

NC COASTAL RESOURCES COMMISSION (CRC)

November 30 – December 1, 2016

**Hilton DoubleTree
Atlantic Beach, NC**

Present CRC Members

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

Larry Baldwin
Rick Catlin
Denise Gibbs
Marc Hairston
Greg Lewis

Phil Norris
Russell Rhodes
Jamin Simmons
Bill White

Present CRAC Members

Rudi Rudolph, Chair
Spencer Rogers, Co-Vice Chair
Bobby Outten, Co-Vice Chair
John Brodman
Jett Ferebee
Mike Moore
David Moya
Kris Noble
Kathleen Riely
Dave Weaver
Lee Wynns

Present from the Office of the Attorney General

Mary Lucasse

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

Christine A. Goebel

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. John Snipes was absent. No conflicts were reported. Based upon this roll call Chairman Gorham declared a quorum.

VARIANCES

Water's Edge Homeowners' Association, Inc. (CRC VR 16-10)

Christine Goebel, Assistant General Counsel/Stephen Coggins, Rountree Losee, LLP.

Jason Dail, DCM Field Representative, gave an overview of the site. Christy Goebel was present and represents staff. Stephen Coggins is present and represents petitioner.

Ms. Goebel stated, Petitioner owns common-area piers which extend from the subdivision property on the Atlantic Intracoastal Waterway (AIWW) in Pender County. The subdivision developer built nine slips on the AIWW in 2004 which extend into the waterbody to the AIWW channel setback and have depths which ranged from -1.91 to -3.92' NGVD '29. In 2008, petitioner started the CAMA permit process seeking to dredge the slips, but halted the process once objections were raised concerning impacts to SAV and SAV habitat by DCM, DWQ, DMF, and WRC. In May 2015, petitioner again sought a CAMA permit in order to dredge SAV and SAV habitat. Water depths at this site now ranged from -0.82' to -3.0 normal low water. After the same resource agencies raised concerns similar to those noted in 2008, DCM denied petitioner's permit application as noted in the denial letter. Petitioner now seeks a variance from the Commission's rules which require dredging avoid significant adverse impacts upon SAV and require navigation channels and boat basins to avoid beds of SAV. Ms. Goebel stated staff and petitioner agree on the third variance factor, but disagree on the other three variance criteria which must be met in order to grant the variance request. Stephen Coggins represented petitioner and reviewed the stipulated facts which he contends supports the granting of the variance request.

Renee Cahoon made a motion to support Petitioner's position that unnecessary hardships will result from strict application of the rules, standards or orders issued by the Commission. Phil Norris seconded the motion. The motion passed with nine votes in favor (Rhodes, Norris, Catlin, Baldwin, Gorham, White, Hairston, Gibbs, Simmons) and three opposed (Andrew, Cahoon, Lewis).

Renee Cahoon made a motion to support Petitioner's position that hardships result from conditions peculiar to the Petitioner's property. Bill White seconded the motion. The motion passed with nine votes in favor (Rhodes, Norris, Catlin, Baldwin, Gorham, White, Hairston, Gibbs, Simmons) and three votes opposed (Andrew, Cahoon, Lewis).

Renee Cahoon made a motion that Petitioner has shown that hardships do not result from actions taken by the Petitioner. Russell Rhodes seconded the motion. The motion passed unanimously (Rhodes, Norris, Catlin, Baldwin, Andrew, Cahoon, Gorham, White, Hairston, Gibbs, Simmons, Lewis).

Renee Cahoon made a motion to support Petitioner's position that the variance request is consistent with the spirit, purpose and intent of the Commission's rules, standards or orders; will secure the public safety and welfare; and will preserve substantial justice. Larry Baldwin seconded the motion. The motion passed with nine votes in favor (Rhodes, Norris, Catlin, Baldwin, Gorham, White, Hairston, Gibbs, Simmons) and three votes opposed (Andrew, Cahoon, Lewis).

Frank Gorham made a motion that the variance and permit issued in conformance with the variance be conditioned to limit dredging so that it does not exceed -3.92 feet NLW based on the information provided in Stipulated Fact No. 30 as to the depth around piers 1-9 in 2003. Rick Catlin seconded the motion. The motion passed with ten votes in favor (Rhodes, Norris,

Catlin, Baldwin, Gorham, White, Hairston, Gibbs, Simmons, Lewis) and two opposed (Andrew, Cahoon).

Greg Lewis made a motion to require an after-built sealed survey tied to a benchmark. Renee Cahoon seconded the motion. The motion passed unanimously (Rhodes, Norris, Catlin, Baldwin, Andrew, Cahoon, Gorham, White, Hairston, Gibbs, Simmons, Lewis).

This variance request was granted.

ACTION ITEMS

Public Comments & Adoption 15A NCAC 7H .0306 General Use Standards for Ocean Hazard Areas – Grandfathering Provision (CRC 16-38)

Tancred Miller

Tancred Miller stated this rule amendment will allow commercial and multi-family oceanfront structures up to 10,000 square feet to rebuild subject to five conditions. The fiscal analysis found that there was a potential fiscal benefit to these property owners. Comments were accepted for 60 days and a public hearing was held on September 14, 2016. Two individuals spoke at the public hearing and 25 comments were received and are included in the materials for your review. Three comments were in support of the rule amendment and 24 were opposed. These rule amendments would become effective on February 1, 2017.

Renee Cahoon made a motion to adopt amendments to 15A NCAC 07H .0306. Larry Baldwin seconded the motion. The motion passed unanimously (Rhodes, Norris, Catlin, Baldwin, Andrew, Cahoon, Gorham, White, Hairston, Gibbs, Simmons)(Lewis absent for vote).

Fiscal Analysis Approval – 15A NCAC 7H .0308, 7H .1704, and 7H .1705 – Temporary Erosion Control Structures (CRC 16-39)

Tancred Miller

Tancred Miller stated these amendments came out of legislation directing the CRC to make specific changes to the sandbag rules. The CRC adopted temporary rules, but missed the legislative deadline for the amendments to become effective. DCM brought the sandbag rules back to the CRC with additional changes based on recommendations from the CRAC and other stakeholders. The fiscal analysis found that there is a net benefit to permittees and NCDOT as a result of delaying the removal requirement. The draft analysis has been approved by the Department and we have been working with OSBM to obtain approval. Staff is requesting the CRC's approval of the fiscal analysis subject to final certification by OSBM.

Phil Norris made a motion to approve the fiscal analysis for 15A NCAC 7H .0308, 7H .1704, and 7H .1705 for public hearing. Renee Cahoon seconded the motion. The motion passed unanimously (Rhodes, Norris, Catlin, Baldwin, Andrew, Cahoon, Gorham, White, Hairston, Gibbs, Simmons)(Lewis absent for vote).

New Hanover County Comprehensive Land Use Plan Certification (CRC 16-40)

Mike Christenbury

Mike Christenbury stated New Hanover is seeking certification of the 2016 New Hanover County Comprehensive Land Use Plan. New Hanover County is located in southeast North Carolina and is home to the City of Wilmington as well as Wrightsville Beach, Carolina Beach, and Kure Beach. New Hanover County has experienced a high level of population growth since 1940 and expects that growth to continue. Currently the County's population is approximately 214,000 and expected

to grow about 57% within the next 25 years. In 2013, the County began the process to update and create a new comprehensive plan for the unincorporated areas of New Hanover County. This plan will replace the 2006 Wilmington/New Hanover County Joint Land Use Plan and is the first plan solely for the unincorporated areas of New Hanover County. The County utilized a large and diverse stakeholder group for citizen input. New Hanover County held a duly advertised public hearing and voted unanimously by resolution to approve the 2016 comprehensive plan. DCM staff has reviewed the plan and has determined that it meets the CRC's 7B guidelines and is consistent with state and federal law and there are no conflicts. DCM staff recommends certification of the 2016 comprehensive plan.

Neal Andrew made a motion to certify the 2016 New Hanover County Comprehensive Land Use Plan. Russell Rhodes seconded the motion. The motion passed unanimously (Rhodes, Norris, Catlin, Baldwin, Andrew, Cahoon, Gorham, White, Hairston, Gibbs, Simmons)(Lewis absent for vote).

Fiscal Analysis Approval – 15A NCAC 7L Planning and Management Grant Program & Local Government Input (CRC 16-41)

Rachel Love-Adrick

Rachel Love-Adrick stated the fiscal analysis has been reviewed and approved by the Department and OSBM. In 2015, the Commission amended the 7B and 7L rules. These amendments focused on separating the land use provisions from the planning and management grant program rules. The next step in the comprehensive review of the land use plan program is an assessment of the grants to local governments for planning related projects. The intent of these amendments is to shift the emphasis of the grants from primarily funding local land use plans to funding projects in support of the goals of CAMA and the management topics as outlined by the land use planning rules, to provide flexibility in the types of projects eligible for funding, and to allow for the designation of priority management topics on an annual basis. The fiscal analysis found no direct impacts to property owners as these amendments affect the procedures for granting funds to local governments, however changes to the types of projects eligible for funding may have an indirect impact on private property owners. No impact was found to NCDOT as they are not eligible for funding under this grant program. Due to budget restrictions from 2008-2015, the Division was unable to make funding available for this grant program. In 2016, we revived the grant program and allocated \$75,000 in federal funds to award five grants. While future funding of the planning and management grant program is dependent upon availability of funds in any given fiscal year, for this analysis we assumed \$75,000 in federal funds would continue to be available and these funds would be spent in support of the Coastal Management program regardless of the rule change. The proposed amendments benefit local governments by modifying the distribution of funds among local governments and aligning the eligible projects with priorities that are relevant to the coastal areas. The Department and OSBM have approved the fiscal analysis. Staff requests approval of additional changes to the rule language to clarify the priorities for funding the projects and for approval to send the fiscal analysis for public hearing.

Renee Cahoon made a motion to approve the fiscal analysis for the 7L Planning and Management Grant Program. Neal Andrew seconded the motion. The motion passed unanimously (Rhodes, Norris, Catlin, Baldwin, Andrew, Cahoon, Gorham, White, Hairston, Gibbs, Simmons)(Lewis absent for vote).

Renee Cahoon made a motion to approve the additional rule amendments to 7L as presented. Russell Rhodes seconded the motion. The motion passed unanimously (Rhodes, Norris, Catlin,

Baldwin, Andrew, Cahoon, Gorham, White, Hairston, Gibbs, Simmons)(Lewis absent for vote).

BEACH AND INLET MANAGEMENT

Draft USACE and DEQ Dredging MOA

Greg "Rudi" Rudolph/Todd Roessler, Esq.

Rudi Rudolph stated we have been working on a deep draft Memorandum of Agreement (MOA) between the local communities, the Corps of Engineers, and the State. We are also preparing a White Paper to explain the goals of the MOA. In summary, the goal of the MOA is to put in place a long-term agreement so if the State has additional funding or local governments have additional funding to augment the Corps' funding, that money can be used to put the sand where it should go. The General Assembly established a deep draft navigation fund two years ago but did not fund it. We are hoping that in the future that they will endow it. This could be a vehicle for funding and allowing us to move forward with the MOA. The White Paper is done and it has been circulated to all the parties. The Port Authority is a stakeholder, but they are not a signee on the MOA.

CHAIR COMMENTS

Chairman Gorham asked Commissioner Catlin to be the CRC's liaison to the General Assembly and assist the CRC to communicate with legislators. Commissioner Catlin agreed to serve in this role.

MINUTES

Neal Andrew made a motion to approve the minutes of the September Coastal Resources Commission meeting. Phil Norris seconded the motion. The motion passed unanimously (Rhodes, Norris, Catlin, Andrew, Cahoon, Gorham, White, Hairston, Gibbs, Simmons)(Lewis absent for vote)(Baldwin absent for vote).

EXECUTIVE SECRETARY'S REPORT

Braxton Davis, DCM Director, gave the following report:

Hurricane Matthew

I'd like to begin by making a few comments regarding Hurricane Matthew, which impacted the state October 8-10. While our beach communities escaped major damage, extreme flooding was experienced by our inland communities. DCM's District Managers will be providing an overview of the impacts in their areas with the exception of the Morehead City District which fortunately saw little damage. We will also be hearing from Bill Rich, Hyde County Manager and Earl Pugh Jr., Hyde County Commission Chair about the flooding impacts in Hyde County. We have offered the CRC Commissioners an opportunity to discuss impacts. I'd like to acknowledge Staff's efforts in providing updates and other information during and after the storm. In particular, Cathy Brittingham provided critical information from the State Emergency Operations Center, while our District Managers relayed information from the field to our Public Information Officer Sarah Young. Staff provided data and responded to numerous requests from the Department and Governor's Office as part of the storm response efforts. Field staff also provided essential information that was used by the Division and Department in making the determination to activate the CRC's Emergency General Permit that will assist property owners in recovering after tropical storms. The CRC's Emergency Permit rules at 7H .2500 speed up the authorization process for rebuilding structures that meet current CRC rules, and waive the \$200 permit fees. In addition to allowing the rebuilding of docks, piers, bulkheads and similar structures damaged by Hurricane Matthew, the Emergency Permit can be used for maintenance dredging of channels that shoaled in during the storm, and for beach

bulldozing to rebuild dunes to protect roads and other infrastructure. The Emergency Permit is available in all 20 coastal counties at a DCM District Office. To date staff have issued approximately 50 of these emergency general permits.

Regulatory

On the regulatory side permit actions appear to be slowing down as the year comes to a close. The most notable major permit action since your last meeting involved the issuance of a major permit to the Town of Ocean Isle Beach for the construction of a terminal groin adjacent to Shallotte Inlet. This is the second terminal groin permit issued pursuant to the terminal groin legislation passed by the legislature in 2011. You may recall that a third party hearing request was granted appealing a permit issued to Sunset Beach West filed by the Southern Environmental Law Center as well as a similar appeal filed by a private citizen. On September 28, 2016, Administrative Law Judge Morrison issued an order staying the two consolidated contested cases challenging the CAMA Permit issuance until the resolution of the associated case between the Town and the developer in Brunswick Superior Court pertaining to the ownership dispute of part of the site. The parties are to update the Judge Morrison on the status of the related trial every 90 days, and the permit is stayed during the interim. It is believed the Town and developer are in the early discovery phase of the trial at this time. The Central East Coast Chapter of ASBPA is hosting a coastal permitting workshop in Wilmington, NC, Jan. 10-11, 2017. The event will bring together representative from federal and state permitting and resource agencies, coastal engineering and environmental permitting practitioners, and beach nourishment and navigation project sponsors to discuss what is working well and what can be improved with the permitting of coastal projects in the region. DCM Staff will be making a presentation on CAMA permit procedures and requirements as they relate to the permitting of nourishment and navigational projects. In addition, representatives are expected from multiple regulatory branches of the USACE Districts within the region, representatives from U.S. Fish and Wildlife Service, NOAA National Marine Fisheries, the Bureau of Ocean Energy Management (BOEM), other state permitting agencies, USACE Environmental Resource Section staff, and coastal consultants from North Carolina and South Carolina. Please let us know if you would like more information on this conference, or contact Ken Willson of CB&I in Wilmington.

Coastal Reserves

NCNERR Management Plan Update

Staff are continuing to work on the management plan update for the N.C. National Estuarine Research Reserve. NOAA is reviewing initial draft chapters of the plan as they are completed to ensure that all required elements are included per the National Estuarine Research Reserve System (NERRS) management plan guidelines. Approximately half the chapters have been reviewed or are under review. The Reserve will then seek input on the full draft plan from the LACs, N.C. Coastal Resources Commission (CRC), and the N.C. Department of Environmental Quality. Following that input, NOAA will review the final draft management plan for content and compliance with the NERRS management plan guidelines. A 30-day public comment period and three public meetings will be held on the final draft management plan prior to the plan's final publication. Staff are planning to review the full initial draft plan with the Local Advisor Committees (LACs) at their spring 2017 meetings and will share the plan and LAC comments on the plan with the CRC at their April 2017 meeting.

Periodic Rules Review

The Coastal Reserve's rules, 07O, are scheduled to be reviewed by the Rules Review Commission in June 2017 as part of the Periodic Review and Expiration of Existing Rules process (G.S. 150B-21.3A). Staff classified each rule citation in 07O as necessary with substantive public interest,

necessary without substantive public interest, or unnecessary per G.S. 150B-21.3A (c)(1). Staff then revised the initial draft classification based on input from the LACs. The Commission supported the revised initial draft classification at your July 2016 meeting. The Department of Environmental Quality approved revised initial draft classification and the classification was available for public comment from September 12, 2016 through November 21, 2016. The Division has received one comment supporting the Division's rule classification report. Staff will next compile a report for submittal to the Rules Review Commission responding to comments received. The LACs will have the opportunity to review the draft report in January 2017 prior to presentation of the report to the CRC at its February 2017 meeting.

LAC Meetings

Fall 2016 meetings of the LACs are underway. A number of the committees met in November and the Currituck Banks, Kitty Hawk Woods, and Buxton Woods Reserves' committees will meet December 15-16, 2016. Details are available on the Reserve's event calendar.

Policy & Planning

The Division Planning Staff have completed the 2016 Public Beach and Coastal Waterfront Access Program grant process and the Governor's Office has announced awards of more than \$1 million to 12 local governments for projects to improve public access to coastal beaches and waters for the 2016-17 fiscal year. The awards range from \$40,000 - \$135,000 and include projects such as ADA compatible facilities, public restrooms, kayak launches, fishing pier and parking improvements. The Division expects to solicit access project application for FY 2017 in mid-January. Planning Staff worked with the Coastal Reserve's Coastal Training Program to offer two free workshops in Wilmington and Plymouth to share information with local governments about grant opportunities to acquire land and make improvements to beach and waterfront access, parks, and boating facilities. The workshops were well received as they provided information to coastal communities on the range of funding resources available, how to leverage funds from multiple grant sources, and how to effectively navigate the various grant application processes.

Staffing News

Since your last meeting, we are very happy to announce that on November 16th, assistant Major Permits Coordinator Courtney Spears and her husband Eric welcomed a baby girl, Fiona, to their family. Mother and child are doing well. Once Courtney comes back from maternity leave, she will transition into a new position as a field representative in the Wilmington Regional office. The process for hiring a replacement assistant major permit coordinator is ongoing. The Division is also moving ahead with the creation of the Beach and Inlet Management Project Coordinator position. You will recall that this year, the legislature allocated funding from the Shallow Draft Navigation Channel Dredging and Aquatic Weed fund to support this position. The paperwork is currently moving through the Office of State Personnel and we expect the position to be posted by the end of the year.

Elizabeth City Office

The Elizabeth City office of the Divisions of Coastal Management and Marine Fisheries at 1367 U.S. 17 South has been closed for facility repairs and will remain so for an undetermined amount of time. DCM staff have been relocated to 401 South Griffin Street for at least the next six months. Staff have recently moved in to the new space and we are in the process of hooking up utilities, phone and internet service. In the meantime, members of the public seeking a CAMA permit or fishing license may go to the Department of Environmental Quality's Washington Regional Office at 943 Washington Square Mall in Washington or call 252-946-6481.

CRAC REPORT

Rudi Rudolph stated the Advisory Council focused its meeting on the way the boards and councils were reorganized by the General Assembly. The CRAC was reduced from 45 members to 20. The 45-member group had very prescriptive membership criteria with regional influences and areas of expertise. The current 20-member CRAC group was set up as an at-large membership appointed by the CRC. Parallel to that there was a great CRAC guidebook created by staff that contained great information but has become obsolete. The CRAC had an organizational meeting and discussed the expertise needed and the role of the CRAC. The CRAC will provide the CRC with recommendations based on these discussions.

COASTAL ISSUES

Overview of Hurricane Matthew Impacts

DCM District Managers Frank Jennings, Jonathan Howell, and Debbie Wilson gave an overview of impacts from Hurricane Matthew from each district. Commissioner Russell Rhodes provided a video of impacts in the Kinston, Lenoir County area and Hyde County representatives provided a video of impacts to their local area. *(Presentations and PowerPoints available from DCM)*

Preliminary Flood Insurance Rate Maps (FIRMs) for Coastal NC – Purpose, Process and Results

Rudi Rudolph stated the NFIP is a federal program that provides affordable insurance if you are in the floodplain. The way you determine whether you are in the floodplain is by reference to FIRMs. These maps depict the special flood hazard area for a “100-year storm”. On the riverine side it is a little easier because historical discharges of the rivers can be looked at. On the coast it isn’t rain, it’s about the storms also. The 100-year storm level has two constituents the surge and waves counted together result in the base flood elevation (BFE). The last FIRMs became effective about 10 years ago. The new maps use computer models and are used to determine the designations. If you are on the dry-side of the floodplain, then you are in a “X-Zone.” If you are on the wet-side of the floodplain, then you are either in the “A-Zone” (wave height 3 feet or less) or you are in the “V-Zone” (wave height 3 feet or more). The new FIRMs have been released and a statutory 90-day appeal period will begin in January 2017. These preliminary maps will become effective within 18-24 months. In the 20 CAMA counties, these maps show a drop in V-Zones due to oceanfront dunes. There is an increase in A-Zones in the south and a decrease in the north. On the oceanfront this is basically a function of FEMA’s designation of the primary frontal dune. The primary frontal dune is the back edge of the dune. FEMA’s policy is that the landward edge of that dune is the demarcation of the V-Zone. FEMA took 24 historical hurricanes, 22 extratropical storms and nor’easters and developed 675 synthetic “modeled” storms. All of these storms were plugged into the model and created the 100-year event applied to the creeks and sounds. One of the resulting questions is whether risk is quantified appropriately from these maps? Also, we should consider whether the new maps are in conflict with policies of the CRC and CAMA. Is the 100- year storm the correct measure to use for risk? Out of the 29,000 structures damaged in Hurricane Sandy, 31 percent were outside of the floodplain. A problem with big storms is that approximately 30 percent of the locations damaged are outside the floodplain and don’t have insurance. Where is the money coming from to replace and repair damaged structures outside the floodplain and who will pay for these costs? FEMA estimates that 66 – 80 percent of the flood losses are outside of the floodplain. Roughly 30 percent of the actual claims are out of the flood hazard area.

Spencer Rogers stated the flood insurance program was based on observations of repeated flooding in riverine areas and Congress created the flood insurance program as an incentive to use FEMA standards. There have been a number of improvements over the years. In the 1970s they added

waves from the ocean. In the 1980s and 90s there were complaints from North Carolina about some of the dune erosion issues so those were added. In 2014, two legislative changes impacted the way insurance premiums were rated on older buildings and this has become a significant complicating financial issue for older buildings. In many areas of the new maps, there are inconsistent shifts in the floodplain. There are many areas along the coast that are getting better flood maps. The problem is that some of the new maps do not fit with what we have observed in coastal hazards over the years. If you look at the hazard risk, most people will think that the highest risk on most of the barrier islands is on the oceanfront. As you get farther away from the ocean the risk should go down including on the sound side. That is not what these preliminary maps show. They show the lowest risk on the oceanfront and the highest risk on the bays and sounds. The effective and preliminary maps are becoming less realistic and are not moving in the right direction. This is a significant problem because if the next set of maps come through and go back up then there will be some extremely damaging flood insurance premiums that will hit property owners that build to these new maps. The maps are required by law to be used for insurance purposes and regulatory purposes. One of my proposed actions is to encourage FEMA to develop more accurate mapping models. Back in the 1980s, the Assistant Secretary of DENR called FEMA in with the first set of flood maps that were going to make oceanfront X-Zones in front of a hotel and said that people are laughing at your maps. The next set of maps were just as bad, but the North Carolina flood mapping program came in in the 1990s and criticized FEMA's maps and it led to modeling changes. The other conclusion is that the ocean hazard area could be used in the flood standards. An ad hoc coastal construction committee could be formed with the NC Building Code Council, the NC Flood Mapping Program, and the CRC. Chairman Gorham suggested the Commission convene a task force to discuss these issues.

Greg Lewis made a motion to form a subcommittee appointed by the CRC Chair and DCM Director along with the appropriate people and organizations to discuss flood insurance rate maps and related issues. Renee Cahoon seconded the motion. The motion passed unanimously (Rhodes, Norris, Catlin, Baldwin, Andrew, Cahoon, Gorham, White, Hairston, Gibbs, Simmons, Lewis).

CRC RULE DEVELOPMENT

Amendments to 15A NCAC 7J .1300 Development Line Procedures: Mean High Water, Easements and Other Lines (CRC 16-42)

Ken Richardson

Ken Richardson stated the development line became effective April 1, 2016. The CRC saw its first development line requests at the previous meeting. Carolina Beach was the first to receive an approved development line and Oak Island received a conditional approval and has made the adjustments requested by the Commission. We learned a few lessons from these first two. The current rule states that in no case shall the development line be created or established oceanward of the mean high water line. Clarification is needed on the mean high water line and whether it is a pre-project line or areas where there have been multiple projects. There are also perpetual easements that are not addressed in the rules. DCM staff recommends that these clarifications be added to the rules to address the mean high water line or other lines that should limit the oceanward limit of development.

Neal Andrew made a motion to approve the amendments to 15A NCAC 7H .0306 and 7J .1301 as presented for public hearing. Renee Cahoon seconded the motion. The motion passed unanimously (Rhodes, Norris, Catlin, Baldwin, Andrew, Cahoon, Gorham, White, Hairston, Gibbs, Simmons, Lewis).

Amendments to 15A NCAC 7H .2200 Free Standing Moorings – Osprey Poles (CRC 16-43)
Jonathan Howell

Jonathan Howell stated amendments are proposed for the General Permit for free standing moorings. A couple of times per year DCM receives a request for the permitting an osprey pole. In the past we have handled this through this General Permit, but it continues to come up and it causes problems because it would technically require a Major Permit. These amendments would allow the poles to be included under the General Permit. The specific conditions under this General Permit have not been updated since 1996 and there are additional changes needed to ensure consistency with the rules under other General Permits related to docking and mooring facilities.

Neal Andrew made a motion to approve the draft amendments to 15A NCAC 7H .2200, General Permit for construction of free standing moorings in estuarine waters and public trust areas and ocean hazard areas, for public hearing. A limitation on the size of the platform, maximum of 3 feet by 3 feet, should be added to the draft language. Rick Catlin seconded the motion. The motion passed unanimously (Rhodes, Norris, Catlin, Baldwin, Andrew, Cahoon, Gorham, White, Hairston, Gibbs, Simmons, Lewis).

Sediment Criteria – Sampling Methodology (CRC 16-44)
Ken Richardson

This agenda item was postponed to a future agenda.

PUBLIC INPUT AND COMMENT

Penny Hooper, NC Sierra Club, spoke in favor of proactive actions to address sea level rise and climate change.

OLD/NEW BUSINESS

Mary Lucasse, CRC Counsel, updated the Commission on active cases. An Amicus Brief was filed on behalf of the CRC for the Nies v. Town of Emerald Isle. This case has been set for argument in front of the NC Supreme Court on January 10, 2017. In another case, that involving a variance issued by the CRC to the Riggings Homeowners Association (HOA), the CRC is expecting an annual update from the HOA on December 11, 2016 and the CRC will be updated once that report is received.

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



Braxton Davis, Executive Secretary



Angela Willis, Recording Secretary