

**NC COASTAL RESOURCES COMMISSION (CRC)**

**November 27-29, 2018  
Brick Landing Plantation  
Ocean Isle Beach**

**Present CRC Members**

|                           |               |
|---------------------------|---------------|
| Renee Cahoon, Chair       |               |
| Larry Baldwin, Vice-Chair | Doug Medlin   |
| Craig Bromby              | Phil Norris   |
| Rick Catlin               | Lauren Salter |
| Trace Cooper              | Robin Smith   |
| Bob Emory                 |               |

**Present CRAC Members**

Greg "Rudi" Rudolph, Chair  
Spencer Rogers, Vice-Chair  
David Kellum  
Ike McRee  
Mike Moore  
Kris Noble  
Todd Roessler  
Debbie Smith  
Dave Weaver

**Present from the Office of the Attorney General**

Mary L. Lucasse

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

Christine A. Goebel

*\*\*Prior to the call to order, the Commission received orientation. Mary Lucasse provided the Commission with an overview of the open meetings law, public records law, Ethics Act, and variance procedures. Braxton Davis gave an overview of the Division of Coastal Management. The Commissioners in attendance also received an overview of the Public Trust Area of Environmental concern, CAMA permitting, federal consistency and a review of the Ocean Hazard AEC setback lines.*

**CALL TO ORDER/ROLL CALL**

Renee Cahoon called the meeting to order at 3:15 p.m. on November 27, 2018 reminding the Commissioners of the need to state any conflicts due to Executive Order Number 34 and 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 a 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.

Chair Cahoon welcomed the new members to the Commission and thanked former Commissioners that were not reappointed for their service to the State of N.C. Angela Willis called the roll. Russell Rhodes and Jamin Simmons were absent. Renee Cahoon, Craig Bromby, Trace Cooper, Bob Emory, Robert High, Lauren Salter and Robin Smith all read their State of Economic Interest evaluation letters from the State Ethics Board all indicating that there were no actual conflicts of interest, but a potential for the conflict of interest. None of the potential conflicts identified would prohibit service. Chair Cahoon stated the attorney, Mr. Seawell, representing the Zito's in the variance request on this agenda is a family friend, but does not feel that it is a conflict. Robert High reported that Mr. Seawell, attorney Zito variance request, has represented him in the past, but does not feel that it is a conflict. Doug Medlin stated he would recuse himself from the request by Surf City for consideration of an unvegetated beach designation. Based upon this roll call Chair Cahoon declared a quorum.

### **CHAIR COMMENTS**

Chair Cahoon thanked Mayor Debbie Smith for her assistance in planning for this meeting in Ocean Isle Beach. Chair Cahoon welcomed DEQ Assistant Secretary Sheila Holman and Chance Lambeth from NC Representative David Rouzer's office.

### **Boards & Commissions, Reimbursements, BEACON and Waivers**

#### **Eddie Edwards, OSHR Temporary Solutions**

Eddie Edwards stated the federal government interprets that members of State Boards and Commissions are temporary employees of the State of North Carolina. All Board and Commission members are now required to fill out State Applications for Employment, be verified to be eligible to work in the State, and have withholdings deducted from per diem payments as these payments are considered income. Members of Boards and Commissions are also covered under the Worker's Compensation coverage provided to employees by the State. The required paperwork was provided to the Commission. The deadline to complete this paperwork and have each Commissioner onboarded is December 31.

### **VARIANCES**

#### **Zito (CRC-VR 18-04), Nags Head, oceanfront development**

##### **Frank Jennings/Christine Goebel, Esq./Christopher Seawell, Esq.**

Frank Jennings gave an overview of the property. Christine Goebel states she is representing DCM staff and Christopher Seawell is present and will represent petitioners. Mrs. Goebel stated Petitioners Michael and Catherine Zito own property at 10224 Sea Gull Drive in the South Nags Head area of the Town of Nags Head. In 2016, Petitioner's former two story piling-supported structure was destroyed by fire. In 2017, Petitioners filed a CAMA Minor Permit application seeking to re-develop a new structure in the same size and footprint as the pre-existing structure. On April 26, 2018, the Town of Nags Head's CAMA LPO denied Petitioner's CAMA Minor Permit application as the proposed addition did not meet the applicable 180' setback from the static line and did not meet the 60' setback exception under 15A NCAC 7H .0309. In August 2018, Petitioners through counsel filed this variance petition to request relief from the oceanfront setback rules. Ms. Goebel reviewed the stipulated facts of this variance request and disagree on three of the variance criteria which must be met in order to grant the variance request, but do agree that any hardships do not result from actions taken by the Petitioner. Petitioners are also seeing a procedural variance to waive the local variance requirement.

Christopher Seawell of Aldridge, Seawell & Twichell, PLLC, represented Petitioner and reviewed the stipulated facts which Petitioners contend support the granting of this variance request.

**Larry Baldwin made a motion to waive the procedural requirement of seeking a local variance prior to a variance request to the Coastal Resources Commission as required by 15A NCAC 7J .0701. Phil Norris seconded the motion. The motion passed unanimously (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).**

**Bob Emory made a motion that Petitioner has not shown that strict application of the applicable development rules, standards or orders issued by the Commission will cause the petitioner an unnecessary hardship. Lauren Salter seconded the motion. The motion received three votes in favor of the Staff's position (Emory, Bromby, Salter) and eight votes opposed (Smith, Medlin, Cahoon, Baldwin, High, Cooper, Catlin, Norris).**

**Trace Cooper made a motion that Petitioner has not shown that hardships are a result of conditions peculiar to the petitioner's property. Robin Smith seconded the motion. The motion passed with seven votes in favor (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Cooper) and four votes opposed (Baldwin, High, Catlin, Norris).**

**Bob Emory made a motion that Petitioner has shown that hardships do not result from actions taken by Petitioner. Doug Medlin seconded the motion. The motion passed unanimously (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).**

**Robin Smith made a motion that Petitioner has not shown 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. Craig Bromby seconded the motion. The motion passed with six votes in favor (Emory, Smith, Bromby, Salter, Cooper, Catlin) and five opposed (Medlin, Cahoon, Baldwin, High, Norris).**

This variance request was denied.

Commissioner Bromby requested that CRC counsel address the term and interpretation of "unnecessary hardship" at the next meeting.

**Town of Caswell Beach (CRC-VR 18-06), oceanfront setback  
Debbie Wilson/Christine Goebel, Esq./Justin Humphries, Esq.**

Debbie Wilson gave an overview of the property. Christine Goebel states she is representing DCM staff and Justin Humphries is present and will represent petitioners. Mrs. Goebel stated Petitioner is the Town of Caswell Beach. The Town owns oceanfront property south of the Oak Island Lighthouse on Caswell Beach Road. The property is located within the Commission's Ocean Hazard Area of Environmental Concern. In an attempt to address frequent stormwater flooding along Caswell Beach Road, the Town has worked with NCDOT to investigate possible

solutions. In October 2018, the Town filed a CAMA Minor Permit application seeking to construct a Dune Infiltration System consisting of approximately 525 square feet of chambers buried under the existing dune, where collected stormwater from the road would be pumped and treated. On October 17, 2018, DCM denied the permit application as the proposed system was not located landward of the applicable oceanfront setback from the static line. The Town then filed the variance request petition to request that the Commission vary the oceanfront setback rules. MS. Goebel reviewed the stipulated facts of the variance request and stated that staff and Petitioner agree on all four variance criteria which must be met in order to grant the variance request.

Justin Humphries, Counsel for the Town of Caswell Beach, reviewed the stipulated facts of this variance request and stated that the Town agrees with staff on the four variance criteria. Mr. Humphries added that the Town's engineer and NCDOT reps are present if the Commission has any questions for them.

*\*\*Phil Norris was absent for this vote.*

**Robin Smith made a motion that Petitioner has shown that strict application of the applicable development rules, standards or orders issued by the Commission cause the Petitioner an unnecessary hardship. Trace Cooper seconded the motion. The motion passed unanimously (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).**

**Trace Cooper made a motion that Petitioner has shown that hardships result from conditions peculiar to the property. Doug Medlin seconded the motion. The motion passed unanimously (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).**

**Bob Emory make a motion that Petitioner has shown that hardships do not result from actions taken by the Petitioner. Craig Bromby seconded the motion. The motion passed unanimously (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).**

**Doug Medlin made a motion that Petitioner has shown 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. Craig Bromby seconded the motion. The motion passed unanimously (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).**

This variance request was granted.

#### **MINUTES**

**Phil Norris made a motion to approve the minutes of the April 10-11, 2018 Coastal Resources Commission meeting. Larry Baldwin seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Catlin, High, Medlin, Norris, Rhodes, Simmons) (Commissioners Bromby, Cooper, Emory, Salter and Smith abstained).**

## **EXECUTIVE SECRETARY'S REPORT**

Braxton Davis, DCM Director, gave the following report:

I'd like to extend a warm welcome to our new commissioners. On behalf of the division, we look forward to working with you, and we hope you will let us know if we can help you with anything to support your work as a commissioner. We recognize and appreciate that your service on this commission requires significant time and effort, and we want to do whatever we can to assist you.

### **REGULATORY**

On the regulatory side of DCM, I have several high-profile projects to report on since our last meeting back in April. First, I want to highlight that in September, a CAMA Major Permit was issued to Carteret County authorizing the 50-year Bogue Banks Master Beach Nourishment plan. This project authorizes Carteret County and the Bogue Banks communities of Atlantic Beach, Pine Knoll Shores, Salter Path, Indian Beach, and Emerald Isle to implement an innovative approach to streamline environmental permitting for beach nourishment projects across all Bogue Banks communities. This approach involves: 1) Agreement by each individual beach community to defer to the County for the management of limited sand resources and funding, 2) Upfront work to identify expected sand losses and subsequent periodic nourishment needs for all of the beach communities over the next 50 years, 3) Identification of expected sand resources over the same time period, 4) Development of an expected schedule of nourishment events, and 5) Establishment of procedures for DCM notification by the County before each distinct event, in lieu of formal requests for permit modifications. Moving forward, this approach should significantly streamline beach project in the County, shorten regulatory timeframes, and provide greater certainty and predictability for the County as well as state and federal government agencies. The County was also able to use the statewide programmatic Biological Opinion for sand placement projects that was sponsored by DCM and issued by the USFWS, which led to a significantly reduced timeline for approval.

Other notable permit actions this year include: The issuance of a CAMA Major Permit to The Nature Conservancy, in coordination with the USFWS, authorizing the construction of a living shoreline project adjacent to the Alligator River NWR and the issuance of a CAMA Major Permit to the City of Jacksonville, authorizing the construction of what is known as an "oyster highway", with the intent of restoring historic oyster populations to the New River and adjacent waterways in the Jacksonville area.

In addition to those Major Permit actions, on September 20th, DEQ Secretary Regan activated the CRC's emergency general permit, which speeds up the authorization process for rebuilding many storm-damaged structures, as well as waiving permit fees for those projects. I will speak more about this later in the agenda.

### **POLICY & PLANNING**

#### **Land Use Plans**

The Division received one land use plan certification request and three land use plan amendment requests under the recently delegated authority from the Commission. The Chowan County/Town of Edenton joint LUP was submitted for certification in November and the Towns of Morehead City, Emerald Isle and Atlantic Beach submitted land use plan amendments for

certification since our last meeting. The Division found in all cases that the plans met the substantive requirements outlined within your 7B Land Use Planning requirements, there are no conflicts evident with either state or federal law or the State's Coastal Management Program; and the elected bodies of the Towns provided opportunity for the public to provide written comment following local adoption of the plan (as required by N.C.G.S. § 113A-110 and 15A NCAC 7B .0802 and .0803). For these reasons, the Chowan County/Town of Edenton, Towns of Morehead City, Emerald Isle and Atlantic Beach's requests for certification of their land use plans were granted.

#### **Planning and Management Grants**

Pending Department approval, DCM expects to award grants to four local governments for coastal planning and management projects that will help them prepare for hurricanes, storms and growth through the CAMA Planning and Management Grant Program for the upcoming 2018-19 fiscal year. The Division has utilized \$100,000 of its federal funding from NOAA to support land-use planning and management projects in the state's 20 coastal counties for the past three years. Local governments were invited to apply for funding for projects anticipated to begin February 1, 2019 and to be completed by June 30, 2020. In FY 2018-2019, grant funding was prioritized by the Division and CRC for Natural Hazards and Storm Recovery projects. Proposals are expected to further local implementation of the CRC's management goals and planning objectives for the natural hazards management topic and/or address local issues specific to storm recovery. Projects may include, but are not limited to, expanded education and outreach, special planning efforts focused on coastal resources or issues, improvements in intergovernmental coordination, targeted research or studies, and the development of local ordinances.

#### **Public Access Grants Program**

DCM has received 21 applications from 19 local governments requesting \$2.8M in funding from the Public Beach and Coastal Waterfront Access Program. DCM has approximately \$1M available for access projects during this fiscal year. We invited 15 applicants to submit a Final Application. In response, 13 local governments submitted applications for 14 projects totaling \$1.2M. Pending Department approval, DCM expect to make awards ranging from \$12,000 to \$250,000 for projects that include boardwalks, ADA accessible improvements, public restrooms, kayak launches, ocean access, parking improvements, and land acquisition for new waterfront facilities.

#### **Coastal Reserves**

##### **Local Advisory Committees**

In August 2018, the Secretary of the N.C. Department of Environmental Quality appointed new community members and re-appointed community members interested in continuing to serve on the Reserve local advisory committees. Additional government agencies were also appointed to fill gaps on the committees. The fall local advisory committee meetings were held in October and November, with the Permuda Island Reserve committee meeting remaining.

##### **Periodic Rules Review**

The Rules Review Commission approved the Department's request for a readoption timeline of November 30, 2021 for Coastal Reserve rules at its November meeting. Staff began preliminary discussions at the fall 2018 local advisory committee meetings. This work is part of the Legislative Periodic Review and Expiration of Existing Rules process that you will also hear about from Mike on the agenda for the Commission's rules.

### **N.C. NERR Management Plan**

In August, we received feedback from NOAA on the draft management plan for the N.C. National Estuarine Research Reserve that will cover 2018-2023. Staff are currently working to address that feedback. Review by the N.C. Department of Environmental Quality will follow. A 30-day public comment period for the draft management plan will be scheduled after all reviews are complete. Three public meetings, in the northern, central and southern regions of the coast, will be scheduled during the comment period.

### **Visitor Access study**

Reserve Site Managers are working with a team of researchers from UNCW to implement a visitor access assessment project at select Reserve sites, including Bird Island, Zeke's Island, Masonboro Island, Rachel Carson, Kitty Hawk Woods, and Currituck Banks, to understand visitor access patterns and inform planning and projects. Interviews and stakeholder sessions with community members and government and business leaders, and on-site surveys of visitors are complete. A study report will be complete in 2019 and results will be used by Reserve staff to inform visitor access management and planning.

### **Living Shorelines Monitoring**

Reserve and regulatory staff developed and implemented a monitoring protocol to assess the performance of marsh sills over time to address: 1) compliance and structural integrity, 2) erosion reduction and accretion, and 3) repair and maintenance. These were ranked as the top three factors influencing property owner choices in a recent survey. Monitoring began in July 2018 and is currently underway in response to Hurricane Florence.

### **2019 NC Sea Grant - NC Coastal Reserve Coastal Research Fellow**

Proposals are being accepted for the 2019 Coastal Research Fellowship. The fellowship provides North Carolina-based graduate students with an opportunity to conduct research within one or more of the 10 sites that constitute the Coastal Reserve. Using the reserve sites as a research platform, fellows must conduct hypothesis-based projects that address coastal management issues. The fellowship is co-sponsored by NC Sea Grant, the Reserve and Division; proposals are due December 3rd.

### **Upcoming Workshops**

- **Low Impact Development Basics for Water Quality Protection - Workshop for Real Estate Professionals** - Real estate professionals will receive 4 elective continuing education credits from the N.C. Real Estate Commission. Registration is required.
- **Social science basics for coastal managers**
- For these and others, keep an eye out for the Reserve's Tidal Flat newsletter coming out in December.

### **Staffing News**

Arthur Stadiem, our business officer, retired in July after 18 years of service with the State, 10 of which were with DCM. We wish him all the best in his retirement. As a follow up, we are happy to announce that Jessica Gibson has been hired as the Division's new business officer. Jessica, a Newport native, comes to us from UNC-Chapel where she has worked in the Accounting Services Dept. Jessica's first day will be December 5<sup>th</sup>.

This may not be news to some of you, but for those of you who haven't worked with her, I am pleased to be able to announce that Heather Coats accepted the beach and inlet project manager

position within the Major Permits Section. Heather brings extensive beach and inlet project experience into this position, both as a DCM field representative and as an Assistant Major Permit Coordinator. She will remain located in the Wilmington office, and is taking on multiple roles including policy analysis, permit coordinator, field representative and compliance coordinator for beach and inlet projects coastwide. With Heather moving into her new role, Courtney Spears has transitioned into a new role as Assistant Major Permits Coordinator for projects in the southern portion of the coast. Courtney held this position previously in Morehead City before moving with her family to Wilmington to work as a field representative for the Division. Courtney will be remaining in the Wilmington regional office, and will be handling major permit actions originating out of that office. Patrick Amico has joined us as a new field representative in the Wilmington regional office. Patrick comes to us from the State Park at Fort Fisher where he was a Park Ranger for 5 years. He has a BS from UNCW in Forestry, Natural Resource Policy and Administration and a Master's of Environmental Studies with a concentration in Coastal Management also from UNCW. Patrick has also worked for the Bald Head Island Conservancy. Also in the Wilmington regional office, we are pleased to welcome Tyler McGuire as a new field representative. Tyler comes to DCM from DMF where he held various positions, including his most recent as a Commercial Port Agent in the Wilmington office. Tyler has a Bachelor's Degree in Marine Biology from UNCW. Also in the Wilmington regional office, Tanya Pietila recently began work as an administrative assistant. Tanya comes to us with over 13 years of experience in office management and is a great new addition to our team. Keri Sparks has recently begun work as an administrative assistant in our Washington regional office. Kari comes to us by way of the Town of Chocowinity Zoning Department. Christian Kamrath joined DCM in September, and will be focused primarily on assisting local communities with coastal resilience. Christian earned his Master's degree in City & Regional Planning at UNC-Chapel Hill in May, with a Land Use and Environmental specialization, and a certificate in Natural Hazards Resilience. He also holds a BS in Geography from the University of Florida. Christian brings a wealth of knowledge and practical experience having worked closely with some of the state's leading experts in hazard mitigation and resilience planning. We are sad to note that Kate Jones recently left the Northern Sites Manager job in the Reserve to take a job with the Town of Nags Head. We thank Kate for her hard work during her tenure with the program and wish her the best of luck. In other staff news, we are very proud that Paula Gillikin, our Coastal Reserve Central Sites Manager, received a 2018 Governor's Award for Excellence in Public Service in October. Paula's exceptional commitment to serving the public extends throughout and beyond her work with the Division to her volunteer work in the community, where she serves as a children's legal advocate and works on animal welfare issues. We are also very proud that Whitney Jenkins received a 2018 Department of Environmental Quality Distinguished Employee award in November. Whitney was recognized for her work in delivering trainings to and assisting local communities such as the Town of Beaufort in taking action to address stormwater and harbor management challenges. Finally, we are pleased to announce three very new additions to the DCM family. Public Information Officer Sarah Young and her husband Jason have a new baby girl, Claire, and Mom and baby are doing well. Also, Wilmington field representative Brooks Sorgan and his wife Chelsea are now the parents of a beautiful baby girl, Everly, who was born on August 19th. Our Coastal Reserve communication specialist, Michelle Brodeur, gave birth to baby girl Eloise on July 19. Michelle returned to work in October. Congratulations to Michelle, Sarah, and Brooks and their families.



## **CRAC REPORT**

Spencer Rogers, CRAC vice-Chair, stated the Advisory Council received a presentation on the effect on bulkheads on marsh, a presentation on climate change and clean energy in Virginia and North Carolina and sea level rise issues, and lastly a presentation on wind insurance incentives that are available.

## **Hurricane Florence & Tropical Storm Michael Overview**

### **Coastal Impacts**

Braxton Davis stated this presentation will highlight the aspects of the storms that relate directly to DCM's role. DCM saw significant damage to piers, docks and bulkheads concentrated from Hyde to Brunswick County during Florence and primarily Dare County from Tropical Storm Michael. Most of this damage is eligible for a CAMA Emergency General Permit. The Emergency General Permit was authorized by DEQ Secretary Regan on September 20, 2018 and amended on October 12 for Tropical Storm Michael. There is no fee for these GPs and offers an expedited review for beach bulldozing, dredging, and the replacement of piers, bulkheads and erosion control structures. There was significant beach and dune erosion and overwash from Ocracoke Island to Bald Head Island. There was also significant damage to ocean piers in Carolina Beach, Surf City, Topsail, North Topsail, Bogue Inlet and Atlantic Beach. There was also a lot of interdunal flooding due to significant precipitation. The Reserve program in cooperation with our regulatory staff are collecting data on several sites looking at how well living shorelines performed during these storms. This will allow for a quick recovery in these areas. There were a lot of bulkheads that failed. A survey was conducted of local governments asking about post-storm beach survey protocols. We found that it was being done differently in each community. DCM can help in the future by helping the local governments with written guidance on post-storm procedures. DCM has been very involved with the issue of abandoned vessels. This is a complicated issue and the legal authorities are unclear. Mitigation was our primary focus. We will continue to help improve this issue moving forward. The General Assembly is also involved to help with the authority issues involved. There is also a widespread marine debris issue following these storms. DCM is working closely with the Coastal Federation in helping with this effort. Recurring coastal flooding and storm events create a need for new approaches and investments. CAMA Planning and Management grants, CAMA Public Access Grants, marine debris partnership opportunities, and the likely need for expanded authorities for state and local management of displaced vessels are all opportunities for improved coastal resilience.

Frank Jennings, Elizabeth City District Manager, stated there was ocean erosion and overwash issues. Several of our towns have had beach nourishment projects and it looks like they saved a lot of structures from damage. While a lot of sand was lost, it significantly reduced the overwash. This district did very well during Hurricane Florence, but then came Tropical Storm Michael. Michael flooded our area and there was a lot of wind damage. There is a steady stream of calls still coming in and we expect our workload will be heavy for quite some time.

Jonathan Howell, Washington District Manager, stated a large portion of our district is agricultural in nature. There was damage due to flood levels similar to Hurricanes Isabel and Irene. There was also significant flooding in Belhaven. The Pungo River did a lot of damage to

bulkheads. We have seen an increase in customer needs and expect that to continue for several months.

Roy Brownlow, Morehead City District Manager, stated this district was significantly impacted by the storms. The citizens of our areas were impacted, but the staff were impacted as well. However, our staff provided a quick and efficient response to the needs of the local governments and citizens. Wind damage, storm surge, and rainfall flooding were some of the biggest impacts in this area. Extensive power outages and tree damage was everywhere. The storm surge ranged anywhere from nine to fifteen feet which caused significant flooding to homes and businesses. There was large-scale damage to water dependent structures.

Debra Wilson, Wilmington District Manager, stated the Wilmington Regional Office was not accessible for two weeks. DCM staff was out in the field working with customers even when some roads were still impassible. There was flooding in locations that have never been flooded. Layton Bedsole, with New Hanover County, assisted us with temporary office facilities. Beach erosion was terrible, particularly on Topsail Island. Several of our beach towns had beach bulldozing permits. For a mild storm, it did a lot of damage in our district.

### **Community Impacts**

Chris May, Exec. Dir. Cape Fear COG/Samantha Burdick, Planner Eastern Carolina Council  
Samantha Burdick stated New Bern received a lot of flooding due to rainfall, the Neuse River crest, and storm surge. There are still many that are not able to return to their homes. Pollocksville sits along the Trent River. The Post Office, Community Center, hotel and only restaurant were all destroyed. We are trying to help them find temporary structures to assist them as they return to town. This is a small, low-income town and one of the potential consequences is the Town could dissolve into the County. We will try to assist them with grants to help them avoid this outcome. Wallace is a rural town in Duplin and Pender Counties which experienced massive flooding. This area experienced crop and livestock loss. Recovery will take a long time in many counties, but affordable housing is probably one of the biggest issues. Clean up will be a slow process. Standards need to be created to prevent repetitive flood damage. We also need to enhance disaster preparedness throughout the area. The Eastern Carolina Council is working with the Cape Fear COG to be involved in public outreach and educational programs to try to help home owners and businesses understand how to best prepare for future storms.

Chris May stated one take-away from Florence is the need for resiliency planners. A hazard mitigation specialist that knows FEMA and knows about planning who works closely with DCM and the State is a resource for local governments to provide to its citizens. We would like to see support going forward for a continued resource person available in each region to help local governments. Preparedness leads to a better chance of survival.

### **COASTAL ISSUES**

#### **GenX Update**

Sheila Holman, DEQ Asst. Secretary

Assistant Secretary Holman thanked the serving Commissioners for their time and the work that they do. Ms. Holman stated the GenX investigation is ongoing. This contaminant was discharged by Chemours. Other compounds were also found in the Cape Fear River. The company agreed to

stop the discharges from their process wastewater in 2017. Testing began on groundwater wells. This testing takes several weeks to receive the analysis. Of the wells that were sampled, almost all tested positive for GenX. As we continue to look at the data from the wells, we looked at other emission sources that could have affected these wells. GenX was also found in rainwater from air emissions. We have seen a decline in surface water values since the discharge to the Cape Fear River ended. Carbon absorption units have been installed to reduce the air emissions. This work has led to a proposed consent agreement between DEQ and Chemours. This agreement requires new emission controls for air emissions and requirements for drinking water wells for those that have been affected. We are working towards a resolution as quickly as possible. The proposed consent agreement is out for public comment until December 21.

Governor Cooper's Executive Order 80 which is North Carolina's commitment to address climate change and transition to a clean energy economy. This was signed in October. The purpose is to look at emissions and how to move toward a cleaner energy economy. The Department has a lot of responsibility in carrying out much of the requirements of this Executive Order. One of these will be to Chair the North Carolina Climate Change Council. The first meeting is set to occur in December to develop plans for clean energy and zero emission vehicle plan.

#### **PUBLIC INPUT AND COMMENT**

No comments were received.

#### **CRC RULE DEVELOPMENT**

##### **Periodic Review Rule Re-Adoption Schedule (CRC 18-16)**

##### **Mike Lopazanski**

In 2013, the General Assembly required that all rulemaking agencies review its rules every ten years. The CRC has reviewed its rules and classified them as required. These classifications were posted on the OAH and DCM websites for public comment. None of the classifications were changed as a result of the public comments. The Commission is being asked to approve the re-adoption schedule. The rules will then need to go through the public hearing process.

**Craig Bromby made a motion to approve the fiscal analysis and re-adoption schedule to satisfy the periodic review process. Bob Emory seconded the motion. The motion passed unanimously (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).**

##### **Major Permit Renewals (CRC 18-17)**

##### **Courtney Spears**

Currently Major Permits expire at the end of the third year following issuance. DCM is proposing that Major Permits not expire until five years from the date of issuance. This will allow applicants more time to complete projects. The second proposed amendment will allow publicly sponsored beach nourishment projects to hold active Major Permits for a ten-year period and allow for ten year renewals. This will allow time for site visits and monitoring reports to be completed as required under the conditions of the permit. The third proposed change would eliminate the provisions of 15A NCAC 7J .0404(b) which allow for the circulation to

commenting agencies of renewal requests that otherwise do not meet the criteria for permit renewal.

The Commission directed staff to bring back proposed rule amendments based on these changes.

### **Consideration of Unvegetated Beach Designation – Surf City (CRC 18-25)**

**Ken Richardson**

*\*\*Commissioner Medlin recused himself from discussion and voting on this item.*

The Unvegetated Beach Area of Environmental Concern is defined in 15A NCAC 7H .0304(3) and is one of three AECs within the ocean Hazard system. An Unvegetated Beach can be designated by the CRC in areas where no stable and natural vegetation is present, including areas that have suddenly become unvegetated because of a hurricane or other major storm event. Once the CRC designates an Unvegetated Beach, the Division of Coastal Management can establish a Measurement Line to serve as the reference feature from which the oceanfront construction setbacks are measured until vegetation has re-established. The Division establishes the Measurement Line and approximates the location at which the vegetation line is expected to re-establish using the following methodology: (1) Determine the distance the vegetation line receded at the closest vegetated site to the proposed development site; and (2) locating the line of stable and natural vegetation on the most current pre-storm aerial photography of the proposed development site and moving this line landward the distance determined in Subparagraph (a)(1) of 15A NCAC 7H .0305.

Hurricane Florence severely impacted the oceanfront dune system along portions of Surf City and North Topsail Beach, and completely washed away the primary frontal dune along with any established vegetation. The geographic extent of the affected areas makes it impossible to interpolate a vegetation line in the field from the adjacent post-storm vegetation across an area of unvegetated beach. To establish a reference feature for the purpose of measuring oceanfront construction setbacks in areas where there is not vegetation due to Hurricane Florence, staff is asking the Commission to consider and approve designating an Unvegetated Beach AEC to remain in effect until stable and natural vegetation has re-established; and confirm and approve the methodology for delineating a Measurement Line.

**Bob Emory made a motion to establish an Unvegetated Beach AEC designation for Surf City. Craig Bromby seconded the motion. The motion passed unanimously (Emory, Smith, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).**

**Robin Smith made a motion to approve the methodology for delineating a Measurement Line. The average difference between the pre- and post-storm beach width should be calculated and that distance should be measured from the pre-storm vegetation line. Phil Norris seconded the motion. The motion passed unanimously (Emory, Smith, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).**

**15A NCAC 7H .2700 Marsh Sills General Permit – Consideration of Temporary/Permanent Rulemaking, Fiscal Note Approval (CRC 18-26)**

**Daniel Govoni**

Daniel Govoni gave a description of living shorelines and marsh sills as well as showed examples. House Bill 1028 passed in 2003 which allowed for the General Permit of marsh sills. 15A NCAC 7H .2700 became effective April 1, 2005 and had 29 specific conditions. Through coordination with other state agencies and the Corps, the Division has been trying to find ways streamline this General Permit. Following the creation and coordination with a stakeholder group, the Corps issued a public notice proposing to authorize a regional general permit. This year the General Assembly directed the CRC to adopt temporary rules that are consistent with the Corps' Regional General Permit. The Commission is being asked to review and approve the amendments to 7H .2700 to proceed with temporary rulemaking. The Commission is also asked to approve the fiscal analysis prepared for these proposed amendments and authorize the Division to move forward with permanent rulemaking.

**Larry Baldwin made a motion to approve the proposed amendments to 15A NCAC 7H .2701, 7H .2704, and 7H .2705 for temporary rulemaking. Bob Emory seconded the motion. The motion passed unanimously (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).**

**Phil Norris made a motion to approve the fiscal analysis and draft amendments to 15A NCAC 7H .2701, .2704, and .2705 and proceed to permanent rulemaking. Bob Emory seconded the motion. The motion passed unanimously (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).**

**ACTION ITEMS**

**Consideration of Final Adoption of 15A NCAC 7B .0802 and 7B .0803**

**Public Hearing and Local Adoption Requirements & Certification and Use of the Plan**

Larry Baldwin made a motion to adopt amendments to 15A NCAC 7B .0802. Trace Cooper seconded the motion. The motion passed unanimously (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).

Phil Norris made a motion to adopt amendments to 15A NCAC 7B .0803. Trace Cooper seconded the motion. The motion passed unanimously (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).

**Consideration of Final Adoption of 15A NCAC 7H .0209 – Coastal Shorelines**

Larry Baldwin made a motion to adopt amendments to 15A NCAC 7H .0209. Doug Medlin seconded the motion. The motion passed unanimously (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).

**Consideration of Final Adoption of 15A NCAC 7K .0208 – Single Family Residences Exempted**

Trace Cooper made a motion to adopt amendments to 15A NCAC 7K .0208. Craig Bromby seconded the motion. The motion passed unanimously (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).

**Review of Public Comments and Consideration of Final Adoption 15A NCAC 7H .0308 – Specific Use Standards & 7K .0103 Maintenance and Repair**

Bob Emory made a motion to adopt amendments to 15A NCAC 07H .0308. Phil Norris seconded the motion. The motion passed unanimously (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).

Trace Cooper made a motion to adopt amendments to 15A NCAC 7K .0103. Doug Medlin seconded the motion. The motion passed unanimously (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).

**Consideration of Final Adoption of 15A NCAC 7H .0308, 7H .1704, 7H .1705 Temporary Erosion Control Structures**

Phil Norris made a motion to adopt amendments to 15A NCAC 7H .0308, 7H .1704, and 7H .1705. Doug Medlin seconded the motion. The motion passed with ten votes in favor (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Norris) and one opposed (Catlin).

**Consideration of Fiscal Analysis Approval 15A NCAC 7H .0309 – Exceptions**

Lauren Salter made a motion to approve the fiscal analysis for 15A NCAC 7H .0309. Larry Baldwin seconded the motion. The motion passed unanimously (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).

**Consideration of Fiscal Analysis Approval 15A NCAC 7J .0409 – Civil Penalties**

Craig Bromby made a motion to approve the fiscal analysis for 15A NCAC 7J .0409. Robin Smith seconded the motion. The motion passed unanimously (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).

**Consideration of Fiscal Analysis Approval of 15A NCAC 7H .0304 – State Ports Inlet Management AEC**

Larry Baldwin made a motion to approve the fiscal analysis for 15A NCAC 7H .0304, 7H .0309, and 7H .0313. Phil Norris seconded the motion. The motion passed unanimously (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).

**LEGAL UPDATE**

Mary Lucasse, CRC Counsel, updated the Commission on litigation of interest to the CRC. Ms. Lucasse stated The Riggings is a complicated site that was built in the 1980s. This property has suffered from erosion issues for a long time. Under the terms of the legislation that allows for temporary erosion control structures, the focus has been on the term temporary. The CRC can grant variances from its rules, but the CRC cannot vary the Statute. Recent legislation will allow the Riggings HOA to keep their sandbag structure that was granted by CRC variance in 2015. However, the CRC approved the variance for a five-year period as long as they remain in compliance with current rules. The CRC also conditioned the variance on an annual report that

was to be submitted by the Riggings HOA to the Commission detailing the HOA's efforts to address the erosion situation. The recent legislation will allow DCM to entertain a request for a permit without a variance. The legislation does not forgive the condition the CRC placed on the variance. If the Riggings HOA does not want to have to submit the annual report going forward then they should make that request to the CRC.

### **BEACH AND INLET MANAGEMENT**

#### **Town of Oak Island Development Line Amendment (CRC 18-28)**

##### **Ken Richardson**

Ken Richardson stated the development line is an alternative to the static line exception. Once a town has an approved development line then they can measure the setback from the first line of stable and natural vegetation. The development line represents the point along the coastal shoreline setting the limit for development. Structures cannot be more oceanward than the development line. The development line became effective on April 1, 2016. The proposed development line must extend the full length of the large-scale beach nourishment project area and may extend beyond the boundaries of the large-scale project to include the entire oceanfront jurisdiction or legal boundary of the petitioner. The town of Oak Island does have a CRC approved development line. In establishing the development line, an adjacent neighbor sight-line approach is to be utilized, resulting in an average line of structures. In areas where the seaward edge of existing development is not linear, the development line may be determined by the average line of construction on a case-by-case basis. In no case, shall a development line be established seaward of the most seaward structure within the petitioner's oceanfront jurisdiction. On June 14, 2016, the Town of Oak Island adopted the town's development line and on September 14, 2016, the town of Oak Island presented their proposed development line to the CRC and it was approved by the Commission. The Town is now requesting the CRC approve to amend a segment of their existing development line. This segment is located at the towns eastern boundary and is approximately 1,200 feet in length. Staff has reviewed all the information submitted by the petitioner and have determined that all required supporting information and documentation have been submitted. The proposed amendment is on average 76 feet oceanward of the Towns current development line and based on observations measured at existing structures, the proposed amendment could potentially allow seaward movement of structures.

Jake Vares, Planner Town of Oak Island, stated the proposed development line is being proposed to be moved to avoid a regulatory taking claim. The Town feels this is a minor amendment and this area was an oversight when the original development line was proposed.

**Craig Bromby made a motion to deny the Town of Oak Island's development line amendment request. Bob Emory seconded the motion. The motion passed with ten votes in favor (Emory, Smith, Medlin, Bromby, Salter Cahoon, High, Cooper, Catlin, Norris) and one opposed (Baldwin).**

**Craig Bromby made a motion directing staff to discuss alternatives to the Town's development line proposal. Robin Smith seconded the motion. The motion passed unanimously (Emory, Smith, Medlin, Bromby, Salter, Cahoon, Baldwin, High, Cooper, Catlin, Norris).**

## **Ocean Erodible AEC and Setback Factor Update Study – Long-term Erosion Rates (CRC 18-20)**

### **Ken Richardson**

Ken Richardson stated there is no action required by the Commission on this item. The annual shoreline change rates are used to calculate oceanfront setbacks. These rates are also used to establish the landward boundary of the Ocean Erodible Area AEC. The last reason these are helpful is that FEMA awards CRS credits just because DCM updates these rates every five years. The Commission's setback rules are used to site oceanfront development based on the size of the structure. In places where there is a high rate of erosion, structures must be located farther from the shoreline than in places where there is less erosion. A minimum factor of two feet per year is applied if the erosion rate is less than two feet per year. This method of siting oceanfront development was initially established by the CRC in 1979. Setback factors are based on the average annual long-term shoreline change rates calculated using the endpoint method. This technique of calculating shoreline change rates is consistent with earlier studies and results can be compared to those from previous studies. Applying the endpoint method to the 2018 update study used the earliest and most current shoreline to calculate change rates by measuring the distance between the two shorelines and dividing by time. Raw shoreline change rates are smoothed and blocked with neighboring transects to group adjacent shoreline segments that have similar rates into segments that can be assigned a single erosion rate. The 2018 statewide mean shoreline change rate is equal to less than two feet per year, which is consistent with previous studies. There was a slight erosion rate increase for portions of the coastline north of Cape Lookout, resulting in an increase in the average statewide setback factor. Of the 304.5 miles of shoreline analyzed, results show approximately 69 percent of the shoreline is experiencing some degree of erosion. The 2018 update study report has been completed and is currently being reviewed by DCM staff and will be presented to the Commission, along with the fiscal analysis, at the February 2019 meeting.

## **CRC Science Panel IHA Delineation Update (CRC 18-24)**

### **Bill Birkemeier, Science Panel/Ken Richardson**

Bill Birkemeier, CRC Science Panel, stated while this is a Science Panel effort, it would not be possible without the help of Ken Richardson. The Science Panel has some of the best experts on inlets. A summarized timeline leading up to the 2018 update was in your materials for this meeting. The process of delineating updated IHA boundaries has evolved since the Panel's 2010 proposal and the Panel generally considered three major variables: (1) the spatial and temporal variability of the inlet shoreline relative over time; (2) the application of shoreline change statistical methods and landward-most location of all vegetation lines; and (3) expert knowledge of how inlet processes, geomorphology, and engineering and dredging influence inlet behavior. The study included 10 of the state's 19 active inlets. Other inlets were not included in the update study because they are with undeveloped State or Federal management lands. Since the original IHA delineations, some of the inlets have changed significantly, with several inlets having closed completely. Others have moved beyond the limits of the original IHA delineations. In 2004, the Science Panel began working on revising the IHA delineation methodology, leading to the initial draft maps first presented in 2010. Due to a combination of issues including what use standards would be applied, the effort was put on hold. In 2016, the Panel was asked by the CRC to develop an inlet shoreline change rate calculation methodology and complete the updated IHA delineations. Although inlet shorelines are more dynamic and locally unique, a common



observation is a multi-year oscillations where the near-inlet shoreline on one side erodes rapidly while the other side accretes or gains sand. Over a period of years, the erosion patterns may reverse. This oscillation is most often caused by shifts in the alignment of the channel through the offshore bar. Because inlet shorelines behave differently than non-inlet areas, there are several important differences in how the erosion rates are measured and how they are applied in mapping. The CRC's Ocean Erodible Area and Ocean Hazard Area identify areas where long-term erosion and severe storm impacts are significantly higher than other areas on the barrier shorelines. The maps in this report present the Panel's recommended IHA for each of the developed inlet shorelines where the inlet processes risk is equal to or greater than the long-term erosion and storm impacts. The landward limit of each IHA is defined by the 90-year risk line and a 30-year risk line defines a higher level of risk. Because inlet oscillations make the existing vegetation line a poor indicator of future conditions, the proposed boundaries are fixed relative to the hybrid vegetation line. At most inlets, the proposed IHA has expanded farther away from the inlet along the oceanfront-inlet shoreline. The longshore boundary was identified using statistical methods based primarily on standard deviation of relative position of historic shorelines. These techniques quantified the extent of the shoreline variation and gave the Science Panel the ability to identify the oceanfront-inlet transitional boundary.

Ken Richardson stated that IHA use standard rules are specifically used to control density to try and keep large structures and dense development out of hazardous areas. The Science Panel is requesting that the CRC look at inlet hazard area boundaries every five years. DCM has developed concepts for these use standards. The setback would be based on inlet erosion rates within the IHAs. This will apply actual inlets rates versus applying the oceanfront rates. Staff also recommends removing the distinction between residential and commercial structures.

After discussion, the Commission asked staff to bring back proposed rule language for use standards within inlet hazard areas based on the presented concepts.

### **Beach and Inlet Management**

#### **Dredged Material Management in NC**

Justin McCorle, USACE District Counsel, stated a new policy issued in 2017 regarding the use of the Corps' placement facilities along the intercoastal waterway (AIWW). The Corps is responsible for dredging the waterway. For the first 20-30 years, the Corps sidecast the material onto the nearest piece of property if it was within our easement. Over time we realized that to responsibly develop the waterway and to continue to use these areas, we constructed a lot of diked disposal areas, particularly in Brunswick County. We are running out of disposal area at some of these sites. If the material is compatible and can be placed on the beach; then it will be. Until now, we have allowed non-federal entities to use these areas if space was available. In February 2017, a new policy emerged which specifically stated that in order for the Corps to let non-federal entities use the disposal facilities with non-federal material, we have to determine that sufficient placement area capacity is available to accommodate the material without reducing the availability at the facility for federal purposes. It is difficult to say that there will be capacity when maintenance of the channel is perpetual and the easement in perpetual, but the dikes have limited construction heights. This makes it difficult to say that a user is able to put any amount of material in an existing disposal area. If a non-federal entity is able to remove

material out if the storage area prior to putting material in, then the entity has created the space needed. This may help some local entities that have land-side access.

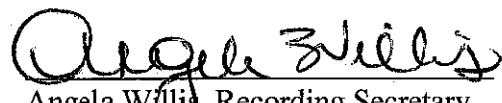
Layton Bedsole, New Hanover Shore Protection Coordinator, stated non-federal entities have been left to solve the Corps' perpetual need issue. The Corps has been taking our money for decades for us to use the sites. For the most part, we are managing the marinas, public access areas, and private development. The AIWW creates revenues and jobs to the area, but the State is going to have to take more aggressive control and management of this coastal infrastructure feature.

#### **OLD/NEW BUSINESS**

Chair Cahoon appointed Larry Baldwin as Vice-chair and Robin Smith as second Vice-chair. Bob Emory was appointed to serve on the CHPP Committee with Larry Baldwin as representatives of the Coastal Resources Commission. Along with the CRC Chair, the CRC Executive Committee will consist of Larry Baldwin, Robin Smith, Trace Cooper, Phil Norris, and Rudi Rudolph. This will ensure representation from each regional area of the coast as well as representation from the Advisory Council.

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

  
Braxton Davis, Executive Secretary

  
Angela Willis, Recording Secretary