

NC COASTAL RESOURCES COMMISSION (CRC)

July 16, 2015

NOAA/NCNERR Auditorium

Beaufort

Present CRC Members

Frank Gorham, Chair

Renee Cahoon, Vice-Chair

Neal Andrew

Gwen Baker

Larry Baldwin

Suzanne Dorsey

Greg Lewis

Janet Rose

Harry Simmons

John Snipes

Bill White

Present CRAC Members

Debbie Smith, Chair

Spencer Rogers, Vice-Chair

Rudi Rudolph, Vice-Chair

John Brodman

Jett Ferebee

J. Michael Moore

David Moyer

Kris Noble

Bobby Outten

Frank Rush

Dave Weaver

Lee Wynns

Present Attorney General's Office Members

Mary Lucasse

Christine 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 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. Marc Hairston and Jamin Simmons were absent. No conflicts were reported. Based upon this roll call Chairman Gorham declared a quorum.

MINUTES

Renee Cahoon made a motion to approve the minutes of the April 2015 Coastal Resources Commission meeting. Harry Simmons seconded the motion. The motion passed unanimously (Gorham, Andrew, Baker, Baldwin, Cahoon, Dorsey, Lewis, Rose, H. Simmons, Snipes, White).

EXECUTIVE SECRETARY'S REPORT

Braxton Davis, DCM Director, gave the following report:

Since your last meeting, permit activity has continued to be up overall in comparison with past years. We closed our last fiscal year at the end of June with an overall increase of 7% compared with the prior fiscal year, and that trend has continued over the first few weeks of July. The most significant update on the regulatory side of DCM since your April meeting involves our permitting of projects along Highway 12 in the Outer Banks. On June 15th, a settlement was announced for the ongoing legal challenges relating to the construction of the Bonner Bridge over Oregon Inlet in Dare County. The Division of Coastal Management, the Attorney General's office, NCDOT, the Federal Highway Administration, and the Southern Environmental Law Center were all very involved in discussions leading to this settlement, which should allow for the legal challenges related to the construction of a new bridge over Oregon Inlet (and other roadwork along NC 12 on Hatteras Island) to be dismissed following the completion of certain tasks by both NCDOT and DCM. DCM has been, and continues to work closely, with NCDOT staff to ensure that these various tasks are completed in a rapid fashion, at which time the appeal and resulting stay on the CAMA permit issued for the Bonner Bridge replacement will be dismissed. Both Doug Huggett and Christy Goebel spent significant time working on the appeal and settlement, and we sincerely appreciate the professionalism, hard work, time, and effort that they put into this over the past several months in particular. Also since your last meeting, DCM has conditionally certified that two additional proposals for offshore seismic surveys are consistent with the relevant enforceable policies of North Carolina's coastal management program (CGG Services and TGS). So, to date, proposals by a total of four companies (including Spectrum Geo Inc. and GX Technology) have now been conditionally certified as consistent with our program. These companies proposed to conduct separate 2D seismic surveys off the North Carolina coast to gather geological and geophysical data related to offshore oil and gas resources. In addition to our federal consistency review process, these companies are also required and are in the process of obtaining a federal permit from the Bureau of Ocean Energy Management, as well as an Incidental Harassment Authorization (under the Marine Mammals Protection Act) from the National Marine Fisheries Service, before these seismic surveys can be conducted offshore of North Carolina.

On the policy and planning side of DCM, staff are proceeding with the rulemaking process and preparing fiscal analyses for several rules associated with the proposed Development Line and Static Line amendments (7H .0304; .0305; .0306; and 7J .1200). Once drafted, the fiscal analysis must be approved by DENR and OSBM. The legislatively-mandated Periodic Review Report for your 7B Land Use Planning Guidelines was approved by the Rules Review Commission in June, and has now been forwarded to the Administrative Procedures Oversight Committee for final approval. Pending that approval, the Commission will be able to publish the rule amendments, hold a public hearing and adopt the rules by the November meeting. The proposed effective date of the re-written land use planning guidelines is January 1, 2016. Staff has also held eight public hearings associated with the repeal of the High Hazard Flood AEC, and the amendments to the 7K .0208 Single Family Exemption rules. In response to our annual Public Beach and Coastal Waterfront Access Grant notice of funding, we received pre-applications for 26 projects from 22 local governments totaling over \$2.4 million dollars this year. The division had \$640,000 available for

the cycle when a previously funded acquisition project was cancelled, which unencumbered an additional \$300,000. A total of nine local governments have been invited to submit a final application for the 2015-2016 cycle, with final awards of over \$900,000 to be made by December. Timed with the July 4th holiday, the Division also released its mobile-friendly version of our popular online public access map. Developed by Ken Richardson at DCM, the new mobile version provides information for more than 400 access sites along the North Carolina coast. The interactive map includes the location of each site, a site photo, number of parking spots and any applicable parking fees, restroom and shower facilities, and other amenities. Following the press release, the application had just under 4,000 hits in the first 24 hours and within the first week, nearly 6,000 hits. Since the holiday, beach access information is being viewed 220 times daily on average. The Division spent no additional funds to create the site. Information on how to access the mobile web application is available on the documents table. The Coastal Reserve program is continuing its work on the draft 5-year management plan update for the N.C. National Estuarine Research Reserve. The draft is being informed by comments received from each of the Local Advisory Committees, and from the National Oceanic and Atmospheric Administration (NOAA), on the strategic plan outline developed this spring. The writing and review processes are taking a little longer than anticipated; so we now expect to seek input on the full draft management plan from DENR, the Local Advisory Committees, the CRC, and NOAA during the upcoming fall/winter timeframe. A 30-day public comment period, and public meetings on the final draft, will be held prior to final publication in 2016. The Division is also continuing its efforts to increase awareness of and promote the use of “living shorelines” for estuarine shoreline stabilization in our state. During May and June of this year, the Reserve’s Coastal Training Program held four workshops for real estate professionals, marine contractors, and other technical professionals in Beaufort and Wilmington where participants learned about the benefits and limitations of using living shorelines for erosion control; design standards and best practices; permitting requirements; and case studies. Presentations and video from the Beaufort workshops are available on the Reserve’s Coastal Training Program website, and similar workshops will be held along the northern coast this fall. Coastal Reserve summer programming is also underway, including free public field trips and the Summer Science School programs. Details are available on the Reserve’s website on the event calendar.

Legislative Update

The General Assembly passed a continuing resolution that is effective until Aug. 14 to give legislators time to come to consensus on a budget.

Senate Budget:

Includes items from S160 (ports/inlets) and S453 (regulatory reform), with a few changes and additions:

- From S160, the section regarding a boundary change for the Zeke’s Island Reserve now recognizes that the department must request approval from NOAA for the boundary change, and offers to add a corresponding amount of acreage to the northern boundary of Zeke’s Island from adjacent acreage at Fort Fisher State Recreation Area.
- From S453, regarding sandbag rules, a section has been added to allow the replacement, repair or modification of damaged temporary erosion control structures that are either legally placed with a current permit or with an expired permit where the status of the permit is being litigated by the property owner.
- New section: DCM would be directed to study and develop a proposed strategy for preventing, mitigating, and remediating the effects of beach erosion. The study should consider efforts by other states and countries to prevent beach erosion and ocean overwash,

and to renourish and sustain beaches. A report would be due to appropriations committees and Legislative Research by February 15, 2016.

- DCM is directed to work with the Division of Marine Fisheries to create a new permitting process for oyster restoration projects, instead of a CAMA major development permit.
- In addition to transferring DENR's parks, zoo, aquariums and museum to the Dept. of Cultural Resources, the budget also includes a study of transferring other DENR programs, including the Coastal Reserves, to DCR.
- A provision would allow petitions for a ballot referendum to eliminate municipal service districts could impact funds for beach nourishment projects in some communities.

H346 – Counties/Public Trust Areas

Gives counties authority to enforce ordinances within public trust areas on ocean beaches – Signed by the Governor June 11.

On June 1st, after 11 years with DCM in various roles, Jonathan Howell moved from his job as an assistant major permits coordinator into his new position as the District Manager of the Division's Washington Regional Office, replacing David Moye who retired at the end of last year. Also on June 1st, and after nearly 8 years with the Division, Daniel Govoni moved from his position as an assistant major permits coordinator into a new role working for Tancred Miller as a policy analyst. The Division is in the process of hiring replacements for both of the now-vacant assistant major permit coordinator positions. June 1st also marked the date when Gregg Bodnar began work with the Major Permits and federal Consistency as a fisheries resources specialist. Gregg worked at DMF in various roles for over 10 years, most recently as the Interim Artificial Reef Program Coordinator. Greg has very valuable experience working with CAMA permits, and we are excited to welcome him aboard with CAMA. We are not so happy to report that Mo Meehan, our Morehead City District Planner, is leaving DCM to work in her family's business in Southport. We greatly appreciate her service to the Division over the years and wish her the very best in her new endeavors. Finally, we are planning for the next Commission meeting to be held in Wilmington on September 22-23 at the New Hanover County Government Center.

VARIANCES

Carteret County (CRC-VR 15-04), pile supported sign in coastal wetlands

Ryan Davenport/Christine Goebel

Ryan Davenport, DCM field representative, gave an overview of the property and site conditions. Christy Goebel of the Attorney General's office represented the Division and stated the Petitioner is Carteret County, as represented by the Down East Council. The Carteret County Manager as well as members of the Down East Council are present today, but will not make oral argument. Ms. Goebel stated the Down East Council is a representative group of all 13 downeast communities. Petitioners propose to install a welcome sign near the North River Bridge on US Highway 70. The proposed site for the sign is within a Coastal Wetlands Area of Environmental Concern. Carteret County owns the property where the sign is proposed, which is covered in Coastal Wetland species. Down East is defined by the Carteret County ordinances. On May 18, 2015, the County through Counsel applied for a CAMA minor development permit to install the sign on the proposed site. On May 28, 2015, DCM denied the permit application due to the Commission's rules which limit development in Coastal Wetlands AECs to water-dependent uses, and because the sign is not water-dependent the proposed development was inconsistent with 15A NCAC 7H .0205(d). Ms. Goebel reviewed the stipulated facts of this variance request and stated that staff and Petitioner agree on all four variance criteria which must be met in order to grant the variance.

Renee Cahoon made a motion to support staff's position that strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner an unnecessary hardship. Harry Simmons seconded the motion. The motion passed unanimously (Baldwin, Rose, Lewis, Snipes, Andrew, H. Simmons, Cahoon, Gorham, Dorsey, Baker, White).

Renee Cahoon made a motion to support staff's position that hardships result from conditions peculiar to petitioner's property. Larry Baldwin seconded the motion. The motion passed unanimously (Baldwin, Rose, Lewis, Snipes, Andrew, H. Simmons, Cahoon, Gorham, Dorsey, Baker, White).

Renee Cahoon made a motion to support staff's position that hardships do not result from actions taken by the Petitioner. Harry Simmons seconded the motion. The motion passed unanimously (Baldwin, Rose, Lewis, Snipes, Andrew, H. Simmons, Cahoon, Gorham, Dorsey, Baker, White).

Renee Cahoon made a motion to support staff's position that the variance request will be consistent with the spirit, purpose and intent of the rules, standards, or orders issued by the Commission, will secure the public safety and welfare; and preserve substantial justice. Larry Baldwin seconded the motion. The motion passed unanimously (Baldwin, Rose, Lewis, Snipes, Andrew, H. Simmons, Cahoon, Gorham, Dorsey, Baker, White).

This variance request was granted.

Chairman Gorham commented that this type of variance request could be worked out between the attorneys and staff and not be elevated to the Commission for approval. Braxton Davis stated a review of this proposal was required by other agencies and this proposal could actually have been evaluated as a Major Permit, however this was reviewed as a Minor Permit and we allowed D.O.T. and Scenic Bi-ways to review the application. Because signs are not water dependent, a rule change could be discussed to allow certain signs. Harry Simmons commented that the initial discussions about signs when developing the current rule were to limit the locations of commercial signs.

North Topsail Beach (CRC-VR 15-05), geotextile tube Jason Dail/Christine Goebel

Jason Dail, DCM field representative, reviewed the site conditions and gave an overview of the property. Christy Goebel of the Attorney General's office represented staff and stated that the Town Attorney, Brian Edes, is present and will represent the Town of North Topsail Beach. Ms. Goebel stated the Commission heard an expedited variance request from the Town for the same area last November. Petitioner holds oceanfront easements for the area north of Topsail Reef Condos toward the New River Inlet in connection with their Inlet Management Plan. Following the Phase I channel realignment and nourishment project which was completed in early 2013, and in response to recent accelerated erosion in this area, the Town began to research various options to protect the 20 structures in this area from erosion during the summer of 2014. The Town sought, and was granted a variance from the Commission to install a sandbag structure larger than allowed by the Commission's rules, up to 45 feet wide and +12 feet NAVD. As part of the resulting permit, the Town asked for, and was granted, authorization to install a geotextile tube the length of the sandbag project as a construction method. Following completion of the project, the Town indicated that it wanted to keep the tube in place until sometime in the future. On March 26, 2015, DCM issued a Notice of Violation (NOV) to the Town for failure to comply with the permit condition requiring

removal of the geotextile tube following construction of the sandbag structure. As part of the NOV restoration plan, DCM agreed to first let the Town seek a variance from the Commission to keep the tube before taking additional enforcement steps. Subsequently, the Town submitted a permit modification request to keep the tube, which was denied by DCM through a letter dated June 2, 2015. On June 3, 2015, DCM received petitioner's complete variance application seeking to keep the geotextile tube. Ms. Goebel reviewed the stipulated facts of the variance request and stated staff and Petitioner do not agree on any of the four variance criteria which must be met in order to grant the variance request. Ms. Goebel stated DCM acknowledged in the November 2014 variance petition that accelerated erosion at the site was causing the petitioner and the 20 adjacent property owners an unnecessary hardship, however the only hardships at issue in this variance request are those caused by not being allowed to retain the geotextile tubes in addition to the larger, previously authorized sandbag structure. The variance granted in November 2014 allowed the petitioner to construct a sandbag structure with a base width of 45 feet and a height sufficient to achieve an elevation of +12 feet NAVD. However, instead of building a structure as large as that allowed by the Commission, the petitioner downsized their project and constructed a sandbag structure approximately 30 feet wide and with less elevation than the +12 feet NAVD allowed by the variance. Staff disagrees with petitioner that any hardships are caused by conditions peculiar to the property as the site is within a CRC-designated Inlet Hazard Area of Environmental Concern and these dynamic shoreline changes commonly occur in all inlet hazard areas along the coast of North Carolina. This site is clearly influenced by inlet processes and the Town agrees that the erosion is typical of this inlet. Staff believe that the petitioners have caused their own hardships. The hardships claimed by the Town seek to keep the tubes as more than a temporary construction method. It was made clear during the discussion regarding the geotubes and their use that this was temporary and that permitting would be limited to the temporary construction period only. The Town and its contractor assured that they understood this condition. Staff's position is that any hardships result from actions taken by the petitioner including their decision to scale down from the previously authorized sandbag structure. The spirit, purpose and intent of the Commission's rules for the Ocean Hazard Area is to allow temporary erosion control structures only for imminently threatened structures and limit the size of individual sandbags and the overall dimensions. The installation and design standards of the Commission's rules reflect the temporary nature of these structures and what is allowed is only to the extent necessary to protect the property for a short period of time. Public safety and welfare would not be protected by granting this variance. Staff has raised public safety concerns and access concerns about geotextile tubes.

Brian Edes, Town Attorney, stated in October 2014, DCM staff made a site visit and a determination that the conditions at the end of North Topsail Beach had deteriorated to the point that emergency action was warranted. In mid-November the CRC granted a variance to the Town at an expedited hearing. Public hearings were held in October on assessment resolutions and the Town ultimately passed a resolution to assess half of the cost of the revetment project against the benefited property owners. At that time, the estimated total projects cost was roughly 2.3 million dollars. At that point we did not have the variance in hand so we had not bid the project. The bids came in higher than the Town had anticipated. The contractor advised the Town that the conditions had digressed to the point that we had to stabilize the area. The geotube was being discussed regardless of the Town's funds. The revetment was smaller than the variance allowed because the Town did not have the funds. DCM granted the condition for the geotextile tube to be installed and construction commenced. A modification was requested to allow the tube to stay. DCM would not allow it and we asked if it could stay until the Onslow County project was performed that would add sand to the area. The cost of the project is approximately three million dollars and according to our best information if we were to excavate out the tube at the foot of the revetment that will

compromise the integrity of the revetment and lead to its failure. We were surprised that staff did not defer to the CRC's finding that this area is peculiar. There isn't any evidence in the materials that the Town caused the burial of the geotube. Due to the erosion and scour going on at the site it became submerged. The tube will now require excavation. When you begin to excavate the tube then it will compromise the integrity of the revetment. If this variance is allowed then the geotubes will stay, at most, through the Onslow County project which is anticipated to occur in January or February of 2016. If the variance is denied then there is a strong likelihood that the revetment will be compromised and fail. The policy of the Commission and of the State is to take into consideration the cost. The Town didn't have the money to build the size revetment as approved during the last variance.

Chairman Gorham asked if the Town would consider a condition of a drop-dead date for removal of the tube. Brian Edes agreed on behalf of the Town. Commissioner Lewis asked if the Onslow County Board of Commissioners appropriated money in the budget for this project and what assurance the CRC has that this same situation won't occur again. The Town Manager, Stuart Turille, confirmed funding was available. Commissioner Lewis further stated that in the future the Commission should verify funding prior to granting a variance. The problem with this project arose due to inadequate funding. Commissioner Cahoon stated she still has concerns about funding and that scaled-back projects don't work. Commissioner Lewis stated the Town has agreed to remove all of the geotubes no later than June 30 and that funds will be secured to do the project as proposed.

Harry Simmons made a motion to support Petitioner's position that strict application of the applicable development rules, standards or orders issued by the Commission cause the petitioners an unnecessary hardship. Larry Baldwin seconded the motion. The motion passed unanimously (Baldwin, Rose, Lewis, Snipes, Andrew, H. Simmons, Cahoon, Gorham, Dorsey, Baker, White).

Harry Simmons made a motion to support Petitioner's position that hardships result from conditions peculiar to the petitioner's property. Larry Baldwin seconded the motion. The motion passed unanimously (Baldwin, Rose, Lewis, Snipes, Andrew, H. Simmons, Cahoon, Gorham, Dorsey, Baker, White).

Harry Simmons made a motion to support Petitioner's position that hardships do not result from actions taken by the petitioner. Gwen Baker seconded the motion. The motion passed with eight votes in favor (Baldwin, Rose, Lewis, H. Simmons, Gorham, Dorsey, Baker, White) and three votes opposed (Snipes, Andrew, Cahoon).

Harry Simmons made a motion to support Petitioner's position that the variance requested 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. Commissioner Simmons placed a condition on the approval to require removal of the geotube when the end of the Onslow County dredging project is completed or by June 30, 2016, whichever is earlier; and that funding should be secured for the entire project. Larry Baldwin seconded the motion. The motion passed unanimously (Baldwin, Rose, Lewis, Snipes, Andrew, H. Simmons, Cahoon, Gorham, Dorsey, Baker, White).

This variance request was granted with conditions.

PUBLIC INPUT AND COMMENT

Bill Price of Pine Knoll Shores made a comment about local data and sea level rise (written comments provided).

CRAC REPORT

Rudi Rudolph stated the CRAC voted positively on three things. The first was a discussion on proposed sandbag provisions for the State Port AEC that is being developed. Based on our conversation at the April meeting, Staff brought a couple of rule amendment options. The CRAC focused on the sandbag components for local governments. The CRAC agreed with the proposed sandbag provisions, but did think that there should be greater constraints on minimum bag sizes. The second discussion was about sandbags in general across the coast. Everyone agrees that the ocean erodes because of different circumstances yet there is currently one standard for every circumstance. The CRAC agreed unanimously that the CRC should review the sandbag policy for the entire State. The third discussion by the CRAC was about recognizing Bill Morrison, former Chair of the CRAC and long-time member. There were also two nominations that were submitted to the CRAC for the CRC to consider. The resumes for these two nominees will be forwarded to the full Commission for consideration at the next meeting.

CRC RULE DEVELOPMENT

State Ports Inlet Management AEC – Beneficial Use, Sandbag Use & Boundary

Heather Coats

Chairman Gorham advised the Commission he had attended a meeting with Harry Simmons, Neal Andrew, Gwen Baker, Rudi Rudolph, Justin McCorkle, Todd Miller, Mayor Sayre, Braxton Davis, Doug Huggett, and Heather Coats. Everyone agreed on the concept of moving forward on a Memorandum of Understanding that could be used anytime the Corps was planning to remove sand from the system to allow a local community to provide funds that could be used to place the sand on the beach.

Heather Coats stated this began in 2012 in response to legislation passed which directed the CRC to study the feasibility of creating a new AEC for lands adjacent to the Cape Fear River Inlet. A final recommendation of that study was to roll it into a more inclusive study, the Inlet Management Study. A priority identified in the Inlet Management Study was to recommend development of a new AEC for the State's two deep-draft inlets, Cape Fear and Beaufort Inlets, specifically taking into account the priority placed on maintaining the federal channels for access to the State Ports and looking at erosion control measures, beneficial use of dredged materials, beach management, and protection of coastal resources. In developing the draft rule language for the State Port Inlet Management AEC, we met with the local governments to first identify the local needs. We then sent the draft rules to a more inclusive group to include the US Army Corps of Engineers, State Ports Authority, National Park Service, and Fort Macon. The new rules for the AEC, as originally drafted, essentially revolved around two main topics. The first was the beneficial use of dredged materials essentially requiring use of all beach compatible material to be placed on the adjacent beaches or nearshore areas. The second main topic was sandbags. There has been a lot of discussion about the beneficial use portion of the rule. We have a group working with the Corps to draft a MOA, which you will hear about from Justin McCorkle. The CRAC discussed the sandbag rules at this meeting. The changes to the sandbag rules modify the definition of imminently threatened to allow local governments to protect primary and frontal dunes. Under the current rules only structures and limited infrastructure can be protected. The amendments to the sandbag rules would also allow a couple of other options for the Director to make a determination of imminently threatened in cases of accelerated erosion. The changes would eliminate the sandbag size restrictions, but keep the

overall structure size at a maximum of six feet in height with a twenty foot base width. A recommendation of the CRAC was to keep the minimum sandbag size restriction in place. The rules would also allow sandbags to remain in place for up to eight years, regardless of whether the community is pursuing an inlet relocation or beach renourishment project. The sandbags can remain in place if fully covered by sand and if they do not interfere with the use of the public trust beach. There is also a standard provision that unneeded sandbags will be removed within 30 days from the day that they are determined to be unnecessary.

Chairman Gorham directed staff to look at a policy that would take into consideration the pros and cons of covering sandbags as part of a renourishment project. If we are going to take the position that if they are covered then they can stay, but we take the position that you can't cover them with nourishment then it doesn't make any sense. Commissioner Lewis stated the CRC needs to look at sandbag uses. A lot of Commissioners are new and the word temporary has not turned out to be temporary. After discussion, Chairman Gorham stated an hour of time will be allocated at the September CRC meeting for sandbags. The Commission can go through the sandbag rules line by line. Commissioner Dorsey stated we have the wrong tool for the job that we are trying to accomplish. The discussion should be broadened to find out where sandbags should be used and where and what are the consequences to our State for looking at alternatives to sandbags. Braxton Davis stated this has been a longstanding issue for North Carolina and other states. The State Ports Inlet Management AEC allows you to take two inlets that have unique issues and consider new ways to manage those areas that currently aren't contemplated in the rest of the State. After that we can go through the broader sandbag rules. If you prefer, we can go back and have an overall sandbag discussion. Chairman Gorham stated we need to work on the Ports AEC, but we also need to learn about sandbags and work within what the law allows us to do.

Justin McCorkle, USACE District Counsel, stated the Commission approached the Corps to try to work proactively to put together a framework for what may not be a solution to the issue, but at least a step forward that may allow for some federal/non-federal partnership in putting sand on the beaches. We have been working toward coming up with some parameters under which we might get some non-federal funding to supplement the federal funds that we have to do our federal base plan so that in a year where we would be planning to put beach quality material somewhere other than the beach then non-federal sponsors could show up and provide the funds to move that sand. The Corps is not in a position to negotiate the terms of an agreement because those types of agreements depending on their scope and might need Congressional notification and would certainly need some review by our headquarters. What we are finding increasingly with beach communities and ports around the country is that having initial conversations to understand the potential scope of these things heads off questions that I will get from headquarters as we move forward. The Colonel made me available to help a working group put together some parameters of a proposed agreement that might allow us to move forward on several issues. There are certain situations where either the Corps has inadequate funding to do its base plan or inadequate funding to put sand on the beach or the base plan is to put the sand elsewhere. There are times where according to our environmental documents and our plan where we need to put sand in an alternate location, but in both Wilmington and Morehead City there are ample opportunities when there is plenty of sand in the channel and the beach is a perfectly good alternative in terms of a location and we don't have the funds to put it there so we either do not dredge at all or put the sand in another location. If the Corps is faced with a funding situation we are talking about the potential for the State, in partnership with local communities, to be able to come in and provide the funds to do a variety of things. The proposed MOA would allow for non-federal funds to move a beach placement location within the federally authorized limits. The MOA would also allow for an additional amount of sand to come out of the

channel and extend the beach placement area if a non-federal interest could provide the funds. We are working towards coming up with a scope that would lead to a letter of intent that would come from the State of North Carolina to the Corps asking to move forward on putting the parameters together for some sort of MOA. There are still some details that need to be worked out, particularly regarding what situations would be a NCDOT lead effort and what situations would be a DENR led effort. Those discussions need to be ongoing. We discussed at the meeting the possibility that this would also allow for DOT to fund additional dredging if the state found it necessary at State Ports. From our prospective there is a lot of good in this. I was pleased that the local interests agree with it and we have some momentum going forward. This would be a multi-project, multi-year Memorandum of Agreement. The next step would be bringing in the State Ports and the Department of Transportation to figure out what their interest is and do we want this to cover them or do we just want this to be strictly a beneficial use MOA. If they want to participate then we would need to figure out the details of how that might work and who will be the lead. The next step would be to craft a letter of intent to send to the Corps to begin the process of getting an MOA together.

Commissioner Simmons asked if there was any interest from the Corps' side to tie this in with the ongoing regional sediment management effort. Mr. McCorkle responded that from the district perspective we have seen money for study, but not a lot of availability of funding for implementation. If we are taking extra sand out of the channel and putting it on the beach then it has benefits, maybe not the cost-benefit ratio for the navigation project, but they are there for the beach and we have the coastal storm damage reduction umbrella. Commissioner Baldwin asked if there would be one MOA set up or multiple with different localities. Mr. McCorkle stated the opportunity already exists for local communities to enter into a one time, single use MOA or potentially a multiple use, longer term MOA, as has been done with Bald Head Island this past year. Atlantic Beach wants to do something in the near-term before we can get a big one put together. The thought of the group was an overarching MOA that would cover a lot of this stuff and take away the need to get permission every time. Currently for a contributing funds MOA our goal is to get an agreement processed in 120 days if there are no tweaks and everything is done exactly the way we do it for a navigation dredging project. Commissioner Baker stated we have spent a lot of time talking about the procedural side of this, but there is also a political side of this that we cannot ignore at the state and federal level. This current Administration is not particularly in favor of beach nourishment projects and there is ample opportunity for this to be shot down. Many of us in the room have roles to play if we want to pursue this. Chairman Gorham asked the working group to approach the Ports and DOT to see if they would like to be included. Chairman Gorham stated there was beneficial use language that was being incorporated into the State Port Management AEC rule that we were warned would not get through NOAA. Temporarily back off on that language until the working group gets through this MOA concept. Braxton Davis stated a financial MOA like this would fall under the Division of Water Resources. Darren England is on the working group and would be the best point of contact for the State to get in touch with the Ports and DOT to figure out their relative roles in drafting the letter of intent. Rudi Rudolph stated one thing we were concerned about, and still isn't resolved, is that the Corps doesn't get enough money to put the sand on the beach and we still don't have any tools to make that happen. The financial burden shifts to the local governments because the State hasn't stepped in. One of the positive concepts of the MOA includes all of the dredging within both deep draft inlets. If the State is going to start contributing money for the inner harbor then it is an easier transition for them to contribute money to put sand on the beach. We need the state funding component in this and the more agencies that are involved in getting the sand out of the channel, then the better chance we have to get this done. Chairman Gorham directed staff to prepare a draft of the rule language regarding the Port AEC, taking out the beneficial use language we added and including the input on the sandbag provisions for the next meeting. Braxton Davis

added that staff was tasked with developing the potential boundaries for the AEC. The boundary options might have been influenced by the beneficial use pieces. Where does the Commission want the sandbag rules to apply? (Heather Coats displayed the proposed boundaries for the AEC). Heather stated there wasn't much debate about the lateral boundaries for Beaufort Inlet. The Science Panel's proposed inlet hazard area boundaries were used. The boundaries extend from Fort Macon and covers Shackelford Banks. For the Cape Fear Inlet we have Caswell Beach to the west extending through the discharge canal and then Bald Head Island to the east. Commissioner Simmons suggested that the boundaries go even farther west for Caswell Beach and include the entire town. Chairman Gorham asked staff to send the boundaries out to the Commission for comments.

ACTION ITEMS

Adopt 15A NCAC 7H .0304 AECs Within Ocean Hazard Areas – Repeal of High Hazard Flood AEC (CRC 15-13)

Mike Lopazanski

Mike Lopazanski stated this amendment will repeal the High Hazard Flood Area in 7H .0304 as well as 7K .0213 for the single family exemption. The high hazard flood AEC is identified as the V-Zones on the flood insurance rate maps and historically the CRC has required all residential and commercial structures within the high hazard flood AEC to adhere to the construction standards and state building code when it comes to flood prevention. Over time the state building code has been strengthened. The AEC is now duplicative of what is already being required. This amendment will affect about 10,000 properties coast-wide, although not all of these properties will fall out of CRC jurisdiction because some of these areas are still within the Coastal Shoreline AEC and would still require a permit for development. A public hearing was held in each of the eight oceanfront counties. No comments were received during the comment period. Staff recommends adoption of the amendment.

Harry Simmons made a motion to adopt amendments to 15A NCAC 7H .0304. Renee Cahoon seconded the motion. The motion passed unanimously (Baldwin, Rose, Lewis, Snipes, Andrew, H. Simmons, Cahoon, Gorham, Dorsey, Baker, White).

Town of Carolina Beach LUP Amendment (CRC 15-14)

Mike Christenbury

Mike Christenbury stated the Town of Carolina Beach is seeking certification of an amendment to the Carolina Beach Land Use Plan. The Town amended the Land Use Plan to modify the future characteristics of the Marina Mixed Use District on the Future Land Use Map. The amendment removes the prescribed density characteristics. The Town held a duly advertised public hearing on June 9, 2015 and voted unanimously by Resolution to adopt the amendment. Staff has reviewed the amendment and has determined that the Town has met the requirements outlined in the guidelines and that there are no conflicts with state or federal law or the State's Coastal Management program. DCM did not receive any comments on the amendment. Staff recommends certification of the amendment.

Renee Cahoon made a motion to certify the amendment to Town of Carolina Beach Land Use Plan. Harry Simmons seconded the motion. The motion passed unanimously (Baldwin, Rose, Lewis, Snipes, Andrew, H. Simmons, Cahoon, Gorham, Dorsey, Baker, White).

OLD/NEW BUSINESS

Update on NCNERR Management Plan

Rebecca Ellin stated the document is in the process of being written. Input was solicited from the Local Advisory Committees on the strategic plan which is just a small portion of the management plan, but it provides the framework. We also received comments from NOAA. There are a number of reviews that NOAA will weigh in on. Once a solid draft is put together then we will seek the Department's input, the Commission's input, the Local Advisory Committee's input, and NOAA's input. After all of the comments are reviewed then we will have a 30-day public comment period that will be advertised in the Federal Register and we will hold three public meetings throughout the coast to seek input on the final draft version. The early reviews should take place in the fall/winter of this year. Neal Andrew requested that the Commission be provided a summary of the comments received during the process.

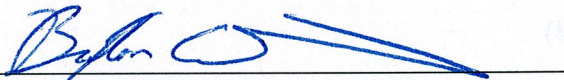
Update on Development Line Rulemaking

Ken Richardson stated progress is being made with the development line and static line amendment fiscal analysis. I hope to have a draft ready by the end of the month. After staff review, it will go to the Department and OSBM for review. Once the fiscal analysis is approved by DENR and OSBM, it will come to the CRC for approval. Following CRC approval, the rule amendment and fiscal analysis will be published in the NC Register. A public hearing will be held and following the required 60 day public comment period, the Commission can adopt the final amendments.

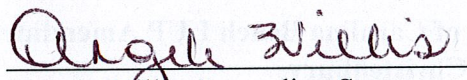
Frank Gorham stated the next meeting will be September 22-23 at the New Hanover County Government Center in Wilmington. The last scheduled meeting for 2015 will be November 17-18 in Carteret County. Chairman Gorham further stated a working group should be established to look at some statutory recommendations to the legislature. If you are interested in being on this working group contact the Chairman.

With no further business, the CRC adjourned.

Respectfully submitted,



Braxton Davis, Executive Secretary



Angela Willis, Recording Secretary