

MINUTES
NORTH CAROLINA SEDIMENTATION CONTROL COMMISSION
MAY 4, 2021
GROUND FLOOR HEARING ROOM, ARCHDALE BUILDING
RALEIGH, NORTH CAROLINA

The North Carolina Sedimentation Control Commission met on May 4, 2021 at 10:00 a.m. via an online webinar. The following persons were in attendance via webinar for all or part of the meeting, with Commission members being present for the entire meeting:

COMMISSION MEMBERS

Dr. Susan White (Chair)
Ms. Emily Sutton
Mr. Benjamin Brown
Mr. Mark Taylor
Mr. Michael Taylor
Ms. LaToya Ogallo (Vice-Chair)
Dr. Richard McLaughlin
Ms. Marion Deerhake
Mr. Michael Willis (not present at beginning of meeting)
Mr. Hartwell Carson
Mr. Robert "Jason" Conner
Ms. Susan Foster (not present)

OTHERS

Mr. Brian Wrenn, Director, DEMLR
Mr. Toby Vinson, Program Operations Chief, DEMLR
Mr. Graham Parrish, State Assistant Sedimentation Specialist, DEMLR
Ms. Julie Coco, State Sedimentation Specialist, DEMLR
Ms. Rebecca Coppa, State Sedimentation Education Specialist, DEMLR
Mr. Zac Lentz, DEMLR-Winston Salem Regional Office
Mr. Jack Dalton, DEMLR-Winston Salem Regional Office
Ms. Sarah Zambon, Commission Counsel, Attorney General's Office
Mr. Tom Gerow, NCFS
Ms. Karyn Pageau, Wake County
Ms. Ashley Rodgers, Wake County
Mr. Kirk Stafford, Town of Cary
Ms. Anita Simpson, City of High Point
Mr. David Bowman, City of Burlington
Ms. Pat Donovan-Brandenburg, City of Jacksonville
Mr. Thomas Shrader, Pitt County Planning Department
Mr. Jonas Hill, Pitt County Planning Department
Mr. James Long, Pitt County Planning Department

PRELIMINARY MATTERS

Dr. White called the meeting to order at 10:01 am.

Dr. White read Executive Order No. 1 regarding avoidance of conflict of interest.

Those in attendance introduced themselves. Dr. White announced any potential conflicts with the Commission members and reminded them to recuse themselves from any discussions related to those conflicts. Dr. White read the guidelines for participating in the webinar.

Dr. White asked for a motion to approve the minutes from the February 23, 2021 meeting. Mr. Mark Taylor moved to approve the minutes. Dr. McLaughlin made a second; the motion passed, and the minutes were approved unanimously.

ACTION ITEMS

City of Jacksonville Local Program Review

The recommendation was made to continue the city's delegation under review for another six months. Mr. Carson made a motion to approve the recommendation made by the DEMLR staff. Ms. Ogallo made a second; the motion passed. Mr. Willis did not respond to roll call vote. Mr. Michael Taylor did not respond to roll call vote.

Iredell County Local Program Review

The recommendation was made to continue the county's delegation under review for another six months. Some commission members expressed their desire for Local Programs to issue more Notices of Violation. Ms. Ogallo made a motion to approve the recommendation made by the DEMLR staff. Dr. McLaughlin made a second; the motion passed. Mr. Willis did not respond to roll call vote. Mr. Michael Taylor did not respond to roll call vote.

Pitt County Local Program Review

The recommendation was made to continue the county's delegation. Mr. Michael Taylor moved to approve the recommendation made by the DEMLR staff. Ms. Ogallo made a second; the motion passed. Mr. Conner did not respond to roll call vote. Mr. Michael Taylor did not respond to roll call vote.

City of Burlington Local Program Review

The recommendation was made to continue the city's delegation. Mr. Willis moved to approve the recommendation made by the DEMLR staff. Dr. McLaughlin made a second; the motion passed. Mr. Conner did not respond to roll call vote. Mr. Michael Taylor did not respond to roll call vote.

INFORMATION ITEMS

Commission Technical Committee

Mark Taylor is the Chair for this committee. He commented on the first two meetings held to lay the foundation for committee structure and to start decisions on topics submitted by members and staff for further deliberation. He mentioned that the meeting schedule has been set for the third Thursday of each month from 3:30 – 4:30 pm. The next meeting is scheduled for May 20, 2021 via Cisco WebEx online webinar. Meetings are open to the public and must adhere to the NC Open Meetings Law.

Land Quality Section Active Sediment Cases and Enforcement

Ms. Coco reported on the status of civil penalty assessments and judicial actions.

Education Program Status Report

Ms. Rebecca Coppa reported on Sediment Education Program activities. This included virtual participation in STEM career days, a pre-kindergarten class and participation in the SciMatch program. She also reported that the 2021 Local Program Workshop moved to a virtual format and was coordinated with the Water Resources Research Institute (WRI) in four half-day webinars from April 19 – April 22. Topics included regulatory updates, design reviews, inspections and enforcement. Each day had approximately 140 virtual participants. Finally, a Project WET workshop is being planned for DEMLR employees in May. This workshop will provide training and activities that educators in each of the regional offices can use.

Ms. Coco added comments commending her staff on their efforts towards the 2021 Local Program Workshop. She noted that her presentation to the Local Programs involved emphasizing the importance of identifying jurisdictional waterbodies and riparian buffers on plans and requiring 404 permits and 401 water quality certifications be obtained as a condition to erosion control plan approval. Ms. Coco also presented guidance on when Notices of Violation and civil penalties should be issued and the factors to consider.

The Chair, Dr. White, excused herself from the meeting at approximately 11:56 AM. The Vice-Chair, Ms. Ogallo, resumed the meeting at that time.

Sediment Program Status Report

Ms. Coco reported on the Land Quality Section's statewide plan approvals, inspections, and enforcement activities. Numbers were available through the end of March 2021.

NCDOT Report

Ms. Coco reported on the Immediate Corrective Action Reports and the one Trout Buffer Waiver issued to the Department of Transportation.

Land Quality Section Report

Mr. Vinson provided a report on the current number of vacancies in the Section.

Coronavirus Disease of 2019 (COVID-19) Status

Mr. Vinson discussed how the pandemic and ensuing State executive orders have impacted program operations. Workloads have remained consistent during the pandemic, and staff are meeting their obligations in plan reviews and inspections. In-person meetings must be scheduled. The Department is following the Governor's executive orders and continuing its teleworking policy.

Civil Penalty Remissions Committee Update

Ms. Deerhake summarized the remission guidelines and duties for this committee. She also read over the factors to be considered in hearing and deciding upon penalty cases involving a remission request. She thanked the DEMLR staff for their support in preparing the case files and scheduling the meetings.

Ad-hoc Committee Proposal

Mr. Carson proposes a new committee to discuss topics concerning sedimentation and ways to prevent it. The committee would look at funding, enforcement, legislation, etc. He is soliciting members and staff. Mr. Wrenn may assign staff to Committee. Once the committee is formed, he plans to set the scope for this committee and define topics for deliberation within it. Mr. Carson proposed a quarterly meeting schedule and a meeting time of approximately one hour. The first meeting is suggested to occur between the May and August Commission meetings.

Legislative Proposals Regarding Erosion & Sediment Control

Mr. Brian Wrenn, DEMLR Director discussed drafts for Senate bills 389, 622 and 628 and draft House bill 489.

Senate bill 389 would remove some of the restrictions imposed upon DEMLR staff related to enforcement. Senate bill 622 would amend the Sediment Act to allow for an increase in fees similar to those recommended by the Sedimentation Control Commission since 2014. Staff are in support of these two bill drafts.

Senate bill 628 would require the NCDOT and other state agencies to use native-only seeds and plants for all landscaping and erosion control. The NCDOT and the NCDEQ currently specify or recommend the use of native seed mixes for appropriate applications. However, non-native seeds found in these mixes are known for rapid establishment of groundcover and erosion control and play a role in supporting the longer-term establishment of native grasses. House bill 489 is targeted towards local governments. It is an attempt to transfer permit responsibility from the builder to others without disclosure, and imposes a fee limit on single-family residential lots that are less than one acre. (Some Local Programs have ordinances more restrictive than the SPCA and require a plan for disturbances less than one acre.) It also restricts the amount of information available to the plan reviewer. This bill also dictates how to use silt fence. Given that many of the proposed provisions negatively impact the NCDOT, the fiscal requirements of Local Programs, and are in direct violation of the NPDES program requirements, DEMLR staff are opposed to S628 and H489.

CONCLUSION

Remarks by the Director – none

Remarks by Commission Members – Mr. Mark Taylor spoke on a benchmark for the number of local government full-time equivalent staff positions needed to effectively operate a program and guidance on issuing Notices of Violation. This information may need to come from discussions within committee meetings or from studies conducted by committee members.

Remarks by the Vice-Chair – Ms. LaToya Ogallo sent reminders to the members to renew their Statements of Economic Interest (due April 15th each year) and their ethics training. Members should expect more frequent email reminders if they have not completed their training.

Adjournment – Ms. Ogallo adjourned the meeting at approximately 1:09 pm.

Julie Coco, State Sediment Engineer
Division of Energy, Mineral, and Land
Resources

William Vinson, Jr.
Chief of Program Operations
Division of Energy, Mineral, and
Land Resources

LaToya Ogallo, Vice-Chair
Sedimentation Control Commission

Dr. Susan White, Chair
Sedimentation Control Commission