has caused us to do projects more frequently than had there not been a rule. The intent of the static line is having some adverse consequences.

Chris Gibson, TI Coastal, stated the changes in the static line had a direct impact on Mason's Inlet. That project was originally designed under the 50 yard per foot rule with a 10,000 foot long nourishment area. That project was designed to be done on a three year cycle and be approximately 500,000 cubic yards. After the first project, the following projects were held to 300,000 cubic yards and so we down sized the project. Likewise, with Topsail, the design was changed because of this rule.

Chairman Gorham asked staff to look at this rule and come up with some possible ways to address it for discussion at a future meeting.

Inlet Management Strategy Development (CRC 14-03)

Mike Lopazanski

Mike Lopazanski stated the CRC was directed to study the feasibility of the Cape Fear River AEC. The Commission decided that rather than focusing on creating a new AEC for one inlet, the CRC would look at all inlets and look at common issues with the management around inlets. There were several other legislative directives that required the CRC to look at inlet hazard areas and the feasibility of eliminating these areas. There was also a legislative directive to look at streamlining the permitting mechanisms associated with inlet dredging projects. The Regulatory Reform Act asked the CRC to look at all of its rules and reevaluate the merits of existing rules. In December the CRC decided to combine all of these efforts into a single, comprehensive inlet management study. Since the last meeting, staff has discussed with the Executive Committee how to put this together. We have come up with a list of topics to be included in this study. We will have regional hearings to solicit input from local governments and stakeholders about issues associated with inlets in their areas. We will be looking for a range of management options that can be built into the inlet management strategy and build on the recommendations that we received from Caswell and Bald Head Island during the Cape Fear River study. Written comments will be accepted until April 15 and summaries from the meetings and comments received will develop the preliminary findings and recommendations to the CRC for consideration. The legislature will be notified of our developments by the end of June. By the July CRC meeting we will have final draft findings and recommendations for the CRC to review. In the fall we will take these proposed rulemaking changes out for public comment and have a final report to the Governor and legislature by the end of the year.

Staff Rules Review Recommendations (CRC 14-19)

David Moye

David Moye stated that DCM staff conducted a comprehensive review of the CRC rules to find ways to improve the permitting process. This review was based on permit process and procedures, impacts on customer service, internal/external communications, regulatory overlaps and redundancies, ineffective, burdensome or otherwise unnecessary rules and procedures. The list of changes was then prioritized for presentation to the CRC. There were four specific items to bring to the CRC. The first was the streamlining of exemptions for single family residences (7K .0208). This exemption was made effective in 1984. This rule allows single family residences and land disturbing associated with them in the estuarine shoreline within a distance of at least 40 feet from the water to the 75 foot mark. When that exemption was written we only had the 75 foot estuarine shoreline, now we have the coastal shoreline rules which implemented a 30 foot area of environmental concern adjacent to public trust or inland waters. In the exemption it requires notification of adjacent property owners. If the neighbor refuses to sign then you can't meet the requirement for the exemption and will be forced into the Minor Permit process. We would like to remove the signed statement requirement for the exemption for a single family residence. Also in the exemption is an expiration date of one year. We would like to change the expiration date to three years. All of these exemptions would expire on December 31 of the third year. This will keep it consistent with the Minor and Major Permit expirations. Also in 7K .0208 is an exemption for an accessway to the water. If the structure was exempt then we will also allow a six foot wide access to the water. During some of the rule changes that have happened over the years there have been

things that have been exempted from the buffer portion of the shoreline. The exemption language was changed to pull in that reference (7K .0209). That reference is incorrect. 7K .0209 talks about exemptions for shore parallel boardwalks. This is an inconsistency that we would like to change. In addition to removing the incorrect reference, staff is proposing to come up with wording that allows not just wooden walkway access to the water but also other materials that can be used for access. The third change will require more discussion, but we would like to consider eliminating the beachfront high hazard AEC jurisdiction. The beachfront high hazard AEC is defined as the area subject to high velocity waters on a storm having a one percent chance of being equaled or exceeded in any one given year (the 100-year storm, the V-Zone on FEMA flood insurance maps). Eliminating this AEC does not eliminate the Ocean Erodible Area of Environmental Concern or the Inlet Hazard AEC. Within the High Hazard AEC jurisdiction there is an exemption in 7K .0213 that allows construction within in the beachfront high hazard AEC but it requires a site visit by DCM field staff or LPO. Staff's position is that this rule has not been updated since 2002 and before we can move forward we should reach out to local governments and the state's floodplain management program to determine if the CRC's rules are up to date and consistent with the state and local floodplain rules. We also need to see if there are any location specific credits that are gained through the National Flood Insurance Program as a result of the CRC rule. Are the local governments relying on the CRC rules, rather than through their own local ordinances, with respect to specific standards in 7K .0213? If the answer to all of these is no, then the elimination of this AEC would remove a significant number of properties from the permitting jurisdiction along the North Carolina coast. Those properties would still be required to comply with the NC Building Code and the Flood Damage Prevention Ordinances, but would not need an exemption from CAMA. This would reduce the regulatory burden without removing any of the environmental protections. The last proposed change would streamline the General Permit associated with upland boat basins (7H .1500). This allows maintenance excavation within a manmade canal or basin and new basins as long as they are constructed off of existing manmade systems. If you live on a canal system and you want to cut a boat slip into your yard you can use this General Permit. There are use standards associated with it. The General Permit for the excavation is \$400.00 if it is over 100 cubic yards (if it is under 100 cubic yards then the fee is \$200.00). After digging out the basin there are three exposed slopes that should be protected. If the property owner wants to put in a bulkhead then they have to pay for a General Permit for a bulkhead which carries a fee of \$400.00. If they want to put a boathouse or a dock then they would pay an additional fee of \$200.00 for that General Permit. Staff is proposing to be able to issue one permit for excavation then we would allow them to bulkhead as part of the permit. That would not allow them to go out into the existing canal system and bulkhead that part. Staff would like the CRC to consider capping the fees on a General Permit. This would reduce the incentive for violations or going through the Major Permit process.

Bill Naumann made a motion for staff to come back to the CRC with proposed rule language on these changes. Marc Hairston seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

ACTION ITEMS

**Fiscal Analysis for 7H .2600 General Permit for Mitigation & In Lieu Fee Projects (CRC 14-04)
Mike Lopazanski**

Mike Lopazanski stated this rule was started in early 2013. The current General Permit for a mitigation project is limited to the Ecosystem Enhancement Program for the construction of stream and buffer projects. Private entities were not eligible for this General Permit and had to go through

the Major Permit process. In 2010, the EPA issued guidance that required all mitigation projects to have upfront coordination and included projects of the EEP. Now since everyone has to go through this same process, we feel comfortable in expanding the use of the GP to all mitigation banks and in lieu fee projects.

The fiscal analysis shows the real savings is in the permitting processing time. A Major Permit requires that design work accompany the application which adds about \$1000 to the costs and that won't be required under the amendment. We normally see one permit every two years for these projects. There will be about \$3000 worth of savings in a ten year period. This amendment will not have an impact on NCDOT permits. DCM could see an additional \$400 per year in permit fees.

Renee Cahoon made a motion to approve the fiscal analysis for 15A NCAC 7H .2600 for public hearing. Bill Naumann seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

**Science Panel Mad Inlet Assessment & Public Comments on 7H .0304
Inlet Hazard Areas and Unvegetated Beach Designations (CRC 14-05)
Mike Lopazanski**

Chairman Gorham opened the meeting up to public comment on 7H .0304.

Ron Watts, Mayor of Sunset Beach, stated I am here representing our Town Council and the citizens of Sunset Beach. I want to thank the DCM staff for their cooperation through this comment period. Our Council has asked me to come speak on their behalf to make sure our position on the topic is clear. The Council passed a resolution opposing the removal of the inlet hazard designation in December by a 5-0 vote. We have two points to stress. The first is there appears, at least to us, to be some confusion on how this review got started over ten years ago after the recent Science Panel discussion. From the best that we can determine an informal request came from the town staff and planning board representative in 2004. Neither of them had counsel or planning board approval to make a formal request. It appears the CRC made a recommendation back to the Town for the Town to table the request or it would be rejected. In the meantime the CRC was going to conduct a study on inlet management practices. Moving forward to 2010, it appears the CRC first adopted a motion to remove the inlet hazard area designation for Mad Inlet and then at the same meeting decided to table that decision until a full ocean inlet study was completed. Now we are four years later and it appears the staff is embarking on the development of an updated management program that we just heard about and our community has been invited and will participate in one of the upcoming public hearings next month. We are not really sure of the need to move forward with a decision at this time. Second, I am a business man and not a scientist. Mad Inlet seems to currently lay in some sort of undefined hazard state for inlet management. Yes the inlet is technically closed and has been since the late 1990's, but it is a hazard area. Several citizens have pointed out in their comments to you how this inlet has had the habit of reopening for a period of time. We have been fortunate to not have storm activity in our area since the mid-1990's. The last storm to directly hit our area was Tropical Storm Hannah in September 2008 which came in at the Little River Inlet just south and west of Sunset Beach. That storm leveled most of the frontal dune structure that had built up on Bird Island. It is also true, as you have read in some of the public comments, that the area currently gets washover from the ocean and on an occasional high tide. This description to us fits not only Mad Inlet, but other locations along the coastline. There was a full house for the public hearing on this topic in November and you have had the chance to read the summary comments from that

meeting as well as the written comments submitted later. I believe all but two speakers and one writer opposed the change in the inlet's designation. What our Council respectfully requests from the CRC members is to reaffirm the decision made in 2010 to table any decision on Mad Inlet's status until the full ocean inlet management program is reviewed and updated by the CRC.

Rich Cerrato, former Mayor of Sunset Beach, stated I would like you to delay any decision related to Mad Inlet's designation. My concern is the possibly fraudulent process as to how this petition was initiated to the CRC, which appears to have elevated Mad Inlet as a priority item. According to the Sunset Beach Town Clerk there are no official records pertaining to Mad Inlet or any discussions, request or vote taken by the Sunset Beach Town Council to remove Mad Inlet as an inlet designation in 2004. Please refer to my attachment at the bottom of page one where it states, "now therefore be it resolved that the Town Council of Sunset Beach petition the Coastal Resources Commission to remove the inlet hazard designation from the properties located on the western end of Sunset Beach". Since this petition request is patently untrue and knowingly misrepresents the Town of Sunset Beach, would you please explain as to how the Coastal Resources Commission can proceed with any decision based on the attached fraudulent petition request? I urge all of you to defer your decision today. What is the rush?

(Written comments provided)

Ed Gore stated I am the owner of the property in question that borders on what was an inlet 18 years ago. I have owned the property and my father before me for more than 50 years and we pay taxes on it. No special request was made by anyone, but the former mayor conducted every way that he could to find something illegal about it. I waited for 40 years plus for the state to study it. Much of it never was in the inlet hazard. It had all the features of an estuarine creek. The inlet moved completely off the property that I own and all I am requesting is that the CRC evaluate the study that the Science Committee has done and listen to no one else because I am not a hydrologist or an engineer, but I have lived there and seen how the system works. I am in agreement with the Science Committee with whatever they would recommend. The unintended consequence is the 5,000 square foot rule. You can't build a bridge to the 1,600 feet that I own with a 5,000 square foot restriction on a structure as classified in the inlet hazard area. That is the method that is being used for the opposition.

***Public comment session closed.*

Science Panel Mad Inlet Assessment & Public Comments on 7H .0304 Inlet Hazard Areas and Unvegetated Beach Designations (CRC 14-05) – continued

Mike Lopazanski stated there is a second change associated with this change to 7H .0304 and that is the removal of the Unvegetated Beach designation in the vicinity of Hatteras Village. The CRC's rules establish a measurement line where vegetation has been destroyed or doesn't exist naturally or due to storms. In this case the area west of the inlet breach on Hatteras Island was designated as an Unvegetated Beach due to Hurricane Isabel in September 2003. The establishment of a measurement line allowed for the determining of setbacks based on that measurement line. You have a copy of the map that shows the Unvegetated Beach areas. Since 2010, we have found that the vegetation line has recovered to the extent that we can now resume using it for the establishment of setbacks. One comment was received at the public hearing in November and it was supportive of the action.

The inlet hazard areas were established based on a 1978 study that was amended in 1981 for areas that were subject to the dynamic influence of ocean inlets. Quite some time had gone by without these areas being updated. In 2006, at the request of the CRC, the Science Panel began to look at updating these maps. There were cases where some inlets had migrated out of the inlet hazard areas. This inlet hazard update report was completed in 2010. The recommendations that accompany the report include the removal of the Mad Inlet inlet hazard area designation. While the CRC continued their discussion of the revised inlet hazard area maps, the removal of Mad Inlet was approved by the CRC under a separate action. The inlet hazard area designation does not preclude development in these areas. It does affect the density of structures. There are 126 properties that are located in this area. Less than ten are undeveloped at this time. If the inlet hazard area designation is removed these areas would no longer be required to adhere to the density and size restrictions. It would be a benefit to any large, previously unsubdivided property and provides a greater development potential. A map was provided of the Mad Inlet IHA. We held a public hearing in November and 48 people attended with nine speaking against the action and two in favor. Most of the comments dealt with the scientific basis for the decision as well as the Science Panel's actions with regard to the overall inlet hazard area analysis and update report. During the public hearing we also had two comments in favor of the action and referenced the years of accretion in the area and the stability lent to the area by the construction of the Little River jetties. Since the public hearing we have received 40 written comments. All of the written comments were opposed to the action. We received one written comment in favor of the action. At the December CRC meeting the CRC reviewed some information provided by Spencer Rogers regarding the stability of the area. Since there was a question to what degree the Science Panel addressed Mad Inlet specifically in their inlet hazard update report, the CRC requested that the Science Panel go back and look at the situation and conditions at Mad Inlet. The construction of the Intracoastal Waterway had a large impact on the hydrodynamics of the area and allowed the larger inlets to become more efficient and stable which reduced the tidal volume of the smaller inlets, such as Mad Inlet. The Little River Inlet jetties also had an impact on Mad Inlet. Tubbs Inlet reopening also affected the sand supply on Sunset Beach. Hurricane Hazel opened the channel, but also began the filling of the tidal basin that was supplying Mad Inlet. The Science Panel noted that the constant washovers were bringing fill into the marsh area in the location of Mad Inlet and due to the filling associated with this particular area, it was noted that a breach would be more likely west of Bird Island as opposed to the former location of Mad Inlet. Other considerations that were taken by the Science Panel were that a large body of water was necessary to keep an inlet open and that is one of the factors applied in the analysis of inlet areas for the 2010 study. The shoreline variability associated with Little River Inlet disappears when you get to the location of Mad Inlet. It was also noted that there were similar low lying areas prone to overwash on Topsail Island and the Outer Banks. When it comes to Mad Inlet, while it is still subject to overwash and breaching, conditions don't exist to support the long-term reopening of this area. The Science Panel made one slight change to the recommendations. It didn't change the substance of the sentence, but did make it clearer. The main finding with regard to Mad Inlet was that it is presently not an inlet and if it were to breach is not likely to persist as a viable inlet. The Science Panel also wanted to remind the CRC that the present inlet hazard areas are severely out of date and need to be updated, and that the CRC should consider other high hazard areas that could be addressed. Staff response to the public comments is that the findings of the Science Panel support the original findings in the 2010 inlet hazard area boundary update report. The inlet hazard areas are not intended to prevent development entirely, but limit the scale of development in natural hazard areas that are especially vulnerable to erosion, flooding and other adverse affects of sand, wind and water because of their proximity to dynamic ocean inlets. This area to be removed from the inlet hazard area is still subject to the ocean hazard areas rules including setbacks, dune protection, and requirements for flood insurance. When it comes to the

CRC's authority to address areas of environmental concern, CAMA requires a periodic review of AECs. New areas can be designated and old areas de-designated. Areas should not be deleted unless it is found that the conditions upon which the original designation was based shall have been found to be substantially altered.

Larry Baldwin made a motion to adopt the amendments to 15A NCAC 07H .0304. Greg Lewis seconded the motion. The motion passed with ten votes in favor (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Wynns, J. Simmons, Snipes) and one opposed (Dorsey).

PUBLIC HEARINGS

15A NCAC 7H .0312 Technical Standards for Beach Fill Projects

Matt Slagel

Matt Slagel stated the technical standards for beach fill projects, also known as sediment criteria rules, are intended to ensure that sand use for beach nourishment closely matches the sand on the existing beach. The rule requires that the sediment intended for use as well as the sand on the existing beach be analyzed for grain size and composition and that they be within defined ranges of similarity before the project can begin. The proposed rule change reduced the number of required samples in smaller borrow sites and would also allow slightly more granular sediment to be placed on the beach while continuing to limit fine sediment and gravel material.

No comments were received.

15A NCAC 7H .1204 and 7H .1205 Docks and Piers

Mike Lopazanski

Mike Lopazanski stated this amendment modifies how the CRC defines the use of platform so boats stored on platforms are not counted as docking spaces. The General Permit currently allows for two boat slips or four for a shared pier. This change would allow for the storage of boats on already permitted platforms to not be counted as a slip. The public comment period closes on March 17.

No comments were received.

15A NCAC 7H .1305 Construction of Boat Ramps

Tancred Miller

Tancred Miller stated this amendment will authorize the construction of private boat ramps with an associated access dock and protective groins under a single General Permit and a single permit fee. This action will simplify permitting for applicants and lower their permitting costs since applicants are currently required to obtain three permits and pay three application fees for this activity. The amendments would also reduce the staff time required. The estimated fiscal impact for these amendments is an annual savings of \$4,640 to permit applicants and a corresponding reduction in fees to DCM.

No comments were received.

ACTION ITEMS

Land Use Plan Certifications and Amendments

Town of Emerald Isle Land Use Plan Amendment (CRC 14-06)

Maureen Meehan

Maureen Meehan stated the Town of Emerald Isle is requesting an amendment to the 2004 Land Use Plan. The amendment will change 12 parcels of land in the Commercial Corridor to Village West Area. This change will allow more flexibility for development and redevelopment opportunities. The request is consistent with the 7B planning guidelines and state and federal law. Staff recommends approval of this amendment.

Renee Cahoon made a motion to approve the Emerald Isle Land Use Plan Amendment. Bill Naumann seconded the motion. The motion passed unanimously (Andrew, Hairston, Lewis, Baldwin, Naumann, Cahoon, Gorham, Dorsey, Wynns, J. Simmons, Snipes).

Overview of Inlet Management

NC Coastal Management Program Permitting Jurisdictions & Regulatory Framework

Matt Slagel/Doug Huggett

Matt Slagel stated there are twelve developed inlets in North Carolina. There are seven undeveloped inlets. A developed inlet is one that has development in the immediate vicinity of the inlet. Some of the undeveloped inlets may have roads, but no structures. All of the developed inlets are south of Cape Lookout and most of the undeveloped inlets are north of Cape Lookout. There are two broad classes of tidal inlets in North Carolina, oscillating and migrating. Oscillating inlets include Ocracoke, Bogue, and Rich inlets and they are generally positioned along river channels. Migrating Inlets include Oregon, Mason, and New Topsail inlets and are generally shallow and migration occurs where the updrift barrier elongates in the direction of net littoral transport and the downdrift shoreline erodes. A distinction can also be made between shallow draft inlets and deep draft inlets. Shallow draft inlets are dredged to depths of about eight feet. There are two deep draft inlets in the State. Beaufort Inlet is maintained to a depth of 45 feet and the Cape Fear River Inlet is maintained at 42 feet to serve the Ports. Inlets act as conduits for the exchange of water and sediment between the estuaries and the open ocean. With the rise and fall of the tide, water and sediment move back and forth. The zone of inlet influence on adjacent barrier islands is a function of the throat size and the ebb tidal delta geometry.

Doug Huggett stated CRC rules 7H .0300 set forth a broad category called an Ocean Hazard Area of Environmental Concern. These areas of environmental concern are your designated jurisdiction and regulatory areas. Within the broad category of the Ocean Hazard AEC, the rules further break down the category into four subcategories including the Ocean Erodible Area, High Hazard Flood Areas, Inlet Hazard Areas, and Unvegetated Beach Area. The CRC rules require construction setbacks off of the oceanfront. The policy of the Commission is that the setback is based off of the erosion rate and structure size. There is a significant amount of regulation relating to erosion control structures. A good portion of rules relating to inlet and beach management deal with beach and inlet projects such as inlet relocation projects, terminal groins, and beach nourishment. The oceanfront setback principal is that the larger the structure and the higher the erosion rate, the farther back the structure can be developed. There are special considerations for linear infrastructure such as water/sewer, power lines and roadways. The Inlet Hazard Areas are areas especially vulnerable to erosion and flooding due to the proximity to ocean inlets. The IHA boundaries were designated in 1981. Within the IHA, the CRC prohibits structures greater than 5,000 square feet. There are also density restrictions and dune building is prohibited. If you have a structure in the inlet hazard area and you want to protect it with an erosion control structure, the only structural approach the CRC rules allow for are the sandbagging of imminently threatened structures. Sandbags that have been permitted can stay in place for up to eight years if the

community is actively pursuing some type of beach nourishment, inlet relocation project or terminal groin and sandbags may be used to protect an imminently threatened structure more than once. Sandbags can also be used to protect septic systems. One of the other options a community may have to respond to erosion is beach bulldozing. General Permit 1800 (7H .1800) allows beach bulldozing landward of the mean high water mark in the Ocean Hazard AEC, but does not apply to the Inlet Hazard Areas. 7H .0308 states that no new dunes shall be created in inlet hazard areas. For all communities that do beach nourishment and inlet relocation projects, project timing is important. The CRC requires that we figure in project timing into our permit actions. Project construction has to be timed to minimize adverse effects on biologic activity. The CRC's sediment criteria rules used to be one sentence. Technical standards were then set up and put into the CRC rules (7H .0312). Recently we have made some rule changes to reduce the burden on project applicants for sampling and analysis. These changes were based on DCM experience with implementing the rules. There are a lot of different ways that beneficial use of dredged material can be utilized. DCM is supportive of the concept and we want to figure out ways to keep sand from nourishment projects in the system. We have had a couple of inlet channel realignment projects in the past. The first was the Mason Inlet project that took place 10-12 years ago. This project was designed to move the inlet channel away from some threatened structures to a more beneficial location for all parties involved. The project is working very well. For the permitting of this project we had built into the permit process the flexibility to allow the project to change over time based on lessons learned. Everyone here knows the history of terminal groins. Legislation was passed a couple of years ago that was clarified in SB151 last year to allow for four terminal groins to be permitted. There are currently four communities that are in various stages of pursuing one of these projects Bald Head Island, Figure Eight Island, Holden Beach and Ocean Isle Beach. Something else we are heavily involved with right now is an effort to try and do a programmatic approach to allow local governments and municipalities to obtain permits to do some of the work that the federal government had been doing. We are working on the inlets of Bogue, New Topsail, Carolina Beach, Lockwoods Folly and Shallotte. We are trying to determine the costs and the processes to go through for the local government to obtain all of the state and federal permits necessary to allow the local government to maintain the shallow draft inlets to current dimensions (and possibly greater dimensions in the future). This process may be made easier by a recent agreement between the Army Corps of Engineers and the Department of Environment and Natural Resources. It is anticipated that this new Shallow Draft Navigation Channel and Lake Dredging Fund that the legislature set up last year is going to try to cover fifty percent of the costs of the shallow draft programmatic effort that we are undertaking. Session Law 2013-138 required that state permitting agencies work to streamline permitting for this type of activity. It is important to DCM, in fact we were already working on this when the legislation was passed.

Inlet Dredging Panel Discussion

Chairman Gorham introduced the panelists and thanked them for their participation.

Layton Bedsole, New Hanover County Shore Protection Coordinator, stated on occasion we will have five inlets in New Hanover County. Our northern border is Rich Inlet; our southern border is Corncake Inlet. Rich Inlet is in Pender County. Corncake Inlet is in Brunswick County and is full of sand thanks to Hurricane Floyd. We don't mind that. There are three inlets that New Hanover County manages: Masons Inlet, Masonboro Inlet, and Carolina Beach Inlet. Mason Inlet was the first relocated inlet in North Carolina in 2002. It was privately funded by the Mason Inlet Preservation group. The County manages that permit and the project for that group. In 2002, there was much consternation being the first relocated inlet. That consternation generated a lot of consensus science that led to a lot of mitigation and monitoring. Have your science ready, have it

reproducible, and have it available in a manner that can be shared with the public easily. Within that project we raised 15-20 acres of state lands. Over the past 12 years we have managed those state lands. Prepare for that management ahead of time. There are agencies, non-profits and individuals that have the luxury of being specifically resource oriented. Those of us that hold the authorizations have to look at the resources holistically. If in your project there are resources that have needed additional management then address it up front. Masonboro Inlet is the only navigation channel on the State's coast that is managed through jetties. It was also one of the first designed inlet systems to incorporate CSDR management efforts. It traps sand along Wrightsville Beach and allows sand to bypass into a designed borrow area. We take that sand and put it on the beach. There are negatives. The spit that grows in the borrow area does encroach on the navigation channel. We relocate that sand back on the beach. It also interrupts long-shore drift of sand to Masonboro Island. When OMB funds the Corps they also put sand on Masonboro Island as part of the mitigation for the navigation feature. Next year, if given the opportunity by New Hanover County, I am proposing to acquire the same permit capability that the Corps has on Wrightsville Beach. In the application we would be applying for the coastal storm damage reduction element, not the navigation element nor the mitigation of the navigation element associated with a Corp project. Carolina Beach Inlet may have been North Carolina's and maybe one of the nation's earliest habitat restoration, water quality restoration, ecosystem restoration projects ever. The Corp has maintained Carolina Beach Inlet to the best of its ability with the 1950's technology that it has used. We need to move beyond that. We are going to need the CRC's help with allowing contracting mechanisms to combine our capabilities to increase the projects.

Rudi Rudolph, Carteret County Shore Protection Manager, stated there is a daunting task in front of the Commission. There are 20 inlets in North Carolina. Five of them are north of Cape Lookout and 15 south of Cape Lookout. Some of them are maintained as deep draft harbors and some are tied to drainage. We have been screaming at you that each inlet needs to be treated differently, but we want easy rules that can apply uniformly. We would like to see a deep draft IHA and a shallow draft IHA. Morehead and Wilmington would be the deep draft IHAs because they are deep and aren't allowed to move. The Corps has to maintain the inlets at the least cost and this results in sand being taken and dumped off shore. If the Corps can do it under the least cost method then they will put some of the sand on the beach. The Corps hides behind the least cost method and ignores the environmentally acceptable and engineeringly sound pieces. The local communities have to deal with the consequences of that. If some of those consequences include Geotextile tubes, sandbags or terminal groins then the small consequences are very small when compared to the overprint of channel dredging and offshore dumping. The CZMA deals with beneficial use to the maximum extent practicable. In 1992, it was amended to that affect and since then Morehead and Wilmington have been deepened and the sand still goes outside the system. The Dredged Material Management Plan was just released and an overwhelming majority of the sand is still being dumped well outside the system. The state needs to take a more active role in this resource. There are Port issues and we think the federal government is doing us a favor, but we don't want these types of favors if it is going to result in a bunch of sand going offshore. I thought the Science Panel was going in the right direction with their redefining of boundaries using a standard deviation of shorelines. Keep it simple and don't get involved with more lines in the sand. There are other things we could do like grandfather the existing structures and allow them to be rebuilt to their original size if it were required. New development should not be allowed further seaward than adjacent properties and size. Temporary erosion control structures need to have a different set of standards if they are located in IHAs. Most of the problems with sandbags are located at the inlet shoulders and staff has altered the time frames, but they need to be reexamined again and allow the bags to stay until a final solution comes to fruition. If a sandbag structure goes in is there a big difference between a sandbag

and a structure on the oceanfront or just a structure? The boundary of a lot of these IHAs goes into the water, but that is just a token because there is no policy in the water. Either extend it into the water and do something about it or don't extend it into the water. We also need to get a better handle on dredging windows and moratoria. This is a federal versus a state issue. In theory terminal groins don't need bypassing. They should be designed to develop an accretion filet then the extra sand is allowed to go around. Back-passing to maintain the accretion filet should be allowed. There are only a couple of areas that have static lines in IHAs, but are channel maintenance events being dredged to avoid the static line exception? If that is the case then maybe we could explore that if it is truly for navigation. Emergency permitting, sandbags and beach bulldozing could have different standards in IHAs.

Eric Olsen, President and principal engineer of the Coastal Engineering Firm of Olsen Associates, stated I am here as a Floridian. I submitted a White Paper having to do with the Florida experience and my comments today will be a synopsis of that White Paper. We have been proactively dealing with inlet management since the 1980's. It is incorporated into our State's beach management program. In Florida we have 60 tidal inlets, however only about 16 of them are on the east coast. They are very similar to North Carolina's except that almost all of the Florida's are developed or improved for navigation. Florida developed much earlier than North Carolina. In Florida we have 825 miles of sandy shoreline and 399 of those are defined as critically eroded. The rule of thumb is that about 80% of the state's beach erosion problems are attributable to stabilized and improved inlets. In 1998, we passed legislation to fund a beach management program. The state contributes about 30 million per year to contribute to beach restoration. Once we got into this program it became obvious that we also needed to address inlet management since the inlets were the genesis of our most severe problems. In the 1960's and 1970's Florida realized, too late, that the political players responsible for navigation project construction and maintenance shunned all or portions of their responsibilities for the shoreline impacts of inlets. There is a technical myth that the level associated with a federal navigation project is a multiple of the length of a jetty. We know today that is not accurate. The primary goal of inlet management legislation is to minimize an inlet's adverse impacts on adjacent sandy shorelines while simultaneously allowing for safe and reliable navigation through the inlet. Today, almost all material that comes out of federal navigation projects goes back on the beaches of the state. Not in the nearshore, not in the offshore, but on the beaches. In very few instances does the state or locals have to contribute. This includes the Intercoastal Waterway. There have been a few lessons learned over the years. The distribution of dredged sand at stabilized or improved inlets must be guided by analytically derived sediment budgets. We have the tools to develop detailed sediment budgets through modeling. In many instances we find that the inlet shoals are the primary sources of beach compatible material for beach restoration. When you use these inlet shoals there needs to be suitable numerical analysis to impact analysis to determine whether or not there are adverse impacts to either of the abutting shorelines. The division of sand in an inlet generally must be based on measured or predicted losses from the adjacent beaches. Sometimes you can have a stabilized inlet and have dramatic differences in the erosion rates on either side of that inlet. Legislatively states are different, but the fundamental issue that involves inlet management are similar. North Carolina is in a very unique position to capitalize on the experience of others, but principally on the coastal engineering technologies available. I look forward to assisting the CRC with any advice in the future.

Barry Holliday, Executive Director of the Dredging Contractors of America Trade Association, stated you can write down all the words you want for regulations but Mother Nature will ignore you. You are blessed and cursed with so many inlets and beaches, but it is an outstanding effort that you are undertaking an inlet management program and trying to do it in conjunction with dredging.

I represent the dredging industry, but I feel I represent a Corps of Engineer's position. I spent an inordinate amount of time lobbying in Washington to try and get the Corps more money for exactly what we are talking about today. Just about every one of your inlets is not natural. It has been impacted and dredged and messed with. That puts in context both how you regulate and manage these systems. We would offer to you that there are other ways to maintain inlets than the way they have been done in the past. It is a funding challenge. The Corps is the premier federal agency for managing, contracting and overseeing the navigation system for this country. If the CRC could encourage Congress and NC Representatives for the passage of a Water Resources Bill that would give full use of the Harbor Maintenance Trust Fund, it would have spent its time wisely. There is some opportunity for this group to take a new look at the environmental challenges, windows, restrictions and sand sizes. The dredging industry is not foreign to the challenges of environmental windows and managing the disposal of dredged material in the midst of every endangered species that you can imagine and all of the biological habitats that we place dredged material in. It is a challenge but it isn't an obstacle. It takes communication and a proactive dialogue with those that have interests on both sides and North Carolina is in a good position to move forward with something that would demonstrate further opportunities to do dredging in some of the non-dredging windows. The concept of an inlet being a piece of a coastal system and that this piece connects with the AIWW, rivers, bays and other channels creates a challenge in the regulatory process that you go through. The idea that all dredged material should be used for beneficial uses is a great idea, but it comes with a huge price tag. You need to plug that in to the reality check. It is not always straight forward. I had a chance to work with the inlet research program all around the country and I am comfortable in saying that while there are lessons to be learned from the Florida experience, North Carolina has some unique challenges that would preclude it from being able to automatically plug into the knowledge base gained there. The tools, monitoring, and modeling we have today are critical to being able to make much better decisions. The placement of sand on adjacent beaches can be done in various ways, but you also need to talk about stockpiling sand for the inevitable storm events. These storm events are going to become more and more violent. The changes in our weather patterns would make it important to find ways to keep sources of sand available.

Todd Miller, founder and Executive Director of Coastal Federation, stated I know Bogue Inlet the best since that is where I have spent most of my time. Anyone that has spent time in our inlets knows how beautiful they are, how powerful they are, and how fickle and unpredictable they are. I would ask the CRC to consider the following six recommendations: strive to manage inlets in a way that perpetuates their natural values and functions; balance human needs by respecting natural inlet processes and functions; minimize inlet management costs in working with and not against natural systems; use regional sand management to provide for large-scale beach renourishment rather than relying on mining inlets; maintain existing limits on new land development within hazardous inlet lands, and look for economical opportunities to strengthen these development standards when feasible; and evaluate what works and does not work with inlet management, and learn from these experiences. Respecting the natural functions of inlets is key to the success of management efforts. We're lucky that most inlets in our state are largely natural with only minor impacts in how they function that have resulted from human management activities. The two big exceptions are Beaufort Inlet and the Cape Fear River. The more heavily dredged and modified inlets become the more it costs to deal with the consequences of these inlet manipulations each year. Most land use patterns near North Carolina inlets have now been established and all these lands are subject to state and local development regulations. Most inlets are critical habitat for many important species of fish and wildlife. The shorelines and channels around inlets are heavily used for boating, fishing, and swimming which brings huge economic return to the coastal community. Future management of our inlets should reflect their current status and uses as well as the inevitable hazards of living on

shifting barrier islands with rising seas and constant storms. I would ask the CRC to place the highest priority on maintaining the ability of inlet systems to function naturally. This doesn't mean that inlets can't be managed. Examples of management measures that work with and preserve the natural ways inlets function include strategic dredging of natural channels to aid in recreational navigation as well as realignment of channels in inlets to help avoid erosion hotspots on adjacent islands. These measures must be done in a way that doesn't disrupt the natural inlet processes. Second, emphasis on avoiding escalating the extent of disruptions to natural processes within inlets that are already significantly modified and instead seek ways to replicate natural inlet processes where that may still be feasible. We need to limit how much sand can be mined from inlets for beach renourishment projects. Beneficial use of dredge material for established navigation channels may be appropriate but that will only yield limited amounts of sand. The extent of inlet dredging should be based upon established navigational requirements, and not the amount of sand needed for beach renourishment. Sand for renourishment should be found outside of the inlet systems as part of regional sand management planning. There should be adequate monitoring and evaluation criteria on permits issued for inlet management. It is vital to learn from the past successes and failures and document how well previous management measures worked, how much those measures cost and what environmental consequences occurred. Monitoring and evaluation need to be part of project design and not conducted piecemeal as an afterthought. It is critical to require adequate record keeping up front so that projects can be fully analyzed. These recommendations align with several real world conditions that we're facing. Most local governments support minimizing development in these highly hazardous locations or at least not increasing the potential for development beyond existing standards. Paying for inlet management is increasingly a shared partnership between local and state government and we have to find economical ways to accomplish this management because money is very limited and there will never be enough to go around. The cost of providing services and insurance in these hazardous areas will continue to increase and place more of a burden on property owners and government agencies. Federal environmental laws that protect habitat for fish and wildlife already play a big role in governing inlet management and they cannot be ignored when devising future inlet management strategies.

Jeff Richter, Environmental Resource Section of USACE Wilmington District, stated as we have all heard funding is a big problem for the Corps of Engineers. The Corps' navigation program only maintains certain inlets. We do not maintain all of the shallow draft inlets in North Carolina. With the funding limitations we have a limited dredge fleet. What those guys do is amazing with the limitations that are put on them. The funding impacts what they can do and when. The cost share programs that we have in place have been a huge help. We do have some environmental restrictions. In certain projects where we have determined that the environmental impacts are minimal or non-existent we work very closely with the federal and state resource agencies and have gotten a little bit of relief so we can work those projects when we can. As far as our coastal storm reduction projects, the recharge of our borrow area is very tricky and we are in the process of looking for more borrow areas that are going to be suitable for future projects.

Chris Gibson, President TI Coastal a coastal engineering firm in Wilmington, stated one thing we need to realize is that as the state moves forward with working with the Corps and/or locals to manage these inlets, we are being asked to manage one of the most dynamic situations anywhere on Earth. For those of you that know me, you know that I ran a commercial fishing boat in high school and college. The inlets between Bogue and Shallotte were my office. I have been in and out of those inlets in the daylight and dark for many years. The father of the mate that I had in high school was in the upper level of the Corps and one night at the dinner table we were talking about dredging and the sidecast dredge was dredging in Topsail Inlet. I asked why the dredge wasn't working where it

seemed like it should be and I got a great explanation of the federal authorization process. Quite simply, it took an Act of Congress to change how things are done once things are federally authorized. Studies would need to be done on how the inlet was working and what the dynamics were and by the time the study was done it may no longer be what we need to do. It is a dog chasing its tail. This past year working with Topsail Inlet we were in the permitting process and getting down to the end and most of the issues don't come from Coastal Management or the state agencies, but from the outside and federal agencies. We get letters from National Marine Fisheries Service and US Fish and Wildlife Service saying we don't need a management plan, we need an adaptive management plan. How does that work? When you look it up, what you need to do is come up with a plan for dealing with every consequence that we could not foresee. We had to plan for what we could not know. That is a difficult situation. We looked at what we did at Mason's Inlet and looked at what we did on each project and then the next project we would tweak it and make it better and more economical. When you have a federal authorization on these projects, they don't necessarily have a local permit. You still have to go through the permitting process just to do the exact same work as the feds. It's relatively easy if you keep it the same, but it's an extra process we have to go through. In the permitting process you are asked for the purpose of what you are doing. Dual purpose is very difficult. When you want to do navigation maintenance and beach disposal that's ok, but navigation maintenance and beach management are seen as two different goals and may have competing interests. When the State went down the road with the BIMP we had the realization that these are holistic systems. There is accretion in the inlets and erosion on the beaches. At Mason's Inlet the accretion rate is nearly identical to the erosion rate on the beach. If we continue to manage the two together then we have the resources that we need. That sand is a valuable resource. When we are looking at local projects we have some flexibility. Within the permitting process we have a lot of flexibility that we don't have at the federal level. Beneficial use can be a purpose and not just a secondary benefit. We can integrate beach renourishment and navigation maintenance. We aren't short on sand; it's just in the wrong place. We can look at dredge depth versus navigation depth when we look at these. With the Corps they look at the navigation depth and going deeper goes beyond the authorization. When we look at these projects at the local level, why can't we dredge to 15-16 feet and give ourselves time for some shoaling to occur before we have a navigation issue. If you go to the beach and dig a hole and dig two handfuls up, the first wave fills the hole back in. If you dig out ten handfuls then it might last ten minutes. It's the same with inlet management and beach renourishment. Another thing we have available to us is adaptive beach design. Tweaking the design by a little bit of elevation change on the beach or a little slope change can make a world of difference in how that particular type of sand behaves on the beach. We need to remember that most of what happens in these inlets and on the beaches is event driven. Modeling gives us a great look at what would happen under normal conditions or specific conditions, but everything in North Carolina is event driven. We need to be able to deal with that. We need to be careful with our permitting rules and regulations, particularly our rules that implement the static line. One size does not fit all. We have looked at this and there is a hard number on it. You end up with a project that will result in a static line unless the Town does a dusting on the beach and then there isn't a lot of storm damage protection because the fill is so thin. When we make properties non-conforming then it reduces the property value. The static line causes an economic burden. We need to look forward and be proactive. It is better to be proactive than reactive. It is hard to manage a beach when you are in a critically eroded state.

Greg Lewis stated Dr. Olsen said that most of the dredge material is put back on the beach in Florida. In North Carolina we find that very hard to happen. What specifically is allowing Florida to benefit from the sand being put back? Is Florida not using the Corps of Engineers under their least cost method or is there some funding mechanism that is paying for that? Dr. Olsen stated a vast

majority of these are federal projects. A lot of it is compliance with Coastal Zone Management. Interestingly enough, in the state of Florida the Corps of Engineers has to pull a permit. Their political position is that they don't have to pull any permits from the state of Florida. As a result of that all of their projects every ten years have to have a new maintenance dredging permit. The Cape Fear River is a good example here. The Corps is implementing an extraordinarily unique management plan at the Cape Fear River. The genesis for that is the state of North Carolina's Coastal Zone Management Program. If you evaluate how and why the permits were issued. A lot of your inlets are different here. Most of ours are navigation related. Most of our inlets are stabilized in a larger manner than yours. We have inlets that are recreational inlets that have breakwaters, jetties and maintenance programs. All of those have disposal back on the beaches. The state has tightened up their standards and the Corps has attempted to meet that. We have money available once in awhile. The rhetorical question with lowest cost and cost effective is, to whom is it the lowest cost? It is more than the federal interest. This is a long-term partnership and there are agreements between the Corps and the Florida Department of Environmental Protection as to how these things will be addressed.

Suzanne Dorsey asked how we have more influence on the activity of the Corps? The Corps seems to dictate to the state rather than the other way around. I have heard from the panel that the Corps is doing great things, but at the same time we are having a hard time getting what we need. How do we make the Corps more responsive to the needs of the state of North Carolina particularly as it relates to putting sand on the beach and the idea of long-term, forward thinking beach and inlet management? Rudi Rudolph stated the state has let the Corps off the hook. You can say legally that we can't do this or that, but then go the political route. If you tell the Corps that they have to do something and they say we can't and therefore the Port will be shut down then the Governor will call a Congressman and ask for help. This is how hard we need to get into this. Layton Bedsole commented that while we are developing these inlet management approaches we need to stockpile for future uses. This is a New Hanover county perspective, but the Carolina Beach CSDR sand source is within the inlet. The Merritt is the primary maintenance dredging apparatus. If we could get full template dredging and perhaps stockpile that material within the borrow area in the inlet system within the next cycle we could remove that sand and put it on the beach. A lot of our permits read that you cannot handle the material twice. If we could progress from a sidecaster to a hopper dredge so we could place and manage the material in an area that we could pick it up in the future and use within a CSDR then we are looking at a closed loop.

Larry Baldwin asked what the top three forces for inlet dynamics are. Rudi Rudolph stated the channel orientation of the ebb tide delta and the flood channels that can be manipulated. The cross sectional area where the tidal prism goes through and manipulating that causes more volume of sand going out to the ebb tide delta which creates more problems. Eric Olsen stated there are many more quasi-natural inlets here. These inlets are a function of balance between the waves driving the sediment and the currents moving sediment to other locations. With large scale, commercial navigation projects the inlets have to respond to them. They are kept in place in the same location and the dynamic geology of that inlet changes over those decades and the ebb tidal platform will collapse. The same thing happens when you have jetties or a draft commercial channel. The effects are the same once you keep it in place. You will have some areas of the inlet that will accrete, but there is the same volume of erosion on the other side. That sets off major changes in beach erosion that you have to respond to. There are unique applications here such as side-casting. I don't know of any other place on the east coast where side-casting is used to keep a channel open. Not that it can't be a cost effective operation, but there are pluses and minuses associated with it and sometimes it is a short-lived channel life. Larry Baldwin asked what the major types of engineered structures that

would combat these things in deep versus shallow draft inlets would be. Layton Bedsole commented that in the shallow draft approach we hear the phrase follow the deep water. If you look at historical post-dredging efforts in Carolina Beach Inlet it is pretty much the same footprint. While we are developing these management plans if we can have some flexibility within a soft solution that is going to move to some degree instead of saying here is the deep water today and two weeks later it moves just enough and make us poke holes again. Give us some flexibility in the shallow draft inlets.

Frank Gorham asked what if we took Chris Gibson's concept and said from now on permit designs have to attempt to address not today, but reduce frequency and address something for the next four to five years. The CRC could mandate that we be proactive. Can you engineers design that? Chris Gibson said we are already being asked to do that. If you look at what is happening within the rules, particularly within the static line exception, you are already asking us for a 30 year management plan. We are already heading down that road. Todd Miller stated to explore that option it is important to go back and look at our track record and analyze projects where it has been attempted in the past. At the Bogue Inlet project, the channel was dredged pretty deeply when it was relocated and the statement at the time was that it would assure that the channel would be there a lot longer because it was deeper, but it didn't last very long. Rudi Rudolph stated that with Bogue Inlet we put a new inlet, we didn't just dig the existing one deeper. We tried to capture the same volume of water the existing channel was moving. Braxton Davis stated the Division wants folks to be proactive and comprehensive and we have to have a quid pro quo on the other side that if you do all the work up front then we will streamline the permitting mechanism. We are working on that for the shallow draft inlets, and on the beach side with Bogue Banks. We have staff involved with that effort and trying to evaluate the long-term potential to streamline reviews of all events over that longer timeframe.

Frank Gorham stated that in my experience I want us to look at projects that we aren't doing the best engineering design. Sometimes a dredging window and the 300,000 cubic yards makes us take a band aid approach. Is there a scenario where we would want to expand the dredging window? Layton Bedsole responded yes. The work can be done outside the window with specified stipulations and monitoring. By giving us an extra month on both ends and allowing us to contract in that period gives the contractors more flexibility in doing more projects understanding that if we chose that route we have to implement those monitoring and mitigation measures outside the traditional window. Rudi Rudolph stated the water is warmer in Morehead City so we can only hopper dredge between January and March because of the regional turtle take limit that the Corps administers. So we have to get all of our stuff done by March 31 and then the dredges go to Florida where the water is warmer, there are more projects and there are more turtles. They can dredge in Florida until April. The reasoning is there are so many turtles there that we can't avoid them so we can send the operations there. These are the types of things where there is flexibility. Mr. Rudolph asked the question of the CRC and DCM, what are you all looking for as a roadmap of this to take a broader focus on inlets and development standards inside the boxes? Eric Olsen stated there is a lot of precedent for dredging and sea turtle nesting in other states. It has to do with the density of the nesting on the beaches. In northeast Florida we do our beach restoration projects in the summer. We have low nesting densities. It is a function of what is reasonable and the potential for impact. We are permitted by the US Fish and Wildlife Service for take. In the event that we kill a turtle or ruin a nest you are permitted to do that. It requires an additional coordination with the US Fish and Wildlife Service but it isn't impossible. In North Carolina it seems to be impossible because there is a basic agreement that all attempts would be made to work out of season. It can cost you dearly with respect to your beach nourishment costs because the hopper dredge fleet is limited to working in the

channels in the winter months. They are unavailable to North Carolina if you want to do beach nourishment in the summer months. They will be working in the Gulf of Mexico, Alabama and certain places in Florida in the summer months. There would be a tremendous cost savings to the state of North Carolina if you address that issue. Now it is going from turtles into birds and that is a dangerous thing because if you look at those two windows there is probably three months of the year that you can work.

Renee Cahoon stated that it took seven years to get a beach nourishment permit up here because we can't dredge here in the winter time. The summer time is the only time we can dredge. We have to be more realistic as we move along and realize that the state is segmented and that the conditions on the northern part of the state are not the same as the conditions on the southern part.

Braxton Davis stated we will be having four regional meetings on this issue to get public and local government input. The staff will be working hard to pull together a list of ideas for prioritization. We are working with state and federal agency partners on a variety of things including the endangered species issue.

Chris Gibson stated there were several pieces in the post-Irene projects that made it complex. The project was done in two phases and we did the first phase relatively easily. The first phase was to dredge within the channels and we were dredging solely the shoals that were within the inlet channels and to the depths that the Corps was doing. That took about four months to get it permitted. The plan was to do it again to put back what we lost in Irene. Because of the configuration of the channel and some evaluations of the Corps' authorizations the channel dimensions we dug the first time were no longer the exact dimensions of the federal channel. We wound up with not enough material within the easy authorization in order to get enough material to finish the project. We went through a process of getting a permit to dredge deeper so we could take the channel out to the ocean and obtain enough material to bring the project back to original template. We had four one-stop meetings over about nine months to where we could agree to what we were going to apply for and then went through another phase where we went through the review process and agencies began to change their mind. Historically it was worse because there was NEPA, SEPA and permitting. It has been shortened a little, but how do we get it down into one process with one timeline?

Frank Gorham stated that he would like to keep this panel as an ad hoc panel of expertise and ask if they will work on a phone call and give the CRC five top priorities to be looking at from an inlet management standpoint.

CRC Science Panel Origin, Role and Composition (CRC 14-08)

Mike Lopazanski

Mike Lopazanski stated in the mid-1990's, DCM began to put more focus on coastal hazards to take advantage of some advances in understanding, improved technology, and hiring a coastal geologist. We also had back to back hurricanes. In 1997, we had five federally declared disasters. Governor Hunt formed a task force to make recommendations for state recovery. This task force made recommendations to the CRC to reexamine its coastal hazards mitigation rules and policies. The recommendations focused on the inlet hazard areas, high flood hazard areas, erosion rate calculations, and setback determinations. The CRC assembled a panel that made recommendations to change the way we do erosion rates and setbacks as well as the methodologies used to determine them. They also recommended that we establish a barrier island erosion task force that would have

regular involvement with the CRC. There was an interest within the CRC to link science and policy. There was a constant need for scientific knowledge in the development of CRC rules. The CRC was interested in finding scientists that were actively involved in coastal research in North Carolina. The first Science Panel was assembled by DCM staff in consultation with the CRC. It was comprised of geologists and engineers and the original charge was developed. The charge was to update and report on the current state of knowledge of the coastal processes in North Carolina, review the methodologies that we use for identifying various coastal hazards, and review the current rules that apply to development in the coastal hazard area. The Science Panel works on specific tasks and a lot of them go on for several years. In 2013, the CRC has re-examined the Science Panel and made some changes in their charge. The CRC also added two additional slots to the membership, called for ad hoc members to be added to the Panel to fill specific needs for specific projects, attempted to formalize the appointment process, and institute staggered terms. Provisions were also made for review by the CRC of reports prior to their release to the public and the Panel should develop their recommendations by consensus and in the absence of consensus they should include a minority opinion. The Panel now consists of coastal engineers, coastal geologists, and a marine biologist. There are currently 11 members.

Frank Gorham recommended that the four vacancies not be filled until the CRC determines how they want to use the Science Panel. As a Commission we need to look at the job description of the Science Panel.

Braxton Davis stated the Science Panel has been working with staff on revisiting the inlet hazard area boundaries and that was in response to the passage of HB819 (Session Law 2012-202). That law requires us to evaluate whether we should have inlet hazard areas as an AEC. It is a technical conversation about the area of influence on an inlet and why the shoreline changes differ between the inlets and beachfront. There have been ongoing meetings with the Science Panel.

PUBLIC INPUT AND COMMENT

Marvin Demers stated I am a resident in Nags Head and I have a brief comment relevant to the D.O.T. in Nags Head variance discussion. We have several outfalls along the Outer Banks. Inevitably they all need maintenance and perhaps extinction sooner or later. Under the current rules the only way to perform maintenance on the outfalls is to come to the CRC for a variance. Since it is such a predictable process my only comment is perhaps a rule could be developed so that the applicant doesn't have to come for a variance each and every time. The current system works and maybe it doesn't need to be changed, but that is just a thought for consideration.

Charles Baldwin stated I am the attorney for the Village of Bald Head Island. At Bald Head we have a lot of experience with reactive inlet management but not experience with proactive inlet management. To date that has been essentially sandbags and variances. I can tell you from personal experience over ten years that it has been time consuming, legalistic and far from a long-term fix. Hopefully this inlet management process will get us to examine the tools that might be in the tool box and get us some variety and hopefully get us to a process more collaborative and forward looking and more efficient. Perhaps there could be a General Permit for projects in certain areas or situations where there will be recurring types of work. I have not heard a definition of what we mean by management. I am not sure there has to be a single definition. I heard some terms that might be forward looking such as planning, budgeting and reassessing. If we are simply in a situation where we are going to create a document through this process and put it in a drawer that is the last thing the State needs. Stop the process now and save the time and money. We will have to involve the Corps of Engineers in this process. We can't manage without their help, permitting and

data. At Bald Head we are waiting right now on the last two monitoring reports that cover several years. We haven't been provided any explanation about why we don't have them. We have asked repeatedly. You can't manage unless you have the data with which to manage. We have a time constraint. We know from decades of experience and from the shipping channel we get 2/3 of the sand that we need. We lose 500,000 cubic yards a year on average. These situations are going to keep recurring and the tools we are talking about are probably a band aid, but we need to manage it as best as we can for everybody's benefit. Our beaches are not just important for recreation, but they are important for habitat. The beach is important to the tourism and real estate industries. The protective dunes are important. I would encourage the Commission to think big and be bold in this effort. Let's give the General Assembly a substantive, meaningful document. Monitoring and sand placement involve money. If there are dollar signs attached, so be it, but let's be able to articulate why those dollars are important and necessary to the State of North Carolina.

Flood Insurance Panel Discussion

John Snipes

John Snipes stated in response to the CRC's request, today's panel was put together to address the insurance issues that relate to our coastal areas. Stuart Powell has been personally involved in the insurance business for over 40 years and joined the staff of the Independent Insurance Agents of North Carolina as the Director of Education in 1995, in 2004 he assumed the supervision of the Association's insurance operations and he also owned an insurance agency. Ken Ashe is the Assistant Director for the Geospatial and Technological Management Office for the NC Division of Emergency Management is a professional engineer and a certified flood map manager. John Gerber serves as the state coordinator for the National Flood Insurance Program, is a professional engineer and certified flood plan manager. Willo Kelly is the Government Affairs Director with the Outer Banks Homebuilders Association and serves as president of NC-20. Spencer Rogers is a member of the Science Panel and is also an expert in this area.

Stuart Powell, Vice President of Agency Operations and Technical Affairs Independent Insurance Agents of North Carolina, stated we are an association of independent agents. We have a unique place in the insurance markets in that we represent a number of insurance companies but we also have lots of clients so our interest is in a viable market. We don't get involved in rate issues because we are the retailers. The Biggert-Waters Act is a federal reauthorization of the National Flood Insurance Program that was enacted by Congress in July 2012. Since then we have been in various stages of implementing Biggert-Waters. Since this Act was introduced we have seen some problems arise with rating issues. One of the things we were glad about is that it is a five year reauthorization of the Flood Act. Until July 2012, we were suffering through a long series of incremental reauthorizations. That caused a lot of instability in the National Flood Insurance Program. Some of the major issues are the flood rates and the belief that some of them are subsidized, a lot of mapping issues, mitigation programs, flood in progress determinations, studies, and building code enforcement. The flood insurance program was started in 1968 and has worked reasonably well. In 2005, the flood insurance program was bringing in about 2 billion per year in annual premiums. That was largely sustaining their annual losses. To back that up they had a 1.5 billion dollar letter of credit from Congress. After Katrina the flood damage was in excess of 20 billion dollars. Congress has had to appropriate funds to support the program since then. Two years ago after Superstorm Sandy in New Jersey, it was another big hit to the flood program. Premiums that are going into the system have not been adequate to cover the losses they have sustained. If you have a building that was built prior to the determination of the flood zone then it is a "pre-FIRM" building. The pre-FIRM buildings do not comply with building codes and land use plans. The law also removes

subsidies for non-primary residences, severe repetitive loss property, properties that have incurred flood damage cumulatively in excess of fair market value, business property, and flood damages and substantial improvements exceeding 30% of fair market value. The law removes subsidized pre-FIRM rates for new policies; lapsed policies or policies for newly purchased property, property owners who refused a FEMA mitigation offer or repetitive or severe repetitive loss property, and capped the rate increase to 25% until the full risk rate is attained. The rate increase on all other properties went from 10-20%. Part of the problem is there are a number of dynamics that go into the premium you pay. One is rate per unit of insurance. The other is the flood zone that you are in and whether or not the flood maps have changed since your property was built. Severe repetitive loss structures for single family residences are defined as four or more claims each exceeding \$5,000 or cumulatively more than \$20,000. They did allow FEMA to institute an installment payment plan. There are also limitations on banks and how they can use force placement of flood insurance. If you can't produce a hazard insurance policy then they have programs that they can put in force for you. Those programs are often not very competitive and can be expensive. There were some abuses in the ways that banks were using these programs. A cap has been put into place for 20% per year over five years for flood map changes that cause higher rates. The penalties have been increased for lenders that are not in compliance. There have been increases in the minimum deductibles both pre- and post-FIRM. There is also a mandate that the rates cover the average annual flooding but also catastrophic loss years. FEMA was also mandated to set up a Reserve Fund of at least one percent of the total potential loss. FEMA is also required to repay the current debt over a ten year repayment period (approximately 20 billion dollars). This is putting a lot of pressure on the rate structure. An amendment has been made to RESPA to require explanation of the availability of private flood insurance. There is also a lot in the Biggert-Waters Act about wind versus water damage and a method to resolve the allocation of losses. A Technical Mapping Advisory Council has been set up to tackle some of the mapping issues. FEMA has been required to notify property owners when they have been removed from a mandatory purchase zone or when they have been included into a mandatory purchase zone. There is a scientific resolution panel to arbitrate contested appeals of map revisions. The limitation has been removed on state contributions to updated mapping. There is a lot of interest in Congress in interagency coordination of flood mapping. There has been a consolidation in the NFIP funded mitigation programs into one single program. This allows required flood mitigation plans to be part of a community's multi-hazard mitigation plan. The Act removes beach nourishment as an allowed mitigation activity, but added elevation, relocation or flood-proofing of utilities as allowed mitigation activities. Demolition and rebuild were also added as allowed mitigation activities. Mitigation reforms allow for direct mitigation grants from FEMA if it is determined that local governments are not able to do so. There are caps on federal grants for state and community mitigation plan development and if the money is not spent in five years the money must be returned. Federal share requirements have been restructured. FEMA must develop the process for determining when a flood event has commenced. There is currently a 30-day waiting period for flood insurance. Some of the studies included in the law include an analysis of increasing max limits for residential and commercial structures, annual financial reports including efforts to buy substantially damaged properties and analyses, a GAO report on pre-FIRM structures, and FEMA and GAO study of reinsurance and privatization. A GAO study on business interruption and additional living expenses and a FEMA study of using national recognized building codes as part of floodplain management have also been included in the law. Additional studies include requiring the federal insurance office to study the current markets for natural catastrophe insurance in the United States including affordability and why only 45 of 565 Native American tribes participate in the NFIP. Community development block grants can be used for staffing and local building code enforcement and providing flood hazard and flood insurance information to local residents. Some of the contentious issues are the rate increases and the grandfathering issues. The phase out of the pre-

FIRM for non-primary residences was supposed to begin in January 2013 and we are seeing that now. There is a 25% increase until premiums reflect full risk rates. In October 2013 the phase in began of full risk rates for business properties, severe repetitive loss residential properties with subsidized rates, and owners of property with cumulative claims exceeding the fair market value. These will see an annual increase of 25% until premiums reflect full risk rates. Owners of property not insured upon the enactment of Biggert-Waters have to go in at the full risk rate. If your NFIP policy has lapsed or if you purchase property after the enactment of Biggert-Waters then you pay the full risk rate. In the past if you had flood insurance and the maps changed then you were able to keep that original rate based on the map at the time. This is now in question and was supposed to go into effect in October 2012, but has been delayed. Notes have been added in the flood manual on grandfathering that allow for the transfer of property subject to pre-FIRM rates and are no longer eligible for grandfathering.

If you own property in coastal North Carolina then you have as many as three insurance policies a home owner's policy, a beach plan wind coverage policy, and a flood policy. What has been happening is we are seeing a steady withdrawal of standard insurance companies from writing wind policies.

Kenneth Ashe stated nature does not read the lines. FEMA mandates that you insure the one percent annual chance. As advocates for citizens and communities we encourage that everybody buy insurance. The Legislature made a commitment to have the most current and most accurate maps possible. Historically the storm surge affects how big the waves can be. In the early 2000's FEMA had a moratorium on storm surge studies. When we mapped North Carolina the first time around the storm surge stayed the same. One of the big commitments we have done is to redo the storm surge. This is extremely confrontational. We tried to get the most current information that we could. You take the information and combine it with historic information on storms and that is how we make the maps. We surveyed every 800 feet along the beach for wave modeling. This allowed us to figure out where the back of the primary frontal dune is. The maps will be released within the next year for review and comment. We will start to release the maps in July for the southern counties and all the dates for release are dependent on FEMA approval.

Willo Kelly stated I was asked to present information on wind insurance and market conditions. Our wind rates and what we pay for wind coverage is based on your home owner's insurance rate. There was a recent filing by the North Carolina Rate Bureau where they asked for rate increases on the barrier islands. The rest of the state has wind included in their homeowner's policy. Over the last 20 years Charlotte did not see an increase in their insurance rates. On the barrier islands in 1993 we were paying \$578 as of July 1st of last year when new rates went into effect the rate is \$1,613. There is a wide disparity in rates across the state. When we pay our wind insurance we get an extra five percent tacked onto that. When we have a beach plan policy we pay the maximum rate allowed with no discounts. We all know the cost of property insurance affects the affordability of housing and the ability to qualify and maintain a mortgage. If you talk to any realtor you will hear that there are more cash deals. Investors are finding out that due to the rising cost of insurance and the uncertainty of what is happening with the flood insurance program people are paying cash. Over one-quarter of all Outer Banks real estate transactions have been cash transactions in the past two years. If you have no mortgage there is not an insurance requirement.

Frank Gorham asked John Snipes to come back to the CRC with anything that the CRC could advocate for that would bring more competition to the State.

CHAIRMAN'S REPORT

Chairman Gorham stated the next meeting will be May 14-15 in Carteret County. Renee Cahoon, Chair of the Economic Development subcommittee, will give a status report on the economic development report.

OLD/NEW BUSINESS

Jamin Simmons asked that the CRC Mission Statement be posted at the beginning of CRC meetings. He will also look at the Mission Statement and update it. Any recommended changes will be brought before the Commission for consideration. Chairman Gorham added that the conflict of interest statement should be posted at the beginning of each meeting as well.

Alan Holden, Mayor of Holden Beach, thanked the Division and the Corps of Engineers for using common sense in helping us expedite getting the necessary paperwork for the navigation project at Lockwood Folly Inlet. The Corps had the job lined up and we were able to add to our beach nourishment project. It saved the Town of Holden Beach the expense of moving the equipment to our site. The County of Brunswick and hopefully the Town of Oak Island will come on board with some of the finances of this project. It was an overall wonderful success to see some common sense come together with some ingenuity and willingness to help. One request for the CRC is the concern for the Town of Holden Beach in regards to the whole area from the Holden Beach bridge to the Lockwood Folly Inlet being in the Inlet Hazard Area. We never did understand why it was expanded to that large an area.

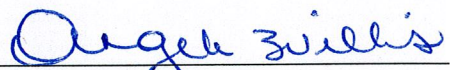
Braxton Davis stated that the PowerPoint presentations will be posted to the DCM website following CRC meetings.

With no further business, the CRC adjourned.

Respectfully submitted,



Braxton Davis, Executive Secretary



Angela Willis, Recording Secretary