

MINUTES
NORTH CAROLINA SEDIMENTATION CONTROL COMMISSION
February 18, 2009
GROUND FLOOR HEARING ROOM, ARCHDALE BUILDING
RALEIGH, NORTH CAROLINA

The North Carolina Sedimentation Control Commission met February 18, 2009 at 10:00 a.m. in the Ground Floor Hearing Room, Raleigh, North Carolina. The following persons were in attendance for all or part of the meeting:

COMMISSION MEMBERS

Mr. Donnie Brewer, Chairman
Mr. Mark Taylor
Mr. Richard Vick
Ms. Elaine Chiosso
Mr. William "Buzz" Bryson
Dr. Joe Kleiss
Dr. Bill Miller
Mr. Robert Weintraub
Mr. Grover McPherson
Mr. Tommy Esqueda

OTHERS

Mr. Dee Freeman, Secretary, DENR
Mr. Jim Simons, Director, Division of Land Resources
Mr. Mell Nevils, Section Chief, Land Quality Section
Mr. Gray Hauser, State Sedimentation Specialist, Land Quality Section
Mr. Gowon Goode, Assistant State Sedimentation Specialist, Land Quality Section
Ms. Stephanie Lane, Administrative Secretary, Land Quality Section
Mr. Ed Gavin, Assistant Attorney General
Mr. John Payne, Assistant Attorney General
Mr. John Holley, Regional Engineer, Land Quality Section
Ms. Christina Mason, Environmental Specialist, Land Quality Section
Ms. Amy Sims, DENR
Mr. Bradley Bennett, DWQ
Mr. Matt Matthews, DWQ
Mr. Steve Varnedoe, NCDOT
Mr. David Harris, NCDOT
Mr. Ted Sherrod, NCDOT
Mr. Ben DeWit, NCDOT
Mr. Todd E. Hoefler, Town of Cary
Mr. Richard McLaughlin, NCSU
Ms. Melanie McCaleb, NCSU
Ms. Kay Bond, SELC

PRELIMINARY MATTERS

Mr. Brewer called the meeting to order and read Executive Order No. 1.

Mr. Jim Simons introduced the new DENR Secretary, Mr. Dee Freeman. He also welcomed Mr. Freeman to the Department.

Mr. Freeman expressed his thanks to the Commission Members for doing a good job and looked forward to working with the Commissioners in the years to come.

Those in attendance introduced themselves.

Mr. Esqueda recused himself from Actions Item A, Local Program Contract Fund Request because Wake County Government has a proposal into the board for funds.

Action Item B, Local Program Reviews, the Town of Apex has a Wake County Administrative that Mr. Esqueda is responsible for the landfill operations and monies that changes hands between the Town of Apex and Wake County.

Approval of November 20, 2008 Minutes

Mr. Brewer called for approval of the minutes for the November 19, 2008 meeting. The motion to approve the minutes was made by Mr. Bryson. Ms. Chisso seconded the motion, and it carried unanimously.

ACTION ITEMS

Local Program Contract Fund Request - Gray Hauser

Mr. Hauser presented recommendations from the Local Program Contract Funds Committee for those local governments requesting funds.

The staff reviewed the status of the request that the commission has previously approved funding for the Town of Columbus but never executed a contract with the Town of Columbus wanting to start their program in July of 2010. The committee recommended that the Town of Columbus' proposal be funded first, since it was already approved by the SCC, when funds become available. The committee also recommended the funding of the Village of Whispering Pines' proposal because it is a new program and should be a higher funding priority than requests from existing programs. Funding the Town of Newton's, an existing program was also recommended. The committee did not recommend funding the Wake County's proposal because it did not meet the SCC guidelines for matching contributions it has for awarding grants

Mr. Taylor made a motion to accept the recommendations of the Local Programs Contract Fund Committee. Mr. McPherson seconded the motion, and it carried unanimously.

Local Program Reviews, Mr. Gray Hauser

Mr. Hauser reported on the reviews of the Guilford County, New Hanover County, Rowan County, Lincoln County and the Town of Apex local erosion and sedimentation control delegated programs.

Guilford County

Mr. Hauser reported on the review of the Guilford County Program. Currently a staff of three (3) contributes 2.1 full time equivalents to erosion and sediment control. There are currently 180 projects. Six projects were evaluated. All projects had adequate plans. One of the projects was under a Notice of Violation. One project was not in compliance as noted on a recent inspection report. Staff recommended that the local program adopt Civil Penalty Assessment Guidelines that will aid in consistency in assessing civil penalties. Continued delegation of the program was recommended. Dr. Miller moved to accept the staff's recommendations. Mr. Vick seconded the motion, and it carried unanimously.

New Hanover County

Mr. Hauser reported on the review of the New Hanover County Program. The local program was reviewed on January 15, 2009. The County program currently has a staff of 3 which contributes 2.5 full-time equivalents to erosion control. There are currently 366 projects. Last year the staff approved 192 new projects and conducted approximately 1,680 inspections. Six projects were evaluated. All projects had adequate plans. Each project file contained adequate documentation. The files contained reports of frequent inspections as well as letters of plan approval. Staff recommended continued delegation of the program. Mr. Bryson moved to accept the staff's recommendations. Mr. McPherson seconded the motion, and it carried unanimously.

Town of Apex

Mr. Hauser reported on the review of the Town of Apex Program. The local Program was reviewed on February 5, 2009. Apex currently has one full time person dedicated to erosion and sediment control. There are currently 46 projects. Last year the staff did 57 plan reviews while approving 19 new projects. Three hundred inspections and 840 site visits were conducted over the past year. Sixteen notices of violation and eight civil penalties were issued. Five projects were reviewed, including a site with three civil penalty assessments. Four of the five had been sited with violations on the last inspection reports and one was under a Notice of Violation. Staff recommended continued delegation of the program with recommendations that the program require a better construction sequence, measures at stream crossings and written inspection reports when sites were brought back into compliance with a Notice of Violation. Mr. Bryson made a motion to continued delegation of the program with the condition of a better construction sequence. Dr. Miller seconded the motion, and it was carried unanimously.

Rowan County

Mr. Hauser reported on the review of the Rowan County Program. The last action of the Commission was to continue the program's probation until the County ordinance was revised. The ordinance was revised effective July 7, 2008. An additional review of the program was conducted on February 12, 2009. Both of the county inspection positions remain filled, and the inspectors attended the local program workshop in January 2009. The plans for six projects were reviewed and five were inspected in the field. The sediment controls on the plans were adequate. Two projects were in very good condition, while two had erosion with sedimentation into a stream or lake. The wording of the letter of plan approval and the Notice of Violation needed improvement. The Notice of Violation should incorporate the inspection report by reference and clearly state a deadline for compliance. Staff recommended that the program probation end and the delegation to Rowan County continue. Ms. Chiosso made a motion to approve end probation and continue program delegation. Mr. Weintraub seconded the motion, and it was carried unanimously.

Lincoln County

Mr. Hauser reported the review on the Lincoln County Program. The program was reviewed on September 17, 2008 and was reviewed again on February 13, 2009. There were two central issues of concern: the frequency of site inspection and possible conflict of interest by staff. Since the September review, all projects greater than one acre in area have been inspected every 6 to 8 weeks. The staff plan reviewer has compiled a list of all persons for whom he has designed plans for the past. The list is posted at the office. Any plan reviews or site inspections for projects developed by these past clients are handled by the head of the program. Four projects were evaluated, including one from the previous review in September 2008. One project was currently under a Notice of Violation. Staff recommended continued delegation. Dr. Kleiss moved to accept the staff's recommendations. Mr. Vick seconded the motion, and it carried unanimously.

Town of Columbus Ordinance - Mr. Gray Hauser

Mr. Hauser reported on the Town of Columbus requesting approval of an amendment to their local program ordinance. The effect of the amendment was that Columbus would not take jurisdiction over any existing projects. The Commission did not approve the amendment. Dr. Miller made a motion for the staff to contact the Town of Columbus, and ask the Town to accept existing projects if they were in compliance with the SPCA. Mr. Bryson seconded the motion, and it carried unanimously.

Election of Vice-Chair for Commission - Mr. Donnie Brewer

Mr. Taylor made a motion to elect Dr. Kleiss as Vice-Chair for Commission. Mr. McPherson seconded the motion, and it carried unanimously.

Selection of Date for November 2009 SCC Meeting - Mr. Donnie Brewer

The Commission approved to move the November 19, 2009 meeting to November 12, 2009 at 10:00 am due to a conflict with the EMC meeting.

INFORMATION ITEMS

Proposed Effluent Standards for Discharges of Stormwater - Mr. Gray Hauser and Dr. Rich McLaughlin- Mr. Hauser and Dr. McLaughlin presented information on the draft rule (40 CFR 450) published by US EPA for public comment. Commission members discussed submitting public comments on the rule. There was a lack of consensus on a response to the proposed rule, and members desiring to provide public comment to US EPA were asked to respond individually.

Update on Trout Buffer Waiver Requests - Mr. Hauser presented an update on the trout buffer waiver requests. A handout was given to the Commission to summarize the progress of these requests and is attached to the original minutes.

Enforcement Report- Mr. Payne gave a summary of the Attorney General's enforcement report. A copy of this report is attached to the original minutes.

Land Quality Section Active Sediment Cases Report - Mr. Goode reviewed the status of Civil Penalty Assessments. There were no questions. A copy of this report is attached to the original minutes.

Status NCDOT Report - Mr. Goode presented the report on NC DOT's Erosion and Sedimentation Control Program with respect to the issuance of ICA's and approval of trout buffer waivers for maintenance projects. There were no questions. A copy of this report is attached to the original minutes.

Education Program Status Report - Mr. Hauser presented a report on the past and current projects in the Sediment Education Program.

Sediment Program Status Report - Mr. Nevils provided a report on LQS's current plan approval, inspection, and enforcement activities statewide.

Land Quality Section Report - Mr. Nevils provided a report on the current number of vacancies in the Section and other LQS activities and issues. Mr. Nevils, also, thank the Land Quality Staff.

CONCLUSION

Remarks by the Director - None

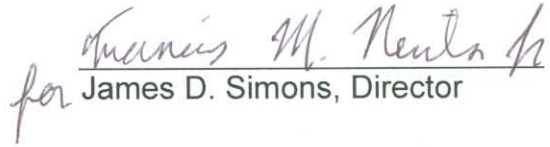
Remarks by the Commission Members -None

Remarks by the Chairman - Mr. Brewer thanked the staff for their job and thanked his colleague.

Adjournment

As there was no further business, Mr. Brewer adjourned the meeting.


Stephanie Lane, Recording Secretary


for Francis M. Newton for
James D. Simons, Director