

NC COASTAL RESOURCES COMMISSION (CRC)

November 19-20, 2019

Islander Hotel

Emerald Isle, NC

Present CRC Members

Renee Cahoon, Chair

Larry Baldwin, Vice-Chair

Robin Smith, Second Vice-Chair

Craig Bromby

Trace Cooper (absent 11/19)

Bob Emory

Robert High (absent 11/19)

Doug Medlin

Phil Norris

Lauren Salter

Robin Smith

Dick Tunnell

Angie Wills

Present CRAC Members

Rudi Rudolph, Chair

Spencer Rogers, Co-vice Chair

Bobby Outten, Co-vice Chair

Candy Bohmert

Daniel Brinn

Ike McRee

Mike Moore

David Moyer

Todd Roessler

Debbie Smith

Dave Weaver

Rhett White

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

CALL TO ORDER/ROLL CALL

Renee Cahoon called the meeting to order at 1:00 p.m. on September 18, 2019, 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 identify the conflict when the roll is called.

Commissioner Neal Andrew was absent. Alexander "Dick" Tunnell read his evaluation of statement of economic interest from the State Ethics Commission, indicating a potential for

conflict, but no actual conflict. Mayor Doug Medlin administered the Oath of Office to Commissioner Alexander “Dick” Tunnell. Based upon this roll call Chair Cahoon declared a quorum.

CHAIR’S COMMENTS

Chair Cahoon reviewed the attendance policy as outlined in the CRC Internal Operating Procedures and reminded Commissioners of their duty to attend meetings and communicate absences to the Chair.

MINUTES

Larry Baldwin made a motion to approve the minutes of the September 18-19, 2019 Coastal Resources Commission meeting. Phil Norris seconded the motion. The motion passed unanimously (Cahoon, Baldwin, Bromby, Emory, Medlin, Norris, Salter, Smith, Wills).

EXECUTIVE SECRETARY’S REPORT

DCM Director Braxton Davis gave the following report:

Following this past weekend’s nor’easter, we are aware of impacts in Dare County, along Pea Island and Hatteras Island. NC12 is still closed between Rodanthe and Oregon Inlet due to overwash and flooding. There was also overwash along NC12 in Ocracoke but apparently no additional road damage there. Repairs and dune reconstruction had already begun following Dorian and will continue now that the storm has passed. We have advised Dare County that, based on your rule change last year, sand that has accumulated on and around buildings, structures, roads, parking areas, or pools can be redistributed without a permit, as long as it remains within the Ocean Hazard Area (OHA), does not result in seaward expansion of a frontal or primary dune, and the sand is beach compatible. In all cases, before taking any action a property owner should first contact their LPO or the DCM field rep for a case-by-case review.

Next, some updates on the regulatory side of DCM:

- The Division issued a CAMA major permit to the Town of Sunset Beach on October 28 authorizing the dredging of the canal system and a portion of Jinks Creek, along with the placement of beach quality dredged material on an adjacent beachfront area. The permit was conditioned to limit dredging depths in Jinks Creek based on the depths of connecting waters.
- The Town of Ocean Isle Beach recently submitted a renewal request for its Terminal Groin project. This is the first renewal request which means the project will be renewed for an additional two years as litigation involving the federal permit continues.
- A preconstruction meeting with the NC Ports regarding the expansion of the turning basin in Wilmington took place on October 25 and that project is expected to begin now that the Corps permit has been issued. The Commission issued a variance for this project and the NC Port has requested a minor modification to extend the dredge time past January 1, 2020. That modification request is currently under review.

Several beach nourishment and inlet dredging projects are set to take place this winter, including:

- Bogue Banks (Emerald Isle, Indian Beach, Pine Knoll Shores and Atlantic Beach – Offshore Dredged Material Disposal Site)
- North Topsail Beach dune restoration project (truck haul)

- Surf City dune restoration project (truck haul)
- Topsail Beach renourishment (dredging Topsail Inlet, Topsail Creek, and part of Banks Channel)
- Figure 8 renourishment (Mason Inlet relocation and Banks Channel)
- An application from Oak Island for a beach project is currently under review with proposed dredging of Jay Bird Shoals/Middle Ground area.
- Federal navigation dredging projects (at Brown's Inlet with beach placement on Onslow Beach, New River Inlet crossing with placement on North Topsail Beach, and Carolina Beach Inlet/Snows Cut dredging with placement on Masonboro Island via Fed Consistency Review)
- upcoming maintenance dredging of the South Ferry Channel at Hatteras Inlet by Dare County
- This morning we issued Wrightsville Beach federal consistency determination for 2036 EA.

Finally, the Washington Regional office is fielding more calls from Ocracoke Island, which is a good thing, as residents continue to recover from Hurricane Dorian which brought major flooding to the island. The Division continues to keep a line of communication open with Hyde County government through this difficult time.

POLICY & PLANNING

As you will recall, WesternGeco filed an appeal in July regarding DCM's objection to their proposal to conduct seismic surveys off the North Carolina coast. North Carolina's objection was based on a finding that the proposed seismic testing was not consistent with the state's coastal management program. The appeal is to be considered by the U.S. Department of Commerce Secretary in accordance with the federal Coastal Zone Management Act. Mary Lucasse will provide additional details in her legal update later in the meeting.

Wind Energy

An offshore wind conference was held in Raleigh last week with leaders in the wind industry. Avingrad is in the process of developing a Site Assessment Plan and a federal Consistency Determination will come to us in the future for the Construction and Operations Plan for the Kitty Hawk WEA.

Land Use Plans

The Division did not receive any land use plan amendment since the last meeting.

Public Access Program

DCM has received 14 applications from 14 local governments requesting over \$2.4M in funding from the Public Beach and Coastal Waterfront Access Program. DCM has approximately \$1M available for access projects during this fiscal year and has invited 10 local governments to submit final applications with more detailed information. In response, 8 local governments submitted applications for projects totaling \$1.03M. Pending Department approval, DCM expect to make awards ranging from \$47,000 to \$280,000 for projects that include boardwalks, ADA accessible improvements, ocean access improvements, and land acquisition for new waterfront facilities.

Post Storm Resiliency Efforts

I am very pleased to announce that from the \$8M received by DEQ from the 2019 Disaster Recovery Act for infrastructure and cleanup needs, DCM was allocated \$830,000:

- \$130,000 for a Temp Solutions position (2 years) within our Coastal Reserve program to work on a significant project with Carteret County, TNC, the Town of Beaufort, and the Rachel Carson National Estuarine Research Reserve related to sediment management and coastal resilience;
- \$500,000 for a DCM-issued RFP for county and local vulnerability assessments, resilience planning, and engineering/design studies in the 20 coastal counties (up to \$50K for individual projects); and
- \$200,000 for a Temp Solutions position (2.5 years) for a Coastal Resilience Specialist at DCM to work with NCORR (NC Office of Recovery and Resiliency) to establish a new framework for coastal resilience planning in NC, and to oversee the DCM RFP.

This funding will provide DCM with significant momentum in getting a true coastal resilience program off the ground over the coming years.

Upcoming Public Hearings

The Division has scheduled public hearings for the proposed Inlet Hazard Area maps and associated use standards in Brunswick, New Hanover, Onslow, Pender, Carteret, Hyde, and Dare Counties. The hearing schedule is available at the table.

Coastal Reserve

NOAA is currently seeking public comments on the N.C. National Estuarine Research Reserve's revised draft management plan. NOAA requires periodic revision of management plans for sites in the National Estuarine Research Reserve System. Details regarding the NOAA public comment period are at www.federalregister.gov; the comment period closes November 27. The Reserve program also held public meetings in Corolla, Beaufort, and Wilmington November 4-6.

- All Reserve sites have been reopened to visitors after Hurricane Dorian. We appreciate the assistance from partners and volunteers who assisted Reserve staff in getting the sites ready and safe to reopen; including the NC Forest Service, NC Wildlife Resources Commission, and The Nature Conservancy.
- Very pleased to announce that the state has purchased 35 acres in Sunset Beach to be added to the Bird Island Coastal Reserve. The addition of the oceanfront Sunset Beach West property, which is located between the end of West Main Street in Sunset Beach and the Bird Island Reserve's eastern boundary, ensures long-term habitat protection, allows the public to directly access the Bird Island Reserve from public access points in Sunset Beach, and resolved ongoing litigation regarding the ownership and development of the site.
- Also, very pleased to announce that DCM received funding from the USFWS National Coastal Wetlands Conservation Grant Program to purchase 35.6 acres of maritime forest and wetlands on Little Collington Island, known as the Meter Point tract, for incorporation into the Kitty Hawk

Woods Coastal Reserve. The \$912,750 grant from USFWS is matched by a donation from the seller to complete the purchase. The purchase will protect the Meter Point tract from development and conserve critical maritime forest and wetland habitats for a variety of important aquatic and terrestrial species. The Council of State approved the purchase at its November meeting.

- The Reserve is working with NC DEQ, NC Wildlife Resources Commission, and the NC Coastal Federation to hold workshops for government officials to learn about local and State-level efforts to address abandoned and derelict vessels, including those generated by Hurricane Florence. The workshops will also address community eligibility to participate in upcoming State vessel removal efforts, and successes and challenges associated with managing abandoned and derelict vessels. The first workshop was held Nov. 15 in Washington and the second workshop will be held Nov. 25 in Wilmington. These workshops build on the presentation by Paula Gillikin and the Coastal Federation at the last CRC meeting.
- Fall local advisory committee meetings will be held in December for all 10 sites. Meeting details are available on the Reserve's event calendar.

Staff News

We are pleased to announce several new folks and some new changes at DCM following on all the vacancies I've reported at your past meetings. First, Ellie Davis has accepted the accounts payable position in the Morehead District Office. Ellie comes to us from the Division of Marine Fisheries, where she worked for the last 12 years. Christy Simmons will be the PIO for DCM effective December 2. After more than 35 years in the Triangle, Christy will be moving back to eastern North Carolina and working in our Morehead City office. Before joining DEQ in 2018, Christy worked in marketing at the Herald-Sun Newspaper in Durham, as manager of public relations for the Food Bank of Central & Eastern North Carolina, and as director of communications and marketing at her alma mater, N.C. Central University. We would also like to welcome Audy Peoples, who has begun working for the Division as a field representative in the Elizabeth City Office. Audy's first day was last week (November 12th) and he also comes to us from the Division of Marine Fisheries, where he worked in the Observer Program for 2 years. He has a Bachelor's degree from Elizabeth City State University where he majored in Marine Environmental Science as well as a Master's degree in Ecology from the University of Maryland Eastern Shore. As you will recall, Debbie Wilson officially retired on November 1st after 9 years as the District Manager in the Wilmington Office. I'm happy to report that Tara MacPherson has moved into the role of District Manager in Wilmington. Tara is in the process of hiring a new field representative to cover her previous position. And as you will recall, Doug Huggett officially retired just after your last meeting, and I am happy to report that Jonathan Howell has accepted the position of Major Permits Coordinator in our Morehead City office. Jonathan has been with the Division since 2004, and has worked as a Planner, Asst. Major Permits Coordinator, Field Representative, and most recently, District Manager in the Washington office. Of course, this leaves a vacancy in the District Manager position in Washington. We will be conducting interviews in the beginning of December to fill this position. Courtney Spears was the Assistant Major Permits Coordinator in the Wilmington office. She left the state on October 11th to work at Camp Lejeune. The Assistant Major Permits Coordinator position has been posted, and interviews are ongoing.

CRAC REPORT

Rudi Rudolph stated the Advisory Council discussed allowances within the oceanfront setback but does not allow external material to be placed in the setback. After discussion, the CRAC decided to recommend allowing fill for grading pending material compatibility. DCM staff will draft amendments to bring to the Commission for discussion. The CRAC also discussed the Corps' requirement for easements from the Towns for placing dredged material on state property.

ACTION ITEMS

Consideration of Public Comments and Adoption of 15A NCAC 7H .0304; 7H .0309; and 7H .0313 – State Ports Inlet Management AEC (CRC 19-32)

Heather Coats

Heather Coats stated these rules will create a State Ports Inlet Management Area of Environmental Concern. The CRC approved these rules in September 2018. The fiscal analysis has been completed and public hearings have been held to receive comments. In 2012, state legislation was passed to study the feasibility of creating a new AEC for the lands adjacent to the Cape Fear River. The outcome of the study recognized that there are some issues at this inlet that may apply at other inlets. One of the recommendations from the study was for the CRC to develop management objectives and use standards for a new AEC adjacent to the two inlets in North Carolina with federally maintained shipping channels, Beaufort Inlet and the Cape Fear River Inlet. Legislation was also passed that removed the lands adjacent to these two inlets from the Inlet Hazard Area of Environmental Concern. Staff met with the local governments and there was a lot of discussion about the beneficial use of beach-compatible dredged material. There was concern expressed by the US Army Corps of Engineers and the State Ports Authority about the proposed rule language. The beneficial use requirement was removed from the draft amendments following receipt of these objections. Use standards developed for this AEC included allowing the use of geotextile tubes, allowing the use of temporary erosion control structures to protect frontal or primary dunes and infrastructure, and broadening the definition of what qualifies as “imminently threatened”. All other rules applicable to the ocean hazard areas would still apply. Public hearings were held on July 17, September 17, and September 18, 2019. Comments were received by the Southern Environmental Law Center on behalf of the NC Coastal Federation that described their concerns about an increase in the use of sandbag structures which could result in increased environmental impacts, that allowing the use of geotubes could increase beach erosion; and the AEC boundaries were drawn without regard to a science-based approach. These two inlets are both highly managed and have been stabilized with hardened structures. While staff recognizes the NC Coastal Federation's concerns, it is believed that the AEC and its use standards were developed in accordance with the local stakeholders' requests as well as in accordance with the intent and direction of the Commission. Staff recommends the CRC approve the rules as proposed.

Bob Emory made a motion to approve amendments to 15A NCAC 7H .0304. Doug Medlin seconded the motion. The motion passed with nine votes in favor (Tunnell, Bromby, Emory, Smith, Baldwin, Cahoon, Norris, Medlin, Salter) and one opposed (Wills).

Phil Norris made a motion to approve amendments to 15A NCAC 7H .0309. Larry Baldwin seconded the motion. The motion passed with nine votes in favor (Tunnell, Bromby, Emory, Smith, Baldwin, Cahoon, Norris, Medlin, Salter) and one opposed (Wills).

Craig Bromby made a motion to adopt 15A NCAC 7H .0313. Doug Medlin seconded the motion. The motion passed with nine votes in favor (Tunnell, Bromby, Emory, Smith, Baldwin, Cahoon, Norris, Medlin, Salter) and one opposed (Wills).

Consideration of Public Comments and Adoption of 15A NCAC 7H .0309 – Use Standards for Ocean Hazard Areas – Ocean Outfalls (CRC 19-33)

Mike Lopazanski

Mike Lopazanski stated in a response to a request from the Town of Nags Head, the Advisory Council and Commission began rulemaking related to the extension of existing ocean outfalls in conjunction with a beach nourishment project. Under existing rules, ocean outfalls are considered development and are not authorized as exceptions to rules prohibiting development seaward of the applicable setback or first line of stable and natural vegetation. Although the existing 26 outfall structures are grandfathered, the rules do not allow for extension since any expansion is considered new development and requires a variance to be issued by the Commission. The NCDOT has requested variances from the Commission to allow extensions. These amendments will require these requests for extensions to be reviewed through the Major Permit process. Once approved, NCDOT or the local government may extend or shorten the outfall within the permitted dimensions without the need for a new permit application each time. Public hearings were held on the proposed amendments on September 17 and 18 and one comment was received from NC Coastal Federation that outlined concerns that stormwater runoff degrades water quality, causes health problems, and that dune infiltration systems could be designed and implemented by public works department staff within coastal towns. The Division of Water Resources, NCDOT, and Shellfish Sanitation were supportive of the amendments. The Division will continue to be supportive of local initiatives to address alternative strategies for existing outfalls, but requested the Commission approve these amendments.

Larry Baldwin made a motion to approve amendments to 15A NCAC 7H .0309. Doug Medlin seconded the motion. The motion passed unanimously (Tunnell, Bromby, Emory, Smith, Baldwin, Cahoon, Norris, Medlin, Salter) (Wills did not vote).

Consideration and Adoption of 15A NCAC 7H .1900 – General Permit to Allow Temporary Structures Within Coastal Shorelines and Ocean Hazard AECs

Mike Lopazanski

Mike Lopazanski stated the Division has been asked by the research community and others to construct temporary structures associated with research projects that are in estuarine or public trust waters. These structures are currently considered major development since it does not fit within any of our General Permit categories, including the temporary structures GP. To allow an opportunity for small-scale research projects, the Division is interested in expanding the temporary structures GP to accommodate these research projects conducted by academic institutions. DCM met with the research community and amended the General Permit. No

comments were received on the proposed amendments during the comment period. Staff requests approval from the Commission.

Dick Tunnell made a motion to approve amendments to 7H 1900. Doug Medlin seconded the motion. The motion passed unanimously (Tunnell, Bromby, Emory, Smith, Baldwin, Cahoon, Wills, Norris, Medlin, Salter).

Consideration of Adoption of 15A NCAC 7H .0305 General Identification and Description of Landforms – Procedures for Determining Measurement Line

Ken Richardson

Ken Richardson stated Hurricane Florence destroyed dunes and vegetation in certain places in Surf City and North Topsail Beach. Vegetation is what the construction setback is measured from and without it, the Division uses a measurement line to measure setback. Before a measurement line can be established, an Unvegetated Beach AEC must be approved by the Commission. Based on this approval, the measurement line has been established and amendments to this rule have been drafted. Public hearings were held in Pender and Onslow counties on October 15 and one comment was received in favor of the measurement line. Staff is asking the Commission to approve the amendments.

Craig Bromby made a motion to approve amendments to 15A NCAC 7H .0305. Angie Wills seconded the motion. The motion passed unanimously (Tunnell, Bromby, Emory, Smith, Baldwin, Cahoon, Wills, Norris, Medlin, Salter).

Consideration of Comments and Adoption of 15A NCAC 7H .0304 AECs Within Ocean Hazard Areas – 2019 Erosion Rates (CRC 19-41)

Ken Richardson

Ken Richardson stated since 1980 DCM has updated the oceanfront erosion rates every five years. The Commission's setback rules are used to site oceanfront development based on the size of the structure according to the graduated setback provisions in 15A NCAC 7H .0306. These rules also ensure compliance with FEMA guidelines for the Community Rating System (CRS) and allows property owners in coastal communities that participate in the National Flood Insurance Program to be eligible for fifty additional CRS points, which can potentially reduce insurance rates. The amendment to 7H .0304 refers to the 2019 Report, which was approved by the Commission on February 28, 2019. No comments were received on the proposed amendments.

Craig Bromby made a motion to approve amendments to 15A NCAC 7H .0304. Phil Norris seconded the motion. The motion passed unanimously (Tunnell, Bromby, Emory, Smith, Baldwin, Cahoon, Wills, Norris, Medlin, Salter).

Consideration of Comments and Adoption of 15A NCAC 7H .0304 AECs Within Ocean Hazard Areas – Unvegetated Beach Area (CRC 19-34)

Ken Richardson

Ken Richardson stated in February 2019, the Commission approved amendments to remove unnecessary and redundant language and provide clarity to the method utilized to delineate a

Measurement Line. Public hearings were held in Pender and Onslow Counties on October 15. Staff requests the Commission approve the proposed amendments.

Phil Norris made a motion to approve amendments to 15A NCAC 7H .0304. Craig Bromby seconded the motion. The motion passed unanimously (Tunnell, Bromby, Emory, Smith, Baldwin, Cahoon, Wills, Norris, Salter; Note: Doug Medlin recused himself from discussion or voting on this agenda item.).

CRC RULE DEVELOPMENT

Amendment to 15A NCAC 7H .0309 – Roofs Over Decks (CRC 19-35)

Mike Lopazanski

Mike Lopazanski stated the Commission recently considered a variance request to construct a roof over two existing oceanfront decks. This development required a variance because it is inconsistent with 7H .0306(a)(5) which prohibits any portion of a building or structure from extending oceanward of the ocean hazard setback. The variance request was granted; however, the Commission sent the issue to an internal subcommittee for further discussion. The subcommittee met with staff to discuss staff's concerns and their experience with the expansion of oceanfront structures. The subcommittee agreed with staff that there was not a need to amend 7H .0306. However, the subcommittee proposed amendments 15A NCAC 7H .0309 to allow elevated decks within the setback area to add roofing, not to exceed a footprint of 500 square feet.

Bob Emory made a motion to approve amendments to 15A NCAC 7H .0309 for public hearing. Angie Wills seconded the motion. The motion passed unanimously (Tunnell, Bromby, Emory, Smith, Baldwin, Cahoon, Wills, Norris, Medlin, Salter).

Refinement to Amendments of 15A NCAC 7J .0403 & .0404 Development Period/ Commencement/Continuation & Development Period Extension (CRC 19-36)

Jonathan Howell

Jonathan Howell stated the Commission approved amendments at the September meeting. Staff is requesting to add back language that allowed for a condensed three-week review of a Major Permit that had not met the "substantial development" requirement. If a project has not had any substantial development taking place since the last renewal, then the project is not eligible to be renewed. This provision was removed in the proposed amendments, but DCM would like to retain this provision with a thirty-day review window for reviewing agencies.

Larry Baldwin made a motion to approve the refinement to amendments to 15A NCAC 7J .0403 and .0404. Doug Medlin seconded the motion. The motion passed unanimously (Tunnell, Bromby, Emory, Smith, Baldwin, Cahoon, Wills, Norris, Medlin, Salter).

INTERAGENCY ISSUES

Inland Waters Boundary Update

Chair Cahoon stated she attended the last Wildlife Resources Commission (WRC) meeting to stay informed on this issue. The WRC meetings do not include a public comment session. She also attended the Marine Fisheries Commission (MFC) meeting and outlined the CRC's concerns during public comment about implications to the NC Coastal Management Program if the

boundary is moved. She reported that at the MFC meeting, a motion was made to keep the boundary the same, however the motion was ruled out of order. A draft letter from the CRC to the Chair of the WRC has been provided for the CRC's review. Larry Baldwin stated a WRC representative attended the CHPP Committee meeting but did not provide any additional information or clarity on why the change was proposed. Bob Emory added that the WRC representative was asked, "What fish problem would be fixed by moving the line?" and there was no indication that there was a problem.

DEQ Assistant Secretary Sheila Holman stated the Department has submitted a letter to Gordon Myers, Wildlife Resources Commission Executive Director, outlining a variety of concerns. She reported that the only response received is a proposed timeline from WRC to DCM which lays out the timeline for the fiscal analysis, OSBM review, and public hearings leading to the adoption of rules in 2022. Two separate county board of commissions have adopted resolutions opposing the WRC proposed delineation of inland waters.

The Commission approved the draft letter from the CRC to David Hoyle, Jr., WRC Chair, outlining the CRC's concerns. The Commission additionally requested a letter be drafted to the Governor requesting an ad hoc committee of affected Divisions and Commissions be created by Secretary Regan to discuss potential changes to the boundary as well as requesting the best available science be used to determine whether any changes are needed. Commissioner Robin Smith will draft this letter for the Commission's review.

OCEANFRONT RULES AND IMPLEMENTATION

Amendments to 15A NCAC 7H .0306 & 7J .1301 – Development Line Setback Exceptions (CRC 19-37) and State Line Exceptions and Development Lines (CRC 19-38)

Ken Richardson

Ken Richardson stated at the September meeting, the Commission discussed implementation challenges when applying the Ocean Hazard Area exception rules in 7H .0309 in areas with approved development lines. Development that is allowed seaward of the setback are not allowed seaward of the development line. Staff has drafted amendments to the current development line rules that would allow development listed in the Ocean Hazard Area exceptions with the exclusion of driveways, pools and elevated decks. Staff would also like to ask the Commission for additional guidance on concerns that have recently surfaced. For example, could rule amendments result in the CRC being asked to approve amended development lines. Can a community have both a development line and a static vegetation line exception? The Commission has indicated it is mindful of amendments that could unintentionally result in the potential for additional seaward encroachment in areas with a proven history of erosion problems. Under current rules, construction of new structures seaward of the development line would not be allowed. Recent amendments would allow the types of development listed under the exceptions to be constructed seaward of the development line and inside the setback. By excluding specific development, there is a concern that the Commission would be asked to approve amended development lines or new development lines that push the boundaries of what is intended or allowed by these rules. This could result in development lines located in a more seaward position. Staff is seeking the Commission's guidance on communities wanting to have both the static vegetation line exception and a development line.

Robin Smith made a motion to delay action on 15A NCAC 7H .0306 and 7J .1301. Staff is directed to bring back amendments to incorporate a clarification of how the development line should be drawn. Dick Tunnell seconded the motion. The motion passed with eleven votes in favor (High, Tunnell, Cooper, Emory, Smith, Baldwin, Cahoon, Wills, Norris, Medlin, Salter) and one opposed (Bromby).

Bob Emory made a motion to declare the Commission's interpretation of the development line rules does not permit a community with an approved development line to utilize the static line exception. Larry Baldwin seconded the motion. The motion passed unanimously (High, Tunnell, Cooper, Bromby, Emory, Smith, Baldwin, Cahoon, Wills, Norris, Medlin, Salter).

CRC RULE DEVELOPMENT

Shellfish Leases and Permitting Updates (CRC 19-39)

Jonathan Howell

Jonathan Howell stated DCM has been a commenting agency on shellfish leases, with most comments centered on riparian ownership. One of the issues is the proximity to others' riparian corridor. DCM would also review size and placement of pilings, any issues to navigation, coastal wetlands, and installment of permanent structures. After years of commenting in this fashion, DCM staff brought exemption language before the Commission for review. The Commission asked staff to explore General Permit language based on the standard comments provided to the Division of Marine Fisheries (DMF) through the review process. Staff developed General Permit language and shared this language with the resource agencies and DMF. DMF believed that the General Permit rule language could be handled through changes to DMF's rules. Lease applications are including new growing methods which require CAMA Major Permits as some of these new methods require several poles to build the system. We are also seeing an increase in the type of land and dock-based facilities. DMF has expressed that they can encompass our General Permit language into their rules and will provide an update to the Commission at the next CRC meeting. The growers are still expressing the need for enclosed structures, working platforms, and the use of FLUPSYs on their leases. The industry is also requesting moorings. The Commission has been asked by industry representatives to look at the floating structure policy and whether floating sheds used for shellfish processing and FLUPSYs are considered floating structures and therefore required to be located within a marina. This is an ongoing discussion and one that we will be working on well into the future.

After discussion, the Commission by consensus agreed to wait for a presentation from DMF regarding proposed rule amendments to the shellfish leasing program at the February 2020 CRC meeting.

LEGAL UPDATES

Mary Lucasse, CRC Counsel, updated the Commission on issues relevant to DCM and CRC.

PUBLIC INPUT AND COMMENT

Tim Evans, Planning Director Town of Holden Beach, commented in opposition of the proposed inlet hazard areas.

David Moye, Coastal Resources Advisory Council, commented on the Commission's discussion about adding exceptions into the ocean hazard area setback and the concern of potential unintended consequences these rule amendments could have.

OLD/NEW BUSINESS

The Chair appointed Andrea Hawkes to the CRC Science Panel on Coastal Hazards. The Chair designated Mike Lopazanski as hearing officer for the periodic rule review public hearing on this meeting's agenda. The next scheduled meeting of the CRC is February 12-13, 2020 at the Beaufort Hotel.

Commissioner Smith stated the comment period for the proposed inlet hazard areas would be the appropriate time for Towns to provide additional information that contradicts the proposed inlet hazard areas. Chair Cahoon requested that the dates for public hearings be added to the website as soon as possible. The Commission will have an opportunity to review all comments received prior to consideration. Commissioner Norris requested that DCM staff visit the affected communities to hold workshops to discuss specific inlet processes and the proposed changes.

Chair Cahoon directed staff to incorporate the limitations, mentioned in the public comments, into the rule amendments for roofs over porches in the ocean hazard area for the Commission's review.


DEQ Assistant Secretary, Sheila Holman, recognized Ken Richardson as being named one of DEQ's Distinguished Employees on November 6. The Department recognizes his many contributions to the Division, the Commission, and Department and thanked him for his excellent work.

Larry Baldwin stated the minutes of the last Coastal Habitat Protection Plan (CHPP) meeting were included in the CRC packet. Every five years the CHPP develops goals and we continue to work on those. These goals will be brought before the CRC for review and implementation.

PUBLIC HEARING

Periodic Review of Existing Rules – Re-adoption of 15A NCAC 7H, 7I, 7J, 7K, 7L, and 7M
No comments were received.

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


Braxton Davis, Executive Secretary


Angela Willis, Recording Secretary